

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI  
MONDAY – MARCH 17, 2008 AT 7:00 P.M.  
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. 10 MILE ROAD**

Mayor Landry called the meeting to order at 7:04 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  
Tom Schultz, City Attorney  
Randy Auler, Director of Parks, Recreation and Forestry  
Barbara McBeth, Deputy Director of Community Development

**APPROVAL OF AGENDA**

Mayor Landry added, to Mayor and Council Issues, potential referral of late SAD payments to the Ordinance Review Committee.

**CM-08-04-041 Moved by Capello, seconded by Gatt; CARRIED UNANIMOUSLY:  
To approve the agenda as amended.**

**Voice vote**

**PRESENTATIONS - None**

**PUBLIC HEARING**

**1. Michigan Natural Resources Trust Fund Park Development Grant Application  
Requesting funding for the development of a barrier free play structure in the ITC  
Community Sports Park.**

Mr. Auler said this item asked Council's consideration for approval to submit an application to the MNRTF Grant program. He said the program was a 75/25 match for projects that rate high and improve accessibility for children and adults, such as a universally accessible playground. He explained a universally accessible playground was one that typically had poured in place surfacing, which enabled wheelchairs and walkers to traverse across the surface as well as a significantly improved safety factor. He said if this project was approved through the grant process, it would provide funding for an additional accessible playground adjacent to the Tim Pope playground, which was located at the ITC Community Sports Park. The total project cost was estimated at \$200,000 and the City commitment for the match would be \$50,000, which was the 25% portion. Mr. Auler noted that, as a part of the grant application, it would require a public hearing, and they had held the public hearing at a recent Parks, Recreation and Forestry Commission meeting. He said the grant application deadline was April 1<sup>st</sup> and they were working with McKenna and Associates to complete the application and have it submitted, if it proceeded this evening with City Council. Mr. Auler said when they had the Mayor's exchange with the City of Wyoming they had an opportunity to visit a universally accessible playground with the poured in place surface and ramp systems.

Mayor Landry asked if he was correct that this grant was to build a play structure in addition to the Tim Pope play structure and adjacent to it. Mr. Auler said he was correct.

**Charlie Staab**, 41887 Cherry Hill Road, supported the application for the MNRTF Grant. However, he believed that the funding of a universally accessible playground structure was not necessarily needed at the ITC Community Sports Park. Mr. Staab said they already had a community built play structure that could be a showplace for play structures once again with a little upkeep. He said the grant should be earmarked to replace the play structure located at the Ella Mae Power Park, as it was built for children from 2 to 5, it needed replacement and would be a better use for the MNRTF Grant. He said his research of the grant fund process showed the committee that reviewed the grant application would look more favorably on the Power Park location because it was located in an urban area setting, as opposed to the ITC Community Sports Park location. Mr. Staab asked for clarity regarding the placement of this play structure next to the Tim Pope play structure. As noted in the recent Capital Improvement Program (CIP), the Parks and Recreation Department had recommended the replacement of the Tim Pope play structure. However, on February 27, 2008 at a Planning Commission meeting the play structure had been removed from the CIP until two items were accomplished. Those items were a consultant to prepare a punch list of items that needed maintenance, and that a volunteer committee be given the opportunity to complete the punch list, etc. Mr. Staab said the Tim Pope Play Structure was unique. It was built ten years ago with no taxpayer dollars, and the community had the foresight that the play structure would need to be maintained and \$8,000 was given to the City for its maintenance.

## **REPORTS**

### **1. MANAGER/STAFF**

#### **Mobile Workshop Exchange with the City of Dublin, Ohio – May 5, 2008**

Mr. Pearson asked Council to consider a Mobile Exchange for May, as they have had a lot of success with Mayor's exchanges in the past couple of years visiting Wyoming and Portage. He wanted to keep that success going and cast a little wider net considering communities in Ontario and two in Ohio. Mr. Pearson said they had identified Dublin, Ohio, which was similar in size, very high class office and with a great parks system; he thought they had a lot of things that Novi strived to do. He said they could also share some of the great things that Novi was doing. He suggested they drive down as a group on Sunday the 4<sup>th</sup> of May, spend the day there the 5<sup>th</sup> and drive back that night; it would only be one night, which would make it very reasonable. Mr. Pearson said if there was consensus to partner up with Dublin, Ohio, they would need to start making arrangements fairly soon, and would need to know who on Council would like to participate and then add staff to that number.

Member Crawford was pleased to see that Dublin was one of the communities offered. She said she had been there and admired their City and would like to know more about it, and she would definitely want to go.

Mayor Landry asked if there was anyone opposed to Dublin, Ohio or the scheduling of it. Mayor Landry said seeing no objection Mr. Pearson had the direction he needed. Mr. Pearson asked Council to check their schedules and let him know this week and he would move forward with this.

Mayor Landry said because they would be spending the night in Ohio, and because of the distance it might limit the number of staff they might take. He said the City Manager's office

needed a commitment from those Council members who were going to attend by next week. Mr. Pearson said next Monday would be great.

Mayor Pro Tem Capello said he would go.

## 2. ATTORNEY - None

### AUDIENCE COMMENT – None

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

**CM-08-03-042** Moved by Margolis, seconded by Staudt; **CARRIED UNANIMOUSLY:**  
To approve the Consent Agenda as presented.

**Roll call vote on CM-08-03-042** Yeas: **Capello, Crawford, Gatt, Margolis, Mutch, Staudt, Landry**  
Nays: **None**

- A. Approve Minutes of:
  - 1. March 3, 2008 – Regular meeting
- B. Approval of the Oakland County Interlocal Agreement establishing a new Oakland County Mutual Aid Association and to approve the membership of Novi Fire Department.
- C. Approval of a construction engineering fee increase to FTC&H for the Walled Lake Diversion Sewer project in the amount of \$12,945.35.
- D. Approval of a resolution authorizing waiver of certain performance guarantees associated with Novi Public Schools elementary school expansion project.
- E. Approval of a revised traffic control device maintenance agreement with the Road Commission for Oakland County for the existing traffic signals at the intersection of Novi Road and Flint Street/Main Street.
- F. Approval of Ordinance No. 08-99.14, an amendment to Chapter 15, Fire Prevention, of the City's Code of Ordinances, in order to adopt the 2006 International Fire Code, as amended, as the City's Fire Prevention Code. **Second Reading**
- G. Approval of Ordinance No. 08-173.03, an amendment to the Novi Code of Ordinances Chapter 26.5, to allow an applicant who has posted performance guarantees and suspends work on a project or development to request a waiver of the requirements of Section 26.5-5. **Second Reading**
- H. Approval of merchant ticket sales agreement with TIX, Inc. for the purpose of implementing a comprehensive theater ticketing program.
- I. Approval of Claims and Accounts – Warrant No. 765

**MATTERS FOR COUNCIL ACTION – Part I**

- 1. Consideration of the request of Best Buy for Preliminary Site Plan and Special Land Use approval. The subject property is located in Section 14, on the east side of Novi Road, between I-96 and Twelve Mile Road. The subject property is approximately 3.3 acres and the applicant is proposing to remove the closed bank and furniture store and construct a 30,891 square foot Best Buy store.**

Jaima Darsinos, Maxwell, Johanson, Maher Architects, was present representing the architectural firm working on the project. Ms. Darsinos said Jason Krauss of Best Buy and Steve Sorenson, Civil Engineer, were also present. Ms. Darsinos said they were looking at combining the two existing parcels that currently had the furniture store and the bank on them. They were proposing demolition of those buildings for the new 30,000 sq. ft. Best Buy project, which included sub-grade garage parking that would be under the footprint of the store and extended into the side parking a little bit. She said when Best Buy started their stores were 45,000 sq. ft. and had initially brought to the City a store that was of the same size with prototype elevations. However, based on feedback from the City in meetings, they were told the building was too large for that site and the prototype elevations were not well received. Ms. Darsinos said over the course of four meetings they reduced the size to 30,000 sq. ft., and modified the prototype elevations for Best Buy to better meet with City standards. She showed Council what an existing prototype looked like. However, in this case, because of the façade ordinances and the requirement for brick on the building, as well as breaking up the front façade, they had come up with new elevations. She said they had also reduced the size of the front entry element by half from the prototype. Also, all of the proposed materials were consistent with the requirements of the Façade Ordinance with the exception of the front entry element, which she thought the City still had an issue with. Ms. Darsinos said the color on the entry element of Haggerty Road was a little bit purpler than what was being proposed for this project, as this color was bluer. She said relative to the variance issues they were seeking to obtain, these were currently two separate parcels, and if they were developed separately the 100 ft. setbacks would actually overlap on each of the parcels in the north and south access. The parcels would be rendered undevelopable with those setbacks. She said they had combined them and tried but could not meet the 100 ft setbacks. She said in terms of the compactor and the loading dock locations, because the site had three visible sides, the only back of the site would be the north side of the site, but there was a restriction from the mall that the compactor could not face into the mall. She said that left them with no good option on where to locate those items and still be within the ordinance. Therefore, they selected the side most practical for the layout, which was fully screened by walls that matched the brick materials on the building.

Mr. Pearson said they had positive recommendations for most elements, the façade got a negative recommendation, but the Planning Commission gave a positive recommendation for consideration.

Mayor Pro Tem Capello understood that an electronic store was consistent with the mall type of retail uses but he was not happy with a free standing Best Buy store on the Twelve Oaks side of the I-96 and Novi Road development, as opposed to being an attached building. He

thought Best Buy being that close to the entrance/exit off Novi Road would generate a lot more traffic. It would not be the type of traffic where they come in, parked and went to multiple stores; it would be run in and run out. He said he knew from experience at the Haggerty/8 Mile Road store that that was the type of business it would be. He didn't see it fitting on the Twelve Oaks side, and thought it would be better in an open retail establishment like West Oaks. He said he was happy about the sign modifications.

Member Gatt said he wasn't in favor of this project now. He concurred with Mayor Pro Tem Capello that it didn't fit in with the Twelve Oaks mall decorum. He thought it would cause a lot of traffic problems for the police and the people who would utilize the Twelve Oaks stores. He also wasn't happy with the color scheme, and thought they could find a better spot in the City. Member Gatt said Council's goal was to be friendly to the economic development community but they also had to do what they thought best for the residents of the community.

Member Mutch said the applicant made a comment that the mall didn't want the compactor or the loading zone facing the mall, but on the site plan those areas were facing the mall ring road. Ms. McBeth agreed, the loading zone was directed to the south with a screen wall on the west side and on the east side of the compactor. He asked how high the wall was. Ms. Darsinos said the wall for the compactor was 8 ft. tall and the wall for the loading dock was 14 ft. tall. Member Mutch asked how often they anticipated having trucks parked in the loading dock. Ms. Darsinos said, to clarify, the mall didn't want to be able to see into the service area, so if it was located on the north side, they would be looking into the loading dock and compactor areas.

Mr. Krauss of Best Buy said typically during off peak times of the year, there were one to two trucks every two or three days in the morning before business hours. The truck would be parked there until it was unloaded and then would be moved out. Member Mutch asked what size the trucks were, and Mr. Krauss replied they were 72 ft. Member Mutch asked if they had adjusted their plans to meet the lighting standards, or if they would be meeting them. Ms. McBeth said at this time, they had not met the lighting standards and were typically not required to provide detailed exterior lighting plans until final site plan since the property was not abutting residential. He asked if staff was being mindful of the impact of that lighting on to Novi Road, because of the grade elevation. She replied that staff and the Planning Commission were concerned about the grade differential there and had asked for, and were provided, an additional plan showing the proposed store in terms of the grade of the existing Novi Road. They thought it would assist with the Council's understanding of where it would sit on the property, as well as staff's understanding when the lighting plan came in. Member Mutch asked if she was comfortable that the screening provided for the mechanical equipment would actually screen that. She said they would review that at final site plan but thought that they could have screened appropriately. Member Mutch asked if they would have a ground sign on Novi Road. Ms. Darsinos said it was their understanding from Mr. Almosch that in this particular zoning they were not allowed both wall signs and ground signs. She said they would not have a ground sign but were proposing the signage that was shown. Member Mutch said they were showing what looked like a sign on three of the four faces. Ms. Darsinos responded that those were the three faces they were allowed based on the location, and they were based on the setbacks of those three sides. Member Mutch said the front of the store would be facing the entrance to Twelve Oaks and did not face Twelve Oaks itself, and she agreed. She said the left elevation would face Novi Road, right elevation would face the ring road and the

rear elevation would face the north. Member Mutch asked if they were treating the blue panel as part of the signage. Ms. McBeth said yes, the façade consultant had looked at the building elevations and indicated that the blue check mark would be considered a portion of the signage. He said the check mark didn't meet Novi's standards, and asked about the other two signs. Ms. McBeth said they had not been reviewed by the consultant yet, and all they knew was that three wall signs would be permitted or one ground sign. Member Mutch shared Mayor Pro Tem Capello concerns regarding the traffic volume of this store at this location. He thought he correctly highlighted the kinds of traffic patterns they would see there. However, another issue he had, in terms of some of the detail items, was utilizing the façade to effectively get a larger sign than would otherwise be permitted by ordinance. If this was the sign allowed, he thought that constrained them. However, if it was larger and effective by using a blue material, they created a sign that was twice the size of what was permitted by ordinance, and he would have an issue with that. He commented that he was not sure he was comfortable with the sign package as it was presented.

Member Mutch asked Mr. Necci to talk about his review letter and the areas of concern that he had. Mr. Douglas Necci, Metco Services, said item #2 in their review letter related to the blue color, which the Façade Ordinance stipulated that the colors had to be harmonious. He said this was a toned down version of their blue and he was inclined to think that was not the major issue they had. Mr. Necci thought the more significant item was #3. The ordinance had a section in it that stated "the use of façade materials to form a background in a sign or to increase the visual presence of a building for the purpose of advertising, shall be deemed inconsistent with the Façade Ordinance." He said that paragraph was written many years ago because of a very similar building. However, they had really done a good architectural job in integrating this blue theme that was their corporate identity, in that it was framed by masonry rather than projecting above the building as was seen on other Best Buy buildings. Mr. Necci thought that went a long way towards integrating it into the façade. He said it was a subtle thing but if that blue element was rectangle rather than a check mark shape, it would probably be an efface element and not seen as a corporate identity. He thought just by canting those two lines it brought it into their corporate symbol and made it an extension of the sign. Mr. Necci said they didn't want to prohibit corporate themes but it could be carried to a point of a building that became a sign, and they wanted to discourage that. Member Mutch said the reason they changed the ordinance was the previous building highlighted the loophole and they wanted to close the loophole, but if they set the precedent again, he thought they could potentially open up a problem. He asked Mr. Necci to address the loading zone and the trash compactor. He felt the north location would be the most unobtrusive location, but they couldn't screen it from the mall. Member Mutch asked if there was a way to handle that, as he didn't like the idea of having the truck well and trash area, even screened, facing the mall considering the investment the mall had made. Mr. Necci thought they had done an excellent job screening it. The 8 ft. high wall would completely conceal the compactor and the 14 ft. high wall in front of the truck well would almost conceal the truck as well. He said, regarding the orientation of the site, he would have to study the geometrics of the site but even if not the best place for it, they had done a great job screening it with hard masonry walls. Member Mutch said, in terms of the visual from Novi Road, would he feel comfortable with how the building would present itself to Novi Road in terms of the view and screening. Mr. Necci said it was not the strongest façade of their design but it was acceptable. He thought the concern about rooftop equipment was right on because it was a depressed vantage point.

The building was lower than it would ordinarily be and they would not get the angle of view that tended to conceal rooftop equipment. He said their parapets or roof screening would have to be virtually the full height of the rooftop units, and he didn't see roof screening on the drawings, which raised the question of what the roof screening material would be. The better solution was to raise the parapet lines, to raise the entire building relevant to the roof so roof screens weren't needed. Member Mutch asked if this was something they would see at this point or did this come down the road. Mr. Necci thought they could ask the architect what they were envisioning. Ms. Darsinos said there were parapets on all four sides of the building. At the front the main parapet height was 26 ft. 4 inches and would be about 4 ft. above the roof, and the roof sloped from there. The shortest parapet was 4 ft. and the most extreme would be about 6 ft. Member Mutch asked how high the mechanical equipment would be. Ms. Darsinos said they were generally between 4 and 5 ft. tall. He asked if the material would match what they were seeing, and she replied the parapets were on the drawings and the roof line was at least 4 ft. below the parapet, which was the lowest point. Mr. Necci said he would like to hear that the parapets were going to be as high as the roof equipment. He liked the answer in terms of the architecture but the height would be the issue. Member Mutch said then an approval would be conditioned upon the parapet height matching the height of whatever equipment was used on the roof.

Mayor Pro Tem Capello said he was not comfortable with the location or that it would be a free standing store, was still not happy with the blue, and was a little gun shy from the 8 Mile and Haggerty signage that went up.

**CM-08-03-043      Moved by Capello, seconded by Gatt; CARRIED UNANIMOUSLY:  
To postpone consideration of the request of Best Buy for Preliminary Site Plan and Special Land Use approval. The subject property is located in Section 14, on the east side of Novi Road, between I-96 and Twelve Mile Road. The subject property is approximately 3.3 acres and the applicant is proposing to remove the closed bank and furniture store and construct a 30,891 square foot Best Buy store until the next Council meeting of April 7<sup>th</sup> to allow Council time to gather information, consider all the factors, and to look at what their intent was, sizes of the signs, etc.**

## **DISCUSSION**

Member Gatt said he hoped that a representative from the Taubman Company would be present at the next meeting, or Council would receive a written document expressing their thoughts on this project.

Member Margolis stated she would support the motion to postpone, but didn't have as many issues about the store fitting into this location, and didn't have concerns about some of the views that were expressed. However, just to give direction, she thought the issue of the blue backing being part of the sign was definitely something she would be looking to change. She felt it was obviously something they were looking to avoid. She said she appreciated the work they had done to fit it into that spot. She said when she saw the elevation, the fact that it was not your typical big box store and was below grade and was making an attempt to fit in, and found that very helpful. She agreed with Member Gatt and looked forward to hearing from Taubman. In terms of her view of this kind of store fitting in, it was a retail area and she thought it fit with the modifications they had made.

Member Mutch asked Administration to review the sign sizes and come back to Council indicating the standards and whether it met them or not.

Member Staudt said he was inclined to agree with the previous speaker's recommendation. He thought it was a good use for the property, but was also looking for positive feedback from Taubman before he supported it. However, all in all, he was inclined to support this project.

**Roll call vote on CM-08-03-043**      **Yeas: Crawford, Gatt, Margolis, Mutch, Staudt, Landry, Capello**  
**Nays: None**

**2. Approval of Ordinance 08-37.34 for the change in delinquent water and sewer charges to be added to the tax roll when account is three months (previously six months) delinquent. First Reading**

**CM-08-03-044**      **Moved by Margolis, seconded by Staudt; CARRIED UNANIMOUSLY: Approval of Ordinance 08-37.34 for the change in delinquent water and sewer charges to be added to the tax roll when account is three months (previously six months) delinquent. First Reading**

**Roll call vote on CM-08-03-044**      **Yeas: Gatt, Margolis, Mutch, Staudt, Landry, Capello, Crawford**  
**Nays: None**

**3. Approval of resolution for Massage Business and Massage Therapist fees and amendments to Chapter 20, Massage, Ordinance No. 08-120.05, amending Article I, In General, Article II, Business License, and Article III, Massage Therapist Permit. First Reading**

Mayor Landry said they had met in the Ordinance Review Committee as directed by this body, and were fortunate to have representatives from local massage therapists attend the meeting. He said they made some fine suggestions and they incorporated them. Mayor Landry said the Ordinance Review Committee recommended bringing a positive recommendation; this reduced the fees significantly, and made other changes to the ordinance.

Member Gatt thanked the Ordinance Review Committee for returning so quickly and earnestly with a document that should be pleasing to all. He said recently there had been an incident in Metro Detroit regarding a massage therapist/parlor. He said to say that bad things couldn't happen in these establishments was just not true, and it proved the point that they needed regulation, enforcement, and the reviews that the ordinance called for.

**CM-08-03-045**      **Moved by Margolis, seconded by Capello; CARRIED UNANIMOUSLY: To approve resolution for Massage Business and Massage Therapist fees and amendments to Chapter 20, Massage, Ordinance No. 08-120.05, amending Article I, In General, Article II, Business License, and Article III, Massage Therapist Permit. First Reading**

Member Mutch shared items they had discussed at the committee level that Council might want to weigh in on in terms of the policy, and those items were:



- 1) Section 20-4c A requirement that the therapist had to wear a “uniform” that had to be kept at the place of business. Is that realistic and is it ever enforced?

Member Mutch asked that when this came back for a second reading that they consider whether it made sense. He felt it was impossible to enforce.

- 2) Section 20-10e(III) Question about revealing names and addresses of customers and clients and whether that created a conflict with their code of ethics.

Member Mutch thought the language of the ordinance did state that if that information was not allowed to be revealed by State or Federal law regarding privacy, HIPAA, etc. it couldn't be disclosed. He would ask Mr. Schultz for input regarding, while not dealing with Federal or State law, they were dealing with a code of ethics from an organization that licensed massage therapists. He asked how that played into the ordinance and whether it should be incorporated.

- 3) Section 20-29(2) Question about language of when the applications were being reviewed for a business owner, and it asked that they have a certain amount of time and experience running this type of business.

Member Mutch believed the language was 10 years. In terms of the application being reviewed, he asked if a new business owner came to Novi and didn't have ten years prior experience running this type of business, would that preclude them from getting a permit. Mr. Schultz said that was not how they would read it, and he didn't think it would preclude them as it was not the general intent.

- 4) Section 20-57 This dealt with transferability where a therapist went from one business to another.

Member Mutch said the language of the ordinance stated they had to reapply and repay the fee to go from one business in the City to another. He asked if that was how they would interpret that section. Mr. Schultz said it looked like that was the intent. Member Mutch said that would be one thing they could discuss at second reading. He didn't think it made sense for a therapist to have to pay a fee again, if they were already licensed and a fee had been paid, based on why they're licensed and reviews were done.

- 5) Member Mutch said another discussion would be having lockable doors for the therapy rooms in the businesses. When it was discussed at the committee level their understanding was that it was a singular kind of situation and they understood that they couldn't rewrite the ordinance to deal with one particular business. However, after more investigation several businesses had been identified that had doors that could be locked, and several businesses where they were in a suite situation and the business owner didn't have exclusive control of the suite. He said so there was traffic for other businesses within the suite entering and exiting and they had a concern that all of their equipment was in there and they needed the ability to lock the door when they weren't there. He said the ordinance didn't permit that. Member Mutch suggested a compromise

and having language that would allow therapy rooms to have locks but they could not be locked when occupied, and they would have to meet the fire code safety standards.

6) Section 20-52(13) Communicable disease requirement

Member Mutch said this had been brought up to Council several times and had been discussed at the committee level and there was no consensus reached. He said some of the information brought forward highlighted that the language of communicable diseases could potentially affect people who have West Nile Virus, Epstein Barr, etc. that could not be transmitted the way these businesses interact with their patients. However, per the language of the ordinance, if they had a requirement that precluded them from getting licensed if they had one of these diseases, they were effectively unable to work within the City of Novi. He said he would be looking for input from Council on these items, and possibly Council could give direction to Administration before bringing this back for second reading. Member Mutch stated he would like to strike the communicable disease requirement from the ordinance. He understood why it was introduced but felt it put a burden on these therapists that no other professional engaged in similar activities in the City had to go through. He suggested finding a compromise in locking doors that would address the concerns of those businesses while insuring the City still had the ability to properly inspect the businesses during work hours.

Member Staudt said he supported the ordinance as it was written and felt it reflected the concerns they had discussed, and that it was a good compromise.

Mayor Landry said as far as he knew there were no illegitimate massage businesses in the City and, as far as he knew, all the people who were licensed were absolutely, positively, 100% legitimate. He thought there was a reason for that, and the reason was because of the ordinance. He agreed with Member Staudt and would also support the ordinance as written. He would not support a version of the ordinance that deleted the communicable disease testing requirement because he thought that was important. He also thought there was a reason for not having lockable doors on rooms used to provide massage therapy, and said there should not be locks on those doors. If there was a particular problem with a particular applicant, they could resolve that with their landlord. He thought there should be no locks on doors where massage therapy was given. He said regarding transferability, he didn't think these were the kind of businesses they would want to be transferring from location to location to location. Mayor Landry said the permit fee was the cost of doing business if they were going to transfer, and the City would get to go in and look at the next location and they would have to get another permit, and then the City would go in and look at the place again. He said he supported the current massage therapists and thought this was a good compromise. He said Council had listened, made changes and had significantly lowered the fee. Mayor Landry said he was not concerned with the ordinance as written with respect to lockable doors, communicable disease requirement or the transferability, and would support it in its current state.

**Roll call vote on CM-08-03-045**

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

**Nays: None**

**4. Approval to submit a Michigan Natural Resources Trust Fund (MNRTF) Grant with a 25% match commitment of \$50,000 for the design and installation of a universally accessible playground at the ITC Community Sports Park.**

Member Margolis asked Mr. Auler to address the question brought up in the Public Hearing about the feasibility of ITC versus Power Park.

Mr. Auler said a new playground was installed in Power Park two years ago. He said that playground had transfer points and play panels that enabled children, whether physically or mentally disabled, to have some play value. He said there was a small playground adjacent to it that was targeted for 2 to 5 year olds and that was in the CIP to be replaced within a six year period. He said given that they had the new playground that just went in adjacent to that that had the accessible play value, he wouldn't recommend that. Mr. Auler said they had an audit done on the Tim Pope Playground but had not received the final report yet, but it had no transfer points and no play panels for mentally or physically disabled children. He said that playground did get a lot of activity and adding an adjacent playground would enhance that play structure and enable mentally or physically disabled children play value and physically challenged adults to participate with their children.

Member Margolis asked Mr. Auler to explain why the grant application considered Power Park as more urban. Mr. Auler responded that the urban criteria was for a large metropolitan area, and he thought there was an income requirement that went along with that. Member Margolis thought it was a great idea and that they needed to move forward. She understood the concerns about the Pope Play Structure. She said she had contributed to the Pope Play Structure and thought they needed to be sensitive to that and thought they were trying to do that.

**CM-08-03-046 Moved by Margolis, seconded by Staudt; CARRIED UNANIMOUSLY: To approve submittal of a Michigan Natural Resources Trust Fund (MNRTF) Grant with a 25% match commitment of \$50,000 for the design and installation of a universally accessible playground at the ITC Community Sports Park.**

## **DISCUSSION**

Member Mutch said he was glad to see the department pursuing this. He thought it was important that they were making the effort to pursue these dollars, because every dollar they could get funded from the State or some other resource freed up dollars for them to do things locally with City tax dollars. He said when this came back to the department after getting the initial review it would have a point assigned to it and this was a competitive program. Member Mutch commented one of the areas he thought they might have to revisit was the match amount. He said the 25% minimum match would get them minimum points in that category and the next level up was 30%, which would be a \$60,000 contribution from the City and would get them additional points. He said as they had done these grants in the past that had been a consideration and property owners had stepped up and made up the difference. Member Mutch said, in this case, the City might need to step up and increase the match amount to 30% or higher to make sure the grant was competitive. He also thought, when the review came back, they needed to make sure they scored points in all the criteria they could. He said Mr. Staab made a point in terms of the urban criteria. He said that was something they ran into

last year and thought they needed to be cognizant of because it might affect the scoring. He said as long as the grant was in by April 1<sup>st</sup> they would get an opportunity to get the review completed, which would give the department time to make adjustments and collect additional information to supplement the proposal, and hopefully have a successful outcome.

Member Gatt said his concern was the money, and that higher figures were already mentioned. He noted he was in favor of moving forward with this and would vote in favor of this proposal. However, he wanted to go on record and say that the 25% would be his cap; if it comes back for more than that, he would vote no. He said he was concerned with the Tim Pope Play Structure status. He commented he had received a note from Administration that said the play structure was in a state of disrepair and had not been attended to in several years. Member Gatt said Northville built a beautiful play structure just after the Tim Pope Structure was built, and it was still in fantastic condition. He said he didn't know what the difference was between what they were doing and what Novi was not doing or should be doing, but he would look for the Parks and Recreation to spend more time on the structure that was there now. Member Gatt said that was a community endeavor that had not been seen in the City before; people from all walks of life spent days and days working on that, and there were a lot of contributions and not a single tax dollar was spent. He said he didn't want to see it just go away, if they had the funds. He asked where the 25% would come from and whether it would be in the present budget or next year's budget. Mr. Pearson said it would be in next year's budget. He thought the \$50,000 was a lot of money, and everyone knew how he felt about the hierarchy of needs, and he believed that public safety was something they always had to focus on. Member Gatt said if they had the money for this, absolutely. However, he did want to see their attention also spent on the structure that was there now.

Member Crawford asked if the Pope Structure was in disrepair. Mr. Auler replied there were some items they had to remove because of safety hazards because the standards had changed as the government updated their regulations, and there were entrapment and pinch point issues. Mr. Auler said they had been doing annual maintenance on that playground. She said the structure was not ADA compliant either, and he said she was correct. Member Crawford echoed Member Gatt's point about it being a memorial and that there had never been that much community involvement, which made it a little different than some other kind of project. She said those of them that spent a great deal of time on the play structure, did it in memory of the person who sat at this Council table. So, it had a lot of meaning and she didn't want to see it continue to fall down and they had the other new one there to take it place. She wanted to see some time spent on this to shore up the memorial so that it could be kept that way. She said there was even a fence with names of people who had donated money, and she didn't know what that was like. Mr. Auler said they had completed that fence and fenced in the entire playground and also had the pickets with the donor's names on each of those as well. Member Crawford said she would support the motion.

Member Staudt said if they didn't get the grant, what was their intention relative to the Pope Playground. Mr. Auler said they had an item in the CIP Budget to eventually look at replacement of the Pope Playground because the wood playgrounds generally lasted 10 to 15 years. After that they would start running into safety issues such as the foundation structure, splinters, the material the wood was made of, changing standards, etc. He said they had an audit of the playground done by instructors of the National Playground Safety Institute. He noted his staff had completed that training as well and received their certifications. He said they expected that report by the end of the month or the first week of April and it would identify

what action items needed to be addressed, what the cost would be, and then they would incorporate that into their planning process. Mr. Staudt said then in some means they would have to deal with that playground. He thought he had heard from various people that the biggest issue was not necessarily the playground structure itself, but the emotional attachment to the contributions that went into building it. He asked if it had to be replaced with public dollars, what would be done to accommodate that issue. Mr. Auler said, in his mind, it would still be the Tim Pope Playground, and they'd still honor all of the donors in perpetuity for the playground. It would just be updating the playground with a newer design that would be safer and lower maintenance.

Member Mutch said there was some discussion about the funding for that in terms of the upcoming budget. He asked if the plan was to have money in the budget for a replacement playground. Mr. Pearson said they had not delivered their recommended budget so it would be another two weeks before they could determine exactly what was in it. Member Mutch said then it may or may not be in the budget, and Mr. Pearson said yes, but they saw the list of the annual, extra and regular maintenance upgrades that had gone into that playground. He said whether it was this year, three years or five years from now, they could assume that they would have some of the same discussions. He thought it was what the longer term plan was to keep that designation and recognition. Member Mutch said that playground today was safe and there was no question about that. Mr. Auler said he was correct, and that they performed weekly maintenance and safety inspections on all of the playgrounds, which was done by certified staff that had passed the National Certification test. Member Mutch said whenever the playground replacement was made, until then the Pope Playground was maintained by staff in a safe condition. Mr. Auler said he was correct.

**Roll call vote on CM-08-03-045**                      **Yeas: Mutch, Staudt, Landry, Capello, Crawford, Gatt, Margolis**  
**Nays: None**

**AUDIENCE COMMENT - None**

**MATTERS FOR COUNCIL ACTION – Part II**

- 5. Approval to award a contract for design and construction engineering services for the 2008 Neighborhood Road Program to URS Corporation for a not-to-exceed study/design fee of \$55,871 and a construction engineering fee equal to a fixed 8.21% of construction cost (estimated to be \$114,940) for a total of \$170,811.**

**CM-08-03-046**                      **Moved by Capello, seconded by Gatt; CARRIED UNANIMOUSLY:**  
**To approve award of a contract for design and construction engineering services for the 2008 Neighborhood Road Program to URS Corporation for a not-to-exceed study/design fee of \$55,871 and a construction engineering fee equal to a fixed 8.21% of construction cost (estimated to be \$114,940) for a total of \$170,811.**

**Roll call vote on CM-08-03-046**                      **Yeas: Staudt, Landry, Capello, Crawford, Gatt, Margolis, Mutch**  
**Nays: None**

- 6. Consideration of request from Zubin Antia and Anthony Marougi, owners of Zaam, LLC, doing business as Bar Louie, to transfer ownership of 2007 Class C licensed business, located in escrow at 35135 Grand River, Farmington, MI 48335, Oakland County, from The Great Wall of China, Inc. to Zaam, LLC; and transfer location (governmental unit) (MCL 436.1531(1) to 44375 W. Twelve Mile, Space G-152, Novi, MI 48377, Oakland County.**

The applicant said all the various departments had signed off on this, and they were hoping for Council approval this evening. He said they were dealing with Mr. Roby with issues that had to be resolved on the construction, but hoped to open Bar Louie by July 1<sup>st</sup>.

**CM-08-03-047 Moved by Capello, seconded by Margolis; CARRIED UNANIMOUSLY: To approve request from Zubin Antia and Anthony Marougi, owners of Zaam, LLC, doing business as Bar Louie, to transfer ownership of 2007 Class C licensed business, located in escrow at 35135 Grand River, Farmington, MI 48335, Oakland County, from The Great Wall of China, Inc. to Zaam, LLC; and transfer location (governmental unit) (MCL 436.1531(1) to 44375 W. Twelve Mile, Space G-152, Novi, MI 48377, Oakland County.**

**Roll call vote on CM-08-03-047**

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

## **COMMITTEE REPORTS**

### **1. Revisions to Sidewalk Prioritization Work Group - Council Members Mutch and Staudt**

Member Mutch said in December he and Member Staudt brought forward recommendations from the Sidewalk Prioritization Committee Work Group requesting Council approval for expansion of the group membership and responsibilities. At that meeting, the Council asked them to draft an outline that would explain what they were requesting the Committee undertake and some of the responsibilities of the Committee related to that. He said they had brought forward an outline, and generally speaking the intent was to move the Committee beyond just doing a once a year review of the pathways prioritization process. He said this was an important process and still a focus of the committee. They wanted to broaden the scope of the Committee to add some members from Parks and Recreation as well as input from various City departments that were involved in sidewalks, bike paths, greenways and trails. He said they wanted to insure that everyone was working from the same page so that all the efforts taking place in various departments and bodies including City Council, Planning Commission and the Parks, Recreation and Forestry Commission were working towards the same goal. He said they would be meeting more regularly to address some of the items they highlighted under their responsibilities, and would report back to the Council on a regular basis. Member Mutch said they discussed this with Administration and department heads affected by these changes to get their input, and incorporated those into the document before Council. He said the request this evening was to ask for Council's support for approval of the revision in the scope of the Committee, and they would move forward on the work plan.

Member Staab said as he sat on this Committee after the election, he realized that the life of it was two meetings. When he saw the scope of the sidewalk prioritization program, he realized that they would be better served if they had an opportunity to look at these throughout the year, and look at opportunities to deal with areas that might fall through the cracks during a much shorter process. He said his intention would not be to add a tremendous amount of additional work for staff, and thought it would give Parks and Recreation and the Committee some opportunity to look at areas that probably need more attention. He noted recently there was a newspaper article on an area that was so well handled by City Administration that they came off looking very, very well with that. He said they would like to work through those types of situations year round. Member Staab said they also wanted to look at opportunities for grants, and additional methods of funding these types of things because there wasn't a lot of money for these projects. He thought this particular Committee could do a really good job and benefit the community.

Mayor Pro Tem Capello thought it was a good idea. He didn't feel that taking one time period during the year to come up with a plan for sidewalks was dedicating enough time to them. He stated he would like to see their idea of expanding it. He asked if Mr. Spencer would have enough information to offer input. He thought an engineer needed to be on the Committee as someone who was familiar with what road improvements and intersections were being developed, because it would be an opportunity to get sidewalks constructed in those areas. Ms. McBeth said Mr. Spencer had a particular interest and knowledge because he had been working on the pathway program, but definitely Engineering and Parks and Recreation could be of assistance.

**CM-08-03-048      Moved by Margolis, seconded by Capello; CARRIED UNANIMOUSLY:  
To support Revisions to Sidewalk Prioritization Work Group  
requested by Members Mutch and Staudt.**

**Voice vote**

## **MAYOR AND COUNCIL ISSUES**

### **1. Scheduling Consultant Review Committee Meeting – Mayor Landry**

Mayor Landry said a Consultant Review Committee meeting was scheduled to meet to discuss the annual review of the EMS Contract. He said he wanted to appear before that Committee as he had comments he wanted to make. Mayor Landry said he was involved with one particular resident, who had an incident, and she wanted to attend the meeting and Mayor Landry wanted to attend as well. Mayor Landry said if he showed up at a Committee meeting where there were already three City Council members present, it would constitute a quorum and therefore must be noticed as a City Council meeting. Therefore, the meeting would be noticed as a City Council meeting but everyone was not expected to attend. He said he would show up as a member of the public, but just wanted to bring this to everyone's attention that the meeting would be April 9<sup>th</sup>, and it would be noticed.

### **2. Potential referral of late SAD payments to the Ordinance Review Committee – Mayor Landry**

Mayor Landry said all Council members had the report with respect to the late SAD payments and there had been a suggestion that Council might want to consider changing the ordinance. He said he wanted to request that City Council send it to the Ordinance Review Committee so they could discuss it and bring back a recommendation to the City Council. He asked if anyone was opposed to that and no one was. Mayor Landry asked that the Administration include it in one of the upcoming agendas, they'll discuss it and report back to City Council.

**CONSENT AGENDA REMOVALS FOR COUNCIL ACTION - None**

**COMMUNICATIONS - None**

**AUDIENCE COMMENT – None**

**ADJOURNMENT**

There being no further business to come before Council, the meeting was adjourned at 8:23 P.M.

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David Landry, Mayor

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Maryanne Cornelius, City Clerk

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Transcribed by Charlene Mc Lean

Date approved: April 7, 2008