

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, MARCH 22, 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-absent/excused, Mutch, Staudt

ALSO PRESENT: Clay Pearson, City Manager
Pam Antil, Assistant City Manager
Tom Schultz, City Attorney
Barbara McBeth, Director of Community Development

APPROVAL OF AGENDA

CM-10-03-040 Moved by Fischer, seconded by Gatt; **CARRIED UNANIMOUSLY:**
To approve the Agenda as presented.

Voice Vote

PUBLIC HEARING - None

PRESENTATIONS

1. Novi Public Library Update (April and May closure of existing building with opening of new to be on June 1) - Julie Farkas, Library Director

Ms. Farkas said she was present to give an update on the new Library. She said the Library was on schedule and they were looking for a June 1st opening. She commented the present Library would be closing on Wednesday, March 31st and would remain closed through April and May. Ms. Farkas said they had worked with the Northville District Library, Salem/South Lyon District Library, Lyon Township Library and the Wixom Public Library to be available to Novi's patrons while the Library was closed. She said the Library website would be available while the Library was closed as well as intermittent phone information and access for their patrons. She said during April and May they would move their collections and the new collections that would be delivered to the new building as well in the middle of May. She noted new technology and training would also take place during that time. She thanked Council for their support and the community for their patience while they get through the transition before the new building opens. She said April 8th was the last day they would accept materials at the old building and beginning April 9th materials could be dropped off at the new building. Ms. Farkas said they had a lot of programming that they were still planning during April and May and she wanted to point out to Council their survival guide, which was available on their website and in the Library. She said there was a list of programming they would have while they were closed during April and May, which would be at the Civic Center as well as Tollgate Farms. Ms. Farkas invited everyone on April 7th for their chain of books, which would occur at 4:00 P.M. She said it would be an actual physical chain of people moving about 200 materials from the old building to the new Library symbolizing their change over. There would also be a public auction on April 14th at 6:00 P.M. to auction off furniture, equipment, computers, etc.

that would be available for people to purchase. Ms. Farkas said the demolition process would begin on April 19th. She said phase three was the parking that would be done for the new building. So, from that April period through July into early August the parking would be completed. She said patrons would travel from the Novi High School over to the building, when they open on June 1st, by using the north end of the old building sidewalk area to bring people to the new Library for about three weeks. Ms. Farkas commented they were working with the Novi Schools to have their staff parking lot just south of the building available when school let out in the middle of June.

2. Novi Parks Foundation Board Update - Linda Blair, President

Ms. Blair said the Parks Foundation was a 501C3 entity that was focused on raising monies for the City's parks, recreational programs and facilities. She said they were pleased to be present to provide Council with a brief update on where they stood with respect to the Naming Rights agreement that existed between the City and the Parks Foundation. She stated the Naming Rights Program currently had three active contracts with two that would expire this year, if they were not successful in extending them. Ms. Blair said one, the ITC Holdings contract, had two more years remaining on it. She said currently the Naming Rights Programs had revenues of approximately \$300,000 with an additional approximately \$30,000 in the permanent Endowment Fund. She said despite the efforts to secure additional naming rights partners, doing so had proved difficult during these economic times. However, the Foundation remained committed to continued efforts to secure additional naming rights as well as other fund raising activities. Ms. Blair said, in order to secure additional naming rights, the Foundation believed it was critically important for any prospective sponsor to buy into a vision; something that would add to the community and make Novi a much more attractive place to live, work and play. She said to that end and working off of the results of last year's Citizen Information Survey, Council goals and the work and effort that had already been underway for several years with the Walkable Novi Committee, with Members Mutch and Staudt, the Foundation intended to re-launch the marketing and communication efforts on the Naming Rights Program. They planned to build towards the vision of building out the greenways, trail ways or the non-motorized pathway opportunities. She commented that they believed, with a successful Naming Rights Program, the Foundation could be a critical component to the City's vision of developing greenways and trail ways throughout the community. She said the Foundation could become a critical funding source for the realization of the trail ways initiative and they could leverage the funds from the Foundation for grant applications. She said through both State and Federal sources there were many grant opportunities they could explore and potentially seek in order to initiate and see the trail ways effort come to realization. She said once they rallied around a vision, the Foundation would prepare the marketing communication and sales plan in order to identify perspective sponsors. She said it was their responsibility to knock on doors, build those relationships, secure additional sponsorships and solidify agreements under the Naming Rights Program. Ms. Blair requested that Council consider appointing two members from the Parks Foundation to join the Walkable Novi effort as they thought it would be an additional resource to work in concert with Walkable Novi. She said they would be a potential funding stream that could see grant money, use the funds to realize portions of trail ways or large segments of it. She said the Foundation would continue to reach out to the community to find as many ways as they could to raise money to channel back into Novi's park and recreational programs and facilities. She said they looked forward to working in partnership with the City.

REPORTS

1. MANAGER/STAFF

Mr. Pearson noted the City had embarked upon a study of the I-96 corridor with MDOT, the Road Commission and private business owners in the area. He said, as part of the study, there was a transportation and economic development study for the area around I-96 between 275 and Wixom Road. He noted that MDOT was hosting an open house meeting on Tuesday, March 23, 2010 from 2-4 p.m. and 6-8 p.m. at the Novi Police Training Center.

Mr. Pearson also noted there were three interlocking mutual aid agreements for emergency services in the event of a large scale disaster with neighboring communities and Novi provided like support for other agencies in the area. He commended the Council and Public Safety Director Molloy for bringing these items forward on the Consent Agenda.

2. ATTORNEY - None

AUDIENCE COMMENT

Jeff Potter, 1099 Stable Lane, South Lyon, said he wanted to introduce himself to residents as he was the Oakland County Commissioner and represented the northern part of Novi, including three precincts. Commissioner Potter said his home phone number was 248-437-7597. He noted that the County had cut its budget three years in a row, and expected a 12-1/2% decrease in revenues next year. He said Oakland County continued to keep its Fund Balance very healthy and planned on going ahead with the continuation of staff restructuring and deployment of new strategies on how to share responsibilities and services within their departments. He commented that over a four year period they had taken about 34% in revenue cuts without requesting a millage increase of any kind. Commissioner Potter noted they had closed down an antiquated, defunct and poorly operating nursing home and staff and commissioners took a 5% pay cut. Commissioner Potter said he was present because he received a letter from the City Clerk, City Manager and the Mayor concerning the grant request for the Landings Park at the base of Walled Lake. He said they were requesting DNR funds in the amount of about \$500,000 to improve it and more importantly to integrate it into a regional trail network. He commented that he signed a letter related to grant funding for the Landings in support of adding pieces like this to the park, which would be a benefit to the southeastern portion of the lake. He said it would be part of a trail system growing every year and would be a welcoming place to the region.

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

CM-10-03-041 **Moved by Fischer, seconded by Gatt; CARRIED UNANIMOUSLY:**
To approve the Consent Agenda as presented.

Roll call vote on CM-10-03-041

Yeas: Gatt, Crawford, Fischer, Mutch, Staudt,
Landry
Nays: None
Absent: Margolis

- A. Approve Minutes of:
 - 1. March 8, 2010 – Regular meeting
- B. Approval to Transfer Ownership of 2009 Class C Licensed Business, located at 48020 Grand River, Novi, MI 48375, Oakland County from Outback/Detroit-I, Limited Partnership (A Florida Limited Partnership) to Outback Steakhouse of Florida, LLC, (A Florida Limited Liability Company).
- C. Approval of Change Order No. PE-10594 to AKT Peerless in the not-to-exceed amount of \$28,045 to provide implementation services for the City of Novi's Energy Efficiency and Conservation Strategy.
- D. Approval of Resolution approving the City's participation in the Michigan Emergency Management Assistance Compact (MEMAC) an intergovernmental agreement with the State of Michigan and its signatories authorizing the request, provision, and receipt of inter-jurisdictional mutual assistance in accordance with the Emergency Management Act, Act 390 of the Public Acts of 1976 as amended among political subdivisions with the State.
- E. Approval of Resolution approving the City's participation in the Mutual Aid Box Alarm System (MABAS), an intergovernmental agreement providing fire mutual aid assistance among its signatories.
- F. Approval of the Amended and Restated Western Wayne County Fire Department Mutual Aid Association and MABAS Division Agreement, an intergovernmental agreement between Western Wayne County Fire Departments and signatories of said agreement to provide fire department resources.
- G. Approval of Severe Weather System Interlocal Agreement between Oakland County and the City of Novi to purchase and install one (1) early warning siren at a cost of \$17,250.
- H. Approval of Resolution to amend the Agreement between the Michigan Department of Natural Resources and Environment and the City of Novi for the Michigan Natural Resource Trust Fund grant, TF07-017 Novi Core Habitat Reserve Property Acquisition, to extend the Project Agreement to June 30, 2010.
- I. Approval of the request to transfer ownership of escrowed 2009 Class C licensed business, located at 2325 Joslyn Ct., Lake Orion, MI 48360, Orion Township, Oakland County from Canterbury Castle Management, Inc. to Tony Sacco's Novi, LLC; Transfer Location Governmental Unit under MCL 436.1531 (1) to 43270 Grand River, Novi, MI 48375, Oakland County.
- J. Approval to award a contract for design engineering services for the 2010 Neighborhood Road Program to Spalding DeDecker and Associates (SDA) for a design fee of \$69,170.

- K. Approval of a resolution of support for the "Commerce, Walled Lake and Wixom Trailway Management Council" grant application to the Michigan Natural Resources Trust Fund (MNRTF).
- L. Approval to award a one-year renewal option of the water service connection contract with D&D Water and Sewer, Inc., based on the terms, conditions and pricing of the existing contract for an estimated annual cost of \$70,500 and an effective date of April 27, 2010.
- M. Consideration to approve form of Art Exhibit Agreement and Art Exhibition Policy for the display of art work in the Civic Center.
- N. Approval of resolution vacating a portion of Chapman Drive, a platted but unimproved or "paper" street located in the Chapman Walled Lake Subdivision in the City of Novi within the Landings Area near 13 Mile and Old Novi Road, in connection with the City's determination to designate the area as park land and open space.
- O. Approval of resolution vacating Pratt Street and a portion of Duana Avenue, platted but unimproved or "paper" streets located in the Pratt Subdivision in the City of Novi within the Landings Area near 13 Mile and Old Novi Road, in connection with the City's determination to designate the area as park land and open space.
- P. Approval of resolution vacating a portion of Walled Lake Road and an unnamed road (part of the former Walled Lake Avenue), platted but unimproved or "paper" street located in the Chapman Walled Lake Subdivision in the City of Novi within the Landings Area near 13 Mile and Old Novi Road, in connection with the City's determination to designate the area as park land and open space.
- Q. Approval of resolution vacating a portion of the former Lake Avenue in the Walled Lake Shores Subdivision, a platted but unimproved or "paper" street located in the City of Novi within the Landings Area near 13 Mile and Old Novi Road, in connection with the City's determination to designate the area as park land and open space.
- R. Approval of resolution vacating Walled Lake Avenue and a portion of the former Lake Street, an unplatted and unimproved or "paper" street located in the City of Novi within the Landings Area near 13 Mile and Old Novi Road, in connection with the City's determination to designate the area as park land and open space.
- S. Approval of Claims and Accounts – Warrant No. 815

MATTERS FOR COUNCIL ACTION – Part I

- 1. **Approval of Resolution authorizing submission of a Michigan Natural Resource Trust Fund (MNRTF) grant application for initial development of the City owned property located at 13 Mile and Old Novi Road, (commonly referred to as the Landings property).**

Mr. Pearson said this was the culmination of Council's emphasis on getting this property into more public use. He noted several steps had been taken but one of these was to go after some State grant money to seek some improvements on the property.

CM-10-03-042 Moved by Crawford, seconded by Mutch; **CARRIED UNANIMOUSLY:**
To approve Resolution authorizing submission of a Michigan Natural Resource Trust Fund (MNRTF) grant application for initial development of the City owned property located at 13 Mile and Old Novi Road, (commonly referred to as the Landings property).

Roll call vote on CM-10-03-042 Yeas: Crawford, Fischer, Mutch, Staudt, Landry, Gatt
Nays: None
Absent: Margolis

2. Consideration to adopt resolution designating certain city-owned properties in the "Landings" area as City parkland.

Member Staudt said this had taken seven years and was an important moment for the City of Novi; he thanked Commissioner Potter for his comments and agreed wholeheartedly.

CM-10-03-043 Moved by Staudt, seconded by Gatt; **CARRIED UNANIMOUSLY:**
To accept the resolution designating certain city-owned properties in the "Landings" area as City parkland.

DISCUSSION

Member Mutch echoed Member Staudt's comments and said this had been a long time coming and he was glad to see it finally come forward. He thought the resolution made Council's intent for this property clear to the residents, which was in conjunction with the grant proposal being submitted under resolution number one to make the Landings property a unique landmark. He said this was just one step in realizing that vision and hopefully with a successful grant application, they would be able to take another step forward. He said whatever the outcome was with the grant, it was clear this was going to be parkland for the residents. Member Mutch thought when future Council's looked back at what they tried to accomplish with the study and applications for the grant, they would realize that was what they were looking to accomplish and it would be a park land going forward into the future.

Roll call vote on CM-10-03-043 Yeas: Fischer, Mutch, Staudt, Landry, Gatt, Crawford
Nays: None
Absent: Margolis

3. Consideration of the request of Novi Mile, LLC for Zoning Map Amendment 18.694 to rezone property in Section 16, east of Beck Road between I-96 and Grand River Avenue, from OST, Office Service Technology District to FS, Freeway Service District with a Planned Rezoning Overlay. The subject property is approximately 1.81 acres.

Mr. Pearson said Mr. Schultz was one of the lead people as they hit this milestone and sought consideration. The action sought from Council was to provide some feedback direction on the draft PRO and thoughts on open issues that they would continue to work on before Council received the final PRO in two weeks.

Mayor Pro Tem Gatt asked Mr. Pearson why they had to wait two weeks and why they couldn't get this finalized tonight. Mr. Pearson said the PRO process called for this kind of step, there were some open issues in the agreement, so it was not ready to be finalized. Mayor Pro Tem Gatt asked Mr. Bowman, the petitioner when he was before Council two or three weeks ago, wasn't it Council's and everyone's intent for the petitioner to negotiate with the City staff and City Attorney and return with a resolution that Council could go forward with. Mr. Bowman believed that was the case and in the interim they went before the Planning Commission and obtained a recommendation for approval of the PRO. He noted they did have constructive discourse and negotiations with the City Attorney and staff and there were still some open issues. However, they remained very confident they would be able to finalize those things, and if it was appropriate now to talk about those items, and give clear direction to staff and attorneys, they would welcome that. Mr. Bowman said they would like to walk away tonight, if they could actually come to an agreement on those items, but would respect the process if that was not possible. Mayor Pro Tem Gatt asked what the issue was. Mr. Bowman thought there were some issues in the agreement regarding the triggering mechanism and there had been discussion about an outside timeframe for the actual dedication or installation of the road. He said, simply put, they came before Council with what they termed a common sense simplistic approach to this first step modest portion of the development of a larger piece of property. He said hearing the wisdom of the PRO approach to it made sense. However, if they ended up getting into a position where they installed the first segment of road to service this, can safely and functionally operate. Then they would commit that the next shovel they put into the ground was when the road would go in and the connection would be done to Grand River. Mr. Bowman said then the question came up as to an outside timeframe or even a third party possibly pursuing development in the area. So, they wanted to be sure it was clear as to when it would be triggered what their responsibilities would and would not be. He thought it was reasonable that if they were to pursue a next stage of development or construction, at the time of C of O for example, they would need to have dedicated and completed construction of the road. However, if a third party, an adjacent property owner it shouldn't impose upon them the need to install a road to benefit them. Mr. Bowman said that was an issue and he thought they had some good conversation about how that could be addressed in the document. He also thought they were concerned that if the Overlay District, for whatever reason and certainly not within their control, were not to be acted upon or ever put into place by the City, thereby obviating the location of the road and things like that. He asked was it sensible then for them to be required to dedicate or put into place that road when the zoning designations would not be as they had talked about or the Master Plan and zoning process was looking to put in. He said those were the two main issues that were in the agreement yet to be worked out. Mayor Pro Tem Gatt asked if he heard him say he came to some sort of agreement with the City on those or not. Mr. Bowman thought the attorney was looking for some direction as to exactly what the Council's position was as it related to some of those points. Mr. Schultz said a PRO was typically a two step consideration at the City Council level. The Council would get the Planning Commission's recommendation, look at the proposal, the conditions and at the limitations and then make a determination and tell the City Attorney to work with the applicant and come back with an agreement. He said they had tried to short cut that process, and he

thought they had as much as possible. He said they worked in advance on an agreement with the applicant, which they normally wouldn't do until they heard from the Council, because that was the direction, to come back as soon as they could. Mr. Schultz said there were a couple of open issues they needed either confirmation or direction on and they couldn't finish the language on those issues until they got that tonight. He anticipated that once they heard from Council, they would be ready for the next meeting and have an agreement that Council could act on. He said from his and the applicant's perspective, the drill for tonight would be to address the two issues that Mr. Bowman raised; then any other issues that were laid out. He commented that the good thing about the process was they kind of laid out all of the deviations and things that would be in the agreement a bit in advance of when they might have seen them. Mr. Schultz said so if there were any comments on additional items to the two items raised by Mr. Bowman, they could take those and resolve them as well. He said from the City's perspective, those two items were fundamental to where the rest of the agreement went. He said the first one was were they OK as a Council with doing that road and getting the R.O.W. for it in two steps; the first part with the gas station and the rest of it when the applicant developed one of their pieces. He said that was how the agreement was set up and if Council was fine with that, they just needed to hear that and they could wrap that language up. Mr. Schultz said the bigger issue, in terms of getting the words of the agreement done, was the retail overlay question. He said in the last draft, language was inserted or requested by the applicant that essentially said if the Council didn't do the retail overlay that they were expecting and authorized instead of OST some retail uses, then they shouldn't have to do the rest of the road and they would only do the part in front of the gas station. He said before the agreement could be finished they needed to know that was the expectation of the Council. He said those two things to wrap up and bring back the next time was the hope. Mr. Bowman said one other point on that was there might be another way, which was to actually lay out in the alternative, if the overlay never became a reality, then enumerate on those properties west of the new proposed collector road that these would be allowable uses. Mr. Bowman said he understood that might have some difficulties in the actual zoning and approval processes but that was what they were suggesting could be an alternative. Mr. Schultz said, in fairness, they met today and he explained the City's position that the PRO had to first rezone the underlying properties and as to these other non gas station pieces, they were not rezoning them. So, they weren't saying anything about the uses and were just talking about a road on those. In addition, once they rezoned with a PRO to a classification, under the City's PRO they couldn't actually change the uses. They could change other things such as the height etc. other than uses. The uses had to be what was on the underlying zoning and here that would be OST and not retail for those remaining parcels. He said he understood the hope but he didn't think they could get there with a PRO agreement.

Mayor Pro Tem Gatt said his understanding the last time the applicant was before Council, was that he was going to work with Mr. Schultz and tonight was the night they would come back. He said as he recalled they were working under some sort of deadline to close a deal or something. He asked Mr. Schultz if there was an opportunity tonight, if Council acted and discussed this to come up with words or language that could be incorporated into a PRO that he could go away with tonight. Mr. Schultz said there was a lot left to be changed and finalized, in terms of language they discussed this morning. Mayor Pro Tem Gatt asked even if Council gave him direction tonight. Mr. Schultz thought there were more things to change in the document than he was comfortable getting authority to do without bringing it back to Council. He said just the process was two steps, show him the plan and then bring back the agreement.

Mayor Pro Tem Gatt thought Council already did that and he thought tonight they were coming back with a plan. Mr. Schultz said he understood but they couldn't have a final agreement. Mayor Pro Tem Gatt said the triggering mechanism, the way he understood it, was the applicant wanted to build a gas station and put in what was needed for that and then if their company developed another piece of property, they would complete the road. However, if a third party came in, then the applicant wouldn't be responsible for completing the road. He asked if that was correct. Mr. Schultz said that was correct and was how it was set up now. Mayor Pro Tem Gatt asked if the City was agreeable with that. Mr. Schultz said it was presented to Council for their determination. Mayor Pro Tem Gatt said he saw that as fair and reasonable. As far as the retail overlay, if the City didn't go forward with that rezoning and it never happened, what would the consequences be to the petitioner tonight. Mr. Schultz said if the proposed Master Plan wasn't implemented, the underlying property that the rest of this road would go on would stay OST without an additional basket of uses, which was what the retail overlay would be. Mayor Pro Tem Gatt asked what the City was requesting of the petitioner in that regard. Mr. Schultz responded that the draft of the agreement was set up to sort of acknowledge that by getting the gas station portion rezoned to Freeway Service there needed to be some public benefit to the City. He thought, from the City staff's perspective, just getting the little bit of road adjacent to that made a public road and dedicated to the public might not be sufficient public benefit. So, the draft of the agreement, which Council needed to react to, yes it's OK or we need more, the draft of the agreement sort of met the issue half way. They provide the R.O.W. to get to Grand River but they don't have to spend the money to build the road. He didn't think the applicant wanted to do that and assumed the applicant would address that question in more detail. He said the policy question for Council was whether they were willing, as a Council, to say the public benefit of the road in front of the gas station was enough of a benefit for them to do that now under the PRO, and if they never enact the overlay, then they let the rest of that go. He said that was what the applicant was asking Council to consider tonight.

Mayor Pro Tem Gatt said they were talking about a 1.5 or 1.8 acre piece of property and he thought for the City to expect the same kind of benefit that say a developer putting in a 400 road subdivision would be required from this applicant from this juncture at this time he didn't think was reasonable. He said his comments at the last meeting were, when it was sent to everybody for review and consulting, they would do this but don't get too greedy. He thought the City was trying to bite off more than they should in this instance. He thought that what the applicant was proposing was fair and reasonable.

Member Mutch said he had several concerns with this proposal as it was brought forward. He said the first big problem he had with the proposal was that Council wanted to have additional retail uses at this interchange in the numbers they were talking about. He said this was not specifically a criticism of the applicant's proposal, although he thought the applicant had a lot of input into the planning process. He said he couldn't see the sense of adding a significant amount of retail space at Grand River and Beck Road right now. He commented he had a hard time contemplating any additional retail space anywhere in Novi in light of the vacancies there were just across the street in the center just as well as the vacancies at Novi Road and I-96 interchange, just a couple of miles down the road. So, he had a concern about that from that perspective. He said he also had a concern about the size of the retail that would be added to this area that was contemplated not only in the Master Plan proposal but then it would be in essentially incorporated into this legal document. Member Mutch said talking

about 14 acres on the north side he believed the applicant was looking to have at least 25% of the total floor area to allow commercial uses. He said the kind of commercial uses that the applicant was contemplating were car washes, convenience stores associated with field stations, restaurants, including fast food, sit down and drive through restaurants and general retail and personal services. He said that was a pretty wide open collection of uses and it was not his vision for one of the gateways into the City. However, more importantly aside from the kind of uses were the impact of those uses and specifically the traffic impact of those uses. Member Mutch noted he drove through the Beck Road I-96 Grand River area last week during rush hour and fortunately he wasn't trying to get on I-96 because traffic was backed up quite a distance along Grand River for people trying to go northbound on the freeway. He said he knew one of the cases being made for the improvements that were suggested was that it would allow people to route around that intersection. He said the problem was that there was an equal amount of traffic backed up on Beck Road going northbound trying to get on the freeway. He said now they were contemplating either a non-signalized intersection with the potential for people to turn left out of that area or as this area developed out signalization at a location that he thought was very problematic. He thought the feedback they had received from the Road Commission was not positive to suggest that. He said those kind of regional issues were really raising concerns for him in terms of the kinds of uses they were contemplating in the area and the impact of those uses. Finally, with this specific agreement itself, he was concerned that a lot of the benefits that were being documented primarily benefited the applicant and Council was not seeing specific and quantifiable public benefit. He said if the road was constructed only to serve the applicant's property with a future consideration of a public road extension through the applicant's properties going to the east, it seemed clear the primary beneficiary of those improvements was the applicant and their properties. Member Mutch said he understood the applicant's desire to eventually turn those roads over to the City it would be the applicant who would benefit from the roadways going in and allowing the development of their properties surrounding that. He noted the applicant also referenced improvements to the storm water basin, which again would primarily benefit the applicant by moving the storm water off the applicant's property which allowed the applicant more developable land. However, MDOT had indicated they didn't see a particular public benefit from improvements to their basin; their basin already served the roadways in that area. Finally, the planned future overlay district that the applicant was requesting, again the language primarily benefited the applicant's property. He thought there was one other property in that area that would benefit from that. Member Mutch said that was his biggest concern with the agreement. He had a problem with the Council effectively overriding the normal zoning process by putting language in there that contemplated a zoning district that didn't even exist today and for a Master Plan designation that the Planning Commission had not even adopted yet and essentially tying their hands to some numbers and uses that they, as a Council, might not be ready to accept. He said at the very least he would hope that they go through the normal rezoning process and allow the community to have some input into that versus having the zoning district already dictated by virtue of a legal agreement. He said he didn't think that would be appropriate for this process. He said the other issues were obviously policy issues for the Council to decide whether the variances that the applicant was requesting in terms of the various zoning ordinance provisions were justified in terms of the PRO process. He said he had a real concern about the idea of introducing the idea of effectively zoning other portions of the applicant's property through this agreement without any opportunity to go through the normal zoning process for those. He said he didn't think it would be appropriate. Member

Mutch said he would not be able to support the agreement as currently written and most specifically for the future retail service overlay district.

Mayor Landry asked Mr. Arroyo if he was involved in the road and he said he was. Mayor Landry said as he saw it there were a couple major issues and one of them was the timing of when the road would actually be constructed as opposed to the dedication. He said another issue that went along with that was if the road wasn't all built now, whether the remaining road would be built when either the developer did the next phase or whether a third party did it. He said that was issue one. He said issue 2 was the notion of if the PRO, which was being considered by the rezoning overlay by the Master Plan Committee, never occurred did they need the road at all. Mayor Landry asked Mr. Arroyo if this was a collector road that allowed people to get onto the site and adjacent sites from Grand River and from Beck Road. Mr. Arroyo said he was correct. Mayor Landry said if the retail overlay district didn't get approved by the Master Plan and Zoning Committee, would there be a need for the road. Mr. Arroyo stated he believed there was. Mayor Landry said then even if it's built out all OST, in his opinion would they still need the collector road. Mr. Arroyo believed it would still provide a significant benefit to circulation in the area. Mayor Landry asked if he would be correct that from a standpoint of safety, when this one gas station went in, it would not necessarily be important to have this road built in its entirety just for this; however, when they start filling in other uses, that would be when it would become important for the road to be done in its entirety. Mr. Arroyo said with this particular use the primary difficulty would be left turns out onto Beck Road to go south. There would be delays that would be experienced with the gas station particularly during peak times and during off peak times there would be less. He said the use would benefit from the road whenever it went in and as more traffic added on to that, obviously, it would become even more important. Mayor Landry said so this collector road, if it were built in its entirety simply when the gas station went in, it would allow people to get onto Grand River without having to go on Beck Road; therefore, eliminating the need for some traffic to turn left out of the gas station. Mr. Arroyo said he was correct.

Mayor Landry said the first issue was the notion of the Retail Overlay District and what if the City never approved it, did they need the road at all. Mayor Landry said from what Mr. Arroyo said he thought they did and his position was they needed the road regardless of whether the Retail Overlay District was approved or not. So, he would be looking for this road to be constructed or to be dedicated. He said with respect to the first issue and the timing of the road the applicant came before Council requesting a straight rezoning. He said he indicated he would not support that because it was not consistent with the Master Plan. Mayor Landry noted he specifically requested if they would go the PRO route so that they would not be in a position, he would vote no if it was just straight up because he didn't want to go against the Master Plan. He said the applicant agreed to go PRO and it worked and he thought they had done a pretty fast track with the project. Mayor Landry said 1) regardless of the Retail Overlay District the road needed to go in and 2) with respect to the time, he understood what Mr. Arroyo said and he would be willing to go with the applicant and require that the entire road not be constructed now. However, he agreed that the benefit was a public benefit and not just a benefit to the applicant. So, when the applicant says if a third party built a parcel, why would they want to build a road that didn't necessarily benefit them, the idea was to benefit the public not the applicant. Mayor Landry said he would be looking for the road to be built out whenever the next piece went in. He said it didn't have to be done now but whoever put the next piece in, whether the applicant or a third party, he would be looking for the road to be built.

Mr. Bowman asked who would build the road. He said if they were bringing forth a development and the City had its abilities to indicate that things needed to be done, Council probably would then say if required by studies and ordinances and procedures that there needed to be X amount of access or they needed to do this. He said, again, part of their PRO, in essence, they didn't mind at all, and had said so in front of the Planning Commission, here's where it goes and they agreed and actually would dedicate and have that in escrow and ready to go. He said when their next shovel went into the ground it made sense. But now someone comes along and he guessed the inequity of that was that he would kind of lay at Council's steps and say if they were going to propose a development that needed it and he had done those steps that they wouldn't normally under ordinary circumstances have available to them through his property, then it was there for them to do just as it would be there for him to do. Mr. Bowman said it was a matter of then who would do it next. Mayor Landry asked who paid for it, right now one option was for the Council to say they don't get the gas station until they built the whole road. So, he thought a fall back position would be Council would not require them to do it all now; they could wait and do it all when the next project came in. He said that was what he was considering right now. Mayor Landry said he was understanding Mr. Bowman's concern as he would build the part in front of his gas station now but if the next piece was not Mr. Bowman's he would be looking to Council to require them to pay for the remainder of it. Mr. Bowman said they would agree, as part of this process, to dedicate the property for the R.O.W. He said that was a huge step and Council knew what would have to go on in those situations normally. He said he was coming at it from a little bit different approach and appreciated what Mr. Arroyo just said to Mayor Landry but he said their site could operate safely and effectively as it was. He said now someone else comes along with an adjacent piece of property and said they wanted to do something that they would benefit from and they have the ability then to even utilize R.O.W. that he had donated, then fine. The next step would be as a part of the City's site plan approval process and things of that nature would be secondary access, there it is. Mayor Landry said he would go with Mr. Bowman on the timing issue even though he thought it would benefit the public to put it in now. Mayor Landry said they were struggling over who paid for it if it was not put in now. Mr. Bowman said think about it even in light of the secondary component that was discussed, PRO would go forward and zoning and overlay districts argued about never occur. He said the alignment and placement of that road, and again, they had been at these meetings and he would just take a little bit of exception with a lot of it but certainly they had been there constructively hopefully being a part of that process. He said this was something that he didn't want to put words in the Master Plan and Zoning Committee's mouth but he would say that they would argue that they had to look at the long term not just now, they had to look at what would service and function for that area for the long term. So, ultimately, that was what kind of made sense for that road alignment with those overlay uses envisioned. Mr. Bowman said if it was not going to be those and let's say we have a jewel of a development come along that he would love to do what if that road wanted to be in another spot and yet a neighboring property owner said they would put it in. Mr. Bowman said those types of things had to be considered as well or maybe from a traffic and development standpoint it might otherwise want to be in a different location. Mr. Bowman said they would dedicate it and even be OK with the timing perspective that someone else could trigger it, but if they wanted to trigger it at that point in time and had access to the ability to do that then they would be responsible to put it in. He said they weren't talking about huge expanses of roads; it would be similar to other site planning processes of the community as imposed in other circumstances. Mayor Landry asked Mr. Bowman if they would dedicate

the property right now. Mr. Bowman said they would put a deed in escrow dedicated for that purpose and hopefully with enough flexibility that if something came to the floor it looked at a realignment of it or repositioning of it. He said the curb cut would be set into place and they had talked about that as part of the agreement, so with a reasonable flexibility. Mayor Landry asked how they put in escrow the dedication of property if they didn't know where it was going to be. Mr. Schultz said the way they had set the escrow part of this up was the agreement set the access point on Grand River and obviously the one on Beck Road would be set with the plan for the gas station. He said they would take the R.O.W. description that they already had for the layout that was in the documents Council had, they would sign those and they would be put with an escrow agent. He said they were really there as more of a fail safe if they try to do something other than dedicate it and was set up so that it only came out almost as a penalty if they failed to do the road with one of their subsequent developments. He said that was how it was set up now. The Escrow Agreement and PRO Agreement itself had language that said the City would work with them on minor alterations, to that legal description as long as the access point didn't change and as long as it met Design and Construction Standards and as long as it did the same thing that it did for the City the way it was set up now. He said they could have that kind of flexibility as long as they held the deed in place in case they tried to do something not permitted. Mayor Landry said if someone came in that owned a piece of property that this applicant didn't own and wanted to put a development in, they would know coming in that in order to do that, the City would require that they build a road, if they agreed not to require the applicant to build the entire road now. Mr. Schultz said under that scenario, they would write an agreement provision in there that said they put the deed in escrow and if that third party came in and wanted to build the road, they either had to do whatever they needed to do to get the road in proper alignment that everyone could agree on or if they didn't come to the table and do that, then the City would record the one that was in escrow now. He said then, under their request, the new petitioner or other property owner would build that road on that R.O.W. across their property. He said that was the proposal from their perspective as he understood it. Mayor Landry said what Mr. Schultz was saying was before you put a shovel in the ground for anything other than the gas station, you pay for the road. Mr. Schultz agreed. Mayor Landry said so if you're the next developer on the next parcel, you pay for the road. Mr. Bowman agreed and said he wanted to make sure that practically speaking, it would probably be a coincidental process to other permits being pulled and a C of O because there was construction timing, inspection processes, etc. He said before they occupy that next structure and get a C of O, it would be constructed and dedicated. Mr. Schultz said they would build it like they would in any other development where the road was going to be required, we agree on that. Mr. Bowman said he would think similarly for any adjacent third party property owner that wanted to avail themselves of that as well. Mayor Landry said then the issue comes down to was Council comfortable with not requiring them to put the road in now and if they're not, then they say put the road in now. If they were comfortable in allowing them to wait to put the entire road in, who would pay for it. He said that was the direction that everyone was looking for in regard to this PRO. Mr. Bowman said with the only exception to clarify that, obviously, if it was on his property and their next project, they would put it in. Mayor Landry agreed. Mr. Bowman said it was on their property and part of the agreement they were dealing with, but a third party would trigger that when they were looking to use it, and he said he understood the public benefit. Mayor Landry said if it's the public benefit, they understood each other. Mr. Bowman agreed.

Member Crawford said it seemed fair that they would dedicate and she didn't have a problem with the road coming in two parts and it made sense to her that Mr. Bowman wouldn't put in a road if he didn't own whatever the development was. She thought it made sense and if he dedicated it she didn't have any problem at all just building that portion of the road to serve the gas station. Member Crawford said she didn't have a problem with the premature zoning, as she thought this was the future zoning category and it made sense to her that a gas station would be there. She said she didn't know who actually interprets public benefit but she thought part of the public benefit would be having a gas station convenient to the expressway but maybe that wasn't enough public benefit for some people. This seemed a bit extreme and she knew that everyone was working as hard as they could but for some reason or other when Council had people who came to them and wanted to build a business or wanted to do a business there seemed to be so many hurdles it was almost prohibitive and it discouraged people from wanting to do business with them. She said that was unfortunate especially now when there were very few people coming before Council wanting to build. She said she wished the process was a little clearer and simpler.

Member Staudt agreed with Member Crawford and would be in support of her position, which said that down the road someone else would be responsible for public benefit. He said he didn't see a huge public benefit for Mr. Bowman paying for the road in the event that somebody else builds.

Mr. Pearson said when the Planning Commission saw this as part of the hearing, they didn't have the benefit of some of these issues and they understood that that was coming forward. He said they saw on the motion sheet that they listed out and identified some things such as the landscaping on the east and he didn't know where that stood. He said there were things to process that were a work in progress and they also needed direction on signage, the canopy and there were seven items listed on the motion sheet and it might be helpful as a guide. He said this was a complicated project but thought the parcel was deserving of that because they were talking about property that was on the prime corner of interstate frontage, Beck Road and Grand River. He said the City and private entities had spent millions of dollars on public infrastructure along that corridor. He noted this was a large chunk of vacant property and there had been all kinds of ideas and lots of efforts and work over the years to think what was the best from the Rock Financial Showplace towards Beck Road. He said he was thinking about things that they were struggling with now in terms of the ring road and they had plans for that and they had wished that was in place and this was an opportunity and a need to sort of lay out to be sure that the City was in a position down the road to be able to get some of those improvements. He said there had been all kinds of ideas for how this large vacant piece, that the applicant controlled a big part of, could be built out to the best benefit. He thought what Council was struggling with was not turning down a bird in the hand and still keeping an eye towards long term and balancing all this out. He understood the discussion and they had tried to work through it and with it, but the fact was they needed and wanted to get going faster than some of the other things that were catching up and that was why some of these things were out of sync. He said they were seeing things now a little bit more disjointed than they would normally be if it had run through the standard idea.

Mayor Landry suggested that they take this a piece at a time. He said Administration was looking for direction so with respect to the road it sounded to him that they were looking for a motion that would suggest to the Administration that the PRO going forward required the

developer to dedicate all the land right now and that would be the public benefit, the PRO would dedicate all the land for the road right now but that the developer would not have to build the entire road right now and that the entire road would have to be built when the developer put in its next project, which the developer would pay for or if a third party came forth, the third party would pay for the road but the road would go in regardless of whether the Retail Overlay District was passed by the Master Plan and Zoning Committee or not.

Mayor Landry said his understanding was they needed direction on the final wording, this was already very fast, if they do that tonight it would come back to Council, with the wording as Council suggested, at the next meeting and it could be approved. Mr. Schultz agreed and said he thought the applicant was on board with that process too. He said there were some discussions today but certainly on Friday they were pretty clear on what the process would be and he thought everybody was OK with it. Mr. Bowman said he would take responsibility for that. He said there was a little bit of a lack of communication on his side as to exactly what would happen tonight and certainly and hopefully if there was strong direction that would work for them as long as it was reasonably favorable with respect to the PRO.

CM-10-03-044 **Moved by Gatt, seconded by Crawford; CARRIED UNANIMOUSLY:**
Regarding the request of Novi Mile, LLC for Zoning Map Amendment 18.694 to rezone property in Section 16, east of Beck Road between I-96 and Grand River Avenue, from OST, Office Service Technology District to FS, Freeway Service District with a Planned Rezoning Overlay to approve the road in question be built in two steps, that the applicant dedicate all the land and that would be the public benefit for the PRO, that the initial road be built to accommodate the needs for the gas station convenience store, and the next phase of the road being built would be triggered by a shovel in the ground or construction either by the applicant at which point he would be responsible for finishing the road at his expense or a third party, unknown at this time, who put a shovel in the ground and started construction that person would be responsible for completing the road at their expense regardless of the Retail Overlay District question.

Roll call vote on CM-10-03-044 **Yeas: Mutch, Staudt, Landry, Gatt, Crawford, Fischer**
Nays: None
Absent: Margolis

Mayor Landry asked what other direction the Administration needed.

Mr. Schultz said, from their perspective, Council had a list of the ordinance deviations and not hearing anything he assumed that those were OK to stay in the agreement. He said the signage was probably the only other non road related issue. He said they were proposing an extra sign and a little bit larger on the monument sign, if Council had a reaction to that fine, if not, it was written into the agreement that that's OK. Mayor Pro Tem Gatt stated he had read all the deviation that the applicant was requesting and he didn't have any problem with any of them. He said a gas station on the corner like this one, they would get a monument sign and

that was normal. Mr. Bowman said a monument sign was actually required at gas stations. He said theirs, because of the setback nature of the site it was up and off of the major thoroughfare and well set back from the freeway. He said they were going with a 9 ft. height instead of a 6 ft height but the actual surface face of the monument sign was within parameters. He noted all the remainder of the signage was within the parameters of the square footage allowances but they were essentially getting one additional sign per their request. He said they were also going with the badges instead of the color scheming that was a concern on the canopy. Mayor Pro Tem Gatt said he found nothing extraordinary or out of the ordinary.

CM-10-03-045

**Moved by Gatt, seconded by Crawford; MOTION CARRIED:
Regarding the request of Novi Mile, LLC for Zoning Map
Amendment 18.694 to rezone property in Section 16, east of
Beck Road between I-96 and Grand River Avenue, from OST,
Office Service Technology District to FS, Freeway Service
District with a Planned Rezoning Overlay to approve all
variances requested by the applicant and listed in the PRO.**

Mr. Schultz said the agreement was drafted and before Council a little in advance of when it would be so he was assuming that the way they laid those out was the way they would be left with some tweaking. He said they would take that direction as the way they were to be headed.

DISCUSSION

Member Mutch asked Administration to clarify the signage request because it felt like a moving target in terms of what was initially proposed and it sounded like the applicant made some adjustments and agreements on that. He asked, from the City's viewpoint, where they were in terms of signage ordinance compliance and what would it be comparable to. He said there was a recent discussion about the gas station at Thirteen Mile and Novi Road and asked if they were in that kind of area in terms of size or were they looking at something closer to the ordinance standards,

Mr. Pearson said they had talked about the station at Twelve Mile and Novi and compared it to the one at Thirteen Mile and Novi. He didn't know how this one did. He said this dealt with item six, they did the matrix of the signage and what they were asking for and what was allowed by the ordinances. He said they were suggesting that the ground sign be brought into compliance with the ordinance standards and that one wall sign they were requesting be omitted and that the canopy signs be omitted. He said all of that would be consistent with the ordinance standards.

Member Mutch commented about the process. He said normally after the Council had rezoned the property, which could have happened at the previous meeting, the applicant would have had to have gone to the Planning Commission for site plan approval, if this had been following a straight rezoning. The applicant was requesting a number of variances, which even if the Planning Commission had then recommended approval of that site plan with those variances, then would have required them to go to the ZBA and get their approval. Member Mutch said they might have looked favorably upon some of these but he thought some of

these could be argued that some of them were self created hardships for the applicant. However, in any case he thought the applicant had benefitted by going this route and had probably gotten farther down the road and gotten the ability to do some things that they probably otherwise would not have been able to do through a straight rezoning process. He said obviously, the trade off was the applicant had to jump through some extra hoops with the PRO process but that's how the process worked. Member Mutch said regarding the timeline he thought the applicant was at the same place they would have been and he thought however one comes down on the issue of public benefits, clearly there was some give and take on both sides. He thought they had done OK as far as that went.

Member Fischer said he agreed and thought there had been a lot of give and take in this situation and he saw the public benefit in the motions that had been made. He said the one item as far as signage went that he did have a concern on was the ground sign. He said he couldn't think of another gas station that was allowed a nine foot high ground sign. He asked the applicant to respond regarding the necessity of that.

Mr. Bowman said he didn't think they would find another gas station set this far back from the roadway, He said this was looking to be a part of a freeway service designation and that acknowledged the fact that the freeway side was an important visibility side from a recognition and signage factor. So, if they took into consideration the excess R.O.W. and the basin that was there and the proximity of the ramp he thought a nine foot high sign would be even less significant than directly on the corner at the Twelve and Novi or Thirteen and Novi sites, a typical six foot size. Member Fischer said he would argue that some of the other gas stations mentioned actually did have similar or further setbacks. He said nine feet high was not very pleasing to him aesthetically and was one of the few concerns he had about the plan. Ms. McBeth said he was not aware of any other gas station signs of that height. She said six feet was the typical standard and she wasn't aware of any nine foot tall gas station signs. Member Fischer said he would support the motion but would prefer to see the sign brought down a little more on compliance.

Mayor Landry asked if the motion to direct the Administration to draft a PRO with the applicant's request as opposed to the staff's request with respect to signage. Mr. Schultz said that was the motion.

Mayor Pro Tem Gatt said he didn't believe there were any other gas stations in the City that were comparable to this one being proposed. He said he shared Member Fischer's concerns but thought in this case, in this location being on the freeway, it was appropriate.

Member Crawford said since Novi didn't have a gas station that did set back as the proposed station she thought it was difficult to compare the signage at Twelve Mile and Novi Road in a station that was right up to the corner. She said it was apples and oranges in a way, signage wise. She thought if the station was back off the road and if the sign was faced to attract some of the people off the freeway, she didn't have a problem with it. She said she knew it was a deviation from what they normally did but there wasn't a piece of property like this either where a station was already situated. So, she didn't think they could compare the signage with ones at Twelve Mile and Novi Road because it was too different.

Mayor Landry said he couldn't support the motion. He said he was with them on the road, the phasing of the road and who paid for the road. However, he was concerned about consistency especially with the gas stations. He said they got the alcohol at the gas station and they worked through the road issue and the zoning issue but the other mega gas station in Novi they talked a long time about signage and they wanted signs and Council said no. He said he would be in favor of the PRO including the staff's recommendation on the signage.

Roll call vote on CM-10-03-045 **Yeas: Staudt, Gatt, Crawford, Fischer**
 Nays: Landry, Mutch
 Absent: Margolis

Ms. McBeth said there was one more issue being the canopy itself was normally designed to have a certain amount of brick at the base on the columns. She said this one was somewhat deficient in that regard and provided the cultured stone instead of brick and the façade consultant was OK with that but they felt that there could be further adjustments made to have the minimum amount of cultured stone up in the columns.

Mr. Bowman said this was an extraordinarily nice façade and it was down to whether they met the percentages. He said they had the right materials but didn't technically meet the percentages. He said if they did that, it expanded the size of the columns and the size of the islands relating to them, so it presented a layout for the site even issues. He said they adjusted the façade of the canopy itself and that was a huge issue and was one that for this particular blind was not done but understanding that a color scheme in the community here was considered a sign. He said along with all the other additions they had actually made to the actual building, they hoped it would be acceptable.

Member Staudt said he would defer to the applicant on their façade.

Mayor Pro Tem Gatt agreed with Member Staudt and said this was why it was tough to do business in Novi sometimes. He said he's altering the size of his building, altering the pillars and every thing he can.

CM-10-03-046 **Moved by Gatt, seconded by Staudt; MOTION CARRIED;**
 Regarding the request of Novi Mile, LLC for Zoning Map
 Amendment 18.694 to rezone property in Section 16, east of
 Beck Road between I-96 and Grand River Avenue, from OST,
 Office Service Technology District to FS, Freeway Service
 District with a Planned Rezoning Overlay to approve the
 façade as presented by the applicant.

DISCUSSION

Member Mutch said in reading the discussion about this, staff referenced there was a gas station on the south side of Grand River west of Novi Road that had brick and some of the materials discussed. So there were examples in the City where they had required developers building gas stations to utilize materials that they wouldn't necessarily think of standard gas station materials.

Ms. McBeth agreed and thought that the ordinance was specifically designed with the idea of the character of the community and the characteristics that the community was hoping to see. Member Mutch said he could understand the concern if they were asking the applicant to do something that was above and beyond what was asked of other projects in the City. However, in this case, it sounded like other gas stations had incorporated similar materials and again they were talking about the gateway to Novi. He understood that the applicant wanted to have a certain look for their facility and also knew that Mr. Necci and his façade review were eminently fair. He said his experience was that he worked with the applicants to make sure that if it was something that didn't exactly meet the standards of the ordinance, that if it truly was comparable material and presentation, he would support that. He believed the staff would take the same approach. He said he could not support a waiver in this case where they would want the best possible presentation and he thought the applicant could meet it.

Mayor Pro Tem Gatt said he understood it was the same material that the City required just not the exact percentage of material. He commented for them to use the exact percentage would cause a hardship on the petitioner that he believed would be unfair. Mr. Bowman said that was exactly the point he wanted to make. He said it was not a matter of materials it was just a matter of size to meet a percentage. He said they would not even have a discernable difference to the view of it from the standpoint of a façade issue but from a site layout issue to support the additional percentage they would have to expand the column basis, the islands and the function of the site would be affected.

Mayor Pro Tem Gatt said he suspected that when the project was done, it would be a true monument to the Gateway of Novi and something they would all be proud of.

Roll call vote on CM-10-03-046

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

- 4. Consideration of adopting a resolution to rescind the City's April 27, 2009 Liquor License to Fox Run Village, Inc., given the failure of the applicant to take steps to secure issuance of such license by the Michigan Liquor Control Commission, unless additional efforts to secure the license from the Commission are undertaken.**

Mayor Pro Tem Gatt asked how much time they would give them. Mr. Pearson said they suggested 60 days. He said they claim that there was a required State Police investigation underway, so there had been lots of people who had gotten liquor licenses in the meantime. So, if between now and the next 60 days they get some discernable action going, they would come back and put this rescission in abeyance. Mayor Pro Tem Gatt asked if they had hired a new firm, and Mr. Pearson said the same people had been talking to them. Mayor Pro Tem Gatt said 60 days was a long time but if that was the staff's recommendation, he would go along with that. He thought they had been given more than an appropriate amount of time, this had never happened before and they had been given a liquor license worth a lot of money and they failed to act on it.

CM-10-03-047 Moved by Gatt, seconded by Mutch; **CARRIED UNANIMOUSLY:**
To approve adoption of a resolution to rescind the City's April 27, 2009 Liquor License to Fox Run Village, Inc., given the failure of the applicant to take steps to secure issuance of such license by the Michigan Liquor Control Commission, unless additional efforts to secure the license from the Commission are undertaken within 60 days from today.

Roll call vote on CM-10-03-047 Yeas: Gatt, Crawford, Fischer, Mutch, Staudt, Landry
Nays: None
Absent: Margolis

5. Approval of Resolution to Adopt Fees for Site Plan extensions, Renewal of Expired Permits, Preparation of Completion Agreements under Chapter 26.5 and to update the referenced Construction Valuation Schedule.

CM-10-03-048 Moved by Mutch, seconded by Gatt; **CARRIED UNANIMOUSLY:**
To approve Resolution to Adopt Fees for Site Plan extensions, Renewal of Expired Permits, Preparation of Completion Agreements under Chapter 26.5 and to update the referenced Construction Valuation Schedule.

Roll call vote on CM-10-03-048 Yeas: Crawford, Fischer, Mutch, Staudt, Landry, Gatt
Nays: None
Absent: Margolis

AUDIENCE COMMENT

Ginger Barrons, 24777 Glenda, thought that it wasn't right to have alcohol in City buildings, as these buildings were for families and alcohol and families didn't mix. She said the thing that particularly concerned her was that alcohol could be served in the Library area after 5: 00 P.M. She said children were still in the Library at those hours and particularly in the summer, and that really bothered her. She said another concern about alcohol in City buildings was that they were surrounded by residential property. However, more importantly for the business community, although the City was suffering economically, it wasn't too bad and there were still things that could be done, if necessary. She said the business owners were not in the same position that the City was in. She said it was the perception, and she felt the City should not be competing with the business community. She said she was not in favor of alcohol in City buildings.

MATTERS FOR COUNCIL ACTION – Part II

6. Consideration of Adoption of City Code Amendments 10-149.10 and 10-113.02, to clarify rules regarding consumption of alcohol on certain publicly-owned properties. Second Reading

CM-10-03-049 **Moved by Mutch, seconded by Staudt; CARRIED UNANIMOUSLY:
To approve adoption of City Code Amendment 10-149.10 to change
the definition of public place in order to allow the use of alcohol
at certain public facilities as long the resolution of City Council was
adopted and prohibited the use at other public facilities and to
approve the adoption of City Code Amendment 10-113.02 to prohibit
alcohol consumption in parks except where authorized by City
Council resolution.**

DISCUSSION

Member Mutch said he had received a lot of feedback on this subject and generally the feedback was one of concern and opposition to this. He thought part of it was driven by a lack of understanding on everyone's part how the rules worked before. He said one of the reasons he would support this change was that he thought it provided clarity, in terms of the City's policies and ordinances. It ensured that City policies and ordinances were being applied in a way consistent with what the Liquor License Commission allowed regarding alcohol use on public property. He thought another issue was Council needed to do a better job making it clearer on how this would apply. He said Ms. Barrons raised a concern about alcohol at the Library after 5:00 P.M. Member Mutch said his understanding was that first the Council would merely be in the position of authorizing the use and the ultimate decision on alcohol use at the Library would be the purview of the Library Board. However, the intent would be to limit that to after hour events and not when the general public was utilizing the Library. Member Mutch suspected the Library would limit that use to a couple times a year for fund raising activities. He said as far as the Civic Center location, he could understand the concern that people would be coming into the building at the time of their events where alcohol might be consumed. Member Mutch said if they were being realistic about what occurred in the community, people hold parties in their neighborhoods, at sporting events and otherwise around town where alcohol was consumed in residential areas. He thought it wouldn't have a significant impact either way by having a very limited application of alcohol permitted in the Civic Center building. He would be concerned if he perceived this as competition with the business community, but he thought the kind of events that would happen at City Hall were very limited and he didn't see it being in competition with Novi's businesses. Member Mutch said some had concerns that the City would be in the business of selling alcohol or operating a concession where the City would be involved with alcohol sales. He said that was definitely not the case and that was clear in the policy. He said if this was adopted, they would need to make it clear to the community that the City was not selling alcohol. Member Mutch said like a number of changes to policy they had discussed, if there were concerns or problems with the application of this, he would be more than willing to reconsider it down the road and shut it down, if necessary. He asked Council to support this change.

Member Crawford said she didn't receive many phone calls on any particular issue, but she did receive several on this issue from citizens. She said the calls she received were from people who were concerned and didn't agree that alcohol should be sold in a public place. She said some of the debate they had on this issue included the fact that some people on Council thought that residents should be allowed to use the buildings they own. She said citizens own a number of things such as the DPS and police cars, but Council wouldn't allow them to drive them. So, she felt that just because the public owned the Civic Center didn't mean Council

should allow everything to happen here, such as allowing alcohol. Member Crawford stated she was still not in agreement that alcohol should be served at the Civic Center. She noted that alcohol had been prevalent at Lake Shore Park and there weren't many issues relating to that. She said she was not comfortable serving alcohol in the Civic Center.

Mayor Pro Tem Gatt noted there would be no safeguards in place except by the people renting the facility. He said the police would not be there and the only safeguard would be people policing themselves. He said Council had put into the Ordinance a two drink limit but who would be there watching who got two drinks and who got 12. He said if they go forward with this, it only took one tragedy and one accident to alter lives forevermore. He said alcohol permeates society and there was no question about that and they were not going to do anything about it, but there should be safe places. He felt a safe place should be City Hall, the Library and where children and people go for recreation. He said this was the City's building and he had never in his 7 years on Council or his 35 years of service to the City of Novi had any resident told him they wished they could drink alcohol at the City Hall or Library. Mayor Pro Tem Gatt said they were not the first Council or Administration to talk about this or grapple with this. In the past, they had all decided it wasn't worth the risk or endeavor. He said in Novi they always said they're the best and better than everybody around us. He said when it suits them they compare themselves to other communities and say "see we're better". However, now when it suits them, they were saying they drink alcohol in their Civic Center so Novi should allow it too. He said this was the easy wrong. It would be easier to rent the facility, market it and make no mistake they would be competing with private businesses. He said it wasn't going to be just once in a while as people would have parties, weddings, showers, etc. here, things that normally would take place where alcohol was allowed would now come to the Civic Center and deprive business owners from that revenue. He said the hard right was what they should be looking to do tonight. He said they should say no. Mayor Pro Tem Gatt said he didn't know who all the residents were that were contacting Council members saying they wanted to drink at the Civic Center or wished they could bring alcohol into the Civic Center. He said in all his years with the City, he never had anyone approach him with that. He thought they were making a mistake and he knew it was a trial, but sometimes a trial could end in tragedy before they could withdraw what was in the motion tonight. He urged Council members to vote no as he would do, he had been no and always would be. He thought it was a bad idea.

Mayor Landry said he would support the motion, and appreciated and respected his colleague's comments. He said this was an issue that had been talked about for a while, there had been a very healthy discussion and the motion on the table was to consider it on a trial basis for six months.

Roll call vote on CM-10-03-049 **Yeas: Fischer, Mutch, Staudt, Landry,**
 Nays: Gatt, Crawford
 Absent: Margolis

- 7. Consideration of Zoning Ordinance Text Amendment 18.237, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 25, General Provisions, Section 2508, Uses Not Otherwise Included Within a Specific Use District, in order to provide standards for siting wind energy turbines. First Reading**

Mr. Pearson said this was something new and they were looking ahead and were trying to be ahead of the curve and this had positive recommendations.

Member Mutch felt it was overly restrictive in its application and not always in the right areas. He said in the Planning Commission minutes there was a lot of discussion and concern about allowing any kind of wind turbine in residential areas. He thought that no one would be looking forward to their neighbor having a 100 ft wind turbine in their backyard or even some of the smaller structures. He thought the blanket prohibition that didn't even consider lot size or adjacent land uses, in regard to some of the smaller turbines; he would question the application of that. Also, conversely, it was kind of a free for all on the Industrial Districts with pretty much letting everything go but the limitations in terms of the numbers of wind turbines permitted. He said the applications he had seen where companies were utilizing this were typically looking at doing three or four small turbines attached to a structure or near a structure and he thought they limited that. He stated he wanted to see more information from staff regarding other suburban communities that had wind turbines in their communities. Member Mutch noted that at a certain point, the ordinance was so restrictive he didn't see the point to it. He commented that Novi had fairly limited capacity for wind power from everything he had read, so he wasn't sure there would be any significant wind turbine activity. However, he didn't want to set up a situation where people had an expectation that they could do it, but then after they get to the ordinance requirements, it's nearly impossible to do. Member Mutch said he'd like more information from staff to see how they matched up to that actual application on some of the smaller wind turbines before the second reading.

**CM-10-03-050 Moved by Gatt, seconded by Landry; MOTION CARRIED:
To approve Zoning Ordinance Text Amendment 18.237, to amend
Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance,
at Article 25, General Provisions, Section 2508, Uses Not Otherwise
included within a Specific Use District, in order to provide standards
for siting wind energy turbines. First Reading**

DISCUSSION

Member Fischer said he would like more information on the noise because he was very concerned about the application in the residential area. He said he would prefer to be more cautious in that aspect to ensure they didn't get into a position where wind turbines were installed and they detracted from home values. Then, they would have to go back and try to right the wrong after the fact. He preferred to be more conservative in the residential area; other than that he could support the motion on the table.

Member Crawford agreed with the other members of Council. She said she was not able to open up the text to see what the amendment actually was. So, she didn't know what it said and didn't feel comfortable voting in approval without knowing what was in it. She said if they were assured that staff was going to look at it again and bring Council more information, she would feel better about it.

Member Staudt stated he shared Member Mutch's concerns about some of the restrictions but would approve the first reading because he was interested in thinking about this more and hearing the comments of Council. He said it was very similar to the next item they were going

to discuss and he had the same concerns about both. He stated he was willing to let this move forward, and thought there would be a lot more discussion as they thought about the comments. Member Staudt asked what the process was in the past, if someone wanted to do some of these things. Mr. Pearson said he didn't know if they had one. He said there was an industrial user that was looking at doing some manufacturing and down the road looking at a demonstration and actual installation. He thought that was what kind of spurred some of this on regarding having regulations. Member Staudt said from an economic development standpoint, he didn't want to put rules in that would basically throw into the face of potential businesses that Novi had overly oppressive rules related to their stuff. He said it was one of those things where this was really new and there wasn't a lot of history with these types of ordinances, especially in this area. He said he would accept moving forward with a good discussion in the future.

Roll call vote on CM-10-03-050 **Yeas: Mutch, Staudt, Landry, Gatt, Fischer**
Nays: Crawford
Absent: Margolis

- 8. Consideration of Zoning Ordinance Text Amendment 18.240, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 25, General Provisions, Section 2520, Exterior Building Wall Façade Materials, and Section 2503, Accessory Uses in order to provide standards for the use of solar collectors. First Reading**

CM-10-03-051 **Moved by Staudt, seconded by Fischer; CARRIED UNANIMOUSLY:**
To approve Zoning Ordinance Text Amendment 18.240, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 25, General Provisions, Section 2520, Exterior Building Wall Façade Materials, and Section 2503, Accessory Uses in order to provide standards for the use of solar collectors. First Reading

Roll call vote on CM-10-03-051 **Yeas: Staudt, Landry, Gatt, Crawford, Fischer,**
Mutch
Nays: None
Absent: Margolis

COMMITTEE REPORTS

Member Staudt said he would support the request for Parks Foundation members being added to the Walkable Novi Committee. He asked if they needed a formal process, or did they need a motion now to do that or wait until next week. Member Staudt stated he would like them to be voting members. If they were going to have a significant hand in the funding of this moving forward, he would like them to be standing side by side with him when they request the money from the Naming Rights. Mayor Landry said he was not opposed to the notion of acceding to their request. He said if it was an Ad Hoc Committee, Council could do whatever they wanted at the table. He thought it started out as an Ad Hoc Committee and sort of took legs on its own and had existed for several years, its prioritized and he thought it had done a wonderful job. He said he would be in favor of putting it to a vote tonight unless he heard something different from anyone. Mr. Schultz said the only concern he had was that he didn't know how the

committee was made up. If it was clear that they wanted to add them as voting members, there might need to be a little more formality in telling Council what that committee was made up of. Mayor Landry said he would be in favor of requesting that the Administration come back to Council in an off week packet. He said whatever action needed to be taken could be done at the next meeting. Member Staudt said that was acceptable.

Member Mutch agreed with Mayor Landry.

Member Crawford noted that Member Fischer will attend the SEMCOG annual meeting on her behalf, as she could not attend. She said Mr. Pearson mentioned something about MDOT and it reminded her of something that was a little disturbing. She said Novi Road had become a depository for mountains of dirt for several years. She said she knew they had made use of the dirt on the roads but it seemed unfortunate that it had to sit there near Twelve Oaks and asked that it be removed. Mayor Landry agreed.

Mayor Landry believed it was the last meeting that they would have Ms. Antil, Assistant City Manager, with them. He thanked Ms. Antil for her service and said it had been an absolute pleasure to have her with the City. He said they appreciated her, wished her Godspeed and thanked her for all her service to Novi.

MAYOR AND COUNCIL ISSUES - None

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 8:53 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene McLean

Date approved: April 5, 2010