

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, JUNE 2, 2014 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

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

PLEDGE OF ALLEGIANCE

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

ALSO PRESENT: Victor Cardenas, Interim City Manager
Carl Johnson, Finance Director
Thomas Schultz, City Attorney
Rob Hayes, Director of Public Services

APPROVAL OF AGENDA:

CM 14-06-091 Moved by Casey, seconded by Mutch; CARRIED UNANIMOUSLY:

To approve the Agenda as amended. Mayor Gatt added Mr. Keith Mixer to the Interviews for Boards and Commission who is interested in interviewing for Planning Commission. Council member Wrobel added Item 1 to Mayor and Council Issues – Library Driveway.

Roll call vote on CM 14-06-091

**Yeas: Staudt, Casey, Fischer, Markham,
Mutch, Wrobel, Gatt**

Nays: None

PUBLIC HEARING – None

PRESENTATIONS – None

INTERVIEWS FOR BOARDS AND COMMISSIONS:

1. Tony Anthony, Planning Commission, spoke to Council about the learning process of the Planning Commission. He explained a project before them required more parking than most communities but was changed for that specific use. He cited that it is difficult when the older nonconforming properties request improvements. He also appreciated having the non-motorized pathway plan. Member Casey asked what other changes he would see coming to the community. Mr. Anthony spoke about the overlay district. He referred to an emphasis on looking at specimen trees and the issue of how that weighs out in favor of the community. He would also like to have a task force for a Corridor Improvement Authority for Grand River. Member Mutch noted his expertise in the private sector that brings valuable experience to the Commission and also that he is a “big idea” guy willing to bring any number of ideas to the Commission. Member Mutch noted there had been over 1300 regulated trees removed in 2013 and

while they are replaced, a 5 foot wide diameter tree being replaced with a few 2-4" trees, doesn't seem equal. What does he see for a master planning viewpoint that could be incorporated into the Master Plan? Mr. Anthony said his focus was the Gateway area. Creating a higher density in that area would help to lower the cost of operating. The Master Plan should incorporate ideas that keep our infrastructure costs lower. Member Fischer asked about anything that was surprising to him. Mr. Anthony noted that the preparation of staff was very important during the early stages of his term and he appreciated that. Mayor Pro Tem Staudt asked what tangible investments he would make with TIF dollars. Mr. Anthony noted the ring road might be funded with captured dollars. They could be looked at together with both the ring road and the town center. He also suggested a gathering area. It is a way to create higher density Urban Villages. It would help the tax base. Member Wrobel asked what the hardest decision was he had to make on the Commission. Mr. Anthony noted it was the balance of time on the Commission with his job. He questioned if those on the Commission felt he was a valuable contributor. He determined that in order to make change, it takes a strong team. Member Markham asked about the future of alternative transit here in Novi. Mr. Anthony replied to be sure not to allow blight to encroach. From the big picture, Grand River is a lower priority on the Regional Mass Transit. They look at destination and ridership. Our malls and retail could move it up to a higher category. Rapid bus transit should be considered. Someday light rail might be available. It would take some negotiation for a loop around the retail areas but we need a task force to be sure the Community is on board.

2. Scott Pratt – Parks, Recreation & Cultural Services Commission (not present as he was just appointed in February 2014 and according to Council Rules did not need to re-interview within a 12 month time period).

3. Harry Torimoto, Parks, Recreation & Cultural Services Commission, noted the timing was good for him to be on the Commission as he had a chance to coordinate the new Community Recreation Plan. They've been fortunate with the professional staff on Parks. They've been given an opportunity to provide input and he learned how to position himself as a Commissioner to provide long range planning. Member Mutch thanked him for his work on walkable Novi. He is actively engaged as a commissioner. Member Mutch asked what he sees for the future. Mr. Torimoto noted gym space is very much needed, especially when practice is rained out. Member Fischer asked what, if anything, surprised him once he was on the board. Mr. Torimoto noted it was the transparency and availability while requesting data that he received the very next day after making his request. Mayor Pro Tem Staudt noted he served on Walkable Novi with him. He asked what the long term need for additional gym space is and active parkland and where that capacity will come from. Mr. Torimoto stated the need is there for active parks and other including private programming providers. It is the partnership of available space that is important. The partnership with other communities will be valuable such as the dog park being built. Member Wrobel asked what program or activity would he like to see added that we don't have now. Mr. Torimoto noted the certification process was very important for the organization. Managing efficiencies and handling the certification process was important. Member

Markham asked about the Novi Theaters and how he thinks that fits in our organization. Mr. Torimoto noted he is a member of the Friends of the Novi Theater and his daughter has been in the play. He appreciated the support in the Community. The partnership with the outside group we have now is important. He coaches for the City just for the sport side of it. He thinks that could improve with the participation to keep it positive as he cited an incident where a child had taken the auditioning class and didn't get selected. Member Casey asked what was his proudest accomplishment as a Commissioner. Mr. Torimoto responded that he filled the vacancy after Mr. Policicchio and while he was concerned at first, he liked the challenge that he could be in a position of a leadership role with the Commission. Mayor Gatt had no questions and thanked him for his service

4. Keith Mixer, Planning Commission, wanted to contribute to the community. He worked at SEMCOG and Washtenaw Planning Commission and updated the database. He noted the sidewalks are not continuous and he would like to see those completed. Transportation is another issue that we all face and will be faced with in the future. Member Fischer asked what would be most helpful. Mr. Mixer noted his knowledge of transportation and encouraged people with disabilities to use para-transport as it allows a person to remain in the community. Mayor Pro Tem Staudt asked if there were any other board or commission he was interested in serving since his competition was strong. Mr. Mixer realized he was up against a well-qualified candidate and didn't have another preference. Member Wrobel asked how he felt the role of the commissioner should work with the Master Plan. Mr. Mixer said he didn't think the master plan could be changed except through the commissioners. Member Markham suggested he might consider his background in urban planning and mobility issues dealt with might be on Housing and Community Development Advisory Committee. She would like to see him apply for that with the Interview Committee. Member Casey thanked Mr. Mixer and noted he gave a great example of making mass transit more available to those with disabilities. Mr. Mixer said sidewalk connectivity was very important and there should also be more crosswalks. Member Mutch asked Mr. Mixer in terms of the City's Master Plan, what kind of land use or development is missing in the City of Novi. Mr. Mixer said sidewalk connectivity, some kind of transit system and a recreation center to be used by all. He said he was interested in finding another position when asked by Member Mutch.

REPORTS:

1. MANAGER/STAFF – None
2. ATTORNEY – None

AUDIENCE COMMENT:

Tamara Carlone, 45784 White Pines Dr., was present to discuss the pet stores in Novi and the protected woodlands and wetlands at Providence development. She felt the pet stores were breaking laws and felt they were selling sick pets. She felt they were

spending hundreds or thousands of dollars on vet bills for sick puppies. In addition to costs, there's the pain and suffering of the pets and the people. She asked who was following up on the complaints? She noted Mayor Gatt wrote on Facebook that animal control followed up on complaints but she didn't find a record. People were being told about the policy and the puppies were being treated poorly. There was recently a puppy mill on television for its abuses. She asked if we can do better by our residents.

CONSENT AGENDA REMOVALS AND APPROVALS:

CM 14-06-092 Moved by Casey, seconded by Staudt; CARRIED UNANIMOUSLY:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 - 1. May 19, 2014 – Regular meeting
- B. Enter Executive Session immediately following the regular meeting of June 2, 2014 in the Council Annex for the purpose of discussing pending litigation and privileged correspondence from legal counsel.
- C. Approval of an agreement with HCP Land, LLC to share costs for the construction of a new traffic signal at the intersection of Cabot Drive and 13 Mile Road (50% to be paid by the City and 50% to be paid by HCP Land, LLC).
- D. Acceptance of a pathway easement from Walled Lake Consolidated School District for construction of the neighborhood connector pathway between East Lake Drive and Novi Road through Hickory Woods Elementary (parcel 22-02-128-005).
- E. Approval to authorize the Finance Director to move forward with the refunding of the 2004 Novi Ice Arena Recreation Facility Refunding Bonds.
- F. Approval of a request from Robertson Charneth Fen, LLC for a variance from Section 11-278(b)(5) of the Design and Construction Standards, which requires sidewalks to be placed a minimum distance of five feet from the back of curb, to allow the applicant to construct the sidewalks at the back of curb for the Charneth Fen project (parcel number 22-10-426-001).
- G. Approval to Participate in Oakland County's Urban County Community Development Block Grant Program for the years 2015, 2016 and 2017.
- H. Approval of Recommendation from Council Rules Committee to amend Council Organization Rules and Order of Business.

I. Approval of Claims and Accounts – Warrant No. 917

Roll call vote on CM 14-06-092

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

MATTERS FOR COUNCIL ACTION

1. Approval to renew the City's 2014-15 Property and Liability Insurance coverage with the Stevenson Company in the annual amount of \$329,066.

This is an increase from last year due to claims for sewer backup incidents and litigation settlement.

Member Fischer asked what the increase was. Mr. Cardenas said it was around \$30,000. Member Fischer asked what was the bidding process to look at other companies. Mr. Cardenas said there are two other firms that supply this coverage for municipalities. Member Fischer said he didn't see an issue with this contract as it stands. While he supported this contract, he would like to see pursuit of other quotes for next year.

CM 14-06-093

Moved by Fischer, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve renewing the City's 2014-15 Property and Liability Insurance coverage with the Stevenson Company in the annual amount of \$329,066.

Roll call vote on CM 14-06-093

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

2. Consideration of a request from Mirage Development, LLC for a variance from the following ordinance sections: 1) Subdivision Ordinance Section 4.05(A) requiring that pedestrian safety paths be constructed along both sides of local streets (a sidewalk on only the north side is proposed), 2) Section 11-94(c) to provide less than three feet of cover for storm sewer pipe, 3) Section 11-194(a)(7) for exceeding the 800 foot maximum length of a cul-de-sac (975 feet is proposed), 4) Section 11-194(a)(19) for the lack of a secondary or emergency access; as part of the site plan for Orchard Hills North single family residential development (parcel 22-26-201-006).

Mr. Cardenas said this request is for a new development located on Ten Mile just north of Orchard Hills Elementary School. The City Administration supports three of the four requests.

Mayor Pro Tem Staudt asked the developer, Claudio Rossi, what their alternatives would be if they denied the cul-de-sac length. Mr. Rossi said there wasn't an alternative due to the constraints to the site. He didn't think they could have any access through the school. Any access would go through a playground and the schools probably wouldn't allow that. They have tried in the past for another easement and were denied. Rick Hirth, Warner, Cantrell, & Padmos noted two issues, length of cul-de-sac and the lack of a secondary access is, on the face, difficult to understand if taking a 800 foot long cul-de-sac with houses on both side of the road, but our project only involves twelve lots. Under the RA zoning designation the ordinance allows 1,500 foot length cul-de-sac without secondary access and those lots would yield the same amount of lots on cul-de-sac. The length of cul-de-sac and the access to the homes is generally limited to 20-24 lots and they have 12 lots. The difficulty they have is that Ten Mile Road is 13-14 feet below the level where our cul-de-sac begins. The grades are very steep along there. It is deceiving because of a gravel access road used by the school now isn't bad but we have to build a storm water sediment basin in the middle of that road. It will be 8-10 feet below Ten Mile Road. So getting from the west property line down to the bottom of the basin is too much slope. It is their opinion that when they were granted the variance on another project and felt there was a common sense approach, that the secondary access would be required. If they did build an emergency road immediately adjacent to the west property line, it would require retaining walls that would have public safety problems. They didn't think the number of units compared to a regular cul-de-sac is about half the amount and would be sufficient justification to not have a secondary access. Mayor Pro Tem Staudt said it was clear they would lose their 11th lot on the drawing if it is needed for a cul-de-sac. Mr. Hirth said even if that is the case, they still have the physical problems of the grade and crossroads.

Member Mutch asked City Attorney Schultz when granting a variance on these items how much flexibility Council has and if they are held to what is approved. Mr. Schultz said they have flexibility. Council has the ability to specify a deviation but not with the plan that they want. With a minor deviation, they could grant approval with a change to an ordinance requirement, but not a zoning requirement. If it is significant change, the builder would have the opportunity to come back. Member Mutch asked what steps the builder would have to take before Council. Mr. Schultz said it depends on what it is that you want in order to allow it and if it involves amending a zoning requirement, they have to go through the process again. Council can be flexible if it is an engineering consideration. Member Mutch said the secondary access wasn't addressed in 2005, so there must have been a change since then. He asked Director of Public Services Hayes if he could show Council the site plan indicating where the water main easement is proposed to go. Member Mutch said it is a 20 foot wide secondary access road that would run along the west property line from Ten Mile Road south and asked if there is a way to accomplish an alternative. Mr. Hayes said in concept there is one possible alignment. They have requested from the applicant to provide details to demonstrate there is a practical difficulty, but haven't received any details. Mr. Hayes said he just learned at this Council meeting what the obstacles may be to placing the emergency access at that location. He said the sedimentation basin location is flexible

also. It doesn't have to be at that location. Member Mutch asked how do the grade, slope and the necessity for retaining walls factor into recommending approving or denying the variance. Mr. Hayes said he would have to see how extreme the grades are to see what the applicant would be faced with at a cost. Member Mutch questioned where the basin could possibly go on the plan. Mr. Hayes didn't know because he didn't have the details. Member Mutch noted it is a constrained site with natural resources and features. He wouldn't want the basin moved if it resulted in cutting more trees or impacting wetlands. He asked what the concerns were. Mr. Hayes said both DPS and Public Safety have concerns. Engineering has determined the ordinance falls under their purview and has given their opinion following Chapter 11 of the ordinance. Member Mutch asked Public Safety about their concerns. Mr. Jeff Johnson, Director of EMS & Fire Operations, said their main concern was if there was a blocked off entrance there would be no way to enter the site. They have a limited amount of hose for fire emergencies because of the length and of the way it is land locked. The number of homes doesn't make a difference. The access from 10 Mile would have to support the emergency vehicles. It would have to be a gated access with the proper amount of foundation and grading to support the service vehicles. The access would have to be built to what the ordinances require. Member Mutch asked about the width of the paved access. Mr. Hayes said the easement would have to be 20 feet and a paved width of 12 feet. Member Mutch said it had been mentioned about the difficulty of sites like this in the City. He didn't have an answer to address all the needs for developing this property. The developer is doing the best they can on this constrained site. He thought maybe a reduction of lot sizes as a solution. He was open to solutions and wanted to hear from the other Councilmembers.

Member Markham was concerned with the Fire aspects of this issue. She thought those who move to our Community have an expectation they will be safe. She has a concern with the cul-de-sac being almost 25% longer than our ordinance would allow on this constrained space. She is looking for an alternative access. She mentioned discussion whether the pathway would become a longer path and should be fenced off. She thought there are solutions as happened with Thornton Creek Elementary to promote walkability through our community as a suggestion.

Member Wrobel saw this while on the Planning Commission years ago and would like to see a win for both sides. He is very cognizant that we need to provide public safety and didn't know where it could be placed. He wants to wait until due diligence is done.

Member Casey echoed Member Wrobel's comments and would be open for further conservation to investigate a possible solution for a secondary access.

Member Gatt would like to see the property developed but not at the expense of public safety. In 2014 the reviews are different than in 2005. He thought make the lots smaller and the developer needs to decide.

CM 14-06-094 Moved by Mutch, seconded by Wrobel; CARRIED UNANIMOUSLY:

To postpone consideration of a request from Mirage Development, LLC for a variance from the following ordinance sections: 1) Subdivision Ordinance Section 4.05(A) requiring that pedestrian safety paths be constructed along both sides of local streets (a sidewalk on only the north side is proposed), 2) Section 11-94(c) to provide less than three feet of cover for storm sewer pipe, 3) Section 11-194(a)(7) for exceeding the 800 foot maximum length of a cul-de-sac (975 feet is proposed), 4) Section 11-194(a)(19) for the lack of a secondary or emergency access; as part of the site plan for Orchard Hills North single family residential development (parcel 22-26-201-006) until future date to give the applicant an opportunity to work with Planning and Engineering staff to evaluate the secondary access options.

Roll call vote on CM 14-06-094

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

3. Approval of Resolution to recognize the City of Novi Administrative Employee Compensation Philosophy.

Mr. Cardenas said during the 2013-2014 goal setting session, Council requested Administration to take a look at, evaluate, and develop a plan for compensation for the City's 62 Administrative employees.

Mayor Pro Tem Staudt thought this was inappropriate to do now until there is a new City Manager to allow them to have an input on this issue.

CM 14-06-095 Moved by Staudt, seconded by Wrobel; CARRIED UNANIMOUSLY:

To postpone a resolution to recognize the City of Novi Administrative Employee Compensation Philosophy until the new City Manager decides it is appropriate to bring to Council.

Roll call vote on CM 14-06-095

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

4. Approval of Resolution officially adopting MERS "Option B" for all future annual pension contributions.

Mr. Cardenas said City Council has expressed interest in increasing the contributions to MERS who administers the City's retirement; specifically it is the defined benefit plan. Nearly all the divisions within MERS have been closed to offering DB since 2006. MERS

recognized that option A funding schedule is difficult for municipalities to follow and have made a new option B funding schedule. If we stay with the current funding schedule our annual contribution of \$2.5 million dollars would double over the next 5 years. If we switch to option B, it decelerates the amount of pension contributions in the future years but stretches it over a longer period of time. If we switch, the City will save a considerable amount of money from making the accelerated payments. Also, it allows the City the ability to continue to fund other priorities as well.

CM 14-06-096 Moved by Casey, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve Resolution officially adopting MERS "Option B" for all future annual pension contributions.

Mayor Pro Tem Staudt said it was a short term solution, but not the long term solution. It allows us to reassess the situation. He felt this doesn't solve the problem and it will have to be dealt with in a larger way because it goes to the year 2041. He would like to see a better option. We have to be more creative and felt it was not the final option.

Member Mutch asked if the actuary is done on a MERS wide basis. Carl Johnson, Finance Director, confirmed that it was done on a MERS wide basis. Member Mutch said those would vary over time and didn't know how often an analysis is done, but will change when assumptions change. He commented that he wished they had this discussion at budget time because he felt Member Staudt was correct. He thought this buys us a short time window, but the only way to pay this down was to put more money in it. Over time, the money the City has put into it has brought the obligations down and has benefited us in the long term. He thinks it should be revisited sometime after the audit to determine if we have extra funds. He thinks it will benefit the City taxpayers down the road.

Member Fischer asked what drives the difference between \$24.1 million under option A and \$26.8 million under option B. Mr. Johnson answered what's missing is the column before the plans were closed. The 30 years is what we would have whether we closed the plans or not. The City did the prudent thing of acknowledging that Defined Benefit Plans are very expensive and closed all but two of the plans. It begins limiting the liability. We now have fixed our liability. The column that is missing is in the \$30 to \$32 million dollar range. MERS invests the money with their assumed rate of return of 7.5%. The time value of money is how fast it gets there. It depends on which one is chosen. He noted this is half of divisions. The total liability is approximately \$60 million dollars. The numbers are significant and the quicker the money is put there, the liability decreases. Member Fischer asked if the large part of that pays for current employees. Mr. Johnson said almost half of the liability is for current employees and half is for actual retirees. Member Fischer asked even though the variables can change, those changes don't effect the underlying formulas that drives the option tables. Mr. Johnson said they would change. The tables are based on facts and circumstances at this point to the extent we don't get our investment rate of return, everyone lives five years longer, not

as many don't make it to retirement, etc. Every circumstance will affect it. The dollar values in the table will be impacted, but the savings would generally be the same between the two options. Member Fischer was comfortable with this, but would like to look at new revenue sources and other ideas to impact this liability. An extra \$100,000 won't get us anywhere fast when tackling \$24 million dollars. Mr. Johnson added the fact of the time value of money. Historically, MERS bills the City on a monthly basis for the contribution, this year the entire contribution will be made in July to maximize the earnings. Member Fischer said the things that have been done help, but it will not get us where he would like the City to be in the near future.

Roll call vote on CM 14-06-096

**Yeas: Wrobel, Gatt, Staudt, Casey, Fischer,
Markham, Mutch**

Nays: None

AUDIENCE COMMENT:

Tamara Carlone, 45784 White Pines Dr., sought information on the protected woodlands and wetlands laws regarding to the Providence Hospital project and asked what other sites were looked at. Other subdivisions were going up on Beck Road and she felt it was a problem and she wondered if there were plans to grow that road. There were comments made earlier about trees being replaced for trees taken out in woodland and wetland areas. Once an eco-system is destroyed, it cannot be replaced.

COMMITTEE REPORTS – None

MAYOR AND COUNCIL ISSUES

1. Library Drive - Member Wrobel noted the Library Drive is a challenge due to traffic and asked city staff to view options for this road entryway onto 10 Mile Road.

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION – None

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

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Jane Keller

Date approved: June 16, 2014