

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
DRAFT – MONDAY, AUGUST 13, 2007 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

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

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Landry, Mayor Pro Tem Capello, Council Members Gatt, Margolis, Mutch, Nagy-absent/excused, Paul-absent*

*Member Paul arrived at 7:04 P.M.

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

APPROVAL OF AGENDA

Member Mutch added appointment of Lee BeGole to the vacant position on the Historical Commission as Item N on the Consent Agenda.

**CM-07-08-249 Moved by Capello, seconded by Gatt : CARRIED UNANIMOUSLY:
To approve the agenda as amended.**

Voice vote

PRESENTATIONS - None

REPORTS - None

SPECIAL/COMMITTEE - None

CITY MANAGER

Mr. Pearson updated Council on the incident last Wednesday evening, when the Zamboni caught fire while on the ice. He said no one was hurt, and everyone responded very well from the arena staff to the Fire and Police Departments. Since then, the City staff team led by Mr. Auler, had worked on assessing the damage and coming up with alternatives for repairs. He said last Friday there was a walk through with 7 or 8 different contractors who would be working on behalf of the City. Mr. Pearson noted insurance would cover all repairs, and quotes received by 5 P.M. today would be reviewed tomorrow, and they hoped to have the work started by the end of the week. There was more smoke damage to the facility than they thought, so the arena wouldn't be back to full operation as soon as they had hoped. Also, to get the best job possible and to keep everyone safe during the

work, they would not be able to open up half the arena as they had originally planned. Mr. Pearson said they had worked with Suburban and made alternate ice arrangements wherever possible.

Mayor Pro Tem Capello asked if there was insurance for loss of business. Mr. Pearson responded there was property insurance for the building and the Zamboni and business interruption insurance that began after the first 24 hours of loss of service. He said assessments would be made to average out the income for this time of year and a claim would be made on that.

DEPARTMENTAL - None

ATTORNEY - None

AUDIENCE PARTICIPATION – None

CONSENT AGENDA REMOVALS AND APPROVALS

**CM-07-08-250 Moved by Gatt, seconded by Capello; CARRIED UNANIMOUSLY:
To approve the Consent Agenda with the addition of Item N,
appointment of Lee BeGole to the vacant position on the
Historical Commission.**

**Roll call vote on CM-07-08-250 Yeas: Landry, Capello, Gatt, Margolis, Mutch,
Paul
Nays: None
Absent: Nagy**

- A. Approve Minutes of:
 - 1. July 23, 2007 – Regular meeting

- B. Enter Executive Session immediately following the regular meeting of August 13, 2007 in the Council Annex for the purpose of discussing pending litigation and privileged correspondence from legal counsel.

- C. Approval of appointment of Jane Schimpf (Employee Delegate) as the 2007 City of Novi representative to attend the Annual Michigan Employees Retirement System (MERS) Conference to be held September 18-20, 2007.

- D. Approval of Sewer Abandonment and Sanitary Sewer Cost Sharing Agreement between the City of Novi and Novi Land Company, L.L.C. (Big Boy Property located at Novi Road and Fonda Drive) associated with sanitary sewer improvements to existing service lead.

- E. Approval of the 2007-2008 Winter Maintenance Agreement between the City of Novi and Road Commission for Oakland County for snow and ice control on County-owned roads within Novi's jurisdiction.
- F. Approval of Michigan Department of Transportation (MDOT) Performance Resolution that authorizes the City of Novi to determine the depth of the watermain located near the entrance of eastbound I-96, and to perform water and sewer maintenance within the I-96 right-of-way.
- G. Approval to award a contract for design and construction engineering services for the Crowe Drive/Ingersol Drive Reconstruction project to Spalding DeDecker Associates, Inc. for a not-to-exceed design fee of \$9,250 and a construction engineering fee equal to a fixed 9.5% of the estimated construction cost (estimated to be \$19,000) for a total of \$28,250.
- H. Acceptance of the Fourth Conservation Easement for the Island Lake of Novi Community from TOLL MI II limited Partnership, located on the west side of Wixom Road and north of Ten Mile Road, covering 25.502 acres of woodlands and wetlands.
- I. Approval to award a procurement contract to Kennedy Industries, Inc., the lowest responsive bidder, for three submersible sewage pumps for the Hudson Sanitary Pump Station Improvement project in the amount of \$33,440.
- J. Approval to purchase hardware (PC's/laptops/printers) and software for the Police Department from vendors authorized under the State of Michigan Master Computing Contract (MMCC) in the amount of \$61,701.71.
- K. Approval of road lane closures on South Lake Dr., Old Novi Rd., Novi Rd., Twelve Mile Rd., and West Park Dr. for the Fit Novi Sprint Triathlon to be held on Saturday, September 8 from approximately 8:15-10:30 a.m.
- L. Approval of road lane closures on Eleven Mile Rd., Meadowbrook Rd., Thirteen Mile Rd. and South Lake Dr. for the Fit Novi Run Fest on Sunday, September 9 from approximately 8 am – Noon. Twelve Mile Rd. traffic will be closed on a rolling basis to allow traffic flow when safe for athletes.
- M. Approval of Claims and Accounts – Warrant No. 750
- N. Appointment of Lee BeGole to the vacant position on the Historical Commission.

MATTERS FOR COUNCIL ACTION – Part I

- 1. Adopt changes to the Articles of Incorporation of the Building Authority; and 2. Adopt Resolution Delegating Responsibilities in Connection with Library Construction to delineate how City bond proceeds will be expended if the measure to expand the Novi Public Library is approved by the voters on November 6, 2007.**

Mr. Pearson said to be in a position to act if the Library Bond issue was successful in November, they had a new proposal for Council's consideration regarding how those bond proceeds would be used. He said the proposal was to work through the City's Building Authority, which was in place and had a track record in similar kinds of facilities. Also, the proposal would expand the Building Authority to increase representation with a Library staff member, the Director, and a couple of other staff people with expertise in the process of site plans and building permits. He said there were two actions, amendments to the Building Authority Articles of Incorporation and the Resolution, which delegated the responsibility of the expenditure of the bond proceeds from the Council to the Building Authority.

Member Margolis commended the staff for listening to their comments and coming back with an item that incorporated some of those changes. However, this new Building Authority still maintained a four member majority for City staff, correct. Mr. Pearson said she was correct. There would be four City direct representatives, two citizen representatives and the Library Director. Member Margolis felt they needed to maintain that majority because the City had fiduciary responsibility for the bond monies, and therefore it was Council's responsibility to have that kind of oversight on the committee. She commented that if something happened and people asked what happened with the money and where it went, they needed to be able to say they had the authority on this committee to do that. She said they had incorporated the Library staff input and it would be considered and forwarded by the Director, and she thought that was really important. Member Margolis commented that the major responsibility of the Building Authority was to bring the project in on time and under budget. She said that was the job of a project manager, and with the makeup given she felt it accomplished that goal.

**CM-07-08-251 Moved by Margolis, seconded by Gatt; MOTION CARRIED:
To adopt changes to the Articles of Incorporation of the Building Authority and 2, to adopt the Resolution delegating responsibilities in connection with the Library construction to delineate how City bond proceeds will be expended if the measure to expand the Novi Public Library is approved by the voters on November 6, 2007.**

DISCUSSION

Member Mutch said he would not be supporting the motion because of the second resolution as written. He appreciated that the opportunity for staff input was clarified.

However, he thought there were no substantive changes between what was presented to Council at the last meeting and what was presented tonight. Member Mutch said in terms of the second resolution where Council would delegate its authority to the Building Authority, would that group operate under the standards of the State Statute. Or, would they simply be the designated body and then operate under the parameters Council had laid out in their delegation.

Mr. Schultz responded it would be the latter. It would be the operation as the delegated body not as the Building Authority with the statutory authority of that body. Member Mutch said on the bottom of page 2 of the resolution, it talked about preparations of RFP's and bid documents, and said "City and Library staff will jointly prepare such documents, with final approval by City staff". Member Mutch said he assumed City staff would decide what documents were submitted to the Building Authority under that language. Mr. Schultz said on the assumption that this was ultimately a City project, which was the intention. Member Mutch said where it talked about the appointment of the Library employees for staff, it specifically identified the Library Board, so that would be the role of the Library Board in this process. Mr. Schultz said that was the suggestion in this draft. Member Mutch said he assumed the motion was incorporating the language in the draft, and Mr. Schultz agreed. Member Mutch said Section 3 stated "the Building Authority would be responsible for the selection of any service providers and the award of such construction contracts." He said the Building Authority was the final authority in terms of awarding contracts assuming Council didn't intervene under the language that's allowed. Mr. Schultz said he was correct; the Building Authority's recommended action would become the City's action unless there was intervention by Council. Member Mutch said under Section 4 it said "City Council assumes that a professional project manager will be retained by the building through the above process", which he assumed was a typo. Member Mutch asked why they didn't state it was required. Mr. Schultz thought it left open the ability to work the day to day process however it needed to happen. The Library ballot question had not been approved yet and they were still feeling their way a little; he thought this left that possibility open. Then it went on to say here are the kinds of things that someone would make the recommendations to the Building Authority for. Member Mutch said the possibility existed that the Building Authority could operate as the project manager and they would decide whether a professional project manager was hired or not. Mr. Schultz agreed.

Member Mutch said further on in Section 4 it said "the Building Authority shall be responsible for reviewing and approving the architectural design and building plans for the building and grounds. The Building Authority shall also be responsible for the selection and approval of materials and fixtures, with a recommendation where necessary or appropriate by the City and Library staff". He said it would be the Building Authority that would have a say in every aspect of this project from start to finish. Mr. Schultz said that was how the resolution was set up so that Council would not be the body that was deciding the ultimate design or who the contractor was unless, as they observed the process, they decided they wanted to involve themselves and that ability was reserved for Council.

Member Mutch thought it was somewhat amazing that with a \$16 million Library building project the Library Board's sole responsibility was appointing two employees to review documents. He said they had no say or authority in the selection of the professional services or the review and approval of the architectural and building plans. They have input through the staff people they appoint and the Director, but the Library Board that the Council appointed and that oversaw a multi million dollar annual operation through their own actions and the City's actions was completely removed from any kind of authority for approving anything. He said the only way he could approve this was if the Library Board had the authority to approve the architectural design and the building plans. He felt that struck right to the very purpose of the Library Board, which was to oversee the operations of the Library. The decisions made for professional services could be done by City staff, but the actual approval of the design and the building plans were the things that would affect the day to day operations of the Library. He felt it struck at the heart of what the Library Board did, and for the Library Board to have no authority over that decision didn't make sense to him. He said if looking at it as the City's project, why was the Library Board making statements about the building and what it would be and what it would include when by this resolution they had no say in the process. Member Mutch said maybe it should be the City and City Council putting out the information for the Library project because if they are taking responsibility and control of this project and excluding the Library from having any authority over this project, then Council should take responsibility for selling this to the public. He said he would not support the resolution as drafted. Member Mutch said giving the Library Board authority over architectural design and building plans would be a compromise that reflected the reality of a building project, but without that he could not support the resolution.

Member Gatt asked if the Library Board was in support of this resolution. Mr. Pearson said his understanding was that the Library Board, before they brought a different version of this last time, voted 4-0 in support of this. He said there was a compromise on time and wanting to get things done, and the City's responsibility for the money, and this was a happy medium to facilitate that and get it done. They worked through their Library Board members who sat on the Building Authority. Member Gatt said the Library Board was in support of the motion that failed a couple of weeks ago, that was basically the same ratio presented tonight. Mr. Pearson said they were in support of using the Building Authority to complete this.

Mayor Pro Tem Capello said on the Articles of Incorporation, Section 1 line 1, the "of" at the end needed to be deleted.

Member Paul said when Section 2 talked about Library staff, would there be two Library employees who would be sitting on this repeatedly or would they be reporting to the Building Authority. Mr. Pearson said these would be meetings that would be open to the public so anyone could attend. However, as far as operations of the Building Authority, it would be the responsibility of the staff members to work through the appointees and the Executive Director to participate. He would not envision, just for meeting management, to have that additional participation at that point. This was designed for them to participate and provide input throughout through the Executive Director and staff person.

Member Paul appreciated the idea of having the two Library staff. She said it wasn't a problem for her as to how many Library employees versus how many City employees; she was just looking for a staff member from the Library to be a part of the Building Authority. She felt that if the Library Director were to leave, if not appointed as the permanent director, then they would have someone new in the middle of this project. Member Paul asked if they could somehow juggle the ratio to have a Library staff person present. Also, Section 4 of the Resolution said "with regard to ongoing project management, the City Council assumes that a professional project manager will be retained". She said assume was not something she liked to do. If they were going to accept this Resolution, she felt it had to require a project manager. They were talking about a \$16 million project, and she wanted to see "require" as a permanent part of this language or she could not support it. Member Paul requested a friendly amendment that in Section 4 they put require instead of assumes.

Member Margolis, maker of the motion, would not accept the friendly amendment. She thought what they were doing was delegating authority to the Building Authority to make those kinds of decisions. She felt to tie their hands in that way didn't make sense; they needed to make the decisions in terms of being ultimate project manager with the authority to appoint or not appoint a professional project manager as they saw fit.

Member Paul stated she completely disagreed. She said this was \$16 million of taxpayer money, and she thought it was very important with this kind of facility to have a project manager. She noted she had pointed out at the last meeting that there were problems with the ice arena not having a concrete base and having a sand bottom and it couldn't be used all year round. At the Senior Center there was no generator when the heat and water were problematic. She thought there were things that a project manager would know long before the Building Authority, and with that kind of money she could not support it.

Mayor Landry said he was in support of the motion. He noted of the seven members of the Building Authority three of them would be Library people, the Director and the two at large members that Council appointed were both on the Library Board. He said that was a significant presence of the Library staff on this Board. To say this didn't have Library people on the Board was an inaccurate statement as three of the seven were Library people. He said with respect to a project manager that was the decision of the Building Authority whether to hire one or not. Mayor Landry said project managers didn't particularly decide large aspects or characteristics of the project like whether it had a cement floor or not; the Building Authority made those kinds of decisions. He commented that project managers just look over the day to day operations of the project.

Member Mutch agreed with Member Paul. He said understanding the role of a project manager was to see the day to day construction on the site, he couldn't see the Building Authority exercising that kind of responsibility. He supposed they could delegate it to a City staff person, but couldn't envision how that would function. He had been through projects with and without project managers and depending on the scope of the project, it

3. **Consideration of Zoning Map Amendment 18.674 of Amson Dembs, LLC to rezone property located in Section 9, east of West Park Drive and south of Dylan Drive, from I-2, General Industrial to OST, Planned Office Service Technology. The subject property is 13.54 acres.**

CM-07-08-253 Moved by Paul, seconded by Margolis; CARRIED UNANIMOUSLY: To approve Zoning Map Amendment 18.674 of Amson Dembs, LLC to rezone property located in Section 9, east of West Park Drive and south of Dylan Drive, from I-2, General Industrial to OST, Planned Office Service Technology. The subject property is 13.54 acres. Recommendation for approval of this request was for the following reasons: the request is consistent with previous Council actions along Dylan Drive, will provide consistent zoning along Dylan Drive, is in general conformance with the Master Plan since almost all uses permitted in the OST District are permitted in the I-2 District, and the request promotes the Master Plan objective to continue to promote and support development in Novi's Office Service Technology (OST) District.

DISCUSSION

Mayor Pro Tem Capello said it made sense that the Master Plan designated this area Light Industrial use even though the City was running out of the I-2 use. He thought the area where this property was located should be OST or Light Industrial use. He said it was more consistent and compatible with the Master Plan and that was why he would vote in favor of this.

Member Paul said, to add to her motion, she wanted to make the approval for this project consistent with previous Council actions along Dylan Drive. She said it was consistent with the zoning along Dylan Drive, and was in general conformance with the Master Plan since almost all uses permitted in the OST District were permitted in the I-2 District. She said the Master Plan objective was to continue to promote and support development in Novi's Office Service Technology.

Roll call vote on CM-07-08-253

**Yeas: Margolis, Mutch, Paul, Landry, Capello,
Gatt
Nays: None
Absent: Nagy**

4. **Consideration of Zoning Map Amendment 18.675 of Amson Dembs Development, LLC to rezone property located in Section 9, east of West Park Drive and south of Dylan Drive, from I-2, General Industrial to I-1, Light Industrial. The subject property is 1.67 acres.**

CM-07-08-254 Moved by Paul, seconded by Margolis; CARRIED UNANIMOUSLY: To approve Zoning Map Amendment 18.675 of Amson Dembs Development, LLC to rezone property located in Section 9, east of West Park Drive and south of Dylan Drive, from I-2, General Industrial to I-1, Light Industrial. The subject property is 1.67 acres. Recommendation for approval of this request was for the following reasons: the request is in general conformance with the Master Plan, which calls for light industrial uses on this property; and promotes the Master Plan objective to promote light industrial development that provides economic value to the community, that properly safeguards neighboring homeowners.

Member Paul made the motion because it was in conformance with the Master Plan, which called for Light Industrial uses on the property. Also, the Master Plans objective was to promote Light Industrial development that provided economic value to the community and that properly safeguarded neighborhood homeowners.

DISCUSSION

Member Mutch asked if staff had evaluated the property to the east of this, the Steelcrete property, where there was still I-2 zoning remaining. He commented it was the only piece of I-2 left.

Mr. Pearson thought it would be appropriate to clean up with any of the land exchange with Steelcrete it would probably be rezoned.

Roll call vote on CM-07-08-254 **Yeas: Mutch, Paul, Landry, Capello, Gatt, Margolis**
Nays: None
Absent: Nagy

5. **Consideration of Zoning Map Amendment 18.670 with Planned Rezoning Overlay (PRO) SP 07-22 from the applicant, Haggerty Road Development, to rezone property located east of Haggerty Road, north of Eight Mile Road FS, Freeway Service District to B-3, General Business and consideration of the PRO Concept Plan. The subject property is 0.41 acres.**

Mayor Pro Tem Capello said he didn't have a problem looking at this property and rezoning it, and had no problem with office use or retail use. The problem he had was trying to use the PRO mechanism to get there. Normally the PRO's he had looked at had specific detailed site plans but this was very general, and was something they were going

to put in there that they thought would work, maybe retail or office. He said he would be happy to work with them but he didn't think the PRO was the proper avenue, and would rather have them come back with a specific zoning and an idea of what they wanted to put in there.

Member Margolis understood where Mayor Pro Tem Capello was going but the problem she had was she thought they were led in this direction by the Planning Commission. Mr. Pearson said he thought it was a combination, and given the site constraints and the limited options, this was a vehicle to do that. Mr. Schultz said they originally had come before the Master Plan and Zoning Committee with a straight rezoning, and they said the best vehicle to do what they wanted was the PRO. He realized the proposal before Council didn't tie them down much on what the actual building would be, but that was certainly something the Council could look at as part of the PRO process. Mr. Schultz said the straight rezoning request was what the Planning Commission had difficulty with because once they gave that rezoning pretty much any use or building could come in there that met ordinance requirements.

Member Margolis said one of the things they were trying to do was make the process easier for people and not send them in a circular direction. She was concerned that if they now turn around and say they wanted to go back to rezoning, it would be a mistake. She said she had the same reaction that they were not saying what the building would be. They had two options that would be similar, one would be more office and one would be more retail. Mr. Schultz said she was correct. He said there was discussion with the proponent and he thought they were concerned about tying down a particular building because they weren't sure of their market yet. He said that was something Council could explore.

Mayor Landry asked if the City Council could pass this tonight with an amendment that they come back with a particular façade of the building. Mr. Schultz responded that the PRO contemplated the attachment of conditions as part of the approval. So, if Council decided to go forward with this, the motion would actually be a preliminary approval of the zoning with the direction to his office to come back with an agreement. He said they could direct that as part of the agreement process when they iron out what facades, etc. might be. He thought when they saw it again as a final action it would have more detail. Mayor Landry said then this would just be to direct Mr. Schultz's office to begin preparation of the PRO, which would come back for Council to pass or not. Mr. Schultz agreed, this was step one of a two step action with the final action on the rezoning next time in front of Council.

Member Mutch said he would favor the PRO concept and thought along the same lines as Member Margolis. He said there was no way they would build anything on the site that's going to meet the zoning ordinance requirements unless they build a 10 ft. wide building. At the minimum the applicant was looking at going before the ZBA and getting Planning Commission approval subject to a number of variances. He said the PRO process would allow Council to acknowledge the deficiencies of the site, lay out the parameters that would be acceptable, and potentially save the applicant some steps. Member Mutch

thought that was the advantage to this process versus the potential that they could get to ZBA, have it denied and then have to go to Circuit Court. He said he would support the PRO process. Member Mutch said in the response letter from Diffin Development they talked about the sidewalk on the west side of Haggerty Road in front of the City owned detention basin. They indicated they were willing to provide the additional walk, if the City could get approval from Orchard Hills Place Condominiums to agree to allow the development to utilize their detention pond. He asked Administration where they were on that. He asked Mr. Schultz if they haven't made progress on that, could Council say they didn't want this to be subject to whether Council allowed that detention. He asked if the developer got to define the terms.

Mr. Schultz said this PRO process was, unlike the contract zoning issue that had come up before, a true agreement. He thought Council could say they wanted it but they would not be the ones to get the approval from Orchard Hills Place, if they wanted it to come before Council with that authorization. He didn't know where they were on the approval, but the intention at this point was that that's an amenity or public benefit that should be part of the tentative conditions that they were asking them to come back with. He said if they couldn't make it happen, then at the next meeting Council would have to decide whether that was a make or break kind of issue.

Mr. Pearson assumed that since this was just a concept they had taken that on and tried to approach them. He said they are the ones that wanted the PRO and who suggested this as their public benefit, and like any other kind of easement that was required by private developers, it would be required of them. Mr. Pearson said he didn't want to ask for that on their behalf, this was their idea and they should follow through on it.

Member Mutch said in the Planning Commission minutes there was some concern from the adjacent property owner in Farmington Hills about the impact. He asked how they were screening the east side of the site, the back of the building and the parking lot from the hotel use next door. Ms. Mc Beth showed Council the site plan. She said the building was about 4 ft. from the property line so there wasn't room for screening. She thought when they get to the site plan designs they would need to figure out whether they intend to put up a screening wall or landscaping. At this point, they had not proposed any kind of screening other than landscaping. Member Mutch said even for the parking area and she said yes. Member Mutch didn't have an issue with the building facing the hotel unless the elevation was such that it needed to be screened, but the parking should be screened because of some of the concerns that had been addressed. He said the parking was standard in Novi and he would expect them to accommodate that as much as possible. Member Mutch said the whole Freeway Service District applied to five or six properties total. Ms. Mc Beth agreed, and said this was the only area of the City in which there was a Freeway Service District (FS). Member Mutch said he understood she was looking at getting rid of the zoning district and replacing it with one of the existing districts. Ms. Mc Beth agreed, and said as part of this review they were looking at the various standards in the Freeway Service District and seeing whether they applied or not to existing uses out there. They were also looking at if they were expecting redevelopment in this area, whether it would be appropriate to use the Freeway Service District or some

other district. The planning staff had begun looking at modifications to see if it made sense to continue the Freeway Service District, or if they would take a look at that entire area of 5 or 6 properties and look at a different zoning district. Member Mutch thought the Council had been consistent over the last 1 ½ years in looking at streamlining those processes where possible. He said it didn't make sense to have a zoning district for 5 or 6 uses when there was B-3 or a similar zoning district that was the equivalent of that.

Member Paul agreed with Mr. Pearson that it was the applicant's responsibility to go forward and try to get an agreement with their neighbors to share their detention basin. She said they had made residents put in a sidewalk no matter what the situation was, so she couldn't imagine they would give someone that wanted a PRO any leeway in that regard. She felt that should be part of the agreement right up front. She thought it made sense to look at streamlining the process. There were some things in B-3 that she didn't think would be quite fitting. She thought a gas station would be cumbersome to the flow of traffic. She hoped when they came forward with the PRO they would have an idea of what the building use would be for sure.

Mayor Pro Tem Capello agreed with Mayor Landry that they should come back with a little more detail, and he would be able to work with it. He remembered when Best Buy, etc. went in there and they told Council it would be a part of the office complex, and there were blue and yellow, green and white and a red and white signs, and they took it totally out of context. He said he was a little fearful of that. He noted it said regional basin, and asked if it was truly a regional basin that the City monitored and maintained. Mr. Schultz said he didn't know if it was a regional basin, but as he understood it it was City owned property, and they could look into it.

Member Paul said since they were having questionable problems with the site, some of the things Council was looking at was rain gardens or bio retention swales. She thought since they had such a narrow piece of property, it might be something they would consider. She said it would help them before they hit their runoff especially if they didn't have the full ability to reach the runoff agreement with their neighbors.

CM-07-08-255

**Moved by Paul, seconded by Mutch; CARRIED UNANIMOUSLY:
To approve Zoning Map Amendment 18.670 with Planned Rezoning Overlay (PRO) SP 07-22 from the applicant, Haggerty Road Development, to rezone property located east of Haggerty Road, north of Eight Mile Road FS, Freeway Service District to B-3, General Business and consideration of the PRO Concept Plan. The subject property is 0.41 acres. Subject to the applicant getting the storm water agreement with their neighbors as well as screening in the parking area. Also, this is a preliminary approval to come back before Council with more specifics regarding the site.**

DISCUSSION

Mayor Landry asked if Council needed to discuss public benefit on the record now or when it was approved in final. Mr. Schultz replied it was not required to do it now but they could and add the public benefits to the motion. Mr. Schultz said it probably should be done now, but it would certainly be done as part of the agreement.

Member Mutch understood the value in doing that but with some of these public benefit issues up in the air, in terms of being finalized, he would feel more comfortable stating them on final approval. Mayor Landry said that was fine; he just didn't want it to get by without the record being clear.

Member Margolis referred to the back of the 4th page in their packet item and asked if she was correct that where it said "Uses Removed from the District", that these were uses that would be removed when this PRO came back to Council for approval. Mr. Schultz said she was correct. She said this detailed that retail businesses, gasoline service stations, and tattoo parlors would be removed. Mr. Schultz said the agreement would clean that up and list in detail what was not permitted in the district as rezoned.

Roll call vote on CM-07-08-255 **Yeas: Paul, Landry, Capello, Gatt, Margolis, Mutch**
Nays: None
Absent: Nagy

AUDIENCE PARTICIPATION – None

MATTERS FOR COUNCIL ACTION – Part II

6. **Consideration of Ordinance No. 07-124.18, an amendment to the Novi Code of Ordinances, Chapter 11 (Design and Construction Standards) and Ordinance Nos. 07-106.04 and 07-168.01, Chapter 12 (Drainage and Flood Damage Prevention), to add low impact development requirements for stormwater management systems; and consideration of resolution authorizing the City Engineer to prepare, approve and maintain the contents of an Engineering Design Manual that will contain detailed specifications regarding stormwater management systems. First Reading**

Mr. Pearson gave credit to Mr. Hayes and his staff for taking time to modernize and update the Stormwater Ordinance. He said before Council was a series of options for developers to consider. A lot of times they might suggest or encourage people to do something a little more creative or with less impact upon the environment, but the ordinances might make that a little harder. He commented that going through a process to get something different approved was just not worth the time for the developers. So they tried to encapsulate what other people were doing with some other technologies such as bio retention basins, rain gardens, etc. Mr. Pearson noted they were specific in the ordinances now and Council had received feedback from a couple of developers. He

noted that tied into the other element of this, which was to take out some of the regulation and put them into a design manual. The design manual would be maintained by staff, which could be distributed to engineers on behalf of developers. He said one of the developers said it made it more accessible and easy to get to some of the requirements. Mayor Pro Tem Capello said on the top of page 4 under Division 2 Low Impact Development, it seemed to say they didn't want regional basins and wanted keep everything on site and not let any of the water run off site. He asked if that was what the low impact development meant. Mr. Hayes said that would be a component of low impact development. Mr. Hayes said having on site detention by way of a bio detention basin was one way to accomplish low impact development or green goals for a site. He said there were a lot of areas in the City where regional detention basins, even if perfectly maintained, wouldn't provide the flood protection that was needed. One of the things the consultant mentioned when discussing the Phase II Stormwater Report was that there were about 14 sq. miles in Novi that really should have onsite detention for new sites, because even with the existing regional detention basins they were still concerned with potential downstream flooding. He said they were just adding an option for developers to consider in lieu of a traditional above ground detention basin that a green or low impact development bio swale or bio detention basin might be a tool for them to implement.

Mayor Pro Tem Capello said reading through this it led him to believe that was what he was getting at until he saw the words store and detain, which seemed to be your typical retention/detention onsite basins. He said if the intent was not to have those onsite open basins, he was OK with that. Mr. Hayes said they would still have both and it would be an option available to a developer. He said they could store and detain on site for slow discharge or go with a bio detention basin, which performed the same way. Mayor Pro Tem Capello said they were giving them more alternatives, and Mr. Hayes responded he was correct.

Member Mutch said page 6 addressed Mayor Pro Tem Capello's concern and at the top stated "in lieu of onsite stormwater detention, off site stormwater conveyance may be proposed". He said they would be able to choose which it would be within the constraints of their site, and they would be allowed to do it onsite, if they choose to. He asked if they choose to go onsite, would that exempt them from paying into the fees for the regional detention basins. Mr. Hayes said the details on how fees would be handled had not been decided. Member Mutch said that was something they would have to look at and work out, and that he could see both sides of the issue. Mayor Pro Tem Capello raised some good points that they didn't want to be in a situation where there were a lot of little basins that didn't do anything and were difficult to maintain. However, he also thought they would want to give people financial incentive to look at low impact development because in the long run, from an environmental viewpoint, it was the better way to go. He thought these changes were in the right direction. He asked them to work on information on policy for regional detention basins as it would be helpful for Council.

Member Paul agreed with both previous speakers. She asked what the depth of the bio retention basin was in a clay situation. Mr. Hayes said that was one of the things they were proposing to change structurally to move the performance details for a particular

design into a design manual. Those performance details were fairly general because they had so many different soil types, different percolation rates, etc. throughout the City that they couldn't say it had to be such and such a depth. He said it would be site specific. Member Paul said she saw the bio retention swales in Farmington and they had a large clay basin in front of City Hall and they went down one foot to remove the clay and it wasn't deep enough. She said when Novi's Beautification Commission built theirs they went down almost five feet, and the deeper the bio swale the more absorption there was and the less runoff there would be. She said the purpose of a bio retention swale was to store the water there, and not runoff and take all the soil down with it to the retention basin and cause a million dollar dredging project. She said it was helpful in that regard. Some states were giving incentives as a tax break. She commented there were big projects going on in other states where they kept all their stormwater at their site, in regard to in the middle of a parking lot to their runoff from their roof, and the tax break incentive was interesting to developers. She thought this was good for a first reading and appreciated their soil and percolation comments.

CM-07-08-256 Moved by Margolis, seconded by Paul; CARRIED UNANIMOUSLY: To approve Ordinance No. 07-124.18, an amendment to the Novi Code of Ordinances, Chapter 11 (Design and Construction Standards) and Ordinance Nos. 07-106.04 and 07-168.01, Chapter 12 (Drainage and Flood Damage Prevention), to add low impact development requirements for stormwater management systems; and consideration of resolution authorizing the City Engineer to prepare, approve and maintain the contents of an Engineering Design Manual that will contain detailed specifications regarding stormwater management systems. First Reading

Member Margolis commended staff for taking the initiative and sending these requirements to the developer community for their comments to keep moving this process forward. She said in one of the e-mails that were attached about the financial guarantees, which didn't relate to this ordinance, they were looking at whether the financial guarantees were really necessary.

Mr. Pearson said anytime someone was going to have to pay they were not going to like it. He said there were some completion agreements coming forward, which would make the case as to why the City had strong financial guarantees for completion. He said the only one he was aware of that required the 200% was the Stormwater Ordinance, and they had worked through that and tried to make the instrument of the financial guarantee less onerous. He thought for the first \$200,000 it could be a letter of credit and beyond that they would accept performance bonds. They had tried to moderate but still keep the protections in. He said the \$150,000 was there for a reason, which was to motivate completion once a project was opened up, and to assure the City or the residents weren't left holding the bag. He thought they were close, if not there, to a happy medium. Member Margolis commented she wanted to be sure someone was keeping an eye on it. She thought they made a point of keeping an eye on those financial guarantees to make

sure they were within bounds of what was necessary rather than just setting an arbitrary amount.

Member Paul said she and Mayor Pro Tem Capello worked on the Financial Guarantee Ordinance for the reason that Mr. Pearson stated. There had been several situations where the developer had not completed their agreement from the initial plan and the City was left holding the bag. She said many of them were roads. She thought another point of the financial guarantees was if it went past the agreement time of two years for completion, then it went up another .5 percentage of guarantee, and she thought it was also for roads.

Roll call vote on CM-07-08-256

Yeas: Landry, Capello, Gatt, Margolis, Mutch, Paul

Nays: None

Absent: Nagy

- 7. Consideration of Ordinance No. 07-157.04, an amendment to the Novi Code of Ordinances, Chapters 31 (Streets, Sidewalks and Other Public Places), to add requirements to address franchise utility construction in the City's rights-of-way. First Reading**

CM-07-08-257 Moved by Margolis, seconded by Capello; CARRIED UNANIMOUSLY: To approve Ordinance No. 07-157.04, an amendment to the Novi Code of Ordinances, Chapters 31 (Streets, Sidewalks and Other Public Places), to add requirements to address franchise utility construction in the City's rights-of-way. First Reading

DISCUSSION

Member Mutch said on page 5, Section 31-5 (b) it said the City was enforcing an administrative fee of 25% for any repairs to City right-of-way facilities that had to be done by the utility and then approved by the City. He said while he appreciated the intent, which was to get it repaired correctly, his concern was there might be challenges to this ordinance that that amount was excessive. He said before he could support that amount, he would be looking for some information from Administration that justified that amount. He said the Administrative fee should be based on the actual cost and not a number that they had decided was a big enough stick to warrant enforcement. He thought they needed to nail down as many of these standards as they could so that if this ended up in court, they could justify what was requested. Member Mutch thought everything else in the ordinance could be justified. He requested the information by the second reading.

Mayor Pro Tem Capello thought 25% was commercially reasonable and asked Mr. Schultz for his thoughts. Mr. Schultz said the number was in a couple of other ordinances, agreements and PUD's, etc. but it was true there was sort of a threatened challenge already, so they would be happy to provide that information at the second reading.

Roll call vote on CM-07-08-257

Yeas: Capello, Gatt, Margolis, Mutch, Paul,
Landry
Nays: None
Absent: Nagy

8. Consideration to award contract to Action Target Inc. for Indoor Range Equipment and Control System for a not to exceed amount of \$437,000.

CM-07-08-258 Moved by Capello, seconded by Gatt; CARRIED UNANIMOUSLY:
To award contract to Action Target Inc. for Indoor Range
Equipment and Control System for a not to exceed amount of
\$437,000.

DISCUSSION

Member Paul asked why the Meggitt Defense Systems proposal was rejected at a lesser cost.

Mr. Pearson said there were three things found lacking in the Meggitt proposal. The Meggitt proposal was deficient in the size/height of the shooting stalls, their proposal did not meet what was expected regarding the software that communicated between the control center and the officers that were on the line, and Meggitt had a different proposal than what was required regarding the baffling between the units and how those were attached. He said Meggitt didn't measure up to what they required the bidders to provide after they had looked at several other ranges. Therefore, based on that, and to be fair in terms of comparing apples to apples, they did come up with the recommendation to go with Action Target proposal because they met the requirements and were within the budget. She asked if he was comfortable with this amount as the total amount for this project. Mr. Pearson said absolutely, and with the next item they would be able to add back in some of the site features they thought they might have to pull back on.

Mayor Pro Tem Capello said it appeared that the Meggitt proposal for warranty maintenance work was \$2,500 a year, whereas the Action Target was not.

Member Gatt commented that Deputy Chief Lindberg and Lieutenants Lauria and Wuotinen were in the audience, and they did a good job on this.

Roll call vote on CM-07-08-258

Yeas: Gatt, Margolis, Mutch, Paul, Landry,
Capello
Nays: None
Absent: Nagy

9. Consideration of amendment to General Contractor services contract with Garrison Company for Indoor Gun Range for a not to exceed fee of \$74,600 for brick veneer and bio-swale project alternatives.

CM-07-08-259 **Moved by Capello, seconded by Gatt; CARRIED UNANIMOUSLY:**
To approve amendment to General Contractor services contract with Garrison Company for Indoor Gun Range for a not to exceed fee of \$74,600 for brick veneer and bio-swale project alternatives, subject to confirmation that the first contract, awarded at the last meeting, had been signed.

DISCUSSION

Member Mutch said he had expressed concerns regarding whether they would have enough money, so he was pleased to see that the first item came in far enough under budget that they were able to include these things. He said particularly the façade issue because it was one that really needed to be addressed, if they were going to have a world class facility. He was glad to see that both of those items had been included. Although he had not been in support of the gun range, he was glad to see that the project had come in within the budget Council approved. He said it would be excellent, if they could keep it on time and within budget.

Mr. Schultz asked that the motion be subject to confirmation that the first contract, awarded at the last meeting, had been signed.

The maker and seconder of the motion accepted Mr. Schultz's comment.

Mayor Landry echoed the comments of Member Gatt regarding Deputy Chief Lindberg and Lieutenants Lauria and Wuotinen. He said excellent work and it turned out exactly like they said it would turn out. He said that evidenced foresighted accuracy on their part with the financial prudence of the Police Department and the Administration. He said they had been all over this and it had been done well right from the start.

Roll call vote on CM-07-08-259 **Yeas: Margolis, Mutch, Paul, Landry, Capello, Gatt**
Nays: None
Absent: Nagy

10. Approval of Consultant Review Committee's recommendation to award the Health Benefits Consulting contract to The Rains Group for a two-year period with an option for a third year effective August 14, 2007.

Member Gatt said the Consultant Review Committee had an opportunity to interview both the Rains Group and McGraw Wentworth, and both proved very excellent companies and both presented themselves very well. However, in the long run the Rains Group proved to be more dynamic in their presentation; it was a unanimous vote by the Consultant Review Committee to recommend the Rains Group. He said the employees also recommended the Rains Group prior to the interview.

Member Paul said when they interviewed the two companies one was really good at researching information. However, this group was so hands on and had a great plan of how to implement getting the unions to work with staff, and help the departments in regards to saving money, and alternatives they would present when they saw things. She said they would be present on union contracts as well as working with staff. Member Paul said they were very impressive, and they all came out of the meeting feeling really comfortable with this group.

**CM-07-0-260 Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve the Consultant Review Committee's recommendation
to award the Health Benefits Consulting contract to The Rains
Group for a two-year period with an option for a third year
effective August 14, 2007.**

**Roll call vote on CM-07-08-260 Yeas: Mutch, Paul, Landry, Capello, Gatt,
Margolis
Nays: None
Absent: Nagy**

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION - None

MAYOR AND COUNCIL ISSUES

- 1. Setting joint meeting with Planning Commission for August 27, 2007 to discuss and provide initial questions and thoughts regarding review of Master Plan for Land Use at select locations – Mayor Landry**

Mayor Landry asked Mr. Pearson if this would be limited to an hour or so. Mr. Pearson said the format they followed with the EDC joint meeting was a good one. They would want to start at 7:00 P.M. and commit to a 7:00 P.M. to 8:00 P.M. block. He said they would get whatever background material they could, call it at 8:00 P.M. and try to keep the rest of the agenda fairly manageable.

Mayor Landry asked, if this met with Council approval, that they make sure it was well documented on the agenda so someone that had Item 3 or 4 didn't show up at 7:00 P.M. unless they wanted to listen to the joint meeting.

Member Mutch noted he would like clarification on the scope of the items they would discuss. He asked if it would just be the commercial in southwest Novi, or were they looking at all the areas that the Planning Commission was looking at in terms of Master Plan updates.

Mr. Pearson said there were three categories. So a proposal for a consultant would be on the agenda to help them with that process. He said they needed to do this expeditiously as they would not have time for another meeting, so they would like to address all three if possible.

Member Mutch asked what kind of direction they would be looking for from Council. Mr. Pearson said they were meeting later this week, depending on how this went, to scope that out. He said it would be standard impressions from the Planning Commission, Council members, and another opportunity for a sounding board. It was an opportunity for Council to give them guidance as they launched into more of the research, have a consultant on board, things to look for, and Council's impressions and questions.

Mayor Landry commented that as much information as possible that could be provided prior to that meeting would be helpful. He said he would appreciate whatever background information the Planning Commission had be sent to Council in the off week packet.

AUDIENCE PARTICIPATION – None

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 8:12 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene Mc Lean

Date approved: