

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, JULY 23, 2012 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, Margolis, Mutch, Wrobel

ALSO PRESENT: Clay Pearson, City Manager
Victor Cardenas, Assistant City Manager
Tom Schultz, City Attorney
Barb McBeth, Deputy Community Development Director

APPROVAL OF AGENDA:

CM-12-07-112 Moved by Fisher, seconded by Casey; CARRIED UNANIMOUSLY:

**To approve the Agenda with an addition of Presentations item 2.
Kathy Crawford, County Commissioner**

Roll call vote on CM-12-07-112 Yeas: **Staudt, Casey, Fischer, Margolis,
Mutch, Wrobel, Gatt**
Nays: **None**

PUBLIC HEARING

PRESENTATIONS

1. Providence Park Hospital
 - a. Introduction of new President Peter Karadjoff

Lou Martin, St. John Public Relations, explained that they had done an extensive search for a new President. Peter Karadjoff has a lot of experience in health care. His long history in health care is embedded in the Providence tradition. In the 1980's, he was involved with Providence when they were growing and expanding. He has served at St. Joseph Mercy Health System as President and CEO of the Port Huron Hospital for many years. Prior to that, he was Vice President of Operations at Trinity Health. It is important for employees, Doctors and the Community to have the Providence tradition because he understands and was involved in our roots in Southeast Michigan.

Peter Karadjoff, President of Providence Park Hospital, said he is proud to return to Providence with his 26 years of experience. He worked with the original planning processes of building a hospital in Novi in 1987. The City encouraged us to put the hospital at Grand River and Beck. It was the best decision we could have made. We are a very vibrant part of the Community with the expansion. He was proud to be a part of Providence and excited to work with the City.

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- b. Presentation of funds to support City of Novi Senior Transportation – Providence Hospital, Peter Karadjoff and Lou Martin

Mr. Karadjoff wanted to take the opportunity to demonstrate Providence Park's support of Novi's Senior Services. He presented to Rachel Zagaroli, Senior Service Manager, a check to support Novi's Senior Transportation. They know how important the program is to the daily needs of seniors.

Rachel Zagaroli, Senior Service Manager said that the partnership with Providence allows our older adults to live a happy active life style by going to places they may not be able to go to or by going to the medical appointments that they need. She thanked Providence and City Council for supporting the program.

2. Kathy Crawford, County Commissioner

Ms. Crawford, County Commissioner, said they have entered into the County budgeting process and she is an appointed person to the Finance Committee. Last week Brooks Patterson, County Executive, presented the recommended budget for funding years 2013-15. Since 2008, there have been over 300 County positions that have been cut. There has been 2.5% general salary reduction in 2010 and an additional 1.5% salary reduction in 2011. The privatization that they have been able to accomplish since 1993 has resulted in a savings to this County of over \$57.4 million dollars. After speaking with Bill Bullard, County Clerk, she has been concerned about the complications and the cost of the Special Election September 5th for the 11th District. The Governor has determined this election must take place by law but this is an unanticipated cost that is a burden for Novi and other communities in the District. She introduced a resolution, last Wednesday, to the full Board of Oakland County Commissioners. She asked that the State reimburse the 11th District communities and if this would require a change in the law. Not only is the cost of the September 5th Primary a financial burden, but the confusion of having both Primaries at the same time is unprecedented. We will have two sets of Absentee Ballots going out and the complication of having additional staffing and equipment. It is a burden when cities are trying to cut costs and to prepare budgets. The Novi City Clerk is committed to making the Special Election a success but it is not easy to do it because of the time frame. She presented her resolution to the full Board and it was signed by the majority. It will then go to General Government and back to the Board where she expects unanimous support for it. She will make sure Maryanne Cornelius, Novi City Clerk and Council has a copy of the resolution. Also, she has been working very hard to bring together agencies that serve older adults to provide coordination and sharing of services. She has brought together the Agency on Aging, the Oakland County Health Department, and Leadership from the County Executive Office, Oakland County Parks and Recreation, the Oakland-Livingston Human Service Agency and they have been planning ways that they can provide services in a more efficient and effective manner. The County now will provide free services and leadership training to Senior Centers for people on the front lines who actually provide the services. They haven't been able to go to workshops because of the constraints on the budgets. She shared information on

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a Transportation Expo that is going to be a demonstration project throughout the County for older adults. The Agency on Aging provides a service, Myride2, with a toll free telephone number to put in your zip code that will provide a listing of all the transportation services that can serve your zip code. It is a fee for service. She has initiated with the Novi Library, three cultural trips done as a fund raiser for the Library. The Novi Senior Show will be at the Novi Civic Center, The Bright Lights of Broadway. They need volunteers to help seat people. They expect 2,000 people. It is a chance to showcase Novi.

REPORTS:

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

AUDIENCE COMMENT:

Matthew Quinn, Attorney representing City Center Plaza, asked to reserve the right to speak during item 7.

Carol Dichtiar, said she and her husband have been long time residents of North Hills Estate Subdivision. Three and half years ago, new neighbors moved in and problems began. One of the annoying problems was excessive and very bright outdoor lights that shine at and into their home. The lights include 8-10 spotlights, ground lights, entrance doorway lights, inside and outside garage lights and lights that blink on and off every five to ten seconds. Over years they confronted the neighbors and complained to the police, City Hall, and to their homeowner's association with unsuccessful results. Three months ago they spoke with Mayor Gatt and City Manager Pearson about the bright lights. A video of the issue was presented. Her and her husband, friends and family thanked them for adding a new division to the code of ordinances entitled, Nuisance Lighting. They really want it to pass and she thanked them for their consideration.

Jeff Wainwright, Paradise Park asked for a reservation for comment on item 8 of the Agenda.

Ginger Barrons, wanted to commend the Novi Police Department on how they interact with the public. She had a tenant who was a victim of a theft. The tenant's children had items that were stolen. Officer Chismar responded to the incident. The tenant was so pleased with his interaction with the children. He empowered them not to be victims. She felt it was important for the children's development. When children have a positive impact with a police officer or someone of authority, it can make a difference in their lives that we can't envision today. As a property owner, when a tenant has a positive encounter with our police force, it makes her happy because she knows they will stay in the rental. This tenant may consider being a permanent resident. She wanted to thank them and recognize the officer.

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

CM-12-07-113 Moved by Margolis, seconded by Fischer; CARRIED UNANIMOUSLY:

To approve the Consent Agenda with the removal of item J.

- A. Approve Minutes of:
 - 1. July 2, 2012 – Regular meeting
 - 2. July 9, 2012 – Special meeting
- B. Enter Executive Session immediately following the regular meeting of July 23, 2012 in the Council Annex for the purpose of discussing City Manager and City Clerk performance evaluations, and for privileged correspondence and pending litigation.
- C. Approval of transfer of ownership of Class C & SDM licensed business, located at 44175 Twelve Mile Road, Suite F139, Novi, MI 48377, Oakland County, from C.A. Muer Corporation to AC Restaurants, LLC, d/b/a Titled Kilt Pub and Eatery.
- D. Approval of request from Suburban Collection Showplace, 46100 Grand River, to add The Packard Companies as an additional licensee and to reclassify the existing Class C license to a B-Hotel license.
- E. Approval of transfer of ownership of 2012 Class C & SDM licensed business with Sunday Sales Permit (pm), Dance Permit & Specific Purpose Permit (Food), located at 1103 E. Lake, Novi, MI 48377, Oakland County, from Novi BRS Enterprises, Inc. to Smara, Inc.
- F. Approval to grant an additional one-year extension to the environmental consulting services contract to ECT, Environmental Consulting & Technology, Inc. to provide services ending August 16, 2013.
- G. Approval of adoption of Ordinance 12-178, to amend the City's Code of Ordinances, at Chapter 22, Offenses, In order to add Section 22-51, Unattended Child in Motor Vehicle. **Second Reading**
- H. Approval of Zoning Ordinance Text Amendment 18.258 to amend the City of Novi Zoning Ordinance at Article 25, "General Provisions" Section 2524, "Outdoor Restaurants" in order to revise the approval process and provisions for outdoor seating. **Second Reading**
- I. Approval of Zoning Ordinance Text Amendment 18.259 to amend the City of Novi Zoning Ordinance at Article 25, "General Provisions," Section 2505, "Off-Street Parking Requirements," Subsection 14.e(3), "Automotive Service Establishment, Public Garage" in order to update the formula used for calculating parking requirements for such uses. **Second Reading**

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- J. Approval of the request of Singh Construction Company for Final Plat approval for Phase III of the Tollgate Woods Subdivision. The subject property is part of the Vistas Planned Unit Development, located between Novi Road and Meadowbrook Roads and south of Thirteen Mile Road in Section 11. **REMOVED FOR COUNCIL ACTION**
- K. Approval to award the second renewal option for the 2010 heating, ventilation, and air conditioning (HVAC) services contract to R.W. Mead & Sons, Inc. for one year based on the same terms, conditions and pricing as the original contract at an estimated amount of \$63,000.
- L. Approval to award an amendment to the engineering services agreement with URS Corporation for construction engineering services related to the Garfield Road Water Main Extension (Contract A), in the amount of \$54,969.
- M. Approval of a request by Greenwood Oaks 1 and 2 Homeowners Association and Greenwood Oaks 3 and 4 Homeowners Association to remove the conditions under paragraph 7 of each Street Sign Agreement requiring each Association to pay the City for the cost of replacing the existing decorative signs with standard signs upon termination of the agreement, and to terminate the Street Sign Agreement for each association with the City of Novi dated June 1, 1992 and April 20, 1998, respectively.
- N. Approval of Traffic Control Orders 12-15 through 12-19 for traffic control signage in Carriage Hills Subdivision.
- O. Approval of Traffic Control Order 12-20 requiring eastbound Calvert Isle Drive to yield to Amesburg Drive.
- P. Approval to award contract for a Citizen Relationship Management (CRM) System to Qscend Technologies for a not-to-exceed amount of \$22,900.
- Q. Approval of employment agreement with Stephanie Schuetzler for the position of Recreation Coordinator of Cultural Service in the amount of \$39,000.
- R. Approval of Claims and Accounts – Warrant No. 872

Roll call vote on CM-12-07-113

Yea: Casey, Fischer, Margolis, Mutch,
Wrobel, Gatt, Staudt
Nay: None

MATTERS FOR COUNCIL ACTION

- 1. Approval of Resolution Authorizing "2012 Great Lakes State Fair" to occur on the Suburban Collection Showplace property at 46100 Grand River Avenue.

City Manager Pearson said that this was a first time event. This is taking place on two different parcels. This will take care of all the events that are taking place on the

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Suburban Collection Showplace site. The rest of the parking and camper village will be taking place on the adjoining site and will be taken care of by the administrative review through the Community Development Department.

Member Margolis was pleased to see the statement of emergency procedures as her biggest concern was safety of the people who attend this event. She wanted to determine how they will be trained and assured that the employees will be trained, so they will know what the procedures are.

CM-12-07-114 Moved by Margolis, seconded by Fischer; CARRIED UNANIMOUSLY:

To approve the resolution authorizing "2012 Great Lakes State Fair" to occur on the Suburban Collection Showplace property at 46100 Grand River Avenue.

Roll call vote on CM-12-07-114

Yea: Fischer, Margolis, Mutch, Wrobel,
Gatt, Staudt, Casey
Nay: None

2. Approval of the request of Blair Bowman for Preliminary Site Plan and Stormwater Management Plan approval for a Ride and Drive Automotive Research Lot, SP12-29. The subject property is located at 26925 Taft Road, west of Taft Road and south of I-96 in the OST, Planned Office Service Technology District with the EXO, Exposition Overlay. The subject property is approximately 6.63 acres and the applicant is proposing to utilize the property as an automotive research lot for vehicle testing and as overflow parking space for the existing Suburban Collection Showplace.

City Manager Pearson noted that this is between the existing parking lot next to I-96 and Taft Road. It is a parking lot expansion. It is a great sign for the property and what is going on there. It is unique because they will be adding this test component. It has a different design than a normal parking lot with some open areas. From the City perspective, it is good because they will be able to attract the kinds of industry shows and trade shows with higher volume for these events.

Blair Bowman, Suburban Collection Showplace, displayed a short video. He hopes this will be a winning situation. With the addition of this area, we will be able to accommodate many events. The ride and drive research lot will have a limited grade with no obstructions, with a reasonable size straight away and features of rumble strips for noise and vibration testing. They were able to design and organize these in a very safe manner. It allows them to work with the staff in a muted fashion and act as an overflow lot as well. Tent tie downs can be placed into the payment. We hope with the addition of the hotel having the ability to put the respondents and participants in the hotel and with the ability to provide a comfortable environment of food and beverage as well as an area designed for this, he sees a greater increase in business. They hope to become the ride and drive central of the area when the auto makers

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can't use their facilities. It is well situated and well located. He appreciated Council's approval.

Member Fischer said it was an excellent use of the property. He hoped it will bring many events to Novi. He asked about people entering the site when it is not in use as to whether there were mechanisms in place to ensure that doesn't happen. Mr. Bowman said he was proactively going to address it. There is nothing that is going to be unsafe. We will cordon off the lot with borders. When in use, it will be designed for people to be in the area. The only difference is the off road portion which will be blocked off when not in use. Member Fischer was concerned about individuals deciding to use some of the left over chalk to test their own vehicles. Mr. Bowman said he deals with that sort of thing. We have security personnel for most of the events and they are very diligent in securing the lot. Member Fischer asked if the City would need to be notified when these shows are going on from a public safety standpoint or is the kind of testing will be self-contained. City Manager Pearson said he believed the shows will be organized and structured with professional drivers. There wouldn't be much call for us and would only be another step based on what we have seen and have been told. He believed Member Fischer was referring to provision (e.) of the recommended action and asked if Barb McBeth, Deputy Community Development Director, could address that item. Ms. McBeth noted that the comment was in the traffic engineer's letter and the planning letter. The concern was that there may not be striping in the parking lot and if people would think it is for overflow parking. There will be a muted color for the parking lot striping provided it is secured and doesn't appear to be open. The staff didn't have a problem with it.

CM-12-07-115 Moved by Fischer, seconded by Wrobel; CARRIED UNANIMOUSLY:

Approval of the request of Blair Bowman for Preliminary Site Plan and Stormwater Management Plan approval for a Ride and Drive Automotive Research Lot SP12-29, subject to the following with the omission of item e:

- a. The applicant addressing the deficient southern yard parking setback with a Zoning Board of Appeals variance or property combination;
- b. The applicant receiving an administrative variance for an alternate striping color provided the applicant submits the final striping color choice to the Engineering Division for final review and approval;
- c. City Council waiver for the use of striped end islands in lieu of curbed islands;
- d. The applicant providing striped end islands around the permanent parking area near the existing building on the automotive research lot layout plan;
- f. City Council waiver for the lack of a 3 foot berm along the 1-96 right-of-way due to the existing grades;

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- g. City Council waiver for the lack of right-of-way greenbelt plantings provided the existing grades and vegetation will permanently remain;
- h. City Council waiver of the parking lot islands, canopy trees, and interior parking lot landscaping as noted in the motion sheet, with the applicant providing equivalent landscaping elsewhere on-site as shown on the next submittal of plans.
- i. City Council waiver for the lack of perimeter parking lot canopy trees provided the existing vegetation will permanently remain as shown on the submitted plans;
- J. Applicant providing the additional 184 square feet of required building foundation landscaping including a mix of shrub and perennial species;
- k. Applicant providing the required storm basin rim plantings;
- l. Applicant providing a plan sheet detailing all proposed and existing plantings, plant list, planting details and irrigation plan; and
- m. The conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan submittal.

This motion is made because the plan is otherwise in compliance with Article 1 OA, Article 24 and Article 25 of the Zoning Ordinance and Chapters 11 and 12 of the Code of Ordinances, and all other applicable provisions of the Zoning Ordinance.

Member Mutch wanted to know if there were existing gates at the access point currently. Mr. Bowman said there are gates at the west end of the service drive and the east end of our parking lot. They are of the understanding that they will move the gates down to the Taft Road entrance point. Member Mutch asked if the intent is to keep those gates closed at all times. Mr. Bowman said they will be locked but there will be times when we have service deliveries and will encourage traffic to go through that point but at off hours, not in use, and during show days we would have it closed off. Member Mutch confirmed as to whether there was intent to have any overflow parking exiting or entering through that entrance. Mr. Bowman said that they have always closed their gates off at the point where they exist now. Member Mutch said just as long it is clear because it was a concern of potential safety issues in that area with excessive use. Mr. Bowman agreed that it was not the intent.

Roll call vote on CM-12-07-115

Yea: Margolis, Mutch, Wrobel, Gatt,

Staudt, Casey, Fischer

Nay: None

Mr. Bowman appreciated the speed and reception they received from the staff regarding this request.

3. Approval of Resolution Supporting that the Legislature and Governor Revise Overly Permissive and Vague Preemption Statutes Regarding Fireworks.

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City Manager Pearson said the actions by the Legislature allowing greater volume and time for fireworks has caused some issues throughout the State. In Novi alone, we had a 143% increase in calls. It is more than we have had to deal with in the past. The current legislation doesn't provide any noise provisions or hours. We are suggesting that Council take a legislative position as a governing body that we can share with legislatures to consider this. The resolution is not asking for a repeal of the legislation, just to address problematic sections for clearer language to increase the City's ability to limit times, have noise and nuisance provisions, and specify location. Council will be voting on the revised resolution.

Member Wrobel asked to clarify the 143% increase into numbers. David Malloy, Police Chief, responded by saying they had a total of 16 complaints in 2011, compared to 39 this year to date. Most of the complaints were at night.

Mayor Pro Tem Staudt cannot support the resolution. He does not support resolutions that lecture our State Legislature. He didn't think this resolution was useful. He didn't see a significant amount of additional accidents where the law has affected too many residents. The time we spent enforcing previous ordinances and laws was not time well spent and he thinks the State tried to cover some of those issues.

Member Margolis agreed that the removal of the City's authority to regulate the noise levels in our community caused a problem.

CM-12-07-116 Moved by Margolis, seconded by Casey; MOTION CARRIED: 6-1

To approve a resolution supporting that the Legislature and Governor Revise Overly Permissive and Vague Preemption Statutes Regarding Fireworks.

Member Mutch agreed with Mayor Pro Tem Staudt that these resolutions don't have much weight on our State Legislature. They passed this law without any input and clearly there are concerns that have been raised. The biggest issue he had with the change in the law is the lack of a time limit it can take place and the impact that it has on the community in terms of the noise. He thought that a lot of people were aware of the change in the law and probably didn't complain because they realized there wasn't anything that as a community they could do. He wasn't comfortable having something in place that doesn't allow us to deal with late night activities and felt it was problematic. As a community, we should have some ability to limit it in a reasonable fashion. Lansing should be made aware of some of the concerns that have been raised with the change in the law and take them into consideration.

Mayor Gatt noted that the City of Warren Council passed an ordinance that reversed what the Legislature did. He was told the ordinance wouldn't hold up and the State law preempts any local law enacted. Many cities in the Southeast part of the State are forming a consortium and passing these kinds of resolutions that hopefully the State Legislature will look at. He agreed with his colleagues and thought the legislatures are not too concerned with what we send up there resolving that we don't like what they

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did. But if several different cities do the same thing, then maybe there is strength in numbers. The law says that fireworks can be displayed any time, day or night, from the day before to the day after the ten National or State holidays. It takes away the City Council's right to protect the citizens from harassing noises. We don't have the authority or the ability to stop it because this State law was passed.

Roll call vote on CM-12-07-116

Yea: Mutch, Wrobel, Gatt, Casey,
Fischer, Margolis
Nay: Staudt

4. Approval of the request of Cahen Architectural Group for Preliminary Site Plan, Phasing Plan and Stormwater Management Plan approval for a new retail building, SP12-26. The subject property is located at 44275 Twelve Mile Road, south of Twelve Mile Road and west of Donelson Drive, in the RC, Regional Center District. The subject property is approximately 67.2 acres and the applicant is proposing to add a 57,793 retail building with associated parking and landscaping near the center of the existing Twelve Mile Crossing at Fountain Walk development.

City Manager Pearson said this is another positive sign for development in general. The Twelve Mile Crossing at Fountain Walk had some shell buildings at one time; the project was built out and never occupied. They were torn down and now they are coming back with reconfigured spaces that there is interest in occupying. It is a positive for that area. The Twelve Mile Crossing at Fountain Walk has been doing well and the fact that they are willing to build additional space is great.

Member Margolis asked about a note in the Fire Review of not recommending due to the concerns about the turning radius for fire apparatus. It discusses in the material that the applicant has agreed to modifications. She asked if that was also true of the fire concerns. Deputy Community Development Director McBeth said that it was true. They talked with the Fire Marshall and those were relatively minor modifications that would need to be done to the plan. She felt confident that they would be addressed in the Final Site Plan.

CM-12-07-117 Moved by Margolis, seconded by Casey; MOTION CARRIED: 6-1

Approval of the request of Cohen Architectural Group for Preliminary Site Plan, Phasing Plan and Stormwater Management Plan approval for a new retail building at Twelve Mile Crossing at Fountain Walk SP 12-26 subject to the following:

- a. Zoning Board of Appeals variances for the loading zone and dumpster locations in the exterior side yard;
- b. Approval of the Shared Parking Study;
- c. Waiver of the updated Traffic Impact Study;
- d. Waiver of the required building foundation landscaping provided the applicant provides additional landscaping

- along portions of the building frontage or within the parking lot islands;
- e. Section 9 Facade Waiver for the overage of EIFS on all facades which is consistent with the previously granted facade waivers for the center;
 - f. Applicant revising the plan to comply with the requirements of the fire review letter;
 - g. All facades of the anchor tenant building identified as Phase 2 must meet the standards of the facade ordinance or any waivers that are granted. The applicant must provide a note on the plans to indicate compliance with this condition;
 - h. The area identified for Phases 2 and 3 shall be maintained as landscaped green space until construction on the respective phases begins;
 - i. A portion of the pathway totaling at least 5' in width and included in Phases 2 and 3 along the proposed building frontages shall be installed with the construction of Phase 1;
 - j. Loading zone screening consisting of landscape materials approved by staff shall be installed along the south side of the existing loading zone in the area where Phases 2 and 3 are currently shown within one year of the completion of Phase 1 if construction on Phases 2 and 3 has not begun; and
 - k. Compliance with all the conditions and requirements listed in the staff and consultant review letters and with any concerns identified as part of the Final Site Plan submittal.

This motion is made because the plan is otherwise in compliance with Article 17, Article 24 and Article 25 of the Zoning Ordinance and Chapters 11 and 12 of the Code of Ordinances, and all other applicable provisions of the Zoning Ordinance.

Member Fischer asked about the existing parking on the south end of what is being proposed. Right now there is some street parking along the stretch of road and he couldn't tell from the plans what will be in that area. Deputy Community Development Director McBeth said the parking spaces on the south will remain and the north parking will be removed and turned into an island.

Member Mutch stated he would vote against the proposal. He thanked the applicant for bringing this forward. Fountain Walk has had its challenges with the various configurations and any time we have someone who wants to invest in that location, it is appreciated and he thought Council has done a good job of supporting it. He had a concern with the design of the area with having all the parking lanes open to the main access drive on the west side of the site that connects to West Oaks Drive, cars entering and exiting, will be problematic. It is going to or not going to function the same way as the access drive by Kohl's and Joann's in West Oaks II. There are cars constantly pulling out of those lanes into the main drive and a driver has to watch what is going on. It is

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also difficult for the drivers pulling out to see the traffic coming. He is not comfortable with the configuration.

Roll call vote on CM-12-07-117

Yea: Wrobel, Gatt, Staudt, Casey,
Fischer, Margolis
Nay: Mutch

5. Approval to award a construction contract for the Garfield Road Water Main Extension (Contract A) project to Bidigare Contractors, the low bidder, in the amount of \$536,908.

City Manager Pearson said it is a major water system improvement to bring a twelve inch water line down Garfield Road for three-quarters of a mile. The developer is going to be the finishing loop at the end of the development. We have guarantees on that. It should be completed by the time we are finished with our transition line.

CM-12-07-118 Moved by Mutch, seconded by Fischer; CARRIED UNANIMOUSLY:

To approve the award of a construction contract for the Garfield Road Water Main Extension (Contract A) project to Bidigare Contractors, the low bidder, in the amount of \$536,908.

Roll call vote on CM-12-07-118

Yea: Gatt, Staudt, Casey, Fischer,
Margolis, Mutch, Wrobel
Nay: None

6. Approval of Zoning Ordinance Text Amendment 18.255 to amend the City of Novi Zoning Ordinance at Article 23A, "OST Planned Office Service Technology District" Section 2302A, "Retail Service Overlay Uses Permitted Subject to Special Conditions" in order to expand the areas where the Retail Service Overlay is permitted to the area east of M-5 and north of Twelve Mile Road. **First Reading**

Barb McBeth noted that City Council recently approved the creation of Retail Service Overlay ordinance language which permits a limited amount of retail and personal service uses in the area near Beck Road and Grand River. The area for the additional uses had the underlying zoning of OST which is Planned Office Service Technology and identified with the Office Research Development Technology with Retail Service Overlay on the City's future land use map. The uses that are permitted there are subject to special conditions. Those are the additional uses. Those uses are typically provided in B-1 local business district, as well as restaurants excluding drive-in and drive-thru restaurants. In April, Council expressed an interest in expanding the areas where this Retail Service Overlay might be allowed to include areas within the Haggerty Corridor Corporate Park (The area which is north of Twelve Mile Road between M-5 and Haggerty Road, south of Fourteen Mile Road). The text amendment was considered by the Planning Commission to address the Council's concerns. The Public Hearing was

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held and a major property owner in the area came out and expressed a few concerns regarding the proposal. The Planning Commission also expressed some interest in possible revisions to the proposed amendment and directed the staff to work with the property owner. The staff had a text amendment drafted. The ordinance included the property identified as north of Twelve Mile and east of M-5. It is zoned as Planned Office Service Technology. An area where additional provisions that might be allowed were narrowed down to either side of Cabot Drive at Twelve Mile. The Planning Commission will be asked in the ordinance to make a finding that application of the Retail Service Overlay would be in keeping with the stated intent of the Retail Service Overlay and the Office Service Technology District and compatible with the surrounding developments. The ordinance includes size limitations for any proposed retail service and restaurant uses and those will help protect the character of the area. Pedestrian and vehicular access is also proposed to be included in the ordinance to encourage retail service and restaurant uses to come in from the adjacent park. Outside plaza and landscaping features are encouraged to provide an attractive place for dining associated with any restaurants. In addition, those areas not designated OST with Retail Service Overlay on the Future Land Use Map the amendment includes fast food drive-through restaurants as a permitted use subject to a number of conditions. The façade ordinance includes a provision that all building design must be compatible with the existing buildings in the area.

Member Mutch asked Ms. McBeth to clarify the extent and the use of these uses in the M-5 Corridor. In terms of the locations, it was indicated that the language would limit these uses to the Twelve Mile and Cabot intersection. The property owner in the past has talked about bringing some of these uses closer to Thirteen Mile along Cabot Drive. Would the language as it is currently written allow uses in that location? Deputy Community Development Director McBeth answered that as it is currently written, it would not include those areas. She explained that the idea was to limit the number of restaurant and retail uses in the OST District. The OST land is valuable property intended for high tech office research technology types of uses. It is not intended to be a shopping district. The staff thought it would be appropriate to have a limited number of restaurants and retail in this area. Member Mutch understood that concept. The ordinance language specifically refers to intersections of non-residential collector street and arterial or major arterial roads. He asked if Thirteen Mile doesn't qualify as an arterial road. Ms. McBeth said that it does. Kristen Kapelanski confirmed if the question was about the area of Thirteen Mile and McKenzie Drive. She said that those properties are developed or currently under development. If for some reason they would be redeveloped, then they would be eligible for these provisions. Member Mutch said that he is concerned with the area at Thirteen Mile Road. Ms. Kapelanski said that area is not an arterial or a major arterial road. It is a minor arterial road. Member Mutch asked to go north to Fourteen Mile Road where there are plans to extend the road. Ms. Kapelanski said in that case those properties would be eligible once the road is completed. The only caveat would be to make sure they weren't within 500 feet of any residential zoning. Member Mutch asked in terms of the uses, when there had been previous discussions with the applicant; the applicant was looking for uses such as a Starbuck, Panera, and those kinds of uses that would have a drive-through use. He would consider an ancillary use and not the primary purpose of the restaurant, as

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compared to a McDonald's, Taco Bell or Burger King is what most of us consider fast food use. The applicant was looking for the former use and not the latter. It was indicated in correspondence from staff they didn't think they could write the ordinance in a way that would preclude that. Member Mutch asked if there were other property owners at Fourteen Mile or if there were changes of ownership of the properties in this area, the language as it is currently written, would allow a McDonald's or Taco Bell to go in there. Ms. McBeth said that it was true. The way the ordinance is structured with the restaurants is that the drive-through lanes are considered fast food restaurants in the ordinance because the food is served in disposable wrappers and containers. The drive-through lane is the functioning aspect of it. We will make sure it is regulated with screened aesthetically and appropriate staffing spaces. Member Mutch said that was his biggest concern with this change. It wasn't his understanding of what we could have accomplished with it. The ordinance change wasn't to allow the standard fast food restaurant. He thought with discussions with the property owner and with what they shared with the City, that wasn't their intent, but things change. If things change, he didn't think the OST Corridor was the place for fast food restaurants. He has been thinking how to deal with this. He understood from the staff's viewpoint that it is difficult to craft language that would limit the uses in the way we want them limited and applied fairly. He thought of putting some kind of limitation in terms of the total number of these uses that would be allowed. He suggested limiting this area to no more than two, with a maximum of three uses with the understanding that if the property owner goes forth with their proposal of a Panera or Starbuck's, it would absorb the number of spots that would be allowed. He would not support having the language allowing those uses at multiple locations. Since it is the first reading, it provides us the opportunity to have input to the staff and city attorney. He would leave it to City Attorney Schultz to craft it. It is what he would be looking for. If the usage is not limited in the language of the ordinance, he would be willing to limit the number of them to no more than a couple, but meet the intent or the desires of the property owner in this area and not open the door up for additional fast food usage in M-5 Corridor beyond what we would contemplate.

City Manager Pearson suggested to talk a little about the Fourteen and Cabot intersection, because across the street is 100% retail. He didn't think it was the same flavor. It was something they looked at with trepidation to lose some OST but at Fourteen Mile and Cabot was not in the same category. If you want us to look at those limitations, perhaps give us a chance to talk about that area to get the full picture.

Member Margolis had very similar thoughts and felt it was a difficult balance. It was hard for her to specify any specifications but we all know what they are. She was intrigued by the idea of one use or limiting it to one drive-through use. Ms. McBeth was asked if it was not envisioned to be drive-through and if it could be restaurants. Ms. McBeth said that the way she structured the ordinance was similar to the Retail Service Overlay and that was the direction that the staff received from Council. Member Margolis said she would be interested in looking at that Fourteen Mile use. She confirmed that the reason McKenzie drive at Haggerty would not qualify was because of its proximity to residential. She had some similar concerns of it becoming a fast food

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place. This is one of our premier office parks. She wanted to see it be a high level development.

Member Fischer echoed the same comments. Fast food in this area concerned him. We need to restrict it and the more the better. He knew there was hopefulness of the developer to have full-scale restaurant uses. It is what he had in mind when additional uses were discussed. He envisioned it similar to the restaurants of Haggerty Corridor near Six Mile and Seven Mile. It was to allow the developer to attract businesses that will allow their employees to enjoy a nice lunch. He thought there is a clear direction but the fast food is a concern. He would be interested to hear some of the possibilities in the second reading. He will approve the first reading with direction of staff to incorporate the concerns of Council and ask for direction from City Manager Pearson regarding his discussion of the Fourteen Mile Road intersection.

CM-12-07-119 Moved by Fischer, seconded by Margolis; CARRIED UNANIMOUSLY:

To approve the First Reading of the Zoning Ordinance Text Amendment 18.255 to amend the City of Novi Zoning Ordinance at Article 23A, "OST Planned Office Service Technology District" Section 2302A, "Retail Service Overlay Uses Permitted Subject to Special Conditions" in order to expand the areas where the Retail Service Overlay is permitted to the area east of M-5 and north of Twelve Mile Road with direction of staff to incorporate the concerns of Council and ask direction from City Manager Pearson regarding his discussion of the Fourteen Mile Road intersection.

Roll call vote on CM-12-07-119

Yea: Staudt, Casey, Fischer, Margolis,
Mutch, Wrobel, Gatt
Nay: None

7. Approval of Zoning Ordinance Text Amendment 18.256 to amend the City of Novi Zoning Ordinance at Article 16, "TC and TC-1 Town Center Districts" Section 1600, "Intent" and Section 1602, "Principal Uses Permitted Subject to Special Conditions" in order to permit drive-through restaurants in the TC-1 Town Center Zoning District. **First Reading**

Deputy Community Development Director McBeth said this was another discussion about the drive-through lanes. The Community Development Department was recently approached by the property owners in the TC-1 area, south of Grand River and both sides of Novi Road, regarding the possibility of adding drive-through restaurants. There was a discussion of rezoning some of properties currently zoned TC-1. There was a discussion about the Panera Bread, near Flint Street and Grand River, to add a drive-through lane. The staff presented a memo in April with the possibilities of adding drive-through lanes to the TC-1 district. The draft ordinance and provisions were sent to the City Council for consideration. The criteria that were added were the drive-through

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lanes must be an accessory to a larger indoor sit down restaurant and provide outdoors seating. The drive-through lanes must be screened from view by the building or landscaping planted. A site design must ensure safety and accessibility for pedestrians. The staff thought it was important being the TC-1 district. The proposed drive-through restaurant must have a frontage of at least 200 feet on an arterial road as well as frontage on a non-residential collector road. The ordinance does state that shopping centers in existence at the time the ordinance is adopted may have two-way access. That would account for the Panera Bread property. Also, there are a number of provisions in the Town Center ordinance that would require features for all uses and sites to encourage a more pedestrian centered area. The Planning Commission considered the draft ordinance language and set a public hearing in May. The staff was asked to provide a comparison table of the existing drive through restaurant provisions compared to the provisions for the proposed TC-1 District. It was provided for the Public Hearing on June 13th. The Planning Commission directed staff to revise the amendment incorporating a number of comments from the Planning Commission regarding secondary access. Staff drafted a revised amendment to address the concerns and refined for City Council's review. The City's Traffic Engineering Consultant agreed with staff's interpretation in that it would be appropriate to limit the driveway access to a drive-through restaurant from a non-residential collector road in the TC-1 District. The access would be from Flint Street only. The Traffic Consultant suggested further clarifications to the City ordinance language regarding the need for additional analysis. If the applicant seeks for approval the secondary access then a traffic impact statement has to demonstrate the need that it is absolutely required for access and would be left to the discretion of the Planning Commission or City Council. The ordinance language presented includes that language and was recommended by the Planning Commission at their second public hearing.

Matthew Quinn, Attorney on behalf of City Center Plaza owners, thanked Council for starting this project of looking at this ordinance. He said with this ordinance and the current ordinance will allow Panera to go through. They are working on a plan already and submitted after this ordinance is adopted. This ordinance was looking at expanding the drive-through uses in the downtown vicinity. He said taking some of these land areas that have been sitting vacant for 30 or 40 years without being developed. The Planning Commission considered the matter. There are pedestrian requirements and how that would relate to drive-through uses and they can work together. Royal Oak is one of the municipalities where there is drive-through in a downtown area. The other locations the Planning staff has looked at are already occupied. He had some comments on the draft ordinance. The ordinance talked about the 200-foot requirement on an arterial road. He didn't have a problem with it but his client has lots that total 192 feet. They would not make the 200-foot requirement. Since it is a special land use requirement, the footage waiver could be a Council waiver rather than having to go to the Zoning Board of Appeals. He proposed that the frontage on the arterial road be a Council waiver. Since they were at the Planning Commission the traffic impact statement to allow us to have an access on an arterial road has come up. We were almost satisfied with a one way in and out on an arterial road. Now, we are situated with an ordinance that says no to have access on Novi Road or Grand River. If Taco Bell was going in on the corner of Flint and Grand River

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and can't have access onto Grand River Ave, they would not look at the site. They have to go through a process to convince someone that it is clearly demonstrated that it is necessary. Without the ordinance they would have a right to have access on Grand River but now they don't. They would have to demonstrate that they don't have enough traffic flow from Flint Street, the non-residential collector road. He felt it was too much to ask. The purpose of the ordinance was to invite business but now there are too many hurdles to overcome. We proposed leaving the language in with one way in and out but remove the language that requires a full traffic impact statement before we can have any access in or out on the major arterial. The seating in the original ordinance didn't have a requirement for outdoor seating. The eight seating requirement may be difficult for Panera with the revisions. He asked why a business in the downtown area should require a noise impact study. He knew it was required in all Special Land uses. Grand River Ave and Novi Road will create more noise than a drive-through restaurant would create. He asked why make it an extra cost requirement. He stated it should be waived. Those were the main issues. They would like the ordinance to be approved as a First Reading. He would like his comments to be considered and come back for the Second Reading and adoption.

City Manager Pearson has been involved with this and gave a little background. It started as a Panera retention to recognize the reality of retail for that project and the use is the key to the whole Center. We could have a lot of development if we removed all restrictions. He thought the push to eliminate the traffic management on the major is really overreached. There is one street on that project that needs long term traffic management for the road. It started out to be one parcel but then they looked at opening it up to help three more parcels. We strongly recommend retaining what we presented for the Traffic Management for that access.

Member Mutch said that when it was discussed last time, the primary focus was Panera had a proposal for an accessory drive-through use and not the primary purpose of the business. Panera said it was what they needed to stay in the area. The potential usage can work within the context of the existing businesses. We have to keep in mind that there are a lot of property owners who have invested money into the area who have followed the guidelines that were put in place. He would be cautious of any changes. He was concerned as to all the potential locations where fast food drive-through could go beyond Panera. The corners of Flint Street and Grand River, Novi Road and Main Street could be possible locations. He thought the south Corner of Novi Road and Main Street could be a possible location if the older buildings were torn down. He felt Trans-X Drive would meet the criteria to be a possible location. There were half a dozen potential locations. He thought it was too many. This ordinance has the same challenge as the previous item which is how to write an ordinance, to accomplish what we intend to accomplish, to allow Panera to have a drive-through window without opening up the entire Main Street to all the other fast food uses. He felt it would change the nature of the area. Those uses have a lot of traffic and high volume at multiple times during the day. Why would we start in the TC-1 District with these uses? It has a different kind of feel than the TC-1 North. He recommended looking north of Grand River where it may be more appropriate than the south of Grand River. He would look at the same approach as the previous item to allow a couple of drive-through uses with a limitation

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on it but not have an ordinance change that will allow the potential half dozen new uses in that area. He could not support it.

Member Margolis had a concern about the number of parcels that were considered for this change, also. She echoed the previous thoughts. The idea of allowing Panera to have a drive-through, as an accessory to a large restaurant is one thing but to allow a small coffee shop to have one is another thing. She realized that it is an almost impossible task for staff. She did not have an answer to it but this is not what she had envisioned when Council asked this to move forward. She was more concerned about this than the previous proposal.

Member Fischer agreed that there were a lot of things in this reading that concerned him more than the prior proposal. He was concerned about the amount of businesses with high frequency impact on some of our major roads. There have been a lot of discussions about Novi Road and Grand River as to what can be done to alleviate congestion. It would open that intersection up to more high frequency uses with direct routes to those major thoroughfares. He was concerned about it. He liked what was done because it has struck a chord.

CM-12-07-120 Moved by Fischer, seconded by Staudt; CARRIED UNANIMOUSLY:

To approve the First Reading of the Zoning Ordinance Text Amendment 18.256 to amend the City of Novi Zoning Ordinance at Article 16, "TC and TC-1 Town Center Districts" Section 1600, "Intent" and Section 1602, "Principal Uses Permitted Subject to Special Conditions" in order to permit drive-through restaurants in the TC-1 Town Center Zoning District.

Mayor Gatt had the opportunity to sit with the applicant and City Manager Pearson. He said the Mainstreet area was called downtown by Mr. Quinn several times. He didn't think it is a downtown. He felt there is not a downtown in Novi and never will. There is a Mainstreet that Council has worked on very diligently to unravel the condominium documentation that prohibited it from going forward. Now there are three separate owners there and two of which are probably going to build. He didn't share the grave concerns of fellow Council members. He didn't want to see that area inundated with fast food restaurant chains either. He doesn't believe Mainstreet is ever going to be a family friendly area. It is a business area and he wants to see businesses come to Novi. He pointed out the Library has a drive-through and invites pedestrians, also. To his knowledge there have been no problems. He would like to see some kind of compromise in the language that will allow us to limit the number but not prohibit the number. Panera is a main stay in the City and has to be made whole so they will stay in business. A drive-through is what they want and was not against having another one or two drive-throughs in the area. He didn't want to see four or five because there is a possibility of buildings being torn down as mentioned previously. Maybe add language to prohibit that.

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Member Margolis said that it brought up something interesting. In the Master Plan it is supposed to be pedestrian friendly. The whole area is not going to be pedestrian friendly. She suggested to staff and Council, maybe as a future item, to take a look at the Master Plan for that area.

Roll call vote on CM-12-07-120

Yea: **Casey, Fischer, Margolis, Mutch,**

Wrobel, Gatt, Staudt

Nay: **None**

8. Approval of Zoning Ordinance Text Amendment 18.257 to amend the City of Novi Zoning Ordinance at Article 30, "Administration and Enforcement," Section 3004, "Temporary Special Exception and Temporary Special Land Use Permits," in order to add a timeframe for submitting an application and to provide regulations relating to temporary tents in connection with an outdoor recreation facility. **First Reading**

Jeff Wainwright, Paradise Park, said Administration has done a good job of piecing this together in trying to create a business friendly environment for the application of tents, tent permits, and gathering permits with those types of usage that is applicable to the business he represents. It is an important step in improving the commerce of the business. They use a lot of tents. The texture of the business in the last three years with the economic downturn has changed measurably. They were more of an entertainment general facility with fewer numbers of events but now the number of events is measurably up. We are seeing the corporate world coming back. We are seeing a high demand for small and large events. One of the challenges they are facing is the tent duration. It doesn't seem like a complicated issue but in reality it does become a nemesis to them from an economic point of view. They need to use the same tent for a couple of different events. They have to take the tent down and put up the same tent up in a couple of days with the same expense. Sometimes they are not successful to do that. The cost is substantial and many companies are prudent about the dollars they spend for employee recreation and team building exercises. The ability to have this extended as proposed would be a positive impact for them. He commented that the ability to extend it for eight days would have a positive impact on the business. The tents will not be up all the time because the events historically don't tend to go like that. The ability to facilitate two to four events within the eight day window that we are currently losing to businesses outside of Novi would have a huge impact. He does have a plan for a pavilion and will build it when they can financially. They do a good job as far as safety is concerned. He asked if Council would take it in to consideration. There may be ways to write this using a good safety records but would help them to facilitate the business.

Member Fischer asked if someone rented a tent for seven days and our ordinance had a four day limitation on it, what would prohibit them to get two permits for the same tent. What would prohibit the City to inspect the same tent as opposed to doing the whole tear down?

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Mr. Wainwright said he did not explore that question and it would be acceptable. The permit cost sometime is the issue but it is for companies that are irritated by it and we tend to absorb the cost. The economics is less of an issue than that of the re-rental of the same process.

Member Fischer asked if City staff could address if someone wanted to keep one tent up, would the City require him to tear it down and reinstall it just to have the City inspect it again.

City Manager Pearson said they do have provisions for similar types of set ups at Suburban Collection Showplace. It does make sense but they are not prepared to talk about it.

Member Fischer said it seemed like it is one thing that can facilitate the process. He asked if anyone knew what the permit cost was.

City Clerk Cornelius said the Clerk's office provides fees for the outdoor gathering permit. Once the temporary special use permit limit is acquired from Community Development, then they come to the City Clerk's Department. The fee is based on the amount of people in attendance.

City Manager Pearson said that it is not so much the set up and tear down of the tent but not necessarily getting rid of the new looks with a different use of permit. They are different. Some groups may require music; some have electrical or cooking with a different look to it. The question was if he could have two different permits but not require the tear down and set up.

Member Fischer said that is what he was asking. If they are looking at a business interested in having five events in eight days with the same tent, unless there is different electrical, we should be inclined to help this particular business. This owner has come to us time after time to ask for relief on this permitting process. They have done great things for the City. They bring people in and showcase our City for us. If we can't find a way to be amenable to the concerns of this business, he would be willing to support up to seven days for this permit to be in place with some language stating the aesthetics of keeping any tent that is up. He very inclined to do what we can. If all things were equal, we would like to have a pavilion in place, but times have been rough and if this is the best business model for this business at this time, he is inclined to support it. He would like to see some process by which the applicant can keep the tent up and renew the permit process or approve a second reading with a seven-day limitation.

CM-12-07-121 Moved by Fischer, seconded by Staudt; CARRIED UNANIMOUSLY:

To approve the First Reading of the Zoning Ordinance Text Amendment 18.257 to amend the City of Novi Zoning Ordinance at Article 30, "Administration and Enforcement," Section 3004, "Temporary Special Exception and Temporary Special Land Use Permits," in order to add a timeframe for submitting an application

and to provide regulations relating to temporary tents in connection with an outdoor recreation facility.

Mayor Pro Tem Staudt was in agreement with the previous speakers comments. Perhaps after a four-day period, there could be an additional inspection. The City sets the fees. Putting up and tearing down tents with minor alterations that we are charging fees for is not a good business practice. There needs to be a good solution to this. He would agree to the 7 days but would rather see a renewal type process after a period of time. If there are modifications, they can be easily covered by some kind of process that doesn't need to be the full fee for the renewal process. It could be a limited fee or renewal fee. He thought we need to help in this area and shouldn't look for ways to make it more difficult to work in our City.

Member Wrobel was in agreement with Mayor Pro Tem Staudt and Member Fischer. We should not make things more difficult for people in our City to do business. Four days does not seem right. He didn't know what the optimum period would be. He would like to explore other options. It seems like bureaucracy is taking over on this. We have to look out for the public health and welfare but we also want to encourage business to stay in Novi.

Member Mutch was supportive of moving this forward from Ordinance Review because our current process doesn't work for Mr. Wainwright's business and needed to be addressed. There is a balance they are trying to strike between the needs for Mr. Wainwright's business and for the City to provide public safety. They don't want the tents to become a permanent fixture on the property. Mr. Wainwright has planned all along to have a pavilion in the future to replace the tents. Hopefully, it will happen sooner than later. It is an interim modification to the ordinance to allow him some flexibility and more rationality to the process. We have to be careful not to put in a process where it becomes permanent. We have to make our ordinance language reflects that and strike that proper balance. He is open to it with what staff can suggest. He hoped Charles Boulard, Community Development Director, shared his viewpoints before Second Reading because they influenced Ordinance Review's decision to limit it to four days. He agreed that we do not want to hinder businesses but there should be a balance of public safety and the aesthetics of the community.

Member Margolis is on Ordinance Review. She thought that they always look at these changes in the context of the owner of the property as they are now. They know that the owner of the business keeps things in good repair. We don't know what is in the future. The challenge is to help a business but not to open up an ordinance so that we are allowing, for example, possible future owners that may keep it in disrepair. She didn't know why four days or eight days was used. The idea of some type of interim inspection, perhaps at a lower fee, might strike some balance. We need to make sure we are covered for any future owners.

Mayor Gatt agreed with Member Margolis. We have to look at the owner but by putting in an interim inspection, in case someday Mr. Wainwright doesn't own the

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property, is a way we could remedy any situation. He wondered why we would charge a fee for a re-inspection or interim inspection.

Roll call vote on CM-12-07-121 Yeas: Fischer, Margolis, Mutch, Wrobel, Gatt, Staudt, Casey
Nays: None

9. Approval of Zoning Ordinance Text Amendment 18.260, to amend the City of Novi Zoning Ordinance, in order to update and make consistent ordinance language pertaining to automobile repair and maintenance-related uses by revising the definitions provisions in Article 2, Construction of Language and Definitions, Zoning Districts and Map, Section 201, Definitions; by adding to off-street parking provisions in Article 25, General Provisions; and by replacing language in various district regulations for the B-2, B-3, TC and TC-1, FS and I-1 Districts. **First Reading**

CM-12-07-122 Moved by Fischer, seconded by Margolis; CARRIED UNANIMOUSLY:

To approve the First Reading of the Zoning Ordinance Text Amendment 18.260, to amend the City of Novi Zoning Ordinance, in order to update and make consistent ordinance language pertaining to automobile repair and maintenance-related uses by revising the definitions provisions in Article 2, Construction of Language and Definitions, Zoning Districts and Map, Section 201, Definitions; by adding to off-street parking provisions in Article 25, General Provisions; and by replacing language in various district regulations for the B-2, B-3, TC and TC-1, FS and I-1 Districts.

Roll call vote on CM-12-07-122 Yeas: Margolis, Mutch, Wrobel, Gatt, Staudt, Casey, Fischer
Nays: None

10. Approval of Sign Ordinance Text Amendment 12-100.42, an ordinance to amend Chapter 28, "Signs," of the City of Novi Code to update language pertaining to gasoline station and automobile repair uses. **First Reading**

CM-12-07-123 Moved by Fischer, seconded by Margolis; CARRIED UNANIMOUSLY:

To approve the First Reading of the Sign Ordinance Text Amendment 12-100.42, an ordinance to amend Chapter 28, "Signs," of the City of Novi Code to update language pertaining to gasoline station and automobile repair uses.

Roll call vote on CM-12-07-123 Yeas: Mutch, Wrobel, Gatt, Staudt, Casey, Fischer, Margolis
Nays: None

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11. Approval of an Ordinance to amend the City of Novi Code of Ordinances, Chapter 12 "Nuisance", in order to add a new division, Division 11, entitled "Nuisance Lighting." **First Reading**

CM-12-07-124 Moved by Fischer, seconded by Margolis; MOTION CARRIED: 5-2

To approve the First Reading of the Ordinance to amend the City of Novi Code of Ordinances, Chapter 12 "Nuisance", in order to add a new division, Division 11, entitled "Nuisance Lighting."

Mayor Pro Tem Staudt couldn't disagree with ordinance more. There are discussions about lighting and people bothering people's comfort. Shining lights may turn into a neighborhood issue. There are so many things that can come of this ordinance. He thought the reason it didn't exist was because previous Councils recognize that this type of ordinance is going to have homeowner against homeowner. We have been able to survive without it. He empathizes with the earlier speaker whose neighbor is completely inconsiderate. To him it was not a very good reason to put an ordinance on the books that has wide ranging effects. There is a section in it that says "have or cause exterior interior lighting that interferes with the vision or comfort of persons on public streets who are in residential districts or uses." Everybody's comfort is different. He sits in his living room and looks across the street and his neighbors have their spotlights on. Sometimes it bothers his comfort. Who is going to interpret this? He thinks this is a completely useless ordinance that may cause problems in the future. He didn't see the point of it. He understood what it is trying to accomplish but we shouldn't be adding regulations for homeowners. We should be getting rid of these types of ordinances. The fact that it is not on the books is a good thing.

Member Wrobel understood the need for an ordinance but to him it is so subjective that is hard for him support it. People have different levels of comfort. He understood the police officers would like to have something concrete that they could do their job but the way it is now, it is too subjective. We didn't have as many people as we do now. He thought it should be thought out more prior to adopting.

Member Fischer said he was willing to support the First Reading. He said there is always room for improvement. That is why we have two readings for all the ordinances and amendments we adopt. There is some concern about the comfort factor and we could be more subjective by putting specific amounts of light or whatever it may be. He is open to staff looking at that and making some proposals. He actually lives in a residential area that abuts a commercial property. Before he was on Council, thankfully there was an ordinance in place because the commercial property had its lights glaring into the night sky towards his condominium unit. It was a nuisance. It makes sense that an ordinance like that would be instituted where there is a residential property on a residential property. People have the right to do what they want on their own property as long as it doesn't interfere with what other people want to do on their property. He supported staff looking at some more clarity into what the nuisance would be.

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Member Mutch said the First Reading is an opportunity to reveal some concerns in more detail. He thought it would be helpful if staff would get into little more detail about section 25.11 of the limitation in the first section. It is the most specific language that would help Council to better understand what exactly would or would not be allowed. Section B is fine and straightforward. He thought section C, where it talks about the "vision or comfort", is ambiguous and open to interpretation. He would be looking for some additional information from our legal counsel or staff to explain why it was included and how they anticipate it operating. He agreed that everybody has a right to enjoy their property to the fullest. It includes being free from obnoxious noise and lights. We do live in a city and not the country and need to balance those expectations. Noise is not tolerated and police will enforce it. He didn't know why lights should be permitted to shine into their neighbor's house and intrude on their property in the same way. He thought with a little tweaking and some explanation he would be comfortable with this moving forward.

Mayor Gatt respected Mayor Pro Tem Staudt's opinion in this matter, however, he had the opportunity to sit with Mr. Pearson when the husband and wife came in with the videos of a reprehensible situation where the neighbors had bright spotlights shining into their bedroom all hours of the day and night. There were no remedies on the books. He didn't like regulations that prohibit citizens from being free. He didn't like our citizens that infringe on his rights either. He would not want somebody to shine bright lights into his house all the time. There must be something to prohibit it. When a police officer responds to excessive noise after a certain time of night, what is considered excessive? There are different levels of noise. That is why we have paid professionals to make a determination. Some will get ticketed and some will not. If a ticket is written, we have a court of law to determine whether that ticket is valid or not. He thought the ordinance was extremely necessary. We may be able to help residents when they have a problem. He thought they could tweak it a little bit.

Mayor Pro Tem Staudt suggested that the City Attorney look at the lawsuit that was filed in Village Oaks several years ago which included a basketball hoop that was lit up. The homeowners that lived around it had serious concerns about the lighting. There was some comment by the judge on it. He thought it would be worth seeing where they weighed in on it. He thought that if this was the only way to enforce an ordinance or enforce the right of a property owner from having somebody shining spotlights into their house, then he had serious concerns about many other things. This particular situation seems to be extremely bad but this concerns Christmas tree lights where people may think they are too bright. He didn't know where it would end. He sees homeowner against homeowner. He hears these types of discussions at his homeowner's association meetings. This ordinance is specific about lighting and is broad in the sense that it talks about someone's comfort. He felt it would be dangerous because we would be squandering our resources of our law enforcement and ordinance enforcement. He didn't see where the benefit would come from.

Member Fischer asked if City staff would include information from surrounding cities as to what they do. When we do benchmarking in our packet material, it helps him and to look at some of the concerns.

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Roll call vote on CM-12-07-124

Yea: Gatt, Casey, Fischer, Margolis, Mutch
Nay: Wrobel, Staudt

AUDIENCE COMMENT – None

COMMITTEE REPORTS - None

MAYOR AND COUNCIL ISSUES - None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION:

- J. Approval of the request of Singh Construction Company for Final Plat approval for Phase III of the Tollgate Woods Subdivision. The subject property is part of the Vistas Planned Unit Development, located between Novi Road and Meadowbrook Roads and south of Thirteen Mile Road in Section 11.

Member Mutch stated that the Final Preliminary Plat that precedes the Final Plat was approved in 1998-1999. He said it is normally good for two years unless the applicant comes back to City Council and asks for an extension of time and asked City Attorney Schultz if he would explain. City Attorney Schultz said that he was correct that the Final Preliminary Plat approval was through the 1999 Consent Order and that was the extension. It is the absolute right to develop this Final Preliminary Plat development and didn't have a time limit on it. It is essentially a court agreement in the middle of the Sandstone litigation that said here is the petitioner's permit to develop. Member Mutch noted that these property owners were not parties to the Sandstone litigation. These owners have purchased the property from the original property owners. City Attorney Schultz said the 1999 Consent Order was, in part, to give those purchasers some indication of what the use on the property was permitted. Member Mutch asked if his understanding of the Consent Agreement was that the City didn't build any timeline into that. Effectively, we gave up our right to hold them to any time line. Thirteen years later it is still a valid plan. City Attorney Schultz said if you go through it that the parties as a whole intended for this approval to be the Final Preliminary Plat. The property was then going to be sold. There is some language that talks about them being able to convert the subdivision plat to a condominium site plan administratively. It would be through the City Manager's office without the rest of the process. The order goes with the land. If there were inconsistencies in the Order and the ordinance, the Order would apply. There could be an argument that thirteen years later it should not apply but both the statute and the subdivision ordinance allow the City Council to extend beyond the two-year limit. Member Mutch said even though the formal request was not made. City Attorney said that no one thought to comment on the two years. Our view of the order is as a whole, the two years was not on anyone's mind. Member Mutch said there was an assumption that the development was going to proceed. One of the issues he raised with staff was when they adopted our Non-Motorized Master Plan, just west of this property there is a stub street, and the stub street provides an East-West connection that is half way from Twelve Mile and Thirteen Mile Road. It was contemplated there would be a connection through the open space to the stub street.

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He had asked about it because it was not part of the plat approval. The staff said that we have to follow what is in the Tentative Preliminary Plat. We can't request anything at this point. The Final Plat approval language talks about conformance to the City's Land Division Act, the City Code, and to any conditions of the Preliminary Plat approval. Our City Subdivision Ordinance requires those connections to be completed. He asked why they couldn't be required at this point. City Attorney Schultz said that it was the same answer but modified. The bulk of the Plat review occurs before Final Plat. In the Final Preliminary Plat everyone knows what it is they are dealing with and whether or not everyone did what they said they were going to do and what the City allowed them to do in the Preliminary Final Plat. You have only twenty days from filing to approve and there is no time to re-review things for ordinance compliance. The staff did the right thing. They looked at the Plat approved in 1999 and made a couple of slight changes and it is the plan that needs to be approved. It is based on the concept of the 1999 Consent Order. He thought it was the basis for this path of recommendation for approval on a consent agenda. Member Mutch asked as to what were the slight changes and the purpose of them. City Attorney Schultz said they added a conservation easement, which they may not have had to do, but they did. Member Mutch said there was no indication from staff that there was any discussion with the applicant about a provision of some kind of connection from this property to the stub street. City Manager Pearson said that they have and the applicant was not interested in that. Member Mutch asked City Attorney Schultz if he felt that we couldn't require it. City Attorney Schultz said he did not believe they could. Member Mutch said that it was unfortunate because this was the logical way to connect the surrounding properties. Staff said they would work on some issues. It is very difficult doing it after the fact. Based on the terrain in the area, this is the only place to make that connection. We will not have a connection if we don't accomplish it now. It is disappointing the applicant is not willing to work with the City on this. The fact that this Plat was allowed to sit for thirteen years and then said it was too late for something to be done. We have been generous to the applicant in that regard.

CM-12-07-125 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY:

**Approval of the Final Plat for Tollgate Woods Subdivision Phase III,
subject to the applicant adequately addressing the review
comments of the City's environmental consultant.**

Roll call vote on CM-12-07-125

Yea: Gatt, Staudt, Casey, Fischer, Margolis,
Mutch, Wrobel
Nay: None

COMMUNICATIONS - None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 9:33 P.M.

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Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Jane Keller

Date approved: August 13, 2012