

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, FEBRUARY 9, 2015 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 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, Markham, Mutch, Poupard, Wrobel (absent, excused)

ALSO PRESENT: Peter Auger, City Manager
Victor Cardenas, Assistant City Manager
Thomas Schultz, City Attorney

APPROVAL OF AGENDA:

CM 15-02-012 Moved by Casey, seconded by Mutch; CARRIED UNANIMOUSLY:

To approve the Agenda as amended with the addition of Mr. Richard Zyczynski to the interviews for Boards and Commissions.

Roll call vote on CM 15-02-012 **Yeas: Staudt, Casey, Markham, Mutch, Poupard, Gatt**
Nays: None
Absent: Wrobel

PRESENTATIONS:

1. Novi Auto Parts – Celebrated 90 years in business – Violette “Skip” Tuck

Mayor Gatt presented a commendation for Novi Auto Parts doing business for 9 decades in the City of Novi and an “I AM NOVI” shirt to Violette Tuck who owned the store. Kathy Crawford, State Representative and Chairman of Novi Historical Commission, talked about life as it was in 1925. She said Novi wasn't a City and didn't have a mall. There were very few paved roads. She thought it was amazing to have a business that has been loyal to the community for 90 years. Ms. Crawford presented Ms. Tuck a Michigan flag that has flown over the Lansing Capital. Ms. Tuck spoke about her memories of her father-in-law and mother-in-law who started the store and did a lot of good things for the City.

2. Congenital Heart Defects (CHD) Awareness week – February 7 – 14, 2015 - Heather Bertin

Mayor Gatt presented the proclamation to Heather Bertin. She spoke how much the recognition meant to her family and to the CHD community. She gave statistics of heart defects. She shared that she lost her son to a congenital heart defect and hoped it will inspire others to get involved.

INTERVIEWS FOR BOARDS AND COMMISSIONS:

1. Craig Messerknecht – Library Board

He has served on the Library Board for a year. He explained the duties as a member of the Board. He believed in making sure that the funds were spent wisely. He explained the accomplishments that the Board has made in the past year. He welcomed the opportunity to continue serve the City and Library. Member Casey said she was impressed with the number of committees he has joined. She asked if he had any goals or objectives that he would like to see accomplished if reappointed. Mr. Messerknecht thought it was important to make sure that they are not being just fiscally responsible but continue to provide the services and programs. There is a broad range of programs the Library offers. He would like to continue the broad spectrum of programs and still be fiscally responsible. Member Mutch was concerned with the reliance on Fund Balance. He asked Mr. Messerknecht to talk about steps to address that gap. Mr. Messerknecht said they have been working off the Fund Balance in the past year. They talked about reducing how much they use by 20%. Last year usage was less than what was authorized. They would like to continue to minimize the usage. Member Poupard thanked him for his wide range of services. She asked what service he is most proud of and hoped to see expanded. He thought the fact that it has become a community center for a wide range of functions and services. He explained the programs are designed to attract a wide range of people. He would like to see it continue. Mayor Pro Tem Staudt noted Mr. Messerknecht has filled the position at a critical time of transition. Member Markham asked if he had any thoughts on sustainable landscaping for the Library. He said they have not had any discussions in that area. Discussions have revolved around the ingress/egress from the parking lot. Mayor Gatt thanked him for his service.

2. Jonathan Montville – Zoning Board of Appeals

Not present.

3. David Byrwa – Zoning Board of Appeals

He has been a resident for 21 years. He has been a registered Code Official with the State of Michigan for 30 years. He has worked for several municipalities. He has a lot of experience in zoning and construction. He would appreciate the opportunity to share his experience. Member Mutch felt he was very qualified to be on the Zoning Board of Appeals and would support his appointment to the Board. Member Poupard asked how he would answer a variance request. Mr. Byrwa said they have to demonstrate an exceptional practical difficulty and it is delicate because variances shouldn't be just given away. Variances are not automatic and should have a lot of stipulations. Mayor Pro Tem Staudt, Mayor Gatt, Members Markham and Casey had no questions but said they appreciated his service and would support him.

4. Richard Zyczynski – Library Board

He has been a resident for 43 years and has been a teacher for over 30 years and worked at Wayne State University Library for 1-1/2 years. He provided community service with soccer in the parks and recreation. He was on the Echo Valley homeowners association and then Barclay Estates homeowners association as President. He noted the ad hoc committees that he was on related to the oil well in Novi and the preventing the Kroger store location at Ten Mile and Beck. He is an avid reader. His ideas for the library included that the Oakland County Clerk's office was present at the library and stated it wasn't advertised. He thought that should happen every 2 months. Fundraisers should be changed a little more. He likes movies and likes to read magazines, etc. He thought if the community could bring them into the library, the public would have access to some of the previous issues. He uses the Novi Library on a regular basis. He would appreciate the opportunity to serve the City of Novi. Member Poupard asked why he was stepping forward to serve on the Library Board now at this time in life. Mr. Zyczynski said he was asked some years ago and had a bad experience but now he would like to try again. He noted at that time when he applied, he wasn't sent a letter thanking him. Only Council member Kathy Mutch, who was on the Council at the time, thanked him for applying. Mayor Pro Tem Staudt said it was a joy to serve with his wife on the Park Commission and thanked him for coming forward to serve. Member Markham thought a senior voice would add to the needs of the Library. Member Casey asked what he thought the next couple of years would bring to the Library. Mr. Zyczynski said he was in liked the idea of chamber music. He thought it was a good idea and feels they need to bring more people in. Member Mutch noted how Novi has changed and asked for his suggestions in serving a more diverse community going forward. Mr. Zyczynski remembered Novi's first library and now he would like to see the Library offering diverse culture films. Mayor Gatt thanked him for applying.

REPORTS:

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

AUDIENCE COMMENT – None

CONSENT AGENDA REMOVALS AND APPROVALS (See items A-K):

CM 15-02-013 Moved by Casey, seconded by Poupard; CARRIED UNANIMOUSLY:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 1. January 26, 2015 – Regular meeting

- B. Approval of the final payment to Pro-Line Asphalt Paving Corporation for the Eleven Mile Reconstruction Project in the amount of \$77,682.42.
- C. Approval of Resolution to close Napier Road between Ten Mile and Twelve Mile Roads from 8:15 a.m. to 11 a.m. for the Novi Half Marathon on Saturday, May 2, 2015.
- D. Approval of a Completion Agreement with Tollgate Woods, III, LLC for SP12-0007, the Tollgate Woods III Site Condominium residential development located south of Thirteen Mile and west of Meadowbrook Road, in accordance with the requirements of Chapter 26.5.
- E. Approval of contract award for printing and mailing services for utility bills, tax bills, and assessment notices to Whitlock Business Systems for the estimated annual amount of \$19,540.
- F. Approval to award an amendment to the engineering services agreement with Spalding DeDecker Associates for construction engineering services for the 2014 Neighborhood Road Program—Contract 1A (Asphalt) in the amount of \$51,710.
- G. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Gagliano Enterprises, LLC, for the Collex Collision development located south of Grand River Avenue and east of Novi Road (parcel 22-23-152-004).
- H. Approval of a Storm Drainage Facility Maintenance Easement Agreement from the Charneth Fen Condominiums Association, for the Charneth Fen development located south of 12 ½ Mile Road and west of Novi Road.
- I. Acceptance of a warranty deed from the Charneth Fen Condominiums Association for the dedication of the master planned 43-foot right-of-way along the south side of 12 ½ Mile Road as part of the Charneth Fen development.
- J. Acceptance of a warranty deed from Sri Venkateswara Temple and Cultural Center, Inc., for the dedication of an additional 27 feet of right-of-way along Taft Road for the Sri Venkateswara development located west of Taft Road and south of Grand River Avenue (parcel 22-16-451-032).
- K. Approval of Claims and Accounts – Warrant No. 933

Roll call vote on CM 15-02-013

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

MATTERS FOR COUNCIL ACTION:

1. Approval of Resolution for Adoption of the 2015 City of Novi Economic Development Goals & Strategies; and Review of 2014 Economic Development Goals Report.

City Manager Auger said the format has been changed for the goals.

Member Markham thought there was a lot of progress last year in Economic Development. She would like the transportation issue addressed. She referred to James Robertson, a Detroit resident who walked 21 miles a day to and from work. She said his circumstances are more common than people would like to admit in this area. Workers in Novi face the same challenges to get to work as Mr. Robertson. She asked City Manager and Staff to perform a study of our current status and the needs of public transit. She would like to see initial reporting on it by summer time. She would like to see Walkable Novi Committee get involved. Some of the questions she would like an answer to is whether there is a problem and if so, what is the size of it. Also, what strategies make sense to address such a problem, what funding sources would be available, and what infrastructure would be needed. SEMCOG has created a task force, Access to Core and Essential Services. Their exact mission is to make it easier for people in the Metro area to get to their jobs, hospitals, shopping, and other essential services. She will be attending their next working meeting and would like to be accompanied by a City staff member in March. We may be able to move forward with the help of SEMCOG and other associated agencies at this time. She would like to add a paragraph 2.4 to the 2015 Economic Goals; to perform a study of the current status and potential need for public transit as it relates to Economic Development in Novi. Consider strategies to include better worker access, better retail support, and attraction of young professional and other relevant economic development issues. Work with Planning Department to make recommendations as to whether public transit is warranted and if so, what form it might take, where the access points might be located and other study outcomes. A preliminary report would be presented in the summer with a final report presented one year from now in concert with the budgeting process for fiscal year 2016-2017. Mayor Pro Tem Staudt noted he hasn't had any residents approach him about transportation, but there may be some value to having some mode of transportation in the Community. He is not opposed to having staff work on the project. He didn't think the Community would support a major investment in transit. He didn't feel it would assist our residents. He wouldn't go beyond some very limited transportation options. Member Mutch supports the motion because he thought this issue should be explored further. He noted that there is an approved State Regional Transportation Authority. It was discussed a couple of years ago during goal setting. The City should be pro-active in identifying our needs locally before something is decided at a regional level and identify all potential resources. The City provides transit for seniors, and those who are disabled with a fleet of minivans that provide services to residents who need it. School districts provide transportation to students daily. Transit exists, but there needs to be some discussion with the business community. Also, what

do the surrounding communities provide and how could we interface with them. He is interested in alternatives for ride-sharing services like Uber or Lyft. They could fill the gap until something is needed. There is a lot of potential and discussions should start locally first. Member Poupard would support a study that identifies the needs of Novi. Member Casey supports the motion as now is the time for understanding what the needs are. Doing a study does not tie us to the future but gets us to the point where the situation is understood. It gives the options so choices can be made. Mayor Gatt supports the motion as stated but he has never had anyone ever approach him about transportation in the many years he has been on Council. Our current system is paid for by taxpayers and Novi cannot be the answer to transportation issues for the mall, hospital and Suburban Collection Showplace. Since Council works for the taxpayers, he feels there would be a small amount of money available in the next budget and feels it would have to be additional funding.

CM 15-02-014 Moved by Markham, seconded by Mutch; CARRIED UNANIMOUSLY:

To approve a resolution for adoption of the 2015 City of Novi Economic Development Goals & Strategies; and Review of 2014 Economic Development Goals Report. Addition of paragraph 2.4; to perform a study of the current status and potential need for public transit as it relates to Economic Development in Novi. Consider strategies to include better worker access, better retail support, and attraction of young professional and other relevant economic development issues. Work with Planning Department to make recommendations as to whether public transit is warranted and if so, what form it might take, where the access points might be located and other study outcomes. A preliminary report would be presented in the summer with a final report presented one year from now in concert with the budgeting process for fiscal year 2016-2017.

Roll call vote on CM 15-02-014

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

Member Mutch asked about one of the goals in last year's budget dedicating a staff person to assist with small business and retail development. The City Manager confirmed they have someone in place.

CM 15-02-015 Moved by Staudt, seconded by Poupard; CARRIED UNANIMOUSLY:

To approve the 2015 Economic Goals as amended.

Roll call vote on CM 15-02-015

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

2. Approval to award a construction contract for the 2014 Neighborhood Road Program—Contract 1A (Asphalt) to Nagle Paving, the low bidder, in the amount of \$431,235.25, subject to final review and approval of form of agreement by City Manager's office and the City Attorney.

CM 15-02-016 Moved by Staudt, seconded by Casey; CARRIED UNANIMOUSLY:

To approve an award of a construction contract for the 2014 Neighborhood Road Program—Contract 1A (Asphalt) to Nagle Paving, the low bidder, in the amount of \$431,235.25, subject to final review and approval of form of agreement by City Manager's office and the City Attorney.

Member Markham asked if there was any recourse for a company that did not fully perform a prior contract wants to bid. Public Service Director Hayes said they use prior performance as one of the criteria.

Roll call vote on CM 15-02-016

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

3. Consideration of a request from Interphase Land Development for reduction of the Financial Guarantee amounts required by Chapter 26.5 of the Novi City Code for the Casa Loma Site Condominium Development from \$1,428,180.50 to \$1,180,750.00.

City Manager Auger said this is one of the things to help development come to the City. Code does allow Council to take action to reduce the Financial Guarantee. Mayor Gatt confirmed that they would give the City \$1.2 instead of the \$1.5 in Financial Guarantees and staff isn't recommending this because there is an ordinance.

Mayor Gatt noted there are developers in the City that have outstanding work ethics and he hears complaints about this ordinance. He thought the bond money issue needs to be looked at by the Ordinance Review Committee. Things have changed in the Community and he is not sure the ordinance is working the way it was designed to serve the City. He favors granting the petitioner's request. Mayor Pro Tem Staudt agrees with Mayor Gatt and asked what the potential issues are in the future. City Attorney Schultz thought with anything, a developers first argument would be that Council needs to do for them what they did for another developer with the possibility of the Court making the decision. He offered that Council should make sure there should be some

explanation as to why this is different for this particular development or developer. They are presenting a small number of homes with a significant number of improvements that are over and above the minimum requirements. If Council makes a motion to exercise discretion, Council would look at their argument and accept them. Mayor Pro Tem Staudt supported the Mayor's comments and hoped Ordinance Review addressed this sooner than later. He notes things have changed and there are a lot more difficult and challenging development opportunities than in the past. These types of projects are of great value to the City that it is worth looking at this ordinance and making some changes.

Member Mutch asked for some history of why the City decided to take this approach of requiring builders to bond for these amounts. City Attorney Schultz said in 2003-2004 there were sections of the code that each had for posting guarantees and were not consistent. Also, the City didn't have a program for any one department to determine what was due and when. Fees were not being collected, so this was to bring everything together in one ordinance. Ordinance Review changed it. In addition, there were a number of developments where work was just stopped. It became apparent then that the City didn't have enough in financial guarantees to complete some of the projects. Member Mutch summarized that the purpose of the financial guarantees is, for whatever circumstances occur, that the developer is unable to complete the work, the City would step in to complete it. The intent of the financial guarantees is to protect the taxpayers from unforeseen expenses and ensure new home owners are not left with an unfinished development. Attorney Schultz stated the idea of performance guarantees were not new in 2004 and unique to Novi. The issue is the percentage factor. Member Mutch said the discussion is the factor of 1.5 versus 1.2. He thought part of the factor was driven by past history and as recent as last year. The major concern is the potential of leaving homeowners responsible for improvements, creating a situation where the City doesn't have sufficient guarantees in place, and if there is an argument, that the financial guarantees are too high due to the builder building above and beyond the requirements, it is because the residents would want the development finished to their expectations. He has a difficult time reducing it based on that argument. Another concern, even though this developer is reputable, is that they are not willing to put the financial resources into the project to meet the City standards. He didn't know of a time they waived the guarantees and it was good they had the guarantees in the past. Mayor Pro Tem Staudt said it was difficult when a developer with a great reputation asks for relief from a number that was created 12 years ago. He is inclined to give them the opportunity.

CM 15-02-017

Moved by Staudt, seconded by Gatt; MOTION CARRIED: 4-2

To approve the request from Interphase Land Development for reduction of the Financial Guarantee amounts required by Chapter 26.5 of the Novi City Code for the Casa Loma Site Condominium Development from \$1,428,180.50 to \$1,180,750.00, because they have proven that there is a benefit to the community and that the number is based on some general information as opposed to

specific to their case. Also, because of their representation that it is a limited number of homes, which makes it more difficult to spread the amount across each of the parcels, and the increased guarantee amount is required based on the increased amount of onsite improvements beyond what is required by ordinance. Additionally, they have agreed as part of the bond negotiated between City staff and the developer, to actually complete the improvement in a shorter period of time than the ordinance requires.

Mr. Bill Bye, Senior Manager for Interphase, and David Compo, Development Land owner were introduced. Mr. Bye explained the packet given to Council. They have struggled to secure performance bonds for this site. In the packet, there was a financial guarantee spreadsheet showing the phases that are going to be bonded which is a majority of what is there. There is no bonding for paving and curbing. They have been turned down by several providers because of the size of the development. He provided a breakdown of the financial guarantees with the fee sheet. He noted 5 out of 10 home sites are already reserved. It will be an upscale community. Their request is one from a hardship out of not being able secure bonding for a portion of the community improvements and the land has a loan to improve it. They have homeowners who are in the design process now. Mr. Compo explained how the development would proceed in stages and why the request for the reduction. The development will be very unique and mentioned a few of the potential buyers. Member Casey asked what the hardship will be if they do not grant the variance. Mr. Compo said he probably would have to file an extension and finish it in a year or so. He needs to come up with approximately \$250,000 cash. It will make it tough. After the downturn of the economy, they did work to give themselves financial stability. They have great credit rating. Banks are not giving these types of loans. Mr. Compo said a letter of credit with a deposit of \$250,000 in the bank is treated as a loan. There is no private investor. Member Casey doesn't like the concept of doing a lot of variances; however, she can support it because of all the work they have done. Member Poupard asked if there are sufficient distinguishing provisions in this case that will counter the precedent concern. City Attorney Schultz answered that the motion identifies all the distinguishing characteristics. They will have to wait to hear from the next developer if it is enough. He assumes it will go to the ORC pretty quickly where he thought they will not have to have that argument with a developer or anyone else. Member Markham said she was open to everyone's comments, but she has concerns with the question of precedence. We should change it for the entire City. She doesn't feel a particular developer should get special privileges. Their problems raising cash is not the City's problem and thought they need another investor or they need to look at it differently. She has not been convinced that the mitigating factors that Mayor Pro Tem Staudt put into the motion were enough. She will not support the motion.

Roll call vote on CM 15-02-017

**Yeas: Gatt, Staudt, Casey, Poupard
Nays: Markham, Mutch
Absent: Wrobel**

AUDIENCE COMMENT:

Andrew Sarpolis thanked Council for the study on transportation. He noted he had heard about supporters of transportation for workers. He said he also knew someone who had lost a job because of no transportation.

COMMITTEE REPORTS – None

MAYOR AND COUNCIL ISSUES – None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION – None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 8:47 P.M.

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Jane Keller

Date approved: February 23, 2015