

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, MARCH 8, 2010 AT 7:00 P.M.
COUNCIL CHAMBERS - NOVI CIVIC CENTER - 45175 W. TEN MILE ROAD**

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

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Landry, Mayor Pro Tem Gatt, Council Members Crawford, Fischer, Margolis, Mutch, Staudt

ALSO PRESENT: Clay Pearson, City Manager
Tom Schultz, City Attorney
Barbara McBeth, Director of Community Development
Brian Coburn, Senior Civil Engineer

APPROVAL OF AGENDA

CM-10-03-029 Moved by Margolis, seconded by Fischer; **CARRIED UNANIMOUSLY:**
To approve the Agenda as presented.

Roll call vote on CM-10-03-029 Yeas: Gatt, Crawford, Fischer, Margolis, Mutch,
Staudt, Landry
Nays: None

PUBLIC HEARING - None

PRESENTATIONS - None

REPORTS

1. MANAGER/STAFF - None

2. ATTORNEY - None

AUDIENCE COMMENT

Bob Kunkel, 19830 Windridge in Northville, was present to comment on the Maples Golf Course. He said it was their intent this evening to give clear direction on what they were trying to accomplish and where the City of Novi might be able to help. He said he and his partner George Dimopoulos had entered into discussions with the current owners of the Maples Golf Course, which was a bank in Omaha. Mr. Kunkel said they had been working with key people in the community to see if they could continue their endeavor to purchase. He noted the property was very difficult to purchase because it was left in quite a mess. He said they were working with a lawyer but had not been able to obtain any records, it's a "buy-as" condition golf course and it had been very difficult. Mr. Kunkel said through the support of Glenn Lemmon, City Assessor, they were able to meet with Mayor Landry with the hope that Mayor Landry would be able to give them some direction on how they might be able to expedite things. He noted there was a time table to open a golf course. Mr. Kunkel stated they had a good discussion and Mayor Landry suggested he speak with Mr. Pearson and they would have a meeting with him on March 10th to discuss it in more detail. He stated they were present to try

to form a relationship with the community, Novi and the residents of Maples similar to the one they had in Northville at Bushwood Golf Course. Mr. Kunkel said they had run a successful operation there for eight years after purchasing it out of foreclosure and it was identical to what they wanted to accomplish at Maples. In addition, he and his partner had businesses in Livonia and Mr. Dimopoulos had been there over 40 years and he had been there for 30 years. Mr. Kunkel commented one thing they wanted to bring to Novi that they were very proud of were great relationships like they had with the Council, Mayor, Trustees and City Managers in both places. They hoped to establish that with Novi. On Wednesday, the first thing they were looking for was a discussion about taxes. He said when they reviewed this they were told that taxes were \$76,000 but had since been told they were \$54,000, which they had verified. Mr. Kunkel stated when they reviewed the flexibility and whether this would be successful or not, that payment popped out because their operation in Northville for a very similar operation was about \$30,000. He said they wanted to see if anyone could look at that, and if any considerations could be made based on a comparable property. Secondly, the tennis courts on Novi Road were not part of this anymore so they had been told they wouldn't be able to get them. Mr. Kunkel said the real issue was that the right-of-way to get to the maintenance building went through the property and he was concerned that when it was rezoned he would lose the right-of-way because it was impossible to get another one to that building. The third item would be whether they could expedite any new signs. Mr. Kunkel said the sign in the front was ugly and didn't represent the Maples well and they wanted Council to see the sign they put in their Northville location.

George Dimopoulos stated he was interested in the restaurant at Maples of Novi.

Glen Rittner, 30818 Palmer Dr. in the Maples of Novi, was present on behalf of the 767 homeowners and board members that comprised the four homeowner's associations. Mr. Rittner noted they supported the efforts of Mr. Kunkel and Mr. Dimopoulos in their endeavor. He said they paid more when they first moved to the Maples to abut the golf course and their master deed said their open acreage must be a golf course. If they remained closed, it would greatly affect the value of their homes and they were concerned about the acres of tall grass that had been abandoned. He noted Mr. Kunkel and Mr. Dimopoulos had a wealth of experience in a community that was just like the Maples, had done their due diligence and had spoken to the owners of Country Club Village and Bushwood Golf Course. Mr. Rittner requested a timely decision for them to purchase the property in the next 30 days and wanted to let Council know how important it was to do what was legally possible to help the proposed owners with the purchase. Mr. Rittner said the abandonment of the Maples Golf Course and Restaurant would have a devastating impact on their property values now and in the future. Mr. Rittner asked the City do whatever was legally feasible and possible to work with these gentlemen to facilitate the decision, consummate the purchase and move ahead to open the facility by April 15th.

Nancy Mitts, 43999 Stassen, spoke about the CVS Distribution Center and their request to increase in size. She said the City had to get a Consent Judgment against CVS in 2004 because of the violations CVS created. She said they would be coming before the Council in the next two weeks asking for more and to get bigger. The Consent Judgment took nine years to enact and she said she couldn't go through it again. Ms. Mitts cited sections from the Code regarding the protection of neighboring residential districts from any adverse affects. She said CVS told Novi and the residents with the expansion addition that they would be an 8 am to

4:30 pm operation and within six months they were 24 hours. She said diesel trucks were parked in their lot 24 hours a day and they had exceeded their statements on anticipated truck growth; there were 90 stored trucks on the property now. She noted this distribution center was open 24 hours a day and abutted residential property and were going to want variances for a 900 square foot chiller to be added to the property. Ms. Mitts stated they had noise going on 24 hours a day and they were concerned that the chiller would add more noise and she was concerned that hazardous chemicals could be released from the chiller. She said they could hear hi-lo's, music and even the intercoms screaming orders at night.

Lee Elmwood asked Mayor, City Council and City Manager to cooperate with Mr. Kunkel and Mr. Dimopoulos.

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

**CM-10-03-030 Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve the Consent Agenda as presented.**

**Roll call vote on CM-10-03-030 Yeas: Crawford, Fischer, Margolis, Mutch, Staudt,
Landry, Gatt
Nays: None**

- A. Approve Minutes of:
 - 1. February 22, 2010 – Regular meeting
- B. Enter Executive Session immediately following the regular meeting of March 8, 2010 in the Council Annex for the purpose of discussing pending litigation and privileged correspondence from legal counsel.
- C. Approval of a Completion Agreement for SP04-20 Liberty Park Condominium – Phase I, Single Family, in accordance with the requirements of Chapter 26.5
- D. Approval of a Completion Agreement for SP04-60 Liberty Park Condominium – Phase II, Single Family, in accordance with the requirements of Chapter 26.5
- E. Approval of a Completion Agreement for SP04-66 Liberty Park Condominium – Phase III, Single Family, in accordance with the requirements of Chapter 26.5
- F. Approval of a Completion Agreement for SP04-39 Townes at Liberty Park – Phase I, Multiple Family, in accordance with the requirements of Chapter 26.5
- G. Approval of a Completion Agreement for SP05-0039 Townes at Liberty Park – Phase II, Multiple Family, in accordance with the requirements of Chapter 26.5
- H. Approval of a Completion Agreement for SP04-04 Liberty Park Collector Road (Declaration Drive), in accordance with the requirements of Chapter 26.5.

- I. Approval of a Completion Agreement for SP05-0042 Liberty Park Pool and Pool House, in accordance with the requirements of Chapter 26.
- J. Approval of the Final Payment to Windemuller Electric, Inc., for the sanitary sewer Supervisory Control and Data Acquisition (SCADA) Implementation project, in the amount of \$21,025.25.
- K. Approval to award an amendment to the engineering services contract for additional construction phase services to Fishbeck, Thompson, Carr & Huber, Inc (FTCH) related to the Pontiac Trail Water Main Extension project in the amount of \$35,973.
- L. Approval of the Final Balancing Change Order and Final Payment to D & M Contracting, Inc, for the Pontiac Trail Water Main Extension project in the amount of \$34,604.40.
- M. Approval of City Code Amendment 10-125.23, to amend City of Novi City Code at Article V, "Wetlands and Watercourse Protection" of Chapter 12, "Drainage and Flood Damage Prevention", and adopt the updated Regulated Wetland and Watercourse Map. **Second Reading**
- N. Approval of resolution in support of Lakes Area Homeowners Association request to participate in the Michigan Department of Natural Resources and Environment Goose Nest Destruction Program.
- O. Approval of additional \$500 (\$8,500 to total) to Marsh Mercer for presentation of Self Funded Analysis project to City Council and Health Care Committee.
- P. Approval of Claims and Accounts – Warrant No. 814

MATTERS FOR COUNCIL ACTION – Part I

- 1. **Approval of cost participation agreement with the Road Commission for Oakland County for the Novi Road/Grand River to Twelve Mile Road Signal and Sidewalk Ramp Upgrades project in the amount of \$315,000.**

Mr. Pearson said this was Phase 2 of two for Novi Road improvements between Twelve Mile Road and Grand River Avenue. He said City participation leveraged several million dollars in Federal Stimulus money and would achieve getting new mast arm signals and required sidewalk approaches.

**CM-10-03-031 Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve cost participation agreement with the Road Commission
for Oakland County for the Novi Road/Grand River to Twelve Mile
Road Signal and Sidewalk Ramp Upgrades project in the amount of
\$315,000.**

Roll call vote on CM-10-02-031

**Yeas: Fischer, Margolis, Mutch, Staudt, Landry,
Gatt, Crawford**

Nays: None

2. **Consideration of Zoning Map Amendment 18.695 with Planned Rezoning Overlay (PRO) SP10-05 from the applicant, Medilodge of Novi, to rezone from R-3, One-Family Residential to RM-1, Low Density, Low-Rise, Multiple-Family Residential. The property is located on the north side of Eleven Mile Road between Beck and Wixom Roads in Section 17 and consists of 20.05 acres. The applicant proposes a 120 bed, 78,560 square foot convalescent (nursing) home building.**

Daniel DeRemer of JW Design, architects for the facility, was present on behalf of the Medilodge Group. He said they had met and had positive recommendations from all City departments and the Planning Commission recommended this unanimously for rezoning. He stated he was present to ask Council not to postpone the rezoning to wait for the committee to catch up to where they were with the project. He said they were proposing a project that was very much in the character that the committee was looking for in this area. He commented he had met with them on several occasions and presented to them as well and had very favorable comments. He said they were very concerned about postponing this project to wait for the approval of the amendments that were coming from the committee.

Mr. Pearson said he represented accurately the technicality in terms of where they were at in waiting for the Master Plan. He thought they had the best solution in terms of getting the Planned Rezoning Overlay and had addressed many of the concerns and followed the whole PRO process.

Member Crawford said she was very interested in this project, as she felt this community was very underserved by this type of facility. She stated she knew that part of the problem was the zoning was not changed yet, but she saw a new proposed district of suburban low rise. She commented she didn't see any reason to delay this any further and she was very much in favor of the project.

Member Mutch asked for clarification on some of the details in terms of where they stood with the public benefits related to the PRO. He said there had been correspondence between City staff and the applicant regarding this and he wanted it nailed down more definitively. He said one of the things that the Planning Commission and consultants had discussed was to look at bringing the sanitary sewer down Eleven Mile Road. He said the primary reason being the rear portion of the property had some of the highest quality environmental features in the City. He asked where they stood with the sanitary sewer. Mr. DeRemer stated the connection they were going to was back in the corner of the hospital project and would be brought to their project and they had agreed to bring it the rest of the way down to the street and across the frontage. He said they had been talking about putting it on the south side of the street rather than the north side to save the wetland area that was adjacent to their property. He said that would be about 1,400 lineal feet of additional sewer that they would be extending for this and future projects in the area. Member Mutch said he would want someone from staff to show that. He noted another item that was discussed was the conservation easement on the property and they had already offered to place a significant portion of the property under a conservation easement. Member Mutch said there was discussion about an open area within the woodland/wetland complex on the northern part of the property. He thought staff and the consultant had requested that the entire area be placed under a conservation easement and the applicant had asked that a certain portion of that area be excluded for the possibility of future development. He asked what specifically would that area be utilized for. Mr. DeRemer

responded that he spoke to the Planning Commission about this and they weren't sure what would happen back there. He said the property owners were willing to dedicate the proposed 8 ½ acre portion of the site as a conservation easement, which left about 3 to 4 acres in the middle of that back portion of the property. The front end, where they proposed to build the home, would be a 120 bed, physical therapy full service facility. He stated there was a possibility of some minor assisted living cottages, which they had done with this owner on other projects. Mr. DeRemer said they liked that idea in 20 or 30 years because, at this stage, no one would build assisted living anywhere in the area because of the housing market. He said the owner wanted to hang on to that small portion of the project rather than give it away. He noted it was a 20 acre site and they were only building on about 7 ½ acres of it and were willing to give the City an 8 ½ acre easement for conservation. He said there were some very nice major woodlands at the back and side of the property they wanted to preserve. Member Mutch asked how many units would be on the rear portion of the property. Mr. DeRemer replied between 15 and 20. Member Mutch asked if the owner of the property understood that with the PRO process they were agreeing to 120 units and 79,000 sq. ft. Mr. DeRemer said they understood that. Member Mutch said then in 20 or 30 years from now they could come back to the City and the project would be under the same requirements then as it was now. Mr. DeRemer commented they had discussed it and they did understand. Member Mutch said there had been discussion about a clear public benefit that would be derived from the project and there had been discussion about a pathway connection to Providence. However, recently, there had been discussion about instead of having that, going through the property utilizing the ITC corridor. He said it sounded like they were agreeable to that with the understanding that Council would give them time to work out easement related issues. He asked Mr. DeRemer what his understanding was of where they stood right now. Mr. DeRemer said they agreed at the Planning Commission meeting that they would donate the conservation easement as well as putting pathways through that area. However, it was later brought up about the possibility of running a 10 foot wide paved path under the high tension lines in that area and that easement. He said that was something the owner was willing to consider and work with the City on development. Mr. DeRemer said the owner was concerned about the immediate installation of something like that becoming a 10 foot wide concrete path that compromised security to the entire development. He said they were concerned that it was a road to nowhere at this stage. However, the owner was willing to work with the City on that in the future, as other portions of it were developed or however the language could be structured so that Council was comfortable with it. Mr. DeRemer stated the owner was not willing, at this stage, to put in a 1,500 foot long concrete path that didn't lead or connect to anything. Member Mutch said when he talked about putting the path in, would that be on their property or was the pathway going adjacent to the property in the ITC corridor. Mr. DeRemer said their understanding was that the request was that it would be in the ITC corridor. Member Mutch said the applicant had a concern that if that was put in there, it would provide access to their property. Mr. DeRemer said yes, it would go to the back of their property, which bordered the hospital property. He said it had to continue on another ½ mile to connect to any roadway or anything else in the area. Member Mutch said there was a City park property to the west of the ITC corridor property and he thought there might be some adjacency with their property because the sewer line continued onto the City property. He thought if that was the concern, if there was a connection to the City park property, and the path was brought westward that would provide a destination for the path and encourage people away from the back portion of their property. He said that might be a part of the discussion as they worked out the details.

Mr. DeRemer said they were willing to do that. Member Mutch asked staff to address the sanitary sewer route.

Ms. McBeth showed Council where the required sewer connections were located and that it would be brought down to the building. She said they were also required to connect to Eleven Mile to be able to provide sewer along the frontage to serve the properties on either side. She commented the question of whether it should be on the north or south side of Eleven Mile came up. She noted there was a nice quality wetland on the southwest part of the site that the wetland consultant was interested in preserving. Therefore, they had been talking to the applicant about locating the sanitary sewer on the south side of Eleven Mile. She said currently there was no sewer on Eleven Mile Road. Member Mutch said to clarify, that there was no sewer on either the north or south side of Eleven Mile. Mr. Coburn said he was correct and that the primary service for that portion of Eleven Mile was to the north of these properties. Member Mutch asked if routing the sewer on the northern part of the property was a concern or was everyone comfortable with bringing the sewer down that way. Ms. McBeth said the woodland consultant's comments indicated there were some nice trees in the area, and further discussion with the consultant indicated that it was probably the best location through the site or something very close to this, as they were avoiding the wetland. However, it did impact the woodlands a little but that really had to be the approximate location for the sewer. Member Mutch said if there was no sewer on either side of Eleven Mile, they were looking at getting pipe in the ground, capping it at both ends and then at a future point they would have utility extensions as other properties developed or the City extended sanitary sewer down Eleven Mile. He asked if the City had any plans within the time frame of the CIP, to extend the sanitary sewer down Eleven Mile. Mr. Coburn said there were no current plans for that. Member Mutch said looking at this from a practical aspect, did it make sense to put that pipe on either side of the road, at this point, or could they work something out with the applicant to defer it to a future date. He asked whether it would cause a maintenance issue down the road to put it in now. Mr. Coburn replied he wasn't sure it would make a difference from a maintenance standpoint because it wouldn't be in use so no maintenance would be needed. He said from a Master Plan for Utilities perspective, they would like to see it in place so when a developer came to those adjacent parcels or the City extended the sewer, they would like to have that available without having to get easements from people or find an alternative route to get sewer to the area. Mr. Coburn said in looking at the Master Plan for the Sanitary Sewer, it was called the Eleven Mile Sanitary Sewer but was actually a half mile north of Eleven Mile, and the contemplation was that the parcels would extend it down as needed to serve Eleven Mile. He said this was in line with the original service plan for that sewer. Member Mutch asked if they had any preference on whether the sewer went on the north or south side, and Mr. Coburn said they did not.

Member Mutch said when he looked at the PRO developments, he had always stressed the importance that they were not vehicles for applicants to bypass the zoning ordinances. He commented the intent was to permit a project that Council might not otherwise allow because it met some significant need within the framework of the Master Plan and zoning. He said most importantly it provided a significant and permanent public benefit. Member Mutch stated that from the applicant's viewpoint they were getting a significant increase in density. The R-3 Single Family zoning would not have accommodated their development and would have had many fewer units. Member Mutch said, obviously, the applicant was requesting zoning variances that would not be permitted under the R-1 Multiple Family zoning. So, the applicant

through the PRO process was obtaining significant benefit directed towards them. Member Mutch said what he was looking for was something the Council could point to and say they had derived a public benefit that was permanent, quantifiable and useful five to ten years down the road. He said the pathway concept along the ITC corridor would be a permanent improvement that Council had talked about and had not been able to fund. Therefore, he said he could be supportive of that. He said the conservation easement was one of those things that he appreciated the applicant providing. However, the reality of their property was that it had significant wetlands and woodlands that they couldn't otherwise develop, and they were placing the conservation easement over those areas. He said there was some public benefit from that and he appreciated it. Member Mutch said the Eleven Mile sewer was some public benefit but it was something that they would be required to provide in any case; so he wasn't sure he could count that as much towards the PRO benefit. He said he would support this going forward if at the end of the process, they could clearly identify the public benefit coming out of the process that would justify the increase in density and the changes to the building. Member Mutch said if he saw those things, he would be willing to support this and if he didn't, he would not support it.

Member Margolis asked for clarification on the pathway. Ms. McBeth said most of the back part of the property was being offered as a conservation easement. She said initially the staff had talked with the applicant about providing pathways, just internally, in the site for the benefit of the patients, visitors and staff of the facility. She said they seemed agreeable to that and they mentioned that Providence Hospital had some pathways on their property and suggested that they could tie into their new pathways. Ms. McBeth said they also suggested that the pathways could be considered open to the public and not just the visitors and residents of the facility. She said the applicant had been agreeable every step of the way. She commented that last week the idea came up that a different or additional benefit would be a pathway along the ITC corridor. She said they looked at that and there were some wetlands in that area and things to avoid, and also a gravel drive that continued about halfway down the property; so the cost might be somewhat less. Ms. McBeth said the applicant had tentatively agreed to this concept and they would be happy to continue to work with the exact location. It might not be entirely in the ITC corridor and could go onto the property and connect in with Providence or the City Park. Member Margolis said then the idea was that in some way it would connect through ITC, then the trails in the conservation easement and possibly connect to Providence Hospital. Ms. McBeth agreed and said that would be one system.

Member Margolis said she would be in support of this. She asked the City Attorney if the motion would be to direct the City Attorney to work with the applicant on the PRO agreement to be brought back to Council. Mr. Schultz said yes, and to list the conditions of the pathways. Member Margolis commented they needed to be specific about what pathways they wanted to talk about. Member Margolis agreed with some of the previous speakers and thought this was a project that would really fit with the direction that the area was going in and she would support it. She said she would also be looking for the public benefit of the pathways as just described with the connection to Providence Hospital and the ITC corridor.

**CM-10-03-032 Moved by Margolis, seconded by Staudt; CARRIED UNANIMOUSLY:
To direct the City Attorney to work with the applicant to prepare a
PRO agreement for Zoning Map Amendment 18.695 with a PRO
with Medilodge of Novi to rezone from R-3 One Family Residential**

to RM-1 Low Density, Low Rise Multiple Family Residential with the following considerations: 1) They provide the requested sanitary sewer extension along Eleven Mile with a preference that it be to the south side of Eleven Mile to maintain the natural resources on the north side, 2) Relocate the flood plain mitigation to another area of the site consistent with the recommendation of the woodland review letter to preserve the natural resources, 3) Incorporate the additional features of the suburban low rise concept as stated in the façade consultants review letter, 4) subject to the deviations of the ordinance standards and the conditions identified in the staff review letters, 5) and that the City accept the conservation easement of the 8.5 acres of land on the north with pathways purposed for the benefit of the public that would connect to the Providence Hospital site as well as the ITC corridor, and 6) there would be a paved pathway along the ITC corridor for the reasons attached to the Planning Commission motion.

Member Margolis commented she thought this fit with the area, Providence Park and other residential uses in the area.

DISCUSSION

Member Staudt stated he agreed with everything that everyone had said. He said his preference would be to use the ITC corridor, as it would be a great opportunity with something coming from a road and going to a park that the City already controlled. He thought this would be a perfect place to initiate this type of project with ITC.

Member Fischer said this project would be the one that decided whether the sanitary sewer would be on the north or south side of Eleven Mile. He asked if they had looked at other properties to make sure that the southern side was truly what they wanted, so later down the road they wouldn't see better environmental impacts they wanted to keep. Mr. Coburn said they had looked at that and it appeared that the majority of the environmental features were on the north side, so this would help that.

Mayor Landry stated he would echo what everyone said and would particularly want to call attention to the comments by Member Mutch. He said he agreed entirely that with the PRO process the developer was getting the benefit of increased density and significant other benefits that they would not have under the Zoning Ordinance. He said the City needed to see a significant quantifiable public benefit. Mayor Landry said without a paved pathway on the ITC corridor along the entirety of the western boundary of their property, he didn't see this happening. He said he understood how someone could look at this and think it was a path to no where. However, just as their company didn't want to give up the property to the north because they planned on building in 15 to 30 years from now, Council wanted to develop the corridor one piece at a time. So, they were really thinking alike. He said ITC had allowed the City an easement and the Council was trying to come up with a way to make it actually happen. He said the way to do it was as developers came in and if they were so inclined and asking for a particular benefit, then the Council would ask for a corresponding benefit, which the ordinances allowed. Mayor Landry asked the maker of the motion to accept a friendly

amendment that one of the requirements was a paved pathway along the ITC corridor. The maker of the motion, Member Margolis and seconder of the motion, Member Staudt agreed. Mayor Landry said he could now support the motion.

Roll call vote on CM-10-03-032 **Yeas: Margolis, Mutch, Staudt, Landry, Gatt, Crawford, Fischer**
Nays: None

3. Consideration of City Code Amendments 10-149.10 and 10-113.02, to clarify rules regarding consumption of alcohol on certain publicly-owned properties, and adoption of Resolution approve "Policy and Rules Regarding Alcohol on Public Property", allowing consumption of alcohol at Civic Center and Novi Public Library on a trial basis through October 31, 2010, and also establishing rules for consumption of alcohol at Lakeshore Park. First Reading of Code Amendments

Mr. Pearson stated this was a follow up on a discussion of ideas. He said once they had looked at it there were some other ancillary clean ups that were appropriate to the policies and ordinances. He said they had tried to break it out in three separate actions just for ease of following it.

Member Crawford asked if the proposal included the Township Hall and Fuerst Park. Mr. Pearson said they did not list that as a part of this trial period. She thought that might be a place people would want to have weddings or receptions, especially since it was now air conditioned. She asked why that wasn't included and whether it was a part of the Library property. Member Crawford said suppose they allowed alcohol at the Civic Center, not during business hours, but after business hours and weekend evenings. She asked who would be patrolling the two drinks per person rule if there were theatre rehearsals, Children's Youth Theatre, and a shower or wedding going on simultaneously. She thought if a person was having something, and they were bringing in alcohol themselves there would be very little control over who was drinking what. She said she still had concerns about that but if it passed, she thought the Township Hall should be included.

Member Margolis thought what they had discussed and put in place in terms of these motions made sense. She thought the idea that this was on a trial basis with a limited number of facilities and hours, and Mr. Schultz commented there had to be a server at 25 people and above, which was a policy question. She thought it made sense in terms of size and ability to watch over. She said she would be in support of this and thought they had put things into place to make it a safe policy. Member Margolis commented the fact that they were going to do it on a trial basis would allow residents to really use their facilities on a limited basis to have events like a small wedding reception. She said she didn't know that she would be in favor of adding the Township Hall and thought it might be something to look at after the trial.

CM-10-03-033 **Moved by Margolis, seconded by Mutch; MOTION CARRIED:**
To approve the First Reading of the City Code Amendment 10-149.10 to change the definition of public place to allow the use of alcohol at certain public facilities if a resolution of City Council was adopted, and to prohibit the use at other public facilities and comply with State Statute relative to the drinking age and serving.

DISCUSSION

Member Mutch said in terms of the hours alcohol was permitted the business hours were excluded and asked if on the weekend, there would be any legal limitation if there were an event at 10 am. Mr. Schultz said the idea of requiring the application for use to be approved by the City Manager and Chief of Police would be the first check on something like that. He said they would have to list the hours of operation and hopefully that would be caught and precluded, but Council could also add that as another bullet point. Member Mutch said he was thinking an event starting more like noon and running into the afternoon. He said he definitely didn't want people in the facility drinking before noon and the best policies were the ones that were clear with no wiggle room. Member Mutch said he agreed with Member Margolis it was a limited application of the use and events that would be allowed. He said it was limited time and when looking at the hours of operation that they were already excluding, there was a significant amount of time the facilities would not be available for these types of uses. Member Mutch said he saw this as a benefit to the residents utilizing the facility. He commented he knew there had been some discussion that this was a revenue generator for the City, but that was not his position. He said he saw it as allowing them to give the residents the ability to fully utilize the facilities they paid for on a daily basis with their tax dollars. He thought they struck the right balance with the policy and with the ordinance changes and if it became a problem, Council could revert back to the previous policies. He thought they needed to give it due consideration and see how it worked.

Mayor Pro Tem Gatt said for all the reasons he put on the record at the last meeting, he would oppose this. He commented he had received a Battle of the Books notice and on March 20th there would be hundreds of 5th and 6th grade kids at the Civic Center between 1 PM and 2 PM. He said while this event was going on, if this passed, there could be a shower or a wedding going on with 50 people all drinking alcohol. He asked why they were considering setting the time, if this passed, as no liquor before 12 PM. He said he could go to a bar at 8:00 in the morning, so what's the difference. Mayor Pro Tem Gatt said as far as it not being revenue, if it wasn't, he didn't know what it was. He said they wanted to open up the Civic Center to everybody in the community for everything that's legal, but there could be a group that wanted to do something that was not constitutionally prohibited but Council might want to use their own judgment and not allow it. He thought the Councils and Administrations in the past were faced with this same question and opted out of allowing alcohol in any of Novi's government buildings. He thought they were making a mistake to approve this and he would not support it.

Mayor Landry said he could support the motion because 1) it was temporary and required a trained bartender for any licensed event or any private event over 25 people, 2) it required a \$500 security deposit and he thought that alone would have an affect and 3) insurance and a hold harmless agreement would be required. He said he was interested in looking at this on a temporary basis. He respected the opinions of Council members but in his opinion they could do it, monitor it through October 31st and he could be in support of this going forward. Mayor Landry said the idea of the Township Hall intrigued him because it had not been used very much. He said if there was a secondary function with alcohol to happen at the same time as a non-alcohol function already booked, such as Battle of the Books, and the City didn't want them occurring at the same time, they could suggest that the alcohol function move to the Township Hall. He said that was not included in the motion and Council might add it or might

wait for six months and do it then. He asked what Council thought about including the Township Hall.

Member Staudt thought it was a good idea and would like to see it incorporated into the motion. He said it was a building that was isolated from other buildings and would be a good location for testing this. He commented that they had talked specifically about the 21 drinking age and the things they needed to do to comply with State Statute and wondered if they wouldn't be better off just referencing State Statute, and staying exactly with their wording. He said the State thought this out incredibly well and he thought the City should comply with State Statute relative to the drinking age and serving.

Mr. Schultz said he looked at the fifteen points and that was probably the only one that the State Statute really technically addressed. He commented they could phrase it that way but they did the 21 so if someone didn't know the drinking age was 21, they would by looking at the policy. Member Staudt said when he saw something like that in a document it was almost like it was superseding State Law. He commented he would prefer they suggested that they were going to comply with State Law; however, this was an overview of it. Mr. Schultz said they could add another provision that essentially relied on any kind of State Law requirements that would apply to such events and would still apply and would always apply and add that it was sort of a general overview. Member Staudt thought that would clarify it and would strongly support the Old Township Hall and requested that the motion be amended.

Member Margolis asked staff if, in terms of administrating this, they would be amenable to adding the Township Hall. She noted she was not against adding it but wondered about the trial basis and whether that made sense. Mr. Pearson said it did seem to make some sense and suggested the proviso that it would be inside the building.

Mayor Landry said for clarification the motion was to amend the City Code with Ordinance 10-149.10. Mr. Schultz said the Statute had just been amended as it related to alcohol. He said it would not need to be changed at all if they added the Township Hall in Item C, which was the policy. Mayor Landry said they were just voting on recommended action A.

Member Mutch said he would throw out the red flag on the Township Hall as he thought the parking lot was owned by the school district and the City had an access easement over it. He felt there was also an issue of having a shared parking lot with the school district and the potential cross over with after hour school and weekend activities. He understood the points that were made but could see both of those issues as being difficult to resolve. He thought they needed clarification before setting up an expectation that it was doable when it might not be.

Mayor Landry agreed.

Ms. Cornelius said this vote was on Item A, to amend the City Code with Ordinance 10-149.10.

Roll call vote on CM-10-03-033

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

CM-10-03-034 Moved by Margolis, seconded by Staudt; **MOTION CARRIED:**
To approve City Code Amendment 10-113.02, to prohibit alcohol
Consumption in parks except where authorized by City Council
Resolution.

Roll call vote on CM-10-03-034 Yeas: Staudt, Landry, Fischer, Margolis, Mutch
Nays: Gatt, Crawford

CM-10-03-035 Moved by Margolis, seconded by Staudt; **MOTION CARRIED:**
To adopt a Resolution approving policy and rules regarding alcohol
on public property allowing consumption of alcohol at Civic Center
and Novi Public Library on a trial basis through October 31, 2010
and also establishing rules for consumption of alcohol at Lake Shore
Park and to seek clarification on the State Statute.

Member Margolis said if they wanted to include the Township Hall, they would have to do another Resolution. Mr. Schultz stated the policy was set up so that they could just add the Township Hall, if that was what the motion was. Member Margolis said she didn't want to add it to this motion now because there were things that needed to be checked out. Mr. Schultz said then Council could come back and amend the policy. Member Margolis asked that the Administration investigate it and she would be willing to look at it, depending on what the school response was.

Member Staudt stated he got an email inquiry from one of the school board members asking how this would affect their area, especially the Library and the Township Hall. He thought it would be appropriate to talk to them before doing anything to make sure that they would be involved in this. He thought that down the road they could limit it to activities that were done through the Library, so we wouldn't be parking on their property. Member Staudt withdrew his idea of the Township Hall.

Mr. Schultz said two points of clarification, whether they were adding noon on Saturday and the general reference to State Statute. Member Margolis said the motion was not noon on Saturday but yes on the Statute clarification. The motion maker and seconder agreed.

DISCUSSION

Member Fischer asked if there was any clarification on the Liquor Control Commission rules, in regard to 500 feet within a school and whether that would prohibit the Township Hall. Mr. Schultz said it looked like the school was not an issue because of the way the Statute said to draw a perpendicular line to the center of the right-of-way, up Ten Mile and go left on Taft because it had to do with street address. He said the church was within 500 feet so those licensed events would have to deal with the church approval pretty much every time. However, there was an appeal process, if the church didn't like an event and wouldn't sign off. Member Fischer said he wanted to make some comments regarding the Saturday discussion that took place. He thought the problem with reserving a certain time set by Council on Saturday was that they had one person saying 4 PM and one person saying noon and some people might say breakfast. He thought there were too many different people with too many different determinations on what a time on Saturday would be. Member Fischer asked, in

regard to the Monday through Friday at 8 AM, if someone wanted something before 8 AM but in legal timeframe from after the 2 AM cut off was the City Manager or the Police Chief allowed not to have an event. For instance, St. Patrick's Day, there were bars that opened at 5 AM. He said he didn't think Council wanted to have that at the Civic Center where they wanted something from 5 AM until 8 AM just because the policy said it. He asked if the policy could be amended or could the Police Chief or City Manager do that administratively. Mr. Schultz said the intention was to limit the hours of operation of the building and just exclude that work day timeframe. He said if it was a weekend on St. Patrick's Day then potentially, if the building was open, the use could occur. He said the application would come in and be denied, if the hours were not acceptable for whatever reason. Member Fischer said the reason he would be voting for this had nothing to do with driving revenue for the City; he was quite disappointed that was taken from the discussion they had. He said in his opinion the sole purpose was to allow more residents to use the building that they paid for.

Roll call vote on CM-10-03-035

**Yeas: Landry, Fischer, Margolis, Mutch, Stuardt
Nays: Gatt, Crawford**

AUDIENCE COMMENT

Shey Lynn, 23145 Sagebrush, asked if the Dram Shop Act would apply to this location if people were drinking alcohol and committed a felony after the event was over. She asked who would be responsible for a car accident or if someone was killed because of an event that had taken place at the Civic Center. Mayor Landry explained the rules of Audience Comment and then said the Dram Shop Act applied.

MATTERS FOR COUNCIL ACTION – Part II

4. Appointment to Boards and Commissions

Mayor Landry said there were two mayoral appointments to the EDC and there were three terms expiring in March 1, 2015.

Mayor Landry nominated Fred Ciampa.

**CM-10-03-036 Moved by Gatt, seconded by Margolis; MOTION CARRIED:
To appoint Fred Ciampa to the Economic Development
Corporation.**

**Voice vote 6 Yeas
1 Nay**

Mayor Landry nominated Todd Kuzma.

**CM-10-03-036 Moved by Gatt, seconded by Margolis; CARRIED
UNANIMOUSLY: To appoint Todd Kuzman to the Economic
Development Corporation.**

Voice Vote

Mayor Landry nominated Michael Watza.

CM-10-03-037 **Moved by Gatt, seconded by Margolis; CARRIED
UNANIMOUSLY: To appoint Michael Watza to the Economic
Development Corporation.**

Voice Vote

Mayor Landry said the Library Board had two terms each expiring March 1, 2013.

Mayor Landry nominated Mark Sturing.

CM-10-03-038 **Moved by Gatt, seconded by Margolis; CARRIED
UNANIMOUSLY: To appoint Mark Sturing to the Library Board.**

Voice Vote

Mayor Landry nominated Ramesh Verma.

CM-10-03-039 **Moved by Gatt, seconded by Margolis; CARRIED
UNANIMOUSLY: To appoint Ramesh Verma to the Library
Board.**

Voice Vote

City Clerk Cornelius announced the appointments to the following committees:

Barbara Greenberg – Beautification Commission
Nancy Lash – Beautification Commission
Larry Czekaj – Building Authority
Lynn Boyle – Historical Commission
Jeff Gedeon – Zoning Board of Appeals Alternate

COMMITTEE REPORTS

Member Margolis said as the self appointed head of the RFID Tagging Committee she said they received an email that the City Council was ahead of the Library Board in the competition. She said she and Member Crawford would be going on Thursday to do their bit for this and she encouraged all the Council Members and the community to help out.

MAYOR AND COUNCIL ISSUES - None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION - None

AUDIENCE COMMENT – None

ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 8:15 P.M.

David Landry, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Charlene McLean

Date approved: March 22, 2010