

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, OCTOBER 24, 2016 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 Burke, Casey, Markham, Mutch, Wrobel

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

APPROVAL OF AGENDA:

CM 16-10-138 Moved by Wrobel, seconded by Casey; UNANIMOUSLY CARRIED:

To approve the Agenda as presented.

Roll call vote on CM 16-10-138 **Yeas Staudt, Burke, Casey, Markham, Mutch,
Wrobel, Gatt,**
Nays: None

PUBLIC HEARING - None

PRESENTATIONS – None

REPORTS:

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

AUDIENCE COMMENT - None

CONSENT AGENDA REMOVALS AND APPROVALS:

CM 16-10-139 Moved by Casey, seconded by Burke; UNANIMOUSLY CARRIED:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 1. October 10, 2016 – Regular meeting
- B. Enter Executive Session immediately following the regular meeting of October 24, 2016 in the Council Annex for the purpose of discussing privileged correspondence from legal counsel.

- C. Approval to apply for the 2016 Assistance to Firefighters Grant (AFG) to replace the Novi Fire Department's Turn-Out Gear Washer/Extractor and Dryer with a potential 10% match of \$3,500 by the City of Novi.
- D. Acceptance of a Conservation Easement from Toll MI V Limited Partnership, for woodlands, wetlands, and wetland buffers as a part of the JSP14-18 Ridgeview Villas site, located south of Ten Mile Road and east of Novi Road in Section 26 of the City.
- E. Acceptance of a Conservation Easement from Grand Beck Partners, LLC for remaining wetland conservation as a part of the JSP15-73 Citygate Marketplace site, located north of Grand River Avenue and east of Beck Road in Section 16 of the City.
- F. Approval to award an amendment to the engineering services agreement with URS Corporation (AECOM) for construction engineering services for the Eight Mile Water Main (Club Lane to Turnberry) project in the amount of \$18,609.
- G. Approval of the final payment to Anglin Civil, LLC for the Eleven Mile Pathways (Town Center Drive to Meadowbrook Road) project in the amount of \$29,141.24, plus interest earned on retainage.
- H. Approval of the final payment to Nagle Paving Company for the Novi Library Entrance Widening project in the amount of \$12,406.69, plus interest earned on retainage.
- I. Approval of a resolution to change the name of Maybury Drive to Maybury Park Drive within the Maybury Park Estates Development.
- J. Approval of Claims and Accounts – Warrant No. 974

Roll call vote on CM 16-10-139

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

MATTERS FOR COUNCIL ACTION

- 1. Approval of a Special Land Use Permit and Preliminary Site Plan for a proposed 150-foot tall wireless communications tower with a seven-foot antenna (for a total height of 157 feet), associated equipment, accessory structures, and a propane tank. The subject property is located in Section 29, on the south side of Ten Mile Road, east of Wixom Road in the RA, Residential Acreage zoning district.

The subject property is approximately 0.5 acres of leased land as a part of the five-acre parcel known as 22-29-101-004.

Member Wrobel wondered if we allow the cell tower, will it interfere with the fire station communications? Planning Director, Barb McBeth responded to his concern and said she had not heard anything like that. Member Wrobel noted that looking through the document, it would be a disguised tower. Ms. McBeth said that was the intent. She said staff requested the stealth design tower be proposed as it was in the lease agreement as well, so the tree design was selected and would help blend in a bit with the surrounding trees. Member Wrobel asked if approved, will it be just for their company or leased to other companies? The applicant responded and said it was designed for additional carriers to use.

CM 16-10-140 Moved by Wrobel, seconded by Casey; UNANIMOUSLY CARRIED:

To approve a Special Land Use Permit for a cell phone monopole tower, associated equipment structures and accessory structures.

This motion is made for the reasons that the City Council finds that the proposed tower meets the requirements of Section 4.86 of the Zoning Ordinance as follows:

- a. **The use is essential or desirable to the public convenience or welfare;**
- b. **The use is compatible with the orderly development of the RA, Residential Acreage zoning district and will not be detrimental to the orderly development, environment or use of adjacent properties and/or zoning districts;**
- c. **Denial of the request will prohibit or have the effect of prohibiting the provision of wireless services; and**
- d. **The applicant has provided sufficient information demonstrating that it is not feasible to co-locate on existing facilities.**

This motion is made for the reasons that the City Council finds that relative to other feasible uses of the site, the proposed use:

- a. **Will not cause any detrimental impact on existing thoroughfares or the capabilities of public services and facilities (*since no new curb cuts are proposed along Ten Mile Road, and trips to the site for maintenance of the cell tower and equipment are expected to be very limited*);**
- b. **Is compatible with the natural features and characteristics of the land and adjacent uses of land (*since the proposed cell tower and related equipment***

are proposed to be located on the site of the well equipment that previously occupied the site, and no tree removals are proposed);

- c. Is consistent with the goals, objectives and recommendations of the City's Master Plan for Land Use;
- d. Will promote the use of land in a socially and economically desirable manner;
- e. Is (1) listed among the provision of uses requiring special land use review as set forth in the various zoning districts of this Ordinance, and (2) is in harmony with the purposes and conforms to the applicable site design regulations of the zoning district in which it is located.

Roll call vote on CM 16-10-140

Yeas: Casey, Markham, Mutch, Wrobel, Gatt,
Staudt, Burke

Nays: None

CM 16-10-141

Moved by Wrobel, seconded by Casey; UNANIMOUSLY CARRIED:

To approve the Preliminary Site Plan, subject to the following:

- a. Approval of a deviation from the maximum fence height in a residential district in order to surround the proposed equipment (8-foot maximum on public land, 10 feet proposed);
- b. Allowance for the equipment attached to the tower to exceed 150 feet, to a maximum total height as shown on the plans, of approximately 157 feet.
- c. The conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan.

This motion is made because the plan is otherwise in compliance with Section 3.1.1, Section 3.6, Section 4.86, Article 5.00, Special Land Use considerations of Section 6.1.2, and all other applicable provisions of the Ordinance.

Roll call vote on CM 16-10-141

Yeas: Markham, Mutch, Wrobel, Gatt, Staudt,
Burke, Casey

Nays: None

- 2. Consideration of Ordinance 16-187 to amend the City of Novi Code of Ordinances, Chapter 26, 'Peddlers, Solicitors, Commercial Handbills,' Section 26-3, 'Noncommercial Solicitation Permit; Application'; Section 26-5, 'Investigation of Application; Grant or Denial'; and Section 26-10, 'Hours of Peddling/Solicitation; Additional Requirements,' in Order to Remove

Authorization for and Reference to Solicitation in Areas of Public Rights-of-Way.
FIRST READING

Member Wrobel noted that they had discussed this at the Ordinance Review Committee and it was his understanding that there were some changes that were made on it and he asked Mr. Schultz to go over the changes. Mr. Schultz said the amendment has to do with an opinion given from the Attorney General about solicitation in the actual travel portion of the roadway and he gave his opinion under state law that is not permitted. Mr. Schultz said parts of our Ordinance did allow that, other parts had assumed that. He said there were a few changes since it was discussed at the Ordinance Review Committee. They are recommending to Council that those changes be included.

CM 16-09-142 Moved by Wrobel, seconded by Burke; UNANIMOUSLY CARRIED:

To approve Ordinance 16-187 to amend the City of Novi Code of Ordinances, Chapter 26, 'Peddlers, Solicitors, Commercial Handbills,' Section 26-3, 'Noncommercial Solicitation Permit; Application'; Section 26-5, 'Investigation of Application; Grant or Denial'; and Section 26-10, 'Hours of Peddling/Solicitation; Additional Requirements,' in Order to Remove Authorization for and Reference to Solicitation in Areas of Public Rights-of-Way. FIRST READING

Member Mutch said he supports the motion. The only comment he had was that we will be asking the Police Department to enforce this Ordinance and anyone who is doing this solicitation to follow the standards of the Ordinance. He said he would like it more clearly defined in which area of the roadway or public right-of-way that they are not to be doing solicitation from. He asked Mr. Schultz if there was language in the Attorney General's opinion that might better reflect what we are trying to accomplish here. He mentioned he wants it to be clear what we are enforcing in the future. He said he would like the second reading tweaked with a definition to help with enforcement.

Member Casey supports the change to the Ordinance. She said it is a safety concern when you drive down Haggerty and there are people at the intersection at 8 Mile doing fundraising. She said she would like to see when we received requests for permits for this type of solicitation that we have something that documents the change to the Ordinance and what it means so we avoid having people have to check on the Ordinance.

Member Markham confirmed with Mr. Schultz that people who used to be able to stand in the road to solicit, such as the firemen and the Lions Club, will no longer be permitted. She wondered if the public right-of-way or grassy areas would be allowed. Mr. Schultz said per both our Ordinance and the state law sort of contemplate that parts of the public right-of-way that aren't the travel portion of the roadway are subject

to a different set of rules, so it is not a free-for-all in those areas, but there is not a complete prohibition either.

Mayor Gatt said that part of the Ordinance Review Committee's intention was to comply with the Attorney General's opinion and most importantly for the safety of our residents, the drivers in our city, and people in the street. He said this is strictly a safety issue and he believed it would be adopted by most other municipalities also.

Member Wrobel said he brought this to the Ordinance Review Committee and mentioned he belonged to a local organization that occasionally would go out in the road to collect funds. He said he had the opportunity to do it on several occasions at the corner of Grand River and was afraid for his life, it is dangerous out there. He said it is all done with good intentions, but he didn't want to see anyone get hurt, this is why he brought it forth.

Roll call vote on CM 16-10-142 **Yeas: Mutch, Wrobel, Gatt, Staudt, Burke, Casey, Markham,**
Nays: None

3. Approval to award a construction contract for the Eight Mile Water Main (Club Lane to Turnberry) project to Bricco Excavating Company, LLC., the low bidder, in the amount of \$192,704, subject to final review and approval of form of agreement by City Manager's office and the City Attorney.

CM 16-10-143 **Moved by Casey, seconded by Burke; UNANIMOUSLY CARRIED:**

To approve award of the construction contract for the Eight Mile WaterMain (Club Lane to Turnberry) project to Bricco Excavating Company, LLC., the low bidder, in the amount of \$192,704, subject to final review and approval of form of agreement by City Manager's office and the City Attorney.

Roll call vote on CM 16-10-143 **Yeas: Wrobel, Gatt, Staudt, Burke, Casey, Markham, Mutch**
Nays: None

4. Approval of resolution to authorize Budget Amendment #2017-1.

CM 16-10-144 **Moved by Staudt, seconded by Wrobel; UNANIMOUSLY CARRIED:**

To approve the resolution to authorize Budget Amendment #2017-1.

Roll call vote on CM 16-10-143 **Yeas: Gatt, Staudt, Burke, Casey, Markham Mutch, Wrobel**
Nays: None

AUDIENCE COMMENT - None

COMMITTEE REPORTS - None

MAYOR AND COUNCIL ISSUES

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION - None

COMMUNICATIONS - None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 7:16 P.M.

Cortney Hanson, City Clerk

Robert J. Gatt, Mayor

Transcribed by Deborah S. Aubry

Date approved: November 14, 2016