

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, FEBRUARY 11, 2019 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 Breen, Casey, Mutch, Poupard, Verma

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

APPROVAL OF AGENDA:

CM 19-02-008 Moved by Casey, seconded by Staudt; CARRIED UNANIMOUSLY

**Roll call vote on CM 19-02-008 Yeas: Staudt, Breen, Casey, Mutch, Poupard, Verma, Gatt
Nays: None**

PUBLIC HEARING:

1. Community Development Block Grant Program Year 2017 Funds

Public Hearing opened at 7:01 and closed at 7:02 with no public input.

PRESENTATIONS:

1. Proclamation in recognition of Novi's 50th anniversary.

Mayor Gatt said we are celebrating Novi's 50th Anniversary as a City. He said we became a City on February 18, 1969. It is almost to the day, 50 years later. Maybe people don't know that Novi was not always this beautiful City with over 60,000 people. He believed we are the most energized City in Oakland County. He said it is the greatest City in the State of Michigan, maybe the whole USA. If you can't find it in Novi, you don't need it. He has been in Novi for 45 years and has seen it change so much. We have people like Dick Faulkner, Lee BeGole, Tom Marcus, and others that made Novi the very special city it is today. The people set us apart from other cities in the region. When Money Magazine said Novi, Michigan is the best place in the State of Michigan to raise a family, to live, recreate, it's not a mistake. He said that Novi has the finest police and fire anywhere in the country, the finest parks and recreation, and the finest services to offer. He felt we had the finest City staff you could ever wish for. He proceeded to read the Proclamation. He thanked the Council Members who worked on the Committee to help plan the celebration throughout the year. Sheryl Walsh, Communications Director thanked Mayor Gatt, Council, Member Casey for her leadership on the 50th Anniversary Committee and indulging all of our crazy ideas. She thanked Member Verma who volunteered as a citizen on the Committee. She also thanked Julie Farkas, Library Director who were great partners that helped us delve into

the history of Novi. She also thanked the Community Relations staff who pulled together the display that will be in the Civic Center until March 4th. Wendy Duvall, Community Outreach Specialist put a lot of time and effort into setting up the display and has a passion for bringing the history to life in the Atrium. She encouraged everyone to come and see part of our history. She noted that we have planned events throughout the rest of the year.

Kathy Crawford, State Representative, had a Proclamation from the State of Michigan. Representative Crawford said she and her husband were celebrating 55 years of marriage and they were here before Novi became a city. Senator Runestad could not attend, but Linda Hyaduck from Senator Runestad's office was present. State Representative Crawford read the Proclamation from the State of Michigan.

MANAGER/STAFF REPORT

City Manager Auger thanked staff for their hard work and the citizens who donated items to be on display.

AUDIENCE COMMENT:

Rachel Sines, 2219 Austin Dr., Novi said she reviewed the approval of the PRO for Robertson Brothers. She wanted clarification on the fencing on the west side; she thought that it leaves too much room for interpretation. It was her understanding that a solid fence be put up. In the proposal written under the PRO conditions, Item I, the developer would provide either a screening fence and/or landscaping on all portions of the land adjacent to existing of residential lots. This makes it sound as if a fence or landscaping could be used instead of both. Robertson Brothers has tried to take out the fence on several occasions. She said it would make more sense to have a fence along the entire length than landscaping, if warranted.

Linda Krieger 44920 Bryne Dr., Northville congratulated Novi on their 50th Anniversary. She wanted to discuss Item 6 for prohibiting marijuana. She said she was in favor of prohibiting marijuana. She is a registered nurse. For medical reasons it has its needs. She felt that recreational is a whole other ballgame. She said there isn't enough information out there to know about all of the repercussions. She thought it would be a safety issue and also what would the impact on the real estate be.

CONSENT AGENDA REMOVALS AND APPROVALS:

- A. Approve Minutes of:
 - 1. January 7, 2019 – Regular meeting
 - 2. January 12, 2019 – Special meeting

- B. Enter Executive Session immediately following the regular meeting of February 11, 2019 in the Council Annex for the purpose of discussing labor negotiations, property acquisition and privileged correspondence from legal counsel.

- C. Approval to award geotechnical engineering services to Testing Engineers & Consultants, Inc. (TEC) for geotechnical testing of subgrade soils and assistance with groundwater monitoring associated with the Nine Mile Road Sewer project (Evergreen Court to Kensington) in the amount of \$47,498.
- D. Approval of a Memorandum of Understanding (MOU) agreement with the Novi Community School District (NCSD) for the Safe Routes to School Program.
- E. Approve the reprogramming of Program Year 2017 Community Development Block Grant (CDBG) in the amount of \$8,629.25 and authorize the Mayor to execute all agreements and or contracts which result from the reprogramming.
- F. Approval to award the construction contract for the Clearing of Flint/Bond Street and Crescent Boulevard project to Arbor Master Tree Service, Inc., in the amount of \$85,762.50.
- G. Approval to award civil engineering services to Spalding DeDecker for construction engineering services associated with the Ingersol Creek Streambank Restoration (Ten Mile Road to Willowbrook Drive) and Buckingham Court Storm Sewer Replacement project in the amount of \$32,225.74.
- H. Approval to award civil engineering services to AECOM for construction engineering services associated with the Clearing of Flint/Bond Street and Crescent Boulevard project in the amount of \$11,275.41.
- I. Approval to award civil engineering services to OHM Advisors to develop the 2019 Transportation Asset Management Plan (TAMP) in the amount of \$17,825.
- J. Approval of the final payment to Giannetti Building Development, LLC, to be assigned to the Surety (The Guarantee Company of North America USA) for the Country Place Force Main Replacement project in the amount of \$15,025.07, plus interest earned on retainage.
- K. Approval of a Storm Drainage Facility Maintenance Easement Agreement (SDFMEA) from Orotex Corporation, for the Orotex Building Expansion project located on Venture Drive (parcel 50-22-26-378-005).
- L. Approval of Warranty Deeds and Quit Claim Deeds for two parcels within Novi Corporate Park located on the north side of Twelve Mile Road and east of West Park Drive to dedicate sixty feet of right-of-way along the north side of Twelve Mile Road to the Road Commission for Oakland County (parcels 50-22-09-451-031 and 50-22-09-451-032).
- M. Approval to award civil engineering services to OHM Advisors for design engineering services associated with the Bishop Creek Streambank

Rehabilitation project along the west side of Meadowbrook Road south of the Vincenti Court intersection and north to 11 Mile Road in the amount of \$53,200.

- N. Approval of request to transfer ownership of an escrowed 2018 Resort Class C and SDM licensed business with Sunday Sales Permit (PM), and Specific Purpose Permit (Food) with new Sunday Sales Permit (AM), Outdoor Service Permit (2 Areas), Dance-Entertainment Permit, issued under MCL 436.1531(4), non-transferable, from D & A Cuisine, Inc. to Abraham & Sons LLC (d/b/a Beerhead Bar & Eatery) located at 44375 W Twelve Mile Road Suite #G157, Novi, MI 48377.
- O. Approval of contract award to Accuform to develop, design, produce and distribute Engage six times per year in the amount of \$47,197 for the first year, \$28,319 the second year, and \$18,879 the third year with the option for two renewals at the third year cost.
- P. Approval of Claims and Accounts – Warrant No. 1028 and Warrant No. 1029.

CM 19-02-009 Moved by Casey, seconded by Staudt; CARRIED UNANIMOUSLY

To approve the Consent Agenda as presented.

Roll call vote on CM 19-02-009

**Yeas: Breen, Casey, Mutch, Poupard, Verma,
Gatt, Staudt**

Nays: None

MATTERS FOR COUNCIL ACTION

1. Approval at the request of Robertson Brothers Homes, for Lakeview, JSP 18-16, with Zoning Map Amendment 18.723, to rezone from R-4 (One-Family Residential) and B-3 (General Business) to RM-2 (High Density Multiple Family Residential) subject to the related Planned Rezoning Overlay (PRO) Agreement, and corresponding PRO Concept Plan. The property is located in Sections 10 and 11, on both the west and east sides of Old Novi Road, south of Thirteen Mile Road and totals approximately 3.15 acres.

Member Casey wanted to clarify where the fence is going. She was pleased to see the additional language adding the evergreens for screening, but she wanted to make sure that they have the fencing required because the language is vague. City Planner McBeth said it does reference Units 1-7 having landscaping to a sufficient height as to buffer to any proposed two-story residents that would be built on those Units 1-7 that is located on land that is adjacent to existing dwellings. There are a few accessory buildings that aren't dwellings. In those areas the landscaping would take place. It was her understanding that fences would be installed as well where there is no existing fence. Perhaps the developer can clarify that. Jim Clark, Robertson Brothers, said it is his understanding that they are putting up fences where there are not already fences and adding landscaping where there are houses to buffer houses from houses. They

have a number of lots they are buying that would have nothing in the backyards, and then they would not be planting in those yards. We can clean up language with the City Attorney to make sure it is clear. Member Casey stated she would be looking for clarification that Council had specifically talked about at the last meeting. There is fencing between residences and sufficient screening between an existing one-story home where they are building a two-story home there will be sufficient screening. That is a AND, not an OR. She also thanked them for adding HOA language.

Member Breen thanked residents who gave input into this development and to the developer for working with them. We had the community input session for the proposed Pavilion Shore Village concept and she believed there was a summary prepared. This particular development is going to encompass almost the entire area that is in the proposed Pavilion Shore Village area. She asked where they were at as far as getting that proposed ordinance language. City Planner McBeth said the consultant has drafted some ordinance language and currently it is being reviewed by staff. We are hoping to have a presentation to the Planning Commission within the next few weeks. Member Breen mentioned the historical value of the General Austin home, and she wondered what efforts have been made to reach out to the Historical Commission or reach out to the community as to decide what type of marker will go there. She asked if there has been any effort in trying to save it. City Manager Auger replied that we have done some research. The City Assessor has hand written notes that it was built in 1922. He did not know when it was "officially" built. He mentioned that the developer agreed to put a historical marker there. He wasn't sure what we could do. There was some hearsay, and word of mouth, that the original house burnt down. The Developer has agreed to put a marker there.

CM 19-02-010 Moved by Staudt, seconded by Gatt; MOTION CARRIED: 5-2

Final approval of the request of Robertson Brothers Homes, for Lakeview, JSP 18-16, with Zoning Map Amendment 18.723, to rezone property in Section 10 and 11, located on the west and east side of Old Novi Road south of Thirteen Mile Road from R-4 (One-Family Residential} and B-3 (General Business} to RM-2 (High-Density Multiple-Family Residential} subject to a Planned Rezoning Overlay (PRO} Agreement, and corresponding PRO Concept Plan, and subject to the conditions listed in the staff and consultant review letters, and with any changes and/or conditions as discussed at the City Council meeting, with any final minor alterations required in the determination of the City Manager and City Attorney to be incorporated by the City Attorney's office prior to the execution of the final agreement. This motion is made for the following reasons:

- a. The proposed plan meets several objectives of the Master Plan, as noted in the review letter, including:**

- g. The density proposed is within the density recommended in the Master Plan.**
- h. Submittal of a Concept Plan and any resulting PRO Agreement provides assurance to the Planning Commission and the City Council of the manner in which the property will be developed, and offers benefits that would likely not be offered under standard development options.**

Member Mutch directed his question regarding the language to the City Attorney. In regards to Member Casey's question about the landscaping and the fencing, we did hear the applicant's intent. He was wondering if it provides clarity. He would like assurance from the City Attorney. City Attorney Schultz said we have the ability to make tweaks to ensure fencing is everywhere that it is not there now, and we will clarify. Member Mutch thought if we didn't get the language in up front that it could be an issue. Under Subsection, PRO letter R, he said in a previous meeting there was discussion about the concern of ownership of these properties potentially granting folks riparian access to Walled Lake though some manor. This language was added to address that. He understood that none of these properties have frontage on Walled Lake. He has never seen anything that would give them legal access to Walled Lake. This doesn't provide value. Some of these properties belong to a subdivision that have frontage on Shawood Lake. He said not knowing the history or legal chain for those properties he wondered if there was a potential they could have access to Shawood Lake by virtue of being part of a subdivision that has frontage on that lake. City Attorney Schultz replied that without title search and looking through records he couldn't give direction on that. His recollection was the concern was regarding Walled Lake access. He didn't consider Shawood Lake. Member Mutch said if the intent was to avoid a situation that Council Members are familiar with from what has happened on Walled Lake at various properties, he would put that out there as a potential issue that needs to be addressed. He said he wouldn't be able to support the project proposal. He said it wasn't what he was looking for in this area, but closer to what he would like to see happen in this area. The initial proposal of three-story townhouses with 77 units was grossly overbuilding this area and not the intent of the City's efforts to create a new concept in this section of the City. Some details he would like to see occur differently. He didn't have an issue with the general fabric of the development. He had an issue with use of City right-of-way to the degree it's being utilized for this project. He thought it was precedent setting; it hasn't been done elsewhere in the City. He understood that our legal counsel gave some clear direction that it would be difficult to vacate right-of-way in this area. He felt that would have been the cleanest way to address issues. The Use Agreement going into place is something he could have lived with. His real problem and why he could not support this was the intent to demolish the Cornelius Austin house on Old Novi Road. It was ironic to him that we are sitting here celebrating our City's history and this home dates back to the 1800's the house was built before 1922. He said it was a Greek Revival Home; they were not building that style in 1922. To lose that piece of history so this development can build one house is unfortunate. Especially to the degree that the City has bent over backwards to accommodate this development. We have given more density, waiving zoning standards and the use of the public right-of-way through

the Use Agreement warranted something more than just a marker. There have been some questions about the historic value of the home. He stated that Cornelius Austin was a historic character in Novi's history, there is no doubt about that. He believed that a home associated with a Veteran of the War of 1812 who is one of the earliest white settlers in Michigan who interacted with the Native Americans that were present and living in our community was noteworthy. Cornelius Austin settled in Novi Township on a 160 acre farm where he lived until his death. He and his wife, Clarissa had 14 children, of which it was reported that only four may have survived. There were only three white families that settled in the township at that time. He was always an honest and industrious man. At the time of his death, he was the sole survivor of the war of 1812 in Oakland County. He died at his home in Novi, April 14, 1888. He was 97 years and 1 day old at the time of his death. Clearly a life well lived, a life of service to his country and community. Member Mutch believed it was worth more than just having a marker along the road.

Roll call votes on CM 19-02-010

**Yeas: Casey, Poupard, Verma, Gatt, Staudt
Nays: Mutch, Breen**

2. Approval to award the construction contract for the Ingersol Creek Streambank Restoration (Ten Mile Road to Willowbrook Drive) and Buckingham Court Storm Sewer Replacement project to V.I.L. Construction, Inc., in the amount of \$270,011.

CM 19-02-011 Moved by Casey, seconded by Breen; CARRIED UNANIMOUSLY

Approval to award the construction contract for the Ingersol Creek Streambank Restoration (Ten Mile Road to Willowbrook Drive) and Buckingham Court Storm Sewer Replacement project to V.I.L. Construction, Inc., in the amount of \$270,011.

Member Verma said he was looking into the recommendation from Spaulding. He said when he went through the bid tabulation for Item 3 and 6. Soil erosion has \$35,000 when others only have \$5,000 or \$6,000. Item 6 for V.I.L. have \$3,400 and another company had \$27,000. He wondered if the consultant questioned the contractor on how they wrote the project. City Manager Auger stated that sometimes certain companies can give lower price because of staffing or expertise. That's why we go by total amounts of project. DPW Director Herczeg confirmed that bids sometimes can range based on the contractor. Sometimes they put numbers heavier in some places and less in another. Member Verma said he understood that. DPW Director Herczeg said he would have to look into notes and provide that information. Member Verma said it looks like the low bidder, but when looking into tabulations, he wanted it verified because the bid amounts are very different.

CM 19-02-011 Moved by Casey, seconded by Breen; CARRIED UNANIMOUSLY

Approval to award the construction contract for the Ingersol Creek Streambank Restoration (Ten Mile Road to Willowbrook Drive) and

Buckingham Court Storm Sewer Replacement project to V.I.L. Construction, Inc., in the amount of \$270,011.

Roll call votes on CM 19-02-011 **Yeas: Mutch, Poupard, Verma, Gatt, Staudt, Breen, Casey**
Nays: None

3. Approval of Change Order No. 2 and the final payment to Koala-T Construction, Inc., for the Eight Mile Pathway (Garfield Road to Napier Road) project and the Kirkway Boardwalk Repairs in the amount of \$117,752.31, plus interest earned on retainage.

CM 19-02-012 **Moved by Casey, seconded by Mutch; CARRIED UNANIMOUSLY:**

Approval of Change Order No. 2 and the final payment to Koala-T Construction, Inc., for the Eight Mile Pathway (Garfield Road to Napier Road) project and the Kirkway Boardwalk Repairs in the amount of \$117,752.31, plus interest earned on retainage

Roll call votes on CM 19-02-012 **Yeas: Poupard, Verma, Gatt, Staudt, Breen, Casey, Mutch,**
Nays: None

4. Approval to award the purchase of the replacement mobile sound stage to Century Industries in the amount of \$119,000, using the GSA buying cooperative and amend the budget.

CM 19-02-013 **Moved by Mutch, seconded by Casey; CARRIED UNANIMOUSLY:**

Approval to award the purchase of the replacement mobile sound stage to Century Industries in the amount of \$119,000, using the GSA buying cooperative and amend the budget.

Roll call votes on CM 19-02-013 **Yeas: Verma, Gatt, Staudt, Breen, Casey, Mutch, Poupard**
Nays: None

5. Approval of a cost participation agreement with the Road Commission for Oakland County for advance construction costs associated with the 12 Mile Road and Novi Road Intersection reconstruction project in the amount of \$481,259.

Member Breen thanked staff for working with the Oakland County on this. That intersection has claimed the lives of many tie rods and wheel rims. The County had this slated to happen for repairs for next year, but we've moved it up. She said she was happy to see there were federal funds being used; she hoped the City could continue

to work with the County on getting 10 Mile and 12 Mile up to speed. She was happy to see this cooperation.

Member Casey said when looking at the memo we are funding \$481,000 and of that \$271,000 will come from our budget because we are using Tri-Party Funds. She stated that the City of Novi, out of a budget of \$1.1 million is spending \$271,889. City Manager Auger confirmed she was close. He said when we started this project, they thought we were going to have to loan the RCOC \$1 million to get this project moved up. He said that due to DPW Director Herczeg's staff working with the Oakland County and using the Tri-Party Funds we were able lower that significantly.

Member Mutch asked if the City will get reimbursed a portion of that back to us. City Manager Auger said yes, in 2021, we will be reimbursed the money we are loaning to the RCOC, the Tri-Party portion of it. Member Mutch echoed what's been said and he thanked DPW Director Herczeg, Engineering Manager Melistas and his staff because this has been the number one location of complaints on social media from folks living on north end. They wanted it done yesterday. The fact that it will be completed this year will be welcomed news for many folks.

CM 19-02-014 Moved by Mutch, seconded by Poupard; CARRIED UNANIMOUSLY:

Approval of a cost participation agreement with the Road Commission for Oakland County for advance construction costs associated with the 12 Mile Road and Novi Road Intersection reconstruction project in the amount of \$481,259.

**Roll call votes on CM 19-02-014 Yeas: Gatt, Staudt, Breen, Casey, Mutch, Poupard, Verma
Nays: None**

6. Consideration to Adopt Ordinance No. 19-193, an ordinance to amend the City of Novi Code of Ordinances, Chapter 22, "Offenses," Article 1, "In General," to add a new Section 22-9, "Marijuana Establishments Prohibited," to prohibit marijuana establishments within the boundaries of the City pursuant to the Michigan Regulation and Taxation of Marijuana Act, Initiated Law 1 of 2018, MCL 333.27951, et seq.; and to provide penalties for violation of such ordinance. **SECOND READING**

CM 19-02-015 Moved by Casey, seconded by Staudt; MOTION CARRIED: 6-1

Approve Adoption of Ordinance No. 19-193, an ordinance to amend the City of Novi Code of Ordinances, Chapter 22, "Offenses," Article 1, "In General," to add a new Section 22-9, "Marijuana Establishments Prohibited," to prohibit marijuana establishments within the boundaries of the City pursuant to the Michigan Regulation and Taxation of Marijuana Act, Initiated Law 1

of 2018, MCL 333.27951, et seq.; and to provide penalties for violation of such ordinance. SECOND READING

Member Breen echoed what Member Mutch brought up previously that he believed we have a problem when the City wants to revisit an issue. She said before that it would behoove the City to press pause on accepting and reviewing licenses rather than flat out saying no. She was aware that we have the option to opt-in later, however that can take a while. She thought it would be prudent to get some additional information as to what types of businesses want to come here, the costs and benefits to the city because there is a lot we don't know yet. When Novi did vote in favor of Proposition #1, she knew it wasn't by a wide margin, but they did vote in favor of it. She commented that from the community feedback she has gotten that they were hoping that some of these establishments would come to Novi. She thought we should have gauged community input before we go ahead and flat out ban this information and simply press pause, rather than opting-out entirely. She stated that based upon that she could not vote in favor of this.

Mayor Pro Tem Staudt said that he too has had community feedback. In that feedback, most was in favor of us opting-out except for one circumstance. If you look around, the news over the last few weeks, we are one of many taking this choice. He said he has talked to other city councilmembers from other communities who overwhelmingly approved marijuana and opted-out much like we are. This isn't an issue of who voted for or against. It's about this particular Council with several members majority approving an ordinance that opts-out at this point. They can consider other things in the future. This isn't a charter amendment that requires a vote of the people. He will support the opt-out. If we did have a way to monitor and ask our residents overall, he believed they were for decriminalizing marijuana, but not sure they want it in Novi.

Member Poupard thought she could support because the opt-out because it had the opportunity to opt-back in with further information.

Roll call votes on CM 19-02-015

**Yeas: Staudt, Casey, Mutch, Poupard
Verma, Gatt**

Nays: Breen

7. Approval of resolution to authorize Budget Amendment #2019-2.

CM 19-02-016

Moved by Staudt, seconded by Mutch; CARRIED UNANIMOUSLY:

Approval of resolution to authorize Budget Amendment #2019-2.

Roll call votes on CM 19-02-016

**Yeas: Breen, Casey, Mutch, Poupard, Staudt
Verma, Gatt**

Nays: None

