

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI  
MONDAY, OCTOBER 7, 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  
Elizabeth Saarela, City Attorney

**APPROVAL OF AGENDA:**

Member Mutch added to Mayor and Council Issues: Lakeview development issues.

**CM 19-10-172 Moved by Casey, seconded by Poupard; CARRIED UNANIMOUSLY**

**To approve the Agenda as amended.**

**Roll call vote on CM 19-10-172**                      **Yeas: Staudt, Breen, Casey, Mutch, Poupard,  
Verma, Gatt**  
**Nays: None**

**PUBLIC HEARING: None**

**PRESENTATIONS:**

1. Proclamation for Fire Prevention Week October 6-12, 2019.

Mayor Gatt presented the Proclamation for Fire Prevention Week. Chief Johnson thanked Mayor Gatt and City Council. He said that they like to think with the Fire Department that fire prevention is year round. He stated that this is a special week and thanked City Council for the Proclamation. He said this has been a busy this month. They met with the Ambassador Academy, Tollgate Farms for the Pumpkinfest, some of the schools and local businesses. He mentioned they have many free programs available for anyone in the community. Some of the free programs they have available are the home fire inspection and to ensure elderly don't have slip and fall hazards. He stated they have free smoke alarms and carbon monoxide detectors. They also have car safety seat inspections and the File of Life Program. He encouraged everyone to call the Novi Fire Department and they would be happy to provide those. He thanked Community Relations who put together a neat video clip on social media. He said they were fun, but are there to help get the message out for everyone to be safe and aware. Mr. Johnson thanked all of the men and women of Novi Fire Department. Mayor Gatt thanked him, and all the men and women for keeping them safe. Stay safe and God bless.

**MANAGER/STAFF REPORT: None**

**ATTORNEY REPORT: None**

**AUDIENCE COMMENT:**

Prasad Ravipati, 22595 Autumn Park Blvd., Novi. He said he is the chairperson of SV Temple and Cultural Center on Taft Road. He said they had some board members present. He explained that their Temple is a peaceful neighbor and they are responsible citizens of the Novi community. As a non-profit organization they actively participate in the community outreach programs such as food drives and school supplies for the less fortunate. They bring in out of town guests which help local businesses. They are having the Diwali Festival on Oct 26<sup>th</sup>. He stated that Diwali is translated as the Festival of Lights. It is one of the biggest festivals for Indians. It is celebrated throughout the country and overseas by all Indian's regardless of what their religion is. He said it was more like Christmas, it is not just for Christian's, and it is a time to celebrate. He said it was also a new year for the majority of Indians as well. It is the biggest festival for their Temple. He stated that one custom that is part of this celebration is fireworks. In Michigan, consumer fireworks are allowed only on certain days of the year. He understood that there was an amendment that allows cities to come up with their own ordinance to add days. He said due to large number of Indian residents in the Novi community, they request the City of Novi permits consumer fireworks for Diwali on the day of and day before. The day before also has significance and that day also people like to light fireworks. This day changes every year because it follows the lunar calendar. He asked on behalf of the Indian community that the City of Novi consider their request and pass an ordinance to allow fireworks for the Diwali Festival. Thank you for the opportunity to speak and present their request.

Senator Runestad thanked City Council for the opportunity to address this important issue. He said the Diwali Festival is similar to Christmas; it is the most celebrated holiday in India. He said we have a very large community of Indians in Novi, and is providential that the Fire Department is here as well getting their Proclamation. He can't see how it could be that big of an issue to add one more firework into Novi. There aren't that many areas, religious communities that require fireworks. The Festival of Lights is very important. He stated that they sent a letter from himself, Kathy Crawford, and the president of the SV Temple to approve those fireworks. He requested they do so.

Rachel Sines, 2219 Austin Dr., Novi said she continued to have an issue with Robertson Brothers and the Lakeview development. She has addressed Planning, Council, and the Zoning Board of Appeals about the driveway and fence for 2293 Austin Dr. which is now owned by Robertson Brothers. This property was purchased as part of the development and previously had a garage and driveway access from Old Novi Road. That access has been eliminated and the home will not be accessed from Austin Drive. She said when she raised the issue with the Zoning Board of Appeals back in April the previous owner that owned both 2293 and 2295 Austin spoke and admitted that he needed to

grant a use easement because it is a shared driveway. She stated that Robertson Brothers addressed the driveway at that meeting as well stating they widen it. She had a slide presentation and highlighted the area. In July for sale signs were placed out front without any improvements to the driveway and when she asked when it would be taken care of she was told by the sales manager that they had no plans of bringing the driveway near her property, but would have no input if the new owners decided to do that instead. The house sits so far back on the property that if someone did bring the driveway up her property line they would be driving past and parking outside her bedroom windows which is what she is trying to avoid. She contacted Robertson Brothers again in August and September, she had no response. She was told that they do not want to invest any money in these properties and they plan on selling them as is. If Robertson Brothers had no intention of actually doing something like this, they shouldn't have brought up the possibility. It is extremely likely that the new owners would put a driveway along her property line she felt that Robertson Brothers should be responsible for installing a solid six foot fence the length of their property which is approximately 107 feet to insure her privacy from the future owners. This would not have been an issue if it weren't for the development and maybe Robertson Brothers can fulfill the promise of at least being neighborly. Thank you.

#### **CONSENT AGENDA REMOVALS AND APPROVALS:**

Member Breen removed Items D and F from the Consent Agenda.

- A. Approval of Minutes of September 23, 2019 - Regular Meeting
- B. Approval of Ordinance 19-120.13, an ordinance to amend the City of Novi Code of Ordinances, Chapter 20, "Massages," in order to amend certain sections to update the regulations of massage establishments within the City. **SECOND READING**
- C. Approval of Zoning Ordinance Text Amendment 18.289 to amend the City of Novi Zoning Ordinance at Article 3, Section 3.10 "B-1, B-2 and B-3 Business Districts Required Conditions." The amendment would allow building height to be increased to 52 feet or four stories in the B-2 District under certain conditions. **SECOND READING**
- D. Approval of Election Precinct Agreements, subject to minor amendments as approved by the City Manager and City Attorney. **REMOVED/LATER APPROVED**
- E. Approval to accept the residential streets as part of The Preserve at Island Lake (Phase 8) and adoption of Act 51 New Street Resolution accepting Nepavine Drive, Nepavine Court, Denali Court, and a portion of Kennebee Drive as public, adding 0.60 miles of roadway to the City's public street system.

- F. Approval of a license agreement for improvements within the Old Novi Road right-of-way including decorative fences, a detention pond buffer, benches and a commemorative plaque. **REMOVED/LATER APPROVED**
- G. Approval to award a contract to Great Lakes Power and Lighting for improvements to the Hudson Pump Station, in the amount of \$27,396.36.
- H. Consideration of approval of an Intergovernmental Water Service Agreement with the City of Wixom to allow the property at 48900 West 12 Mile Road, Wixom, Michigan, to connect to the City of Novi's public water system.
- I. Approval of Claims and Accounts – Warrant No. 1045

**CM 19-10-173            Moved by Casey, seconded by Mutch; CARRIED UNANIMOUSLY**

**To approve the Consent Agenda as amended.**

**Roll call vote on CM 19-10-173                    Yeas: Breen, Casey, Mutch, Poupard, Verma, Gatt, Staudt**  
**Nays: None**

**MATTERS FOR COUNCIL ACTION**

- 1. Consideration of approval to purchase a 2020 Ford F-550 Chassis from Signature Ford, through the Macomb County Cooperative Purchasing Contract, and the Swaploader upfits to be completed by Truck and Trailer Specialties through the City of Rochester Hills RFP contract, in the amount of \$117,186.

**CM 19-10-174            Moved by Breen, seconded by Poupard; CARRIED UNANIMOUSLY**

**Approval to purchase a 2020 Ford F-550 Chassis from Signature Ford, through the Macomb County Cooperative Purchasing Contract, and the Swaploader upfits to be completed by Truck and Trailer Specialties through the City of Rochester Hills RFP contract, in the amount of \$117,186.**

**Roll call vote on CM 19-10-174                    Yeas: Casey, Mutch, Poupard, Verma, Gatt, Staudt, Breen**  
**Nays: None**

- 2. Consideration to award a unit price contract to Superior Lawn Care LLC., the low bidder, for the Fall 2019 and Spring 2020 Tree and Landscape Planting Projects in an estimated amount of \$169,380.

**CM 19-10-175            Moved by Staudt, seconded by Casey; CARRIED UNANIMOUSLY**

**Approval to award a unit price contract to Superior Lawn Care LLC., the low bidder, for the Fall 2019 and Spring 2020 Tree and Landscape Planting Projects in an estimated amount of \$169,380.**

**Roll call vote on CM 19-10-175**

**Yeas: Mutch, Poupard, Verma, Gatt, Staudt, Breen**  
**Nays: None**

**AUDIENCE COMMENT: None**

**COMMITTEE REPORTS: None**

**MAYOR AND COUNCIL ISSUES:**

Member Mutch addressed the Lakeview issues. He said there have been a couple of issues come up in the process of this development moving forward. He said for those on City Council who haven't been in that area within the past two weeks, it has completely changed the landscape. They removed houses and trees during the site clearing. It opened his eyes to the issues the neighbors have been sharing with City Council. He brought this forward to bring attention to the issues he saw. He said looking at what has happened since this came to us at City Council and then went back to Planning Commission. He stated that adjacent to Lot #14 and #15 of the Robertson Brothers property which is on the east side of Old Novi Road the concept plan showed landscape screening along property line. When it went to the Planning Commission the landscape screening was changed to fences. He understood that was not communicated to the residents along the property line. They didn't want fences. He didn't understand why no one reached out to those residents before making that change. He stated another issue that Member Breen brought to his attention and he drove up there to confirm it. It appears that a tree was removed from the adjacent private properties off of Wainwright. It was an 11 inch tree that was supposed to be saved. On the plans that were presented to City Council it was marked as being saved. He didn't know what the remedy was for that. He felt that obviously the City has a role in ensuring that a developer is not removing trees on private property without authorization to do that. The third issue was in regards to the screening. In addition to properties under consideration as part of this development, the developer also got permission from City Council to split off a couple parcels, including the one adjacent to Ms. Sines, It didn't look like there was any thought to what the impact of that decision would be. He said that Ms. Sines showed that property used to have access off of Old Novi Road. That's no longer the case because that property is now going to be developed as part of the PRO Agreement. Apparently through the planning process there was no consideration given to the fact that yes, a driveway would have to come in. He said that even though assurances had been given to her, there is no follow through. He said it has been months of promises that something will happen, but it's not. That raised real concerns. He stated that she has another issue related to her property where the developer has an air conditioning equipment on her property and promised

to move it, but has not. He said that not all of those concerns fall within the scope of where the City gets involved. One could argue it's a private dispute, but City Council gave approval to this development moving forward in the form it has. He was concerned that some of these issues aren't being addressed in a way that benefits the residents. We are not communicating with the residents in every case and so their concerns aren't being heard unless they contact someone on City Council. He wondered what could be done to address those issues through City Administration. He suggested having someone go out to see if a tree was improperly removed, or talk to the residents that border the properties to address what the appropriate screening would be between the properties. He said he would like City Administration to look into the issues Ms. Sines brought up and ensure that the developer follows through. If approvals are being granted based on them making public assurances and they don't do those things, they aren't holding up their end of the deal. He mentioned that there were a couple other Council members that had some concerns and he wanted to let them speak about those. He said he would be looking for a follow-up from City Administration on all those issues. He said that he didn't want to hear back that there is nothing we can do about that. This falls within the scope of the development process. If that project was not moving forward we wouldn't have had this conversation about any of these issues.

Mayor Gatt told City Manager Auger that he didn't think any Council member would disagree with most of what was said. He asked to have somebody look into this and give a report back as soon as possible. Mr. Auger said absolutely.

Member Breen apologized to her neighbors and Ms. Sines for the troublesome way this project has preceded. She said a lot of them were not happy to see this move forward, but they do own the land and they do have the ability to develop it as they see fit within the current zoning ordinances. She said the problem was that she didn't think there was a lot of regard given to the area up there. She encouraged her fellow Council members to go up there and see what has happened. It is just utter destruction of all the natural vegetation in that area. She said to Robertson Brothers credit, they did have two community meetings to talk to the neighbors about this. What has happened between those community meetings and those conversations with the residents has somehow fallen to the wayside with our City staff. We simply would like to see some of these promises fulfilled. Her neighbors to the west were shown plans that had a natural buffer and greenery that was to remain between the new buildings and the current neighborhood and all of that is gone. On top of that, the home in which the tree was removed, we don't know for sure if it was Robertson Brothers, it could have been somebody else. There was a tree, now there isn't a tree. The land that is directly next to one of the houses has been cleared. She said that a gentleman who owns a home over there has been in the hospital for the last year and a half. His family has been coming to the house. She mentioned the area where the detention basin is was not protected woodlands, there have been over 200 trees removed from that area. She stated that we need to grasp the magnitude of the destruction there. She thought that City staff needs to do a better job, and we need to do a better job as a Council. We need to think about what this will look like. They are promising a

beautiful piece of property, but the fact of the matter is that an area has been destroyed. She said that we need to be more conscientious about long term impacts on the environment. The neighbors have proposed to see mature trees planted between the old neighborhood and the new. Mayor Gatt asked that she stay with the issue. Member Breen said this is part of the issue. Mayor Gatt said the issue was this development. Member Breen said there is no remedy. She said she wanted to see something proposed before we proceed and allow this particular development to move forward.

Mayor Pro Tem Staudt said he wanted to hear from City Planner McBeth. He said there have been a lot of issues thrown at our City staff. He didn't appreciate being lectured to from another Council member. Mayor Gatt said we are going to get something from City Manager Auger in a very quick fashion. He said we should wait until an off-week packet.

**CONSENT AGENDA REMOVALS FOR COUNCIL ACTION:**

D. Approval of Election Precinct Agreements, subject to minor amendments as approved by the City Manager and City Attorney.

Member Breen said she understood this item was to formalize an agreement between the City and precinct locations. She wondered why these agreements were necessary. She understood that there are sometimes problems when we have polling locations at buildings that aren't controlled by the City. She said that we have heard from residents about Precinct 12. She asked if the City Clerk could elaborate on the status of the agreements, and a brief update on the new precinct boundaries. Mayor Gatt asked City Clerk Hanson if she was prepared to talk that evening. Ms. Hanson said she could respond. Mayor Gatt said the precincts have been brought up in the past and the City Attorney has told him before that this is not a matter for City Council. This is a Clerk and the Election Commission responsibility. We may approve it, but we do not have input to where are precincts are placed. The City Attorney agreed. Mayor Gatt said he didn't want to get into a public discussion that evening on why something happened. It isn't their purview. Member Breen said she wasn't looking for an update on where the precincts will be. Mayor Gatt said that City Clerk Hanson could provide that information in an off-week packet.

**CM 19-10-176                      Moved by Breen, seconded by Casey; CARRIED UNANIMOUSLY**

**Approval of Election Precinct Agreements, subject to minor amendments as approved by the City Manager and City Attorney.**

**Roll call vote on CM 19-10-176**

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

**Nays: None**

- F. Approval of a license agreement for improvements within the Old Novi Road right-of-way including decorative fences, a detention pond buffer, benches and a commemorative plaque.

Member Breen stated that based upon the broken promises by Robertson Brothers and she understood that this was an agreement the City more requires than the developer she wanted to remove the item from the Agenda and postpone until a later date. She wanted to hear from the City Attorney and Robertson Brothers regarding what remedies they would propose in order to move this forward to make sure their promises are lived up to.

**CM 19-10-177                      Moved by Breen, seconded by Mutch; MOTION DENIED: 4-3**

**To postpone the approval of a license agreement for improvements within the Old Novi Road right-of-way including decorative fences, a detention pond buffer, benches and a commemorative plaque.**

City Manager Auger said City Administration would not recommend passing this motion. This is something that the City required Robertson Brothers to do, and they have agreed to it. It is a license agreement only to work in our right-of-way on Old Novi Road. This is very similar to a lawsuit began that the City lost many years ago when the City demanded a developer do something and the City reneged on that deal. This is only about what we asked them to do in our right-of-way to move this project forward. He thought it could put us in jeopardy.

Member Mutch commented that it was appropriate at this time to postpone this particular license agreement in light of some of the concerns that have been raised. He said they are not asking Robertson Brothers to do anything that is not within the scope of the PRO Agreement that they and the City both agree to. In terms of this particular request, this license agreement contemplates the City giving them exclusive use of public right-of-way for the use of their development at no cost to them. They do not have to pay for the use of the public right-of-way and their future homeowners will not be paying taxes on this public right-of-way. The key component of this request is their requirement to follow through on various measures that are within that agreement. He was concerned that the City was entering into an agreement along these lines with a developer that hasn't shown a track record of following through on their obligations. Contrary to what the City Manager is suggesting, he thought it wouldn't be good or prudent of the City to enter into that agreement at this time until we get those issues resolved. He said he thought the City Manager was alluding to the Sandstone case that was a contract Special Assessment District. In that case both parties had entered into that agreement and there was this claim that the City wasn't fulfilling its portion of the agreement. He said this was the reverse. We haven't entered into an agreement and we are asking the developer to do what they agreed to do in the first place. He didn't understand that analogy at all. He thought it was appropriate to postpone it until the next meeting. It would give the applicant the opportunity to address those

outstanding concerns that have been raised. It would give the City time to ensure that the developer is actually fulfilling the things that they said they were going to do as part of the agreement. Then Council can approve this use agreement knowing that everyone's concerns have been addressed and that we are moving forward on the same page. To turn a blind eye to those and not address them, and to just move forward with this component would not be a wise decision on the part of the Council at this time.

Member Casey said she was challenged a bit because she understood the intent of wanting to postpone. We have had a couple of questions that have come before them in terms of information that they need. Understanding that the PRO Agreement was passed, Council said we are giving the Planning Commission the authority that they already have to make these decisions to for the site plan approval. There were things that were changed on the site plan such as the screening of trees on the east side verses a fence, we saw a drawing that showed screening with trees, the Planning Commission selected to go with the fence. It was something that Council was not aware of so it becomes something of a surprise. We see that there is a tree removed, we need to uncover whether the tree was removed on private property incorrectly. She thought if we postponed this item it would give us time to look into that further. The question she had was about the license agreement. She wondered if this license agreement would require the developer to do that may have changed from the time that Council approved the PRO through the Planning Commission process to this point. Were there any changes that came of the Planning Commission review of the Site Plans that would be different in this type of usage agreement from what we had seen when we talked about some of these things when we talked about these things when we talked about the PRO review. City Manager Auger said no, he didn't believe so; the agreement is exactly what was laid out for City Council and the developer. He said to conflate two different issues to try to hold something over the developer's head that we don't even know if it is true or not because there was some grand assumptions made, including disparaging our staff and their capabilities that haven't been proven out. He said he will bring them the information. This here is totally different. We have developers that come into the community and they make mistakes. City staff holds their feet to the fire. That is one of the complaints against our planning department. We do a good job of holding them to what they've agreed to do. This agreement here is what we told them that we would do. Member Casey reiterated that this license agreement is what we agreed to when we approved the PRO; nothing has changed since that point in time. City Manager Auger checked with City Planner McBeth, and they said yes. Member Casey said with respect to her colleagues that want to postpone this she does agree that trying to postpone this to try to resolve some of the other issues isn't going to be our best opportunity. We are better off approving this and allowing staff to go through their normal process to double check and confirm some of the things that Council has heard. She mentioned that some of the changes that went through the Planning Commission were an opportunity for us as one of the previous speakers alluded to is that this is a learning process. When a PRO comes before Council and then goes back to Planning Commission and things change, there is an

opportunity for City Administration to come back and let Council know what has changed so that they all have an understanding.

Mayor Pro Tem Staudt asked City Attorney Saarela if there are any violations do we have recourse in those situations for these specific things that have been brought up that evening. Ms. Saarela replied if there are violations with the PRO Agreement we have recourse through Circuit Court through a breach of contract claim, if we have violations for Site Plan violations that would go through District Court. Mayor Pro Tem Staudt asked if that was a normal process if there is a dispute between the City and the developer regarding the PRO then we have deliberation with them and determine whether or not we will take it to the next step. Ms. Saarela said that was correct.

Member Breen wanted to make it clear that she was not disparaging staff when she said that we all need to be more conscientious about some of these decisions. That was not just on staff, she put some of the burden on herself because she reviews these site plans. She looks at what is being requested and what is being done. Given the number of public out cries they have heard lately about the loss of woodlands, a simple comment about we need to be more conscientious is by no means disparaging to a particular group of people. She said she was not asking to deny this license, but to postpone just for one meeting so that we can address some of these concerns to make sure that our residents are not being impacted in a negative fashion. She didn't think it was an absurd request, she thought it made perfect sense. She also appreciated that Member Casey brought up the fact that when a PRO does come to Council and there are changes made after the fact, that Council would receive an update on the changes verses what Council approved. She thought that would help solve a lot of these problems.

**Roll call vote on CM 19-10-177**

**Yeas: Verma, Breen, Mutch**

**Nays: Gatt, Staudt, Casey, Poupard**

**CM 19-10-178**

**Moved by Casey, seconded by Gatt; MOTION CARRIED: 5-2**

**To approve the approval of a license agreement for improvements within the Old Novi Road right-of-way including decorative fences, a detention pond buffer, benches and a commemorative plaque.**

Mayor Gatt said they will get to the bottom of any problems that are going on up there. He said our staff is number one. He said that he and Mr. Auger had met with some developers the other night and their complaint to them was that we are tough. He said they laughed at them because we enjoy that reputation as long as we are reasonable. The fact of the matter is like the attorney said, if there are violations we will get to the bottom of it and we will see them in court. We will make it right. If a tree that was cut down that shouldn't have been cut down then somebody will have to pay for that. We can't make it appear again, but somebody will pay for it. We want the best for the residents; we want the best for the whole City. We do not take this lightly. This

agreement has nothing to do with the problems articulated earlier. Moving forward on this doesn't mean that we are turning our head. We will make it right.

**Roll call vote on CM 19-10-178**

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

**Nays: Breen, Mutch**

**ADJOURNMENT** – There being no further business to come before Council, the meeting was adjourned at 7:45 P.M.

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Cortney Hanson, City Clerk

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Robert J. Gatt, Mayor

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Transcribed by Deborah S. Aubry

Date approved: October 28, 2019