

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, JULY 8, 2013 AT 7:00 P.M.
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

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

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt, Council Members Casey, Fischer, Margolis (absent, excused), Mutch, Wrobel

ALSO PRESENT: Clay Pearson, City Manager
Victor Cardenas, Assistant City Manager
Thomas Schultz, City Attorney

APPROVAL OF AGENDA:

CM-13-07-097 Moved by Wrobel, seconded by Casey; CARRIED UNANIMOUSLY:

To approve the Agenda as presented.

Roll call vote on CM-13-07-097 **Yeas: Staudt, Casey, Fischer, Mutch, Wrobel,
Gatt**
Nays: None

PUBLIC HEARING – None

PRESENTATIONS – None

REPORTS:

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

AUDIENCE COMMENT:

Gary Gaughan, 40551 Villagewood, noted the City is going to place a sign in his front yard. The sign is eight by three feet that will direct people to a nearby pocket park. He feels everyone knows where this park is in the neighborhood and he felt that it was unnecessary to spend money for the sign.

Michael Varana, 40535 Villagewood, stated there were enough signs in their subdivision. He is a neighbor of Mr. Gaughan. He felt it was getting out of hand and should be addressed.

William Eriksson, 40705 Villagewood, has been a Novi resident for near thirty years. He is a member of the Village Oaks Common Association Board of Directors. He is speaking on behalf of his neighbors that live on Villagewood Road. He felt that Novi is very

fortunate to have the Parks and Recreation Director of Novi. He has a lot of good energy for the Community. He has made some changes he approves of. He is happy that there is a park instead of condos at the end of Villagewood Road. The grass is cut regularly, with a walking path, picnic tables, and garbage receptacles. Nearby Brook Farm Park has been improved too. There's a walking path there too. He complimented the Parks Department but didn't think the signage was essential within the subdivision. He thought a sign could be placed on Ten Mile, if it was necessary. He noted the Village Oaks School serves everyone including as a voting location. He felt everyone knows the park is located next to the school. He felt a sign on someone's front lawn wasn't necessary. The sign could go on the island near the park which is public land.

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

CM-13-07-098 Moved by Casey, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 - 1. June 17, 2013 – Regular meeting
- B. Enter Executive Session immediately following the regular meeting of July 8, 2013 in the Council Annex for the purpose of discussing City Manager and City Clerk performance evaluations.
- C. Approval of an agreement with the Sheraton Detroit Novi to host the 2013 Appreciation Dinner, an annual event honoring Boards, Commissions, Committees and Employees for their dedication to Novi, on Friday, December 13, 2013, for the estimated amount of \$14,000.
- D. Approval of an agreement with the Suburban Collection Showplace to host the 2014 State of the City Address & Business Breakfast on Thursday, January 30, 2014 for the estimated amount of \$3,700.
- E. Approval to award an amendment to the engineering services agreement with Spalding DeDecker Associates for construction phase engineering services related to the 2013 Capital Preventative Maintenance Program – Major Roads (for walk on Meadowbrook Road between Nine Mile and Ten Mile Roads), in the amount of \$16,860.
- F. Approval to award an engineering services agreement with Orchard Hiltz & McCliment for design engineering services related to the 2014 Pathway Program and 2014 ADA Compliance Program in the amount of \$29,610.
- G. Approval to award an amendment to the engineering services agreement to URS Corporation for the final design engineering services related to Greenways

Phase 1A (between ITC Community Sports Park and Nine Mile Road) in the amount of \$24,454.

- H. Approval to award an amendment to the engineering services agreement to URS Corporation for additional construction phase engineering services related to Change Order No.1 for the 2013 Neighborhood Road Program—Contract 1 (Concrete) in the amount of \$33,142.
- I. Approval of the Fourth Amendment to the Special Development Option (SDO) Agreement for Cadillac of Novi, located at 41350 Grand River Avenue, north of Grand River Avenue and east of Meadowbrook Road, to authorize an additional sign to indicate the auto service and repair location on the site.
- J. Approval of Resolution to comply with Public Act 152 of 2011 Publicly Funded Health Insurance Contribution Act by adopting the 80/20 cost sharing model set forth in Section 4 of that Act.
- K. Approval of adopting a resolution to rescind the City's October 8, 2013 Liquor License to Grace Sharing Club, LLC (d/b/a Fifth Avenue Club and Restaurant), given the failure of the applicant to take steps to secure occupancy permits and issuance of such license by the Michigan Liquor Control Commission, unless an occupancy permit is secured within 30 days.
- L. Approval to award a construction contract for the Department of Public Services HVAC Improvement Project to R.W. Mead & Sons, Inc., the low bidder, in the amount of \$86,800.
- M. Approval to award a contract to purchase a 2013 Ford Van for the Older Adult Transportation Program through the State of Michigan MiDeal Cooperative Purchasing Program, in the amount of \$52,542 and with a \$2,000 trade in for a total of \$50,542.
- N. Approval of Claims and Accounts – Warrant No. 895

Roll call vote on CM-13-07-098

**Yeas: Casey, Fischer, Mutch, Wrobel, GATT,
Staudt
Nays: None**

MATTERS FOR COUNCIL ACTION:

- 1. Approval of Parks and Recreation Ordinance Text Amendment 13-113.04 an ordinance to amend Chapter 25, "Parks and Recreation" of the City of Novi Code to update language pertaining to the operation of vehicles on lakes, beaches, and watercourses. **FIRST READING**

City Manager Pearson said this item is being brought forward for consideration relative to Pavilion Shore Park making some improvements there. The improvements include pier areas that are not designed for docking of boats for any length of time. We don't have any regulations and this item is intended to preclude that. There is also some parking regulations included.

Member Wrobel appreciated staff acting quickly on this item. It is important to set guidelines on how the Park is to be used and enjoyed by everyone.

CM-13-07-099 Moved by Wrobel, seconded by Mutch; CARRIED UNANIMOUSLY:

To approve Parks and Recreation Ordinance Text Amendment 13-113.04 an ordinance to amend Chapter 25, "Parks and Recreation" of the City of Novi Code to update language pertaining to the operation of vehicles on lakes, beaches, and watercourses. FIRST READING

Member Mutch agreed with Member Wrobel. He questioned the provision of subsection 6, part 2 that talks about restricting anchoring in the water a hundred feet from the Park. He understood Walled Lake ownership was generally owned and we don't own the land in front of the Park. He asked if the City can legally restrict the water usage within one hundred feet in front of the Park. City Attorney Schultz thought the intent of this was to avoid someone getting around the general prohibition of not docking on the pier and hopping on to it. It is the same thing of the shore line. He didn't know if one hundred feet was the right number and it would be up to Council as a policy question. He thought they can enforce a clear zone. If someone were to violate this, they would be warned, and then ticketed; there would be a reasonable basis to argue that they are interfering with the use of our Park property. Member Mutch was concerned because they have had this issue come up in other locations on Walled Lake. He wanted to be comfortable that residents won't think they can request enforcement in front of their homes. Any additional information the City Attorney could provide on that would be helpful before Second Reading. He also questioned how they are going to notify boaters that this restriction is in place. City Attorney Schultz said he assumed they will get enforcement from the agreement with the County Sheriff Marine Patrol. Administratively, he thought Mr. Magnum would have some ideas as to signage of posting notices in appropriate areas around the Park. Member Mutch said it would be information that could be provided before Council votes on the Second Reading.

Member Casey directed a question to the City Attorney. The first section under 25-62 language reads that it is unlawful for any person except City personal engaged in official business to drive a vehicle in excess of fifteen miles per hour and asked what instance would drive that clause other than for an emergency. City Attorney Schultz trusts that employees won't do it unless there is a legitimate emergency. Member Casey wondered if the clause was too premature in that it was more applicable to all of the other subsections.

Roll call vote on CM-13-07-099

**Yeas: Fischer, Mutch, Wrobel, Gatt, Staudt,
Casey
Nays: None**

2. Approval of Zoning Ordinance Text Amendment 18.267 to amend the City of Novi Zoning Ordinance at Article 25, "General Provision", to add Section 2526 "Bicycle Parking Facilities Requirements" to provide bicycle parking requirements and bicycle parking area layout standards. **FIRST READING**

City Manager Pearson said it was a good time to have provisions for new developments to provide some modest bicycle parking. He thought it allows flexibility of options and offsets.

Mayor Gatt supported it except for the private facilities. He felt it was an imposition on business owners. He thinks it is an infringement on their rights. He agreed with the requirement if a business is open to the public.

Member Wrobel said he could support it except for the covered parking for bicycles. It doesn't give much value once the bike is ridden in inclement weather.

Mayor Pro Tem Staudt agrees with the previous speaker regarding covered parking. He thought covered parking would be a decision by the developer as an amenity for their customers. He likes the land-banking provision which allows for a situation where having a bike rack is not applicable. It can be requested to be deferred or completely ignored. He thought there was adequate coverage in those situations. He feels this is a great message for our community. If someone wishes to ride a bike, we will provide a safe haven for their bike. Having a secure area where they can lock their bike is a good idea. He would like to see modifications to the covered bicycle areas before the Second Reading.

Member Mutch thinks this version is reasonable as to the kinds of uses that it applies to. They focused on places where they are needed. He understood the concerns of the covered parking because it raises the potential of additional costs. In looking through the ordinance requirements, the covered parking application is limited. He would like to hear from staff if they are going to modify that section. It would come into play on the majority of projects that would come forward to the City. It would apply to public and private schools, multi-family residents, and shopping centers. He asked staff to see how it would be applied. He cited Novi Public Library as a good example of how bikes are under an overhang. It was part of the building feature. He thought with good design and forethought developers in the City could accomplish the same thing. The overall ordinance, he agreed with what Mayor Pro Tem Staudt had mentioned about the direction we are going with this ordinance. We are seeing more people taking advantage of the improvements we have made in our bike system. He is open to addressing some of the concerns but thought with more information some minor modifications can be made without undoing the intent of the ordinance.

Member Fischer agrees the covered parking issue was an unnecessary business expense. He liked the idea of including it as part of the building. He thinks there are creative ways. He will be very anxious to see what staff comes back with on the covered parking. The more we push people to have stand-alone covered parking, the more he would be inclined not to support it. The packet multiplies the cost by ten or so. He agreed with the Mayor. He asked what guidance would Council or the Planning Commission have to grant a variance to not have a bicycle area outside of the land-banking option. City Attorney Schultz said on page 6 of 8, there is a catch all provision which allows a written request by the applicant who is seeking site plan approval for a waiver for a modification of the layout. They have to provide an alternative and show that it will adequately serve the needs of the public. For most of the buildings, this is part of the ordinance and sounds as though there is an avenue at the Zoning Board of Appeals on giving a non-use variance. Member Fischer said it is a provision that concerns him. He doesn't see where there will be that many employees going to a business office on a bike with a suit on. He wanted more information before the Second Reading on the different ways that waivers and variances could be granted to certain businesses. The land-banking provision is excellent. It is another alternative that the City can exercise. He can support the First Reading and thinks it is great the City is going in this direction.

Member Casey thanked staff for putting this ordinance together. She thinks it will help meet the needs of many of the residents who bike. She will await feedback on the covered parking and further insight on the section 6 referenced by the City Attorney.

Mayor Pro Tem Staudt asked about the land-banking versus the Zoning Board of Appeals (ZBA). He asked where the land-banking decision would be made. City Attorney Schultz said the decision would be made by the Planning Commission, but would still require at least two spots. It would not be a complete deferral and they would still have to provide something. Mayor Pro Tem Staudt clarified that the other method would force them to go to the Zoning Board of Appeals. Personally, to approve this, he would like to see a little more latitude at the Planning Commission. He doesn't want to send someone to the Zoning Board of Appeals on this kind of an issue. This could be hashed out at the Planning Commission level much easier with a friendlier environment. He would like more thought on the decision if a business needs this requirement before the Second Reading.

Member Mutch asked Mayor Pro Tem Staudt his thought on the land-banking provision to allow a waiver or complete deferral up to a point to where it may be triggered. Was he looking for flexibility in deferral provision or for an additional provision with it? Mayor Pro Tem Staudt said he would like, at the Planning Commission level, a complete deferral. He really thinks the developers will see this as an amenity that is something that we want done. He didn't think it will be a big issue.

Member Mutch said he didn't have a problem with Mayor Pro Tem Staudt's suggestion if that was the kind of flexibility that Council members are looking for. He would be comfortable if the latitude was increased with a complete deferral.

CM-13-07-100 Moved by Wrobel, seconded by Casey; CARRIED UNANIMOUSLY:

To approve Zoning Ordinance Text Amendment 18.267 to amend the City of Novi Zoning Ordinance at Article 25, "General Provision", to add Section 2526 "Bicycle Parking Facilities Requirements" to provide bicycle parking requirements and bicycle parking area layout standards. FIRST READING

Mayor Gatt said that based on some of the comments, he now supports this First Reading but with changes to be proposed, such as, a Planning Commission waiver.

**Roll call vote on CM-13-07-100 Yeas: Mutch, Wrobel, Gatt, Staudt, Casey, Fischer
Nays: None**

3. Approval of Change Order No. 1 to G.V. Cement Contracting Co. for the 2013 Neighborhood Road Program—Contract 1 (Concrete) in the amount of \$249,542.

City Manager Pearson explained that it is a contract extension with G.V. who competitively won a prior bid. This is adding to the inventory of road work we are going to accomplish.

CM-13-07-101 Moved by Staudt, seconded by Casey; CARRIED UNANIMOUSLY:

To approve Change Order No. 1 to G.V. Cement Contracting Co. for the 2013 Neighborhood Road Program—Contract 1 (Concrete) in the amount of \$249,542.

**Roll call vote on CM-13-07-101 Yeas: Wrobel, Gatt, Staudt, Casey, Fischer, Mutch
Nays: None**

4. Approval to award a construction contract for the 2013 Capital Preventative Maintenance Program – Major Roads (for work on Meadowbrook Road between Nine Mile and Ten Mile Roads) to Hard Rock Concrete, Inc., the low bidder, in the amount of \$121,000.

CM-13-07-102 Moved by Fischer, seconded by Staudt; CARRIED UNANIMOUSLY:

To approve a construction contract for the 2013 Capital Preventative Maintenance Program – Major Roads (for work on Meadowbrook Road between Nine Mile and Ten Mile Roads) to

Hard Rock Concrete, Inc., the low bidder, in the amount of \$121,000.

Roll call vote on CM-13-07-102

Yeas: Gatt, Staudt, Casey, Fischer, Mutch, Wrobel

Nays: None

5. Approval of the request of Ten & Beck LLC for Valencia Estates for approval of the revised Planned Rezoning Overlay Agreement associated with Rezoning 18.701, a request to rezone from R-1, One Family Residential to R-3, One Family Residential with a Planned Rezoning Overlay (PRO). The subject property is 24.24 acres and is located at the northwest corner of Beck Road and Ten Mile Road. The project consists of the development of 38 single-family homes. The applicant seeks to revise the PRO Agreement to include a deviation from the Design and Construction Standards related to the minimum depth of cover for the storm sewers.

City Manager Pearson said upon the positive recommendation of staff and the Planning Commission Council had approved this PRO. It is a residential development. As the applicant got into their engineering plan, they found they had to make modifications of what they originally had planned to do with the storm water. They were not able to use some of the other facilities. This is a pro-forma change to what had been approved in terms of how they handle the storm water.

Member Mutch confirmed with Mr. Hayes, Director of Public Services that the change is to allow them to put the pipes in at one foot below grade level instead of the three feet required by the City. He asked where the variance was located on the property. Mr. Hayes said it was primarily on the North end of the site in a commons area towards Beck Road and won't be located on any residential lots. Their initial concern with it being so shallow, should it freeze with a backup, the flow would be overland and wouldn't cause any problems to any of the adjacent homeowners. Member Mutch also asked what area it was serving. Mr. Hayes said there will be a portion of the flow to the north, as well as, the contributing area from the north area of the other development. Member Mutch asked if he had any concerns with it not being based on our current standards and, over long-term, whether there would be any issues with backups from pipes freezing or backups up stream of this. Mr. Hayes said they reviewed the calculations and it appears that normal sheet flow or overland flow would be sufficient based on the grades to prevent that from happening.

CM-13-07-103

Moved by Mutch, seconded by Casey; CARRIED UNANIMOUSLY:

To approve the request of Ten & Beck LLC for Valencia Estates for approval of the revised Planned Rezoning Overlay Agreement associated with Rezoning 18.701, a request to rezone from R-1, One Family Residential to R-3, One Family Residential with a Planned

Rezoning Overlay (PRO). The subject property is 24.24 acres and is located at the northwest corner of Beck Road and Ten Mile Road. The project consists of the development of 38 single-family homes. The applicant seeks to revise the PRO Agreement to include a deviation from the Design and Construction Standards related to the minimum depth of cover for the storm sewers.

Roll call vote on CM-13-07-103

**Yeas: Staudt, Casey, Fischer, Mutch, Wrobel,
Gatt
Nays: None**

AUDIENCE COMMENT – None

COMMITTEE REPORTS – None

MAYOR AND COUNCIL ISSUES – None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION - None

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

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Jane Keller

Date approved: July 22, 2013