

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, SEPTEMBER 11, 2023 AT 7:00 P.M.**

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, Crawford, Fischer, Smith, Thomas

ALSO PRESENT: Victor Cardenas, City Manager
Thomas Schultz, City Attorney

APPROVAL OF AGENDA:

CM 23-09-112 Moved by Crawford, seconded by Fischer; CARRIED UNANIMOUSLY

To approve the Agenda as presented.

Roll call vote on CM 23-09-112	Yeas: Staudt, Casey, Crawford, Fischer, Smith, Thomas, Gatt Nays: None
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PUBLIC HEARINGS: None

PRESENTATIONS: None

MANAGER/STAFF REPORT: None

ATTORNEY REPORT: None

AUDIENCE COMMENTS:

Sevag Vartanian said he lives in Island Lake. He commented on a trend he has seen lately at some various high schools around the state where he and his wife go to watch a soccer game and they go to pay their admission fee and they are not accepting cash. He wanted to point out that this is unlawful and any entity that does not accept the US Dollar for payment is violating the law. He said if this is taking place in Novi, it needs to end, and you know permits not be given to those types of entities to conduct their business or sporting events or whatever this is. He thought this is a real problem trying to force everyone into or gently move everyone toward a cashless society. He did not know if it was going on here in Novi or not, but he wanted to make everyone aware that it is illegal not to accept the US dollar as payment for any debt public or private. It is written right on there.

CONSENT AGENDA REMOVALS AND APPROVALS:

Member Thomas removed Consent Agenda Item B for further discussion.

CM 23-09-113 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY

To approve the Consent Agenda as amended.

- A. Approve Minutes of:
August 28, 2023 - Regular Meeting
- B. Consideration of Recommendation from Council Rules Committee to amend Council Organization and Order of Business. **REMOVED/LATER APPROVED**
- C. Approval to purchase twelve (12) sets of protective turnout gear for the Novi Fire Department from Phoenix Safety Outfitters, an authorized dealer for LION, who holds the National Purchasing Partners (NPP) cooperative purchase agreement for \$42,446.64.
- D. Consideration of approval to purchase (2) 2023 BMW R 1250 RT-P Motorcycles for the Novi Police Department through BMW Motorcycles of SE Michigan as a sole source provider in the amount of \$61,119.20.
- E. Approval of a Resolution to Amend Community Development Department Review and Permitting Fees per attached schedule effective for permits invoiced 30 days from date of approval.
- F. Enter Executive Session immediately following the regular meeting of September 11, 2023, in the Council Annex for confidential written communication from legal counsel and settlement related to Novi v Malles, Labor Negotiations, and discussing the City Clerk's performance evaluation.
- G. Approval of claims and warrants – Warrant 1139

Roll call vote on CM 23-09-113

**Yeas: Casey, Crawford, Fischer, Smith, Thomas,
Gatt, Staudt**

Nays: None

MATTERS FOR COUNCIL ACTION:

1. **Consideration of approval of Change Order No. 6 to Springline Excavating LLC for construction of walking trails and play structure clearing and grading at Northwest Park in the amount of \$240,341.**

CM 23-09-114

Moved by Smith, seconded by Casey: CARRIE UNANIMOUSLY

Approval of Change Order No. 6 to Springline Excavating LLC for construction of walking trails and play structure clearing and grading at Northwest Park in the amount of \$240,341.

Roll call vote on CM 23-09-114

**Yeas: Crawford, Fischer, Smith, Thomas, Gatt,
Staudt, Casey**

Nays: None

- 2. Consideration of approval of the final payment to D & D Water & Sewer, Inc. for the Hilton Sanitary Sewer Force Main Replacement project, in the amount of \$176,191.25, plus interest earned on retainage.**

CM 23-09-115 Moved by Crawford, seconded by Casey; CARRIED UNANIMOUSLY

Approval of the final payment to D & D Water & Sewer, Inc., for the Hilton Sanitary Sewer Force Main Replacement project, in the amount of \$176,191.25, plus interest earned on retainage.

Roll call vote on CM 23-09-115

**Yeas: Fischer, Smith, Thomas, Gatt, Staudt,
Casey, Crawford**

Nays: None

- 3. Consideration of approval to award the construction contract to M-K Construction Co., Inc., the sole bidder, for the Middle Rouge Streambank Stabilization and Meadowbrook Lake Dredging project, in the amount of \$1,999,454.13.**

City Manager Cardenas explained this is a very important project because Meadowbrook Lake is part of one of the older subdivisions. He said the project is coming under budget and our Engineering staff and DPW team will be monitoring to make sure it gets done correctly. He said right now, all signs are pointing in a good direction, and we are looking forward to getting this done.

Member Fischer asked Mr. Cardenas if he had any information on why we only had one bidder. He wondered how many showed any interest. He asked for a little context there from your staff. Mr. Cardenas said DPW Director Herczeg was in the room, but he noted that we reached out to our normal contractors looking for some additional bidders, unfortunately, everyone else was already tied up. He said they made sure and vetted this bidder extensively, to check all the references checked with our engineers. He said all signs are pointing in the right direction, we are confident with what we are proposing to Council at this time. Member Fischer noted that between staff and the consulting firm, he assumed that we are comfortable with the cost, and it has not driven up because there is only one bidder.

CM 23-09-116 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY

Approval to award the construction contract to M-K Construction Co., Inc., the sole bidder, for the Middle Rouge Streambank Stabilization and Meadowbrook Lake Dredging project, in the amount of \$1,999,454.13.

Roll call vote on CM 23-09-116

**Yeas: Smith, Thomas, Gatt, Staudt, Casey,
Crawford, Fischer**

Nays: None

- 4. Consideration of approval of the final payment to L. D'Agostini & Sons, Inc. for the West Oaks Lift Station Abandonment and I-96 Sanitary Sewer Crossing project, in the amount of \$148,396.62, plus interest earned on retainage.**

CM 23-09-117 Moved by Casey, seconded by Thomas; CARRIED UNANIMOUSLY

Approval of the final payment to L. D'Agostini & Sons, Inc., for the West Oaks Lift Station Abandonment and I-96 Sanitary Sewer Crossing project, in the amount of \$148,396.62, plus interest earned on retainage.

Roll call vote on CM 23-09-117

**Yeas: Thomas, Gatt, Staudt, Casey, Crawford,
Fischer, Smith**

Nays: None

- 5. Consideration to approve Purchase Agreement for four vacant properties on Eleven Mile Road, adjacent to Lee BeGole Drive, approximately 14.70 acres total, Parcel I.D. Nos. 22-14-451-012 and -013, and 22-14-451-015 and -017, for \$3,500,000, and to amend the budget accordingly.**

City Manager Cardenas said this has been part of the Public Safety Building Needs Committee, we have identified some different parcels around the city for a potential new location for a Fire Station No. 1 and Public Safety Headquarters, this is a potential location for that facility. He stated it is right across from our DPW yard with respect to our fuel island being there, and our maintenance garage. He said we have talked about this in the past with the City Council and believe this is a good opportunity, and it also helps us connect Crescent Boulevard and Lee Begole Drive. He said this is something that kills two birds with one stone with respect to needs for building and for a movability for our roadways and that motorized abilities as well in that area of town.

Mayor Gatt said he was going to say he fully supported this endeavor. He said it is something that is sorely needed for our residents, for our business owner, for our visitors. He said the Novi Police Department, the building is antiquated, no longer fits the need of the community, it no longer fits the need of the Police Department. He stated the new building, if it ever comes to fruition, this location is a perfect spot for it, it is right across the street from other city facilities, it is easy to get to , it is also part of this building will be Fire Station No. 1 and it will have a clearer path to either Grand River or around the new ring road to Novi Road which will better serve our citizens, our residents. He said it is something that is not easy to find, as far as you do not get a location for a building such as this. He thought this was a perfect spot and a perfect piece of property in his opinion. He said he would fully support the purchase.

Mayor Pro Tem Staudt asked DPW Director Herczeg to step down to the podium for questions. He said several years ago, you came to the City Council, and you asked for the Crescent Boulevard extension to be built, and at that point, we were not able to do it. He asked if he could give us a little bit of an overview of what the value is, and why you proposed that then and why it is a good deal now. Mr. Herczeg explained the connection to the proximity of I-96 and Novi Road, through the Rin Road, the connection to the Ring Road versus the Town Center connection, which runs adjacent to the Walmart, development in the back three, provides a better mobility from the east side from Meadowbrook towards the west. He noted it also provides DPW an alternate route out of their facility, their facility currently dead ends at the end of Lee Begole Drive. He said we did have a power pole a few years ago fall and eliminated access from them to get out to serve the public. He stated that was one of the reasons that was redundant connection for us, and then future development. He believed we also some time ago, long before he came on, there was some conversation about an additional connection to Grand River, south from 11 mile. Mayor Pro Tem Staudt said he remembered at the time we discussed this, that acquisition of that property was a bit of a little bit of trouble. He said this resolved that issue, does it not. Mr. Herczeg replied that it does, we were trying to get the right-of-way at that time, it was not working out, but this purchase will resolve all our problems.

Mayor Pro Tem Staudt asked if he saw any potential use across the street from the DPW for this property if, you know we use a portion of it for Public Safety. He asked if there are other things that he thought are a value to that property that could be used for the DPW. Mr. Herczeg said yes, our campus is a little tight we were always looking for more storage. He said the recycling facility is in a weird spot on our grounds, it would be nice to reconfigure that. He said they have areas for our spoils, for projects that are either happening, that we are contracting out, our own projects we are in, we really do not have a lot of room for that. He thought any expansion, any additional property if there is some leftover, but beyond the Public Safety Facility would be a win for them as well. Mayor Pro Tem Staudt said great, thank you very much. He said he would support this for several reasons. One is the potential of moving the Police Station and/or Fire Station No. 1 to that facility. Secondly, it provides us with a lot of additional space that could be used for other purposes. Third, it allows us to do the additional Ring Road there. He said this isn't solely for the purpose of building a Public Safety Facility, because that is probably going to be an issue that is going to be up to the voters. He said at some point, it is going to be a multi- million-dollar facility, but land is extremely difficult to acquire. He said this land being across the street from our DPW yard makes it extremely valuable. He said he would support this.

Member Thomas agreed that the completion of the road is important and one of the sections of the property will allow that to continue. She stated as far as the ability to put a Public Safety Facility there, she thought was problematic. She did not know that we had necessarily done all the necessary homework to determine that is the appropriate place to put Public Safety, and you cannot travel north, there are no homes there, it takes the police out of the community. She did not know if we had other tracts of land to put it on. She liked the idea, but she was not in line with the idea that this is the perfect

spot to be able to put that facility. She said she would like to see more homework done. She said obviously, we are not making those decisions now, this is just to purchase the land. She did not know if there are any bad land purchases in our community, the prices do tend to go up, we do need that section of land. She commented that being the perfect spot for Public Safety, she disagreed for many reasons. She thought taking the police out of the community, you cannot travel north there are a lot of small roads that you have to navigate to be able to get to any main roads to be able to service our community. She said there are no homes nearby, you would be there to service until a development coming in that will have some housing down the road, but she disagreed at this point. She believed that there was more homework to be done to say that this is a perfect place for a public service facility.

Member Fischer asked City Manager Cardenas if there was any interest shown by the seller of the property to just sell us the north portion for the road. Mr. Cardenas said that the conversation took place a long time ago in terms of inquiring about a right-of-way for that, and that was quickly shot down. He said there have been times in the past where we have expressed interest in trying to approach and we did not get anywhere with that. Member Fischer agreed that this piece of property provides us with a lot of different flexibility, whether it be DPW, as you mentioned, hopefully some sort of Public Safety building, again, probably up to the voters eventually because of the cost of something like that. He said for the ring road purposes, for the economic development that will continue by completing that road, as well as the traffic considerations. He thought there is just so much opportunity in purchasing this. He said correct him if he was wrong, City Attorney Schultz, if everything falls apart, and we want to sell this, we are just like any other entity, we can put it on the market and sell it, hopefully at cost or a profit or whatever else. He said there are no restrictions from the City selling a piece of property. Mr. Schultz replied, no.

CM 23-09-118 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY

Approval of Purchase Agreement for four vacant properties on Eleven Mile Road, adjacent to Lee BeGole Drive, approximately 14.70 acres total, Parcel I.D. Nos. 22-14-451-012 and -013, and 22-14-451-015 and -017, for \$3,500,000, and to amend the budget accordingly.

City Attorney Schultz said his apologies for these, one is just to confirm that the version of the agreement you are approving is the one he sent this afternoon which had some slightly different terms about earnest deposit and some other things. He said if we could just have the language that the final form to be approved by the City Manager and City Attorney's office and we are directed to take such actions to close.

AMENDED

CM 23-09-118 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY

Approval of Purchase Agreement stating the earnest deposit of

\$100,000 for four vacant properties on Eleven Mile Road, adjacent to Lee BeGole Drive, approximately 14.70 acres total, Parcel I.D. Nos. 22-14-451-012 and -013, and 22-14-451-015 and -017, for \$3,500,000, subject to review by the City Manager and City Attorney's office as to the final form and to amend the budget accordingly.

Roll call vote on CM 23-09-118

Yeas: Gatt, Staudt, Casey, Crawford, Fischer, Smith, Thomas

Nays: None

- 6. Consideration of approval of the Purchase Agreement for two vacant properties on Novi Road, north of 12 Mile Road, approximately 2.54 acres and 0.28 acres in area, respectively, Parcel I.D. Nos. 22-11-107-002 and 22-11-127-015, for \$135,000 plus closing and other related costs, to amend the budget accordingly, and to direct the City Manager and City Attorney to take such action as is required to close on such purchase.**

City Manager Cardenas stated the property is on the west side of Novi Road between Old Novi Road and 13 Mile Road. It has been a cause of consternation by the neighbors in years past and there has been quite a lot of clamoring for us to just lock it up and make it a preservation for woodland and wetlands, so that is why we discussed it previously. He said the price was right and that is why we are recommending it for the City Council's final approval.

Member Fischer thanked City staff for their efforts in bringing some of these forwards, between some properties on Beck Road and over on Meadowbrook Road he thought in the past year or two we have up to 15 or 16 acres of green space woodlands and wetlands that we have gone ahead and preserved. He liked what City Council was doing here with the strategic nature of it. He said oftentimes, these parcels as the City Manager mentioned previously could cause consternation, they are kind of right in the backyard of some established homes. He thought it was incumbent to mention that this Council and City staff are making such an effort to preserve these using the funds that we have in a strategic manner. He said that he was happy to make a motion to approve.

Mayor Pro Tem Staudt had one quick question, he wondered if the money if coming from the Tree Fund. Mr. Cardenas said yes, it is. Mayor Pro Tem Staudt said it was a perfect use of Tree Fund.

CM 23-09-119

Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY

Approval of Purchase Agreement for two vacant properties on Novi Road, north of 12 Mile Road, approximately 2.54 acres and 0.28 acres in area, respectively, Parcel I.D. Nos. 22-11-107-002 and 22-11-127-015, for \$135,000 plus closing and other related costs, to amend the budget accordingly, and to direct the City Manager and City Attorney to take such action as is required to close on such

purchase.

Roll call vote on CM 23-09-119

**Yeas: Staudt, Casey, Crawford, Fischer, Smith,
Thomas, Gatt
Nays: None**

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION:

Member Thomas said she removed Consent Agenda Item B for a couple of reasons. One, when she received the packet, she was not sure what the changes were, there was not a redline version, she did not have that available. She said she knew yesterday; it was sent out. She could not view that on her tablet. She stated Mr. Cardenas showed it to her just moments before the meeting, she would have preferred to have more time to be able to view the redline version. She said that we have an election coming in less than two months, so to change the Council Organization and Order of Business, she thought is seemed more appropriate to be left for whomever is elected in the new election to determine any changes that they want to make to the rules. She said she would not support this at this time.

Member Fischer asked City Attorney Schultz if these rules can be amended at any time. He thought the new City Council could amend it at their first meeting. Mr. Schultz said yes, relatively quickly, yes, they could do it at their next meeting.

Mayor Pro Tem Staudt said he sits on the Rules Committee and they have been talking about these rules for several months, probably going back to June or sooner than that. He said if some future Council wants to review the rules and go through the same extended and intense process that they went through, they are more than welcome to change whatever they want. He said we did not change anything.

B. Consideration of Recommendation from Council Rules Committee to amend Council Organization and Order of Business.

CM 23-09-120 Moved by Staudt, seconded by Gatt; MOTION CARRIED: 5-2

To approve of Recommendation from Council Rules Committee to amend Council Organization and Order of Business.

Member Crawford said he also sat on the Rules Committee, and he commented who better to know on what type of rules and what ought to be changed and people that have been on Council already for four years rather than somebody just coming in.

Member Smith said he would not be supporting this. He said his main problem with it is the blanket denial of any sort of proclamation. He said this came up during the June meeting with Wear Orange, he would like to see a process where the Council has a little time to review things that the residents are interested in bringing to us. He did not think we should be blanket denying their ability to ask us for those. Thank you.

Member Casey had a couple of things she wanted to touch on. She stated unfortunately, we did get our redline version a little late and when she looked at the memo for what was changed, there is a mention of the topic of presentations as has been previously talked about. She said there is also mention of some changes in consistency and wording of how members of various Boards and Commissions are appointed, but there were no red lines. She said the only red line is in the section that relates to proclamations. She was seeking to understand what other copy changes might have been made.

City Attorney Schultz explained that there are a handful of places, he thought three or four where there were different phrases used for an appointment by the mayor with approval of Council. He thought there was an attempt to sometimes take the language out of the resolution or out of the state statute. He said a comment was made at the Rules Committee, it is all the same things. He said it is confusing to see different ways of having that stated, so it really has been changed in each of those locations, to just the simplest way to say, appointment by the mayor with approval of Council. He said it is not a substantive change. He said it is literally changing the words, they mean the same thing. Member Casey thanked Mr. Schultz for that clarification.

Member Casey as it relates to the language that is the presentation section, what is the intent of making the changes to letter F, she did not know who was best to answer her questions. She stated it said letter F is that we are not going to be doing any proclamations as the city of any kind, she was seeking to understand a little more about why this is now a change that is in front of them. Mr. Schultz said there were a handful of occasions where proclamations were made or presentations made by folks who we, as a city did not have a full understanding of who they were, what they stood for, it sounded good, so they made their way onto the agenda. He said they had the conversation with Council and he believed they wrote a confidential letter on it, he believed is that the picking and choosing who you want to put in front of you not only can be difficult to do in a informed way, but opens you up a little bit to concerns about why, why we are picking and choosing who gets to go on there. He said the language was written, basically to get the Council out of the proclamation and third-party presentation business, which is not that unusual in other communities. He said they left a little bit of leeway at the end of the language, you can see that if there is something that seems like the right thing to do, but otherwise, it would be presentations literally, by the City staff and your consultants and things like that. He stated otherwise people have all the time that they are allowed to in the two-audience participation provision where they can ask for what they would like. Member Casey thanked Mr. Schultz for that explanation.

Member Casey was glad this was pulled so that we could talk about what the changes are because there are members of our Rules Committee who are well versed, but this was the first time that the City Council had a chance to see what was being proposed. She was glad we had the chance to talk about it and to understand what the changes are. She struggled a bit because she regretted that we are not leaving the door open for proclamations that the city normally does for its own activities if she was interpreting this correctly, such as Arbor Day, National Library Weeks, she could rattle off a couple more

that are not coming to her mind. She regretted an opportunity that we are shutting the door on. She understood that this had been something that had been hanging out there and has been requested. She said getting the guidance from Council has been requested to, you know, have a position on proclamations, she was going to reluctantly approve it that evening. She said understanding also, as was brought up at the table earlier, that there will be a new Council in a couple of months and three meetings and maybe that this solves a challenge now by putting this proclamation ban or let her say that differently, by us not enabling proclamations to be presented at City Council meetings. She thought perhaps it give the opportunity for future to look at how there might be a way for us to do it for city specific proclamations to support the request to have such a thing and she looked forward to hopefully the future Council looking with the City Attorney and through the Rules Committee, seeing if there is a way to open the door back up for city proclamations.

Member Fischer said he would be supporting the rules that evening. He thought sometimes we et a little caught up here in our own rules and what a proclamation means and whatnot. He encouraged the City Manager and City staff to continue to find ways to celebrate Arbor Day, he thought we can do that, we have a wonderful event of planting trees. He said we have a lot of different events in the city, and we celebrate them and just a piece of paper from the Mayor or a piece of paper from the Council did not make or break that event. He thought it more so opens us up as the City Attorney said to some of the situations that we encountered when some of these were not vetted. He said he will go ahead and prove this for that reason. He thought we could move forward celebrating these fun events without having the Council's blessing on a piece of paper.

Mayor Gatt said he would put his comments on the record. He said he was on the Rules Committee also. He said as the mayor, he was getting an average of about five requests a meeting for proclamations, from this organization, that organization from the west, from the east, from the south, from the north, from all different kinds of political endeavors. He stated that is not what we do up here. He said we should not take a political position on anything other than our roads, sewers, and public safety, and the things that we deal with here. He said the Rules Committee decided that it would be much better and after discussion with our City Attorney who is learned and certainly represents many other different municipalities, he learned that many cities are doing exactly what hopefully we will vote to do today, and maybe a new Council will continue. He said that is to get out of the business of doing proclamations, it means mothering anyway, it just gets some people angry, as we saw, when we failed to do a proclamation for some genocide. He said that is something that we should not be discussing up here in his humble opinion. He said all committees meet, they make recommendations, and that is what it was tonight, a recommendation on the Agenda, nothing was trying to be passed by without anybody's discussion. He said everybody got this Agenda the same time he did, and they had every opportunity to call the City Manager or City Attorney or whoever they wanted to call to clarify matters. He did not understand that part of it. He said that was the intent of getting out of the proclamation business, getting out of the political business is probably a more appropriate way of putting it, we should not be doing political

proclamations. He said as far as Arbor Day and things that the city does, the City Manager can talk about that on a whim, and certainly a member of the staff can do the same. He said we are certainly not going to stop celebrating our city and the things that we do here that we have been doing here and will continue to do here. He commented that hopefully we are going to do is get out of the political business.

Roll call vote on CM 23-09-120

Yeas: Casey, Crawford, Fischer, Gatt, Staudt
Nays: Smith, Thomas

AUDIENCE COMMENT: None

COMMITTEE REPORTS: None

MAYOR AND COUNCIL ISSUES: None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 7:33 P.M.

Cortney Hanson, City Clerk

Robert J. Gatt, Mayor

Transcribed by Deborah S. Aubry

Date approved: September 25, 2023