



CITY of NOVI CITY COUNCIL

**Agenda Item C
December 3, 2007**

SUBJECT: Approval of Resolution directing, on behalf of the City, that Absentee Voter Ballot Applications for the January presidential primary be mailed to those voters who would have received such applications under prior City practice for previous elections.

SUBMITTING DEPARTMENT: City Clerk

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The City of Novi has automatically mailed *Absentee Voter Ballot Applications* for more than 10 years to Novi voters who are on the Permanent Absent Voter List. With the implementation of Election Consolidation laws In 2005, these Absentee Voter Ballot Applications were also mailed to all registered voters that were 60 years of age or older and this practice has continued for at least eight elections. We are aware that Novi voters have come to rely on this service as they will often contact us if an application has been delayed by the mail service.

However, in 2006, the Detroit City Clerk was enjoined from mailing unsolicited absentee ballot applications to Detroit voters because the applications were mailed with a cover letter that was signed by the elected City Clerk. Also there were other factors that exacerbated the potential for undue influence in the Detroit case. As a result of this court case, the Director of Elections has indicated that City Clerks may not any longer mail Absent Voter Ballot Applications to anyone who does not specifically ask for one (the permanent list may be kept, however).

The current practice of mailing the *Absentee Voter Ballot Applications* and Ballots to those over 60 (as well as those on its permanent list) has saved the City money by use of the Official Election Logo that allows for Bulk Mail rates with First class mail service. If the City of Novi discontinues our current practice, then each request would generate individual pieces of mail that would eliminate the bulk mail savings which could amount to nearly \$10,000 in postage for November 2008 Presidential election.

A great number of applications are returned early allowing us to process the applications and prepare to mail the absentee ballots, also using bulk mail rates. The financial benefit would be severely reduced. The City Clerk staff would experience a dramatic increase in phone calls and personal contacts with voters requesting individual Absentee voter Ballot applications requiring significant overtime and/or additional part-time staffing to process the anticipated 5,000-7,000 individual contacts.

The City Attorney's has given a confidential opinion that addresses the City Council's authority, separate and apart from the City Clerk's office, to direct that the applications be mailed.

RECOMMENDED ACTION: Approval of Resolution directing, on behalf of the City, that Absentee Voter Ballot Applications for the January presidential primary be mailed to those voters who would have received such applications under prior City practice for previous elections.

| | 1 | 2 | Y | N |
|-------------------------|---|---|---|---|
| Mayor Landry | | | | |
| Mayor Pro Tem Capello | | | | |
| Council Member Crawford | | | | |
| Council Member Gatt | | | | |

| | 1 | 2 | Y | N |
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| Council Member Margolis | | | | |
| Council Member Mutch | | | | |
| Council Member Staudt | | | | |

CITY OF NOVI
COUNTY OF OAKLAND, MICHIGAN

**RESOLUTION REGARDING DISTRIBUTION OF ABSENT
VOTER BALLOT APPLICATIONS IN A MANNER CONSISTENT
WITH PRIOR PRACTICE**

Minutes of a regular meeting of the City Council of the City of Novi, County of Oakland, State of Michigan, held in the City Hall in said City on the ____ day of _____, 2007, at 7:00 o'clock p.m., prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____ and supported by Councilmember _____.

WHEREAS, the Michigan Court of Appeals recently issued an opinion (October 25, 2007) in a case involving an injunction issued by the Wayne County Circuit Court stating that the then Detroit City Clerk, Jackie Currie—an elected official and a candidate for re-election—had improperly mass-mailed absentee voter ballot applications to voters on the so-called “permanent absentee ballot voter list,” made up generally of voters 60 years and older; and

WHEREAS, the Court of Appeals decision purports to state that municipal clerks are not authorized to mail “unsolicited” absentee voter ballot applications based upon the language of MCL 168.759(5), which states that “the clerk of the city, township, or village shall have absent

voter ballot application forms available in the office of the clerk at all times and shall furnish an absent voter ballot application form to anyone upon verbal or written request”; and

WHEREAS, the dissenting judge in the *Currie* case noted reasonably that the requirement that the clerk shall furnish forms upon verbal or written request was not the same thing as a prohibition on furnishing such applications without request; and

WHEREAS, under the same election law cited in the Court of Appeals’ opinion any individual can send unsolicited absent voter ballot applications to voters within the City of Novi; and

WHEREAS, the City of Novi City Council has wide-ranging authority under the Home Rule Cities Act, MCL 117.4, *et seq*, that is to be liberally construed in its favor; and

WHEREAS, the Novi City Council recognizes that the City Clerk’s office has maintained a permanent absentee voter list (voters 60 years of age and older) for many, many years and has—consistent with the idea of encouraging broad public participation in elections and enhanced voter access—sent absent voter ballot application forms to individuals on that list as well as to others (e.g., those who had previously requested applications); and

WHEREAS, Novi voters have become accustomed to receiving ballot application forms from the City Clerk’s office; and

WHEREAS, the same concerns set forth in the Court of Appeals’ opinion regarding the Clerk’s office as an *elected office* is not present in this case; and

WHEREAS, the failure of the Clerk to send absent voter applications to those voters who traditionally receive them may have an impact on the operation of the City Clerk’s office with regard to increased staff time to address requests made during the work day and increased costs for individual mailings, that were not contemplated within the Court of Appeals decision.

NOW, THEREFORE, BE IT RESOLVED THAT the Novi City Council pursuant to statutory and charter authority directs that absent voter ballot applications be mailed on behalf of the City for the election scheduled to occur on January 15, 2008 to voters on the City's permanent absentee voter list and others to whom the City Clerk would have mailed such applications before the issuance of the above-referenced Court of Appeals' opinion.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

MARYANNE CORNELIUS, CITY CLERK

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this ____ day of _____, 2007, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

MARYANNE CORNELIUS, CITY CLERK