

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, MAY 6, 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:

Mayor Gatt added under the Mayor and Council Issues: Firefighter Air Packs

CM 19-05-068 Moved by Casey, seconded by Poupard; CARRIED UNANIMOUSLY

To approve the Agenda as amended.

Roll call vote on CM 19-05-068 **Yeas: Staudt, Breen, Casey, Mutch, Poupard,
Verma, Gatt**
Nays: None

PUBLIC HEARING:

Recommended Annual Budget and Financial Plan 2019-2020

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

PRESENTATIONS:

1. Proclamation recognizing May as Building Safety Month – Larry Butler, Community Development Deputy Director and Jeff Johnson, Director of Emergency Medical Services/Fire Operations

EMS/Fire Director Jeff Johnson had a yard stick and said he is giving them out at the Spring Palooza. He said you can test smoke alarm or your carbon monoxide detectors with it. On one side of the yard stick is says "If you see something, say something" and the other side says "Test your smoke alarm every month with a yard stick". They also have the 50th Anniversary logo as well. He said the Spring Palooza is Friday, May 17, 2019. He mentioned they have a great partnership between fire and building. Community Development Deputy Director, Larry Butler said they will continue pushing safety.

2. Proclamation in recognition of National Police Week, May 12 – 18, 2019 and Peace Officers' Memorial Day, May 15, 2019 – David Molloy, Director of Public Safety/Chief of Police

Director of Public Safety, Chief Molloy thanked Mayor and Council for the recognition. On behalf of all of the men and women of the department we appreciate your support.

3. Proclamation in recognition of Public Works Week, May 19-25, 2019 – Jeff Herczeg, Director of Public Works

DPW Director, Jeff Herczeg said Council this time last year approved the construction of the new DPW facility which was much needed. They have been working without a facility for about a year. He said his staff still brings exceptional services to the City. They are looking forward to moving into the new facility. Thank you.

4. Proclamation in recognition of National Letter Carriers' Food Drive Day, May 11th – Sherri McIntosh

Ms. McIntosh thanked the Mayor and Council for continuous support. She said the food goes to the food pantries at St. James Catholic Church and Faith Community Church here in Novi. As carriers, they look forward to this day every year and she specially thanked the residents of Novi for their extreme generosity.

5. Novi Parks Foundation – David Landry, President

Mayor Landry, Novi Parks Foundation President spoke on behalf of Novi Parks Foundation. First of all he wanted to speak about Agenda Item No. 1 regarding the donation from the Novi Parks Foundation to assist with the Tim Pope Play Structure located at ITC Community Sports Park and to also assist with the future installation of four pickle ball courts and fencing at Wildlife Woods Park. He also gave a summary of activities of the Novi Parks Foundation for the last 18 months. He stated that Item No. 1 is their recommendation to approve their \$250,000 donation towards the replacement of the Tim Pope Memorial Play Structure, and towards the installation of four pickle ball courts at Wildlife Woods Park. Tim Pope Memorial Play Structure was last built in 1997 and it is not ADA compliant, not barrier free, and it is the most used child play structure in Novi. The play structure was a memorial to a City Council Member, Tim Pope. The City submitted a grant application for \$150,000 to the Recreational Passport Grant and they did not receive it. The Novi Parks Foundation would like to make that \$150,000 up. According to their agreement, they cannot spend any naming rights funds without Councils approval. It is their job to raise funds and to be a vehicle by which people can donate money to the City. They are proposing that \$150,000 go towards the reconstruction of the Tim Pope Memorial Play Structure. He mentioned that one of the most rapidly growing sports in popularity across the country especially senior citizens is pickle ball. The Parks, Recreation, and Cultural Services Department are on that and have asked them to put up \$100,000 towards the construction of that. Those two

projects for the Parks, Recreation and Cultural Services represent to him book ends of everything you do. It includes the little kids, and senior citizens. The Novi Parks Foundation would propose that the City accept \$250,000 towards these two projects. He gave a quick update on the Foundation. It was created in 2004 to solicit and accept monetary contributions. In the past year, roughly 18 months, they have received \$85,000 in donations. They have received \$50,000 from ITC which is part of their ongoing commitment to the City. They have now donated all told \$750,000 to the City. He said initially it was a \$500,000 commitment at \$100,000 per year, and most recently \$50,000 per year for five years. ITC has been most generous to the City. He mentioned Hino Trucks donated \$25,000 and earmarked it towards an Ecology Project. The Parks and Recreation Department is considering what we can do with that money. He mentioned Tom Holzer Ford has been extremely generous in their naming rights for one of the softball fields at Power Park, \$5,000. The Dresner Foundation has donated \$5,000. They are using that for the Artist-in-Residence Program at Villa Barr. We have had some miscellaneous donations. Recently the Sedona Tap House opened at Twelve Oaks Mall and for their opening day they donated all the proceeds to the Novi Parks Foundation. They are still waiting for that tally, but the participation they wanted to happen. The annual fundraiser is Pour on the Shore. This year it is on August 2 at Pavilion Shore Park. It is very popular. They usually have about 400 people attend and they raise approximately \$16,000 per year. He asked everyone to come and support the Novi Parks Foundation. He listed their disbursements; \$118,000 towards the ITC Trail, \$70,000 towards the Villa Barr home renovations, \$30,000 for the Power Park playground structure, Villa Barr Artist-in-Residence \$5,000, and the Youth Scholarships at \$4,000 per year. He stated that with the \$150,000 Tim Pope Memorial Play Structure donation and \$100,000 donation for the pickle ball courts is a total of \$481,000. That will leave them with a balance of \$234,000 currently. They are waiting for the City to tell them what to spend the money on. Mayor Gatt thanked them. He said that playground structure is in need of some sprucing up. He also agreed that the pickle ball courts excite a lot of people.

MANAGER/STAFF REPORT: NONE

City Manager Auger had two items to discuss. It was announced last week that we now have an app for mobile telephones. It is easy to download at your App Store or Google Play. He explained that you just put the City of Novi in there, and you will have instant contact with the City of Novi.

The second item was in regards to the last Planning Commission meeting were they approved Preliminary Site Plan Woodland Permit and Stormwater Management Plan as allowable in B-3 Zoning. He said since that time City Administration responded to numerous questions about the process. They compiled a list of the common questions and answered them in an easy to understand document.

City Manager Auger explained that last September, the applicant/developer proposed a retail and theater project involving two parcels with different zoning classifications, OS-1 (Office Service) and B-3 (General Business). The applicant wanted to build the

project across both parcels. The developer requested to change the zoning of the OS-1 parcel to B-2 (Community Business), which would allow for retail, restaurants and a movie theater.

Under the Michigan Zoning Enabling Act (MZEA) and City of Novi Ordinances, a rezoning request requires a Public Hearing before the Planning Commission. The Planning Commission can provide a positive or negative recommendation to City Council for the request. The final decision on rezoning is responsibility of City Council.

Based on their evaluation of the site, including public input in September, the Planning Commission gave a negative recommendation to the City Council. The applicant/developer chose not to move forward with the proposed design without a positive recommendation and the project never went before the City Council.

The proposal presented to the Planning Commission in April 2019 was reconfigured from the previous plan, placing the retail and theater uses solely on the parcel already zoned B-3. City staff, assisted by the City Attorney's office, reviewed the request and determined a movie theater use is permitted on a B-3 parcel under the Zoning Ordinance, and no rezoning request was required. Since the use is permitted under the established Zoning Ordinance, approvals were only required from the Planning Commission for the Site Plan, Woodland Plan, and Storm water Management Plan. These plans are reviewed and approved ONLY by the Planning Commission; a Public Hearing was only required for the Woodland Plan.

Unlike a rezoning request, which requires a legislative act by City Council, and is very discretionary, a site plan review is generally considered to be non-discretionary—which means *if the site plan meets ordinance requirements, it only has to be approved by the Planning Commission*. The MZEA, the state law that gives the right to have a zoning ordinance, states very clearly: “A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the conditions imposed under the zoning ordinance...” What this means is the Planning Commission was not being asked if it thought the project was a good use (unlike the proposed rezoning request in 2018); it was just being asked if the proposed plan met all the specific, listed standards and criteria of the ordinance. And except for a few items that are going to the Zoning Board of Appeals (ZBA), it did.

These standards and criteria include, but are not limited to, site layout, landscaping, parking, engineering and utilities. Staff and consultant evaluations were provided comparing the proposal to the standards and criteria. The few deviations from the ordinance standards were spelled out for specific attention by the Planning Commission members, who found that the project complied with the ordinance standards, subject to the ZBA items (addressed below).

When the applicant/developer proposed the Onyx Plaza on the B-3 parcel, the City staff reviewed the ordinance to see if those uses were permitted within the B-3 District. Staff determined that under Section 3.1.2 of the Zoning Ordinance, Subsection B, “Principal Permitted Uses,” movie theaters were incorporated into the permitted uses under subsection VI, entitled “Retail Businesses or Retail Business Service Establishments.”

That subsection contains a hyperlink to Section 4.27 of the Zoning Ordinance, which is entitled "Retail Business or Service Establishments." That language states in relevant part:

In the B-2, TC and TC-1 Districts, all retail businesses or service establishments are permitted as follows: under Section D allows theaters, assembly halls, concert halls, museums or other places of assembly when conducted completely within enclosed buildings.

Even though the introductory language does not specifically refer to "B-3" as well as "B-2," when the language is reviewed in the context of all of the language in the ordinance, and the historically permitted uses in the B-3 District, the theater use is clearly permitted. This is not even the first time the City has made the determination that the link to Section 4.27 incorporates all those listed uses into the B-3 District. That same hyperlink is how other uses like restaurants are incorporated into the B-3 District as permitted uses.

This City's interpretation is also consistent with the general concept of how business uses are constructed in the City's Zoning Ordinance: the B-1 District is local commercial (least intense), the B-2 District is community commercial (more intense), and the B-3 District is general commercial (most intense). The entire list of uses from Section 4.27, including restaurants, has been included in the B-3 District for dozens of years before the Clearzoning website reformatting/change in navigation.

This is not a decision the City of Novi staff nor the City's appointed boards (Planning Commission/ZBA) and elected bodies (City Council) are able to make in the context of a Site Plan review for a permitted use. Again, the Planning Commission's task was to determine if the plan complied with ordinance standards — not whether the Onyx Plaza was a good thing or a bad thing. Property owners have a right to develop property in accordance with the zoning ordinance and building code requirements. Certainly, it is in the interest of the community that buildings within the city are occupied and well-maintained, with the hope that they will be providing jobs, commerce and flourishing businesses. Ultimately, decisions regarding the use of a property is mostly up to the owners and investors.

Parcels within a development are not precluded from having different zoning classifications for different portions of the site. These "split zoning" situations occur throughout the city. The allowable uses are simply limited to the appropriate portion of a site or parcel.

When staff becomes aware of opportunities to improve the written document, the amendments are brought forward at the earliest opportunity. As discussed above, while the City concluded that the movie theater use was permitted already, it recommended a clarification to that effect.

As currently proposed, the project will NOT require consideration or approval by the City Council. There are minor deviations regarding placement of the dumpster enclosure and utility equipment that will require consideration and approval by the ZBA.

The proposed deviations would actually place these structures further from homes to the west and will be evaluated by the ZBA in accordance with the specific criteria in the MZEA and the Zoning Ordinance upon application by the developer.

The next steps for the applicant/developer will be to make application for and secure approval from the ZBA for the location of the dumpster enclosure and utility equipment referenced above.

Following this step, the Final Site Plan documents would be submitted and reviewed for conformance with the Planning Commission's approval and other ordinance standards. Any corrections would need to be made and a final record "Stamping" set of drawings would be prepared, submitted, reviewed and, if compliant, approved administratively by City staff. At that point, the developer would secure required permits from the Building Department and other agencies and schedule a pre-construction meeting to move forward with construction.

ATTORNEY REPORT: NONE

AUDIENCE COMMENT:

Ginger Barrons, 2477 Glenda, Novi wanted to give the City a very long overdue thank you. She said November 8th, she was home alone having a heart attack. She realized instantly what was happening. She called EMS, she was so pleasantly surprised at how fast the response was. She called Director Johnson to find out their names. Their names were Dan Sheltey and David Picnic. They were the first to arrive, very reassuring, and calming. Just as quickly was the Superior Team. Those two fellows were Tom Brown and Terrance Mayfield. She had never had an incident like this before. They stabilized her first and all four of them were so kind and professional. So was so pleased. One of the EMS crew said to open her eyes and look all around, he had everything he needed to take care of her. As they got ready to leave, they wanted her to get her coat and shoes. They asked if they could leave a light on. They gave her better care than she got in the emergency room; she wanted them to stay with her. Kudo's to Director Johnson and our Novi Fire Department.

Alan Bialek, Novi citizen for 25 years and he is a Vietnam Veteran. He shared some great news. He said our Emmy winning showcase on YouTube got 1,000 hits on Saturday. They have touched 1,000 different lives without marketing or sales. They accomplished this. He had a young person say his grandfather was in the army and passed away this year and he really missed him. You made me realized the type of man he was. His name was Daniel; he was only 8 years old. He learned to never stop following your dreams. It was very inspirational. He had another from a young lady, age 13 years old. My dad is a Marine and he is so proud of him, Dave, 8 years old. He said we have touched 1000, he thinks they will touch 1000 and we should never forget about the men and women who served to give the freedom in this beautiful city we have. Thank you for your support, God Bless.

Charlie Staab, 41887 Cherry Hill Rd., Novi thanked President Landry for the Novi Parks Foundation presentation. He is also a member. He was an architect who worked hard in the design and build of Tim Pope play structure. He hopes that Council would accept our offering for the play structure and pickle ball. This is a bookend deal that will start with kids and toddlers, and adults with pickle ball. He is in full support of final plans of Lakeshore Park and can't wait to see it get done.

Gary Zack, 359 S. Lake Dr., Novi spoke about the Lakeshore Park upgrades. He stated that prior to final approval he asked Council to request the City to scale back on Lakeshore Park in the following areas. Change road/path parking lot design to preserve trees and topography as much as possible. Eliminate street lights and bollard lights. He felt only security lighting needs to be in this park. Remove the large deck from the building. Reduce new pavement areas as much as possible which would eliminate the need for retention basins. Citizens have asked the City to retain the up north feel of the park. In June 2018 they were relieved to hear they wanted a more modest plan. In October of 2018 they saw a compromised plan. This compromised plan goes far beyond meeting the need of kid's camp only. The proposed building has a footprint of 11,000 square feet under the roof with 6,200 square feet of interior space. That space includes 1,000 square foot lobby and an I.T. Room with high speed fiber optic connections. There is also a 2,400 square foot outdoor deck under the roof. Too much of the front section of the park is being paved over necessitating detention basins. Many of the existing mature trees in the park are being cut down for the sake of these improvements. It is difficult to see how paving, cutting down mature trees, installing 32 street lights and 43 bollard lights is consistent to maintaining an up north feel or necessary for kids camp. It seems to him that building a new kid's facility has been used as a Trojan horse to bring many other non-park uses into Lakeshore Park. He said he was not against the new kid's camp building which is necessary. He is against destroying what is the essence of Lakeshore Park in the process. Our kids deserve a place where they can appreciate nature not a place to look at nature under smart phones. We have been told that the north end residents have asked for this. He can assure that most north end residents do not support these changes. He is hopeful that City Council will scale back this plan to only support kid's camp needs or retain as much as possible of the existing park. He hoped the City will listen to the north end residents as they listen to the citizens of Village Oaks regarding the construction of sidewalks in their neighborhood. Thank you.

Rachel Sines, 2219 Austin Rd., Novi said she was also there to talk about Lakeshore Park. The overwhelming theme from the residents was to preserve up north feel. Not many wanted a large building or community center. Mayor Gatt had mentioned there were other properties that a community center could be built. Despite that, the proposal is still for a larger building with commercial lighting. They have proposed 32 street lights where there are currently only three. Lighting up the park and lake goes against what people wanted. This will change the serenity of the area particularly at night. Just because there is room to build something doesn't mean you have to. Please listen to the residents and preserve this gem. Thank you.

Danielle Fasseel, 1185 S. Lake Dr., Novi said she has talked to City Council a couple of times. She thanked them for the improvements, and many things they've listened about. There are a few things that she hoped could be tweaked before the final plan goes through. We can't move where the kid's area is, right near the road, she thought maybe speed bumps would help. Another concern was traffic on S. Lake Drive and how unsafe it is. It might be a good stop for a stop sign at the park. There will be a lot more traffic going in and out, and people crossing. Another spot to slow people down. Really like to put all the trees instead of tree fund. Groupings feel more natural. The more trees the better. She agreed with others about the lights. It feels like a natural park. There will be light pollution on the lake, and it may encourage people to come after dark, this park is open dawn to dusk. She liked the idea about only having sidewalks that are necessary. She was in favor of fewer lights, and more trees. Thank you for everything.

Maureen Zack, 359 S. Lake Dr., Novi state that Lakeshore Park is a beautiful natural park. It has an up north ambience. She said it was indeed the jewel of Novi. We are fortunate to have this beach/park combination. As more land is developed, this is becoming more valuable and scarce resource. Lakeshore Park should be treasured. The need for expanded building for the kid's camp has morphed into a large community center with paved parking and detention ponds, trees being removed, 32 street lights, and bollard lights along the pathways. This manicured look would take away from the park. Please size the new building for the kid's camp only and include additional changing stalls for swimmers. The present plan shows only two changing stalls one in the women's beach restroom and one in the men's beach. This is not enough for all the swimmers at the park. Only pave as needed for handicapped access. The existing gravel parking provides water filtration which eliminates or reduces the need for detention ponds. Bollard lights along pathways including walking pathways are dangerous for children who might crash into them while riding their bikes. A community center with its classes and activities will add to the traffic on S. Lake Dr. which already has a treacherous mix of cars, bikes and pedestrians We neighbors are still waiting for the proposal for screening on both the east and west sides of the park. In summary, a community center is nice, but not as valuable as what would be lost which is the up north ambience of Lakeshore Park. A community center doesn't belong in Lakeshore Park and could be built someplace else if needed.

John Duneske, 357 S. Lake Dr. Novi he commented on having adequate screening for the new proposed Lakeshore Park building from the neighbors immediately east of Lakeshore Park. He said he sent everyone including Jeff Muck and Rob Petty on 3/27 and 3/28 a proposed plan of evergreen screening. This would entail having 28 evergreen trees, 18 feet in height, 400 feet in length and 25 feet from the east fence line. This is approximately 7 trees for every 100 feet from the current volleyball court to the new retention basin. A similar plan was approved by City Council in on August 24, 2015. On page 14 of the Minutes a motion carried by a vote of 5 to 2 that on the S.W. corner of Beck and 10 Mile Road, the developer Beck South LLC meet 80% opacity or greater with a minimum of 18 foot trees in the conservation easement. His house is a ranch running north to south along the east fence line. On the north side of his home his

patio will looking directly at the new building. On the west side of his home his patio and deck wasn't on the last plan shown to City Council or the public. Some members of City Council said there was no need for a deck. The homeowners met with Jeff Muck, Rob Petty and Rick Meader on a screening proposal. To date there has been no drawing to show adequate screening as requested. He is asking that Council request adequate screening for the residents similar to the ones on August 24, 2015. Drive down 10 Mile and you will see those 18 foot trees that create the adequate screening by Pinnacle Homes. Thank you.

Bill Halvangis, 2020 Austin, Novi MI said he was in support of upgrading and fixing the building and he is here to talk about Lakeshore Park. It is an inadequate building that doesn't meet the needs of the activities. He is familiar with the park. He just did a six mile hike there and he skis there. He does mountain trail bikes there are miles of trails. There is acreage and acreage and that park has a truly up north feel. His concern is when we get done with taking care of the needs of the kids and their summer programs; they are going to destroy what is essentially a true gem in the City of Novi. He is right across from Shawood Lake and they see the hillside that kids slid down. When you start taking those hills and he understands there may be some bulldozing of that area. When you put 32 streetlights are we turning this into a mall or an airport. All that lighting is going to change that area. Lakeshore is special and unique. You will have light pollution. He will be looking at that. Why do you need lights if you close at dusk? If you have lights in there are you going to use this as a community center what hour of the evening. This will not be Lakeshore Park where his he and his wife have come to know and to love. He was not against the program, but he hope to keep the up north feeling.

James Keaton, 2014 Austin Dr., Novi, MI He came here as a new resident of Novi. It was the up north feel that was the draw of the area. You don't find this anywhere. He lived in other communities in Oakland County, but nothing comes close. What's been developed at Pavilion Shore Park is great. He felt we should preserve the up north feel. Mountain biking community, they love the feel and vision. The updating is needed, but he has seen it happen in other places. He said that concrete, structured trees and pathways don't feel organic.

Kurt Best, 29895 Lilley Trail said they used to have a booth that would make enough money to cover costs. He felt the proposed upgrade would do the same thing to Pavilion Shore. He watched it go from a place he could go with dog. He felt that Pavilion Shore was packed with people and he worried that Lakeshore Park will follow that same model. He said there are three proposals and negative feedback. He cautioned against putting a municipal building within a neighborhood. He would like those things, but if you can't get people safely to them. He felt we should look towards savings things, the parks should be protected.

CONSENT AGENDA REMOVALS AND APPROVALS:

A. Approve Minutes of:

1. April 10, 2019 – Special meeting
 2. April 15, 2019 – Regular meeting
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- B. Enter Executive Session immediately following the regular meeting of May 6, 2019 in the Council Annex for the purpose of discussing property acquisition and privileged correspondence from legal counsel.
 - C. Approval of Resolution granting the Novi Parks Foundation a one-time exemption from the City's policy regarding alcohol on public property for purposed of its August 2, 2019 fundraiser at Pavilion Shore Park.
 - D. Approval of Ordinance No. 19-71.01, an Ordinance to Amend the City of Novi Code of Ordinances, Chapter 36, "Waterways," Article II, "Business of Operating Docks and/or Marinas", in order to repeal the regulations and provisions therein in their entirety. **SECOND READING**
 - E. Approval of Resolution Authorizing parking and staging for the "2019 Motor City Comic-Con" to occur on certain parcels near the Suburban Collection Showplace property at 46100 Grand River Avenue.
 - F. Approval to award a Sidewalk Trip Hazard Elimination project to Precision Concrete Inc., a sole source service provider, in the estimated amount of \$53,950.
 - G. Approval to award a Generator Preventative Maintenance and Repair Services contract to The W.W. Williams Company LLC, for an estimated annual amount of \$46,000. The contract term is one year, with two one-year extensions.
 - H. Approval to award civil engineering services to OHM Advisors for design engineering services associated with the 2019 Sanitary Sewer Manhole and Pipe Rehabilitation in the amount of \$41,550.
 - I. Approval of a Storm Drainage Facility Maintenance Easement Agreement (SDFMEA) from Feldman Automotive, for the Feldman Automotive Parking Expansion project (parcel 50-22-23-251-024).
 - J. Approval of a temporary construction easement on city property known as Wildlife Woods Park for the Villas at Stonebrook residential development (parcel 50-22-17-300-016).
 - K. Approval of a revised access easement located on city park property known as Wildlife Woods Park to provide access to the existing Somoco oil well (parcel 50-22-17-300-016).
 - L. Approval of a deviation from Subdivision Ordinance, Appendix C, Section 4.04 for the lack of a secondary connection at an interval exceeding one thousand

three hundred feet for the site plan associated with Woodbridge Park (parcel 50-22-26-300-015) located at the northeast corner of 9 Mile and Novi Road.

REMOVED/POSTPONED

- M. Adoption of Resolution seeking reimbursement from Oakland County for expenses associated with the City of Novi's annual Mosquito Control Program.
- N. Approval of a DTE Purchase Agreement to remove and relocate seven (7) DTE Energy utility poles to allow for the realignment and reconstruction of Flint/Bond Street as part of the proposed ring road located around the intersection of Novi Road and Grand River Avenue in the amount of \$55,017.54.
- O. Approval of recommendation from Consultant Review Committee to award a contract for annual audit services to Rehmann Robson for a three year term and two one year renewal options and adoption of associated fees effective May 6, 2019.
- P. Request for Adoption of a Resolution for a Local Pavement Warranty Program and a Resolution to Implement a Local Pavement Warranty Program as part of the Michigan Local Pavement Warranty Program as required by Michigan Legislature (MCL 247.662, 247.663) and Public Act 51.
- Q. Approval of Claims and Accounts – Warrant No. 1035

CM 19-05-069 Moved by Casey, seconded by Breen; CARRIED UNANIMOUSLY

To approve the Consent Agenda as amended.

Roll call vote on CM 19-05-069

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

Nays: None

MATTERS FOR COUNCIL ACTION

- 1. Approval to accept a donation from the Novi Parks Foundation in the amount of \$250,000 to assist with replacement of the Tim Pope Play Structure located at ITC Community Sports Park and to assist with the future installation of four pickle ball courts and fencing at Wildlife Woods Park.

Member Breen asked PRCS Director Muck to come down for a few questions. She wondered if there was a timeline for construction. Mr. Muck replied that they would start this fall after the soccer season is over on the Tim Pope Play Structure. Wildlife Woods will be more dependent on the development of the Villas of Stonebrook as that comes in. Member Breen asked how the renovations would be different from the original play structure. Mr. Muck said it would be close to the existing play structure. They listened to the residents, the picket fence would remain. It would be brought to current code with full accessibility. Member Breen wondered if it would be completed

with the new standard in the same time frame of the new Pavilion Park Play Structure. Was that about six weeks? Mr. Muck said there wasn't a timeline, it will take a little longer than the Pavilion Shore Play Structure, but it would be ready for next spring.

Mayor Pro Tem Staudt commented that this is great news. He asked if they could make this motion so it is not restricted to Wildlife Woods Park for the pickle ball. He explained that we really haven't had any conversation at the Council level about this and have no idea at this point why Wildlife Woods was selected. If it would be ok with both the Foundation and Parks Commission that we would like to open that up to that we will accept \$100,000 for pickle ball, but maybe it might be somewhere else. We just don't know.

CM 19-05-070 Moved by Staudt, seconded by Casey; CARRIED UNANIMOUSLY

Approval to accept a donation from the Novi Parks Foundation in the amount of \$250,000 to assist with replacement of the Tim Pope Play Structure located at ITC Community Sports Park and to assist with the future installation of four pickleball courts and fencing at a location to be determined.

Member Casey thanked the Parks Foundation for this overwhelming generosity. She thanked all those that donated to the Parks Foundation. The Tim Pope Play Structure has been carried on our Capital Improvement Program for several years in a row. It is very exciting. This has been on our Capital Improvement Program since she joined Council many years ago. Thank you all very much for your support.

Member Poupard congratulated Mr. Muck and she thanked him for the bookend kind of support for both young people and older adults for parks and quality of life in Novi.

Member Mutch said this has been on the Capital Improvement Program for many years. One of the reasons it hadn't happened was due to the desire to really maintain the feel and the character of that project. It was an important community project as the Mayor noted. He said having worked on it with others here in honoring and memorializing Tim Pope and his contributions to the community. The people didn't want to lose that. He appreciated the fact that they worked through to find a solution that captures the spirit of that. As you noted, Director Muck maintains that the fence which recognized those folks involved in the original play structure. This will bring it up to modern standards that we need to do. We can continue to move forward and carry on Mr. Pope's name into the future. He was fully in support and glad we could get a solution everyone could get behind.

Mayor Gatt gave a sincere thank-you from the bottom of his heart for everything that the Novi Parks Foundation are doing for the City.

Roll call votes on CM 19-05-070

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

Nays: None

2. Consideration of the request of Orville Properties, LLC for Tentative Approval of the First Amendment to the previously-approved Planned Rezoning Overlay (PRO) Plan and Agreement, JZ18-24, Adell Center PRO. The subject property is approximately 23 acres and is located on Expo Center Drive (now Adell Center Drive), north of Grand River Avenue and south of I-96 in Section 15. The applicant seeks to revise the PRO Agreement to amend the approved layout for Units 6 and 7, common landscape areas, building signage, and location of accessory units.

Mr. Kevin Adell, owner of the Adell Center thanked the Mayor and City Council. He updated everyone on the Adell Center. He said the underground is being done. The fire hydrants and sewers are in. The retention pond should be in by Friday. Since there has been a lot of rain the road will be paved approximately two weeks. Detroit Edison will come in as well as Consumers Power. Thank-you he was honored to be there. He will stand by for any questions you may have on the progress.

Clark Green Tek Engineering, with respect for the motion that is up for consideration tonight there are a couple of items that he wanted to bring to Council's attention. The items he referred to were Item J and Item K in the recommended action with respect to a couple of sign deviations that we are requested on behalf of a couple of the proposed unit owners. These requests are very consistent with what was previously approved on other units within the Adell Center proposal. We have asked that you take into consideration for the future owners.

Mayor Pro Tem Staudt mentioned on the motion there are two non-recommendations from staff and he asked City Planner McBeth to expand on those a little bit. Mayor Pro Tem Staudt asked if Council denies those are they something that can go to the Zoning Board of Appeals or does it have to be done at this time. Ms. McBeth replied that these requests typically be done with the City Council because of the PRO Agreement status of this. Mayor Pro Tem stated then they don't have an alternative like they would normally have is this was the Planning Commission. Ms. McBeth confirmed that was correct. She stated that there are a few changes highlighted a few changes on the overhead regarding changes at Unit 6 and Unit 7. Unit 6 has been revealed that it is going to be the Texas Roadhouse and Unit 7 will be another restaurant on a smaller site. Those are the main changes with this request. She said that Planet Fitness was also requesting approval at this point. They are requesting the signage. Mayor Pro Tem asked Ms. McBeth what specifically was the objection. Ms. McBeth said there are two non-recommendations from staff. She explained that the ordinance requires the applicant to demonstrate that the provisions that are being sought to be deviated would if the deviation would not plan or prohibit an enhancement of the development that would be in the public interest and would be consistent with the Master Plan and surrounding area. They really didn't provide a lot of detail about that. They didn't justify their request for the waivers from the staff's standpoint. So for the signage for Texas Roadhouse the variance from the sign code for an oversized illuminated window sign 1.4 square feet over allowable size which is 3.5 square feet is permitted for

illuminated window sign. A variance for the front and rear building wall signs. The front elevation sign is oversized by 171 square feet based on the distance of 120 feet from the centerline of the I-96 off-ramp. A maximum of 60 square feet is permitted. They are proposing 171 square feet. The rear elevation sign is oversized by 94.5 square feet based on 273 feet from the centerline of Adell Drive. Maximum of 136 square feet is permitted. For Unit 2, Planet Fitness a maximum of one wall sign is allowed a deviation is requested to allow for an additional wall sign. They are requesting a variance from code for the front and the rear building wall signs. The front elevation sign is oversized by 152.4 square feet based on the distance from Adell Drive. A maximum of 86 square feet is permitted. The side elevation sign is oversized by 106 square feet approximately based on the distance from Adell Drive. A maximum of 86 square feet is permitted. The signs that are being proposed are considerably larger than what our ordinance would allow. Mayor Pro Tem asked if Council denies does it go to the ZBA. They don't have an alternative. Ms. McBeth said the changes are on Unit 6 and Unit 7 which is the Texas Roadhouse and a smaller restaurant. Planet fitness is also requesting a sign deviation. Mayor Pro Tem wondered what the objection was. Ms. McBeth said the applicant needs to demonstrate the need and they didn't provide details to staff.

Mayor Pro Tem Staudt asked a representative to come down and explain why they are requesting this. The representative said from a general developer standpoint when we brought the original PRO Plan to the Planning Commission and City Council they had requested several sign deviations for iFly and Carvana. This development and the ordinance and how they relate to each other if that the ordinance allows basically one sign on the building that faces the street. Many of these buildings face Adell Center Drive and I-96. The previous requests that were here were requesting signage along I-96 so that the passing motorists could recognize not only the Adell Center with the water tower, as well as with the signs along the off-ramp from the expressway as well along the expressway. At that point in time, Planet Fitness was here, they were very early in their process. Texas Roadhouse was not even on board yet. This deviation request is just being consistent with what we have asked for with iFly and Carvana, as well as the hotels in the back have asked for signed up high and larger. This is very consistent with those. The Planet Fitness sign is the same sign that is on the front of the building facing Adell Center is the same sign they want to face I-96. That goes for Texas Roadhouse as well. Mayor Pro Tem Staudt said the long and the short of this is that the buildings front a different road and they want the advantage of having visibility from I-96.

Mayor Pro Tem Staudt asked the consultant from Texas Roadhouse to come down to explain why they are asking for the proposed deviations. Emily Bernall with BDGR Architects, she is the consultant for Texas Roadhouse and has worked with them for 13 years now. She explained that Texas Roadhouse has 582 stores in 39 states. The sign elevation that is before Council is really consistent with their brand identity that we see nationally. Texas Roadhouse corporately does not advertise through typical media channels such as print or TV ads. They rely heavily on the building and the signage as the greatest form of their advertisement. Their restaurant managers who are known as managing partners also are really responsible for getting out in the community. They rely on network marketing. You will find them sponsoring Boy Scouts events, 5-K runs,

having events for Mother's Day, Father's Day, Veteran's Day things of that nature. They have found that statistically when there are deviations from the look of the building or the signage, the stores don't perform as well. If a customer cannot recognize that it is a Texas Roadhouse they will not come to the store. Ultimately their business model is to replicate the customer experience anywhere you are in the country and they are keeping with their brand identity.

Mayor Pro Tem Staudt said the uniqueness of this particular property is that it is abutting I-96 and this is very premium sites and brand identity and signage is very important to this.

CM 19-05-071 Moved by Staudt, seconded by Gatt; MOTION CARRIED 5-2

Tentative approval at the request of Orville Properties, LLC for Tentative approval of the First Amendment to the previously-approved Planned Rezoning Overlay (PRO) Plan and Agreement, JZ18-24 Adell Center PRO, based on the following findings, City Council deviations, and conditions, with the direction that the City Attorney's Office shall prepare the required First Agreement and work with the applicant to return to the City Council for Final Consideration pursuant to the PRO Ordinance. Including all areas even those not recommended. Item K and Item J are part of this motion:

- 1. This approval is subject to all conditions listed in the original PRO Agreement dated October 26, 2018, unless otherwise amended with this approval;**
- 2. The applicant shall submit a complete PRO Concept Plan packet with all corrected information that was submitted at different times in different formats, as noted in the Planning review letter into one prior to Council's final approval of the First Amendment to the PRO Plan and Agreement.**
- 3. The current amendment is required as changes are proposed to the approved layout for Unit 6 and 7, minor changes to common landscape areas, building signage and location of accessory units.**
- 4. The agreement shall include the following ordinance deviations and additional information requested by staff for consideration by the City Council:**
 - a. Planning deviation from Section 5.12 for not meeting the minimum required parking Unit 7 (A minimum of 196 spaces are required, a total of 166 spaces are proposed);**
 - b. Planning deviation from Section 4.19.2 to allow a dumpster enclosure within the interior side yard off the building for Unit 7;**

- c. Planning deviation from Section 5.4.1 to allow the loading area within the interior side yard as shown on the Concept Plan for Unit 7;
- d. Planning deviation from Section 5.4.1 to allow the loading area within the interior side yard and partly in the exterior side yard as shown on the Concept Plan for Unit 6;
- e. Planning deviation from Section 5.4.2. to allow for a reduction in the size of the proposed Loading Area for Unit 7 (847 square feet minimum required, 786 square feet proposed);
- f. Façade deviation from Section 5.15 to allow exceeding the maximum allowable percentages for standing seam metal for the building on Unit 7 (A maximum of 25% standing seam metal roof is allowed, 35% on East elevation and 29% on west elevation is proposed);
- g. Landscape deviation from Section 5.5.3 for lack of undulations in the landscape berm with a 3-foot height along the I-96 frontage.
- h. Planning deviation to allow placement of transformers in alternate locations instead of required rear yard, provided proposed locations conform to other code requirements and appropriate screening will be provided at the time of Preliminary Site Plan review, subject to review and approval by the Planning Commission. This is applicable for Units 1, 2, 3, 5, 6 and 7.
- i. Planning deviation from Section 3.1.25.D to allow reduction of minimum required exterior side parking setback of 20 feet for Unit 6 (A minimum of 20 feet is required, 13 feet is proposed along the northeast property boundary indentation for approximately 50 feet as shown on the plans;
- j. The following deviations from Chapter 28, Signs, from City Code of Ordinances for the two wall signs and the window sign proposed for Unit 7 Texas Roadhouse as listed below (Not recommended by staff since the applicant has not demonstrated that the provisions sought to be deviated from would, if the deviation were not granted, prohibit an enhancement of the development that would be in the public interest and would be consistent with the Master Plan and the surrounding area);
 - i. A variance of from code Section 28-7(a)(9) for an oversized illuminated window sign 14.6 square feet over allowable size (3.5 square feet) for

illuminated window sign

- ii. **A variance from code Section 28-5(b)(1)b for front and rear building wall signs as noted below:**
 - a. **Front elevation sign is oversized by 171 square feet based on the distance of 120 feet from the centerline of the I-96 off-ramp. A maximum of 60 square feet is permitted;**
 - b. **Rear elevation sign is oversized by 94.5 square feet based on 273 feet from the centerline of Adell Center Drive; a maximum of 136.5 square feet is permitted;**
 - k. **The following deviations from Chapter 28, Signs, from City Code of Ordinances for the two wall signs and the window sign proposed for Unit 2 Planet Fitness as listed below (Not recommended by staff since the applicant has not demonstrated that the provisions sought to be deviated from would, if the deviation were not granted, prohibit an enhancement of the development that would be in the public interest and would be consistent with the Master Plan and the surrounding area):**
 - i. **A maximum of one wall sign is allowed; a deviation is requested to allow for an additional wall sign.**
 - ii. **A variance from code Section 28-5(b)(1)b for front and rear building wall signs as noted below:**
 - a. **Front elevation sign is oversized by 152.4 square feet based on the distance from the Adell Drive. A maximum of 86 square feet is permitted;**
 - b. **Side elevation sign id oversized by 105.8 square feet based on the distance from Adell Drive. A maximum of 86 square feet is permitted;**
5. **If the City Council approves the rezoning, the Planning Commission recommends the following conditions be made part of the PRO Agreement:**
- a. **Future use for Unit 6 shall be updated to "Restaurant" in order to be consistent with the approved PRO Agreement.**
 - b. **Unit 6 shall have only one primary access off of Adell Drive, which is currently shown as shared with Unit 7 on the revised PRO plan.**
 - c. **Unit 6 is currently approved on the PRO Plan as a restaurant. The minimum parking requirement for Unit 6 is calculated based on gross leasable area since the end user is unknown. The applicant shall note that the number**

of seats for future restaurant shall be dependent on the available parking.

- d. Lighting and Photometric plans for all site plans related with the Adell Center development shall be in general conformance with the light levels indicated in the overall photometric plan and related deviations included in the PRO agreement.**
- e. Other items as the City Attorney's office and staff determine shall be addressed during the drafting of the revised PRO Agreement, in light of the complexity of the above, to be presented to the City Council with the final approval of the PRO Agreement.**

This motion is made because the proposed amendment is proposing changes that are consistent with the intent of the original PRO plan and Agreement with additional modification as noted.

Member Mutch mentioned the parking deviation for Unit 7, the Texas Roadhouse. He read through the material, there were a lot of examples shown from around the country, but he wasn't entirely clear what that was trying to explain to us. He asked Ms. McBeth to explain what that deviation was and staffs conclusion was. Ms. McBeth said that Unit 7 is a little larger than it was originally on the plans. Previously as well they talked about sharing parking with Unit 6 and Unit 7 both anticipated to be restaurants. When it was initially presented the idea was that they didn't know exactly the parking requirements might be for each one. So a five percent maximum reduction below what our typical standards would be was suggested and approved as part of the PRO Agreement. In this case we have more detail a minimum of 196 spaces are required and 166 are provided. That is greater than the five percent so that is why that deviation was included. Member Mutch said that 160 is obviously is based on the size of the restaurant and the eating areas, kitchen areas and staff count. Member Mutch asked how this building compared to the others. Emily, consultant from Texas Roadhouse said is consistent with their corporate prototype. The reason why they provided other site plans nationally is to show that there are locations that actually exceed the square footage and have less parking and are still in their higher performing stores. Member Mutch said in terms of their usage it will function fine with 160 parking spaces. He asked Ms. McBeth about the change in the unit arrangement between Unit 6 and Unit 7 and Unit 7 has grown; Unit 6 has come down in size. He said he read the Planning Commission Minutes so he did see some explanation of what is contemplated there. Does staff has concerns about the size of that unit and the potential development. His concern is the relatively small size in terms of the building that can go up there. The usage and limited amount of parking there and how it could spill over into the adjacent uses recognizing that we are already making this deviation for the overall parking. He said he was not pushing parking because he thought generally as a rule we over park in the City. He thought there was way too much parking on this overall site as it is. It still can be an issue at an individual unit level especially when we have comparable uses

that are going to have traffic at the same time. Ms. McBeth said staff had a similar take. The size of the unit is considerably smaller. The applicant or the developer would know that they would target a smaller restaurant use that doesn't have this high of a parking demand. We will have to work within that envelope. Member Mutch said that we talked about as a general rule we are not up here dictating what people build. Every one of us is aware of properties that are sitting vacant because they are essentially they are not practical because of their size and configuration. He felt that an acre parcel should be large enough to do something with, but this is constrained and a square piece of property that would not be. His concern is how well that is going to function. His other concern is that it is taking away from benefiting from that prime location. He said he did read Mr. Adell's comments from the Planning Commission meeting about what he is trying to accomplish there. He doesn't want to see us end up with a piece of property that can't be used to its full benefit. Obviously Texas Roadhouse had certain needs in terms of space and area. Mr. Adell said he sold all properties for \$1 million dollars an acre. He smashed all records here. The average price in Novi goes from \$250,000 with improvements. He sold each acre for \$1 million an acre with no improvements. He said he did not have any plans for Unit 6 right now. He will not put another restaurant that will compete with Texas Roadhouse. It could be a wine bar, he is going to be really selective on Unit 6. He has reached out to a few businesses, he will be selective and it will be complimentary to the entertainment users that are there. The whole project is \$125 million dollar development. Hudson is putting Lord and Taylor up for sale; we have lost Sears, Lord and Taylor right around the corner, and J.C. Penney. This development each unit is worth \$5 million dollars and will bring in 5.5 in revenue. He assured Member Mutch that they will not have to fight for the parking. Member Mutch said that one thing that has changed was Unit 5. Originally it was a hotel use and they are proposing a different hotel. Mr. Adell said there are two hotels that have purchased the property. One is the Marriott and Hilton. He started off with Drury Hotel, but they have had some issues. Marriott and Hilton are two huge brands and believed are successful. Member Mutch agreed they are quality brands. Mr. Adell said his name is on the water tower, he wants this to be successful development. He is hands on and is at the site every day. This is probably one of the fastest developments in Novi.

Member Verma wondered why they were requesting sign deviations from the front side. He understood why they would want a sign along I-96. Mr. Adell explained that everyone else had their signs approved for the other companies. It makes sense to approve these deviations. The building have frontage on two sides, they are requesting signs so those going along the expressway can see what is there. Mr. Adell said that is the problem with Novi, you can find anything. The lots are triangle shaped lots. The sign is on the front of the building, and then you want a sign on the back so that people can see it from the expressway.

Member Breen was concerned with the traffic and construction traffic. There is no tentative time line for completion of the units, so it is hard to contemplate. When will we have an idea on this timeline? Ms. McBeth said the utilities are wrapping up pretty quickly. When each of these units comes in for development there is going to be some

challenges. We are cautioning the developer again to please make sure you have coordinated efforts going on between the different units and that there is access in and through not only for construction traffic, but emergency vehicles also. Member Breen said the traffic report indicates that daily one- directional trips are estimated to be 3,988 to Novi. She wondered what measures the City is looking at to help mitigate traffic in this regard. Ms. McBeth said in this regard there may be improvement in the N.W. Quadrant Ring Road that would be coming quickly. Additionally we are looking at traffic signal timing at Crescent and Novi Road to see if there are any modifications for that. There is going to be some wait and see with these hours of operation of the different uses and see if they are spaced out more evenly. Member Breen said the traffic study was done based on the prior plan, not the one that is presented today. Ms. McBeth said that was correct. Member Breen asked when they could expect an updated traffic study. Ms. McBeth said that Planner, Sri Komargiri had the details. Ms. Komargiri said that the traffic consultant had completed the study which was presented to Council last year. The next phase of it is to figure out the implementation strategies on how to take the recommendations provided in the study forward. She understood they will be meeting with the Road Commission of Oakland County to figure out a game plan. As of now we do not have a game plan yet. We are getting there. Ms. McBeth said they have met with the Road Commission and they will continue to meet with them in terms of the timing of the signals. Member Breen said she hoped they understood her apprehension in proceeding right now with all of the unknowns right now. She appreciated all the different efforts that are being made to mitigate traffic including the Ring Road and working with Oakland County Road Commission. The traffic in this area is a big concern. She was excited to hear what her colleagues had to say about this. Mr. Adell said the timeline for the paving should be about two to three weeks, the users will then be coming in and they anticipate being done by Christmas. They are all big companies coming in with sky cranes building their buildings and want to be in by Christmas which is a good thing for Novi. That means they will be paying taxes, employing people, it is a vibrant City, it is a good thing.

Member Poupard wanted to clarify if she understood everything correctly. Did the other business asked for additional signage or were they within the ordinance. What were the recommendations on the other buildings? Did we as Council approve the deviations for larger signs on everything else or did we hold them to the requirements. Ms. McBeth said there are two project which are iFly and Carvana and she believed the signs for those have been approved. Ms. Komargiri said the sign deviations for iFLY was for larger signs, but Carvana stayed under the size limitations, but proposed additional signs. The deviation for Carvana was not for the size. The other deviation was approved for Drury which now they are not coming there. Another thing to note is that iFly and Carvana are taller buildings compared to Texas Roadhouse and Planet Fitness. Member Poupard wondered if this was the first time they were concerned with the size of the signs. Ms. Komargiri said no, iFly had a deviation approved for an oversized sign and Drury had a deviation for an oversized sign. Drury is no longer part of the project. Carvana had a sign deviation, but that was just for additional signs. They stayed under the limit. Member Poupard wondered if they recommended the deviation of the sign when it came to Council before and this time you are not

recommending. She said she was new and did not have all of the background. Ms. Komargiri said the first round when the sign deviations came, we were a little confused if they would be part of the PRO Agreement or would they have to go to Zoning Board of Appeals. That is the first time that sign deviations became part of the PRO Agreement. We also looked at the size deviation as compared to the size of the building and are they complementary to the architecture. The Texas Roadhouse the sign complements the building, but they are a single story building. They wanted the applicant to provide clarification beyond brand identity at this time. City Attorney Schultz said the iFly unit got four additional wall signs; side deviation on the side elevation 88 square feet, front and back deviations of 244 square feet, 65 square feet allowed, and 309 square feet was authorized. The deviations for Drury had some other size deviations, 182 square feet for the north and south elevations and 103 square feet for the east elevation. In addition to numbers the size deviations did factor in original PRO. Member Poupard wondered what the recommendation from the Planning Department on those past deviations. Did you recommend them or not? Mr. Schultz said the difference with this motion is that staff is saying we would like some more information, so that is Council's determination if they are satisfied with this. The maker of the motion was looking for more narrative from staff, it is not a negative recommendation, they wanted more information. Member Poupard said she really wanted to support the recommendations from the staff on this.

Mayor Gatt fully supported the motion. They already approved the deviations on the first go around. This is unique property and you have to be able to see the sign from the expressway. He had no problems with the deviations. He said that he usually supports staff, but in this case he won't.

Member Mutch said the Mr. Schultz gets the lifeline award of the night. Mr. Adell should be very thankful. He thought what was left out of it were the points that staff made is that these units are materially different in terms of their size and height and that did drive some of the discussion of whether it would be appropriate for those units, versus the units we are talking about tonight which are much smaller in terms of height and scale. He thought that was an important part of the conversation. He appreciated that staff highlighted this section. He has a lot of concerns, but his concerns are not stuck on the signage. There is a case to be made why the two situations could be handled differently, but he didn't see where there are real issues with their requests.

Roll call votes on CM 19-05-071

Yeas: Poupard, Verma, Gatt, Staudt, Casey

Nays: Mutch, Breen

3. Consideration at the request of Gateway Village of Novi, LLC of the draft Third Amendment to Consent Judgment for the Gateway Village Development in the matter of Gateway Village of Novi LLC v City of Novi and authorization for the City attorney to take all action to file the amendment with Circuit Court. The subject property is located in the northwest corner of Grand River Avenue and Meadowbrook Road in Section 23. The amendment is required for approval of JSP

18-22 Gateway Townhomes of Novi to provide for a new style building for the final phase of the multi-family residential component of the development.

Member Breen wanted to clarify to the City Manager that the proposal here is something that has been previously approved and this is a reduction in the number of units previously proposed. City Manager Auger replied that was correct. Member Breen said that would be a reduction in the actual number of daily trips for traffic that was proposed. Mr. Auger said that was correct. Member Breen said this is already a vacant piece of land that we don't have to worry about a woodland violation or anything like that. Mr. Auger said that was correct. She just wanted to clarify that on the record. This is something that she could support.

CM 19-05-072 Moved by Breen, seconded by Casey; CARRIED UNANIMOUSLY

Approval at the request of Gateway Village of Novi, LLC, to approve the form of Third Stipulated Order Amending Consent Judgment dated June 1, 1990, June 8, 1996 and May 16, 2001 for Entry of Consent Judgment as to 3.64- acre parcel of property located at the northwest corner of Grand River Avenue and Meadowbrook Road in Section 23, subject to:

- a. **Final review as to form and content, including making of necessary modifications or revisions to the Order in the interest of the City and to carry out the requirements of any ordinances or other laws and the intent of the Council in approving the change in use, by the City Manager and City Attorney.**
- b. **Undertaking all actions necessary, as determined by the City Attorney's office, to secure entry of the proposed Order, including but not limited to:**
 - i. **Providing appropriate notice of the proposed entry of the Order to Gateway Village of Novi, LLC prior to submission of the order to the Oakland County Circuit Court.**
 - ii. **Submitting the proposed Order to the Court by appropriate motion, with notice to Gateway Village of Novi, LLC.**
- c. **Entry of the Stipulated Order by the Oakland County Circuit Court.**

This approval is subject to all conditions provided in the original consent judgement, unless otherwise amended with this approval.

Member Mutch asked the developer how many square feet the units are. The applicant replied they will be 2030 square feet. Member Mutch wondered if they have a price range at this point. The applicant said not specifically, but in the low to mid \$300,000's. Member Mutch wondered what the timeline in terms of construction. The

applicant said they would like to start this summer and anticipate a two year timeframe. Member Mutch said build out within two years. Member Mutch said this property has sat vacant for years. This is a continuation of the missing middle, walkable uses. It is more accessible than other housing. His only concern was that he would like to see if they could widen the sidewalks if possible. In the winter the snow gets pushed along the curb, the sidewalk abuts the curb. He was in support.

Roll call votes on CM 19-05-072

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

4. Approval of Resolution for 2019 Millage Rates.

CM 19-05-073 Moved by Casey, seconded by Poupard; CARRIED UNANIMOUSLY

Approval of Resolution for 2019 Millage Rates.

Mayor Pro Tem Staudt made a few brief comments. One is that our City Charter millage for the Operating Fund is 6.5 mills and through Headlee we are down to 4.77, so we are working with far fewer mills, but we have much greater property values than we did in the past. That in the operations area probably isn't a big issue, but our Police Millage was set at 1.8 and we are down to 1.35. We really are starting to feel a real burden on our General Fund and at some point we are going to have to look at that millage and perhaps roll it back or take it further. The cost of providing public safety is going up dramatically as evidence by the 1.8 million dollar ladder truck that we are going to purchase under this budget. That ladder truck was \$800,000 dollars back in 2001, 2002 or 2003 whenever we purchase it. He said he would support it, but he was not sure if we can continue funding through the General Fund. Be prepared.

Roll call votes on CM 19-05-073

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

5. Approval of Resolution for Fiscal Year 2019-2020 Budget and Acknowledging the Multi-Year Budget, including Projections for Future Fiscal Years 2020-2021 and 2021-2022.

City Manager Auger said this budget clarifies some changes that were discussed during the budget meeting. There is also a spreadsheet in front of Council that clarifies the Capital Improvement Funding to make sure it is clear to Council where this funding is over the next 10 years.

Mayor Pro Tem Staudt said there are a lot of moving parts on the budget and there has been a lot of time spent on it by a lot of people. We have talked a little about the Capital Improvement Program. We now have a sizable Fund Balance that we can make some investments in the FY 2019-2020 budget. He wanted to add something to

this budget relative to this budget relative to this Capital Improvement Funds. Most notably that if we receive any revenues from the sale of equipment, vehicles, or property that those funds should be earmarked back into the Capital Improvement Fund. He just wanted to be clear that it is Councils intention. He asked City Attorney Schultz is this was the right time to do that? Mr. Schultz replied, yes, it is this the right time to do that. Mr. Schultz said there are a few options, one you can make a motion to approve the budget with that amendment and that would be voted on by the Council as a whole. The other would be to do an amendment to the budget before you vote on it. Mr. Schultz said he preferred the first option to approve the budget with an amendment that would be voted on by Council as a whole.

CM 19-05-074 Moved by Staudt, seconded by Casey; CARRIED UNANIMOUSLY

Approval of Resolution for Fiscal Year 2019-2020 Budget with the amendment that was suggested and Acknowledging the Multi-Year Budget, including Projections for Future Fiscal Years 2020-2021 and 2021-2022.

Member Verma said the money that we would be getting out of the sale of those go back to the Capital Improvement Programs. If we are looking at that for another 10 years he thought that we should be keeping some money for those types of items and not to touch that for other items. There should be some money put aside for those types of things. The roads are getting bad; we should be setting aside money for those types of things. That was his suggestion. He would like to make an amendment to the motion.

Mayor Pro Tem Staudt said he didn't think that was an appropriate amendment to the motion because it earmarks funds for things that are outside of the Capital Improvement Program that he is talking about. He was talking about specifically the dollars that are generated through the Capital Improvement Millage in the Fund Balance. What Member Verma is talking about is roads which are not really part of that particular Capital Improvement Millage. Roads have their own sources. He felt that City Council shouldn't earmark dollars for an extended period of time because that takes away the ability of future City Councils to make their own decisions. He didn't believe we could do that and tie any City Council moving forward for that recommendation. He said the motion may be more appropriate to somewhere else in the budget, but not in the Capital Improvement Program Millage portion.

Member Mutch agreed with Mayor Pro Tem. He thought we were accomplishing what Member Verma was stating. We are doing it better or more fully that the numbers were being adjusted. Two things, the roads are outside of the scope of the Capital Improvement Program Millage. The projection shows there will be money set aside and available for those projects for those needs. The proceeds of vehicles, there is some money that we will get back, but that isn't the big dollars. The big dollars is the Anglin Property that we paid for through the Capital Improvement Funds and when that sale of the property sale is completed and when those funds come back then those funds

will be available for what you are talking about. Approving the budget as presented, with the amendment, the revised sheet that fully reflects how those dollars got into the fund and how they will be used going forward. We don't know what the future needs that we do not know yet. If we have the money there in that fund and we have money coming into that fund from the sale of the property or from anywhere else it will get transferred here. It will give us or a future Council down the road the funding in place to address the needs that we may not even know today what they will need. He is fully in support of what Mayor Pro Tem Staudt is suggesting. It is consistent what we have said as a Council going back to 2016 which is when we first talking about. We established a Capital Improvement Fund before we had the Capital Improvement Program Millage. We made a commitment to the residents to utilize those funds for these purposes. So far we have done a good job of it. This will guarantee that us and future Councils will continue to do that.

Member Casey asked the maker of the motion; did you also include acknowledging the Multi-Year Budget and the rest of the motion as written? Mayor Pro Tem Staudt replied yes, absolutely, he included the rest of the motion.

Roll call votes on CM 19-05-074 **Yeas: Gatt, Staudt, Breen, Casey, Mutch, Poupard, Verma**
Nays: None

6. Approval of resolution to authorize Budget Amendment #2019-3.

Mayor Pro Tem Staudt questioned the amendment for the additional Tree Funds for the DPW and the Bosco property cost overage. This is new to us. He wondered if we will be having the same issue at Lakeshore. City Manager Auger said we are planning on using the Tree Fund in the park if we see that we need additional screening after it is built. Mayor Pro Tem Staudt said he understood that Lakeshore we will treat this differently. Mr. Auger said the Bosco property we have screening on the residential side and the same at DPW, we may need for screening to the other properties to not see the yard. Mayor Pro Tem Staudt said he is in favor of more trees on the property. That coming in on a budget amendment at the last second we kind of thrower. That being said he thought that the budget amendment it has opened their eyes to the Capital Improvement Fund which we spend a lot of time with Director Johnson and really getting that fined tuned to the point that everyone is comfortably with where they are going.

CM 19-05-075 **Moved by Staudt, seconded by Casey; CARRIED UNANIMOUSLY**

Approval of resolution to authorize Budget Amendment #2019-3.

Roll call votes on CM 19-05-075 **Yeas: Staudt, Breen, Casey, Mutch, Poupard, Verma**
Nays: None

AUDIENCE COMMENT:

Ginger Barrons 24777 Glenda, Novi said she echoed the other resident's concerns with Lakeshore Park. She would like it to retain that up north feeling. Lakeshore Park is something that no one else has. She would like to see the City keep it that way.

Danielle Fasseel 1185 S. Lake Dr., Novi requested more stop signs. The road is dangerous. The park is on a residential road. There is so much speeding on S. Lake Drive. It is a cut through road and we can't have speed bumps. She said she would also like swings at the park. Thank you.

COMMITTEE REPORTS:

Mayor Gatt said the Rules Committee met recently and they will be presenting a Policy to Council requesting that City Council be able to attend conferences that are much more prevalent that people want to go to these conferences. The Rules Committee has come up with a Policy that we set aside \$7,000 dollars in the budget which would allow each Council member allotted \$1,000 dollars to attend in-State only conferences up to \$1,000 total for the calendar year for any conference that the City of Novi is a member or affiliated with. The rules that the City staff play by would be applicable to City Council as well as City staff.

MAYOR AND COUNCIL ISSUES:

Mayor Gatt said he added to Mayor and Council Issues: Firefighter air packs that need to be replaced. He explained that we applied for a grant with a slim chance of receiving. We have applied two other times and have been turned down. He said that we would add this to the current budget. He thought we will wait until June 1, 2019 to see if we hear on the grant.

CM 19-05-076 Moved by Gatt, seconded by Casey; CARRIED UNANIMOUSLY

Approval to enter into an agreement with the City of Troy Fire Department to piggyback with the City of Troy to purchase the Firefighters Air Packs on June 1, 2019.

Member Breen wanted to clarify that the Firefighter Air Packs were scheduled to be purchased in the budget FY 202-2021, it would have cost \$373,500. That did not include the cost of the replacement parts. If we had waited until it was originally requested it would have cost \$ 74,000 more if we do it within the next couple of weeks. That is because the cost of parts has gone up, the cost of the Air Packs have gone up five percent. We can go in with Troy. Even if we were to order them now it would cost us \$338,000, but by piggybacking unto Troy's order we will save another couple of thousands of dollars. By doing it now and piggybacking on Troy Fire Department order it

will cost \$326,000 instead of paying \$373,500. This will save on parts also. She supported the motion. Mayor Gatt said it is good for the citizens, residents and employees.

Director Johnson said they tried for the grant, but if we can get them now let's move forward. The air packs have been tested. He can assure everyone that they are working and doing the job for now. He will leave it to Council to decide. He thanked them for their support. The timing on the grant is a decision he is leaving to Council.

Roll call votes on CM 19-05-076

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

Nays: None

Member Mutch removed Item L for further discussion. He asked City Planner McBeth about a waiver on the secondary street connection from their development to the adjacent property. He read the staff explanation and looked at the site plan for the property. He said he was not seeing what staff was seeing when they say there are all of these issues. He said it was 10 or 15 feet from road to road. Ms. McBeth said the access from primarily comes off of 9 Mile Road and the access drive continues north and extends almost to the north and extends to the north property line. To the north is a developed apartment complex and there is not an immediate connection to their current drives. There is some difficulty with the topography.

Joe Score from Pulte said the drives didn't line up with the existing drives. The topography needs a retention wall, it drops off significantly. The second access drive is through Shiro, it is better to have two. He had several concerns regarding this. He said that we really want to have these two points of access. That is where he is stuck with that particular one.

Member Casey wondered if this ever had access on both 9 Mile Road and Novi Road. Ms. McBeth said initially from the early plans there was access to Novi Road. We determined there was a grading issue at that location. Member Casey said she agreed with Member Mutch it feels like we are very far down the path to be revisiting the conversation, but consistently we have always advocated for having two accesses on two roads when it is residential. She echoed Member Mutch.

Member Mutch said he is not necessarily looking for two entrances.

CM 19-05-077

Moved by Mutch, seconded by Gatt; CARRIED UNANIMOUSLY

To Postpone Consent Agenda Item L to a future meeting to give staff and applicant an opportunity to provide Council additional information either showing developing secondary connection to the north or providing additional justification for the deviation.

Member Casey wanted to clarify her comments and said she is supporting this motion to have them come back to double check why the connection cannot be made. Her

previous comments are not indicating that she is asking them to make a change to add that entrance back unto Novi Road. She is support of Member Mutch getting more information about connecting to the north. The applicant said he thought he understood what was being asked.

Roll call votes on CM 19-05-077 **Yeas: Casey, Mutch, Poupard, Verma, Gatt, Staudt, Breen**
Nays: None

Mayor Gatt said Council was going to enter into Executive Session at 9:23 p.m. and that they may return to Open Session.

Mayor Gatt left Open Session at 9:23 p.m., and he did not return.

Council returned to Open Session at 9:58 p.m.

Mayor Pro Tem Staudt said that Member Mutch had a motion.

CM 19-05-078 **Moved by Mutch, seconded by Poupard; MOTION CARRIED: 6-0**

To authorize the Mayor and City Clerk to sign a Purchase the property located on Grand River Avenue west of Novi Road, as presented to City Council, and to authorize the City Manager and City Attorney to undertake all actions required to finalize the Agreement and complete the purchase pursuant to the agreement.

Roll call votes on CM 19-05-078 **Yeas: Mutch, Poupard, Verma, Staudt, Breen, Casey**
Nays: None
Absent: Gatt

Mayor Pro Tem Staudt said they had a second motion.

CM 19-05-079 **Moved by Casey, seconded by Poupard; MOTION CARRIED: 6-0**

To authorize the Mayor and City Clerk to sign a Purchase Agreement for the property located on Ten Mile Road west of Novi Road, as presented to City Council, and to authorize the City Manager and City Attorney to finalize the Agreement and undertake all actions required to complete the purchase pursuant to the Agreement.

Roll call votes on CM 19-05-079 **Yeas: Poupard, Verma, Staudt, Breen, Casey, Mutch**
Nays: None

Absent: Gatt

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION: None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 10:01 P.M.

Cortney Hanson, City Clerk

Robert J. Gatt, Mayor

Transcribed by Deborah S. Aubry

Date approved: May 20, 2019