

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, DECEMBER 7, 2015 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 Burke, Casey, Markham, Mutch, Wrobel

ALSO PRESENT: Peter Auger, City Manager
Victor Cardenas, Assistant City Manager
Thomas Schultz, City Attorney

APPROVAL OF AGENDA:

CM 15-12-170 Moved by Staudt, seconded by Casey; CARRIED UNANIMOUSLY:

To approve the Agenda as presented.

Roll call vote on CM 15-12-170 **Yeas: Staudt, Burke, Casey, Markham, Mutch, Wrobel, Gatt**
Nays: None

PUBLIC HEARING - None

PRESENTATIONS

1. Proclamation for Alpha Kappa Alpha Legacy of Leadership – Gwen Bynum

Mayor Gatt presented the proclamation to Gwen Bynum. Ms. Bynum spoke of the history of the Alpha Kappa Alpha Sorority. It was founded in 1908 at Howard University. They follow the initiatives their founders put in place. They have enjoyed working with City of Novi members for the past year and a half. They look forward to the collaborations of social and civic duties in the future. Mayor Gatt thanked them for all their service.

2. Recognition of the Novi High School Cross Country Academic State Champions

Mayor Gatt gave recognition to the Novi High School Cross Country Team. Robert Smith and Samantha Hudson, Coaches of Novi High School Cross Country Team, thanked Council for the recognition. He said they were the defending Academic State Champions. He spoke about the accomplishments. The Team members each were presented with an award.

3. Recognition of the Novi High School State Championship Boys Tennis Team

Mayor Gatt gave recognition to the Novi High School Tennis Team. Chris Hayward, Jim Hanson, and Dan Lowes, Coaches thanked Council for the recognition. This was their second State Championship. He spoke about their accomplishments. The Team members were each presented with an award.

4. Recognition of the Novi High School State Championship Girls Volleyball Team

Mayor Gatt gave recognition to the Novi High School Girls Volleyball Team. Coaches Jen and Ricky Cottrill spoke about their accomplishments. The Team members were each presented with an award.

5. Comprehensive Financial Audit for year-end June 30, 2015 – Plante & Moran

Doug Bohrer, Plant & Moran Partner, said he appreciated the opportunity to present the results from the audit for fiscal year ending June 30, 2015. He thanked employees of the City of Novi for their help with the audit. He said the City of Novi has an unmodified opinion with the highest form of assurance from an independent third party auditing firm. He noted the City's continued investments in infrastructure that includes roads, sidewalks, facilities, and equipment. It totaled about \$14 million. The City of Novi has a robust capital maintenance and replacement program that is critical for most communities. The City continues to pay down its debt. Almost \$5 million has been paid down. The positive bond rating has allowed the City to refinance larger debt issues with a significant savings. There is a new accounting standard that will be implemented in a couple of years that relates to the Post-Retirement Health Care Obligations. The unfunded portion will be put on the government-wide statements. The City of Novi Post-Retirement Health Care Obligations is 94% funded as of June 15. It would be close to the highest percentage they see in the communities they serve. Going forward it will not have a significant effect for the City of Novi. He applauded the City's efforts.

Tim St. Andrew, Plante & Moran Manager, described a power point presentation. He stated overall the total General Fund revenue has increased about \$2 million. Property taxes make up about 49% of the total revenue. It is up about \$700,000 this year. There are two reasons for the increase. First, the City's taxable value increased 3.3%, along with the charge backs from the County and the losses from the Michigan Tax Tribunal were significantly down from last year. Secondly, the City has gone through a process to go through old escrow funds to determine if the City should receive the money or return to the contractor or State. There was a significant amount of revenue recognized this year related to the escrow deposits. Even though the taxable value is down 14% from 2008 levels, the City is trending in the right direction. Future inflation of 3.3% per year would take 5-6 years to be where the taxable value levels were at in 2008. For future budgets, there would be limitations on the largest source of revenue. General Fund expenditures were consistent with last year's expenditures. All departments were under budget. There was a favorable budget variance of 7%. The actual expenditures were 7% less than the budgeted expenditures for the General Fund. Despite the reductions in taxable value in property tax revenue, the City was able to maintain Fund balance levels. It shows the City focused on expenditures by

setting realistic budgets and keeping within the budgets. It was done while having one of the lowest tax rates in the County. The Water and Sewer Fund operating revenues were slightly ahead of operating expenditures in 2015. The operating expenditures are excluding depreciation. The City has about \$22 million in working capital. He said with this financial position, it would allow the City to invest in the infrastructure without having to go out and bond. This year there was \$4.3 million invested in the Water and Sewer system without having to go out and bond.

He spoke about the letter presented to Council. There are three sections to the letter. The first section is the required communications. The second section is some of the recommendations that came out of the audit. The third section would be legislative informational items that they felt would be of interest to Council. There is usually a fourth section, which would disclose any material weaknesses or significant deficiencies that were identified but there were none found in the audit. It was a clean audit. He wanted to point out that with Governmental Accounting Standards Board statement 68, Financial Reporting for Pensions will be phased in over two years. Last year the actuary for the City had to calculate the net unfunded pension liability for the City. This year the City has to record the liability on the full accrual government-wide financial statements. The liability was \$29 million. The large liability will be reflected in this year's full accrual financial statements but was not there in last year's statements. There are accounting estimates included in the City's financial statements. They are the liability and expense related to Pension Retiree Health Care, the estimated unbilled water and sewer revenue that covers the period through June 30, 2015 and the charge back liability from Oakland County. The estimates are tested and are reasonable. Section 2 of the recommendations explains the escrow deposits in the Agency Funds do not reconcile to the total listed in the financial statements. It was activity prior to 1993. The City is working with BS & A to recover the data prior to 1993. They noted that dual approval for wire transfers are not required for some cases, but brought it to their attention because it is the best practice for those wire transfers. The letter presented information on legislative items, such as, new accounting standards, State Revenue Sharing and new rules about Federal Grants. The City Administration was aware of the existing and new rules that will be in place.

Mayor Gatt thanked him for a very comprehensive report. He knew other cities would like to have a similar financial status as Novi.

Member Mutch appreciated the details about the audit. He asked if there was anything not provided or any statements that Council needs to know about. Mr. St. Andrew said that everything was communicated to them.

6. Comprehensive Annual Financial Report ending June 30, 2015 – Carl Johnson,
Finance Director

Carl Johnson, Finance Director, spoke about the highlights of the audit report as it relates to their initiatives. He noted the City's bond rating has increased to the highest level of AAA. It is a national rating system. Standard and Poor's explained to him the

rating is based on the processes by streamlining and honing the processes so that the City financials can be relied upon. They look for the financial reserves. They look at the Financial policies in place and show that they work. The revision for the Budget Document in the past year was cut in half and the process was changed. That was the key part of it. It was less doctoral from the Finance Department and more educational. The process was simplified. The departments are now more proactive with their budgets. It is just one of the processes they use. He explained four key items for the bond rating. The first one is very strong management with strong financial policies and practices under their financial management system showing that they work. The audit results highlight the fact that they are there. Also, strong budgetary flexibility, with a fund balance near 41%, is a big accomplishment. Strong liquidity was shown by changing the investment policy. He amended the policy to get it to a cash flow basis. The old policy was that they couldn't invest anything more than two years unless it was tied to capital. There was \$120 million to invest for only two years. They increased the rate of return on investments by .5% overall. It calculates to a \$600,000 increase. They also changed their entire investment policy. All the investments were pooled to get longer term investments with larger returns and every fund gets to share in the returns. Another key issue was very strong debt and contingent liability position. He explained the fund balance is \$12.3 million but there are \$1 million outstanding commitments that are projects re-budgeted in to the next fiscal year. So the real fund balance would be \$11.3 million that we have available.

He spoke about the controls with the budgets. Their goal is to set the budget amounts and live within their limits. None of the City departments went over their budget limits. He felt the change to the creation of assisting departments to understand the budget and to monitor the budget helped the process. He looks at it as a partnership within departments. Property Tax Tribunals were settled causing a variance in property taxes. License and Permits variance was because there was a process put in place to close out old escrows, new development, and investment income. He explained on the expenditure side of the statements were positive variances and was proud of the results. The expenditures were \$2.1 million under budget resulting in being 3% under budget after subtracting the carryover of contracted obligations. One of the items Standard and Poor's pointed out was the funding of OPEB/Long Term Liabilities. He said the City has extremely low debt. They refinanced the Ice Arena debt to save \$492,000 over the remaining ten years. The Senior Center was refinanced last October to save \$840,000. They are currently working with Bond Counsel on the Library debt. There is about half a million dollars of potential savings there. He said they are not issuing debt and working on shrinking existing debt. He had hoped to have OPEB funding at 100% but, after the actuaries recalculated, the funding was short by \$1.4 million. It is at 94.4%. The pension liability is 66% funded. The liability is \$86.3 million. There is \$57 million set aside for it. There is about \$20 million left to fund. MERS has changed their assumptions which increases the funding liability for next year. They have planned for this change and closed the various pension plans. He spoke about the Road Funds. In the last 6 months, most of the projects were coming in approximately 20% higher than what was originally anticipated in the Capital Improvement Plan. The overages on the projects have used up all the available fund balance, so much, that the budgeted projects

may not get done for 2016 & 2017. The Governor passed a subsequent funding for roads which will increase our funding of about \$900,000 a year for the next five years, which is a small amount for roads. Even with the extra millage for the Road Fund there is not enough money going forward. Over \$400,000 has been set aside in the PEG Fund for the PEG operations. The only other area of concern is the Forfeiture Fund. There is \$299,000 left in the fund. It is something to consider when working on the budget. The biggest challenge will be how to fund the roads and capital going forward.

Mayor Gatt thanked Finance Director Johnson for the comprehensive report and thanked City staff and Council for the work they have accomplished. He feels they all have been fiscally responsible.

Mayor Pro Tem Staudt asked Plante and Moran representatives their general opinion about the direction the City was going and where the City could improve in the future. Mr. Bohrer answered that they have not been to Novi in a few years. He likes to reference other communities when they work through the audit. He echoed what the Mayor said that there are communities that would like to be in our position from a Fund Balance perspective and with our economic resources. He thought the forward planning is always critical. The ideas he gave to Administration were embraced with good responses. Some things are out of the City's control, so there is a need to plan the things that are in their control. The various programs help with the surprises down the road. He thought the City trying to be welcoming to businesses to come in and retaining them gives the City the growth that is necessary to do the things they want to do. He has cities that are just trying to deal with the day to day activities without the forward planning. He thought it allows for a better position going forward. Mayor Pro Tem Staudt noted he liked the idea of millages over debt. The Road Millage was a good example. He said there is debt elimination in the next year or two. There are other funds created by the Headley Amendment. He asked what his thoughts were about some of the funds, such as, Public Safety and Recreation instead of going out to bond for capital investment. Mr. Bohrer said philosophically it depends on the community and how they want to approach it. He thought it's always good to balance both external and internal financing. He recommends it to commercial businesses as well so that not all the risk is in one area. If there is an opportunity where debt is eliminated and resources are being generated as a result of that, where improvements could be self-funded, he wouldn't be opposed to that. He noted because of the favorable financing rate for longer term infrastructure type improvements, he would recommend that the City finance them. He thinks it allows more flexibility to manage the funds. The Consultant Committee unanimously decided to choose Plante & Moran because some of the accounting principal changes that were coming up, especially relating to the Long Term Liabilities.

Member Mutch asked Finance Director Johnson to address the audit recommendation about wire transfers. Finance Director Johnson explained that only two people are allowed to make the wire transfers and there is no formal documentation of it. The reason is because one of them may be out of the office for the day. The alternate that the auditors talked about would to possibly have a third party, such as, the Assistant

City Manager or a department head not involved in the audit process. It would have to be an independent third party to review them. They didn't think it made a lot of sense to do that. There are several safeguards in place. After there is a wire transfer, it has to be recorded on the books. He cannot do the recording of the books. Every entry that is made on the books has a two party mandatory approval. The investments are logged into a computerized system called Tracker. The Deputy Treasurer logs all of them then he reviews them on a monthly basis, so they are made aware of any transfers. Bank reconciliations are done by an Accountant in the Finance Department which would be an independent verification of all the activity. The bank statement verifies it also. He has identified five or six safeguards to offset the two person authorization. He didn't think it was worth having someone that wasn't familiar with the accounts for authorization. Member Mutch asked about a scenario where neither would be available to do the wire transfer. Mr. Johnson said they have not had that issue. Most of the wire transfers can be scheduled in advanced. Member Mutch asked Mr. St. Andrew his opinion of what was said. He answered that he agreed with everything Mr. Johnson said. They did test the mitigating controls in place, bank reconciliation process, and the journal entry process. There were controls in place to mitigate that risk. He noted another thing to look at was whether they were preventative or detective controls. Those are very good detective controls. A fraudulent wire transfer would be caught eventually, but they look if they would be caught ahead of time as a preventative measure. The controls are in place to detect it but not necessarily to prevent it. Member Mutch asked what would be the standard practice in this situation. Mr. St. Andrew said there are clients where the third person may be involved in the bank reconciliation process or the journal entry process. It would require the audits to investigate thoroughly, but most safeguards are in place. Member Mutch noted it must have been worth making Council aware of what is going on and appreciated bringing it to their attention. He said administration has taken appropriate steps to review the process and address the issue. He commented that it always helps to evaluate the financial sector accomplishments. He said that Mr. Johnson has done an excellent job. Council has felt the best approach was to operate within limits and pay down debt, but also continue to invest in capital improvements to push the City forward. The higher bond rating was a big accomplishment for Mr. Johnson and staff. He thought there were areas that were brought to their attention. He raised the issue of MERS calculation of contributions. He said they have talked about handling it in the same way OBEP is handled. He liked the results of making the extra effort on retiree healthcare obligations and he thought financially, they should double that effort in the pension area. It is capped in some areas and still significant in others. In the area of debt, he thought they should take opportunities to refinance to continue to pay it down. He thought it was beneficial in a number of areas. He asked how the AAA bond rating benefits Novi. Mr. Johnson said the City is one of twelve communities in Michigan that have it. It means our credit rating is the highest available. The City will be offered the most favorable rates when borrowing. It is a great accomplishment for the City. Member Mutch said an area of concern he usually has during budget time is the Library Fund. He said it looks like in the current budget, they are more in alignment. He commended the Director and staff for making that happen. The Tree Fund and the Perpetual Drain Fund stands out with a significant amount of

Fund Balance in them. They have talked about the importance of maintaining fund balance and the importance of continuing to invest back into the Community because that is what drives us forward as a City. They are restricted for specific purposes, but he would like to look at utilizing them and leverage those resources to accomplish some projects that haven't been done. The Drain Perpetual Maintenance Fund possibly would allow us to supplement the City's Drain Millage which would allow us some flexibility in dealing with the overall millage amounts. Maybe, at budget or goal setting, Council could have a conversation about our overall tax rate with debt millages rolling off and what are some areas or initiatives of focus of allocating more resources. He thought there were areas that need to be addressed long term now that the City is in a good financial position with healthy Fund Balance. He hoped the citizens appreciated how fortunate the community is.

INTERVIEWS FOR BOARDS AND COMMISSIONS

1. David LaBounty – Library Board, Historical Commission

Mr. LaBounty spoke how he would like to give back to the community and was a frequent user of the Library. He feels it is the best library he has ever seen. He said he was a published author, also.

Member Mutch asked what impressed him the most about the Library. Mr. LaBounty said the staff is helpful and diverse materials.

Member Wrobel asked which would he prefer the Library Board or Historical Commission. He answered the Library Board. Member Wrobel asked what skills he would bring to the Library Board. Mr. LaBounty said he was interested in the arts and as a Director of Retail Operations for Belle Tire he works within budget. He understands the need for fiscal responsibility.

Mayor Pro Tem Staudt asked how his experiences in the Navy would apply to serving on a Board or Commission. He said it doesn't apply because he was a technician and very young. Mayor Pro Tem Staudt explained the Library Board is a popular board to be on and wished him well.

Member Burke thanked him for interviewing and looked forward having him serving somewhere in the City.

Member Casey asked why he has come forward now. Mr. LaBounty said he has not given back in the past and now he feels the need to do so.

Member Markham asked him what he writes about. He said fiction and poetry. He has hundreds of poems published. Member Markham commended him for coming forward to serve.

Mayor Gatt didn't have any questions but also thanked him for wanting to serve and wished him the best.

2. Roy Kronsbein – Library Board

Member Wrobel asked what skills he would bring to the Library Board. Mr. Kronsbein said he had a Master's Degree in Library Information Science from Wayne State University and he did his Doctoral work at the University of Michigan. He has a class and dissertation, then he will have his PhD.

Mayor Pro Tem Staudt said they are overwhelming qualifications. He asked how long had he been a resident and what were some things he would do differently with the Library Board than what is currently being done. Mr. Kronsbein said he has been a resident of Novi for 22 years. He thought every time there was a change with a Board member, it was like a new broom that sweeps well. He thought they could take a new facet from his experiences and had a good professional feel for maximizing the information for everyone. Mayor Pro Tem Staudt said it was very difficult to make a decision because there are a few well qualified applicants and only one position available.

Member Burke said his application had a lot of information and thought his questions were answered. He said he was well qualified and thanked him for coming forward. Mr. Kronsbein commented that the Library chose three words for themselves that really is the pulse rate of their totality. They chose to inform, to inspire, and to include. He has a personal way of evaluating his life to aspire to inspire before he expires.

Member Casey asked why he was coming forward now. Mr. Kronsbein said he had the pleasure of having helped raise his family. He said the fact he knew how difficult it is to raise a family, he feels there is a linkage of mentoring students and information at the Library and would like them to crave more information.

Member Markham noted he was the current Library Director for Detroit Catholic Central. She asked him what would be the difference of how a community library would be administered versus a library for a school. He said the library at the school is to distinctly support the academic curriculum. They are the largest digitized high school library in the State of Michigan that is accessed by the student body and alumni. He suggested asking the residents what information they would like to have in the Library.

Member Mutch asked him what strengths and attributes that makes Novi a better Community. Mr. Kronsbein believed there should be three things that should be present in a library. It should be aesthetic, functional, and behavioral. The design in the new building is stellar. The library, staff and Board should be energetic looking at the strategic plan, budgets, proposals, and the future planning. He feels it is very important. He saw the director and staff as being very open and always gives it a try.

Mayor Gatt thanked him for wanting to serve, but mentioned there was only one position open.

3. Doreen Poupard – Library Board

Ms. Poupard said she has lived in Novi for 10 ½ years. The longer she has lived here the more she values saying, I am Novi. She asked to be considered to sit on the Library Board. She received her Master's Degree in Library Science from the University of Michigan. The Novi Library has been in the forefront of the many changes to enhance the quality of services for the residents of Novi. She commended the Council and City Administration for the foresight and support and the Library Director Julie Farkas for her leadership, energy, openness to change and passion. She would be honored to work with her.

Mayor Pro Tem Staudt asked what she thought the role of City Council should be as it relates to the Library Board. Ms. Poupard said Council is doing a good job now. She knew they were supportive.

Member Burke appreciated that she was staying involved. He asked if there was anything she would like to change at the Library. Ms. Poupard said she thinks as a member of a Board, they should work together. She knew the Library staff was open to new ideas. She thought one of her strengths was asking questions and being supportive. She knew the Library staff was concerned about the lack of involvement north of I-696 and didn't have a strong working relationship with the Walled Lake Consolidated School District. She said it was in the area where she lived and believed she would be more knowledgeable based on what the Director's needs were.

Member Casey asked why now was she stepping forward for this Board. Ms. Poupard said she loved the Library and had some time to devote to the Library.

Member Markham didn't have any questions and commended her for staying involved.

Member Mutch asked what are the strengths of the Library and how does it improve the City of Novi as a community. She believed it was the energetic service orientation the Library has. They provide great service to the Community and a Director that brings a lot of commitment and passion.

Member Wrobel said she had been there when the City needed volunteers. He was honored to have served with her on Council. He asked how the Library could better serve the residents of Fox Run. Ms. Poupard said the Library provides books and activities at Fox Run. Director Farkas has attended some to the resident committee meetings at Fox Run. She thought the pressure should be on Fox Run to use the Library more and to be more involved. She needed to get the Fox Run residents to be more engaged.

Mayor Gatt didn't have any questions. He commented that she was a giver and that Novi was fortunate to have her here. She said she has received a lot from Novi.

REPORTS:

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

AUDIENCE COMMENT – None

CONSENT AGENDA REMOVALS AND APPROVALS:

CM 15-12-171 Moved by Wrobel, seconded by Burke; CARRIED UNANIMOUSLY:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 1. November 23, 2015 – Regular meeting
- B. Enter Executive Session immediately following the regular meeting of December 7, 2015 in the Council Annex for the purpose of discussing privileged correspondence from legal counsel.
- C. Approval to purchase protective turnout gear for the Novi Fire Department from Apollo Fire Equipment based on unit pricing for \$16,092.
- D. Approval to purchase a 2016 Ford Escape SE 4x4 from Signature Ford in the amount of \$23,058 using the State of Michigan MiDeal cooperative purchasing contract.
- E. Approval of a request by Mirage Development, LLC to waive the Maintenance and Guarantee Bond required under Section 26.5-10 of the ordinance for water and sewer facilities installed in Asbury Park located north of 11 Mile Road and east of Beck Road in Section 16.
- F. Approval to purchase new flooring for the Community Development Suite Renovation Project from Cohn's Commercial Floor Covering, Inc., in the amount of \$18,351.31 based on National Joint Powers Alliance (NJPA) cooperative purchasing contract.
- G. Approval of the final payment to Great Lakes Power & Lighting, Inc. for the 2014 Lift Station Generator Sets project in the amount of \$24,644, plus interest earned on retainage.

- H. Approval to award engineering design services to URS Corporation (AECOM) for the 2016 Chip Seal Program in the amount of \$16,923.
- I. Approval to award to the engineering design services agreement to Orchard, Hiltz & McCliment for the Pontiac Trail (Segment 9) Pathway—West Park to Beck Road project in the amount of \$44,690.
- J. Approval to award engineering design services to URS Corporation (AECOM) for the 2016 Neighborhood Road Program in the amount of \$63,500.
- K. Approval of a Storm Drainage Facility Maintenance Easement Agreement from M113 Novi LLC, for the Eberspaecher Parking Lot Expansion located south of Grand River Avenue and west of Novi Road (parcel 22-22-276-012).
- L. Approval of a resolution terminating a portion of an existing water main easement (recorded at Liber 19754, Page 369, Oakland County Records) at the request of M113 Novi LLC, as part of the Eberspaecher Parking Lot Expansion located south of Grand River Avenue and west of Novi Road (parcel 22-22-276-012).
- M. Acceptance of a warranty deed from Interphase Land Development, LLC for the dedication of the master planned 60-foot right-of-way along Beck Road for the Casa Loma project located west of Beck Road, north of Eight Mile Road (Parcel 22-32-200-014).
- N. Approval of a Storm Drainage Facility Maintenance Easement Agreement with Interphase Land Development, LLC for the Casa Loma project located west of Beck Road, north of Eight Mile Road (parcel 22-32-200-014).
- O. Approval of Traffic Control Orders 15-22 through 15-25 for traffic control signs at the intersection of White Pines Drive and Arden Glen/Denby Ct.
- P. Approval of Claims and Accounts – Warrant No. 953

Roll call vote on CM 15-12-171

**Yeas: Burke, Casey, Markham, Mutch, Wrobel,
Gatt, Staudt**
Nays: None

MATTERS FOR COUNCIL ACTION

- 1. Consideration of requests from Edward Rose Entertainment Michigan, LLC:
 - A) Consideration of a request for Special Land Use approval for service of alcoholic beverages.

CM 15-12-172 Moved by Staudt, seconded by Casey; CARRIED UNANIMOUSLY:

To approve a request for Special Land Use approval for service of alcoholic beverages for the reasons stated in the staff recommendation to the Council and because the addition of the on premises use will be an asset to the residential community at the Rose facility and the general area.

Member Mutch noted that the liquor license is not limited. City Attorney Schultz said that was correct. Member Mutch said technically the property is in a residential zoning district. He didn't believe a liquor license was ever moved into a residential zoning district and asked if there was any zoning ordinance that prohibits that. City Attorney Schultz said he didn't think so. Member Mutch commented it was a trend for facilities to allow residents to have liquor beyond their own spaces. He said it seemed different to open it to the general public. He was concerned about the precedent they were setting. City Attorney Schultz said there is no good way to limit it and each special land use permit can be reviewed differently and the standards can be applied. Each permit would be evaluated differently and not against ones that were previously approved.

Mr. Eric Eggan, Honigman, Miller, Swartz and Cohen, said he was representing the applicant. Member Mutch asked if he could provide Council with an understanding of how they anticipate the liquor license will work within the facility. Mr. Eggan said the goal is to have a very modern facility. Facilities like this nationwide provide convenience and comfort to the residents that live there. They found residents like the opportunity to have a drink with their meals similar to going to a restaurant. The difference is that it is not convenient for the residents of the facility to drive to go elsewhere. The liquor sales are to make it more convenient and a more comfortable atmosphere. In order for the facility to have a Class C liquor license it has to be a public license but the hours the facility will operate was not going to be like a bar or club. It would be unlikely that the public driving by would go in to have a drink. Member Mutch agreed with him and said a new provision in the state law was created to address this kind of facility and it has worked for Fox Run. He asked why it wasn't similar to the Fox Run license versus the more general one they are applying for. Mr. Eggan said this facility doesn't qualify for a Senior Citizen Center liquor license because of the residents' ownership of their residences and the kind of ownership they have. It doesn't qualify under State Law for that particular kind of license. Member Mutch he wasn't concerned it wouldn't be visited by the public often but it does raise some concern with events and guests visiting. He would support this, but was interested in information from City staff regarding the trend in the future and suggested having a statement of parameters for liquor licenses to ensure that the City can accommodate this kind of use in an undesired location.

Roll call vote on CM 15-12-172

**Yeas: Casey, Markham, Mutch, Wrobel, Gatt,
Staudt, Burke**

Nays: None

- B) Consideration of request to transfer ownership of escrowed 2015 Class C & SDM License with Sunday Sales Permit (PM), Dance-Entertainment Permit and Specific Purpose Permit (Food), from Battaglia's LL, LLC in Auburn Hills to Providence Park Senior Living, 47666 Grand River Avenue, Novi, MI, 48374.

CM 15-12-173 Moved by Staudt, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve the request to transfer ownership of escrowed 2015 Class C & SDM License with Sunday Sales Permit (PM), Dance-Entertainment Permit and Specific Purpose Permit (Food), from Battaglia's LL, LLC in Auburn Hills to Providence Park Senior Living, 47666 Grand River Avenue, Novi, MI, 48374, because the licensing of the subject premises will provide a service, product, or function that is not otherwise available within that residential community and because it provides a service that is beneficial to the residents of the community and their visitors, is unique to the area, and will not adversely impact the surrounding area.

Roll call vote on CM 15-12-173

Yeas: Markham, Mutch, Wrobel, Gatt, Staudt, Burke, Casey

Nays: None

2. Consideration to approve form of Stipulated Order Amending Consent Judgment dated July 24, 2002, and June 25, 2002 Agreement for Entry of Consent Judgment in the case of Sandstone Limited Partnership-A v City of Novi, as to 21-acre parcel of property located east of Novi Road and south of Thirteen Mile Road, subject to conditions relating to notice and submission to the Oakland County Circuit Court and final review and of and modifications or revisions to the Order by the City Manager and City Attorney.

Mr. Matt Quinn, represented the applicant, spoke about the history of a Sandstone project he was involved with that brought them to this point. His client was Michael Furnari, owner of Manchester 13, LLC and was there with the engineer, architect, and landscaper of the project to answer any questions. In the Consent Judgment of Sandstone, there were 21 acres that were not developed. The property was supposed to be 170,000 square feet of commercial. Some commercial has already been developed. The applicant wants to build residential instead. They asked that the Consent Judgment be amended to allow a project that will be condominiums for rent. It will be an apartment complex, but they will not be the usual apartment. They are proposing 175 units. Rent will be approximately \$1,600 to \$2,000 a month rent. The units will range from 1,250 to 1,500 square feet. There will be 23 buildings with a club house and swimming pool. This project was started almost two years ago. It went through a

full Planning review with a public hearing. The Planning Commission made a positive recommendation that the project should be approved. The Planning Commission determined there should be some neighborhood commercial as part of the project. There will also be a commercial development of about three acres with a little over 8,000 square feet. The Land Use Study determined that it should fit in and serve local commercial usage. There will be a pedestrian connection between the commercial portion and the residential uses. The construction of a sidewalk was requested and a cross connection of Brown Street into the development. They were asked to provide a linear walkway around the south edge of the parcel as an attractive walking area that allows the nature area to be observed for residents and the general public. They were asked to add industrial lighting along Novi Road frontage and long the 13 Mile frontage. The project has a neo-traditional design where the walkways will be very welcoming. The project will be in excess of \$26 million. A market study showed only a 5% vacancy rate which is very low. They determined an age group of 50 – 68 years olds would occupy the rentals because they are downsizing from a bigger home and young professionals would rent them because they can stay close to their job, friends and family. Probably, those who will not live there will be 17 and under or not a high concentration. The traffic was questioned at the public hearing. The traffic studies showed over 9,000 trips with a commercial development. The apartments would only have 1,269 trips. They determined fewer trips with the residential development.

He explained there needs to be an amendment to the Consent Judgment before the development can be approved. They have agreed with the terms of the amendment to the Consent Judgment. The site plan has been reviewed and they have agreed to do everything that was commented on and they have added some improvements into the plan. They thought the City Attorney has done an outstanding job preparing the documents. After the approval, they will have to file a motion in the Circuit Court to get the stipulated judgment entered; giving notice to the property owners still involved, and then the amendment will be entered in the Court. Then they will be able to proceed with the development.

Member Wrobel thanked the applicant for listening to their concerns. He asked if it was going to be a gated or non-gated community. Mr. Quinn said that it will be a non-gated community. Member Wrobel asked if there will be direct access into the residential portion. Mr. Quinn said that they will be able to walk there only. Member Wrobel asked how many retail units can fit in the commercial portion. Mr. Quinn said up to five units can go into the commercial portion. Member Wrobel if there was a firm plan to convert the apartments to condominiums. Mr. Quinn said there were not any plans to do that now. Member Wrobel thought it was a good plan.

CM 15-12-174 Moved by Wrobel, seconded by Burke; MOTION CARRIED: 4-3

To approve the form of Stipulated Order Amending Consent Judgment dated July 24, 2002, and June 25, 2002 Agreement for Entry of Consent Judgment as to 21-acre parcel of property

located east of Novi Road and south of Thirteen Mile Road, subject to:

- (1) 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**
- (2) Undertaking all actions necessary, as determined by the City Attorney's office, to secure entry of the proposed Order, including but not limited to:
 - (a) Providing appropriate notice of the proposed entry of the Order to Sandstone prior to submission of the order to the Oakland County Circuit Court.**
 - (b) Submitting the proposed Order to the Court by appropriate motion, with notice to interested parties, including Sandstone and its various successors and assigns in connection with the PUD.****
- (3) Entry of the Stipulated Order by the Oakland County Circuit Court.**

Member Burke noted there are three phases. He asked what phase would the commercial build and asked the timing of it. Mr. Quinn said the commercial development is in the second phase and it would take 24 months. Member Burke said he would support this project because he couldn't see having the previous commercial development plan. He went over the documents and commended the developer for incorporating the points that were brought forward.

Member Mutch asked Deputy Community Development Director McBeth about the connection between the commercial retail center and apartment complex. He didn't see how the connection was established. Ms. McBeth said they haven't seen it on the plan, but have agreed to it in the response letter. He asked if the pathway is for someone who lives either east or west of the complex to get to that area. Ms. McBeth thought there could be a couple of options. Member Mutch asked about public walkway easements. Ms. McBeth said they haven't discussed public walkway easements internal to the development other than the trail agreed upon. He didn't see a connection for those who live north or west of the site from 13 Mile into the center. Ms. McBeth said it didn't show on the plan but the commercial center will be about 10 feet above 13 Mile road. She said it could be something they could add on the final site plan. Member Mutch felt it could be important. He mentioned the trail on the south side of the property would be a wood chip trail and asked if there is going to be a public walkway easement for it. Ms. McBeth said they haven't worked out the details yet. Member Mutch suggested limestone would be a better alternative.

Member Mutch asked City Attorney Schultz about the order of documents, with the interplay of the language on the documents, what is still applicable in the Consent

Judgment and if the Vista PUD should be the guidance. Mr. Schultz said the intention is once the plan is approved, it will be the land use that is on the property unless the Consent Judgment changes. The PUD should be the guidance unless something is missed. It will be stated in the amended Consent Judgment to do that. Member Mutch explained there were a lot of variances and that they are taking the plan as presented with its own universe of rules. The legal theory is that the Consent Judgment gives the authority to do that. Mr. Schultz said they went page by page to catch any reference to the remaining PUD which is the way the Consent Judgment talked about this property. He explained they are amending the PUD agreement with this Consent Judgment. A question was what is in the Vista PUD that is different from this Consent Judgment and the plan is being amendment once the judge signs it. There is a provision that states that. They are hoping the judge will make the finding because they think it is correct that they have done all of the steps required under the zoning ordinance and statute to amend the PUD. They did the public forum and the public hearing in front of the Planning Commission. They hope with this document and approval amended the PUD and Consent Judgment at the same time. Member Mutch confirmed they are amending the PUD. Mr. Schultz said they stated directly in the stipulated order, but what they didn't do with the PUD was everywhere it was different from the PUD like they did with the Consent Judgment. Member Mutch said there is no value to looking at the underlying PUD because they didn't look at it. Mr. Schultz said he was correct because the value in the PUD for the undeveloped property gives the bulk requirements and instead the petitioner is asking to approve this plan. Member Mutch said it touches on three areas of problems with the proposal. The plan has changed from what has been contemplated, but felt no one wants to see the level of commercial development previously proposed. He thinks that residents thought they were underserved by local commercial development and saying there is a need for local development like a grocery store in the local area. The marketing assessment said it didn't make sense. There was no explanation where the numbers came from and seemed low with all the proposed development in the area. Even from the Land Use Study, he felt the applicant is providing a third of the projected commercial development that is needed and it is the last reasonable location for commercial development if the plan is approved. He understood the traffic counts would include the extra trips of people having to go to the local grocery store. He was concerned they would have to go to another community for groceries instead of in Novi. Also, the Land Use Plan didn't seem to take into consideration significant development in the area. He said there are apartments across the street already. He said there is a large apartment complex plan that has been approved at the southwest corner at 12 1/2 Mile and Novi Road. It wasn't mentioned in the Land Use Plan. When the Vista Plan was originally approved, in the area plan, the apartments were going to be only 15% of the overall development. The plan now shows 40%. He felt it was a significant change. He feels everyone who lives and invested in the area doesn't like the change. He understood Mr. Schultz worked to take the City out of ongoing legal liability by putting the responsibility on the developer. He thinks the property owners in the area need to enforce their right and will have to go to court to fight this change. He didn't think it was fair for the residents that have been there for a long time. The residents know there will be something developed there and felt it should be more amiable for them. He

didn't think there is a need for more rental properties at this density. He was interested in something with a mixed use with a public component similar to the Vista's plan. He thinks it is trying to put too much in that area and it wouldn't benefit the surrounding properties.

Mayor Pro Tem Staudt said the previous speaker was attempting to lay out the position against the City. He thought he was leading the ground work for that. He didn't think it was their roles as Council members. He said it was disappointing that someone brings a strong development plan and listens to the City staff, and someone tries to make a legal argument as a Council member against the plan. He said it wasn't the direction we should be going as a City and he will support it because it was what they heard previously with some improvements. If someone wants to file a suit against the City or the development, they could do that and felt that they shouldn't be encouraging the situation.

Member Casey noted the concept of putting retail in there as opposed to the vast amount of commercial was something she was inclined to support. The challenges she had was with the expectation of the demographics that they determined. She was concerned about vacancy. She was concerned about the amount of apartments in the area. She didn't know if the amount of commercial development proposed would be enough to support types of use the local residents were asking for. Mr. Quinn answered that Mr. Furnari tried to bring a grocery store to this location before he looked at making it into condominiums. They were not interested because there was not enough population in the area. He said residents they spoke to were satisfied that they did their due diligence. Member Casey said it was one or two years ago and felt times may have changed since then. She asked would the amount of commercial space proposed be enough to support some type of food store. Mr. Quinn said it would be difficult. Member Casey heard feedback about the traffic going in and out at the curve on Novi Road. She assumed the traffic consultant as well as the experts determined that it was a significant concern and that people will be safe getting in and out of that complex. Ms. McBeth said the traffic consultant did review it and that the numbers would be reduced with a residential development.

Member Markham liked a couple of the changes after the residents gave their feedback. She said this area had a plan for over 20 years. She said there was a need for the area residents for passive recreation. They have put some public areas which she said was not commonly done in developments. She also appreciated the road that goes from the Brownstone Development to the east into the proposed development. She sees those kinds of connections take the pressure off the main arteries and felt it was an important feature they put into it. She was concerned that there was not enough commercial development to support that population in the area. She thought it was too many units.

Roll call vote on CM 15-12-174

Yeas: Wrobel, Gatt, Staudt, Burke

Nays: Mutch, Casey, Markham

AUDIENCE COMMENT:

Andrew Sarpolis, 31036 Beachwalk, said he lived in the area of the proposed development and thought Council had a good discussion about it. He felt the area was light in commercial development. He noted the Haverhill Subdivision asked for approval to extend a sidewalk in that area. He suggested to Council to extend the sidewalk even further to just beyond the M-5 expressway for access to a grocery store on the edge of Commerce Township and Novi. It would be easier for those who live in the area to go to the grocery store without using a car. He thought the north end was already very walkable. He thought more retail would have been a good thing.

COMMITTEE REPORTS – None

MAYOR AND COUNCIL ISSUES – None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION – None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 9:40 P.M.

Cortney Hanson, Deputy City Clerk

Robert J. Gatt, Mayor

Transcribed by Jane Keller

Date approved December 21, 2015