

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, AUGUST 31, 2020 AT 7:00 P.M.**

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

In accordance with Executive Order 2020-154 this meeting was held remotely.

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Gatt, Mayor Pro Tem Staudt, Council Members Breen, Casey, Crawford, Fischer, Mutch

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

APPROVAL OF AGENDA:

Mayor Gatt wanted to add to the end of the Agenda: Enter Executive Session for legal discussions and property acquisition. City Attorney Schultz asked if he could tweak the language a little bit. Mayor Gatt said yes. City Attorney Schultz changed the language to say: Enter Executive Session to discuss confidential communications from legal counsel and property acquisition.

CM 20-08-096 Moved by Gatt, seconded by Fischer; CARRIED UNANIMOUSLY

To approve the Agenda as amended.

Roll call vote on CM 20-08-096 **Yeas: Staudt, Breen, Casey, Crawford, Fischer, Mutch, Gatt**
Nays: None

PUBLIC HEARINGS: None

PRESENTATIONS: None

MANAGER/STAFF REPORT: None

ATTORNEY REPORT: None

CONSENT AGENDA REMOVALS AND APPROVALS:

CM 20-08-097 Moved by Fischer, seconded by Breen; CARRIED UNANIMOUSLY

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 - 1. August 10, 2020 – Regular meeting
- B. Approval of (1) a resolution concerning the acquisition of property and approving declaration of necessity and taking and, (2) a declaration of taking

for easements with fair market value in the amount of \$21,478.50 for a sidewalk easement on parcel 50-22-23-226-033 for the construction of a sidewalk on the west side of Meadowbrook Road, south of Eleven Mile Road.

- C. Approval of (1) a resolution concerning the acquisition of property and approving declaration of necessity and taking and, (2) a declaration of taking for easements with fair market value in the amount of \$8,182.35 for a sidewalk easement on parcel 50-22-23-226-020 for the construction of a sidewalk on the west side of Meadowbrook Road, south of Eleven Mile Road.
- D. Acceptance of a sidewalk easement from Mead and Mary Brodrick for construction of a sidewalk along the north side of Ten Mile Road between Dinser Drive and Woodham Road (parcel 50-22-20-401-059) in the amount of \$23,069.91.
- E. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Carvana, LLC for Carvana located south of I-96 and west of Novi Road (parcel 50-22-15-478-008).
- F. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Novi Real Estate Group, LLC for Chick-Fil-A located north of I-96 and east of Novi Road (parcel 50-22-14-100-050).
- G. Approval of request by E & M, Inc. (Society Hill) for a one-year extension, to October 9, 2021, of site plan approval for a 312-unit apartment project developed as a PD-1 Option in a multi-family (RM-1) district, located at the southwest corner of Novi Road and 12 ½ Mile Road, previously extended under a consent judgment and subject to annual extension reviews.
- H. Adoption of an amended resolution to change the street name from Flint Street to Bond Street.
- I. Approval to purchase eleven (11) sets of protective turnout gear for the Novi Fire Department from Phoenix Safety Outfitters, an authorized dealer for LION, who holds the National Purchasing Partners (NPP) cooperative purchase agreement for \$28,418.83
- J. Approval to purchase one (1) 2021 Chevrolet Suburban and retrofits for the Novi Fire Department from Berger Chevrolet through the Oakland County Cooperative purchasing contract in the amount of \$77,179.54.
- K. Approval to purchase one (1) unmarked vehicle for the Novi Police Department from Berger Chevrolet through the Oakland County Cooperative purchasing contract, in the amount of \$22,198.

- L. Approval of a street light purchase agreement with Detroit Edison Company for the installation and ongoing operation cost of one (1) standard street light at the entrance of Heritage Woods Condominiums and approval of an agreement with Pulte Homes of Michigan, LLC for the sharing of installation and ongoing operation costs per the City's Street Lighting Policy.
- M. Approval of a street light purchase agreement with Detroit Edison Company for the installation and ongoing operation cost of one (1) standard street light at the entrance of Villas at Stonebrook Condominiums and approval of an agreement with Pulte Homes of Michigan, LLC for the sharing of installation and ongoing operation costs per the City's Street Lighting Policy.
- N. Consideration of approval of the final payment to Cadillac Asphalt, LLC for the Taft Road Rehabilitation (10 Mile Road to Grand River Avenue) project in the amount of \$87,439.02, plus interest earned on retainage.
- O. Approval of claims and warrants – Warrant No. 1066.

Roll call vote on CM 20-08-097

**Yeas: Breen, Casey, Crawford, Fischer, Mutch,
Gatt, Staudt
Nays: None**

MATTERS FOR COUNCIL ACTION

- 1. Consideration to approve a fifth amendment to the previously-approved Conditional Agreement of Purchase and Sale on North Grand River City Property, located north of Grand River Avenue, east of Town Center Drive.**

City Manager Auger said this is brought before City Council due to the developer dealing with COVID-19 over the last several months and asking for an extension. Mayor asked if the developer wished to address Council before they opened it up to City Council for discussion. Mr. Aikens apparently was having technical difficulties and was not able to address City Council at the time. Mayor Gatt asked City Attorney Schultz what the proper way to handle this situation was. City Attorney Schultz said they could table the item to later in the meeting while Mr. Aikens gets his audio working.

CM 20-07-098 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY

To table this item until after Item 6 of Matters for Council Action.

Roll call vote on CM 20-08-098

**Yeas: Casey, Crawford, Fischer, Mutch, Gatt,
Staudt, Breen
Nays: None**

- 2. Approval of the request of Hunter Pasteur Homes for a proposed First Amendment to the approved Planned Rezoning Overlay (PRO) Agreement for Dunhill Park, JSP 15-**

13, located in Section 32, at the northwest corner of Beck Road and Eight Mile Road with respect to environmental issues. The property totals 23.76 acres and the applicant is constructing a 31-unit single family residential development in a cluster arrangement with frontage on and access to Eight Mile Road.

Seth Herkowitz, Partner at Hunter Pasteur Homes, said he and his team have been working during the last several months in close coordination with Director Boulard, City Attorney Schultz, and others to amend the current PRO. He appreciated everyone's effort and time spent on this matter and they were happy to answer any questions.

Mayor Pro Tem Staudt asked Director Boulard what the possible repercussions of this being approved, if any. Director Boulard said he was not aware of any possible repercussions. There is a mitigation system that would be maintained and the buyer of the home would be made fully aware as well as subsequent buyers. Mayor Pro Tem Staudt asked City Attorney Schultz the same question. City Attorney Schultz said what City Council had in front of them records at the Oakland County Register of Deeds in two places, a statement that future purchasers of these two lots will see and have notice of that the deed restriction document has some waiver language and promises not to sue. From a perspective of repercussions to the City he thought those would be limited. He stated what City Council was doing that evening was scaling back on the standard that they had set in the PRO Agreement of unrestricted residential use. He said you are not obligated to make that the standard in the first place.

CM 20-08-099 Moved by Staudt, seconded by Crawford; MOTION CARRIED: 5-2

Approval of the First Amendment to the approved Planned Rezoning Overlay (PRO) Agreement for Dunhill Park as proposed, subject to final review by the City Manager and City Attorney's office as to minor changes to the form of the Amendment.

Member Casey asked Mr. Herkowitz if there was any maintenance that a homeowner whether it be the first, second or the third would have to undertake based on whatever solution you come up with to the contamination that you found. Mr. Herkowitz said it was relevant to note that those do care obligations that you referred to which will be provided to all purchasers and subsequent purchasers that there is no daily maintenance required. The obligations really include repairing any damage to the coating system and periodic inspection of the passive venting system; the do care obligations are relatively non-onerous to the ultimate homebuyers. Member Casey thanked the applicant for confirming that and as long as the language for the future homeowner will be clear on what they need to do she was comfortable with this.

**Roll call vote on CM 20-08-099 Yeas: Crawford, Fischer, Gatt, Staudt, Casey
Nays: Mutch, Breen**

3. Consideration for Final approval of the request of BC Novaplex, LLC, for Novaplex, JZ19-37, with Zoning Map Amendment 18.733 to rezone from OST, Office Service Technology to RM-2, High-Density Multiple Family Residential under the Planned

Rezoning Overlay (PRO) process on land located on the west side of Haggerty Road, north of Twelve Mile Road in Section 12, together with approval of the PRO Plan and PRO Agreement. The applicant is proposing to develop a 272-unit multiple-family residential development on approximately 22 acres of land.

David Landry said he was there to represent the developer. He said this was a project that had a positive recommendation from the Planning Commission, City Council considered it, and preliminarily approved it. He said they have been working with City Attorney Schultz, city administration, and they have a PRO Agreement that they are both in agreement with. They are looking forward to moving forward with this project. He said they are there for final approval of the PRO Agreement and they are ready to put a shovel in the ground.

Member Breen asked Mr. Landry if some of the units were made larger in the updated proposal. Mr. Highlen said that was correct. They found a couple that were a little deficient against the market in the area. They increase a few by a few square feet to get them into the relevant range of square footages. She said it looked like they added two more two bedroom units as opposed to the one bedroom unit. Mr. Highlen said it was a better mix and it slightly reduced our one-bedroom count which was a deviation given to them. Member Breen asked if there was any change in the number of families or children that would be in the K-12 grades that would be different due to the changes, would the numbers be higher. Mr. Highland stated the estimate is 0.15 children per unit so we are in the fractions of a single child, there would be no changes. Member Breen asked if they have had any more discussions with Novi Schools as to the impact this would have on the local school districts other than adding another bus stop. Mr. Highlen noted that they have not had a chance to talk to the Novi School District recently. Originally when they talked to the Novi School District they confirmed if this was approved they will be included in their stops; however they said they couldn't discuss anything until it is officially approved and sent to the school district for a formal planning purposes. Otherwise they were just speculating so they did not want to discuss it any further until they know for sure that this is going to happen. Member Breen stated that by their estimates this could add another 40-49 children to the K-12 grades at Novi Schools. Mr. Highlen replied yes, or even less than that.

Member Mutch had a few questions regarding an environmental issues related to the site. He asked City Attorney Schultz where we stood with the question of the wetland mitigation and in terms of the PRO Agreement what will be required. City Attorney Schultz stated that right now the wetland provisions of the draft agreement essentially just say they will mitigate onsite or offsite within the City of Novi as approved by the City. The discussion we had the last time about outside the city of Novi or land banks those did not make it into the agreement that is in front of Council today. Member Mutch asked the applicant to address that where it stands right now. Mr. Highlen said they have been in contact with several brokers and homeowners around the City and they are currently negotiating with one of them with a feasible sites to add wetland to so we are actively acquiring the land necessary to provide the additional mitigation that is not provided on site. Member Mutch said the history of this project when it was initially approved, not this project, but on this property a significant number of trees were

removed from the property in anticipation of the development of an office complex. That project never moved forward. He wondered if the City have any other funds set aside covering the replacement costs for those trees. City Attorney Schultz stated that most of that money has been deposited in the City's Tree Fund as far back as 2005. They have largely stayed out of the back area in terms of cutting more trees down, but to the extent they do have to cut trees down those will be replaced at the current standards are for replacement including payment into the Tree Funds at today's rates and not previous rates. He thought primarily those funds that the City is holding are accounted for and subsequently are ready to be put in the Tree Fund if they aren't already. Member Mutch clarified what was previously removed they paid the full amount based on whatever the City required at the time based on a number of trees that were removed. He wondered if that obligation been fully met at this point. City Attorney Schultz replied that Director Boulard had some comments on what has not been met. Director Boulard said it was about a \$190,000 originally. He did not have the history his guess was about approximately \$58,000 that was retained because those were trees that were going to go back in as part of that project. He said the City has had the benefit of those funds for all those years. The funds that are still holding are basically in escrow as a bond are at the rate that they were posted, but any additional trees or tree credits that required would go at the current rate. Member Mutch asked if that was \$400.00 a tree. Director Boulard said that was correct. Member Mutch stated that those were the questions that he had outstanding and he had a few others that staff said would be addressed at Site Plan review by the Planning Commission. He said one thing that wasn't clear to him was how this is being calculated was the requirement to provide what the ordinance defines as usable open space. That includes the clubhouse and pool area, the balconies that are attached to certain apartments and other open areas on the property. In looking at what the developer proposed for that usable open space it struck him as random the areas that were designated. He stated that he wasn't sure from reading the ordinance that those met the requirements. Having said that the PRO Agreement does require them to meet that standard so he was assuming staff will give that due diligence that it requires at Site Plan review to ensure that they are meeting the ordinance standards definition and providing the appropriate amount. He remarked that he would not be voting for this, he did not vote for it the last time. The project itself was interesting, he thought there were a lot of concepts in terms of walkability and adjacency to work that he thought were worth noting. The biggest concern he had was that a single high density apartment complex dropped into an office park area which is really not walkable to anything else. He said if folks are moving to this complex with the idea that they will be able to rely less on their car to do grocery shopping, or go to a restaurant, or get coffee, etc. it is not going to function that way. The other big concern he had it is being presented as a transitional use to the residential to the traditional homes in Farmington Hills to the east. He said in reality once this is built it is probably going to be the most intense use in terms of impact along that section of the Haggerty Corridor. He said for those two reasons he would not be able to support this project as it is proposed at this location.

Member Fischer stated that in their information packet City Council received it talked a little bit about the wetland mitigation. It stated that the applicant is exploring options to

construct the mitigation on other sites in the City. He wondered if that ends up not being possible, and the applicants decides that it is cost prohibitive, what are the next steps as far as the process goes. City Attorney Schultz replied the Agreement is written out so they would have to come back and amend the Agreement to get City Council's approval to do it some other way. Member Fischer thanked him for that clarification, it was one of his sticking points, he was glad it was drafted that way.

CM 20-08-100 Moved by Fischer, seconded by Casey; MOTION CARRIED: 5-2

Final approval of the request of BC Novaplex, LLC for Novaplex, JZ19-37, with Zoning Map Amendment 18.733, to rezone property from Office Service Technology (OST) to High-Density Multiple Family (RM-2). This approval is subject to the related Planned Rezoning Overlay (PRO) Agreement, and corresponding PRO Concept Plan, and subject to the conditions listed in the staff and consultant review letters, and with any changes and/or conditions as discussed at the City Council meeting, with any final minor alterations required in the determination of the City Manager and City Attorney to be incorporated by the City Attorney's office prior to the execution of the final agreement. This motion is made for the following reasons:

- 1. The applicant has presented a reasonable alternative to the Master Plan for Land Use with the proposed the High-Density Residential (RM-2) zoning district, and because, as stated by the applicant:**
- 2. Designing the higher density residential use next to existing OST uses allows for a unified appearance and implementation of proper safeguards between the neighboring uses:**
 - a. Building styles will be compatible with the existing office buildings;**
 - b. Apartment residents will move in with the full knowledge of the neighboring uses;**
 - c. The residential site is higher than much of the surrounding area;**
 - d. Wooded areas on this site and adjacent sites provide a great buffer;**
 - e. Setback plus proposed landscaping will be used to enhance the buffering of uses;**
 - f. The higher density residential use will act as a transition between the single family uses to the east and the Office Service Technology uses to the north and west.**
- 3. The project is consistent with the Master Plan goal to enhance Novi's reputation as an attractive community in which to live;**
- 4. The project is consistent with the Master Plan goal to protect Novi's remaining woodlands and wetlands, as the applicant has**

agreed to comply with the wetland and woodland protection ordinances;

- 5. The project is consistent with the Master Plan goal to maintain adequate infrastructure in an environment of limited federal and state funding;**
- 6. The project is consistent with the Master Plan goal to promote interconnectivity between neighborhoods to reduce vehicle trips on main roads;**
- 7. The project is consistent with the Master Plan goal to promote active living and healthy lifestyles in the City of Novi;**
- 8. The project is consistent with the Master Plan goal to ensure that Novi continues to be a desirable place for business investment;**
- 9. Approval of the Concept Plan and corresponding PRO Agreement provides assurance to the City of the manner in which the property will be developed, and offers benefits that would not be likely to be offered under standard development options.**

Mayor Gatt said he thought this was going to be a unique project and they have his total support. He thought it would add a lot of class to our city.

Roll call vote on CM 20-08-100

Yeas: Fischer, Gatt, Staudt, Casey, Crawford

Nays: Mutch, Breen

- 4. Consideration of approval of a resolution setting fees for wireless facilities, wireless support structures, and utility poles in the public right-of-way.**

CM 20-08-101

Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY

Approval of a Resolution setting fees for wireless facilities, wireless support structures, and utility poles in the public right-of-way.

Member Mutch mentioned that we have gotten a lot of feedback from folks with concerns about new emerging technology related to wireless networks in particular 5G and this is an area where the cities hands have been tied by the state and federal regulations and laws that have been passed. He said we are doing what we can do in terms of setting fees for usage of our City's right-of-way. From the City's perspective in terms of what regulations our hands are tied in that regard. City Attorney Schultz agreed, he said he could not have stated it any better. We will set the fees as high as we can and it is either these fees or none. The City's hands are tied. Member Mutch said as far as the background that was provided in the City's estimates is that these fees will not fully cover our costs. If he understood it correctly, we do not have the option of charging that level and those fees have been capped by the state or federal level. They set the number and it doesn't fully cover our costs. City Attorney Schultz agreed. City Attorney Schultz stated that these go along with a set of ordinances that Council adopted several months ago as a result of legislative changes at the state

level. Member Mutch said he will support this because we have to put this in place as these requests will come in. He hoped that our residents understand. He sympathized with some of the concerns that have been shared with City Council, however we at the city level do not get very much say.

Roll call vote on CM 20-08-101

Yeas: Mutch, Gatt, Staudt, Breen, Casey, Crawford, Fischer

Nays: None

5. Consideration of approval to purchase six (6) 2021 Ford Police Hybrid Explorer vehicles for the Novi Police Department from Signature Ford through the Macomb County cooperative purchasing contract, in the amount of \$218,318.

City Manager Auger said this in a continuation of what we started last year with the hybrid police vehicles. They are all up to the police standards. We do not lose anything with them and we have a rather quick turn around with the return on investments with these vehicles.

Member Fischer mentioned that the money we are saving on the hybrid version of these vehicles is a great idea and obviously they have an environmental impact. He said to be very clear the performance does not deteriorate; it has the same performance that our officers need every single day as other gas vehicles. He wondered if that was an accurate statement. City Manager Auger said they meet all of our standards as far as safety, braking, acceleration, and our trainers went and tested these vehicles out and the meet or exceeded everything that we need.

CM 20-08-102

Moved by Fischer, seconded by Gatt; CARRIED UNANIMOUSLY

Approval to purchase six (6) 2021 Ford Police Hybrid Explorer vehicles for the Novi Police Department from Signature Ford through the Macomb County cooperative purchasing contract, in the amount of \$218,318.

Roll call vote on CM 20-08-102

Yeas: Gatt, Staudt, Breen, Casey, Crawford, Fischer, Mutch

Nays: None

6. Consideration of approval to proceed with refurbishment of the Novi Road Water Tower, including approval of a contract with Protective Coatings Epoxy Systems for painting and other work in the amount of \$64,298.00, a letter agreement with T-Mobile Central LLC for temporary removal and replacement of its wireless antennas in the amount of \$62,895.00, and a \$25,000 contingency fund. Final approval as to the form of such agreements by the City Manager and City Attorney.

City Manager Auger mentioned there were a couple of dates that were off on the contract, He said those are the things that we will be reviewing to change, and make sure it is the correct date that was put in the information packet. He stated we had a

lot more money in the budget to do this project. Fortunately, we had a Novi resident who got involved and worked with the company he used to work with to help lower the cost in this project. It was residents involved, along with our Parks and Recreation staff to get this price. Mayor Gatt said that resident gets a big kudo from the City.

Mayor Pro Tem Staudt asked City Manager Auger or PRCS Director Muck to give an overview on exactly how much it is that we are saving, and he wondered if they could have the resident's name. PRCS Director Muck state that we originally estimated the project around \$450,000. Mayor Pro Tem Staudt asked what the process was to reduce this. PRCS Director Muck said it came from a significant donation of the product by PPG. He stated that we also were going to incur additional costs. T-Mobile approached us about a month ago and said they were going to need to upgrade their antennas. He said before that we were going to have to be solely responsible for all the costs to remove their antennas and put them back up, rent cranes, install the cell on wheels so that is where we came up with the \$450,000 mark. Mayor Pro Tem Staudt wondered about the timeline for completion of this project. PRCS Director Muck said if City Council approved it this evening it would start the clock with T-Mobile. They need about 45 days to marshal their people up and get the temporary cell on wheels, the paint company, and the contractors are ready to go. He said it most likely the start will be October. We will have to deal with weather issues if we push it too much farther than that.

City Manager Auger said the reason he did not mention the residents name is that he may have mispronounced his name. Mayor Gatt asked if the residents name was Larry Ciancio. Mayor Gatt mentioned he was a good friend.

Member Mutch thanked Mr. Ciancio for making that connection for the City. When City Council received the report and they saw how much it was going to cost to restore the water tower to something that is nicer looking than it is today there was a pretty significant figure that was noted. To have that corporate contribution towards our community to this really iconic landmark is huge. He wondered if the plan was to replicate the birthplace of the Novi Special mural on both sides of the tower. PRCS Director Muck said yes, they will replicate it as close as possible. It will look new, it will look a lot glossier and brighter, but they will match it as close as possible. Member Mutch mentioned a PPG logo on the tower to recognize their contribution to the process. Director Muck said that was correct and the final placement will likely be on the back of the tower. PPG recognizes the historical significance of this, they are not looking to make their logo be very visible, but they would like it on there. Member Mutch asked if the City has thought about incorporating the City of Novi logo on the tower. He noted that we have our logo on the website, calendar, and we have incorporated the water tower as a focal point of the City, and obviously with the restoration it will be even more so. Member Mutch asked if it would be helpful to have our logo on it along the lines as PPG logo. PRCS Director Muck said that had not been considered. We have gone forward from the start which is replicating as is. PRCS Director Muck said if you wanted to do that it is not out of the realm of possibility, but from the start we went from as is. Member Mutch wanted to put the idea out there,

staff would have to look it in terms of design. He thought it would be nice have it incorporated in that. He said he fully supported the motion.

Member Breen said she was in support of the motion. She asked PRCS Director Muck if there was an updated timeline as far as the park overall completion or any concepts. She mentioned she would like an update for City Council separately as to what the project timeline might be. PRCS Director Muck said they have not done any additional work on plans for the rest of that park. Member Breen asked if it would be something he could get to City Council in the near future. PRCS Director Muck said he would take that direction from City Council and the City Manager. He noted that he is operating under the direction that the budget may need to be reducing of expenses. He said they haven't gotten into that yet. Member Breen said she and her colleagues understood that.

CM 20-08-103 Moved by Staudt, seconded by Gatt; CARRIED UNANIMOUSLY

Approval to proceed with the refurbishment of the Novi Road Water Tower, including approval of a contract with Protective Coatings Epoxy Systems for painting and other work in the amount of \$64,298.00, a letter agreement with T-Mobile Central, LLC, for temporary removal and replacement of its wireless antennas in the amount of \$62,895.00, and a \$25,000 contingency fund, with final approval as to the form of such agreements by the City Manager and City Attorney.

Roll call vote on CM 20-08-103

**Yeas: Staudt, Breen, Casey, Crawford, Fischer,
Mutch, Gatt,
Nays: None**

1. Consideration to approve a fifth amendment to the previously approved Conditional Agreement of Purchase and Sale on North Grand River City Property, located north of Grand River Avenue, east of Town Center Drive.

Mayor Gatt announced that Mr. Aikens audio was working now and asked him if he would like to speak at that time. Mr. Aikens said he would stand by for any questions that Council might have.

Member Mutch stated that one of the things that everyone recognizes with COVID-19 is that it has had a significant impact on the development process across the city, state and country. It also has had an impact on what kind of uses that would potentially happen at this location in terms of what is the current market demand for things like retail and restaurants. He said at the same time when this proposal first came to the City Council and generated a lot of excitement from Council and in the community, Oakland County, and across the State was a concept of a village that had all these various components. It had One World Market at the hub of it with additional surrounding retail, several restaurants that would support that area. It had a residential component with restoration of the pond area. He said the concern he had at this point

with continuing down the path that we are following having reached this decision point, not entirely through the fault of any of the parties obviously delayed by COVID-19. We are here today, and we must decide whether we proceed forward. The concern he had he expressed at previous meetings which is the continuous evolution of the project plans, not in minor small tweaks, but in significant changes to the core components of this. In his view it is moving further and further away from what was initially presented. It has now become a single retail, One World Market which he was totally in support of, but growing a larger residential, multi-family residential component that he had questions about and reduction of all of the other ancillary uses in that area. He said at this point he could not support a six-month extension as it is proposed. He said he was inclined to say let us stop the process where we are and step back. Maybe start over and at some point, get up back closer to what we originally wanted. He was open to a short-term postponement of the current deadline to give staff, city administration, city attorney, and the applicant time to give address some of the concerns that he thought would be shared this evening. He did not see this Council approving a six-month extension this evening. He wanted to hear what his colleagues had to say, but for himself he was willing to do at most a 30 day extension to hash out some issues and see if we can continue along the path that we've been on or if it makes sense to stop the process and start fresh with some different ideas on where we are going with this property. He felt this property was too important for to the City. It is right in the middle of the center of our City. We have spent a significant amount of money acquiring it and have worked through this process to get a project that everyone on City Council would feel like is a stellar project. He was not feeling that vibe and he did not think we were at that point right now. We need to have a conversation on what direction we are going to go.

Member Fischer said the previous speaker made a lot of great points. He said he did not think he was likely inclined to support an extension at this point. Given where we have been over the last several years, he made it clear the last time that he needed to see a lot of progress. He understood we have a pandemic on our hands. The fact that we have not made the progress combined with the evolution of project plans to something that is not as desirable as the first initial vision that was made for this property is disappointing to him. He will not support a short-term extension either. Member Fischer asked City Attorney Schultz to confirm if he understood what we are looking at tonight was a purchase agreement between these two parties. This would be an extension of this purchase agreement. City Attorney Schultz replied yes, that was correct. Member Fischer said in that purchase agreement we have dates, one date says you have to meet all of these conditions by one date, and within a month of meeting all of those conditions we have to close. City Attorney Schultz said he was correct. Member Fischer said if we were to extend for 30 days could you give him a likelihood that we would be able to meet all the conditions in paragraph seven. City Attorney Schultz said he didn't think that would happen within the 30 days. Member Fischer stated that extending for 30 days it does absolutely nothing to this agreement. It will be back before us to have this discussion all over again. He said he was inclined to go ahead and let this agreement lapse. He shared his disappointment in the evolution of the plans. He said it is time to have some serious discussions about whether or not we can accomplish what we set out to in the beginning or move on from this plan.

Mayor Pro Tem Staudt stated that as one of the people on Council who has lived with this project from the day we bought the property to the day we started considering the options with it to now; he shares some of Member Fischer's comments and also shares some of Member Mutch's comments. He is interested primarily first and foremost to One World Market. He considered them to be an important company in Novi. This project has really evolved from what we envisioned as a One World Market centric development with other type of commercial and retail to a big housing development with limited other options in addition to One World Market. He said he was inclined personally to give the applicant a little more time to talk to One World Market, to talk to our staff and see if there is anything that can make any sense. He understood there has been a lot of money spent on this. There has also been a lot of good will by the Council with the time spent on this with this developer. He thought it was really important that we don't throw this out without one more opportunity to take a lot at it. He disagreed with a previous speaker that the 30 days doesn't give us anything. He thought that the 30 days gives us an opportunity to step back, let the applicant hear what we are saying. Just to make it clear where he is coming from and he thought you will hear from others is that the residential element of this has overwhelmed the project. It is probably out of financial need; however that really isn't our vision for this property. He would consider other options including, limiting the development just to One World Market and the Grand River Property area. He said maybe coming up with a different purchase agreement on the property. He said he was open to a lot of things. He hears his colleagues and what they are telling him was the same thing that he felt looking at the drawing the other day. He said this really has just evolved into a big development of residential property. That is not our vision. He was one of the people who early on who pushed to purchase this property. He wanted some open space and that open space included some very nice restaurants and the lake redone. This is all filled in with buildings now. He was inclined to give our staff and the applicant a little bit more time to think about what we are going to say tonight. Giving us that concept the other day probably was not in your best interest, we appreciate it, but it really is not what we are looking for. He said he would make a motion to extend the existing agreement for an additional 30 days with the associated changes necessary through the City Attorney and City Manager and come back at a meeting prior to the expiration of 30 days to once again discuss the extension long-term. City Attorney Schultz wanted to confirm what Council was looking for as far as the City Attorney and City Manager writing up something regarding a 30-day pause, which he said he was ok with as long as that was what the Mayor would like them to do. He wanted to make sure Mr. Aikens had a chance to talk. Mayor Pro Tem Staudt said he wanted to have Mr. Aikens give some feedback on what he heard that evening. He would like to see it centered on One World Market and retail with less residential. He gave the floor to Mr. Aikens.

Mr. Aikens said he did not have much to say. He said when you are in real estate development the game is to protect the downside risk. Beyond that we can just say goodbye to the money. We are in a black swan pandemic. The restaurant industry is going to be doomed. I am not one to move market and I am not the housing guy. He his the restaurants and the retail. That was the exciting thing to me of course in the north west corner. We were interested in hotels and other things, but we learned

through the process that we had to sort of do exactly something very precise to the city specifications. We had to take what was there, which was the housing. We did not have other uses for that area. The restaurants and retail kind of went bust. He said he was trying to work with these other guys and the city trying to help move this thing forward. We have the One World Market; we have 16,000 square feet of restaurants and retail. We have the pond with the gardens around it and we have the residential. He said he wanted to keep the back open. He mentioned the restaurants are approximately 80 percent of the project might go under, independent restaurants might go under 20 percent of chain restaurant might go under. That is just too risky for him. He would rather just write it off. He does not want to run that much risk. He stated that in Rochester Hills they are down millions of dollars. It is just a rough, rough world out there. City Attorney Schultz asked Mr. Aikens if the 30 days was even needed. Is that something you would be interested in? Mr. Aikens said they could talk, sure, he would take 30 days. He said he would like to keep moving forward with this if he could.

Member Breen said she did not have too much to say that was different that what he said before. Like everyone else he was excited when this concept came out. She understood and wholeheartedly appreciated the difficulty that has been encountered especially with COVID-19 and the environmental issues. The problem is with the proposed concept. She said he was not inclined to extend the deadline if the updated plans that have been provided with the increased residential are what is going to be worked on he would certainly be inclined to grant an extension, whether it be 30 days or more, if it is absolutely positively required we can continue to work toward the original concept which is what made this project so special. She was hoping she could have continued talks closer to the original plan.

Member Casey agreed with her colleagues, she was mixed. She thought her colleagues have been much more eloquent than she. What struck her was the increase in residential. She said they have every ounce of empathy in terms of being faced with a black swan event. That is a perfect description for what has been happening. If what was on the table in front of us was an extension of exactly what we have been marching toward with the most recent plan based on the draft PRO she would be very comfortable with that. She was compelled, sir, she believed a couple of her colleagues have indicated that there is some working relationship. There is some good will that we have worked on, we have worked on this project for quite a bit. Initially she was not going to be inclined to extend this, but she was more inclined to go along and do one 30 day extension agreed to the motion that is on the floor to give us one last opportunity to see if we can get closer to where were. Maybe we can get closer to where we were in March of this year. This will give you time to react and respond. If we get to a place where you say there is nothing we can do or yes, that you can do it and then we will have that conversation. one of the best leasing groups in Michigan. He said there are some restaurants going dark, and he wasn't sure how many people in 12 Oaks Mall are going back up, but he felt that Novi had a lot of problems. Mr. Aikens said he could not take that risk. He thought the insight was helpful and he was happy to have the opportunity to have one last round of conversation. Member Casey said after hearing the feedback it will give you a chance to talk with staff. Mr. Aikens said the Planning Commission thought it would be a good idea for

more residential back there. He said restaurants are the toxic hole that he feared. Balance is what he wanted. He said his colleague has restaurants in Las Vegas, and California. It is just as difficult in those states. He mentioned they are retail. He said they had to have a life preserver in this market, which was the residential. It was not something that he wanted to do; it is just related to his risk profile. Mr. Auger said that Mr. Clark from Robertson Brothers was also there, he wanted to address City Council as well. Mayor Gatt said Mr. Clark could speak shortly.

Mayor Gatt said he thought that everybody there could feel his pain, it is coming through loud and clear, it is on your face, it is in your voice, and I don't think anybody a year ago would have expected this. He thought he heard Mr. Aikens say that "Novi was in trouble". He took exception to that because he thought they have shown over the years that Novi is an exceptional municipality. If anyone is going to come through this and come out stronger on the other end it is going to be Novi. It is going to be people who are willing to take a risk right now who will benefit from that. He believed we would be out of this in the next six to nine months. Mayor Gatt said you heard everyone loud and clear and he was confused because Mr. Aikens stated that maybe there is room for retail, and maybe there is room for restaurants. Is there room for restaurants and retail, or is it going to be what the plans show that evening, just One World Market and residential. Mr. Aikens said they do have 16,000 square feet of retail and restaurants on the site, they removed one restaurant. They transitioned that into housing. We have about four to six or seven restaurants and some retail use on the site. It will all depend on the restaurants. If there is demand for restaurants, we could add restaurants in the back there. In this environment we pulled it back to the 16,000 square feet of restaurants and retail in the front of the project and there may be some possibility he supposed if there is that kind of momentum continuing to do that, they could restaurants in the back. Mayor Gatt said if they pass the motion to an extension for 30 days to talk to City Attorney Schultz and City Manager Auger and staff, maybe you should take the risk. In the end Mayor Gatt thought they would come out a winner.

Mayor Pro Tem Staudt said during this 30-day extension everything needs to be on the table. He thought that maybe we could think differently about acquiring the whole property and having to fill it with the associated costs that come with that. I think everything needs to be on the table. We are not trying to cut you off at the knees, what we are trying to do is come up with something that gives you an opportunity to think this out. They could have come out that evening and just said no. He thought there were some opportunities that Mr. Aikens had not thought about. We have had this discussion multiple time over the years. He thought a few days and discussion with the staff would be helpful.

Mr. Clark, President of Robertson Brothers said from his standpoint he would welcome the additional 30-days to see how we can put this back together. He agreed with everything that Mr. Aikens said. He did not feel the additional 20 units would have garnered the reaction that it did.

Member Mutch said he thought he was throwing you a lifeline, and then thought that he thought he was throwing him an anchor. His initial impression was he thought he

wanted to walk away which is the initial impression that he got. Now he is getting the impression that he does not want to walk away. He understood that Mr. Aikens was trying to share his concerns and challenges that he is facing. Member Mutch said he was hoping to see over the next 30-day an intense conversation amongst yourself, the tenants that you are working with, City administration, the City Attorney to really work through some of these issues. He said there are seven of them and they have heard that some of his colleagues would like to stop this evening. City Council understood the challenges they had. This requires some understanding from on our part coming from you. We need to know what is realistic going forward. If you come back and say you need more residential to make it work, that probably is not going to work, and it might not be the solution City Council is looking for. He hoped things will come back. He noted that he did not know their timeline and what works for them. He did not know what worked for them and what does not work. Member Mutch said he was open to that and he thought others on City Council might be open also if we have a clear vision of how to get there. With the most recent changes that were shared, if this is the only thing that can get done in the next year or two. Maybe that is not a realistic timeframe. If that is not a realistic timeframe for any developer then that needs to be shared with us, but he thought it needs to move back closer to the original vision. Otherwise in 30-days if we are not able to reconcile these issues that it sounds like maybe from your perspective you are looking to walk away, or maybe from our perspective, it is time for us to start over. He encouraged Mr. Aikens to make best use of the time that we were giving him and the other folks involved to come back to us with something that could be a path forward that will work for the City and for yourself.

Member Fischer said the motion is a 30-day extension of what exactly. City Attorney Schultz said what we would do based upon the direction of the Mayor is to put together a document per Mayor Pro Tem Staudt's motion. He explained that it would have a different flavor than what you have in front of you this evening that would explain what you are looking for. Member Fischer wondered if it had to come back to City Council. City Attorney Schultz said they will try to do something that will not have to come back to City Council. It will explain what we are doing tonight and why. Member Fischer said if not, it will have to be addressed at Council again on September 28th. He also wondered if there was anything that would prohibit, if we let this contract lapse that evening and it terminates, discussions with the potential buyer and the city attorney and staff. If some sort of magic agreement is found could they still come back and effectuate a new agreement. City Attorney Schultz said, yes, within a reasonable amount of time of the agreement lapsing would be okay. Member Fischer said those points are exactly why he thought this agreement should lapse. He said he will not support this motion. He said we can have those discussions regardless. He did not see the point of a fifth amendment to a potential purchase agreement and then we would be going back in 30-days with the sixth amendment. He found it as kind of an exercise in futility to be quite honest because we can have those discussion regardless.

Mayor Pro Tem Staudt said his motion was not the fifth amendment to the agreement, it is a 30-day extension of the fourth agreement. He did not see that we necessarily need to have a fifth amendment unless the City Attorney felt that is necessary. City Attorney

Schultz said they have the direction and they will work on the documentation and let City Council know what the best way is to implement Mayor Pro Tem Staudt's motion.

CM 20-08-104 Moved by Staudt, seconded by Mutch; MOTION CARRIED: 6-1

Approval of a 30-day extension to the fourth amendment to the previously-approved Conditional Agreement of Purchase and Sale on North Grand River City Property, located north of Grand River Avenue, east of Town Center Drive, to be prepared by the City Attorney and approved by the City Manager, and to authorize the Mayor and Clerk to sign the same.

Roll call vote on CM 20-08-104

**Yeas: Breen, Casey, Crawford, Mutch, Gatt,
Staudt**

Nays: Fischer

AUDIENCE COMMENT:

Jim Bullock, 22015 Garfield said he spoke May18 regarding Garfield Lake. At the last meeting they said something would be done to refill Garfield Lake. The pumping began at 9 Mile and pumped north to Garfield Lake. It has been two months and the level went down, not up. He talked with the City Engineer, Ben Croy, who stated there was a problem with the pumping and they are trying to fix that. If not for the rain, there would be no increase in the water level. It is like trying to fill an Olympic size swimming pool with a straw. Something is happening, but not at an acceptable level. He was disappointed. If he looks at retention pond from the developer, Mark Guidobono, he said 90 percent of the water pumped into there is being pushed to the south and flooding the wetlands. He wanted to know what other options the city has in mind. He stated that 30 to 50 people are impacted with this and they will have lake or pond in a year. He also noted the wetland where they are extending M-5 is being affected. The pond and lake are a huge problem. We should not be putting a band aid on it. We need to fix this.

COMMITTEE REPORTS: None

MAYOR AND COUNCIL ISSUES: None

COMMUNICATIONS: None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION: None

Mayor Gatt stated they were going to enter Executive Session at 8:22 P.M. and they did not expect to return to Open Session. City Attorney Schultz said they needed a roll call vote because of the way it was added to the Agenda.

CM 20-08-105 Moved by Crawford, seconded by Casey; CARRIED UNANOMOUSLY

To adjourn the meeting and enter Executive Session to discuss confidential communications from legal counsel and property acquisition.

Roll call vote on CM 20-08-105

**Yeas: Casey, Crawford, Fischer, Mutch, Gatt,
Staudt, Breen**

Nays: None

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 8:22 P.M.

Cortney Hanson, City Clerk

Robert J. Gatt, Mayor

Transcribed by Deborah S. Aubry

Date approved: September 14, 2020