

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, JULY 27, 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 Casey, Markham, Mutch, Poupard, Wrobel

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

APPROVAL OF AGENDA:

CM 15-07-98 Moved by Wrobel, seconded by Poupard; CARRIED UNANIMOUSLY:

To approve the Agenda as presented.

Roll call vote on CM 15-07-98 **Yeas: Staudt, Casey, Markham, Mutch,
Poupard, Wrobel, Gatt**
Nays: None

PUBLIC HEARING – None

PRESENTATIONS

1. Proclamation in recognition of Amber Staudt and Ellen Czajka for Life Saving Action

Mayor Gatt presented the proclamation to Amber Staudt and Ellen Czajka. Ms. Staudt & Ms. Czajka thanked everyone for the recognition and wanted to remain humble. They felt they were in the right place at the right time when it occurred. They were thankful to be there. They were happy the child that was saved will make a full recovery.

REPORTS:

1. MANAGER/STAFF:

City Manager Auger reminded Council the consultant hired to do the Master Plan has an online-survey to be completed by the end of the week.

2. ATTORNEY – None

AUDIENCE COMMENT:

Janice Krupic, 48076 Andover Dr., said she was representing many of the residents from the surrounding subdivisions near the proposed development of Valencia South. They believe they have been consistent and reasonable with their requests. She spoke about the key issues that remain. They wish to have the proposed development moved away from the existing homes with a minimum of 50 foot conservation easement with a 35 foot setback. The last request of the City Council was to move the development closer to the corner. The most recent proposal from the builder was doing the opposite by moving the development away from the corner.

Bruce Flaherty, 48048 Andover Dr., said, from the beginning, the residents have asked for a reduction in abutting existing homes. He noted City Council and the Planning Commission have asked the developer to take multiple homes out of the plan. The latest proposal shows two less homes abutting the existing subdivisions and he felt it doesn't do much for their request.

Michelle Brower, 47992 Andover Dr., said one of the issues was preserving more of the woods with emphasis on the southern section that was considered of the highest quality. Many of the trees are now being saved in the current plan. They have continually suggested a large conservation easement to save more of the forest and provide more privacy. They have asked for 50 foot easement, but currently it is at 30 feet. City Council suggested that another 10 feet would save about 200 more trees. Her opinion is more needs to be done to approve this plan. If the plan is approved, she asked if the connection to their subdivision be done through the main entrances. She didn't want something similar to North Valencia Subdivision on her property.

Damon Pietraz, 48380 Burntwood Ct., said he has been a long time business owner in the City of Novi. He was in favor of a bond to protect the well and septic systems. He didn't think \$75,000 was enough. The cost of a couple wells will eat up the \$75,000 quickly. There will be only a few houses, but let the developer post it.

James McGuire, 48028 Andover Dr., said they think they've been reasonable. They knew something would be built there. He wanted them to keep to the Master Plan especially with the regulated woodlands. He didn't want 66 houses. There has been incremental change, but no real change. It seemed to him the homeowners and Council are on the same page but not with the builder. He felt the development had been moved more towards the existing houses and not away from them. There has been no reduction to the number of homes abutting the current subdivisions which is what the residents have wanted all along. The increase in trees being saved was minute.

Virginia Lauinger, 23973 Beck Road, stated she had lived there for 33 years and felt no one had ever entered her yard to see the trees. She felt they were mostly berry trees put there by the birds. She asked that they give this developer a chance. It will bring in tax dollars. That church wasn't built there; it was brought there. She felt old buildings were not saved in Novi. Ms. Lauinger and her neighbors donated money to bring the church there. It took a while but it was fixed. The homes planned to be built would be

good for children. She moved here because Farmington was overbuilt. Not one well was ever ruined by a subdivision being built near it. She wished people wouldn't bicker over small things.

Andrew Sarpolis, 31036 Beachwalk, Apt 1506, thanked Council for the Magna information that was added which was 70 pages of information. After carefully reviewing changes for Beck South, it showed that there was an easement on firmer ground with more of a guarantee of true preservation in the buffer zone. The traffic design added at 10 Mile Road was still a large concern and didn't think it could be solved without a more comprehensive plan for the 10 Mile Road corridor. He was concerned the drainage design could still affect the tree easement because of the short amount of time staff had to review the plan. A lower quality of trees being preserved than before, the traffic flow, and the green space were his concerns,

Colleen Crossey, 22279 Brockshire, spoke about tax abatements. She noted Council had granted six abatements over time and her concern overall was it interfered with a level playing field for smaller businesses. She noted there could be 164 jobs from smaller businesses too and she didn't believe that there were any specifications that the jobs they bring will be Novi people hired. There's no particular residency requirement that they live in Novi and pay Novi taxes.

Marti Anderson, 48360 Burntwood Court, thanked all of Council for all their time in reading through all the packet material. She felt there were many well issues in Island Lake.

CONSENT AGENDA REMOVALS AND APPROVALS:

CM 15-07-99 Moved by Wrobel, seconded by Poupard; CARRIED UNANIMOUSLY:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 - 1. July 13, 2015 – Regular meeting
- B. Approval of amendment to contract for City Manager and City Clerk.
- C. Approval of Resolution to close Grand River Avenue between Flint Street and 46100 Grand River Avenue (Suburban Collection Showplace) from 9:30 a.m. – 12 p.m. on Monday, September 7, 2015 for the Michigan State Fair Parade.
- D. Approval and authorization for City Manager to travel September 7 – 16, 2015 with representatives from the City of Southfield, Oakland County and Detroit Regional Chamber to promote the City of Novi to perspective Japanese companies for the not-to-exceed amount of \$6,500.

- E. Approval of a resolution authorizing termination of portions of an existing access easement and emergency access easement (recorded at Liber 40754, Pages 551 through 556 Oakland County Records) at the request BCP Novi, LLC., as part of the American Tire Distributors site located at 25250 Regency Drive (parcel 22-24-276-023).
- F. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Novi Food Center, LLC, for Novi Food Center located south of Grand River Avenue and east of Novi Road (parcels 22-23-104-010 and 22-23-104-009).
- G. Approval to award an amendment to the engineering services agreement with Orchard, Hiltz & McCliment for construction engineering services for the Whipple Street Culvert Replacement project in the amount of \$13,459.
- H. Approval to award an amendment to the engineering services agreement with URS Corporation for construction engineering services for the 11 Mile Road Pathways (Town Center to Meadowbrook) project in the amount of \$58,430; and approval of a resolution authorizing the rollover of FY14-15 funds in the amount of \$55,050 and appropriation of an additional \$18,000 for this budget line item.
- I. Approval of the final payment to Rauhorn Electric, Inc. for the 2014 Traffic Signal Improvements Project in the amount of \$32,881.82.
- J. Approval of a Street Light Purchase Agreement with Detroit Edison Company for the installation and ongoing operation costs of decorative street lights along Olde Orchard Drive to serve the Olde Orchard Condo development; approval of an agreement with Olde Orchard Country Homes Condominium Association related to the installation and operation costs consistent with the City's Street Lighting Policy; and termination of the existing Memorandum of Agreement for the Association dated May 26, 1971 effective upon payment of the final bill for the existing lighting that is being removed.
- K. Approval of Change Order No. 4 to Commerce Construction for the Haggerty Road Lane Gap project in the amount of \$32,766.63 to make drainage improvements and remove a section of the existing boulevard island at Shorebrooke to improve traffic safety; and approval of a resolution authorizing the allocation of an additional \$33,000 for this budget line item from the Municipal Street Fund.
- L. Approval to award geotechnical services to Testing Engineers and Consultants, Inc. for the 2015 Neighborhood Road Program—Contract 1 (White Pines Drive) project in the amount of \$17,920.
- M. Approval of the request of Toll Brothers for JSP 14-18 with Zoning Map Amendment 18.707 to rezone property in Section 26, on the east side of Novi

Road, south of Ten Mile Road from I-1, Light Industrial and OS-1, Office Service to RM-1, Low Density Low-Rise Multiple-Family Residential with a Planned Rezoning Overlay and to approve the corresponding concept plan and revised PRO Agreement between the City and the applicant. The property totals 20.9 acres and the applicant is proposing a 93 unit attached condominium multiple-family residential development.

- N. Approval to purchase a Dell EqualLogic Storage Array from Netech Corporation in the amount of \$57,415 using a competitively bid contract through the Midwestern Higher Education Compact (MHEC).
- O. Approval to award a construction contract for Whipple Street Culvert Replacement project to ILE Excavating, the low bidder, in the amount of \$77,054, subject to final review and approval of form of agreement by City Manager's office and the City Attorney; and approval of a resolution authorizing the rollover of FY14-15 funds in the amount of \$93,000 for these budget line items.
- P. Approval of Claims and Accounts – Warrant No. 944

Roll call vote on CM 15-07-99

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

MATTERS FOR COUNCIL ACTION

- 1. Approval of Resolution Approving Application of Magna Seating of America Inc., for an Industrial Facilities Exemption Certificate for an approximately 180,000 square foot New Facility to be located at the northwest corner of Haggerty and 13 Mile Road and related Agreement Concerning Industrial Facilities Tax Abatement.

City Manager Auger said this was a great project with a great company and with a developer that was familiar to Novi. A \$48 million investment will allow 300 plus employees to stay in Novi with 165 new employees from in and around Novi. It is hoped the great working relationship with Magna will continue and they can explore other partnerships with mutually beneficial projects.

Mayor Gatt said this is good for the City. He felt it will not hurt small businesses in Novi. In 2015, the City of Novi has to compete for business. The \$40 million building will bring tax revenue to the City. The small businesses will prosper. He's been here for 40 years and he's seen it grow from a very small rural town. The mall brought in a lot of tax dollars to the City. The mall brought people here and Novi became a great city. This business had other choices but chose us. This is a big coup for the City. He credited the City Manager for his work behind the scenes.

Member Wrobel asked for the claw back provision clarification. He understood Magna was responsible for 100% of the taxes if they choose to leave early during the abatement period or within two years after the abatement period ends. City Manager Auger explained usually the business has to sign a leasing agreement for a period of time but Magna has signed a 20 year lease. Member Wrobel said tax abatements are real life and if they don't get it, they will go to another community. He noted 50% tax revenue is better than nothing. Some may feel other companies will build here without abatements. It is arrogant to think that businesses will come to Novi without tax abatements. He will support the abatement because Novi will be gaining additional revenue of approximately \$115,000 a year during the abatement period. Magna Seating will invest about \$48 million on a new facility with a 20 year lease and will bring approximately 469 high paying jobs. There is a claw back agreement in the tax abatement that would require Magna Seating to pay 100% taxes if they leave Novi early or close the facility during the next 14 year period. This type of development will require minimal City services.

CM 15-07-100 Moved by Wrobel, seconded by Staudt; MOTION CARRIED: 6-1

To approve Resolution Approving Application of Magna Seating of America, Inc. and Agreement Concerning Industrial Facilities Tax Abatement, subject to approval by the State Tax Commission pursuant to Act 198 of 1974, as amended.

Mayor Pro Tem Staudt confirmed with Mr. Sosin, developer, that he anticipated using workers and tradesmen from Southeast Michigan and buying materials from Michigan suppliers. He confirmed that Magna will encourage the area of Novi and surrounding area for housing. Dex Batista, Magna representative, said that employees will live in the Southeast Michigan region. They do a lot in Novi and were supportive of the Community. He cited their involvement such as support of the robotics team in the Novi Schools. Mayor Pro Tem Staudt asked if the support activity will increase. Mr. Batista said it would. Mayor Pro Tem Staudt asked what types of small businesses would they encourage to participate. Mr. Batista said in 2014 Magna International spent approximately \$1.1 billion dollars with Michigan businesses, vendors, and suppliers. Mayor Pro Tem Staudt said he recently signed a franchise agreement with a company he works for to put a small business in Novi. He was going to make a significant investment in Novi for the possibility to pursue companies like Magna. He supports this. He felt it was a great investment in our Community and a long term business partner.

Member Casey thanked Magna for deciding to locate in Novi. She will support the abatement with some reservations. Council has been very cautious in the use of tax abatements. She thought Magna was an exceptional project and will add to the luster the City has. She would like to be cautious at how much more Council will be looking for tax abatements. She didn't want it to be a normal course of business for the City.

Member Markham questioned if the School taxes and County taxes currently collected are also at 50% for the length of 12 years also. City Manager Auger said the County figures do have the same abatement, but the schools are held harmless. She asked how we would verify that their employment targets will be met. City Manager Auger said it is left up to the State, because the grant they receive from the State is based on how many employees they have. The City's function is to keep track of how much they are investing, real and personal property they acquire. Member Markham confirmed that the measure of whether they are meeting employment goals is the responsibility of the State to monitor. City Manager Auger said that the leverage is that they won't get the incentive that the State offers if they don't hire the employees. Member Markham asked what will happen to the existing facility that Magna is in now. City Manager Auger said they do not own that facility and the City team will be working with the property owner to help them repurpose the property if asked. She thought tax abatements were a terrible idea. They are a form of corporate welfare and she felt they pick winners and losers and they penalize businesses that pay their fair share every day. Most local businesses do not benefit from the tax abatement granted to another business. A Detroit News article stated the State of Michigan is reporting a \$375 million shortfall in revenue this year. The vast majority of it is attributed to tax credits and abatements that are coming due this year. She believed that instead of building new roads with the \$375 million dollars our State government will look for places to cut services again. The law that grants these abatements is a gift to big business and requires local government participation to be part of the package. She thought a business like Magna should take advantage of every tax break they can get. The local governments are then dragged along in the process. The payout formula is set by the State and put into competition with other local communities and the Michigan taxpayer picks up the tab. City staff visited Schaumburg, Illinois which is similar to Novi. She was struck by the number and quality of amenities including a minor baseball team, a 400 seat theatre that is programmed year round, a large city center park, and their own convention center. What is different is they have an income that we are not allowed to collect by State law. It is a local sales tax. They have a lot of car dealerships because sales tax is big on cars. She said she wants Magna to remain in Novi. She was glad they were growing and committing to a lengthy lease. They have been an important part of our local economy and she wants them to stay here. She would like to see from any company granted a tax abatement a relationship and an extraordinary partnership between the City and company. She wants the company to contribute the community at large in ways that supports the whole community. The City has many needs as it continues to grow and diversify. We have corporate partners who have never received abatement. She hopes Magna becomes more committed in their partnership with the City to improve quality and infrastructure. She looks to staff to consider this when looking at other tax abatements. The possibilities are endless. Support of the arts, Rotary's Feed the Need Program, funding sidewalk segments, and enhancement of parks is her focus. It wouldn't help Novi to lose such a valuable corporate partner as Magna. She challenges leadership at the State level to look at the true cost of the programs to the taxpayers of the State and local governments. Businesses want to be where the infrastructure is strong. Other states do fine without

giving tax abatements. Strong infrastructure means good schools and good roads. It means public services and public spaces and raising enough revenue to support our communities that spend it wisely in ways that actually grow the economy and not leave us vulnerable to those tax credits year after year. Instead let's fix the roads and hire more teachers. That is how she would like the \$375 million in State tax dollars spent this year.

Member Mutch said he does not support this request and he has consistently done so. He researched the communities that we were in competition with for this project. He noted Troy with 10.5 mills and Auburn Hills with 10.5602 mills tax rate. Novi has a lower tax rate of 10.2 mills. This property is located within the Walled Lake District and the tax rate for commercial properties is the second lowest tax rate in the City of Novi. This property in this area already has a tax advantage compared to the cities competing with us. With that issue, it was hard to make a case that Novi was not competitive with those communities. We have done it because the City has grown and we have not depended on tax abatements as an economic strategy. He didn't see a reason to change it going forward. Magna is a multi-national, multi-billion dollar corporation and they have a significant investment in Southeast Michigan. They have a significant investment in Novi and are an important part of our Community. Corporations like Magna do not need tax abatements. It didn't make sense to him to support a tax abatement at this time.

Roll call vote on CM 15-07-100

**Yeas: Markham, Poupard, Wrobel, Gatt,
Staudt, Casey**

Nays: Mutch

2. Consideration of the request of Beck South, LLC for JSP13-75 with Zoning Map Amendment 18.706 to rezone property in Section 29, on the southwest corner of Beck Road and Ten Mile Road from R-1, One-Family Residential to R-3, One-Family Residential with a Planned Rezoning Overlay. The property totals 41.31 acres and the applicant is proposing a 66-unit single-family residential development.

City Manager Auger explained this PRO has requested changes of an entrance/exit onto 10 Mile and a 30 foot buffer between the residential areas in which trees will be added to help buffer the residential lots in the area. He added if the developer wanted to develop as R-1, then the houses will be 5 feet further than he is offering as a tree preservation area. The homes in the PRO will be 65 feet from the property line. The developer has lost two home sites with fewer trees expected to be removed. The developer was creative and made the 10 Mile entrance to travel west so it will not allow a direct cut through of traffic. It was learned from the developer's woodland consultant that the developer would be taking out fewer trees than the R-1 plan. The developer who develops the second half of the land would remove the trees depending on what kind of development. City staff is recommending this PRO.

Howard Fingerroot, developer, went through the changes to the R-3 PRO. They provided a 30 foot conservation easement along the south and west of the property. There will be 65 feet between the subdivisions. The R-1 standard requires a 35 foot rear setback. The request was for 50 feet, but now they are providing 65 feet from the existing homes to the back of their homes. A big issue was 10 Mile Road access. They were able to create a site plan that avoided cut through. The lot count was reduced to 64 lots. Under the PRO ordinance, they could have 1.65 and this is below the 1.65. They were able to preserve more trees. There will be 982 trees removed under the PRO, but with the R-1 plan they would be removing 1083 trees. It is on the 27 acres. This PRO plan cuts down fewer trees. The reason for the PRO plan is to come up with creative development. Under the new plan they have over 30% of the site that will be open space. It is why the City staff and consultants supported it because it is good planning. With the new plan, the west property lines have equal number of homes abutting each other. On the south property line, Andover Pointe has 7 homes that will be abutting 6 homes in the new development. He tried to incorporate all the comments from the last meeting. He thought they had a good plan.

Mayor Gatt determined the PRO planning in Novi was adopted in the early 2000's through City Attorney Schultz. Mayor Gatt said the reason was for a development like this. The Council determined at that time it would be best to have a say in what would develop. Left with just an R-1 option, more trees would be cut down than if we grant the PRO. The PRO is a device that the Council has at their disposal to resolve problems similar to this. In this case, the citizens are against this development and spoke against it and he didn't understand why. If the PRO is denied, then the developer would go forward and be able to build a subdivision without Council's intervention. There wouldn't be any monies put into escrow to fix any wells. He would be able to cut down any amount of trees on his property. There has been an outcry to target him and he has always voted the way he thought was best for the City of Novi. No petitions sent anonymously will affect his decision. He is in favor of the PRO.

Member Markham addressed Ms. Lauinger's comment. She felt badly that anyone thought she disparaged the church. She explained she knew a lot about the church and watched it being installed on the property with the Cub Scout den the day it was put there. She didn't mean to imply the church didn't belong there. She thought it was unique and a great feature for Novi. She agreed the purpose of the PRO is to facilitate mutual agreement between the City and the developer. She was disappointed that it was not much different than what they saw a month ago. The number of homes was reduced by two but some of the lots were larger than before and she thought he was going in the wrong direction. She believed a single 10 Mile Road entrance and another cul-de-sac would allow 55 to 60 homes on the property. Instead of a road going through the development exiting out Beck, she wanted him to consider a cul-de-sac south of the church rather than a road cutting through the most valuable part of the woodlands. She thought with several cul-de-sacs the developer could maximize the number of lots that back up directly to the natural woodlands with higher lot prices because it would be a premium. Many residents have told her they came here because of the way Novi keeps its green spaces. It seemed counterintuitive to cut

down trees from a quality woodland only to plant street trees and make a big contribution to the tree fund. She wanted to work with him to put enough of the right kind of houses in the development and to protect the woodlands. She thought it could be done and done well.

Member Casey asked City Attorney Schultz if he would refresh everyone's understanding of the process of a tentative approval of a PRO and what would come next in the process. City Attorney Schultz said the way the motion is set up is it will be a tentative indication that Council may approve. It is a two-step process at the Council Meeting. It is productive to let the developer know to bring back a PRO agreement and concept plan. It would go before Council for approval of the agreement and the concept plan. Then it goes back to Planning Commission for Site Plan approval. Member Casey noted she watched the meeting from June 22, 2015 and wanted to clarify the feedback she gave to Mr. Fingerroot. She identified 10 Mile Road as a concern, the buffer, and was still struggling with the conservation easement. Everyone was looking for a larger conservation easement. There were concerns raised about the conservation easement and potential for storm drain or utilities. She asked him to explain where he planned to put storm drains and utilities. Mr. Fingerroot spoke about the easement and the storm sewer and catch basins would run along the property line. If they were going to keep the conservation easement completely intact and not add trees, they would not put any storm sewer within the conservation easement. It is his intent not to put the storm sewer within the conservation easement. They discussed adding trees within the easement to provide visual shielding, but sometimes when trees are added, a catch basin may be added to make sure that there is proper storm runoff from the adjacent subdivision. If, for example, they have water running off their property onto the development's property, because it is an existing condition, he has to accept the runoff. If he plants a tree, perhaps it blocks it and would backup into the neighbor's property they couldn't do it. They would have to build a swale or catch basin and run it into catch basins on their property. The engineering department may tell us to add a catch basin only where trees are added to a section. Member Casey asked about how trees will be planted near the Echo Valley Subdivision. Mr. Fingerroot answered in Andelina Ridge Subdivision; they planted 18 feet tall evergreen trees staggered about 15 feet apart. Member Casey asked about how many trees will be removed near Andover Pointe. Mr. Fingerroot didn't have the specific number. The change allows a bigger buffer at the southwest corner of the property. Member Casey asked where the two lots were taken from. Mr. Fingerroot said the northeast corner was changed. Member Casey asked if there was a particular reason why he didn't shift to the northeast to try to add additional buffer for the residents to the south and west. Mr. Fingerroot said they are pinched in the south. If they pushed to the north, they would have had to push into a wooded area. There are one or two wetlands in there they were trying to avoid. When they do the initial plan, the goal was try to not to cut down trees because those who buy the houses want the trees. It costs money to cut down the trees and it costs to replace the trees. They try to avoid the wetlands and woodlands as much as possible. Member Casey asked what it would take for him to build a 50 foot conservation easement. Mr. Fingerroot said it is unusual to create a buffer from

residential to residential from his experience. He thought they did a good job allowing for a 65 foot setback.

Member Wrobel directed questions to Barb McBeth, Deputy Community Development Director about the 10 Mile Road entrance. He asked if it would create a traffic issue at rush hour east and west on 10 Mile Road. Ms. McBeth asked that the traffic engineer answer the question. Matt Klawon, Traffic Consultant, said the issues seen at that location compared to the original location will be similar. The benefit to the 10 Mile entrance in their opinion is that it is feasible turning out. Member Wrobel asked about how much back up they will get. Mr. Klawon said he would need to see a traffic model on it to get an answer. Member Wrobel noted if the property remained R-1 the developer would not have to come back to City Council and could proceed to build homes. He asked how far he could go clearing trees. Ms. McBeth said that if he built under the R-1 designation it would be approved by the Planning Commission and could remove as many woodland trees as they proposed, provided the Planning Commission saw that it was necessary to remove them. Member Wrobel said potentially the developer could go to the lot line. Ms. McBeth said it is unusual to have a buffer with trees between the property lines. After the subdivision is developed, a lot of times, the homeowners may remove trees and potentially remove all the trees in the back of their property. Member Wrobel asked if there was a 50 foot buffer in any of the subdivisions in Novi. Ms. McBeth stated she could not think of one. Member Wrobel felt he was elected to do what was best for the City of Novi as a whole. The Council members take the job very seriously. He takes the Master Plan very seriously and there are times that it needs to be changed. A planned developed that was very well thought out provides a benefit to the City and the residents. It takes care of another problem with the development at Beck and 10 Mile. It is zoned commercial. So by incorporating all the property into one piece and putting 64 homes in a development, it will eliminate unwanted commercial at the corner. It will be more of a park atmosphere which is a benefit to all the subdivisions around it. He wanted everyone to realize there are tradeoffs when there are requests like this. If the battle is won, they can lose a buffer and have unwanted commercial at the corner. He has to take into consideration all the possibilities.

Member Mutch commented that it was interesting listening to Council Members and staff on how the City's ordinances were viewed. We have a woodlands protection ordinance. The intent is to protect the woodlands. They are evaluated by the City consultants. The purpose is to ensure Novi maintains that character that everyone enjoys and is a hallmark of our City. It attracts new residents and helps keep people in Novi. We have many of the woodlands and wetlands today because of previous City Councils, Planning Commissions and staff upheld the woodlands protection ordinance and used it as a method to protect the woodlands. It is not supposed to be cast off when it is inconvenient and dismissed when a developer comes into Novi. It is supposed to protect woodlands first, then development. He was hearing that the woodland ordinance doesn't mean anything. He was hearing that a developer can cut down every tree on a piece of property. Something is seriously wrong with the ordinance, the process or enforcement. He said that is not the intent of the City's

ordinance. He feels it was not the way the City has operated over the last 20 years. He would not base his decisions on fears and speculation. He didn't think it was fair to the residents. The plan doesn't respect the natural resources on the property. He was surprised there were no changes to the southern half of the site. He noted some of the residents' concerns were not addressed. The northern half of the site changes did incorporate concerns from the last meeting and felt they were an improvement to the site. He was perplexed that the northeast corner of the site doesn't have the quality of natural resources as other areas of the site. The plan came back with added green space at the northeast corner. He said it wasn't protecting any of the natural resources in that area of the subdivision. Near the north-south cul-de-sac, the consultants specifically spelled out several lots had the highest quality of natural resources to be impacted. The lots were not removed in the new plan. He said the lots were made larger. The total number of lots should have been reduced to near 60. The new plan saved a few more trees, but overall there will be over 1,000 regulated trees removed. He cited the developer will have to pay into the tree fund. It reduced the tree removal by ½%. He doesn't think the plan worked for the site. He noted the R-1 density couldn't get 1.65 units per acre. He thought the PRO was not a vehicle for circumventing the City's ordinances. It is a vehicle to allow a tradeoff. In this case, he was building smaller lots with more lots than he would be able to build. It can't come at the expense of the natural resources on the site. The tradeoff isn't the developer gets the density and gets cuts down the trees. He said the site preservation is not 32. If some of the lots were removed, it would open up the natural areas in a way they could be integrated into the subdivision. He felt the open spaces were walled off from the residents and not integrated.

Mayor Pro Tem Staudt felt the majority makes the decision on Council. In this case, a law requires a super majority to pass and will allow the minority to make a decision on behalf of City Council. Based on what he has heard the minority is going to prevail. He didn't want the developer to have to come back based on some ambiguous statements. He saw those who didn't support resolutions and made suggestions, then expect the suggestions to be incorporated into plans, but didn't intend to vote on it anyways. He has been on Council for many years and heard a lot of the discussions that fell on deaf ears. There has been preservation when possible and other cases it was not possible. He asked for a 30 foot conservation easement that the developer incorporated. He didn't feel a larger easement would be a realistic goal. This builder has built a lot of homes in Novi and has worked closely with the City on a lot of other developments. Mayor Pro Tem Staudt noted he was not a developer, planner, or anything other than his own work. He has spent a lot of time talking to residents and understands emotion. He thinks what is presented reflects a compromise in the things Council have asked. The last meeting was the time to make suggestions. Presently, closure should be discussed. His responsibility as a Council Member is to serve the taxpayer and make sure there is fairness in all areas. We may save some woodlands for the short term, but someone will come back and build. He felt this was a decent and fair plan.

CM 15-07-101

Moved by Mutch, seconded by Markham; MOTION FAILED: 2-5

To deny the request of Beck South, LLC for JSP13-75 with Zoning Map Amendment 18.706 to rezone property in Section 29, on the southwest corner of Beck Road and Ten Mile Road from R-1, One-Family Residential to R-3, One-Family Residential with a Planned Rezoning Overlay Concept Plan for the following reasons:

- 1) The rezoning request with PRO requires numerous deviations from the Zoning Ordinance standards, including the following as indicated on the submitted PRO Concept Plan:
 - a. Reduction in the front yard setback from 30 feet to 25 feet, and reduction in the aggregate of the side yard setbacks from 30 feet to 25 feet,
 - b. Lack of the required berm along the church property line,
 - c. Missing pathway connections from the internal loop road to Ten Mile Road, and the missing pathway stub from the south loop road to the south property line,
 - d. Lack of stub street connections every 1300 feet along the perimeter of the site, and
 - e. Lack of paved eyebrows for the proposed internal road system.

- 2) The City Council finds that the proposed PRO rezoning would not be in the public interest, and the public benefits of the proposed PRO rezoning would not clearly outweigh the detriments of the proposed plan, as provided in Section 7.13.2.D.ii, for the following reasons:
 - a. Two of the eight listed benefits (sidewalk connections and sewer line connection) would be requirements of any residential subdivision development as permitted in the R-1 Zoning District,
 - b. Preservation of natural features as shown on the proposed Concept Plan would be encouraged and could be accomplished in whole or in part as part of a typical development review, and,
 - c. Although not required, the right of way dedication that is proposed as a part of the plan is typical of new developments.
 - d. The remaining listed benefits are not of a sufficiently substantial character to justify use of the overlay option and the increase in developed density.

- 3) **The proposed developed density is greater than that which could practically be achieved under the R-1 District regulations when the required infrastructure and other improvements are considered, and as a result the development as proposed would have a greater impact upon the adjacent residential properties.**

Mayor Gatt said he would not support the motion. The developer has brought back what Council had asked him to bring back. He will vote the way he feels is in the best interests of the City of Novi. An R-1 development in this location is not in the best interest for Novi.

Roll call vote on CM 15-07-101

Yeas: Mutch, Markham

Nays: Poupard, Wrobel, Gatt, Staudt, Casey

CM 15-07-102

Moved by Wrobel, seconded by Poupard; MOTION CARRIED: 5-2

To approve a tentative indication that the City Council may approve the request of Beck South, LLC for JSP13-75 with Zoning Map Amendment 18.706 to rezone property in Section 29, on the southwest corner of Beck Road and Ten Mile Road from R-1, One-Family Residential to R-3, One-Family Residential with a Planned Rezoning Overlay Concept Plan and direction to the City Attorney to prepare a proposed PRO Agreement with the following ordinance deviations:

- a) *Reduction in the required front yard building setback for Lots 19-30 and 37-39 (30 feet required, 25 feet provided);*
- b) *Reduction in the required aggregate of the two side yard setbacks for Lots 19-30 and 37-39 (30 feet required, 25 feet provided);*
- c) *Waiver of the required berm between the project property and the existing church in order to preserve existing mature vegetation;*
- d) *Administrative waiver to omit the required stub street connection at 1,300 foot intervals;*
- e) *Design and Construction Standards waiver for the lack of paved eyebrows;*
- f) *Design and Construction Standards variance for the installation of the required pathway to the adjacent Andover Pointe No. 2 development with the condition that an easement is provided.*

And subject to the following conditions:

- a) ***Applicant shall provide a pathway connection to Ten Mile Road from the internal loop street as noted under Comment 1 of the engineering memo dated January 7, 2015;***
- b) ***Applicant shall comply with the conditions listed in the staff and consultant review letters; and***
- c) ***Acceptance of the applicant's offer to provide a \$75,000 cash bond to be held in escrow during the dewatering operations for the Valencia South sanitary sewer installation, for the benefit of any well-failure claims by the thirteen homes within 400 feet of the proposed dewatering limits, per the provided correspondence, and subject to a dewatering plan submitted by the applicant for review and approval, subject to ordinance standards,***
- d) ***Acceptance of the applicant's offer to provide an additional 30 foot wide tree preservation and planting easement on the rear of the lots abutting the west and south property lines, per the attached correspondence.***

This motion is made for the following reasons:

- a) ***The proposed development meets the intent of the Master Plan to provide single family residential uses on the property that is consistent with and comparable to surrounding developments;***
- b) ***The proposed density of 1.65 units per acre matches the master planned density for the site;***
- c) ***The proposed development is consistent with a listed objective for the southwest quadrant of the City, "Maintain the existing low density residential development and natural features preservation patterns"; and***
- d) ***The consolidation of the several parcels affected into an integrated single-family land development project will result in an enhancement of the project area as compared to development of smaller land areas.***

Member Casey expressed she didn't believe the R-1 was best suited in the space. She wanted to make sure that a benefit of a PRO isn't to the City as a whole but also to the residents that abut to the development. She pleaded for the best buffer possible. She asked where there would be any potential connection from the development into Andover Pointe. Mr. Fingerroot spoke of staff recommendations. He proposed to give an escrow to the City and not build the connecting path near the backyard of the resident who spoke. Member Casey stated she has spent a lot of time speaking with residents and appreciated the time to share concerns and to listen to feedback. She struggles with putting in an R-1 and not retaining at least some measure of a buffer of both the south and west borders of the development. That is the best of what the PRO offers. With an R-1, there was no opportunity to make sure there was any buffer. This way, there is a measure of protection that can be granted through the PRO. The

language in the motion is that it is tentative. She mentioned staff will review it. She will continue to see what can be done to solidify the buffer and make it as impenetrable as possible. The benefit offered in the PRO serves the residents that about this development.

Member Mutch confirmed he cannot support the motion and felt it was a false choice. It is a choice between this plan and R-1. He didn't think there was basis for that. He didn't think Mr. Fingerroot would ever develop the property in an R-1 manner. The research showed that all his developments are consistent. He felt it was unfair to present this as the only alternative to residents. This plan was supportive of the market and the people would not want an R-1 home. He felt there were ways to make this plan better and thought it has been mischaracterized that the concerns were addressed. Specifically, it was requested to bring the number of lots to 60 and it didn't happen. The developer is tentatively receiving approval to do reduced lots adjacent to the homes in Echo Valley Subdivision and adjacent to Andover Pointe. He could have done the same for interior lots. It could have allowed a favorable reconfiguration. The northeast corner will have more green space that many won't enjoy. He thought it was an overbuilt site. Those supporting the motion could have brought those suggestions forward and given us a better plan.

Mayor Pro Tem Staudt stated this was a long process of 7-8 months talking with residents and reading the issues. It wasn't done overnight. He applauded Member Casey for taking a stance and was a difficult decision for her. He would like to see some changes. It has not been easy to move things forward. Unfortunately, Council determines who the winners and losers are. The winners he thought were the City of Novi taxpayers.

Mayor Gatt didn't think there were any losers. Each member is elected by the City to do what is best for the City. The decision took 8-9 months and many professionals looked at this. It is not perfect, but some wouldn't vote for it if it was. They are elected to make decisions and none of them were in the development field and yet some try to tell a developer what is best. Everything has been done to bring this matter to a conclusion. People against this are not losers. They will be a part of a multimillion dollar tax base increase because of this. The developer will build \$700,000 homes. The reduction of 2 lots means the developer lost \$1.4 million and that was a business decision he made. He is building a quality subdivision across the street. He has given more of a buffer at 50 feet than any subdivision. He believed this would be a quality subdivision that will preserve as many trees as possible and still move the City forward. He wanted people to know for 40 years, he has served this Community and has done so with doing the best he can.

Roll call vote on CM 15-07-102

Yeas: Poupard, Wrobel, Gatt, Staudt, Casey
Nays: Markham, Mutch

3. Approval of resolution to authorize a budget amendment to amend the 2015-16 Library Contributed adopted budget to reflect the Library Board approved budget.

CM 15-07-103 Moved by Wrobel, seconded by Casey; MOTION CARRIED: 6-0

To approve the resolution to authorize a budget amendment to amend the 2015-16 Library Contributed adopted budget to reflect the Library Board approved budget.

Member Mutch asked why Council was approving an amendment to the Library budget and wanted to clarify that it is a pro forma process. City Attorney Schultz said the Library Board has exclusive authority over their budget under both the ordinance and the statute that it is under, but under more recent State budgeting laws requires Council to make a formal motion.

Member Markham left the Council Chambers to speak with residents in the lobby.

Roll call vote on CM 15-07-103

**Yeas: Wrobel, Gatt, Staudt, Casey, Mutch,
Poupard**

Nays: None

Absent: Markham

4. Approval of Ordinance No. 15-183, an Ordinance to amend the City of Novi Code of Ordinances, at Chapter 21, "Nuisances," Article II, "Related to Property," Division 8, "Refuse Collection," in order to further limit the hours for refuse collection in residentially zoned districts and to add a new Section 21-147, stating that the penalty for violation of the division shall be a civil infraction, rather than a misdemeanor. **FIRST READING**

Member Wrobel said it was the first step to going to a single hauler of trash refuse company in the City.

CM 15-07-104 Moved by Wrobel, seconded by Poupard; CARRIED UNANIMOUSLY:

To approve Ordinance No. 15-183, an Ordinance to amend the City of Novi Code of Ordinances, at Chapter 21, "Nuisances," Article II, "Related to Property," Division 8, "Refuse Collection," in order to further limit the hours for refuse collection in residentially zoned districts and to add a new Section 21-147, stating that the penalty for violation of the division shall be a civil infraction, rather than a misdemeanor. FIRST READING

Member Mutch wanted to clarify an aspect of the motion. He thought the specific amendment dealt only with the hours of collection and the potential infractions for violation. It was important because our ordinance was lacking in some regards.

Member Casey thanked staff and the Ordinance Review Committee for their work. She thought making this change now gives immediate impact to address the concerns that have been prompting the conversation of refuse collection.

Roll call vote on CM 15-07-104

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

5. Approval of Ordinance No.15-184 an Ordinance to amend the City of Novi Code of Ordinances, at Chapter 16, "Garbage and Refuse," to add Article IV, "Collection, Recycling and Disposal," to provide for future collection of solid waste from residential premises pursuant to a contract with a designated waste hauler, to provide standards and specifications for the services to be provided, to provide for the administration of a solid waste program, and to provide penalties for failure to comply. **FIRST READING**

City Manager Auger commended the Ordinance Review Committee and legal team for using all the resources possible to work in a timely fashion and with quality work.

Member Markham said she was impressed too. She asked if there will be a public hearing to listen to residents comments. City Manager Auger said there are scheduled public events where questions will be answered and to explain the process. This is the first step to get an ordinance in place, then after the second reading, there will be a Request for Proposal (RFP) that will go out to the public. Member Markham asked if they have contemplated how often the contract would be evaluated. City Manager Auger said it would be just like any other service they have and will be monitored. In the RFP process, there will be a set number of years that the City will sign a contract for and there will be severability clauses. There are ways to extend the contract, too. Member Markham asked if it would be only residential houses and condominiums and if there will be a means to measure compliance for trash haulers of commercial sites and apartment buildings. City Manager Auger replied that review of commercial sites and apartment buildings would be complaint based.

Member Mutch thanked Mike Csapo from RRRASOC. He was an invaluable resource. He educated everyone about the garbage hauling business. He thought of holding off the second reading until there were the public input sessions. There may be some information that comes out of the process that may help develop the ordinance.

Mayor Gatt said that they have decided going forward as fast as possible and it still will not be implemented until the end of the first quarter of 2016. He would be against any further delays. The RFP will be the important part of the process and will happen after the public has an opportunity for input. He would not be in favor.

CM 15-07-105 Moved by Mutch, seconded by Markham; MOTION FAILED: 2-5

To approve Ordinance No.15-184 an Ordinance to amend the City of Novi Code of Ordinances, at Chapter 16, "Garbage and Refuse," to add Article IV, "Collection, Recycling and Disposal," to provide for future collection of solid waste from residential premises pursuant to a contract with a designated waste hauler, to provide standards and specifications for the services to be provided, to provide for the administration of a solid waste program, and to provide penalties for failure to comply and direct City Administration to return with the SECOND READING after two public input sessions. FIRST READING

Member Casey asked if the dates were scheduled for the public hearing. City Manager Auger said they will be August 18th and 25th.

Roll call vote on CM 15-07-105

Yeas: Markham, Mutch

Nays: Staudt, Casey, Poupard, Wrobel, Gatt

CM 15-07-106 Moved by Staudt, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve Ordinance No.15-184 an Ordinance to amend the City of Novi Code of Ordinances, at Chapter 16, "Garbage and Refuse," to add Article IV, "Collection, Recycling and Disposal," to provide for future collection of solid waste from residential premises pursuant to a contract with a designated waste hauler, to provide standards and specifications for the services to be provided, to provide for the administration of a solid waste program, and to provide penalties for failure to comply. FIRST READING

Roll call vote on CM 15-07-106

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

Nays: None

6. Adoption of resolution and approval of agreement with the Detroit Water and Sewerage Department and the Great Lakes Water Authority (GLWA) to assign the City of Novi's wholesale water service customer contract from DWSD to GLWA.

CM 15-07-107 Moved by Staudt, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve the resolution and agreement with the Detroit Water and Sewerage Department and the Great Lakes Water Authority (GLWA) to assign the City of Novi's wholesale water service customer contract from DWSD to GLWA.

**Roll call vote on CM 15-07-107 Yeas: Markham, Mutch, Poupard, Wrobel, Gatt, Staudt, Casey
Nays: None**

7. Approval to award a construction contract for 11 Mile Road Pathways (Town Center to Meadowbrook) project to Anglin Civil, the low bidder, in the amount of \$495,225.12, subject to final review and approval of form of agreement by City Manager's office and the City Attorney; and approval of a resolution authorizing the rollover of FY14-15 funds in the amount of \$380,000 and appropriation of an additional \$116,000 for this budget line item.

CM 15-07-108 Moved by Mutch, seconded by Markham; CARRIED UNANIMOUSLY:

To approve an award of a construction contract for 11 Mile Road Pathways (Town Center to Meadowbrook) project to Anglin Civil, the low bidder, in the amount of \$495,225.12, subject to final review and approval of form of agreement by City Manager's office and the City Attorney; and approval of a resolution authorizing the rollover of FY14-15 funds in the amount of \$380,000 and appropriation of an additional \$116,000 for this budget line item.

Mayor Pro Tem Staudt said this is the first of several capital improvement projects that will be discussed in the next few months identified with additional costs. They were unforeseen. The increase in cost is 15-20% range in costs and may preclude some of the projects that were planned in the future. A 20% increase on these types of projects wasn't budgeted and includes a budget amendment.

**Roll call vote on CM 15-07-108 Yeas: Mutch, Poupard, Wrobel, Gatt, Staudt, Casey, Markham
Nays: None**

8. Approval of Proposed Water & Sewer Rate Resolutions for 2015-2016.

City Manager Auger complimented the Finance Department for working together on this resolution and protecting the residential water costs.

CM 15-07-109 Moved by Staudt, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve Proposed Water & Sewer Rate Resolutions for 2015-2016.

Roll call vote on CM 15-07-109

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

Nays: None

AUDIENCE COMMENT – None

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 9:22 P.M.

Maryanne Cornelius, City Clerk

Robert J. Gatt, Mayor

Transcribed by Jane Keller

Date approved: August 10, 2015