

their other land for the Island Lake development. He thinks it is a stand-alone development and should be evaluated on that basis. He asked Council to vote against the development or at least table the final vote until the next meeting to allow Council to reconsider the facts in the case.

Dr. Steven Buchman, 50748 Drakes Bay Drive, said he has been a resident in the Signature Homes of Island Lake subdivision for eight years. He asked the Council not to approve the current proposal by Toll Brothers to expand the current Island Lake subdivision by adding the Meadows plan that allows a change in zoning. He thought the premise of a Master Plan, from a number of years ago, that had approved or disapproved a number of houses or layout or amenities should have little relevance in the decision. The initial plans are based on predictions, studies, and judgments made long ago. The situation on the property has changed considerably since then and any new requests should stand on their own. The Board has a responsibility to the tax paying citizenry, the residents of Island Lake, and to the rest of the people of the City of Novi. The decision of Toll to enhance the original plan attracted the many residents to move to Novi. The amenities, the density, and the number of homes are what were presented to him as a potential buyer. He has spent over a million dollars on his home and pays tens of thousands of dollars in taxes because the covenant Toll made with him and with the other residents would be guaranteed. The new agreement would ignore everything that has happened since his purchase. The priorities for the new agreement should be based on the facts that the amenities are currently stretched. Tolls agreement to give the Association a small amount of money to expand the pool deck is far short of making up for the negative impact of the current residents. There are only three treadmills with a thirty minute limit. There is a negative impact by adding another potentially 300 new residents. As a health care professional, he states publicly he fears for the children's safety because the children's area of the pool is too small. He asked what would be the compelling overriding interest to add the subdivision on to theirs. Toll could stand alone and add amenities to the Meadows as they see fit. He requested that a stand-alone development would be in the best interest of the citizens. The beautiful planning would be destroyed if the zoning and citizens who live nearby are ignored.

Timothy Cox, 48806 Thornbury Drive, was concerned about the new proposed development on the former Dinser property. From his perspective, he talked with the developer, and was initially concerned about the density. There were some suggestions and recommendations to mitigate some of the issues the residents on the east side of Dinser had. They would have a conditional support for the proposed development with the changes.

CONSENT AGENDA REMOVALS AND APPROVALS (See items A-M):

CM-13-03-039 Moved by Wrobel, seconded by Casey; CARRIED UNANIMOUSLY:

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 - 1. March 11, 2013 – Regular meeting
- B. Enter Executive Session immediately following the regular meeting of March 25, 2013 in the Council Annex for the purpose of discussing pending litigation, labor negotiations, property acquisition and privileged correspondence from legal counsel.
- C. Approval of the request of TRM Architecture for The Cheesecake Factory for Preliminary Site Plan and Section 9 Façade Waiver approval. The subject property is located in Section 14 at 27500 Novi Road within the Twelve Oaks Mall in the RC, Regional Center District. The applicant is proposing to modify the existing façade and outdoor eating area of Space E-121 in the Twelve Oaks Mall.
- D. Approval of a revised Good Faith Offer in the amount of \$2,519 for a permanent pathway easement and a temporary grading permit on the Herbel/Toler property (parcel 22-27-200-011) located at 23777 Novi Road for the purpose of constructing a pedestrian safety path on the west side of Novi Road between Nine Mile and Ten Mile.
- E. Approval to award an engineering services agreement with Spalding DeDecker Associates for design engineering services for the Nine Mile Road (Novi Road to Meadowbrook Road) Rehabilitation project in the amount of \$33,953.
- F. Approval to award the Electrical Services Contract to Great Lakes Power & Lighting Inc., the lowest qualified bidder based on hourly rates for an estimated annual cost of \$50,000-\$70,000.
- G. Approval of a Storm Drainage Facility Maintenance Easement Agreement from the Elliott Investment Corporation for the Karim Boulevard Office Building Parking Lot Expansion project located at 24300 Karim Boulevard (parcel 22-24-476-026).
- H. Approval of a Storm Drainage Facility Maintenance Easement Agreement from Toll MI II Limited Partnership for the Island Lake of Novi – Phase 5C residential project located at Ten Mile Road and Terra Del Mar Drive (parcels 22-19-451-001 through -022).
- I. Approval of request from Blue Fin Fish Market and Seafood Restaurant, Inc. to transfer ownership and location of escrowed 2012 Class C Licensed Business with Sunday Sales Permit (AM and PM), Outdoor Service (1 area), New Additional Bar Permit (for a total of 2 bars) and New Entertainment Permit to 42875 Grand River Avenue, Suite 103, Novi, MI 48375.
- J. Approval to dispose of sixty-five (65) used duty holsters with the intention of providing them to Grand Valley State University Police Academy.

- K. Approval of Resolution authorizing submission of a Michigan Natural Resources Trust Fund (MNRTF) grant application for Wildlife Woods Trail.
- L. Approval of Resolution authorizing re-submission of a Michigan Natural Resources Trust Fund (MNRTF) grant application for Pavilion Shore Park Phase 3, located at 43390 Thirteen Mile Road, Novi, MI.
- M. Approval of Claims and Accounts – Warrant No. 888

Roll call vote on CM-13-03-039

Yeas: Casey, Fischer, Mutch, Wrobel, Gatt, Staudt
Nays: None
Absent: Margolis

MATTERS FOR COUNCIL ACTION:

- 1. Approval to award a one-year contract extension (the final of three extensions) to Brien’s Services, Inc. to perform 2013 Lawn and Landscape Maintenance Services for an estimated annual amount of \$164,000. Pricing for the 2013 season will be at the same terms as the original contract awarded in 2010.

City Manager Pearson said this was the item that was pulled from the last agenda. There was an extension envisioned in the original award and this is the last year. The contractor has done a good job and has agreed to not ask for the fuel surcharge in 2013. We will go out to bid for next year but don’t have to for 2013.

CM-13-03-040

Moved by Fischer, seconded by Staudt; CARRIED UNANIMOUSLY:

To award a one-year contract extension (the final of three extensions) to Brien’s Services, Inc. to perform 2013 Lawn and Landscape Maintenance Services for an estimated annual amount of \$164,000. Pricing for the 2013 season will be at the same terms as the original contract awarded in 2010.

Roll call vote on CM-13-03-040

Yeas: Fischer, Mutch, Wrobel, Gatt, Staudt, Casey
Nays: None
Absent: Margolis

- 2. Approval of the request of Toll Brothers, Inc. for The Meadows of Island Lake of Novi JSP12-65, for approval of the proposed Sixth Amendment to the Residential Unit Development (RUD) Agreement. The subject property to be included as part of the amendment is 40.68 acres of land located near the northeast corner of Ten Mile Road and Wixom Road. The applicant is proposing a 74 unit single family

development that would be Phase 7 of the existing Island Lake of Novi development.

City Manager Pearson noted, last meeting the plan was amended and this is the next step. It is the sixth amendment to the actual agreement. As was known, Toll Brothers has established a great residential community at Island Lake and this is an addition to that. Per the Council's request, the side yard setback provision was not included in this development. The Planning Commission and staff recommended moving forward with this next step.

Mike Noles, Toll Brothers, was available to answer questions. The agreement was consistent with the site plan approved at the last session and with the RUD in place.

Member Mutch asked for a summary of the concerns that were addressed. Mr. Noles said he has been speaking for the last six months with various groups of residents including residents of Pebble Creek subdivision. Their primary concern was to move the sidewalk connection to the north so it would be closer to their entrance. They felt the connection was too close to Ten Mile Road. Another request was to enhance the landscaping with berms and additional plantings at the northeast corner of the site plan. Member Mutch confirmed that it was in the area of lots 35 and 36. He asked if the plan was to create an open space or have the landscaping on the lots. Mr. Noles said it would be on the lots and explained that the setback created an open space corridor along Dinser Road that is lacking on the east side. Their setback from the Dinser Road right of way is forty-two feet and ours is sixty-nine feet. We have already incorporated an open space area that will have a sidewalk and city water main. We are preserving some of the large trees through there. We are not increasing the width of the open space but we will increase the density of the landscaping in that corner to provide good screening at that location. Member Mutch asked if the landscaping was going to be in the green belt areas or on the actual lot. Mr. Noles said it would be on the actual lot. Member Mutch asked if there will be an easement in place to ensure that it doesn't get changed. Mr. Noles said it would make sense to make an easement on that space. Member Mutch said it was one of his concerns. On the actual landscaping plan, there are some walnut trees in that location and the berm is not extended through that area. Mr. Noles said the larger walnut trees are closer to Ten Mile. The area by the Dinser Driveway into to the Greenhouse is sparse. There are some existing maples that line the driveway and we will be spading some of them. One of the residents of Pebble Creek has asked if they could get some of those trees relocated to the frontage. They have agreed to do that. Member Mutch said his preference would be to see that it wasn't in the lot. Separate that off as a common area or open space. His concern was long term responsibility of maintenance. Outside of the greenbelt area, if the landscape were to die off, there wouldn't be any screening in place. It can be addressed through the site plan. Mr. Noles said they can accommodate it by creating a dedicated common space for the landscaping area. They would be willing to do that. He would commit to that now. Member Mutch said the concerns of the impact on the Island Lake amenities have not been addressed and what discussions has he had with the various Homeowner Associations. Mr. Noles will have Jason Minock of Toll Brothers speak because he has spoken with the Presidents of

the various Homeowners' Associations (HOA) at Island Lake. The Island Lake residents, Mr. Noles spoke with, were concerned with lot size, open space, places to play, and safety crossing the street. They were also concerned about the configuration of the detention basin. They discussed all of the items at length. They have accommodated every concern. One solution was to take away one of the lots to create a pocket park at the intersection of the two phases that connect so that residents from both phases can enjoy the park. Member Mutch asked why they put it at that location. Mr. Noles said they wanted somewhere for the children to play that was convenient for them. It is contiguous with the bulk of the open space. Member Mutch asked if people utilizing the play area will also access the open space behind the homes. Mr. Noles thought that they will. They expressed that they would play hockey if the pond freezes over. One of the things they asked for was a wet bottom pond in that area. Member Mutch reiterated if there is nothing that says this is dedicated, it would create issues in the future among homeowners. He saw utilizing lot seven because it is centrally located and it was a larger lot. Mr. Noles said they committed to do approximately one thousand linear feet of an offsite sidewalk to cross Wixom at the light.

Mr. Minock met with all the Presidents of the HOA's to discuss any issues. We have a two phase plan developed for the pool. We will have a key card access to the pool and decrease the number of people allowed in the pool. The Presidents gave their approval of the changes. We are working together on the issues. The pool changes will be done in the fall. Member Mutch noted the City is not a party to those discussions and agreements.

Member Mutch asked about the future development locations on the original Island Lake property. Mr. Noles answered that while they were technically able to build more, it would be difficult to find space to do that and clarified they would not. Member Mutch said he didn't want the impression that Toll could not build on property they don't own. Mr. Noles wanted to make it clear they don't intend to build. It would be too difficult to undo what they have done. Member Mutch said the number of units that Toll has been allowed to develop on the original property was requested by Toll.

Member Mutch noted Toll was taking density from the original Island Lake development and extending it to the Dinser property in a way that wasn't contemplated. The original Delta Trucking Agreement with the City resulted in the purchase of Wildlife Woods Park property and some of the adjoining properties that were then sold to the school district. Mr. Schultz had explained in the agreement with the City and school district, it was agreed with Delta Trucking, they would be allowed to utilize the development credits from the City and school property on the original Island Lake property. He stated the original acreage that constituted the original RUD has been expanded a couple of times with smaller properties. He asked whether the density associated with the school and City properties could be still utilized by Toll Brothers for the Dinser development. That original agreement was specifically limited to the original Island Lake property. It never discussed or contemplated the usage of the 884 units beyond the confines of the original Island Lake property. Over the years, the City did allow a couple of small parcels to be added to the RUD. Toll is asking to add a significant number of units. Mr. Schultz and staff were able to provide what it would look like if the City properties are

not being utilized for the purposes of calculating density. It showed that Toll would be entitled to 841 units. If the plan is approved as presented, it would be 858 units. It would be a 17 unit difference. If they removed seventeen units from this phase, he felt it would be acceptable. He thinks it is appropriate for Council to take some appropriate action with some kind of compensation from Toll to continue to use City property for their density credits. He thought residents should expect every development coming forward should have to honor the zoning and Master Plan. In discussing it with Mr. Schultz, it is clear the City Council is under no obligation to extend the use of the density to this property.

Mayor Pro Tem Staudt asked if the amenities were built to accommodate what was built at the time of the original RUD. Mr. Noles noted they have exceeded the amenity levels that were required at the time of the original RUD. The televisions and treadmills were not part of the original amenity package. They added a significant increase to the amenity package over the years. Mayor Pro Tem Staudt asked if he disagreed with the comments of residents. Mr. Noles did disagree because every resident received a disclosure statement and the RUD is one of those disclosures. Mayor Pro Tem Staudt said that the residents were supplied with a copy of the RUD. Those documents allowed Toll to build the total number of units allowed. Mr. Noles said there was full disclosure at the time they purchased and built their homes. Mayor Pro Tem Staudt said they received information that the property would be attractive with the high level of density. Mr. Noles commented they showed the first 24 concerned residents that it's the same development as where they live now. It is the same quality that we have carried throughout the entire development. Toll has worked with the residents to provide a quality development. Mayor Pro Tem Staudt asked what he was projecting for the build-out and sell-out of this project. Mr. Noles said the current market is very high. Six months ago he would have projected it would have been about twenty-four units a year, but we are now at a thirty to thirty-three per year pace. Mr. Staudt asked what was happening in acre lot developments. Mr. Noles noted there are acre lots but no public services. They required large lots to accommodate septic and wells. He couldn't accept a seventeen lot reduction when questioned by Mr. Staudt. He thought it wasn't in line with the intent of the development. He thought it was a deep cut and it wasn't warranted.

Mayor Gatt said he will be consistent and is in favor of the development because the developer has met all the criteria that the City has required. He believed it was part of the original RUD. He didn't think the development would detract from their homes.

CM-13-03-041 Moved by Staudt, seconded by Fischer; MOTION CARRIED: 5-1

To approve the request of Toll Brothers, Inc. for The Meadows of Island Lake of Novi JSP12-65, for approval of the proposed Sixth Amendment to the Residential Unit Development (RUD) Agreement. This approval is subject to the Amended RUD Plan and all plans and activities related to it being in compliance with all applicable provisions of the Zoning Ordinance, including Articles 3, 24 and 25,

and all applicable City Zoning Ordinance approvals, decisions, conditions and permits.

Member Mutch said he could support smaller lots if it was balanced with open space. He didn't feel the open space was acceptable within the immediate neighborhood for a forty acre lot. He felt it wasn't appropriate to allow Toll to use density credits beyond the original RUD. Toll chose not to build the total units. He noted the issue may come up again in the future.

Member Fischer asked about Council's ability to look at this as one large RUD plan versus a stand-alone development and whether it was appropriate and within our rights to use density credits on further properties. City Attorney Schultz agreed because there is an existing RUD with eight hundred eighty-four units and they are permitted to add forty acres without increasing the density. They are allowed to do it because it was a policy decision. Member Fischer summarized that Council is legally within their rights in Mr. Schultz's opinion. He asked what way should Council view this project. Mr. Schultz said it was a policy question and Council is not obligated to agree to the amendment that is being requested. He thought it was ultimately what the staff and Planning Commission looked at and recommended for approval to develop of this property. It is a policy question and not a legal question. Member Fischer was disappointed to hear residents were unhappy with the amenities. It wasn't a City matter. We have a RUD that allows us to vary in lot size and width and it is allowed when there is open space and natural features being preserved. Crosswalks, pocket parks, retention ponds and preserving trees were all added and he thought the intent of the ordinance has been met.

Member Wrobel commends Toll for working with neighboring residents to work out a compromise. He asked if the pocket park lot was the same size as the adjacent lots and whether it was a buildable lot size. Mr. Noles said one lot was eliminated in the corner and then combined everything. He didn't know if there could be two front yard setbacks and still have the same size building on the lot as the other house. It may have been reduced in size. It is about the size of a lot. Member Wrobel commends Toll for the one park and Council hasn't enforced it in the past. He had no issue with the number of lots. Any issues with the amenities are between the residents and the developer. It is not a site plan issue Council can deal with. He will support the project.

Member Casey asked if whether the initial density set for Island Lake was set for west of Wixom Road specifically. City Attorney Schultz said no and was for the east and west side. She will support the amendment and thought the lot sizes are consistent with other lot sizes within the complex. As a City Council, there is nothing we can do as it relates to the amenities. She asked if by enabling this RUD and density to be applied to this new parcel if it would set any precedent or obligation should it comes up in the future. City Attorney Schultz said they added a clarification to the agreement after the last Council meeting. These are all separate and stand-alone determinations that Council makes. Council is not obligated to add this property but it is permitted. He doesn't like to use the word precedent with these because each one stands alone. It is addressed on its own merits and the decisions can vary. It is an optional form of

development and it is something that both have to agree to with a set of standards in the ordinance.

Roll call vote on CM-13-03-041

Yeas: Wrobel, Gatt, Staudt, Casey, Fischer
Nays: Mutch
Absent: Margolis

3. Approval of the request of Stucky Vitale Architects for Detroit Metropolitan Credit Union JSP12-69, for the Preliminary Site Plan, Woodland Permit and Stormwater Management Plan approval. The subject property is located at the northeast corner of the intersection of Main Street and Novi Road in the TC-1, Town Center District. The development area is 0.83 acres and the applicant is proposing an approximately 3,000 square foot Detroit Metropolitan Credit Union.

Mr. Pearson said there was a positive recommendation from staff and Planning Commission.

CM-13-03-042 Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY:

Motion 1

To approve the request of Stucky Vitale Architects for Detroit Metropolitan Credit Union JSP12-69, Preliminary Site Plan based on, with, and subject to the following:

- a. **City Council approval to permit a decorative fence with brick piers along the rights-of-way in lieu of a brick wall;**
- b. **Subject to the conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan; and This motion is made based on and subject to the site plan and site being in compliance with all applicable provisions of the Zoning Ordinance, including Articles 16, 24 and 25, and all applicable City Zoning Ordinance approvals, decisions, conditions and permits.**

Mayor Pro Tem Staudt is pleased with the new direction that is developing on Main Street. He asked the applicant to present the project.

Mike Blanic, Stucky-Vitale Architects, the Credit Union had put this on hold for a time period and they are asking for the final approval tonight. They created the feature at the corner for pedestrian use to link Main Street together.

Member Wrobel will support this project. Main Street was supposed to be grandiose but the plan had gone awry. We need progress at that location but wish we could have done the original plan.

Member Mutch questioned the pedestrian feature at the corner. It was discussed in the landscape review that it would be more appropriate to consider something where art work could be displayed. Deputy Community Development Director McBeth said it

has been included. Member Mutch asked about the building location and that it is setting farther back than we have seen in the past. Ms. McBeth said it was the better location for the building. They needed a spot for the underground vault for stormwater detention. Member Mutch it was a lot of property to stay undeveloped and hopefully it will be a nice entrance to the area. He would support it as proposed.

Mayor Gatt is very pleased and is looking forward to the development.

Roll call vote on CM-13-03-042 **Yeas: Wrobel, Gatt, Staudt, Casey, Fischer, Mutch**
Nays: None
Absent: Margolis

CM-13-03-043 **Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY:**

Motion 2

To approve the request of Stucky Vitale Architects for Detroit Metropolitan Credit Union JSP12-69, Woodland Permit, based on, with and subject to the conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan. This motion is .made because, with those items addressed, the Plan will be in compliance with Chapter 37 of the Code of Ordinances and all other applicable provisions of the Ordinance.

Roll call vote on CM-13-03-043 **Yeas: Gatt, Staudt, Casey, Fischer, Mutch, Wrobel**
Nays: None
Absent: Margolis

CM-13-03-044 **Moved by Fischer, seconded by Casey; CARRIED UNANIMOUSLY:**

Motion 3

Approval of the request of Stucky Vitale Architects for Detroit Metropolitan Credit Union JSP12-69, Storm Water Management Plan, subject to the conditions and items listed in the staff and consultant review letters being addressed on the Final Site Plan. This motion is made because, with those items addressed, the Plan will be in compliance with Chapter 11 of the Code of Ordinances and all other applicable provisions of the Ordinance.

Roll call vote on CM-13-03-044 **Yeas: Staudt, Casey, Fischer, Mutch, Wrobel, Gatt**
Nays: None
Absent: Margolis

To advise the Parks and Recreation Commission to create a Parks, Recreation and Cultural Services (PRCS) Older Adult Advisory Board.

Member Wrobel agreed with Mayor Pro Tem Staudt.

Member Fischer saw that citizen input as a twofold opportunity that we need to look at. Finding areas like the Older Adult Advisory Board and Cultural Arts Advisory Board may be good ways to get additional feedback. We don't see a lot of new people on the Boards. This is a way to get more people involved. His concern was if we create the two commissions through the Parks and Recreation Commission and report to the Parks and Recreation Commission it would be the same people. He implores City staff to continue to think of new ways to get the other fifty-four thousand residents in Novi involved.

City Manager Pearson said the suggestion would make it easier. He thought that sometimes it is daunting for a resident to sign up and go through the interview process. This may broaden volunteer participation.

Member Casey will support this motion. She will watch how the Older Adult Advisory Board is progressing. If they need additional support, we could reconsider it becoming a committee under Council. In the meantime, allow the Parks Commission to appoint the members.

Roll call vote on CM-13-03-046

Yeas: Fischer, Mutch, Wrobel, Gatt, Staudt, Casey

Nays: None

Absent: Margolis

6. Approval to create Parks, Recreation and Cultural Services (PRCS) Cultural Arts Advisory Board, consisting of 5 members consisting of an art educator, one local artist and 3 Novi residents.

Mayor Pro Tem Staudt thought this might be a good idea to get input from the older population. It is the best way to get ideas from those who use the services.

CM-13-03-047

Moved by Staudt, seconded by Mutch; CARRIED UNANIMOUSLY:

To advise the Parks and Recreation Commission to create a Parks, Recreation and Cultural Services (PRCS) Cultural Arts Advisory Board.

Roll call vote on CM-13-03-047

Yeas: Mutch, Wrobel, Gatt, Staudt, Casey,
Fischer
Nays: None
Absent: Margolis

7. Approval to award a unit price Water Service Connections contract to D & D Water and Sewer, Inc., the low bidder for a term of one year with three 1-year renewal options for an estimated annual amount of \$140,630.

CM-13-03-048 Moved by Staudt, seconded by Wrobel; CARRIED UNANIMOUSLY:

To award a unit price Water Service Connections contract to D & D Water and Sewer, Inc., the low bidder for a term of one year with three 1-year renewal options for an estimated annual amount of \$140,630.

Roll call vote on CM-13-03-048

Yeas: Wrobel, Gatt, Staudt, Casey, Fischer,
Mutch
Nays: None
Absent: Margolis

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 8:26 P.M.

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Transcribed by Jane Keller

Date approved: April 8, 2013