

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, JULY 26, 2021 AT 7:00 P.M.**

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, Crawford*, Fischer, Maday, Mutch

*In accordance with the Open Meetings Act, Member Crawford attended remotely from the City of Novi, Oakland County, State of Michigan. He arrived in the meeting at 7:24 p.m.

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

APPROVAL OF AGENDA:

Mayor Gatt added "DTE" to the Mayor and Council Issues.

Member Fisher added "Request for Closing in Escrow Related to the Sakura Property" after Item No. 3 under Matters for Council Action. Mayor Gatt confirmed that it would become Item No. 3.A.

CM 21-07-095 Moved by Staudt, seconded by Casey; MOTION CARRIED: 6-0

To approve the Agenda as amended.

Roll call vote on CM 21-07-095 **Yeas: Staudt, Casey, Fischer, Maday, Mutch, Gatt**
Nays: None
Absent: Crawford

PUBLIC HEARINGS:

1. Consideration of a Resolution Approving Application of Sakura Novi Land Development, LLC for Commercial Rehabilitation Exemption Certificate for a Mixed-Use Commercial and Multi-Family Development at the northeast corner of Grand River Avenue and Town Center Drive and related Agreement Concerning Act 210 Commercial Rehabilitation Abatement.

Public Hearing opened at 7:02 p.m. and closed at 7:03 p.m. with no public input.

PRESENTATIONS:

Mayor Gatt said they were very honored to have with us, members of our fine, esteemed Novi Police Department, and they are going to present regarding the Michigan Law Enforcement Accreditation Commission (MLEAC) Reaccreditation Award, Michigan Association of Chiefs of Police (MACP).

Bob Stevenson, the executive director with the Michigan Association of Chiefs of Police thanked everyone for the opportunity to speak. He said he spent his police career in the City of Livonia. He said he was very familiar with the Novi Police Department, and proud that we work together closely with you, and can work closely with your department in his current position. He stated three years ago, almost to the date, we were here doing the Accreditation Award for your department. He said much has changed since then in the last few years in the whole criminal justice field. He stated however, what has not changed is the leadership position that the Novi Police Department holds within the police communities around the state of Michigan. He said when we were here three years ago, Novi was the third City to become accredited in the state of Michigan. He mentioned for those that did not know, there are 600 police departments give or take one or two on any given day within the state of Michigan and the Novi Police Department was then the third to become accredited and are now the third to be reaccredited. He said this was quite an honor and sometimes when you are close to excellence, you do not recognize it. He said he is outside, and he travels all around the state, and he will tell you that the Novi Police Department is an excellent police department. He said it is a leader within the police profession and they continue to do that, they are one of the few departments in the state of Michigan that are both Michigan Law Enforcement Accreditation Commission Accredited, and CALEA Accredited, and that is quite an accomplishment. He said in many ways, this certificate of reaccreditation is much harder to earn and attain than the original accreditation is. He said he was going to turn this presentation over to their program manager for our accreditation program, Neal Rossow, to explain a little bit about what they had to go through to obtain the certificate of reaccreditation.

Neal Rossow said it was a privilege and an honor to be there that evening. He said this is one of the neatest jobs he has ever had in his police careers to come to a municipality and reaffirm that they have an excellent police department. He said it is not something you did not know, he thought that just holds a lot of value when people from the outside come in. He believed everyone was somewhat familiar with accreditation, because your kids go to an accredited school and hopefully, you are treated in an accredited hospital, and you went to an accredited university. He explained that all accreditation is the "Reader's Digest" version, which by saying that work he just dated himself, but there are 108 standards in the Michigan Law Enforcement Accreditation program, 108 standards that this agency had to meet now, and to say there is 108 things they have to do would be incorrect, because there are probably 450 tasks that they have to accomplish. He said he always views the original accreditation as a promise made, but when they come back, it is a promise kept, that original accreditation, they are meeting the standards. He said they have been able to prove to us and to the assessors from the Michigan Law Enforcement Accreditation Commission, it says that they are complying, it is not an easy task to become accredited. He said it is a much harder task to become reaccredited because they need three years of proofs to show outsiders. He said the standards say that something must happen, and there is a thing called proofs that show outsiders that they are following the policy that follows the standard. He said it is a big deal, and it said it was an honor to be there. He said Novi had a great house and should be very happy

with it. Thank you. He said their president of the Michigan Chiefs, Ron Wiles would give the presentation.

Ron Wiles thanked everyone for the time allowing them to be there that evening. He said he was the chief of police for Grand Blanc Township Police Department up in Genesee County, and he was the current president of the Michigan Association of Chiefs of Police. He said the Novi Police Department is no stranger to enhancing this profession and representing it with nobility that it requires. He said it was not too long ago that he awarded Chief Molloy the Presidential Medal from the Michigan Association of Chiefs of Police, which he humbly accepted. He said accreditation is a significant professional accomplishment and it takes a team to do this. He said the team here in Novi you have representing your City, serving your residents is second to none. He presented the certificate to Chief Molloy.

Chief Molloy thanked the Mayor and City Council. He said it was his honor to be able to accept this on behalf of all the men and women of the Novi Police Department. He introduced our key staff; Sergeant Bob Manar is our incoming accreditation manager. He said Sergeant Brian Woloski was away on family vacation and he could not be there that evening, but he wanted to recognize him for all his hard work. He said we have Scott Payton, who is our Assistant Chief over support services, and Eric Zinser in the middle Assistant Chief over uniform operations. He said he always told you throughout his career is that he will surround himself with the best and brightest that there are. He said this is a testament to them, and to all our subject matter experts that we have throughout the department, who ensure that we meet the 108 standards by the Michigan Law Enforcement Accreditation Commission. He said on behalf of all the men and women, he thanked them for their support. He said this is a significant financial commitment that you have made to all of us. He appreciated that the City Manager's Department, the City Administration has supported them 110%, not to overshadow this great award, but just two weeks ago, we also received our reaccreditation for the Commission on Law Enforcement Accreditation on a national level. He said they also received initial accreditation for our Public Safety Communication Center. He said this is a testament to the commitment to excellence that our men and women have, and the duty and honor and professionalism that they bring to work every single day. He thanked President Wiles. He thanked Executive Director Stevenson and Director Rossow for coming there that evening and presenting them and he promised he will have this displayed in a very prominent place. Thank you.

Mayor Gatt said on behalf of his colleagues here on Council and the City Administration, and this whole staff, and the 70,000 people that call Novi their home, and probably the hundreds of 1000s of people who come through this City on a daily basis, we want to thank you from the bottom of their hearts because, we are not immune to what we see in the news going around the world regarding police matters. He said we are just so proud of the fact that here in Novi our standards are so high, and it starts with you. He said it permeates all the way down to the newest officer. He thanked Chief Molloy for all his hard work, his dedication, and his commitment to excellence. He said it shows

through in everything that you and your brave men and women accomplish daily. He thanked him again and said they will have their support forever. Thank you.

Mayor Gatt said the next presentation says Recognition. He asked City Manager Auger what this was about. City Manager Auger said he did not have a large plaque or eloquent speech to give, but he thought it was noteworthy that City Clerk Hanson received her Master Municipal Clerk accreditation, which puts her at the top shelf of clerks in the state of Michigan. He said it is not just taking a couple of classes, it is experience testing, more classes, and more classes. He said after several years, she has obtained that and the thought it would be worth recognizing Ms. Hanson that evening. Thank you. Mayor Gatt said on behalf of the City Council, and everybody listening, thank you for your commitment to excellence in your job, this is something we asked you to do several years ago, and you have accomplished it. He congratulated Ms. Hanson, gave her their best wishes, and he thanked her for all that she does.

MANAGER/STAFF REPORT:

City Manager Auger said it seemed like every weekend there is something else happening weather wise and not only in Novi, but in the state of Michigan, we are fortunate to have dodged the tornadoes that touched down in northern Oakland County, and in other parts of southeastern Michigan. He said Novi still had some significant rain and we had to deal with some ongoing issues that we have been dealing with. He stated one is the Lakeview project that you are all very aware of. He wanted to let you know that our staff has been working with Robertson Brothers on this project. He looked at the reports, and there were 24 things that staff wanted corrected, and he believed it was 16 or 17 of them have been accomplished already. He said staff is going out there twice a day to ensure that it is maintained and continued. He said they will continue to stay on it. He thought some of the things that are being implemented right now, will make a drastic impact on that area with the mud runoff. He said one of the items that evening on the Agenda is actually to let the engineers work on the storm sewer plan to significantly upgrade the storm drain in that area. He stated one of the reasons that it was asked of the attorney last week, and we just say not to exceed a "X" amount of dollars and get it going to is a lot of work must go into the design even of just a storm drain. He said it is not just putting a pipe in the ground. He said what we found is with the size pipe we are putting in the ground, we cannot put it right where the existing pipe is, we must move it because there are other utilities underground that we must stay away from so that we did our due diligence on that part. He said that is why it will be before you this evening later because now we can start designing it, make sure it works. He said we are not just letting it sit on the side and wait for the next rain, because it seems like it comes every weekend. He said they are on top of it and Robertson Brothers is working with the City.

ATTORNEY REPORT:

City Attorney Schultz said he thought he better use this opportunity to talk about the Open Meetings Act issue that caused us to have some remote participation. He

mentioned one of the issues that they were having there that evening is the Opens Meeting Act requires them to have two-way communications with the members who are participating remotely. He said right now, as he understood it, Member Crawford could hear them, but we could not hear him yet. He stated for him to participate in any action item, he would need to have the two-way communication established. He said he thought they are working on that. Assistant City Manager Cardenas said they would test right now to see if Member Crawford could hear them, he believed they had connectivity now. He asked if Member Crawford could hear them, Member Crawford said yes, he could hear Mayor Gatt very well, but everyone else was difficult to hear. Mayor Gatt asked everyone to speak up. City Attorney Schultz said if the two-way communication is working you are set for now. Mayor Gatt said the reason Member Crawford was doing this was because he was not feeling well.

AUDIENCE COMMENTS:

Jim Utley said he lived at 25972 Island Lake Dr., Novi and he has been a resident of Novi for over 40 years. He said he served as the first Homeowners Association President of Orchard Ridge Subdivision and Waldenwoods Subdivision when he lived in both of those subdivisions. He said he served as Director at Highland Lake Woods Condo Association, and he is currently the Vice President and Landscape Chairman at Island Lake North Bay Condo Association. He remembers when this City was only 15,000 people, it sure has grown. He said he came before Council that evening to ask you to consider appealing JSP21-23 where the Planning Commission told them to replace 13 trees out of 31 apparent dead, dying and aesthetically pleasing trees within their property. He said Landscape Architect Rick Meader gave them permission to remove 18 trees, however, conditioned the approval on them having to replace 13 trees out of 31 originally proposed. He said two years ago, they started implementing a tree reduction program based on the above criteria, which was apparent dead, dying, or aesthetically unpleasing trees. He said they finally ended up removing 25 trees after a lot of scrutiny and deliberation among their citizenry, Landscape Committee and Board of Directors. He said they worked with Rick Meader to pay for and obtain a copy of a tree survey map through Wade Trim and Associates of their property noting the assigned tree numbers, which apparently, he did not have. He said the City of Novi could not produce the tree documents since their records were lost or inaccurate. He said the condo phase of North Bay Island was apparently constructed starting in 2003. He said it is not surprising that the records of trees were lost along the way. He said Rick Meader has focused on the RUD, are you the residential unit development, which showed a total of approximately 245 trees planted? He said when they planted them and required by Toll Brothers upon City acceptance of the project. Mayor Gatt said his three minutes were up and that he was welcome to come back and speak at the next audience participation coming up. Mr. Utley said maybe he will. He said all he wanted to say is that they have too many trees out there at this time, we would like to appeal to you to give them permission not to replace. He said it is eight of them, because they are down to 25. He said he did not know if this could be done this evening or if it would require them coming back and getting on the schedule.

Sheila Bahr, 25780 Island Lake Dr., Novi said she knew Mr. Utley very well and that she is the tree person on the Landscape Committee. She said to sort of summarize what has happened, the City has a letter in their possession that was sent by the Board of Directors, around July 25th or 26th, which their Board President at that time outlined everything in detail, the history of this project which has been going on for several years. She said the bottom line, it came down to this, that there were certain number of trees that were part of the RUD, which was 245 trees. She said when they did the tree survey that was required of them, we had to pay \$5,500 for it. She said there were 431 trees, we have worked with two different arborists, over time that involved landscaping their property, they have advised them on spraying, they treat trees to save them, we have some that have spent \$6,000 a year just to spray trees, we cannot kill the disease so that we do not lose the trees, so they do this every year. She stated in addition to spraying, they trim the trees, and they do root treatments at a conservative try and sometimes two and three times for the same tree. She said they are good stewards of their trees. She said this all comes down to Mr. Meader originally approved 31 trees for them to remove. He later came back and said, no, he can only approve 18 of those 31 that you remove because he could not find those anywhere on the RUD. She said Mr. Meader said the other 13 were not in his authority at the Planning Commission meeting. He then stated it was in the Planning Commissions purview to make that approval. She said they were denied that approval by the Planning Commission. She asked Council to reference that letter that was sent to you with the detail and supposedly they are down to 31 trees, now they have gone back to the drawing boards and said, let us look at these trees again. She said they brought it down to 25, so basically, they have eight trees is the bottom line now that we contend, we would have to remove and they would like not to replace them to not overcrowd areas, which have said so that we do not deprive certain trees of nutrients. She said it is a real simple thing, we have a lot of trees we spend a lot of money on them, we would like to keep them because it is part of living at the lake. She said that is the only discrepancy here, it comes down to eight trees that they were asking out of 431 on the property. Thank you for your time.

CONSENT AGENDA REMOVALS AND APPROVALS:

CM 21-07-096 Moved by Casey, seconded by Staudt; CARRIED UNANIMOUSLY

To approve the Consent Agenda as presented.

- A. Approve Minutes of:
 - 1. July 12, 2021 - Regular Meeting

- B. Approval to purchase a 2021 Ventrac Mower with accessories from Weingartz Supply Co. through the Sourcewell cooperative purchasing contract, in the amount of \$42,505.05

- C. Approval to purchase 2021 Bobcat 5600 ToolCat from Clark Equipment Company, through the MIDeal Cooperative Purchasing Contract in the amount of \$91,382.78.

- D. Approval to purchase a 2022 Scorpion II Crash Trailer Attenuator from Truck & Trailer Specialties, through the City of Rochester Hills RFP contract, in the amount of \$27,881.
- E. Approval of the request from The Bond for a variance from Section 11-68 (a)(9) in the Design and Construction Standards to allow only a single water service lead and single fire protection lead to service two (2) proposed residential buildings.
- F. Approval to accept the residential streets as part of Andelina Ridge Phase III and adoption of Act 51 New Street Resolution accepting Barcellos Lane, a portion of Sevilla Circle, and a portion of Pamplona Lane as public, adding 0.68 miles of roadway to the City's public street system.
- G. Approval of a Resolution to close Grand River Avenue from the Suburban Collection Showplace to 45200 Grand River Avenue for the 2021 Michigan State Fair 5K Run from 8:00 AM to 9:15 AM on Saturday, September 4, 2021.
- H. Acceptance of a Wetland Conservation Easement and a Tree Preservation Easement from Cambridge of Novi, LLC for wetland and woodland conservation areas being offered as a part of JSP17-52 Terra, for property located north of Nine Mile Road and east of Napier Road, in Section 29 and 30 of the City.
- I. Warrant

Roll call vote on CM 21-07-096 **Yeas: Casey, Crawford, Fischer, Maday, Mutch, Gatt, Staudt**
Nays: None

MATTERS FOR COUNCIL ACTION

- 1. **Consideration of proposed water & sewer rate resolutions for 2021-2022**

CM 21-07-097 **Moved by Casey, seconded by Staudt; CARRIED UNANIMOUSLY**

Approval of Proposed Water & Sewer Rate Resolutions for 2021 - 2022.

Roll call vote on CM 21-07-097 **Yeas: Crawford, Fischer, Maday, Mutch, Gatt, Staudt, Casey**
Nays: None

- 2. **Consideration of a Resolution Concurring in the provisions of a Revised Brownfield Plan submitted to the Oakland County Brownfield Redevelopment Authority (OCBRA) utilizing tax increment financing for a period of approximately eight years, ending no later than 2029, for the Sakura Novi Development, located on the north side of Grand River Avenue near Town Center Drive.**

City Manager Auger said the petitioner was there and it is revised downward from the original numbers that you saw earlier on the Brownfield. Mayor Gatt asked the petitioner if they wanted to add anything. The petitioner replied that he did not have anything to add, but they would be available for questions.

Mayor Pro Tem Staudt stated that we have the Brownfield and a tax abatement on the Agenda. If either of those fail, he wondered what the effect on the overall agreement with the applicant would be. City Attorney Schultz said that was a broad question. The applicant is seeking the two approvals, essentially for their financing for the project. He said nothing would happen immediately if either of those did not pass that evening. He stated the next thing that happens on the schedule is dealing with closing on the purchase agreement, they have about 25 days to decide whether or not we are going to have a closing. Mayor Pro Tem Staudt said the approval or not approval of either the Brownfield or the abatement does not immediately invalidate the purchase agreement. City Attorney Schultz confirmed it does not, but other things still must happen.

CM 21-07-098 Moved by Staudt, seconded by Maday

Consideration of a Resolution Concurring in the provisions of a Revised Brownfield Plan submitted to the OCBRA utilizing tax increment financing for a period of approximately eight years, ending no later than 2029.

City Attorney Schultz said there is a minor technical amendment. He stated that since we put the packet together, they have had some conversations with the attorney for the applicant, and they have some comments and suggestions on what he would consider minor parts of the resolution, if you could just add through the maker of the motion, just with the statement with any minor edits non substantive to be made by the Managers and Attorney's Office.

**CM 21-07-098 Moved by Staudt, seconded by Maday; MOTION CARRIED: 6-1
AMENDED**

Approval of a Resolution Concurring in the provisions of a Revised Brownfield Plan submitted to the OCBRA utilizing tax increment financing for a period of approximately eight years, ending no later than 2029 with the final form of the resolution to be approved by the City Manager and City Attorney's office.

Member Mutch wanted to clarify a couple issues related to this request. He said one is the regarding the revised proposal from the applicant, they are going to seek reimbursement for up to \$850,000 through taxes that are captured through this Authority. He said from what he read in the packet, it looked like the actual total capture is going to be a little over \$1.1 million for additional cost that are related to funds that go to the State Brownfield Authority and to the County Brownfield Authority. He thought there was one other bucket that money is flowing into before that is completed. He said in the information that was provided to them, it was indicated that the State Brownfield Fund

LBRF and the Brownfield Redevelopment Authority for not to exceed \$1,189,083. He said the information was provided, it was noted that they expected to capture their portion within four years, assuming they are granted the state school taxes, then that is probably another years' worth of capture occurring before that is fully met. He asked if that would be accurate? Assistant City Manager Cardenas said the petitioners attorney could also weigh in this as well in terms of the specifics, but it is understanding that 2026 after they receive their Plan 321, if they get that approval, and he was not sure when that approval will take place, when the timeline is on the states side to receive that authorization to capture those tow taxes He said those two taxes are the state education tax and the school operating tax which is the main fiduciary for this Brownfield capture for that timeline. He said he was not sure the City Attorney as well, but we are not sure in terms of when that approval will be given from the state. He said that is more of a conversation we will have with the County Brownfield Authority which those conversations will take place later this week in terms of preliminary discussions, because it is all going to be funneled through that entity. Member Mutch said part of that calculation is what you just noted is the assumption that they will be granted the ability to capture those two school taxes, which is significant. He said it is like somewhere around 20, almost 24 mils a year. He said when this project really gets rolling in terms of it assessed value or taxable value, that is a significant amount of money. He stated if the state doe not grant that approval, then what? He said he thought the City's portion was around \$12,000 a year, which under the Brownfield Act, you can collect, he thought up to 35 years, but he did not think anybody was contemplating that. He said it was kind of what plan B would be if the state does not grant that. Assistant City Manager Cardenas explained that will extend the capture period for the Brownfield, because the 210 will come into play, that abates the rest of the taxes. He said it per City Council's action later on, but then that will extend though the Brownfield capture for a much longer time, as you mentioned, in terms of almost up to 30 years then that would require that would be the new capture further reimbursement again, this is just for their reimbursement for those activities that they put forth first, and then wait for the capture as time goes on. Member Mutch said if a scenario plays out, do they have to wait for that money to come in to be reimbursed or does the County reimburse that somehow and then knowing that the money will go up eventually. Assistant City Manager Cardenas said yes, they must wait until that money comes in and then our Treasurer's Department then collects that, disperses it to the County than the County then funnels it back to hem in terms of a payment. Member Mutch said in the Agenda item, it notes that this would be for an eight-year period, but he did not see that anywhere in the resolution. He wondered if that was part of the original? Where just eight years kick in was that part of what we originally approved when we approved the purchase agreement? City Attorney Schultz replied to the question and said he thought the limitation was in the original resolution, so the original resolution continues, except we are approving the revised plan. Member Mutch appreciated that. He thought, if there were no information, he would say what we are voting on this evening is a reduction from what they had originally requested. He said that is always an improvement, we should recognize. He mentioned one other thing that was weighing on his vote, which is that the City Council's already approved the purchase agreement with this applicant, and it has language in there saying that we will into object to what is being submitted, whether it was the higher amount or the lower amount. He

said from his perspective up, you are voting this evening, this is kind of a pro forma kind of vote, because as a body we have already agreed to do this. We have already agreed to approve what they are submitting within what is allowed by the law and what they are allowed to request. He thought based on this, as people might be hearing from this conversation, decisions made by other entities really are going to be the controlling factor on this. He said if the State says that you are not going to let them capture the school taxes, he was sure that will have a significant impact on their decision. He said if the County attaches some additional conditions or rejects the proposal that also will have an impact. He said that evening, he will be voting for this request, because he thought we are constrained otherwise, we have already agreed to it through the purchase agreement, and to some degree ties our hands to approve this as it is presented. He said, arguably, that is a better proposal in terms of its potential impact on future tax revenues, because it is significantly reduced from what was previously requested. Thank you.

Roll call vote on CM 21-07-098

**Yeas: Fischer, Maday, Mutch, Gatt, Staudt,
Crawford**

Nays: Casey

- 3. Consideration a Resolution Approving Application of Sakura Novi Land Development, LLC for Commercial Rehabilitation Exemption Certificate for a Mixed-Use Commercial and Multi-Family Development at the northeast corner of Grand River Avenue and Towns Center Drive.**

CM 21 -07-099

Moved by Staudt, seconded by Maday; MOTION CARRIED: 4-3

Approval of Resolution Approving Application of Sakura Novi Land Development, LLC for Commercial Rehabilitation Exemption Certificate for a Mixed-Use Commercial and Multi-Family Development at the northeast corner of Grand River Avenue and Town Center Drive, subject to approval of a related Agreement Concerning Act 210 Commercial Rehabilitation Abatement by the City Manager and the City Attorney's office with the final form of the resolution to be approved by the City Manager and City Attorney's office.

Member Mutch said he had a couple of questions for the applicant so he could try to understand the numbers that were provided to us in our council packet. He said he would read off a bit here and then whoever feels best able to answer that can address his concern. He said the requests for this week, we are calling it an abatement. He thought the technical terminology is an exemption, the practical effect is the applicant does not have to pay taxes on the improvements for up to eight years, or for an eight-year period and this property, which are estimated to be about \$2.8 million in total. He said the information that was provided to Council with the justification for that says there are two issues that they are trying to address through this exemption. He stated one is the site conditions. He said unstable or unsuitable soils because of prior historic felling by the

landscape company which we have been made aware of some of the pond was filled in. He said we also know of the environmental issues related to the pond and to offset some of the costs of land materials and labor to create the generous public spaces and amenities required by the City as part of the zoning approval process. He said additionally, they were provided some numbers outlining what are identified as pre COVID issues and post COVID issues. He said the pre COVID issues of \$2.7 million and post COVID issues of almost \$7 million for a total cost of \$10 million. He said what he was looking to understand, as he was reading through these issues that are identified as one and two, and he said he could make a connection here. He stated Council just addressed \$850,000 of that related to the Brownfield activities, the environmental remediation, and then roughly another \$1.8 million showing for wetland mitigation and unsuitable soils, but the total request is around \$2.8 million. He wondered where that additional million dollars comes into play? He was assuming issue number two, he said he was not sure he has seen a million dollars in public spaces and amenities. He asked for clarification on where that additional request is coming from.

Darian Neubecker, Robertson Homes said the first thing he wanted to note was part of this project was always envisioning a CRD for six years. He said the difference in that was he believed the purchase agreement in 2018, so around three years ago. He stated the difference between then and now is we are asking for an additional two years. He said what he wanted to focus on is what has happened in the last three years. He said we have had a pandemic, we have had the loss of a major anchor tenant, we have had the ability to do a further exploration on your soils and identified vast areas of this project are 20 to 30 feet deep with uncompacted fill. He said we have got to somehow either dig those soils out, or we have got to provide peers to go down through the various buildings. He said when we just looked at all the cost, it is not any one thing, if that makes any sense. It is a combination of a lot of factors. He said unfortunately that is what I take to make this project move forward. Member Mutch said to clarify, when you are looking at the numbers that you have provided, your projection is going to be \$1.8 million to address the environmental issues. He asked if the million dollars is what the other factors related to the loss of the anchor tenant, so it is kind of financing issues related to not having that kind of guaranteed tenant to come in and fill that space. Mr. Neubecker said it was tough to point to any one issue. He said the challenge on this project is that there has always been an issue, we lost an anchor tenant, we had a pandemic, we had an environmental issue, we had wetland issues, that while we got that resolved, the resolution was challenging. He explained the east side of the site, the vast majority that we not able to build on, that was a change since the purchase agreement, we were able to overcome that issue. He said there has been several challenges that we have had to find solutions in the way we have been able to solve this and that is why we are requesting an additional two years from what the original request was three years ago. Member Mutch said he appreciated that and said the challenge from his perspective is some of these numbers. He said obviously, some are going to be estimates because you have either already had to address them, or you have already, through the County Brownfield entity, you are going to have to justify that it just feels very loose and flexible. He appreciated from your perspective, that you want to have that flexibility, but from the City's perspective, we are being asked to move this project forward to forego that future

tax revenue, for a fairly significant portion. He said the other kind of X factor from his perspective is, there is a lot of talk about the impact of COVID. He said he was not going to downplay that for a second, because that obviously was impactful, and losing your anchor tenant, you know, was significant. He said at the same time based on the project timeline, the actual point of construction, where you are building upward is probably another year, and in some cases two years down the road. He said maybe costs are still going to be an issue and labor costs and materials costs are going to be a lot of this to him is speculative. He said the City is being asked to take on, kind of assume, that along with you which we typically do not do for this kind of development, he said he had no problem supporting the Brownfield issues. He said to the degree that Brownfield issues playing to construction costs, he would be open to that conversation. He stated that he did not feel comfortable with the more speculative cost that, frankly, may or may not be generated. He said the other issue is, we have assumed about the value of this property, and what that results in tax revenue that will forego. He said if this value of this property appreciates in any significant way, \$2.8 million is the low end. He said he did not have a reason to think that we will not even hit that mark, he thought it would. He said if it does, there is no cap for the City here other than the number of years, and it felt a little too open ended for him to feel comfortable supporting it at this time. He said he would not be able to support that request, as it is structured, because he thought the potential impact is too great. He said the return, as he noted, he was not seeing the value in those public spaces in the project that say to him that this was worth that level of investment to get that bill and that is what he wanted from day one. He said he was very clear about that with Mr. Aikens every time he has been up there. He said this needs to be a world class project with world class public spaces, or we should not be having this He said we should not be having this partnership. He said he has not seen that presented to him. Thank you.

Member Fischer said he was not on Council when all this was contemplated originally. He said he made no qualms about the fact that the proposal, as it was many years ago, was a world class proposal. He said it was a world class project and thought that this is abatement or certificate that he would have approved for that project. He said he has put on the record several times that he felt this project has diminished and he did not think it is worthy of the eight years that is being requested. He said typically they have given abatements to world class companies coming in such as A-123 and Suburban Collection Showplace. He said right now they are being asked to approve a request for 118 townhomes and a couple of buildings for office space and restaurants, he did not find that to be unique at this point, there are too many items that are missing to fill in that blank to bring it to that exceptional level. He said for those reasons, he will not be supporting the request that evening. Thank you.

Mayor Gatt said he will be supporting it because he still has the vision that was first brought to us years ago, through no fault of anybody in this room, or anybody in the world, really. He said we were beset by a virus that just changed the whole world and change certainly the way your development has progressed or did not progress. He said he is looking at things differently than his colleagues, apparently, because when he drives by that intersection almost three or four times a day and he sees blight, just torn up

buildings and just ugliness which has been that way for years. He said a tax abatement is something we can sit up here and debate and he can call the finance people down on and they can go back and forth, he is not going to do that because a tax abatement does not cost the citizens of Novi a penny, we are not writing any money, we are not writing a check to the developer, we are not saying here is \$1.8 million or whatever it is going to be, all we are saying is that for a period of years, we are not going to collect any taxes on that piece of property. He stated he is old enough to know that eight-years goes by fast, it is a blink of an eye. He said then that development turns into the World Class, Asian development that was first thought of and still promised, we will be able to click plenty of taxes. He said if everything goes according to Hoyle, 30 days from now we are going to get a check from the developer for several million dollars, we are going to get our money back for an investment that we made on behalf of the citizens of this City. He said the reason they did that was so we could control what goes on as such an important part of our City, when he was a cop, it used to be called the four corners, that is where it happened. He said that is why the ring road was first thought of you know 100 years ago and that was going to connect those four corners and make it something of a beauty. He said on the southwest corner we have something beautiful that is supposed to go in and on the northwest corner, the Adell Center just got completed. He stated the northeast side we have a vibrant mall, and now over here we are going to do something spectacular right next to that mall. He said he still has a vision for it. He thought the taxpayers in this City are going to be well served by it, they are not going to be out any money. He hoped in the coming years we are going to have something that will attract people from all over the Midwest and come and dine at these Asian restaurants and other amenities that will be built there. He said he was completely in favor of it.

Mayor Pro Tem Staudt asked Mr. Aiken to come to the podium. He stated that amongst the Mayor, himself, and several other Councilmembers, they have supported this for many years. He said they also made it very clear in our last meeting, the last time we approved the extension of the purchase agreement that was it and that they would not do that anymore. He mentioned their request for 3.A. and he said he would talk about that in a minute. He wanted to make it very clear from his perspective, that before this vote that he will not be supporting any kind of escrow. He asked if that was something they would like to withdraw at this point, that request? Jim Clark, Robertson Brothers said it sounded like they would like to hear all the Councilmembers on it. Mayor Pro Tem Staudt said he could count heads easily. Mr. Clark said he heard him loud and clear. He said it is on the Agenda. Mayor Pro Tem Staudt said the next speaker and the next item would probably not have much to say if you were withdrawing the request now. Mr. Clark said it was their intent to close, he though you knew, in keeping with the agreement and artificial date was set, we have the money and we are ready to close. He said we will not have the approvals that were envisioned by the original purchase agreement through no fault of their own in terms of timing of it. He said so that was the request. Mayor Pro Tem Staudt said right, this body has passed every request you have asked for, but this one that I do not think it is going to go, so he was giving him an opportunity, if you would rather, we discuss it as an item. Mr. Clark said he understood and said you can remove it at your pleasure.

Roll call vote on CM 21-07-099

Yeas: Maday, Gatt, Staudt, Crawford

Nays: Mutch, Casey, Fischer

3.A. Request for closing in escrow related to the Sakura Property.

Member Fischer said he thought we tried to accomplish what we are doing there, but he did not quite get it from the petitioner. He said, as part of the letter that the City Manager received from the petitioner waiving the closing conditions, they did ask and request for us to close an escrow. He wanted to put it on record, and he thought that we should make a motion to direct the City Attorney and the City Manager to respond accordingly with Council's direction whatever that may be. He said his perspective is that the closing is very clearly contemplated in the purchase agreement, it is when the title is conveyed, and it is when the seller or the purchaser goes ahead and issues a federal wire to them for the \$3 million. He thought that the residents in Novi have had this \$3 million tied up for long enough, we have approved every extension as requested. He said it is time to send the message through the City Manager and the City Attorney that we do not accept that proposal. He said they expect to close and direct Administration to do that.

CM 21-07-100

Moved by Fischer, seconded by Gatt; CARRIED UNANIMOUSLY

To not approve an amendment to the Conditional Agreement of Purchase and Sale North Grand River City Property to close in escrow.

City Attorney Schultz said just a little exploration for the record. He said we have indicated that it would require an amendment to the initial conditional agreement to close in escrow. He said we have also indicated that would require five votes and an affirmative motion by the Council to do that. He understood that Member Fischer is making a motion that Council does not approve any amendment to the conditional purchase agreement, extending the closing date. Member Fisher replied that was correct.

Member Maday said if you have a vision for this property to be this amazing place and we believe it to be at least the four people that voted for it. She said from her perspective, if you want us to believe in you, then you must give us something to believe in, if you believe in it, then we should not have to hold any escrow. She said that was her opinion.

Roll call vote on CM 21-07-100

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

Nays: None

4. Consideration of approval to award design services to OHM Advisors for the Martin Avenue Storm Water project in the amount of \$20,000.00.

City Manager Auger said this is regarding the storm drain that we talked about in the Manager's Report. Mayor Gatt asked if Jim from OHM that evening was there. City Manager Augers said he did not believe so, DPW Director Herczeg was there that evening a long with City Engineer Croy.

CM 21-07-101 Moved by Casey, seconded by Maday; MOTION CARRIED: 6-1

Approval to award design services to OHM Advisors for the Martin Avenue Storm Water Project in the amount of \$20,000.00.

Mayor Gatt put his comments on the record. He said he was going to vote no, only because he did not understand how a company can ask the City for \$20,000 and not show up to the meeting to answer any questions. He also added that he was not happy with some of the services.

Member Fischer asked DPW Director Herczeg if he could explain the change and what it is requiring the road piece to this, and what that does to the overall schedule. He said in this letter they talked about a scheduled tentative construction completion of end of September 2021. He did not believe that includes the road portion. He was hoping he could provide a little more context. DPW Director Herczeg said that it does not include the road portion, which will have to be handled in then existing contract in our NRP, that would be the schedule for the drain portion of the project which is going on right now. He stated the road portion could linger into the fall, depending on weather. Member Fischer understood that you have already done some reaching out as far as easements and those kinds of things, or you are going to for this project. He hoped that some additional communication to those residents impacted regarding this, and the road would be part of the plan that you have as well. DPW Director Herczeg said yes, of course, we had once we realized that the pipe would have to go on the road. He said we want to make sure we had a full design to get into the contractor so the prices and change order, they come for a reflective to the actual cost. He said then they reached out through last year to most of the residents on Wainwright and had permission to make some alterations to the swale. He said at that time, there was one holdout that we will have to approach and then the outlet drain into the wetlands to the south, we had general discussion with that homeowner on site and he was amenable to any project that we are going to do. Member Fischer was excited that this is brought forward as soon as possible. He thought it was one of the several solutions that we need to keep in front of us. He wanted to put on the record last time he did misunderstand the dates. He said he brought up the point that there were some rain events last year and then this year, and that there might have not been communications in-between. He said he did go back and talk with residents as well as we reread some of the information. He apologized for having those dates wrong for you as well. He said he was in support of this project and this proposal, and he will vote yes.

Member Mutch thanked DPW Director Herczeg for bringing this forward promptly. He said this has been an ongoing issue, even as recently as this past week in this area, so it is something that needs to be addressed. He said he had a couple of questions regarding

the impact on the residents. He stated the construction and the main portion of that running through Martin is the east, west, portion that is shown that is going to be essentially an underground pipe through the backyards with drainage structures to collect the runoff. DPW Director Herczeg said it will be an underground structure with catch basin at the end of the west side and then additional behind, the thought likely in the middle and then connection to the north and south. Member Mutch said in where it starts in the wetland area the expectations that it is going to flow from the existing base and the Robertson built into that wetland and then into the sewer so that hopefully, if we have any excess runoff from that area, it is not going to be flooding into the backyards as we have seen. He wondered if he understood that correctly. He said it was mentioned easements so those residents will need to provide the City with easements because there are no existing easements, is that correct? DPW Director Herczeg said maybe City Engineer Croy could speak specifically to that, but he thought they were going to be temporary grading easements, not a permanent easement for maintenance. Member Mutch said we are going to be putting in a bigger pipe that is going to collect all this additional runoff, and it will flow, more of it and faster downstream. He wondered if we have looked at it, he said he knew that they have talked to the property owner, but did we look at the potential impact of that where it outlets at the south of Linhart Street. DPW Director Herczeg said he thought it was part of the total calculations that were performed when they decided to upsize the pipe, so he thought they were fine there. Member Mutch said he wanted to get to the cost issue. He stated the construction project for this sewer storm is estimated to be a total cost, including what we are approving for design engineering is approximately \$423,000. He said that is the estimate. He asked if we had an estimate for the road reconstruction. DPW Director Herczeg said no, not yet. That will have to be a separate contractor. He stated they have approached them about their existing under the contract for the Neighborhood Roads Program (NRP), so we simply must apply the unit prices. He said if they see that we cannot replace half the road, we are going to do have to do the whole road, and then it will begin and we will just apply those unit prices to that project, we are estimating roughly \$200,000. Member Mutch said what we are looking at, though, is just, you know, again, just so the neighbors understand what is going to go in there essentially, after that is all torn up to put the sewer in and then is put back down are just going to reap, essentially a new paved road, like what is already there. DPW Director Herczeg said Martin Avenue, the north, the south, the entire stretch, will be repaved.

Member Mutch said he appreciated that. He wondered if we had any discussion with Robertson in terms of contributions related to costs. He said one thing that has come up from this project is the fact that this did go through an approval process, a review and approval process on the City side, for the Lakeview development that was approved, and then we have had these ongoing issues. He said the feedback that he has from residents up there is in the past, we would have some water in the backyard from the wetlands area, but nothing of the magnitude that we were seeing today. He understood there are some issues with the Robertson site that needed to be addressed that when that is fully developed with lawns and the proper drainage system in that hopefully that would function better. He said what has been shared with them is that the storm sewer on Martin is undersized for the runoffs. He said he was not asking for an answer that

evening, but he thought that City Administration owed City Council an explanation on how that got to that point, because we are fixing it. He stated it is a costly fix, but it needs to happen. He was interested in ensuring that we do not run into the situation again, because this is the kind of development that is going to happen in the City going forward is redevelopment or the vacant parcels developed in existing areas. He said we cannot go through this again. He said this is completely unacceptable for the residents, we owe them better from the front end, and he knew we had the staff that can do it. He was concerned about something in the process not working and it needs to be addressed. He made another point regarding something he heard the City Manager speak about during his portion, his presentation about Robertson working on the issues and 16 out of 24 issues have been addressed. He did not know what they have done, he did not know what has been happening on Ordinance enforcement, but we had the same outcome on Saturday, and he thought the only thing that saved that from being a bigger problem is that Robertson Brothers dug out a basement there on one of those lots closest to Wainwright and it probably is collecting a certain amount of runoff. He stated that we know it is collecting runoff because the basement was full of water or practically full of water. He said it is collecting runoff that other wise would have flowed into the streets and into the backyards. He said that will not be there forever. He said he thought we must realize the City may have standards that are based on calculations from 30 years ago, engineers put together saying it is only going to rain this much, this often, that has not happened. He said it sure has not happened in the last couple of years, but he thought that was what we needed to reevaluate that. He said for this project, we need to do better as a City, it needs to be compliance, and it needs to be enforced. He stated that we have had too many of these for too long a period to say, well, it was a basketball stuck in the drain or it rained heavy last week. He said it seemed like it is going to rain heavy every week, in fact he thought we were going to get another storm. He said we are going to have another situation where we have a river of dirt running off into the neighbor's backyard, and then into Shawood Lake. He said this better be the last time we see that happening out there because it is not an acceptable situation. He said he would be supporting this because he thought it had to be done for the residents who live in this area. They did not make this problem; it is our job to fix it for them. He said this is the first step. Thank you.

Mayor Pro Tem Staudt asked if we anticipate anything on the north side on the other buildings. He asked if there are anything that you are foreseeing in the future that we are going to have to replace on that side of the road. DPW Director Herczeg said it is parallel to Wainwright, he thought he was talking about the north. Mayor Pro Tem Staudt thought it was Old Novi Road where the other homes are. DPW Director Herczeg said this should cure anyone that is on the south side of 13 Mile. Mayor Pro Tem Staudt asked about the north and their sides of the park. He said he believed we are not looking at the same things their homes built along the road there, or they are in the process of being built. He did not know if it is north, south, east, or west. DPW Director Herczeg replied it was the west side. Mayor Pro Tem Staudt said they have seen pictures of muddy water running down the road to Shawood Lake, are we going to be doing any kind of study to make sure that this is the end. It is clearly some help on one side, or on the other side of the road. He wondered if there are any other issues. He said if you need \$30,000 to do

a study on that side, he did not want to come back here six months from now and say we need to look at that side of the road now. DPW Director Herczeg replied that right now, we have to do this last one, there was a couple of site visits, and there was an issue that needs to be addressed that should remedy a lot of that runoff. He said the calculations for all the stormwater, he thought most of that is going into the pretreatment end of the wetland before it goes from the north south pipe is all part of that calculation. He stated if the site is being maintained properly, and the runoff is being maintained properly and is working correctly, the sites were stored, and grass and everything, the upsized pipe should be the solution to the entire area. Mayor Pro Tem Staudt hoped he was exactly right, because six months from now or a year from now he did not want to be back in the situation especially tonight when we have the applicant asking for some changes to the PRO and he said he will have a few questions for them at that point. DPW Director Herczeg said before we come back with a change order, we can take a deeper look to make sure the remedies are the solution. He stated if there is anything else we need to do, we can bring that forward with the additional work we have a change order for.

Roll call vote on CM 21-07-101

**Yeas: Staudt, Casey, Crawford, Fischer,
Maday, Mutch,**

Nays: Gatt

- 5. Tentative approval of the request of Robertson Brothers Homes, for Lakeview, JSP 18-16, for amendment of the Planned Rezoning Overlay (PRO) Agreement. The 3.15-acre property is located on the east and west sides of Old Novi Road, south of Thirteen Mile Road. The proposed amendment would remove one condition in the agreement that requires front-facing garages to be set back five feet from the porch and add five home models to the PRO Concept Plan exhibit.**

City Manager Auger said this is basically getting a different style of home façade, if you would, to the homes up there that was recorded in the PRO but does not change the style or what Robertson Brothers is putting in there. It is just a different type of home.

Mayor Pro Tem Staudt asked somebody from Robertson Brothers to come up to the podium for questions. Jim Clark, Robertson Brothers was available for questions. Mayor Pro Tem Staudt stated that we do not open-up PRO Agreements very often, but the fact that we are going to open this one up brings me to a discussion about some of the things that you can do to remediate the properties so that we don't have the brown water flowing into the neighbor's yard. He said he knew that City Manager Auger said they were working with you. He stated this is bad optics for somebody to be pumping out a pit on a Sunday, with residents watching as their yards are flooded. He said he did not think that Robertson Brothers quite understood why they were doing this or maybe you were not aware of it. He said there are things that we can assure that are going to happen such as berms, whatever it takes, whatever our engineering department thinks. He said we cannot require you to do anything once the PRO is closed, other than enforce our ordinances, which he was not sure that we have done a very good job with. He said this has got to get fixed and you must be a good corporate partner in this. He said you just got a very large development approved in our City and we have a bunch of very

small homes, who are being affected by a very nice development. He stated that these folks have lived there for a long time, and now they are suffering, and that is not what we expect from our developments in our City. He said he was not sure what the answer was, he was not sure what the City Manager was referring to that he is working with Robertson Brothers, but this needs to get fixed. He said if it does not, we are going to ask you to come back and really explain it. He said we do not like getting pictures of brown water running down the streets, into people's yards. It is not very appealing look for your company, and it needs to end. He suggested we are investing \$700,000 in fixing roads, fixing stormwater drains, our City is making a big investment and it is not coming from Robertson Brothers, it is coming from us. He gave them words of wisdom, get this fixed and work with the residents to make sure that this brown water is not flowing into their yards and down the streets, because it really looks bad for the company.

Mayor Gatt stated that there is no motion made yet, but he was not going to support this request. He said it is just a matter of some elevation changes, he understood, but it is the only hammer he had against your company. He said when he saw people on Sunday doing what your company did, he did not know who ordered that. He did not know if the contractor did it on rogue, but on Sunday they were pumping muddy water into neighbor's backyards, it did not make sense to him. Mr. Clark said he would like to make comments. Mayor Gatt replied that he would not support this request this evening, because it was the only thing he could say in support of the neighbors. He said we cannot do much more other than enforce our ordinances, but he can say through his vote that evening, when or if a motion is made, he did not support Robertson Brothers until they could show him and all of Council that you are supporting the residents up there and you are doing everything in your power to make their problems go away. He did not see that yet, so that was all he was going to say.

Mayor Pro Tem Staudt said he was not fair; he did not give Mr. Clark an opportunity to respond to his comments. He asked Mr. Clark if he would like the opportunity to speak.

Mr. Clark said he was a prideful man after 35 years; we do not go into communities and try and create problems. He said to build four houses they have spent \$35,000 on soil erosion measures, we are not trying to save money, four houses, \$35,000 spent, we have gone off our property in the backyards of all the houses on Wainwright and established a new ditch and worked with those neighbors to get grading easements. He said they did that on their dime, they designed this system exactly as they were asked, and then they stopped the design, and put in piping on the west side of Old Novi Road instead of open ditches. He said whenever they have been asked to do anything they have done it, we are doing everything they know how to do. He stated they are now going to see all the lots, 11 of which are sold, and we will seed them to try and help this problem also, and we will dig them up the next day. He said they are not saying no to anything that City staff asks of them to do or anything that our soil erosion experts know, or anything that makes sense. He said they are building on a hill; they are waiting for six permits on 11 sold houses, he said the best thing they can do is to get those houses built and get out of there. He did not blame the staff, but he was as frustrated as you are. He said Russ Nuffer is on a first name basis with every one of those neighbors and they have his cell

phone number. He said they do not ask their contractors to pump out basements on Sunday when they are not on site. He said they are trying to build better elevations there with more modern home styles, and he will remove this application because he did not want you to think he was looking for favors. He said they will build the same houses. He said they are not as nice a house, and that will deny your residence, but he did not want to ask for a favor. He thought they were bringing you a better product. He stated if you think they are not doing everything they can we need to know what else it is because he was putting all his efforts in making sure these neighbors are taken care of and he could not stop 100-year or 200-year rains and even three and four silt fences stacked up in a row sometimes blow out with those kinds of rains. He said you could ask any homeowner in any community in Southeast Michigan has this been normal. He said that was all they got. Mayor Pro Tem Staudt said they appreciated their \$35,000 effort, but as you probably heard that evening, the City is making \$700,000 in improvements. Mayor Pro Tem Staudt said he was with Mayor Gatt, in that he would prefer that you bring this back after you and the City Manager along with City staff have had an opportunity to discuss the alternative to finishing this up. He said he did not think any of them could speak for anyone else, but me. He said they are not opposed to the designs, but opening the PRO gives us an opportunity to deal with an issue that we, as elected officials think needs to be dealt with, and we don't have any details. He said the City Manager talked about working with you, in an off-week packet, we can get some details as to what that is. He said then you can come back here and ask for it, and then we will see where we go from there. Mr. Clark said in the spirit of working together, they were happy to do the one side and forget about the other. City Attorney Schultz said what he was hearing from Mayor Pro Tem Staudt was to suggest making a motion to postpone, which is always an order and is your choice, not anybody else's? Mayor Pro Tem Staudt replied yes. He thought that would be the most appropriate thing because he would rather see this open-up if we have to add some language to fix some of these issues that would be great, but he would make a motion to postpone.

CM 21-07-102 Moved by Staudt, seconded by Casey; MOTION CARRIED:5-2

To postpone the tentative approval of the request of Robertson Brothers Homes for the First Amendment to the previously-approved Planned Rezoning Overlay (PRO) Plan and Agreement for Lakeview, JSP 18-16, with Zoning Map Amendment 18.723.

City Manager Auger said one of the aspects of this façade change was a design that was included in the PRO Agreement, that is not normally that detail included in the PRO Agreement of exactly the five-foot setback. He said what is holding Robertson Brothers up right now in moving forward and getting this project done, whichever one wants to get done, is this new elevation is ready to go, but they cannot build it until they get approval of this five-foot setback. He stated that by postponing, and he understood why, because it is the leverage point that this City Council has on this project by postponing the project, we are slowing down the project instead of getting those houses.

Mayor Gatt stopped City Manager there, and said they understood that. He wanted to make it clear, this is not about Robertson Brothers and their elevation. He said it is about the people in the neighborhood who call and write us and send us pictures. He said this is not a 200-year rain, it is people pumping mud out on a Sunday afternoon that bothered him the most. He said he wanted to see a concerted effort on Robertson Brothers part, to work with the neighbors up there and do what it takes to resolve this problem. He said that was all that he was asking. He said he is making a motion to postpone, and it has been seconded. He said he will be in favor of that, because he would vote no on this today, not because he did not like the elevation, but because he is sending a message to Robertson Brothers and to the neighbors that Council supported the neighbors, we just voted to support you. He said we support the neighbors, we want that problem fixed, they have been there for many years. He said your company is coming in and they are changing the way of life for these folks up there and not in a positive manner. He said he understood that sometimes people just do not like development, and that is not what this is about. He said it is not that they are angry, because there is a home there, they are angry because the home there is causing their basement the flood, or it is causing the mud in their backyard so that they cannot enjoy them. He said that is what we must fix, and we must enforce our rules. He said the only thing he can enforce as the Mayor and the City Council, you came before this evening and asked to open a PRO Agreement. He said it gave them an avenue to walk here and say, okay, I am saying no of that. He understood that they a motion and support to postpone the discussion on that.

Member Mutch said if this was the first time this did happen, or the second time this did happen, he would be sympathetic to the argument that you are making. He said we are on year two, this is not the first year of dealing with this runoff from the site. He acknowledged he was to a development expert, he was not a soil erosion expert, and he did not know what the right answer was. He stated he knew what was happening up there right now is not the right answer and it needs to stop. His second point was or question for City Attorney Shultz was in terms of this request. He said under the language in the PRO Agreement, this request is being driven by a design that is inconsistent with the standard of the PRO, they could come forward with new facades, new elevations, new layouts, new anything, if it met that standard, and they would not have to come to Council for approval. He wondered if that assumption was accurate? City Attorney Schultz said yes, that was accurate. Member Mutch said he did not know why they were even having this discussion. He said he did not know why Mr. Clark picked designs that did not match what they agreed to do in the first place, and then want us to fix it. He said if he was sounding angry that he was venting, it was because he was annoyed. He was upset because people are creating problems in our City that are not of our creation that you are choosing, that is your choice. He said maybe they will get approval for this going forward, he was not going to vote for it going forward. He said you chose the size of these lot, you chose the configuration in terms of setbacks, you got everything you asked for in terms of that, when this came forward to the City Council it was approved. He said to come back now and asked at this point and say you need to open the PRO and change it to let me do these designs that you did not bother to make sure matched what you agreed to in the first place. He thought this was ridiculous and said he was done.

Member Fischer said he already made comments. He stated he would not be supporting the postponement because one, the applicants said that he wanted to withdraw and he would vote no to deny it any way, so he did not see the point in postponing.

Mayor Gatt said further discussion should occur on the postponement motion.

Roll call vote on CM 21-07-102 **Yeas: Staudt, Casey, Crawford, Maday, Gatt**
Nays: Fischer, Mutch

6. **Consideration of approval to purchase a 2022 Ford F-550 Chassis from Signature Ford through the Macomb County cooperative purchasing contract; and upfits of the Dur-A-lift aerial signage truck to be completed by Truck and Trailer Specialties through the City of Rochester Hills RFP contract, in the amount of \$174,771.**

CM 21-07-103 **Moved by Fischer, seconded by Maday; CARRIED UNANIMOUSLY**

Approval to purchase a 2022 Ford F-550 Chassis from Signature Ford through the Macomb County cooperative purchasing contract; and upfits of the Dur-A-lift aerial signage truck to be completed by Truck and Trailer Specialties through the City of Rochester Hills RFP contract, in the amount of \$174,771.

Roll call vote on CM 21-07-103 **Yeas: Casey, Crawford, Fischer, Maday, Mutch, Gatt, Staudt, Casey**
Nays: None

7. **Consideration of approval to purchase a 2022 Sutphen custom pumper PA-17 from Sutphen Corporation for the Novi Fire Department, through the Sourcewell competitive purchasing contract, in the amount of \$870,827.82.**

CM 21-07-104 **Moved by Casey, seconded by Maday; CARRIED UNANIMOUSLY**

Approval to purchase a 2022 Sutphen custom pumper PA-17 from Sutphen Corporation for the Novi Fire Department, through the Sourcewell competitive purchasing contract, in the amount of \$870,827.82.

Member Mutch wondered if the funds for this are coming from the CIP Millage. City Manager Auger said yes.

Roll call vote on CM 21-07-104 **Yeas: Crawford, Fischer, Maday, Mutch, Gatt, Staudt, Casey**
Nays: None

8. **Consideration of approval of Change Order No. 2 to Pipeline Management Company for the 2021 Sanitary Pipe and Manhole Rehabilitation – Phase 2 project, in the amount of \$265,910.00 and amend the budget.**

CM 21-07-105 Moved by Staudt, seconded by Casey; CARRIED UNANIMOUSLY

Approval of Change Order No. 2 to Pipeline Management Company for the 2021 Sanitary Pipe and Manhole Rehabilitation – Phase 2 project, in the amount of \$265,910.00 and amend the budget.

Roll call vote on CM 21-07-105 Yeas: Fischer, Maday, Mutch, Gatt, Staudt,
Casey, Crawford
Nays: None

9. **Consideration of Approval of Change Order No. 6 to Florence Cement Company for the Cranbrooke Road Reconstruction, 9 Mile Road to Village Wood Road, asbestos-cement water main replacement in the amount of \$167,343, and amend the budget.**

Member Mutch asked DPW Director Herczeg if this would have an impact of the road project timeline. DPW Director Herczeg said no.

CM 21-07-106 Moved by Mutch, seconded by Fischer; CARRIED UNANIMOUSLY

Approval of Change Order No. 6 to Florence Cement Company for the Cranbrooke Road Reconstruction, 9 Mile Road to Village Wood Road, asbestos-cement water main replacement in the amount of \$167,343, and amend the budget.

Roll call vote on CM 21-07-106 Yeas: Maday, Mutch, Gatt, Staudt, Casey,
Crawford, Fischer
Nays: None

10. **Consideration of approval of Change Order No. 10 to DVM Utilities, Inc. for the Nine Mile Road Sanitary Sewer project (Evergreen Court to Kensington) in the amount of \$1,577,521.68, and amend the budget.**

CM 21-07-107 Moved by Casey, seconded by Gatt; CARRIED UNANIMOUSLY

Approval of Change Order No. 10 to DVM Utilities, Inc. for the Nine Mile Road Sanitary Sewer project (Evergreen Court to Kensington) in the amount of \$1,577,521.68, and amend the budget.

Member Mutch asked DPW Director Herczeg to come up to the podium for questions. He stated this was before us at City Council there was a budget request to provide additional funding for this project and at that time, he asked if that was the last time, we

would be seeing this project. He said he was told the answer was yes, maybe it was, we hope so. He said that is not how that panned out, he was sure at this point, if he asked him, you may not want to answer the question, but on a scale of one to 10, are you extremely confident to one, what is your confidence level that this is the last request. DPW Director Herczeg said as far as progress, we made it through one of the two obstructions that were using us the problems with the initial method. He said we made it through one of the two obstructions that were causing us the problems with the initial method. He stated they already dug a manhole number two and had no issues with that excavation. He did say there is one more obstruction that we are excavating, specifically out to continue the ramming process. He believed that past that point, based on the excavation that we saw further down the line, obstruction should be less of a problem or no problem. He said that should mean progress should move along from three to two, two to one, and then connection ultimately at the existing pipe. He stated when I am on a one to 10, he said on the motion sheet that we brought it up before and we have missed poorly. He said he was not 100% confident, but he was confident that progress now, we are past the most difficult piece that we thought has caused us the most difficulty. Member Mutch thought the context of the conversation, but he guessed his understanding is that we know you mentioned this one obstruction and a second obstruction you are removing; we really do not know, we do not have any knowledge of what might be potentially in the past though. He asked Mr. Herczeg if he had done some sampling. DPW Director Herczeg said they have done some testing. He said there could be, but we are based on the latest excavation where we are confident that it is not as bad in those areas. Member Mutch said the information that was provided to Council says that this amount will include 10 months of diversion of water to Garfield Lake from March to October. He was assuming that is through this fall. Mr. Herczeg said yes. Member Mutch asked what the expectation in terms of the dewatering activity related to construction one that is expected to need one, what is your expectation that would stop. DPW Director Herczeg said it has been throttled back a little already based past where the point that we have reached it, it will continue the rest of the project. He said they had to cut the road today on Garfield Road to install the additional 12-inch diversion which will basically divert all the water for the most part to Garfield Lake. He said we fully expect that to fill to the point where we will have to valve it off. He said then from there on out, we would be, as needed, we will monitor and then the water when we are diverted to watering as necessary. Member Mutch said he was trying to understand if the construction reaches a point where it no longer needs to dewater, hypothetically, we still need more water for Garfield Lake, where does that come from. Mr. Herczeg said we can leave the wells in place; you are just pulling out of the existing round. Member Mutch said that will not have any impact in terms of residential wells which tend to be deeper, so the expectations that would not have any impact on residential wells or anything of that nature. Mr. Herczeg said it would have very little impact on residential wells he thought they replaced five which were already kind of in the danger zone, one before the project and anything that we have encountered that is up to 100 feet has been an issue. Member Mutch said this is probably more of a finance issue, but he was sure Mr. Herczeg could address it. He said the cost that we are being asked to approve as a change order for \$1.5 million, the budget request is \$1.9 million. He said there are some additional costs in terms of contract administration and crew days and a minor

amount for material testing that so that is what is being covered with the \$1.9 million budget request. Mr. Herczeg said yes, and they put some contingency in there as well. Member Mutch said that their expectation is that this will be the final, that is our goal. He said he was supporting this, he voted, he was not there for the first vote. He said he supported these requests going forward, because the fastest way to bring a resolution to the problem we have had at Garfield Lake, and some of the surrounding properties to get this project done, and to get the sewer line completed. He said we are throwing buckets of money at it, but you know, I do not have another solution for it, it sounds like you all are doing what you need to do. He said he would be very interested from City Administration, what we will do differently in the future, because just like problems we have had, with Robertson development in the sewer system up and stormwater sewer system, something got missed in the process. He said he knew there were things that we probably could not have expected. He said there were enough red flags, starting this project from folks who have lived out there for a long time about high-water table. He said there are some issues with the soils out here that we should have caught, he thought, in hindsight, so we are going to spend the money to get it done, he believed and get it done. Thank you.

Roll call vote on CM 21-07-107

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

Nays: None

CONSENT AGENDA REMOVALS FOR COUNCIL ACTION: None

AUDIENCE COMMENT: None

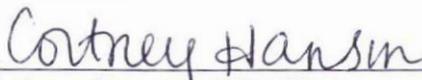
COMMITTEE REPORTS: None

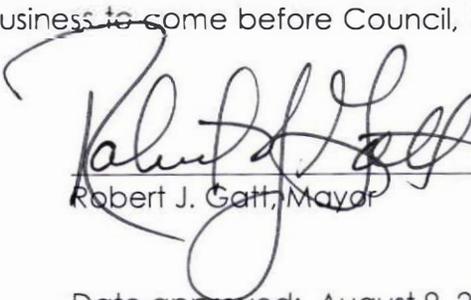
MAYOR AND COUNCIL ISSUES:

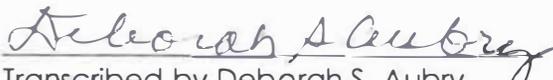
Mayor Gatt said he added "DTE" to Mayor and Council Issues. He stated that at our last meeting we were visited by a very nice young lady from DTE, who explained DTE position on the outages in the City. He said she was very informative, helpful, and nice. He said he could think of 12 different adjectives, but the problem still remains in the City post that discussion. He said he knew the power in Meadowbrook Lake went out just for five minutes one day, he did not know which day it was, but then it came back on. He did not know what that does to all the appliances and everything along that line, but he did not think it was good for them. He said he was no going to tell tales out of school, but it was on Facebook when another one of our Councilmembers was without power for a couple of days apparently in this recent storm. He said he was going to ask City Manager Auger and City Attorney Schultz to see what more we can be done as City as a body. He said he knew individually you can file a complaint with the PSC, you can do that, but he was wondering as a City or as an entity, is there something more we can do. He said concentrating on the three areas of the City that loses power the most, it is Willowbrook, Meadowbrook Lake and Village Oaks, and in those three subdivisions, Mayor Pro Tem Staudt pointed out last time it is the trees. He said they are out of control. He wondered

if it would take the City of Novi to hire people to trim nice trees, but we owe it to our citizens, we owe it to our residents to do something, because being without power for more than just a short period of time is a public safety issue. If you do not have refrigeration for your medicine, or sometimes, like his niece is on ventilators and so on and so forth. He said you must have electricity, not everybody has generators, and cannot afford a generator. He believed that we owe it to our citizens to do something. He asked City Manager Auger to work with City Attorney Schultz and come up with something we can do to show DTE that we appreciate their efforts, but we need them to accelerate their efforts. He said if that cannot happen in a timely fashion, perhaps we should come back to Council and talk about spending some money and trimming the trees ourselves in certainly in those three subs, because it must be done.

ADJOURNMENT – There being no further business to come before Council, the meeting was adjourned at 8:38 P.M.


Cortney Hanson, City Clerk


Robert J. Gatt, Mayor


Transcribed by Deborah S. Aubry

Date approved: August 9, 2021