

**Ann Arbor City Council Regular Session: January 23, 2012
 Email Redactions List Pursuant to Council Resolution R-09-386**

<u>Sent Time</u>	<u>Received Time</u>	<u>To</u>	<u>From</u>	<u>CC</u>	<u>Redactions</u>	<u>Reason for Redaction</u>
9:23 PM	9:23 PM	Smith, Sandi	Jeri Schneider		email and property address	Privacy
7:09 PM	7:09 PM	Briere, Sabra; Smith, Sandi	Richard Wickboldt		email	Privacy

Corts, Carynne

From: Kunselman, Stephen
Sent: Monday, January 23, 2012 11:19 PM
To: Beaudry, Jacqueline
Subject: FW: 4-Party Agreement - Amendment Proposal

Importance: High

FYI

From: Kunselman, Stephen
Sent: Monday, January 23, 2012 10:47 PM
To: *City Council Members (All)
Cc: Fales, Mary Joan; Postema, Stephen
Subject: FW: 4-Party Agreement - Amendment Proposal
Importance: High

Proposed amendment

From: Fales, Mary Joan
Sent: Thursday, January 19, 2012 6:46 PM
To: Kunselman, Stephen
Cc: Postema, Stephen
Subject: 4-Party Agreement - Amendment Proposal
Importance: High

In response to your proposed amendment language request. I would suggest that the Section 12, Termination, of the 4-Party Agreement and Exhibit B, Articles, Section 10.2 be amended as follows (highlighted in red)

The Motion would be to **“Move that Section 12, Termination, be amended to add a new ground for termination and to restructure the provision to clearly distinguish between grounds for automatic termination and the retain right of the County to dissolve the NEW TA after incorporated if certain conditions are not met, to read as follows:**

12. Termination of Agreement.

a. **Automatic Termination.** This Agreement will terminate automatically if (i) Closing does not occur before December 31, 2015, or if (ii) after incorporation of the Authority and the expiration of the statutory withdrawal period from the public authority, the City of Ann Arbor is the only participating political subdivision in Washtenaw County in the NEW TA. It is recognized by all the Parties that if either of these conditions occur the stated objectives of Act 196 and this Agreement will not have been met and the Agreement shall be null and void.

b. **Discretionary Dissolution, Conditions.** The Washtenaw County Board will also be allowed to dissolve the New TA if there is no Authority-wide voter approved funding passed before December 31, 2014, or voter approval passes Authority-wide but the same is defeated in the City of Ann Arbor.

c. **Effective Date, Continuity of Services.** However, No such termination or dissolution shall be effective unless and until provision for continued transportation services to Ann Arbor and Ypsilanti is in place and operational and satisfaction of all liabilities of the New TA.

And to amend Exhibit B, Section 10.2, Dissolution of the Authority, to add a new corresponding provisions to read as follows:

SECTION 10.02: DISSOLUTION OF THE AUTHORITY

Corts, Carynne

From: Beaudry, Jacqueline
Sent: Monday, January 23, 2012 11:11 PM
To: Kunselman, Stephen
Subject: amendment

Can you send me your amendment?

Thanks,

Jacqueline Beaudry, City Clerk

Please Note: The City Clerk's Office has relocated back to City Hall.

City Clerk's Office | Guy C. Larcom City Hall | 301 E. Huron, 2nd Floor · Ann Arbor · MI · 48104
734.794.6140 (O) · 734.994.8296 (F) |

jbeaudry@a2gov.org | www.a2gov.org



Think Green! Please don't print this e-mail unless absolutely necessary.

Corts, Carynne

From: Briere, Sabra
Sent: Monday, January 23, 2012 10:48 PM
To: *City Council Members (All); Beaudry, Jacqueline; *City Council Members (All)
Subject: Lumm amendment

Voter approval by the citizens of Ann Arbor is required before the City of Ann Arbor could choose to pledge its full faith and credit for any project assumed by the New TA at closing or undertaken by the New TA thereafter when operational.

Corts, Carynne

From: Bowden (King), Anissa
Sent: Monday, January 23, 2012 10:27 PM
To: Taylor, Christopher (Council)
Cc: Beaudry, Jacqueline
Subject: Amendments to DC-1
Attachments: Anissa R Bowden.vcf

Chris,

Could you email Jackie and me the amendments? Thanks.



Corts, Carynne

From: Beaudry, Jacqueline
Sent: Monday, January 23, 2012 10:24 PM
To: Taylor, Christopher (Council)
Subject: proposed amendments

Can you send me the electronic version?

Thanks!

Jackie

Jacqueline Beaudry, City Clerk

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Corts, Carynne

From: Taylor, Christopher (Council)
Sent: Monday, January 23, 2012 10:21 PM
To: *City Council Members (All)
Subject: FW: DC-1 4-Party Public Transportation Agreement - Amendments Attorney-Client Privileged Commurequest and authorization of the governing bodies of Ann Arbor and AATA terminating their operational relationship in favor of the New TArequest annication
Attachments: Public Transportation Agreement Amendment Consolidated Version.docx
Importance: High

Move to amend Section 1 of the 4-Party Agreement to add the following phrase at the end of the existing language: “only when all contingencies of the Agreement are met.”

Move to amend Section 2 of the 4-Party Agreement to delete from the 1st sentence of the Section the phrase: “and authorization from the governing bodies of Ann Arbor and AATA terminating their operational relationship in favor of the NEW TA” ; **insert at the beginning of the 2nd sentence the following phrase** “ Prior to the submission of any request by AATA to County to initiate formation of a public authority all of the following must occur” (i) **delete the existing language** “before requesting the Articles be approved by the County and filed in accordance with provisions of Act 196”, **add a new (ii) to read:** “The Articles of Incorporation in the form presented for approval by the County shall be separately adopted by Ann Arbor and Ypsilanti by affirmative vote of the respective governing bodies”, **to be followed by the addition of a new sentence to read:** “No transfer of assets to the New TA from AATA shall occur unless and until all contingencies stated in Section 4 of this Agreement and any and all conditions which may be established in the Articles of Incorporation have been met”, **and the deletion the existing two sentences in the section.**

Move to amend Section 3(a) to insert before the existing 1st sentence the phrase: “After all of the Section 8 contingencies to Closing are satisfied”, **delete the phrase** “subject to Paragraph 8 below” **in the first sentence and delete the existing last sentence in the section.**

Move to amend Section 3(b) to insert before the existing 1st sentence the phrase: “After all of the Section 8 contingencies to Closing are satisfied”, **and delete the phrase** “subject to Paragraph 8 below” **in the first sentence.**

Move to amend Section 4 and 5 to insert before the existing 1st sentence the phrase: “After all of the Section 8 contingencies to Closing are satisfied”

Move to amend Section 6 to add the phrase “and appointed” **to the existing 1st sentence between the words** “elected” and “officials” **and to add a new sentence at the end of the section to read as follows:** “Nothing in this Section has the effect of waiving the defense of governmental immunity available to an indemnifying party under applicable law as to the acts or omission of 3rd parties.”

Move to amend Section 8(d) to add the phrase “and at a minimum, the continued level of services provided by its predecessor-in-interest, AATA” **at the end of the first sentence, delete the “s” and “ment” and add an “s” to** “agrees” **in the beginning of the 2nd sentence so it read grammatically correct as follows:** “Ann Arbor agrees”

Move to amend Section 8(e) to add the phrase “and at a minimum, the continued level of services provided by its predecessor-in-interest” **in the 1st sentence between the words** “transportation” and “AATA”

Move to amend Section 8(f) to delete the word “county” **and replace it with the word** “authority” **in the 1st sentence.**

PUBLIC TRANSPORTATION AGREEMENT

among the following:

AATA: Ann Arbor Transportation Authority
2700 South Industrial Highway
Ann Arbor, Michigan 48104
Attention: Michael Ford

Ann Arbor: City of Ann Arbor
301 E. Huron Street
Ann Arbor, Michigan 48107
Attention: City Administrator

Ypsilanti: City of Ypsilanti
One South Huron Street
Ypsilanti, Michigan 48197
Attention: City Manager

County: Washtenaw County
220 North Main
Ann Arbor, Michigan 48107
Attention: County Administrator

1. Acknowledged Facts. The Ann Arbor Transportation Authority (hereafter "AATA") was incorporated by the City of Ann Arbor (hereafter "Ann Arbor") for the purpose of acquiring, owning, operating, or causing to be operated a mass transportation system under the provisions of Public Act 55 of 1963. AATA and Ann Arbor are parties to a certain agreement which sets forth the operational relationship between them and which specifically provides the agreement shall remain in full force and effect until mutually terminated. The City of Ypsilanti has contracted with AATA for transportation services for many years and recently approved a Charter Amendment dedicating certain tax revenue for transportation purposes. The above named parties are planning for countywide public transportation by creating a new authority under Act 196 of 1986 ("New TA"). The New TA, in partnership with the other above named parties, -would succeed to the public transportation system currently operated by AATA under the terms of this Agreement and Section 11 of Act 196 of 1986 ONLY WHEN ALL CONTINGENCIES OF THE AGREEMENT ARE MET.

2. Authority Formation. The County, upon the AATA's written request ~~and authorization of the governing bodies of Ann Arbor and AATA terminating their operational relationship in favor of the New TA,~~ will create a new Act 196 authority by approving, signing and filing articles of incorporation ("Articles") in substantially the form attached as Exhibit A. PRIOR TO THE SUBMISSION OF ANY REQUEST BY AATA TO COUNTY TO INITIATE FORMATION OF A PUBLIC AUTHORITY ALL OF THE FOLLOWING MUST OCCUR: (i) AATA will publish details of the service and funding plan in newspaper(s) of general circulation in the Washtenaw County before requesting the Articles be approved by the County and filed in accordance with provisions of Act 196 (ii) THE ARTICLES OF INCORPORATION IN THE FORM PRESENTED FOR APPROVAL BY THE COUNTY SHALL BE SEPARATELY ADOPTED BY ANN ARBOR AND YPSILANTI BY AFFIRMATIVE VOTE OF THE RESPECTIVE GOVERNING BODIES. NO TRANSFER OF ASSETS TO THE NEW TA FROM AATA SHALL OCCUR UNLESS AND UNTIL ALL CONTINGENCIES STATED IN SECTION 4 OF THIS AGREEMENT AND ANY AND ALL CONDITIONS WHICH MAY BE ESTABLISHED IN THE ARTICLES OF INCORPORATION HAVE BEEN MET. Before the closing, AATA retains full authority and control over the conduct of its business. The New TA, after incorporating, would not own or operate public transportation services until the contingencies of this agreement are met. After the transfer of assets described in Section 4, AATA and Ann Arbor will terminate their operational relationship in favor of the NEW TA.

a. The creation of New TA by Washtenaw County.

b. AATA and New TA obtaining all necessary approvals for the transfer of assets and assumption of obligations and liabilities, including approvals that may be required from federal and state agencies, or other lenders who provided funding for those assets and consents from parties to contracts with AATA.

c. AATA taking such necessary actions by its governing body to terminate its operational agreement with Ann Arbor effective at closing.

d. In exchange for the mayor's nomination with council confirmation, of seven directors of New TA's board, ~~and~~ annual submission to Ann Arbor of the AATA's proposed budget and yearly audit and the New TA's agreement to apprise Ann Arbor City Council and solicit Council's advice prior to making major long-term policy actions concerning mass transportation services AND AT A MINIMUM, THE CONTINUED LEVEL OF SERVICES PROVIDED BY ITS PREDECESSOR-IN-INTEREST, AATA, Ann Arbor's agree~~ment to~~ (i) take such necessary actions by its governing body to terminate its operational agreement with AATA effective at closing; (ii) take such necessary actions by its governing body to authorize the execution and delivery of this Agreement and all documents and instruments contemplated by this Agreement, and the performance by Ann Arbor of the obligations to be performed by it hereunder; and (iii) designate the New TA, as successor to AATA, as the contracting agency for use of the 2.5 mills tax levy under Section 8.18 of the Ann Arbor City Charter and allocated the tax levy in its entirety to AATA at the 2012 millage rate or as adjusted by State of Michigan statute less a municipal service charge of one percent (1%) of the annual millage at the time of the collection of taxes— upon transfer from an Act 55 to an Act 196 authority.

e. In exchange for the City of Ypsilanti mayor's nomination with council confirmation, of one director of New TA's board, the new TA agreement to apprise and solicit the Ypsilanti City Council's advice prior to making major long-term policy actions concerning mass transportation, AND, AT A MINIMUM, THE CONTINUED LEVEL OF SERVICES PROVIDED BY ITS PREDECESSOR-IN-INTEREST, AATA the City of Ypsilanti agrees to pay its charter transportation millage at the 2012 millage rate or as adjusted by State Statute to the New TA upon transfer from an Act 55 to an Act 196 authority.

f. County AUTHORITY-wide voter approval before December 31, 2014, of a New TA Act 196 funding source adequate to fund ongoing operations of New TA. Any ballot question submitted to the voters of the City of Ann Arbor and/or the City of Ypsilanti shall clearly identify the new funding as additional to the existing millage.

9. Ann Arbor Approval. Notwithstanding anything in this Agreement to the contrary, if voters in the City of Ann Arbor fail to approve the NEW TA Act 196 funding source, regardless of whether it is approved or not by the other voting jurisdictions, then the City shall have the right to (i) withdraw from this Agreement without penalty; (ii) veto any attempted termination by AATA of the AATA-City operation agreement; and (iii) refuse to designate and/or assign its millage under Section 3(a).__

10. Closing Date. The transfer of assets and assumption of liabilities will occur at a date, time and

Approved as to substance

Steven D. Powers, City Administrator

Approved as to form

Stephen K. Postema, City Attorney

Dated: _____, 2012

CITY OF YPSILANTI

By: _____
Paul Schreiber, Mayor

By: _____
Frances McMullen, City Clerk

ATTESTED TO:

City Administrator

APPROVED AS TO FORM:

John Barr, City Attorney

Dated: _____, 2012

WASHTENAW COUNTY

By: _____
Conan Smith, Board Chair

Corts, Carynne

From: Jeri Schneider [redacted]
Sent: Monday, January 23, 2012 9:23 PM
To: Smith, Sandi
Subject: RE: Idling ordinance

Hi Sandi,

Thanks for getting back to me with this information and for looking further into this proposal. I appreciate that you're keeping watch, doing your research, and making reasoned decisions on council.

So far we haven't had too much cold that's even required any idling to warm up our vehicles! But we still have a couple more months of winter to get through...

Take care.

Jeri

----- Original Message -----

From: Sandi Smith <SSmith@a2gov.org>
To: Jeri Schneider <[redacted]>
Sent: Mon, 23 Jan 2012 20:30:07 -0000 (UTC)
Subject: RE: Idling ordinance

Hello, Jeri!

I will be looking at the potential Statewide law that is making its way through the MI Senate. I don't think Ann Arbor needs an ordinance of its own if it is covered at the State level.

Regardless, idling can be a real problem, especially in a more dense, urban space. One of the main goals will be to educate residents of the dangers of long term idling. Certainly there are reasons for shorter term idling, like defrosting windows that will not be a focus of this law. The long term idling that the law will be directed at vehicles that are not idling for a purpose, such as an empty school bus or a delivery truck.

Thanks for taking the time to write and share your thoughts.

Sandi Smith

Ann Arbor City Council

First Ward

734-302-3011

From: Jeri Schneider [REDACTED]
Sent: Wednesday, January 18, 2012 9:44 PM
To: Smith, Sandi; Briere, Sabra
Subject: Idling ordinance

Dear Sabra and Sandi,

I've been hearing about the proposed idling ordinance and thought I'd put in my two cents worth. I am a strong advocate of taking care of the environment, and as someone who deals with asthma, I am acutely aware of air quality issues. However, the thing that concerns me the most about this proposal is that it would impact lower-income residents of Ann Arbor more than anyone else. Also, I am not convinced that idling cars really has any significant impact on air quality. For these reasons, I think this ordinance should not be passed.

People who have the luxury of parking their cars in garages do not need to warm up their cars on cold winter mornings. But those of us who rent or live in houses with no garage are the ones who need to warm up our cars. On particularly cold mornings, sometimes it takes more than five minutes just to defrost my car windows. With this ordinance, I could be issued a ticket for this, and yet I could also be issued a ticket for driving with frosted windows. So what's a poor person to do?

I'm not saying that we should all let our cars idle indiscriminately. I like the idea of an educational campaign to encourage people to cut down on idling time. Perhaps some facts about the fuel cost of this practice would convince some people to cut down.

And I can't help but wonder, is idle time really that much of a problem in Ann Arbor? Has someone done a survey that indicates there is a problem, or are people jumping on a national bandwagon to give the impression of being environmentally correct? I just don't see the problem here, but perhaps I'm missing something?

If air quality is truly the concern here, there are other more effective and equitable ways to address the problem without targeting renters and other low-income and working-class people. These methods wouldn't be very popular though, since they would push everyone to think about many of their habits and change them, but they would have a bigger impact than cutting down on idling time in the winter.

For these reasons, I urge you to vote no on this ordinance and look to other ways to protect the environment.

Regards,
Jeri Schneider

[REDACTED]

Corts, Carynne

From: Richard Wickboldt [REDACTED]
Sent: Monday, January 23, 2012 7:09 PM
To: Briere, Sabra; Smith, Sandi
Subject: RE: County Transit Authority

Hello and good day to you both. Just a reminder. I expect a vote no on joining any type of countywide transit authority.

From: Richard Wickboldt [REDACTED]
Sent: Saturday, January 21, 2012 9:10 AM
To: 'Sbriere@a2gov.org'; 'ssmith@a2gov.org'
Subject: County Transit Authority

Hello and good day. As to the county wide transit authority and system. Sure would be nice for such a type of system. However we should not be taking the lead here. We have a very fine transit/bus system in AA and paid by our taxes. Let some other entity take on the lead and get other townships to pass their tax and commitment first. Then once we see there is a real need and commitment; we can decide to hand over our tax money. The decision should be a ballot vote!

Personally I don't think there is a real high usage need for this type of service; that we need to waste AA tax money on. I was privy to and involved in some studies at the UM in trying to increase ridership on the shared van program park/ride. There is just a certain small dedicated core of people who can use this type of service or would use public transportation between town/cities. Reason being; since this country's two political parties have decimated the middle class (besides destroying the economy). Most families need two wage earners to provide for themselves and the future for their children. Consequently once the work clock ends they are running off to so many places to take care of the kids and other critical shores needed to keep a family running. The bus system and park/ride and other van programs do not provide the flexibility they need. Also set schedules don't fit into the ever changing requirements of the day. So basically most people need and prefer the freedom of the car.

Take myself for an example. There is a bus stop within 750' of either side of my house. Yet I can count on one hand how many times I utilize the bus. Being a UM employee I could ride the bus free each day to work, save transportation costs, help save the environment. But I don't. Why? Because I need to be flexible; and able to adapt quickly to the days circumstances. My wife Shari works. So if either of our days work schedule changes then I or she would have to be ready to get in a car to cover for each other. Gosh we have a school bus system (my daughter takes the bus) and yet there are dozens and sometimes close to a hundred cars coming to pick up the kids at the schools. Just this past week Skyline had so many parents (who are idling... shall we fine/arrest them,) that the cars were backed up out of the vast Skyline complex into the traffic circle and down the street half way to M14. Why aren't the kids using the buses?

Bottom line mass transit doesn't fit into the life style and population density of Washtenaw and surrounding areas. Don't hand over our taxes and have anything to do with the county wide bus system.