



TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Craig Hupy, Public Services Area Administrator
Nick Hutchinson, City Engineer
Susan Pollay, Executive Director, DDA
Shryl Samborn, 15th District Court Administrator
Tom Shewchuk, IT Director
Brian Steglitz, Water Treatment Plant Manager

SUBJECT: Council Agenda Responses

DATE: 2/21/17

CA-8 – Resolution to Approve a Service Contract with the Domestic Violence Project, Inc., a.k.a. SafeHouse Center, for Confidential Victim Support Services (\$115,875.00)

Question: The grant that is paying for these services is through September 30, 2019. Is this contract for services through that date or for the fiscal year? (Councilmember Lumm)

Response: This contract is for the term of the grant, without regard to City fiscal year.

CA-9 - Resolution to Approve the Purchase of the Cireson Business Management Solution Software and Professional Consulting Services (\$81,125.00), and Appropriate the Necessary Funds (8 Votes Required)

Question: Was the bid made by Cireson the lowest bid received for this contract? If the Cireson bid was not the lowest, what were the prices of the other bidders? (Councilmember Eaton)

Response: The Cireson quote (\$81,125.00) was not the lowest. Prices of the other quotes were \$20, 146.32 (BCM Track-IT) and \$184,173.15 (Symantec Service Desk). After evaluating all three systems and researching other industry Service Management systems, Cireson was the lowest cost system that met our requirements.

Question: A "Best Source Justification" form was attached. It's good to require that when we're not competitively bidding and I'm wondering if that form is required for all purchases not competitively bid? (Councilmember Lumm)

Response: Procurement of supplies or equipment where competitive bidding not required by law and is clearly not practical or no advantage would result to the City by requiring competitive bidding may be sole or best sourced. A Best Source Justification Form is required in those circumstances.

CA-10 - Resolution to Approve a Professional Services Agreement with NTH Consultants, Ltd. for the Barton Dam Piezometer Installation and Slope Stability Analysis Project \$ 189,400.00 and Appropriate \$20,000.00 from General Fund, Fund Balance (8 Votes Required)

Question: I'm concerned by the following: "Between December 2014 and November 2015, a geotechnical firm hired by the City installed piezometers, to measure the water surface elevation through the earthen embankment. Review of twelve months of data has been inconclusive, and the City's geotechnical consultant has recommended the installation of additional monitoring locations and data collection to ensure a thorough understanding prior to recommending remedial measures."

Can someone help me understand if this situation was anticipated and/or Common? And if not, were remedies sought because we did not receive useful conclusions from our vendor? Might this next attempt result in inconclusiveness as well? (Councilmember Westphal)

Response: The City took an incremental approach to investigating this issue. Initially, six (6) monitoring wells (piezometers) were installed with the intention of evaluating the data over the 12-month period. While the City anticipated that 6 monitoring wells would be sufficient, there was a risk that additional wells would be needed at an additional expense. It is not uncommon, and is a more economical approach, to take a two phase approach when attempting to get a full picture of subsurface conditions. Moving forward we are confident the scope of NTH's work will be sufficient to collect the data we need to develop appropriate remedies for the embankment seepage.

CA-13 - Resolution to Approve Amendment No. 1 to the City/DDA Parking Agreement

Question: Has DDA approved the proposal to increase the City's share of parking revenue from 17% to 20%? (Councilmember Eaton)

Response: At its February 2017 meeting the DDA board voted to approve a two-year increase in the percentage of parking revenues received by the City in FY2018 and FY 2019 from 17% to 20%;

Question: If the DDA has approved an increase in the City's share of parking revenue, did the DDA resolution address any of the other proposals the DDA presented to Council at the joint working session? (Councilmember Eaton)

Response: Yes, in this same DDA resolution the DDA asked the DDA Director and City Administrator` moving forward to create a Memorandum of Understanding (MOU) as a way to flesh out the ideas put forward at the work session, as well as the process and schedule for any permanent changes to the parking agreement.

Question: At the joint work session, it was indicated the increase of the City share of parking revenues from 17% to 20% was permanent and independent from other possible parking-related initiatives. If that's accurate, why would the percentage revert back to 17% after two years? (Councilmember Lumm)

Response: At the joint work session staff put forward ideas to elicit feedback from DDA and City Council members for ways the current parking arrangement could be altered in pursuit of shared goals. There has not been enough time to fully develop these ideas. DDA members realized that the City has a timeline by which it needed to put forward its FY18 and FY19 budgets. So at its February meeting the DDA approved a resolution to approve an increase in the percentage of parking revenues received by the City in FY2018 and FY 2019 to allow time to develop the language for any permanent changes to the parking agreement.

Question: The DDA resolution passed on February 1st references creation of a memorandum of understanding for approval by the City and the DDA that establishes the process and timeline for other possible initiatives including transfer of parking enforcement to the DDA. Can you please confirm that creating an MOU is the next step planned in terms of the other initiatives discussed at the Work Session, and if so, when is it expected the MOU will be completed and presented to Council? (Councilmember Lumm)

Response: The MOU was put forward as a way to flesh out the process and schedule for any changes to the parking agreement. No timeline has been established for the creation or approval of this MOU.

Question: The final bullet of the last whereas clause in the DDA resolution that speaks to the MOU states that “the DDA and City will commit to actively pursuing the future creation of additional parking and/or transportation infrastructure”. Can you please clarify (1) what the specific next steps are (action steps and timing) for “pursuing creation of additional parking” and (2) if the “and/or” in that bullet means the DDA may not recommend additional parking capacity? (Councilmember Lumm)

Response: The DDA’s recent parking study showed the times of day and geographic locations where parking demand is greatest. This study also made recommendations for addressing demand, including increasing parking rates and working with the GetDowntown program to provide commuter alternatives. In coming months the DDA will consider these recommendations and the timing for any changes. Meanwhile, in its budgeting process, the DDA has begun setting aside funds for the construction of a future parking or transportation facility. This will enable the board at some later date to make project decisions.

As to the latter question, DDA board members have not yet come to consensus about adding parking. Some have pointed to demographic and technology changes which may affect future demand. For instance, there is conjecture about the potential impact when autonomous vehicle technology is merged with the Uber/Lyft business model, as many cars will no longer need to be parked. No less impactful will be the change to parking demand given that Millennials are much less likely to seek/have a drivers’ licenses, and more likely to seek/use a variety of transportation options so they don’t need to rely on a car. The DDA board will continue to discuss this question so they can come to consensus at some point.

CA-14 - Resolution to Approve a Professional Services Agreement with Hillard Heintze, LLC (NTE \$200,000.00) and Appropriate Necessary Funds (\$150,000.00) for Independent Analysis of Ann Arbor Police Department Community Engagement Practices (8 Votes Required)

Question: It was my understanding that Phase 1 would be an audit and would include an assessment of the need of a formal Civilian Oversight mechanism, but based on (1) the Feb 10 letter from Hillard Heintze (“per your request, we have enclosed a more detailed work plan for Phase One with the inclusion of a civilian oversight piece originally proposed in Phase Two) and (2) the detail provided by Hillard Heintze (p. 8 of their response) on a Civilian Oversight Body including “beginning the process of seeking qualified candidates”, it now appears there is an assumption of a formal Civilian Oversight body/mechanism. Can you please clarify if that is now the assumption/plan, and if so, who made that decision and why such an important structural change to City governance wouldn’t require a formal Council action? If not the assumption/plan, please explain what is intended by the “Civilian Oversight Body” section on Page 8. Also, please clarify how much of the \$200K cost in Phase 1 is for ‘development’ of a Civilian Oversight Body (as opposed to assessment of the need for one)? (Councilmember Lumm)

Response: The scope of work requires that “The Consultant will interview members of the community, elected officials, the City administrators, and members of the AAPD to determine the need for, structure of, and best practices model for a formal civilian board/ commission to review police matters.” The work plan Hillard Heintze submitted states, “We will conduct a detailed assessment of AAPD through surveys, interviews with staff, interviews of community members interacting with police and any other means necessary to obtain necessary information for determining the need for, structure of and best practices for a formal civilian review board or commission to review police matters.” The scope of work and the work plan are aligned to first determine the need for a civilian review board before stating form, structure and roles/responsibilities.

The cost structure does not detail the number of hours required to specifically address assessment versus development. The work element is included in the costs for site visits, analysis, and report writing.

Question: How was the original anticipated \$50,000 amount arrived at? Was this meant to cover the entire analysis? And as tonight's potential allocation covers a plan and "Phase One" of the project, what proportion of the entire project amount does the \$200,000 entail?

Response: The initial \$50,000 was a placeholder estimate until a detailed scope of work could be developed. The detailed Phase One scope of work included in the \$200,000 request is provided in the work plan attached to the resolution in Legistar, and includes the following tasks: Community Engagement and Evaluation of Civilian Oversight, Citizen Complaints and Discipline, CALEA Readiness, Personnel Management Practices, Training and Civilian Oversight Body.

C-1 - An Ordinance to Amend the Code of the City of Ann Arbor by Adding a New Chapter Which New Chapter Shall be Designated as Chapter 120 (Solicitation of Immigrant Status) of Title IX of Said Code

Question: How would adoption of this ordinance specifically change (if at all) any behavioral expectations for AAPD that exist today or for other city employees or elected/appointed officials? If the ordinance does not change any behavioral expectations, what is the purpose of the ordinance? (Councilmember Lumm)

Response: The proposed ordinance legislatively codifies existing practices and policies of the City.

Question: The definition of public servant in 9:402 (3) already includes “any employee” so why is the City Clerk the only city employee/position specifically called out in 9:402 (3)? (Councilmember Lumm)

Response: The reference to “any employee” does include the City Clerk and the separate reference to the Clerk can be deleted.

Question: What is the penalty for violation of the ordinance? What type of infraction is it? (Councilmember Lumm)

Response: There is no civil or criminal penalty for violation of the proposed ordinance. Suspected violations are investigated internally at the direction of the City Administrator and/or the City Attorney and curative action, to the extent it is necessary, will be taken administratively.

Question: The requirement that staff provide an annual report to Council on ordinance violations and their disposition expires four years after ordinance adoption unless specifically extended by Council. What is the purpose of that expiration provision and why was a four-year period selected? (Councilmember Lumm)

Response: Defer to the sponsor(s).

Question: Section 9:409 says that any other ordinances that are inconsistent with the provisions of this ordinance are “hereby repealed”. Are there any, and if so which ordinances or portions or ordinances? (Councilmember Lumm)

Response: No specific ordinances have been identified at this time. In construction of the ordinance, the repeal provision provides guidance as to which ordinance or portion of an ordinance shall prevail if conflicting provisions are later identified.

Question: As a reminder, I had asked the following questions for the last meeting that was not responded to. Perhaps it will be covered in the Attorney’s Office response to Council’s advice/recommendation request which is fine, but if not, please do provide a separate response:

1. *One whereas clause states that “Ann Arbor City Council acknowledges that local policies that might be considered ‘sanctuary policies’ do not violate 8 USC 1373 unless such policies prohibit or restrict communication with DHS about individuals citizenship or immigration status”. With regard to “sanctuary policies” and “sanctuary city” designations:*
 - *Please define “sanctuary policy” and “sanctuary city”?*
 - *Do the previous resolutions adopted by Council and attached to the packet from July 7, 2003 and January 23, 2012 meet the definition of “sanctuary policy” ?*
 - *Does the resolution adopted by Council in July 6, 2010 OR do the other resolutions approved by Council related to being a “welcoming city” meet the “sanctuary policy” or “sanctuary city” definitions?*
 - *Is a city with “sanctuary policies” by definition a “sanctuary city” (and if not, what characteristics/criteria define a “sanctuary city”?)*

- *Does being a “welcoming city” as Ann Arbor declared itself an official designation (or have any meaning) under the federal statutes?*

Ann Arbor appears on “sanctuary city”lists – are we a sanctuary city? (Councilmember Lumm)

Response: These questions will be addressed by the City Attorney’s Office in response to City Council’s resolution request for advice and recommendations.

DC-4 - Resolution to Install Rectangular Rapid Flashing Beacon (RRFB) on Fuller Road at the Crosswalk at Huron High School and the Entrance to Gallup Park (\$50,000.00)

Question: If passed, how will this resolution affect the timeline for installing an RRFB at this site? Will this resolution result in the installation of an RRFB prior to the end of the school year? How will it affect other pedestrian safety infrastructure in this and the coming fiscal years? (Councilmember Warpehoski)

Response: If this Resolution is passed, it would take approximately 3-4 months to obtain the RRFB materials and install them, so it is unlikely they could be installed by the end of the school year. The Resolution states that funding would come from “either the Alternative Transportation Fund balance or the General Fund balance, at the City Administrator’s discretion.” If the funding were to come from the General Fund balance, it would not have an effect on other pedestrian safety projects. If the funding was taken from the Alternative Transportation Fund Balance it would likely impact the City’s ability to provide required matching funds for grants being applied for to fund the pedestrian component of the Allen Creek Berm Opening project. These grant funds are needed to fund the approximately \$1.3M non-motorized transportation component using a source other than General Fund dollars. An alternative to General Fund or ALT Fund would be to utilize either the Street, Bridge, and Sidewalk Millage or the Washtenaw County Millage. Funding from both has been set aside in 2017 for the installation of RRFBs from the list in the Non-Motorized Plan Update. Using funding for the Fuller Road location would result in one or two fewer locations installed from this list in 2017.

Question: When will we be receiving the revised RRFB list? If it's done, please send it along. Is the Fuller Road proposed location that you mention finalized, or still being determined? (Councilmember Frenzel)

Response: Our plan is to provide an enhanced crosswalk at the Fuller location, which may include a beacon. While this is a likely outcome, we want to work with Safe Kids Huron Valley on their grant project. The outcome may result in relocating the crosswalk. While we don't control the schedule, we are hoping to influence it so it can be accelerated. However, we are working on additional interim measures to raise visibility and increase safety.