



---

TO: Mayor and Council

FROM: Jim Baird, Police Chief  
Larry Collins, Fire Chief  
Tom Crawford, CFO  
Derek Delacourt, Community Services Area Administrator  
Craig Hupy, Public Services Area Administrator  
Brett Lenart, Planning Manager  
Cresson Slotten, Systems Planning Manager

CC: Howard S. Lazarus, City Administrator

SUBJECT: Council Agenda Responses

DATE: 12/5/16

---

### **MC-1 – Appointments and Nominations**

**Question:** How do the bylaws of the Downtown Citizens Advisory Council define a quorum? If the bylaws do not define a quorum, is there some number that can be used as a practical matter to determine if a quorum is achieved? (Councilmember Eaton)

**Response:** The CAC does not appear to have bylaws or a defined quorum. There is no additional enforceable basis for defining a quorum.

**Question:** When did the Downtown Citizens Advisory Council last meet with a quorum? (Councilmember Eaton)

**Response:** The CAC does not appear to have a defined quorum. The last meeting listed in Legistar was August 2, 2016.

**Question:** The December 5, 2016 agenda includes nominations of eight members to the Downtown Citizens Advisory Council. When can the Council anticipate nomination

of a ninth member (assuming Ray Detter's status as a liaison does not make him a member)? (Councilmember Eaton)

**Response:** City staff do not have any information from Council on when a ninth member might be nominated.

**Question:** The list of nominees includes three (so 1/3 of the nine members) from a single building in the DDA District. Were any kind of outreach efforts made to solicit applications from residents of a wider geographic area within the DDA District? (Councilmember Eaton)

**Response:** City staff have not performed any outreach. Typically, applications for boards and commissions are solicited by City Council members, members of the body, or other interested persons.

**Question:** Have the nominees to the DCAC been provided with a copy of the Ann Arbor DDA's Development Plan and TIF Plan? (Councilmember Eaton)

**Response:** City staff have not provided this to any nominee. The documents are available on the DDA's website: <http://www.a2dda.org/>

**Question:** Have the nominees to the DCAC been provided with the sections from the state statute that describe the required elements of a Development Plan? (Councilmember Eaton)

**Response:** City staff have not provided this to any nominee.

**Question:** Concern about the legal basis for Ray Detter's past participation as a member in the Downtown Citizens Advisory Council (because he is a nonresident of the DDA district) was publicized online at least as early as June 2014 under the following link:

[http://annarborchronicle.com/wp-content/uploads/2014/06/Chronicle\\_Concerns-Raised-With-DDATax-Commission-Jan-2-2014.pdf](http://annarborchronicle.com/wp-content/uploads/2014/06/Chronicle_Concerns-Raised-With-DDATax-Commission-Jan-2-2014.pdf)

The document under that link raised additional issues about various points of statutory compliance by the Ann Arbor DDA. Are there specific actions the Council could take to help eliminate doubts raised in that document that the Ann Arbor DDA is in compliance with various points of the state statute? (Councilmember Eaton)

**Response:** This would be a policy choice for City Council to decide.

## **MC-2 - Resolution to Appoint Raymond Detter as Near-Downtown Neighborhood Liaison to the Downtown Area Citizens Advisory Council**

**Question:** Would the appointment of Ray Detter as a "liaison" to the Downtown Citizens Advisory Council make him a member of the Downtown Citizens Advisory Council? (Councilmember Eaton)

**Response:** No.

**Question:** At Council's August 15, 2016 meeting, the Mayor announced the appointment of Brad O'Furey as liaison from the LGBT community to the Mayor's Office. This appointment was not subject to Council confirmation. Why is it necessary to confirm Mr. Detter's appointment? (Councilmember Eaton)

**Response:** The Mayor's Office is not a board or commission to which City Council makes appointments. City Council is responsible for appointments to the CAC.

## **CA-3 - Resolution to Approve a Professional Services Agreement with Ann Arbor Art Association for Artist Selection Services for the Stormwater Manhole Cover Art Project (\$27,000.00, RFP No. 982)**

**Question:** Questions about invoices submitted by Ann Arbor Art Center in connection with a different public art project (the Stadium Boulevard public art project) have been raised, which has resulted in an inquiry made by CFO Tom Crawford. Can you briefly explain the nature of those questions, the outcome of that inquiry, and how that outcome might apply to this new contract? (Councilmember Kailasapathy)

**Response:** The inquiry was about the method and timing of invoices for the management of the art portion of the Stadium Blvd project. The original contract specified an initial payment of \$5,000 at signing of the contract and then invoicing the balance at \$100/hour for the balance of the work. When the contract was signed an initial payment was processed as required by the contract.

Early in the project the AAAC realized that the work effort had been underestimated. Staff agreed with their assessment. It was agreed that the balance of the contract amount would be paid in equal monthly installments for the period of the contract. An administrative change order (no increase in dollars, no increase in time) is being processed to reflect the change.

**Question:** Is this a project that is being completed in the context of the city's revised public art ordinance? If so, can you document step by step how the requirements of the ordinance were met so that the expenditure is justified under the ordinance? (Councilmember Kailasapathy)

**Response:** This project is following the revised public art process. The Public Art Commission reviews and identifies projects in the C.I.P. for including “embedded art”. After the identification, staff reviewed for practicality of the work. This resolution is the next step, bring the contract to City Council for approval.

**Question:** Who is the intended audience for this art and how is the audience's safety meant to be ensured when viewing the art? (E.g., motorists, pedestrians, bicyclists, all road users?) (Councilmember Kailasapathy)

**Response:** The general public is the intended audience. It is a single design that will be replicated multiple times. This is not an unusual practice. Other organizations, such as Greenfield Village, Pittsfield Township, have designer covers. It is a means of giving unique place identity with minimal or no additional cost.

**Question:** The proposed AAAC contract does not appear to include a differential cost between a standard manhole cover and one with art fabricated into the design. Is there, in fact, a differential cost per manhole cover for the artistic enhancement, or is it the same cost? If it's not the same cost, what is that differential cost per cover and how many covers does the City contemplate? Other than this question being asked by a Councilmember and answered in writing by staff for the Agenda Response Memo, how would an ordinary Ann Arbor resident find out the answer to the differential cost question? (Councilmember Kailasapathy)

**Response:** It is expected that the cost differential per cover will be zero. The City generally purchases 75 – 150 covers annually.

**Question:** If X is the total cost differential for artistic manhole covers, how many standard pedestrian crossing signs could be purchased with  $$(27,000 + X)$ ? (Councilmember Kailasapathy)

**Response:** It is expected the differential cost will be zero.

**Question:** The cover memo indicates that the new manhole covers will be purchased and installed on an as-needed basis. That makes sense rather than replacing existing manhole covers that are fine and I'm wondering about how many new manhole covers we purchase/install in a year? Also, do we have a sense of how much of a premium (if any) we'll pay for “designer” manhole covers over the standard covers? (Councilmember Lumm)

**Response:** Annual purchases are between 75 – 150 manhole covers depending on the projects undertaken. The “designer” covers are purchased at no additional cost per cover. There may be a “set up” charge depending on how long we commit to running a design. For example, if we commit to stay with a design for 2 or more years, the cost to set up may go to zero.

**Question:** What is the current balance in the Public Art fund and (assuming there is a balance) why wouldn't that fund pay for this as opposed to the Stormwater Fund? (Councilmember Lumm)

**Response:** The current available Public Art Budget is \$42,680.94 and is comprised of and committed to the following:

18,102.00	Street Millage
989.00	Jewett Memorial
1,192.00	Storm
<u>22,397.94</u>	E. Stadium Bridges Public Art

Upon the final closure of the current projects, the Art fund will be closed and the funds will be returned to the original contributing funding sources. The current funding mechanism is to fund the continuing Art program directly from the funding source.

**CA-8 - Resolution to Amend the Police Unit Safety Services FY 2017 Budget by Appropriating Funds from the General Fund's Fund Balance (\$39,752.50) and to Approve the Purchase of Five Police Patrol Vehicles from Berger Chevrolet (Oakland County Bid - \$182,236.50) (8 Votes Required)**

**Question:** What are the additional benefits the Chevy Tahoe police package offers (vs. the Ford police utility) that justifies the almost \$10,000 premium per vehicle (\$50,000 premium in total for the five vehicles)? Is it primarily space or are there other major advantages as well? (Councilmember Lumm)

**Response:** Space and the safety associated with that space are the primary advantages. The useable space inside a patrol vehicle is significantly less than that of a standard vehicle. The below listed equipment is installed in each patrol vehicle.

- Computer and mount
- Printer
- Weapon rack
- Radio microphone
- Radio control head
- Lights/siren control panel
- Wall between front and rear seat
- Video camera
- PA microphone

The safety of the officers is a concern as they need to be able to enter and exit the vehicle quickly at a scene. This is not possible for some of our larger officers with the Ford Utility vehicle. This is due to the additional equipment in the vehicle as well as the additional equipment the officer is wearing during their shift.

The safety of a subject in custody is a concern as the reduction in space in the rear seat of the patrol vehicle prevents us from being able to properly seatbelt a larger handcuffed subject.

**CA-14 - Resolution to Approve Participation in 2016 Assistance to Firefighters Regional Grant (AFG) from the US Department of Homeland Security (\$2,007,592), and Appropriate if Necessary Share of Matching Grant Funds (\$13,835.09) (Fund Extrication Equipment Replacement) (8 Votes Required)**

**CA-15 - Resolution to Approve Participation in 2016 Assistance to Firefighters Regional Grant (AFG) from the US Department of Homeland Security (\$669,955), and Appropriate Share of Matching Grant Funds (\$10,984.55) (Fund Thermal Cameras Purchase) (8 Votes Required)**

**Question:** Is the city share of the required local match in each of these grants based on the number of firefighters or some other criteria? (Councilmember Lumm)

**Response:** There is a mandatory flat 10 % match as established by the Federal Government--Department of Homeland Security. The amount in CA-14 & CA- 15 reflects only the 10% match requirement for City of Ann Arbor requested purchases/ potential awards, even though the grant is being submitted on as regional basis. Other participating communities pay the 10% match based on the total value of their specific purchases/ potential awards.

**B-2 An Ordinance to Amend Chapter 55 (Zoning), Rezoning of 5.34 Acres from TWP (Township District) to R4B (Multiple-Family Dwelling District), Mirafzali Family LLC, 2250 Ann Arbor-Saline Road WITH CONDITIONS (CPC Recommendation: Approval - 7 Yeas and 0 Nays) (8 Votes Required at Second Reading) (Ordinance No. ORD-16-19)**

**DB-1 - Resolution to Approve 2250 Ann Arbor-Saline Road Site Plan, Development Agreement and Wetland Use Permit, 2250 Ann Arbor-Saline Road (CPC Recommendation: Approval - 7 Yeas and 0 Nays)**

**Question:**

I submitted a request for the November 10 Council meeting:

Question: Can you obtain an elevation view of the proposed project from the street side that shows the size of the proposed building and the size of nearby buildings, such as the homes on Village Oak (to the south) and the Brookdale Assisted Living Center (to the north)? (Councilmember Eaton)

Response: Staff requested the described elevation view from the project architect who was unable to provide by today.



1. Is that elevation view available now? (Councilmember Eaton)

**Response:** The requested elevation is attached. Additionally, numerous other renderings have been added to Trakit that can be viewed for this proposed development.

**Question:** Clearly there is a strong need/desire to mitigate the flooding issues in the surrounding areas as evidenced by the letter from the Meadows Association Board, but obviously strong neighborhood objections as well to the proposed project. If the zoning is not approved and this development does not go forward, what other options are there (if any) other than the detention basin on this site to provide stormwater relief for the surrounding areas? (Councilmember Lumm)

**Response:** A conveyance improvement option (i.e. pipe upsizing) was evaluated during the 2012 Village Oaks-Chaucer Court Drainage Study; however due to the adverse impacts it would have on Malletts Creeks (degrading the creek at the discharge and pushing the problem downstream), the Washtenaw County Water Resources Commissioner indicated that they would not permit this option. Therefore, regional detention on this site is the only recommended viable method to improve this situation.

**Question:** The cover memos have different numbers for the number of surface parking spaces (B-2 says 74 surface spaces and DB-1 says 51) – can you please clarify? (Councilmember Lumm)

**Response:** The petitioner is proposing 154 spaces. These spaces will be provided with 79 spaces under the building and 75 (the B-2 cover memo incorrectly references 74) surface lot spaces. 24 of the surface lot spaces will be deferred (as provided by ordinance) with 51 of the surface spaces constructed immediately.

### **B-3 - An Ordinance to Amend the Code of the City of Ann Arbor by Adding a New Section Which New Section Shall Be Designated as Section 10:18 of Chapter 126, Traffic, Title X, of Said Code**

**Question:**

It is my understanding that Senate Bills 1029 and 1030 would amend the Michigan Vehicle Code to prescribe misdemeanor and felony penalties for committing a moving violation causing injury to or the death of a vulnerable roadway user. A vulnerable roadway user is defined as a pedestrian, bicyclist, or wheelchair user.

I do not have the bill numbers for the companion bills that would require driver's training to include three hours of instruction on safety for bicycles and require motor vehicle operators to maintain a 5-foot distance when passing a bicyclist on the roadway. Can

you provide a status report on Michigan Senate Bills 1029 and 1030? (Councilmember Eaton)

**Response:** The most recent information on the Michigan legislative site indicates that SB's 1029 and 1030 were introduced and referred to the Committee on the Judiciary on 6/9/2016. On 10/18/2016, the bills were reported favorably without amendment and referred to the committee of the whole.

**Question:** Can you provide a status report on the companion bill that would provide for driver training and require a 5-foot safety area around bicyclists? (Councilmember Eaton)

**Response:** SB's 1076 and 1077 require a 5-foot safety area around bicyclists and SB 1078 provides for driver training on safety for bicyclists on the road. According to the Michigan legislative site, these bills were passed in the Senate and received in the House on 10/20/2016. On 11/9/2016, they were referred to the Committee on Transportation and Infrastructure.

**Question:** Thank you for providing the benchmark information on other safe passing laws and ordinances in response to my question at first reading. Since the vast majority are 3 feet what was the rationale for selecting 5 feet? Also it was noted that in some Texas cities, there is a distinction made between passenger cars (3 ft.) and large trucks (6 ft.) which seems reasonable – was that considered for Ann Arbor and if so, why was it rejected? (Councilmember Lumm)

**Response:** The ALT Transportation Committee reviewed various alternatives in use by other communities and jurisdictions as part of the development of the recommendation. Although three feet, five feet and six feet separations are in use for various jurisdictions, the thought of recommending a single standard that is easy to understand and to be observed by the law enforcement community led to the five-foot recommended standard. During the Committee's discussion other factors, including traffic speed, were addressed and it was agreed that the five-foot standard provided a safe passing distance that would be easy to understand and enforce. The ALT Committee was also aware that several leading national interest groups, including the Michigan Chapter of the League of American Bicyclists, have been advocating a five-foot standard as being safer.

**Question:** It was indicated in response to my question at first reading that there wasn't a plan developed for enforcement at that point. Has staff given any more thought to an enforcement plan - if so, what is the plan and if not, when could we expect to see a plan? (Councilmember Lumm)

**Response:** Proactive enforcement will be determined based on total workload of staff and will vary. If passed, police staff will use the ordinance as appropriate using both



proactive and incidental reactive enforcement to enhance safety for pedestrians, bicyclists and persons in wheelchairs.

**Question:** The ordinance was amended to change the effective date from 10 days after adoption to 30 days. What is the plan for public outreach and education over the next 30 days both for the general public and in coordinating outreach with AAATA, the DDA, AAPS and UM (as was mentioned in a response at first reading)? (Councilmember Lumm)

**Response:** While 30 days is helpful, additional time will be needed to communicate this ordinance change. The communication efforts will extend beyond the 30-day period to prepare for spring when the heavier biking season resumes. Staff will use the winter months to communicate with residents, workers and visitors. The outreach effort will consist of:

- Press release to local media
- Social media posts
- GovDelivery email to selected lists (including resident newsletter)
- CTN video segment (need more that 30 days to produce)
- Posters/flyers for distribution to AAATA, U-M, AAPS, DDA and getDowntown
- Ordinance information on transportation website

It should be noted that staff will attempt to communicate with the 77,000+ drivers a day who drive in the city each weekday but who don't live within the city. However, staff's ability to communicate to, and modify the behavior of these drivers with the normal channels is extremely limited. Additional resources would be required to reach them effectively.

**Question:** Also in terms of education, do we plan to provide any guidance on the specific expectations for drivers beyond when it is "possible and prudent due to weather, road conditions, or the immediate presence of additional traffic."? (Councilmember Lumm)

**Response:** This will be included in the outreach materials as an element of the narrative.

**Question:** Does State Law or the Uniform Traffic Code in Michigan say anything with regard to vehicles passing cyclists/pedestrians and if so, what is the language and how does this ordinance relate to that language? (Councilmember Lumm)

**Response:** There is nothing in state law or the Uniform Traffic Code specific to vehicles passing cyclists/pedestrians.

#### **DC-4- Resolution Directing City Administrator to Develop New Administrative Policies Regarding Prevailing Wage Requirements**

**Question:** Presumably, the reason this resolution is coming forward is that there is an issue or concern currently with ordinance or compliance. What specifically is the issue/concern? (Councilmember Lumm)

**Response:** From a City perspective, prevailing wage compliance is a complaint driven process. The City's Procurement Office has not received complaints that prevailing wages are not being paid. There was a misunderstanding of Prevailing Wage by one City employee in September 2015 which caused the cancelation/reissuance of a Construction Invitation to Bid and apparently this is why local union representatives have taken an interest in how the City handles Prevailing Wage. To highlight this ordinance requirement, the City created a Prevailing Wage Declaration of Compliance which has been included in every construction solicitation issued since September 2015 in an effort to draw attention to Contractors the City's commitment to ensuring that prevailing wages are paid when applicable.

**Question:** In terms of requiring contractors to provide the City with payroll records "sufficient to demonstrate contractor compliance", what will be necessary to sufficiently demonstrate compliance (specifically, is the expectation that all contractors will be required to submit payroll records regularly/routinely or on an as-requested basis)? Also, is requiring contractors to provide payroll records part of the City's existing policy or practice and is requiring submission of payroll records (either regularly or as requested) typical in other communities' prevailing wage ordinances? (Councilmember Lumm)

**Response:** The resolution requires the City Administrator to report back in 90 days. We will use this time to develop procedures and review with the impacted stakeholders prior to reporting to Council.

#### **DC-5 - Resolution to Establish a Committee to Review and Amend Ann Arbor's Existing Medical Marijuana Ordinance**

**Question:** Shouldn't the committee also include a representative from the City Attorney's Office or is that going to occur anyway whether a designated member or not? (Councilmember Lumm)

**Response:** The City Attorney's Office will be advising the committee.



J. BRADLEY MOORE  
& ASSOCIATES

2250 Ann Arbor Saline Rd.  
ANN ARBOR, MICHIGAN

December 2, 2016