



TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Jim Baird, Police Chief
Craig Hupy, Public Services Area Administrator
Nick Hutchinson, City Engineer
Jennifer Lawson, Water Quality Manager
Brett Lenart, Planning Manager
Reka Farrackand, Fire Marshal

SUBJECT: Council Agenda Responses

DATE: 4/3/17

CA-4 - Resolution to Approve the Purchase of Property located at 3015 Miller Road Owned by the Donald T. Botsford Trust, Approve a Participation Agreement with Washtenaw County Parks and Recreation, Scio Township, and Forestcove Associates, LLC; Amend a Conservation Easement Held by Scio Township on a Portion of the Donald Botsford Trust Property; and Appropriate Funds, Not to Exceed \$200,000.00, from the Open Space and Parkland Preservation Millage Proceeds (8 Votes Required)

Question: It sounds like the Pringle property adjacent to this parcel was purchased (and is owned) by the County and that the City contributed to the purchase through the Greenbelt program. Why is this one being handled differently with the City owning the property? Is the City the sole owner? Also, given that it sounds as though this will ultimately be one nature area (this property and Pringle property), how will the responsibility and cost sharing for ongoing maintenance work? (Councilmember Lumm)

Response: The adjacent Pringle property was purchased by the County in January 2017. City Council approved a Participation Agreement with Washtenaw County for the purchase of the Pringle property, with the City's contribution of 40% of the purchase

price being divided equally between the Greenbelt Program's and Parks' portions of the Open Space and Parkland Preservation Millage proceeds (R-16-359). The County was not part of the 2009 project that protected a portion of the Botsford Trust property through a conservation easement held by Scio Township, and is not interested in owning the Botsford Trust property. The City would be the sole owner of the fee simple estate, with Scio Township holding a conservation easement on the property. There is no plan to combine the properties into one nature area. The ongoing cost and management for the Pringle property would be the responsibility of the County, while the ongoing cost and management of the Botsford Trust property would be the responsibility of the City, however, there may be opportunities for collaboration to make management more efficient for either party.

Question: What was the purchase price of the conservation easement in 2008 and how was that funded? Also, are there any other city-owned parcels that have conservation easements tied to them? (Councilmember Lumm)

Response: The purchase price of the conservation easement on the Botsford Trust property was \$312,000. City Council approved a Participation Agreement with Scio Township for the purchase of the conservation easement with Scio Township contributed 50% of the purchase price (\$156,000) and the due diligence to complete the project and remaining 50% of the purchase price contributed by the City from the Open Space and Parkland Preservation millage proceeds (Resolution R-08-444). The grant of the conservation easement was made to Scio Township. Scio Township, as the easement holder, is responsible for annual monitoring of the easement. There are no city-owned parcels that are restricted by a conservation easement.

Question: Per the cover memo, Forestcove Associates LLC is "a neighboring land owner". What property(s) does Forestcove Associates own and what is located on Forestcove's property that has the parking spaces that can be used by the public accessing the park? (Councilmember Lumm)

Response: Forestcove Associates LLC owns the office complex on the property directly adjacent to the Botsford Trust property, which is located within Ann Arbor city limits (the Botsford Trust property is almost entirely located in Scio Township). Forestcove Associates is interested in building an additional office building on their property and would need to build additional parking spaces to do so. Forestcove Associates owns an easement on approximately 3 acres of the Botsford Trust property, and is planning to build parking spaces on approximately 2 acres of its easement. The company has agreed to provide a portion of these parking spaces for use by the park if ultimately owned by the City.

Question: Have there been any previous Greenbelt-related direct property purchases (or PDR's) that have included private entity involvement as this one does? Does Forestcove Associates LLC end up with an ownership interest in the property and/or receive any rights in exchange for their contributions? (Councilmember Lumm)

Response: There have been no Greenbelt direct property purchases that have included private entity involvement. Forestcove Associates LLC will not receive any ownership interest and/or receive any rights in exchange for their contribution to the City's purchase of the property.

Question: The cover memo states that "In addition, approval is requested of a Participation Agreement with Washtenaw County Parks Recreation, Scio Township, and Forestcove Associates, LLC for acquisition of the property and post-acquisition activities". Can you please provide a copy of that Participation Agreement? (Councilmember Lumm)

Response: The Participation Agreement has not been drafted yet.

CA-6 – Resolution to Extend the Contract with Doan Construction Company (Bid No. 4417) for the 2017 Ramp & Sidewalk Repair Project (\$750,000.00)

Question: What is the status on addressing deteriorated condition of asphalt sidewalks? (Councilmember Warpehoski)

Response: It is very challenging to perform spot repairs on asphalt sidewalks, as many were constructed over the years without a proper base underneath them. This often results in more damage to the walks when spot repairs are attempted. Because of this, staff has been treating these walks more like roads, and working on a few of them each year – either resurfacing full stretches of them, or replacing them with concrete where appropriate to provide for better long term maintenance. This season, asphalt path work is scheduled for Green Road and North Maple.

Question: Can you please remind me what the 2016 Ramp and Sidewalk program expenditure budget was and are the unit prices for 2017 the same as they were in 2016? (Councilmember Lumm)

Response: The total expenditures for the Ramp & Sidewalk Program in 2016 were \$3.375 million (\$1.825 million for sidewalks; \$1.550 million for ramps). 2016 was the fifth and final year of the first 5-year cycle for repairs on the City's system of concrete sidewalks. Now that this initial cycle is complete, it is anticipated that costs to maintain the system in 2017 and future years will be lower. In addition, only a small amount of ADA ramp work remains in 2017 to complete the requirements under the ADA Consent Decree. As this is an extension of the contract from 2016, unit prices for the work remain the same as last year.

CA-10 – Resolution to Adopt the Fire Services Display Fireworks Policy

Question: In recent history, residents in Ward 3 have unofficially hosted a rather significant display of fireworks on July 4th. How would the passage of CA-10 impact this practice? (Councilmember Grand)

Response: The resolution applies to fireworks other than consumers or low impact. (See attached example).

Question: What constitutes, "personal use"? From my perspective, some of the "copycat" fireworks appear to be more dangerous. (Councilmember Grand)

Response: Personal use applies to fireworks other than consumers or low impact. (See attached example).

Question: Under these policies, is there any significant legal exposure if the Fire Chief recommends a permit be given but Council denies it? (Councilmember Warpehoski)

Response: It depends on the facts and circumstances of any particular denial. Generally, Council has the discretion to deny an application under the statute but like any other discretionary decision, this must not be done in an arbitrary or discriminatory manner.

Question: Does the permit review process include analysis of traffic, parking, and residential impacts? (Councilmember Warpehoski)

Response: The permit requires site drawing for the display area, surrounding buildings, spectator viewing area and parking areas.

Question: Is there any case where we would allow Agricultural or Wildlife Fireworks or Special Effects Manufactured for Outdoor Pest Control or Agricultural Purposes permits? (Councilmember Warpehoski)

Response: The permit does not have any provisions for agricultural or wildlife fireworks, or special effects manufactured for outdoor pest control.

Question: Will this resolution/permit ever apply to residential (non-professional) use? (Councilmember Frenzel)

Response: The resolution applies to fireworks other than consumers or low impact.

Question: Would the policy, as proposed, have any impact on the fireworks displays that currently take place in Ann Arbor? (Councilmember Lumm)

Response: The proposed policy will only affect firework displays that apply to fireworks that are other than of consumer or low impact. (See attached example).

CA-11 - Resolution to Extend the General Services Agreement with Waste Management of Michigan, Inc. for Short-Term Operations of Ann Arbor Material Recovery Facility (MRF) and Waste Transfer Station

Question: Please give an update on the RAA negotiations. (Councilmember Frenzel)

Response: By March 31, 2017, negotiations with RAA have arrived at substantial agreement on the five terms required by the resolution, pending submittal of confirmation of the Performance Bond. A resolution to award an interim services agreement with RAA, is being prepared for the April 17th council agenda upon agreement of final terms.

Question: Have they impacted the need for this resolution? (Councilmember Frenzel)

Response: No. The resolution is still need to operate the transfer station and transport recyclables until July 1, when the new agreements would begin.

Question: The resolution passed by Council March 6 stated that if an interim operations agreement was not reached with Recycle Ann Arbor (RAA) by March 31, 2017 (that was consistent with the criteria outlined) then the City Administrator and Staff were directed to bring an interim operations agreement with Waste Management Michigan (WMM) to Council. Was an agreement reached with RAA by March 31, 2017 that met the criteria outlined, and if so, what are the details of that agreement (scope, approach, price, protection for City) and will it be presented to City Council at the April 17th meeting? (Councilmember Lumm)

Response: By March 31, 2017, negotiations with RAA have arrived at substantial agreement on the five terms required by the resolution, pending submittal of confirmation of the Performance Bond. A resolution to award an interim services agreement with RAA, is being prepared for the April 17th council agenda upon agreement of final terms.

Question: If an agreement with RAA was not reached, have negotiations with WMM commenced and will Council be presented a contract with Waste Management on April 17th? (Councilmember Lumm)

Response: If final terms are not agreed upon with RAA, the City will proceed with WM.

Question: What is the plan and the timeline for long -term operations of the MRF – when will necessary repairs be made to make the MRF fully operational? When will the RFP for operating the MRF be issued and when is it expected the new operator will be in place? (Councilmember Lumm)

Response: Repairs to the MRF are currently not deemed to be economically feasible. The agreement for processing the recyclable materials will allow the uninterrupted handling of materials as the next steps and associated timeline are developed. Discussions with the regarding regional recycling have begun.

B-2 - 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 (Ordinance No. ORD-17-02)

Question: Consistent with President Trump’s Executive Order on immigration enforcement and “sanctuary jurisdictions”, the US Immigration and Customs Enforcement Office now publishes a list of jurisdictions that have not honored recent ICE detainer requests. Ann Arbor is not on the list and can you please clarify if that’s because the City did honor ICE detainer request(s) or because there were no detainer requests from ICE to the City? (Councilmember Lumm)

Response: There were none.

Question: Specifically on federal grants, on March 27th, Attorney General Sessions stated that law enforcement grants in the future could be contingent on whether the jurisdiction cooperates with ICE and the Department of Homeland Security. What law enforcement grants has Ann Arbor received in the last two years and what grants are we planning to apply for this next year or two? (Councilmember Lumm)

Response: AAPD has received a JAG grant for the last several years save last. The amount continues to decline but is currently estimated at \$18,000. It is anticipated to continue to decline. I anticipate continuing to apply for the grant until it falls below the \$15k limit set by city policy.

Question: Can you please provide an update on the proposed immigration-related legislation at the State level? (Councilmember Lumm)

Response: HB 4105 was introduced and referred to the Committee on Local Government on 1/26/17. It remains in Committee.

HB 4334 was introduced, amended to remove the affirmative reporting requirements to the state and federal government by local governments and referred to the Committee on Local Government on 3/8/17. It is, with the noted exception, identical to HR 4105.

DB-1 - Resolution to Approve Hillside Memory Care Site Plan, 312 Glendale Drive (CPC Recommendation: Approval - 6 Yeas and 1 Nay)

Question: It is my understanding that while the memory care center will occupy only the north portion of the site, the property remains undivided and includes the three structures on the south end of the property. Does the storm water plan for the site plan include the full property or just that portion where the memory care building is located? (Councilmember Eaton)

Response: Throughout the review process, it has been acknowledged that stormwater flows onto the proposed development site from Hillside Terrace. The Washtenaw County Water Resources Commissioner rules and regulations do not require stormwater that flows onto a property from other sites to be captured and/or detained. There has not been any admission of mistake or revisions to the storm water assessment.

Question: It is my understanding that in previous deliberations on the Memory Care project, the county water resources office had claimed that no storm water would flow from the Hillside Terrace site. Further, it is my understanding that the water resources office has since admitted that it was mistaken in its belief that no storm water flows from the adjacent Hillside Terrace site. Have there been any revisions to the storm water assessment since the water resources office admitted that storm water flows from the adjacent site? (Councilmember Eaton)

Response: Throughout the review process, it has been acknowledged that stormwater flows onto the proposed development site from Hillside Terrace. The Washtenaw County Water Resources Commissioner rules and regulations do not require stormwater that flows onto a property from other sites to be captured and/or detained. There has not been any admission of mistake or revisions to the storm water assessment.

Question: On Glendale, I don't see any stormwater improvements on the existing developed site, but the WCRC Standards (p. 19) read:

"If redevelopment is proposed on any existing site, the stormwater management performance must be brought up to the current standard for the redeveloped or newly constructed portion of the site. The methods of stormwater management must be the Standard method as described in this manual. The following must be addressed:

- **If 50% or more of the site is slated for redevelopment, the entire site will be subject to all the requirements of the current standards.**
- All portions of the site that are slated for redevelopment will be subject to all the requirements of the current standards. This includes storage of the 100 year recurrence interval storm, bankfull storm flow rate control and the requirement of infiltrating the first flush storm volume for the newly constructed areas.
- **Developed portions of the site not slated for construction will have retrofits made to the existing drainage system to provide quality treatment of runoff prior to leaving the site.** This may be completed by traditional methods or the addition of mechanical treatment devices.
- Pavement reconstruction in connection with redevelopment will be considered new construction.

(emphasis added)

Why are the existing portions of the site not being subject to the requirement for retrofits to provide quality treatment of runoff? (Councilmember Warpehoski)

Response: The Washtenaw County Water Resources Commissioner’s Office performed this review for compliance with their Standards. As part of this review, the Office granted preliminary approval to the proposed development, based on their interpretation of these Standards. For this site, this included detention of disturbed areas, as well as existing structures, but excluded other existing impervious surfaces (i.e. driveway). A representative from the Water Resources Commissioner Office will attend the City Council meeting this evening to answer any specific questions.

Question: In reading all the materials provided and staff responses, it sounds like the question of ownership (and the clear related use in this case to Hillside Terrace) doesn’t matter in terms of the city’s application of planning rules and requirements – that all that matters is that it’s a separate parcel ID. Is that an accurate takeaway, and if so, can you please explain the rationale for the treatment (it doesn’t seem logical to me) and whether that treatment is Ann Arbor’s interpretation/decision or based on State law or guidelines? (Councilmember Lumm)

Response: The treatment is based on the City’s Ordinance. The City’s ordinance does not require adjacent parcels to be developed and included in the same site plan even if they are under the same ownership. Often, site plans include multiple parcels under development, and in those cases in order for City standards to apply to all parcels, we require that the parcels be combined. In some cases, an Area Plan would be required which would include adjacent parcels owned by the same petitioner, however, this would be for information purposes only, as there are no area plan requirements that an adjacent parcel be site planned or improved in any way.

Question: Also in reading the materials and staff responses, it sounds like the stormwater mitigation requirements only need to address the impacts of the new building itself and not consider the balance of the site including the two existing homes on the site and the existing roadway. Assuming that’s correct, can you please explain the rationale for that – it would seem that if a parcel were being developed, the entire parcel would be considered in the stormwater calculations and requirements? (Councilmember Lumm)

Response: The site is being designed to detain water for all disturbed portions of the site. Additionally, the existing houses are included in the detention calculations and system design. The existing driveway to the south and undisturbed areas to the north are not included in detention design, but are considered in site runoff calculations.

- Retention requirement – they were required to retain the difference in the volume of run-off generated for the whole site pre-development versus post-development.
- Detention requirement – they were required to detain all proposed developed areas on the site, including the pre-existing houses and underground detention/retention area. The approved plan bases the calculations on the basin’s actual drainage area, which is somewhat smaller than the site acreage. The overall site discharge rate is a combination of the detention restriction of

0.15cfs/ac and the freely releasing area rate (which is the same pre and post construction).

Question: Also related to stormwater, can you please clarify if the runoff impacts from Hillside Terrace are factored in the stormwater calculations or not? (Councilmember Lumm)

Response: The Washtenaw County Water Resources Commissioner rules and regulations do not require stormwater that flows onto a property from other sites to be captured and/or detained.

Question: Several neighbors have indicated that moving the building from the NE corner of the site would significantly improve the project and help address concerns about incompatibility and adverse impacts of the project on the surrounding neighborhoods. The March 21, 2017 staff report suggests that relief on the 40-foot setback maximum (from Glendale) could be provided, but it would result in the removal of an additional landmark tree. That seems to me to be a reasonable tradeoff that should be considered – has it been seriously considered by staff and the developer? Are there other considerations in relocating the building further west on the site? (Councilmember Lumm)

Response: Moving the building to the west would require a variance be granted from the MAXIMUM front setback of 40 feet from Glendale. Moving the building west also requires removing a landmark tree (26" dbh Butternut) and would reduce, eliminate or shift the parking lot to a different area of the site. Required alternative analysis provided indicated the site could be developed without removing the tree. Staff did not suggest pursuing this option due to the impacts created and the need for a variance. The petitioner has confirmed that they are not interested in pursuing such an option.

DC-2 – Resolution to Amend the Old West Side Parking District - Second Street

Question: Do I read the text correctly that the eight spots marked on the attached map would be the ones that would become 30-minute spots? (Councilmember Warpehoski)

Response: Yes.



Fireworks in Michigan



Legal Consumer Fireworks



Aerials



Bottle Rockets/ Sky Rockets



Reloadable Shell Device

Roman Candles



Firecrackers



Missile Type
Rockets



Helicopter/
Aerial Spinners



Single Tube
Device with
Report

Legal Low Impact Fireworks

Ground Based or Handheld Sparklers



Sparklers &
Sparkler Trees



Cylindrical



Cone

Sparkling Wheel Devices



Ground Sparkling Devices



Ball & Disk



Cylindrical



Square

Calif. Rocket



Smoke Devices



Cylindrical



Smoke Cone



Calif. Smoke Candle

May Not Have More Than 500g of Explosive Mixture.

Novelties



Snappers/ Drop Pops



Snakes



Party Poppers



Smoke Ball



Sparkling Devices

Novelties are not regulated in Michigan.

Questions Regarding Fireworks? www.michigan.gov/bfs