



TO: Christopher Taylor, Mayor
City Councilmembers
CC: Howard Lazarus, City Administrator
FROM: John Fournier, Assistant City Administrator
RE: Quarterly Legislative Update
DATE: April 1, 2018

This memo provides an update on legislative and policy activity in Lansing that is relevant to the City of Ann Arbor. With the new legislature and a new governor in our capital, new opportunities and risks abound for local government.

Legislative Update

The following issues are already receiving attention in Lansing and will likely persist during this legislative session.

Vegetation pre-emption

The so-called “vegetation pre-emption” bill was defeated during the lame duck session, with Ann Arbor City Council specifically condemning it. The bill originated from a developer in Canton who clear-cut a parcel of land for development without the Township’s approval. Canton asked the developer to donate funds to their heritage tree fund so they could replace the trees that were removed, and the developer balked and started lobbying the Legislature to pre-empt local governments from regulating vegetation of any kind on private properties. The developer is still lobbying the legislature to take the bill up and opponents are monitoring to see if it is reintroduced. At this point it has not been.

Dark stores

There are four bills that have been introduced this session regarding so-called “dark stores,” including HB 4025, HB 4047, SB 26 and SB 27. This legislation would ban the practice of assessing empty big-box retail stores at reduced values simply because they are vacant. Many large retailers strategically appeal their assessment over and over again to argue for lower assessed values, which allows them to speculate on the property. A resolution sponsored by Mayor Taylor that would endorse these legislative efforts has been approved by the Policy Agenda Committee and will appear on the April 15th City Council Agenda.

During meetings with our state delegation at the MML Capital Conference March 19th and 20th a letter was provided to our delegation stating that a resolution endorsing the Dark Stores legislation had already been adopted by Council, which was incorrect. We verbally corrected the error and let them know that a resolution was likely forthcoming, but had not yet passed. The letter is attached to this memo.



Residential solar

Two residential solar bills that would have exempted solar installations from the taxable value of a home were vetoed by Governor Rick Snyder after having passed the legislature during the lame duck with almost unanimous support from both chambers. The bills will be reintroduced during this session and will likely pass, but negotiations between legislative leadership and the Governor's office are ongoing and have not concluded at this point. The City of Ann Arbor has in the past and will continue to support this legislation.

Exempting telecom equipment from PPT

Personal property is the personal, or tangible, assets of a business and is taxed at the local level. Two bills, SB 163 and HB 4268, propose to exempt telecom companies from paying the personal property tax on their telecom equipment. The bills have not moved out of committee yet, however we are monitoring them and intend to oppose the legislation.

Short-term rental zoning pre-emption

HB 4046 was recently introduced in the legislature. This bill would pre-empt municipalities from prohibiting short-term rentals through the zoning code and the Council Policy Agenda document provides clear direction to oppose any legislation that represents a pre-emption of municipal authority. Therefore, we will oppose this legislation and monitor any progress it may make.

Sanctuary cities penalties

Legislation has been re-introduced (HB 4083) that would provide penalties against elected or appointed officials who approve or implement so-called "Sanctuary cities" policies. Those penalties include fines ranging between \$2,500 and \$7,500. Last year Mayor Taylor testified in front of the legislature against this bill, and ultimately it was not adopted. However, it has been reintroduced and has gained some support. The Michigan Municipal League was able to have a hearing on this legislation cancelled in mid-March and the hearing has not been rescheduled at this point. This legislation will move forward shortly, however.

Communications with Legislative Delegation

City staff have been engaged in direct outreach to our legislative delegation on numerous occasions since the beginning of the year. Most notably, city staff have been appointed to several Michigan Municipal League policy committees and attended the League's capital conference in mid-March.

MML Committees

Four members of staff have been appointed to MML policy committees. These committees analyze legislation and vote to recommend action to the board of MML. Howard Lazarus has been appointed to the Transportation, Infrastructure, and Technology committee; Missy Stults has been appointed



to the Energy & Environment committee; and John Fournier and Matt Horning have been appointed to the Municipal Finance committee. The committees meet quarterly to discuss and recommend action on legislation.

MML Capital Conference

On March 19th and 20th Howard Lazarus and John Fournier attended MML's capital conference in Lansing, Michigan. The event was an excellent opportunity to advocate for the city of Ann Arbor with our lawmakers and appointed officials in state government. Attached to this memo is a letter that was shared with Minority Floor Leader Yousef Rabhi that details the City of Ann Arbor's position on several issues that are coming to the fore in Lansing and several issues that are of pressing concern for the City. A duplicate of this letter was shared with Representative Warren and a meeting with Senator Irwin on these topics is scheduled.

Upcoming Issues

Proposal A and Headlee reform

New Speaker of the House Lee Chatfield has indicated publically that he is in favor of making some reforms to Proposal A, as has Senate Majority Leader Mike Shirkey and Senate Minority Leader Jim Ananich.

The issue stems from the statewide property value collapse that occurred during the great recession. The Headlee Amendment, passed in 1978, requires the millage rate in a community to be "rolled-back" if aggregate increases in taxable value across a community would stimulate a tax revenue increase above the rate of inflation. Proposal A, passed in 1994, limits property tax assessment increases on individual properties to the lower of either 5% or the rate of the inflation. It also requires property reassessments that occur at the sale of property to be included in Headlee roll-back calculations. These factors together have made it very difficult for communities across the state to recover taxable values as the economy has improved.

Ann Arbor is in better shape than most communities, as our taxable values have rebounded well beyond our 2008 level. However, statewide taxable values are still down tens of billions of dollars off of the 2008 peak of \$363 billion, and it is affecting communities all across the state. This is what is driving a bipartisan consensus that reforms are needed.

Two proposals that are floating around Lansing right now include:

1. The legislature excluding tax assessment increases as a result of property sales from Headlee roll-back calculations. This would allow property tax revenues to grow at a slightly faster but still incrementally small rate year-to-year. In most communities there would still be Headlee rollbacks, they would simply be smaller than they are now.



2. The legislature could also amend Proposal A to allow property tax assessments to automatically roll forward to catch up to historical highs when economic growth (and property value growth) is strong. This is how the Headlee Amendment worked before Proposal A was passed. If the law reverted back to the original Headlee intent, it would allow property tax assessments to catch up to the 2008 level without being subject to a roll-back, and then once they caught up the roll-backs would kick-back in. This method would have no effect on Ann Arbor since we have already grown past our 2008 assessment level.

Neither of these proposals have been specifically endorsed by political leadership in Lansing. However, we will continue to monitor and report to the Council and the Policy Agenda Committee both pertinent news related to this issue and recommendations for action.

This article from the Detroit News provides a good overview of the issue:

<https://www.detroitnews.com/story/news/politics/2019/03/04/michigan-proposal-a-property-taxes/2954723002/>

Governor's Budget Proposal

The governor has proposed her FY 2019 budget, which famously includes a \$0.45 increase in the fuel tax to fund road improvements. Speak Chatfield has called the proposal "Dead on arrival" in the legislature and is working on an alternative funding proposal.

On March 7, the Speaker detailed a proposal that he could support that included exempting gasoline purchases from the state's sales tax, and backfilling that taxable value with a \$0.15 increase in the gas tax which would be dedicated to additional road funding. Much of the sales tax, however, is dedicated to school aid and revenue sharing for municipalities. The Speaker indicated that he would be willing to find other revenue to make up the difference for schools, but not for municipalities.

In speaking with our legislative delegation and other state leaders we have expressed that any plan that intends to fix the roads by cutting from municipalities is not a road funding plan at all—it merely proposed to "rob Peter to pay Paul." Additionally, we have communicated to state leadership that the City of Ann Arbor would not support any further cuts to revenue sharing under any circumstances.

We will continue to monitor and report to the City Council any developments on this front.

Governor Whitmer's Act 51 Formula Changes

As part of the Governor's budget proposal, she has endorsed changes to the Act 51 road funding formula. Act 51 dictates how gas tax funds are dispersed throughout the state, dividing the funding roughly between state, county, and municipal roads. The Governor's proposal retains current funding levels for municipalities under Act 51, and then adds to them with new revenue. Existing revenue streams would be divided up just as they are now. However, new gas tax revenues would be targeted at the most heavily travelled roads in the state, most of which are state trunklines and federal highways. But municipalities would see an increase in road funding as well from new funds



targeted at major locally owned roads, local bridge maintenance, and innovative multi-modal projects such as BRT development and bike lanes.

Since Ann Arbor is a community that is heavily impacted by out of town traffic, and that hosts many federal highways and state trunklines, we are very likely to benefit from Whitmer's proposed Act 51 changes.



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March 20, 2019

The Honorable Yousef Rabhi
Minority Floor Leader
Michigan State House of Representatives
PO Box 30014
Lansing, MI 48909

Dear Representative Rabhi,

I am writing today to provide guidance on the City of Ann Arbor's position regarding several important policy proposals before our elected leadership in Lansing. While our policy agenda is broad and touches many issues that may come before the state, I will focus only on the most timely and pressing issues for our community. First, the City of Ann Arbor has interest in several key legislative initiatives, detailed below.

Legislative Priorities

Renewable Energy and Residential Solar

The City of Ann Arbor strongly encourages legislation to incentivize the installation of sustainable and renewable energy resources, including but not limited to residential and community solar and wind systems, and we specifically advocate for the reintroduction and adoption of HB 5143 and HB 5680 from the 99th legislative session. We are also interested in pursuing the idea of creating a renewable energy opt-out program for energy customers, whereby a municipality may decide to favor renewable energy and require that it be provided to all customers within their jurisdiction unless the customers opt-out of it.

Fire Protection Grants

During the last legislative session it was reported that fire protection grants are now fully funded by the state for the first time in many years. However, we have discovered that this is not truly the case. The state calculates the fire protection grant amounts by dividing the estimated State Equalized Value (SEV) of state-owned facilities by the estimated total SEV in the community. However, the state intentionally devalues state-owned property in their calculations. For instance, the University of Michigan concluded the recent CS Mott Children's Hospital after investing more than \$1 billion in the property. However the SEV according to the state is approximately \$150 million. Additionally, the state's calculation for the total SEV of state-owned facilities in the City of Ann Arbor has been relatively constant since 2014. So, as our property values grow the percent of

SEV that is state owned is actually shrinking. We estimate that this scale-tipping behavior from the state is costing Ann Arbor nearly \$1 million annually in Fire Protection Grant funding.

Dark Stores

I want to thank you for your support of HB 4025, the so-called “Dark Stores” legislation. Ann Arbor City Council has passed a resolution specifically endorsing this bill.

Scooter Sharing

At the end of the last legislative session HB 5643 was passed that preempted municipalities from regulating how scooter sharing companies may use the right of way. The City of Ann Arbor is opposed to this legislation and is asking our delegation to work with the Michigan Municipal League on an amendment that would empower communities once again to manage their own relationships with these companies.

Changes to Gas Tax

Following on Governor Whitmer’s budget proposal, Speaker Chatfield floated a proposal to phase out the sales tax on gasoline and replace it with an increase in the gas tax, dedicating the new gas tax revenue to roads. However, this proposal would create a funding shortfall for municipalities as part of the sales tax is dedicated to revenue sharing. The City of Ann Arbor strongly opposes this proposal and asks for your sustained opposition to any legislation that proposes to cut revenue sharing to municipalities.

Restoration of Revenue Sharing

The state continues to be delinquent in its responsibility to provide revenue sharing to local municipalities. We urge Governor Whitmer and the legislature to do everything they can to provide additional revenue sharing funds to local units of government.

Remanding Right-of-Way Regulation to Municipalities

We also urge our state leadership to resist any legislation that takes the power to regulate the right of way out of the hands of local government. In the last few years the legislature has passed laws that grant telecom companies the ability to install cellular infrastructure in the right of way without municipalities’ consent, allows scooter companies to park and operate in the right of way with no oversight from municipalities, and that voided all neighborhood speed limits until expensive traffic studies are conducted by local governments. These are just a few examples of the laws that have seriously impacted the right of municipalities to ensure a high degree of safety and quality of life in our communities.

Executive Policies

There are a number of executive side policies that we are pursuing as well, and would like to make you aware of our efforts in case the opportunity arises to reinforce our work when you are engaging with the Governor or relevant executive agencies. These efforts primarily fall into two categories: Renewable energy development and transportation.

Renewable Energy

1. We are urging the Governor to appoint a second Michigan Public Service Commission member who is supportive of renewable energy through the distributed generation program, through the purchase of renewable energy from qualifying facilities such as our own hydropower dams, through support for fair community solar programs, and through the retail purchase of renewable energy through DTE's voluntary green program.
 - a. Regarding distributed generation, since the legislature compelled the MPSC in 2016 to come up with a new net metering policy, the MPSC lowered the net metering credit to customer from the retail rate of electricity to what they are calling the "avoided cost," which is roughly 9 to 10 cents for kWh. However, the MPSC allowed utilities to design their own net metering policies, and DTE proposed a policy to the MPSC (U-20162) that would pay customers a wholesale rate for the energy they contributed back to the grid, roughly 4-5 cents per kWh. In addition, DTE has proposed levying an additional 2.3 cents per KW capacity on a home solar installation for the cost of using the grid, meaning that the actual net metering rate would be driven down even further. This would make home solar financially infeasible in nearly every situation.
 - b. Regarding hydropower generation, DTE is pursuing a tariff amendment that would lower the purchase price of electricity generated from qualifying facilities such as our hydropower dams (U-18091). Currently DTE buys the electricity at wholesale prices, roughly 4-5 cents per kWh. Any further reduction would make our hydropower dams economically infeasible, and we would have to seriously consider shutting them down.
 - c. Regarding community solar and solar aggregation, DTE has historically opposed plans to support distributed generation at the neighborhood level (also known as community solar) and community aggregation programs. These programs are essential to allowing customers with limited means, nonviable rooftops, or other obstacles some ability to procure a portion of their energy from renewable sources. Ann Arbor would be a prime location to test out a number of community solar and solar aggregation projects and we stand ready to work with DTE to launch this programs but need an MPSC that will be supportive in this charge.
 - d. Regarding renewable energy opt-out, we would like to see an MPSC that is supportive of these programs. The basic idea is that all recipients in a given service territory would automatically receive renewable energy as the default option, and will have to opt-out of this choice to have more conventional energy sources. By doing this, renewable energy costs will be lowered, DTE will have greater sustained demand for new renewable energy resources (thereby reducing risk on their renewable investments), and communities will be able to make significant progress in their health, climate, and sustainability goals.

- e. Finally, DTE is setting their rates for their Voluntary Green Power program (MPSC case U-20343). This is the program where they acquire vast amounts of renewable electricity and agree to provide the power to large customers (greater than 1 MW). However, the rate they are proposing makes the green power more expensive than the non-renewable power that they supply. They are proposing the rate to be calculated by starting with the existing tariff, subtracting the “avoided cost” of procuring or generating non-renewable power, and then adding the “renewable energy charge” which is the amount that it costs to procure or generate the green energy. The issue is that their proposal does not fairly calculate the avoided cost. Instead of adding up the total cost to procure or generate the non-renewable power, they are only proposing to discount the Midwest region average for the sales price of spare capacity, which was about 96% less than the true cost of generation or procurement. That means that there is almost no capacity discount for purchasers of green power proposed in this program. It is worth noting that the MPSC ruled in favor of DTE on this case in January, without seeking public comment or notifying the public that it would be issuing a decision.

These cases create a substantial burden for consumers and for municipalities to make serious commitments to renewable power, and we would request that the Governor engage these problems through all appropriate means to support the development of green energy in the state.

2. We need stronger action from the Governor on PFAS contamination in the Huron River Watershed and across the state. While it is important that the maximum level of state resources are mobilized to identify and mitigate PFAS contamination, the state should be making a stronger stance on mitigation of point source pollution sites a top priority. Additionally, the state should resist the temptation to set PFAS water standards that are not technically feasible as the legislature has considered doing in the past. Setting standards that are well below the scientific consensus of safe levels of exposure is important, but setting standards that cannot be met by existing technology will only over-burden local water treatment plants and set local municipalities up for failure.
3. We need more support from the Governor’s Office to compel the responsible parties to clean up the Gelman Plume. Right now because of an existing agreement between MDEQ and Gelman Chemicals/Pall Corporation, the company is only required to pump a limited amount of groundwater out of the ground, filter it, and return it to the watershed. However, the water that is being returned to the watershed still contains up to 22 PPB of 1,4 dioxane. Currently, Gelman/Pall has a discharge permit to release this polluted water into Honey Creek, which eventually feeds in the Huron River. This permit expires on October 1, 2019, and we would like the Governor to oppose the permit’s renewal so we can negotiate a better clean up agreement with Gelman/Pall.

Transportation

We have proposed a series of projects to the Michigan Department of Transportation (MDOT) to encourage pedestrian safety and multi-modal transit within our city. We would appreciate your support for these initiatives as you interact with MDOT in the future.

1. We have been urging MDOT to install Rectangular Rapid Flashing Beacon (RRFB) crosswalks at several locations along their state owned roads. In particular Jackson Ave is in need of better pedestrian crossings, as is the Thayer Street crossing at Huron.
2. We have been working with MDOT on a redesign of Huron Street in downtown Ann Arbor for some time, with rush-hour restricted metered parking being a component of the plan for this road. MDOT has taken a long time to review this proposal, in addition to cross walk improvements at 3rd and Huron, and adding a left turn phase at Huron and Fifth. After more than a year of back and forth, MDOT has informed us that the metered parking will not be approved, but that they may be supportive of the other improvements. We would like support in pushing MDOT to embrace more progressive concepts of road design and walkability in their design work.

This is a full agenda of issues, and we are grateful for your leadership and continued support of the City of Ann Arbor as we work to improve our community. Please do not hesitate to reach out to me or to John Fournier, our Assistant City Administrator who manages government relations for the city. We can be easily reached at hlazarus@a2gov.org and jfournier@a2gov.org.

Sincerely,

Howard Lazarus
City Administrator