TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Derek Delacourt, Community Services Area Administrator
Craig Hupy, Public Services Area Administrator
Nick Hutchinson, City Engineer
Lisa Wondrash, Communications Manager

SUBJECT: Council Agenda Responses

DATE: 2/6/17

CA-7 – Resolution to Approve a Contract with The Spieker Company to Perform Renovation Work at the Leslie Science and Nature Center ($153,000.00)

Question: As there was only one bid received, is there an engineering estimate of cost to compare with the bid amount? (Councilmember Lumm)

Response: The architect's estimate was $141,000.00. Costs came back slightly higher ($153,000.00) due to lead and asbestos abatement that was not included in the original estimate.

CA-8 - Resolution to Petition the Washtenaw County Water Resources Commissioner (WCWRC) for Design and Construction of Stormwater Management Control Measures for the Churchill Park Pond ($2,200,000.00)

Question: What is the projected timeframe for Project B (Pioneer HS) and Project C (Lawton Park)? Also, can you please remind me what the loan percentage forgiveness can be for these SRF water quality projects? (Councilmember Lumm)

Response: The Pioneer High Stormwater Basin and the Lawton Park Stormwater Basin are currently in the proposed Capital Improvement Plan for completion beyond 2024. However, if the recommendations from the Stormwater Rate Analysis Project

move forward, the projects may be able to be completed sooner. The SRF (State Revolving Loan) project principle forgiveness for 2018 project costs for water quality improvements is not known at this time. Forgiveness, regardless of the total project cost, is no longer a percentage basis. In fiscal year 2017 principle forgiveness amount was a maximum of $50,000 for qualifying water quality improvement costs. It is anticipated that the maximum principle forgiveness amount for FY 2018 projects will be $50,000 or less.

CA-9 - Resolution to Approve an Amendment Number 2 to the Professional Services Agreement with Orchard, Hiltz & McCliment, Inc. (OHM) for the Design of the Nixon/Green/Dhu Varren Intersection Improvement Project ($95,650.00)

Question: Can you please confirm that the $70,000 Toll Brothers is paying for the sidewalk is in addition to their financial contribution for the intersection improvement itself? Also, is this the final billing for the design work and if not, is there any remaining contingency to cover that? (Councilmember Lumm)

Response: The $70,000 to be paid by Toll Brothers is in addition to the financial contribution that they have already made to the project. Amendment #1 to OHM's contract utilized all of the existing contingency amount. Amendment #2 is for the excess costs over that contingency amount. It is anticipated that this change order will cover the remaining work on the design phase of the project.

CA-10 - Resolution to Approve the Michigan Department of Transportation Performance Resolution for Governmental Services

Question: Are there any substantive changes in the revised MDOT performance resolution or in the routine permit forms the city will be signing? (Councilmember Lumm)

Response: No.

B-1 - An Ordinance to Add a New Chapter 120 (Closed Captioning) to Title IX of the Code of the City of Ann Arbor (Ordinance No. ORD-16-24)

Question: Council postponed Second Reading January 3rd in order to obtain more focused feedback from the business community. Do we have that feedback now and if so, can you please provide a summary. Also, can you please provide a summary of the A2Open City Hall survey results. (Councilmember Lumm)

Response: Attached are the A2 Open City Hall survey results, which were provided to the Commission on Disability Issues Chair and Councilmember Westphal on Jan. 6. The results of both surveys are attached to this file in Legistar.The Commission would need to provide a summary or analysis of the feedback results, since they drafted the questions and requested the survey be completed. Sally Petersen, Chair of the

Commission on Disability Issues since the Commission provided the following information.

> *The Ann Arbor Commission on Disability Issues discussed the results from both surveys at our January 25th meeting. The responses to the ordinance language were mixed. We carefully considered and discussed the perspective that this ordinance may be an example of governmental "overreach" and "overstepping our bonds". We also discussed at length the suggestion that the ordinance language change to "mandatory upon request". In the end, we unanimously decided to not change any of the language in the new Chapter 120 that was passed at first reading. The rationale was that Portland has been successful with a similar ordinance and they report only one establishment owner has filed a complaint. Additionally, softening the language of the ordinance undermines the value of inclusion on our community. As one Commissioner has put it, our City needs to "stop thinking about disability as something someone else has, and start thinking about disability as part of the human experience".*

DC-1 - **Resolution Directing the City Administrator and City Attorney to Report to City Council on Issues Raised by Presidential Executive Order Dated January 27, 2017**

Question: In several places in the resolution (including the Title), the date of the Executive Order is indicated as January 27, 2017, but the date on the Executive Order that's attached is January 25, 2017. I believe the Executive Order was signed on January 25th as well, but may be wrong. Can you please clarify? (Councilmember Lumm)

Response: On January 25, 2017, the President issued an Executive Order entitled, "Enhancing Public Safety in the Interior of the United States." Exec. Order No. 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017) ("Executive Order"). The text of the Resolution has been corrected to reflect the correct date.

Question: Several of the whereas clauses read like a legal brief and contain language related to Ann Arbor City Council's "understanding and acknowledging" specific aspects of federal statute 8 USC 1373. What is the purpose of including those whereas clauses in the resolution and given that the purpose of the resolution is Council's seeking legal advice with regard to the Executive Order and the underlying statute, wouldn't it make more sense to eliminate those whereas clauses at this point rather than assume what Council's understanding is? Also, what is the difference between "understanding" and "acknowledging"? (Councilmember Lumm)

Response: Section 9 of the Executive Order, which is the section that pertains to local jurisdictions, focuses on 8 U.S.C. 1373 and communities that don't comply with its requirements. 8 U.S.C. 1373 is existing federal law. The City has an understanding of what obligations and responsibilities exist under that law, and does not have any

existing policies, practices, ordinances or resolutions that violate that law. The whereas clauses are included for that reason.

However, because the Executive Order specifically targets federal grant funding where a local jurisdiction has a statute, policy or practice that "prevents or hinders" the enforcement of federal law, the Resolution requests administrative and legal review, advice, and recommendations as to whether that understanding, or any policy or practice, needs to be modified in light of the Executive Order.

Question: The last resolved clause related to reiterating the city's indemnification policies from 1989 for city employees not covered by bargaining agreements is completely unrelated to this resolution. Why is it included in the resolution? What is its purpose? Who requested it be included? (Councilmember Lumm)

Response: Staff defers to the Sponsors of the Resolution for the answer to this question.

Note, however, that 8 U.S.C. 1373 does not provide for any civil or criminal penalties. ~~R~~eiteration of the City's indemnification policy provides reassurance to City employees that they will not be subjected to any personal consequences resulting from their lawful performance of their duties for the City, specifically as it relates to any efforts by the federal government to attempt to employ City resources or personnel to carry out federal immigration policy.

Question: Can you please provide a sense of when Council should expect to receive the advice and recommendations requested in the resolution? Also, about how much staff time will be invested? (Councilmember Lumm)

Response: Council will be provided responses as soon as possible. Staff time required in connection with the responses cannot be determined at this time.

Closed Captioning Ordinance Business-Owner Survey

Closed-captioning ordinance feedback sought from business owners only.

All On Forum Responses sorted chronologically

As of January 20, 2017, 12:18 PM

A2 Open City Hall is not a certified voting system or ballot box. As with any public comment process, participation in A2 Open City Hall is voluntary. The responses in this record are not necessarily representative of the whole population, nor do they reflect the opinions of any government agency or elected officials.

Closed Captioning Ordinance Business-Owner Survey

Closed-captioning ordinance feedback sought from business owners only.

As of January 20, 2017, 12:18 PM, this forum had:

Attendees:	94
On Forum Responses:	5
Minutes of Public Comment:	15

This topic started on January 6, 2017, 4:01 PM.
This topic ended on January 20, 2017, 12:17 PM.

All On Forum Responses sorted chronologically

Closed Captioning Ordinance Business-Owner Survey

Closed-captioning ordinance feedback sought from business owners only.

Responses

Do you manage or own an establishment in Ann Arbor (e.g. restaurant, gym, shop, etc.)? If "No," you do not need to proceed with this survey. Thank you for your feedback.

	%	Count
Yes	100.0%	5

As a manager or owner of an Ann Arbor establishment, have you received requests to turn on or turn off the Closed Captions on your television or other media streaming devices?

	%	Count
Yes	40.0%	2
No	40.0%	2
Don't know	20.0%	1

Do you have any objections or concerns about the Closed-Captioning Ordinance? If so, please describe.

Answered	4
Skipped	1

captioning **cc** **closed** distracting enable **feel** however mandatory **only** **ordinance** request **sports** **t** turned

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Do you have any comments or suggestions about the cc ordinance that you would like to share?

Answered	4
Skipped	1

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Closed Captioning Ordinance Business-Owner Survey

Closed-captioning ordinance feedback sought from business owners only.

Name not shown outside wards — January 10, 2017, 9:10 AM

Do you manage or own an establishment in Ann Arbor (e.g. restaurant, gym, shop, etc.)? If “No,” you do not need to proceed with this survey. Thank you for your feedback.
Yes

As a manager or owner of an Ann Arbor establishment, have you received requests to turn on or turn off the Closed Captions on your television or other media streaming devices?
Don't know

Do you have any objections or concerns about the Closed-Captioning Ordinance? If so, please describe.
No response

Do you have any comments or suggestions about the cc ordinance that you would like to share?
As a parent of an individual with hearing loss, I think this would be excellent. I love closed captioning. I think it's a valuable tool even for those without hearing loss. It's easy to miss something in a noisy location and the ability to read what is being said would be great.

Closed Captioning Ordinance Business-Owner Survey

Closed-captioning ordinance feedback sought from business owners only.

Name not shown outside wards — January 8, 2017, 3:20 PM

Do you manage or own an establishment in Ann Arbor (e.g. restaurant, gym, shop, etc.)? If “No,” you do not need to proceed with this survey. Thank you for your feedback.
Yes

As a manager or owner of an Ann Arbor establishment, have you received requests to turn on or turn off the Closed Captions on your television or other media streaming devices?
Yes

Do you have any objections or concerns about the Closed-Captioning Ordinance? If so, please describe.
I have no problem with turning on closed captioning when it is requested, however I feel that having it be mandatory takes it a bit far. Mandatory upon request makes a lot of sense and is very reasonable, but closed captioning in sports bar environment is often distracting.

Do you have any comments or suggestions about the cc ordinance that you would like to share?
Mandatory upon request would not only be more reasonable but very beneficial for all parties involved.

Closed Captioning Ordinance Business-Owner Survey

Closed-captioning ordinance feedback sought from business owners only.

Name not shown inside ward 4 January 7, 2017, 3:46 PM

Do you manage or own an establishment in Ann Arbor (e.g. restaurant, gym, shop, etc.)? If “No,” you do not need to proceed with this survey. Thank you for your feedback.
Yes

As a manager or owner of an Ann Arbor establishment, have you received requests to turn on or turn off the Closed Captions on your television or other media streaming devices?
No

Do you have any objections or concerns about the Closed-Captioning Ordinance? If so, please describe.
no objections

Do you have any comments or suggestions about the cc ordinance that you would like to share?
Close captioning is useful for cis-hearing people, cutting down on noise while allowing content tobe displayed.

Closed Captioning Ordinance Business-Owner Survey

Closed-captioning ordinance feedback sought from business owners only.

Name not shown inside ward 5 January 7, 2017, 1:54 PM

Do you manage or own an establishment in Ann Arbor (e.g. restaurant, gym, shop, etc.)? If “No,” you do not need to proceed with this survey. Thank you for your feedback.
Yes

As a manager or owner of an Ann Arbor establishment, have you received requests to turn on or turn off the Closed Captions on your television or other media streaming devices?
Yes

Do you have any objections or concerns about the Closed-Captioning Ordinance? If so, please describe.
We constantly receive complaints about closed-captioning. We only use our televisions for sporting events or sports highlights and patrons regularly ask us to disable CC whenever we do enable it. I've only had someone request CC for the presidential debates, and we immediately turned it on for the customers. I respect the sentiment behind the ordinance, however, I also feel that a mandatory ordinance like this would be the city overstepping it's bounds. I couldn't disagree more that it should be required that all TVs have CC enable.

Do you have any comments or suggestions about the cc ordinance that you would like to share?
I believe that making a bar enable closed-captioning upon request makes sense if a person with a disability requests that we do so. Making the change to "mandatory upon request" seems like a happy compromise. A mandatory ordinance like this (in my opinion) would upset a lot of people. I'm a "big government" type of person, but this is way out of bounds. This legislation may come across as an overreach and turn people off to Ann Arbor city government. Respect for the disabled is of paramount importance, but a mandatory ordinance doesn't seem reasonable. Available upon request is the key distinction.

Closed Captioning Ordinance Business-Owner Survey

Closed-captioning ordinance feedback sought from business owners only.

Chandra Montgomery Nicol inside ward 3 January 7, 2017, 10:36 AM

Do you manage or own an establishment in Ann Arbor (e.g. restaurant, gym, shop, etc.)? If “No,” you do not need to proceed with this survey. Thank you for your feedback.
Yes

As a manager or owner of an Ann Arbor establishment, have you received requests to turn on or turn off the Closed Captions on your television or other media streaming devices?
No

Do you have any objections or concerns about the Closed-Captioning Ordinance? If so, please describe.
It would be good in places where there are multiple devices that only one or a few of them have the CCD turned on. It is visually distracting for others who don't need it.

Do you have any comments or suggestions about the cc ordinance that you would like to share?
No response