



TO: Mayor and Council

FROM: Sumedh Bahl, Community Services Area Administrator
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CC: Steven D. Powers, City Administrator

SUBJECT: Council Agenda Responses

DATE: 8/17/15

CA-1 – Resolution to Approve a Purchase Order between City of Ann Arbor and TASER International for the Purchase of Conducted Electrical Weapons (CEW) (commonly known as Tasers) (\$36,412.05)

Question: What current training practices exist that are directed toward training an officer on the appropriate level of force to use given the numerous law enforcement encounters? Is training with Tasers adequate, or is there an opportunity to improve training so tasers are used safely and effectively? (Councilmember Briere)

Response: AAPD officers receive an initial 72 hours of use of force training when hired. Decision making is woven throughout this 72 hours of training time. This 72 hours comprises roughly half of the training time of our in-house academy. Taser is one component of that and receives 8 hours dedicated just to that particular tool. This is all in addition to the training that the officer would have already received at the state academy. Class room based learning includes lecture and discussion on all aspects of subject control and response to resistance. There is also a great deal of hands on proficiency training and scenario based role playing training that occurs during this time.

Officers receive annual refresher training in addition to this initial hire training. Updated information is disseminated to the officers as appropriate.

Taser training is currently adequate and reasonable. The approval of this agenda item will require an additional 4 hours of training per user as this device is a newer model than the one currently carried by most AAPD officers. This is sufficient given the foundation of training the officers have already received.

CA-3 – Resolution to Approve Purchase Order to Azteca Systems for CityWorks Enterprise License and Annual Maintenance and Support Agreement for FY2016 (\$83,000)

Question: How is the cost sharing between the City (\$63K) and the WCWRC (\$20K) determined? (Councilmember Lumm)

Response: We are not cost sharing. We have an existing agreement with the vendor (Azteca Systems) and the vendor allowed WCWRC to utilize our agreement to pay for their licenses. Our costs have stayed the same and in the future we will continue to pay for the City's licenses and WCWRC will pay for their licenses. WCWRC licenses do not affect our costs today, but in the future we may be able to reduce costs.

B-1 – An Ordinance to Amend Chapter 55 (Zoning), Rezoning of 53.61 Acres from TWP (Township District) to R4A (Multiple-Family Dwelling District), Woodbury Club Apartments, Southeast corner of Nixon Road and M-14 (CPC Recommendation: Approval – 9 Years and 0 Nays) (Ordinance No. ORD-15-13)

DB-1 – Resolution to Approve the Woodbury Club Apartments Planned Project Site Plan and Development Agreement – Southeast Corner of Nixon Road and M-14 (CPC Recommendation: Approval – 6 Years and 1 Nays)

Question: The developer is proposing building the minimum required number of parking spaces. Do we have any data about parking usage rates for other apartments outside of downtown to gauge if we have set the parking requirement appropriately? (Councilmember Warpehoski)

Response: We do not have data for multiple-family residential parking utilization. Anecdotally, we get more complaints about inadequate parking from apartment developments located outside of the downtown if they have reserved parking. At this time, staff does not know if the petitioners propose to reserve parking spaces for their residents.

Question: What requirements are set forth for maintenance of the nonmotorized facilities? (e.g. sidewalk and pathway to nature area)? (Councilmember Warpehoski)

Response: The intention is for the developer to provide maintenance for the paved and unpaved pathway with the 50-foot and 30-foot wide public access easements.

Question: Will there be signage to indicate the public is welcome to access the nature areas? (Councilmember Warpehoski)

Response: Per the development agreement (P-12), a park identification sign shall be provided.

Question: Will the pathway be paved or unpaved? (Councilmember Warpehoski)

Response: The portion of the pathway in the 50-foot public access easement will be concrete sidewalk. The portion at the east end of the development, connecting to the new public park, will be a mulch trail.

Question: Contribution to the intersection re-design: How is the “proportional cost of improvements” to be calculated for each of the properties involved? (Councilmember Warpehoski)

Response: The City is seeking to recover the funding for the improvements that the City would receive from outside sources such as state and federal grants if it was to undertake the project in a future year. Currently, the amount agreed to by the developers replaces this funding.

Question: If developed, how would the addition of housing on this site affect the PAC goals for playground access for residential areas? (Councilmember Warpehoski)

Response: A goal of the park system as it relates to playground access is to have neighborhood playgrounds within a ¼ mile of every residence, ideally without the need to cross a major road. Foxfire North and Placid Way Parks are approximately a ¼ mile from the proposed development and both have playgrounds, but would require crossing Nixon Road to access.

Question: Is it the expectation that the Woodbury Club Apartments developer will pay for the other 50% (the July 8th development agreement provided indicates “TBD”). If not, how is the balance to be funded? (Councilmember Lumm)

Response: No. Woodbury Club has agreed to pay \$200,000 toward the intersection. The balance of the intersection will be paid with street mileage funds.

Question: Has the Woodbury Club Apartments developer agreed to pay their share (whether \$1,025,000 or whatever the City had determined was fair share)? (Councilmember Lumm)

Response: The Woodbury Club developer agreed to pay \$200,000 toward the intersection.

Question: What is the status of the City's potential purchase of the 25 acres on the East side of the Woodbury Club Apartments site as parkland? The development agreement is silent on this, but does reference the conveyance to the City of 6.29 acres of land for a public park. Also, will rezoning of this eastern parcel as R4-A complicate the protection and possible acquisition of this parcel? (Councilmember Lumm)

Response: Regarding the potential purchase of 25 acres, there is no change in the status from that reported to City Council on July 20, 2015. Negotiations are continuing with the developer. The proposed conveyance of 6.29 acres is the developer's contribution in response to Parks & Recreation staff's request and the parkland dedication formula outlined in the Park and Recreation Open Space (PROS) Plan. Rezoning of the 25 acres to R4A will be consistent with the private ownership of the property. If the land is purchased by the City, it will be rezoned to PL (Public Land)

Question: Paragraph 14 of the Woodbury Club Development Agreement provides that the developer will construct an on-site storm water management system. However, the Arbor Hills' neighborhood has inquired about potential off-site Woodbury Club development impacts on their storm water system (it has been noted that Arbor Hills' common area and storm water system are interconnected and privately managed/maintained). Can you please elaborate on how the storm water management plan addresses this concern, and also how the storm water flows may impact Georgetown/other areas. (Councilmember Lumm)

Response: The stormwater management plan was reviewed by the WCWRC office and found to be in compliance with their rules. WCWRC staff was not available today to answer this specific question about potential impacts to Arbor Hills.

Question: In an earlier review, staff identified encroachment into the 25 foot wetland buffers for wetlands 1, 2 and 3 as a concern requiring a consideration of alternatives to limit the disturbance. Have these concerns been addressed and if not, can you provide a description of the impact and any related issues (e.g., grading) that remain outstanding/should be addressed in the development agreement? (Councilmember Lumm)

Response: The petitioner provided justification and alternatives considered for encroachment into the 25 foot open space buffer on Sheets 3, 17 and 18 . Encroachment into the 25 foot open space buffer is permitted if the disturbance is in the public interest, per Chapter 55, 5:51(6) and the disturbance is the minimum necessary to reasonably accomplish the permitted use, per Chapter 57, 5:126(3)(b). The disturbance to the open space buffers of wetlands #1, 2 and 3 are located in the lowest quality wetlands on the site and other alternatives considered would impact higher quality natural features. Staff review determined that because they are preserving high quality natural features, including wetlands, woodland and natural features on the site, the limited encroachment into the 25 foot open space buffer should be permitted.

B-2 – An Ordinance to Amend Chapter 55 (Zoning), Zoning of 69 Acres from TWP (Township District) to R4A (Multiple-Family Dwelling District), Nixon Farm North Zoning, 3381 Nixon Road (CPC Recommendation: Approval – 7 Yeas and 0 Nays) (Ordinance No. ORD-15-15) (8 Votes Required)

B-3 – An Ordinance to Amend Chapter 55 (Zoning), Zoning of 41 Acres from TWP (Township District) to R4A (Multiple-Family Dwelling District), Nixon Farm South Zoning, 2999 Nixon Road (CPC Recommendation: Approval – 7 Yeas and 0 Nays) (Ordinance No. ORD-15-16) (8 Votes Required)

DB – 5 – Resolution to Approve Nixon Farm North Site Plan and Development Agreement, with Modifications to Chapter 62 Landscaping and Screening, and Wetland Use Permit, 3381 Nixon Road (CPC Site Plan Recommendation: Denial – 5 Yeas and 2 Nays) (CPC Modifications and Wetland Use Permit Recommendation: Approval – 7 Yeas and 0 Nays)

DB- 6 – Resolution to Approve Nixon Farm South Site Plan and Development Agreement, with Modifications to Chapter 62 Landscaping and Screening, and Wetland Use Permit, 2999 Nixon Road (CPC Recommendation: Approval – 7 Yeas and 0 Nays)

Question: Are there provisions for public access to the land contributed as part of the park land contribution? (Councilmember Warpehoski)

Response: Yes, in the Nixon Farm North development, the path leads to the parkland dedication area, connecting it to Dhu Varren Road at the south, a road within the development to the north, and Hickory Point Drive on the west. The site plan also shows sidewalks within the development that would connect to the trailhead.

Question: Will there be pedestrian access through the site to the parkland? If so, how will it be maintained and does such maintenance include seasonal maintenance? (Councilmember Warpehoski)

Response: For Nixon Farm North, a public access easement will be provided along the internal sidewalks to the parkland. Details of the park entrance and connection points are pending the outcome of any additional parkland acquisition. Maintenance of the privately owned portion, including the public access easement, will be the responsibility of the condominium association. Seasonal maintenance of the hardscape on the private portion, such as snow removal, is required. Parkland owned by the City will become the responsibility of Natural Area Preservation.

Question: I don't see a number of footing drains to disconnect in p-22 of the agreement. (Councilmember Warpehoski)

Response: The number of footing drains is included in the most recent version of the site development agreement – 56 for Nixon Farm North, 71 for Nixon Farm South.

Question: If developed, how would the addition of housing on this site affect the PAC goals for playground access for residential areas? (Councilmember Warpehoski)

Response: A goal of the park system as it relates to playground access is to have neighborhood playgrounds within a ¼ mile of every residence. Foxfire North and Placid Way Parks are approximately a ¼ mile from the proposed development and both have playgrounds, but could require crossing Dhu Varren Road to access. Nixon Farms South is also providing a playground for the proposed development that will be owned and maintained by the condominium association.

Question: Are there plans to create/improve upon the safe movements for pedestrians and cyclists in and around the proposed roundabout? (Councilmember Lumm)

Response: This intersection design is valued for its ability to reduce the speed of vehicles entering an intersection. Reduced vehicular speeds increase safety for all modes of transportation. Modern roundabout design provides pedestrians with crossings that experience fewer conflict points and shorter distances exposed to vehicular traffic. The pedestrian refuges, located within the splitter islands, are also a proven safety countermeasure for urban environments. Single lane roundabouts (such as the one proposed here) are designed to have very low speeds in the circulating roadway. Bicyclists can easily travel at the same speeds as motorists, or have the option to easily exit the roadway and cross the intersection as a pedestrian. As this project moves forward, it will be designed to accommodate all modes of transportation safely.

Question: Regarding the “conditional zoning” approach. Can the zoning be “conditioned” by adding requirements for, e.g., contributing to the roundabout, committing to a firm # of units (i.e., remove the “or more” language), addressing other site plan concerns, etc.? (Councilmember Lumm)

Response: Per state law, a developer may offer in writing conditions that relate to the use and development of the land to a proposed zoning designation. The developer has provided the written conditions that they decided to offer.

Question: The letter from Toll Brothers requesting conditional zoning for Nixon Farms North and South indicates that Toll Brothers will pay \$1,025,460 for the Nixon/Green/DhuVarren intersection improvements and that amount represents 50% of the cost. Previously it was indicated the estimated cost is \$2.1M, but can you please confirm that remains the latest best estimate? (Councilmember Lumm)

Response: \$2.1M is still the most current cost estimate. The portion of the project not funded by the developer is recommended to be funded from the Street Millage Fund. Improvements to this intersection have been identified as a need in the Capital Improvements Plan, and the Street Millage Fund was identified as the appropriate funding source to make such improvements.

Question: The conditional zoning request letter grants the City an easement that's necessary for construction of the re-configured intersection. How large is that easement, and can you please confirm that the City is not paying anything for the easement/use of the land for the new intersection? (Councilmember Lumm)

Response: The easement is 0.75 acre, more or less, based on the final design. Yes, the developer is donating the easement to the city at no cost.

Question: In terms of "conditional zoning" overall, it seems to be advantageous to the City to have the four specific conditions clearly identified. What downside (if any) is there to a conditional zoning? (Councilmember Lumm)

Response: Conditional zoning is similar to a Planned Unit Development in that it creates a unique sense of regulations for the property. Like PUD's, conditional zoning is meant to be proscriptive, so it provides limited flexibility. If site conditions arise during construction that do not fall within the zoning conditions, it would require the developer and/or City to go through the rezoning process to revise the conditions.

Question: While reconfiguring the intersection is certainly a major, positive improvement, traffic congestion along the Nixon corridor is also a significant issue. The development agreements for Nixon Farms and Woodbury include clauses committing the developers to be included in any future special assessment districts. Would that include actions to improve traffic flow on the corridor – studies of potential actions as well as the physical improvements? Also, the CIP includes a 2018 item "Nixon Corridor Traffic Study" for \$200,000. Assuming the purpose of the study is to identify how to improve traffic flow, it would seem to make more sense to do that now, not later, and to have a comprehensive traffic flow plan. What would it take to pull that study ahead to the current fiscal year? (Councilmember Lumm)

Response: The Nixon Road Corridor Traffic Study was added to the CIP by the Planning Commission. The identified scope is stated as: "to examine transit, traffic operations and non-motorized facilities". To make any improvements to traffic congestion along the corridor, those improvements would need to be identified after study of the corridor and the existing traffic. Any improvements that are implemented which are first-time improvements would likely be assessed to the neighboring benefitting properties, including the development sites. To advance this study project into the current fiscal year, it would require the City Council to amend the budget to allocate General Fund funding, and staff workload and assignments already established would have to be deferred to advance this project into the current fiscal year.

DC-1 – Resolution to Establish Speed Limits no Greater than 25 mph throughout Near-Downtown Residential Neighborhoods

Question: Which street speed limits would be changed (from what to what) and can you please provide a sense of when they would be changed – what other events (repaving, etc.) would the Administrator use as the trigger to change the speed limit –

and what the public notification process would be when the speed limits are changed?
(Councilmember Lumm)

Response: The City Administrator provided a memo to City Council today regarding this item. Staff is prepared to provide further analysis including the cost of implementing the 25 mph policy directive, once City council provides direction on the policy objectives of the resolution. The City would use its communication tools to inform the public of speed limit changes. Enforcement through citations or education through warnings are within a police officer's discretion. Typically, when there is a **change** in an existing traffic control the officers will emphasize education over enforcement for a period of time.

DC – 3 – Resolution to Approve the First Amendment to the 618 South Main Development Agreement, 618 South Main Street

Question: How much is the value of the 18 disconnects not completed and how is that value determined? Also, what is preventing the developer from completing the disconnects (or alternative mitigation), and if it is not just a matter of time, what will change that will allow the completion? If it is just a matter of time, when is the completion expected to occur? (Councilmember Lumm)

Response: The value assigned to one footing drain disconnect will be based on staff's recent discussions with underground contractors who perform this type of work, as well as with developers paying for the work. Nothing prevents the developer from completing the disconnections once locations have been identified and permits have been secured. The developer is actively seeking buildings for footing drain disconnection, as well as investigating alternative mitigation measures for consideration by city staff. The Final Certificate of Occupancy will not be issued until the mitigation obligation is met.

Question: Please provide background information regarding the developers' efforts to disconnect footing drains or otherwise comply with the development agreement's waste water mitigation section. Did the developer find opposition? Did the developer delay acting on the requirement? Did the developer experience other reasons for this amendment? What penalties will the developer face if the FDDs are not disconnected (or other mitigation established). If the City 'loans' FDDs to the developer and the project receives certificates of occupancy, what recourse does the City have? (Councilmember Briere)

Response: The Developer, 618 S Main LLC, is doing everything they can to fulfill all obligations under the Development Agreement. The Developer is required to mitigate flow equivalent to 33 footing drain disconnects. As of today, the Developer has completed 15 FDD and has an additional 21 FDD under contract. The total exceeds the remaining FDD needed to fulfill 618 S. Main's obligations. The Developer will deposit the escrow for 18 FDD tomorrow if the Amendment is approved. The escrow will be twice the expense for an FDD to incent the Developer to complete the FDDs

under contract. Also, the Developer will not receive final certificates of occupancy until the City's FDDs are repaid.

Development sites upstream of one of the five SSWWE project areas may perform mitigation outside the contributing upstream area and receive credit for footing drain flow removal previously performed by the City in the contributing upstream area, if not previously credited to another development and the development's flow additions during wet weather events will not put the system at risk for basement backups, or sanitary sewer overflow (SSO). This site is upstream of one of the five areas, but the flow "will not put the system at risk for basement backups, or sanitary sewer overflow (SSO)" so authorization exists to do the bank and trade already, but staff does not have authority to accept an escrow for uncompleted FDDs prior to issuing a temporary certificate of occupancy.

The Developer's team may have delayed efforts to disconnect footing drains in anticipation of staff recommendations and City Council consideration of changes to the flow mitigation program, such as allowing developer payments in lieu of disconnects. Recommendations regarding flow mitigation are planned for City Council consideration in January/February.

DS-1 – Resolution to Approve an Agreement with the Washtenaw County Water Resources Commissioner to Support and Fund the 2015-2017 Rain Garden Program Partnership and Online Rain Garden Training Grant Program (\$206,596.00 over two years; City Cost \$32,166.00)

Question: Who are the other funding entities of this program besides the City and how much are their contributions? The cover memo indicates that in 2013, the agencies entered into a two year agreement with activities similar to those in this two year agreement. What were the costs for that program and the funding sources/entities? (Councilmember Lumm)

Response: The costs for the FY16/FY17 agreement are shared between the City of Ann Arbor, the Washtenaw County Water Resources Commissioner's Office, and a grant from the Michigan Department of Environmental Quality (MDEQ).

FY16:

City Contribution:	\$16,083
County Contribution:	\$48,433
MDEQ Grant:	\$36,316

FY17:

City Contribution:	\$16,083
County Contribution:	\$53,365
MDEQ Grant:	\$36,316

The previous 2-year agreement with the Washtenaw County Water Resources Commissioner's Office was a \$51,000 2-year project, with the City funding 50% (\$25,500 over 2 years) of the project, and the County funding the other 50% of the project. The agreement for FY16 and FY17 includes all elements from the previous agreement, but has added an online Rain Garden University Certification program that is funded by a grant from the MDEQ, and the hiring of a full-time Rain Garden Coordinator fully funded by the County. The title and text file of this item has been revised to reflect the correct total figure of \$206,596.00. The City's amount \$32,166.00 was correct.

DS-4 – Resolution to Authorize Contract Amendment Number 4 with RecycleAnn Arbor for Municipal Resource Recovery Services

Question: The cover memo indicates that, "A portion of these indices needed for this annual adjustment is now obsolete." Can you please clarify what obsolete means, and why the Department of Labor indices can no longer be used? In terms of the 4%, how was it derived, how does it compare to the actual adjustments the last few years, and how much does 4% translate in terms of dollars annually? (Councilmember Lumm)

Response: Obsolete means the Department of Labor no longer produces the indices used for the adjustment. The 4% was derived from examining the increases in costs over the past four years in the various line items specifically associated with the curbside recycling service. This includes items such as driver wages, benefits, business insurance, pollution coverage, and relevant overhead (administration, accounting, etc.) to specifically support the service. These costs increased on average 4% annually, however the current adjustment factor has not been previously used during this period, because contractually it did not come into effect until July 1, 2015. There have been no adjustments to the current fixed cost rate of \$3.55 per tip since it came into effect in FY2012. The resulting contract increases to \$3.70 in FY16, \$3.84 in FY17, and \$4.00 in FY18 are anticipated to result in contract increases between of \$55,000 - \$60,000 per year depending on the number of carts serviced each year.