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TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Craig Hupy, Public Services Area Administrator  
Brett Lenart, Planning Manager  
Shryl Samborn, 15<sup>th</sup> District Court Administrator  
Colin Smith, Parks and Recreation Manager  
Robyn Wilkerson, Human Resources and Labor Relations Director

SUBJECT: Council Agenda Responses

DATE: August 21, 2017

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**CA-1 – Resolution to Approve the Fuller Park Parking Lot Land Lease with the University of Michigan (8 Votes Required)**

**Question:** I note that the agenda for the August 18 Council meeting includes resolution 17-1053, Resolution to Approve the Fuller Park Parking Lot Land Lease with the University of Michigan. At our November 17, 2014 Council meeting, Council approved the previous lease of that parking lot (agenda item DS-1). The November 2014 resolution included the following language:

RESOLVED, That City Council approve the Fuller Park Parking Lot Land Lease for use by The University of Michigan for parking in Fuller Park; [and]

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute the lease agreement after approval as to substance by the City Administrator and approval as to form by the City Attorney[.]; AND

RESOLVED, THAT THE CITY COUNCIL DIRECTS THE CITY ADMINISTRATOR TO DEVISE A PLAN FOR PARKING ENFORCEMENT FOR THE FULLER

**ROAD PARKING LOTS FOR HOURS WHEN THE LOTS ARE NOT IN USE FOR PARK PURPOSES OR AVAILABLE UNDER THE TERMS OF PARKING LOT LEASE.**

Can you ask staff whether the plan described in that last resolved clause was conducted? If it was, can you provide us with a copy of that plan? (Councilmember Eaton)

**Response:** Per terms of the current Fuller Park parking lot lease representatives from the University and City work together to establish an appropriate policing procedure for parking enforcement. The procedure, while not a separate agreement, has been functioning well. The lot is well policed and tickets are issued according to posted signage. For example, in fiscal year 2017 joint enforcement resulted in 866 tickets issued. Tickets were issued in all parking areas identified in the lease. Staff believe the intent of the resolved clause is met in the language of the lease and activities carried out.

**Question:** How much has the annual lease fee increased since 2009 (when City began leasing all three lots)? (Councilmember Lumm)

**Response:** The fee has increased by 31.5%. In 2009, the lease amount for the three lots was \$69,552.00. The amount proposed in the 2017 lease is \$91,502.00.

**Question:** While I understand the University is responsible for the maintenance of Lot A (snow removal etc.), have there been any significant renovations/re-surfacing of the lot since 1993 and did the University contribute any funding if/when that occurred? (Councilmember Lumm)

**Response:** There have not been significant renovations or resurfacing.

**CA-6 - Resolution to Approve a Purchase Order to Ultimate Software Group, Inc. for the Annual UltiPro System Software Maintenance and License Agreement for our Retiree population (\$33,000.00)**

**Question:** As I recall, we had some glitches in terms of developing/installing new HR software previously. Was that UltiPro and has all that been sorted out? (Councilmember Lumm)

**Response:** This was not UltiPro. A couple years ago, we attempted to implement a new HR system, NuView. However, after experiencing many issues during the implementation process, that implementation project was discontinued. The City continues to use UltiPro.

**CA-7 - Resolution to Approve Uniform Video Service Local Franchise Agreement as Renewal of Cable Franchise Agreement with Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington, LLC, d/b/a Comcast**

**Question:** The cover memo indicates the fee structure stays the same (franchise fee of 5% of gross revenue and PEG fee of 2% of gross revenue), but the cover memo also indicates in the first paragraph there are different terms. Can you please clarify what (if any) substantive terms are changed in this agreement? (Councilmember Lumm)

**Response:** Not counting the exhibits, the existing franchise agreement with Comcast is 28 pages long, and our cable ordinance, on which that franchise agreement is dependent, consists of 33 sections that originally spanned about 60 pages. The state mandated form of agreement is 11 pages long (albeit single-spaced). To try to explain and compare the differences would be extremely time consuming. In addition, to the extent it conflicts, the City's franchise agreement and ordinance have been subject to the requirements of the Uniform Video Service Local Franchise Act (UVSLFA) (Public Act 480 of 2006) since its enactment, even with Comcast. The UVSLFA form of agreement was used for AT&T both originally and for its recent renewal. Thus, as a practical matter, the changes now reflected in the standard UVSLFA agreement have for the most part been in effect since the UVSLFA was enacted. Nevertheless, the resolution reserves to the City its rights to negotiate different or additional terms in renewals of video service local franchise agreements,

**Question:** Given that the agreement is automatically approved after 30 days, that must mean the fee levels are established at the state level (and not negotiated locally) -- is that correct? (Councilmember Lumm)

**Response:** The fees were established by the original franchise agreement with MediaOne, predecessor to Comcast, as the incumbent cable provider when the UVSLFA was enacted. Those fee levels also are in the UVSLFA agreement with AT&T. Each is the maximum allowed under federal law.

**CA-8 - Resolution to Approve Professional Legal Services Agreement with Reiser and Frushour, P.L.L.C. to Provide Legal Representation as Court-appointed Counsel to Indigent Defendants (\$249,728.64)**

**Question:** I appreciate that an RFP was issued, but with only one respondent, I'm wondering how the \$249K compares with the contract amount for FY17? (Councilmember Lumm)

**Response:** It is a \$9K increase over the previous contract amount. This firm has provided services for the past three years at the flat rate of \$240K per 12-month period. The increase is reflective of the firm's increased administrative and operating costs.

**C – 1 - An Ordinance to Amend Sections 5.10.19, 5:10.20, 5:64, 5:65, 5:68 and 5:70 of Chapter 55 (Zoning) and Sections 5:169 of Chapter 59 (Off-Street Parking) of Title V of the Code of the City of Ann Arbor (Zoning Premiums/Design Requirements) (CPC Recommendation: Approval - 8 Yeas and 0 Nays)**

**Question:** Is this related only to facades (a la last discussion at July meeting)? Or are we looking at different parts of zoning? (Councilmember Frenzel).

**Response:** The proposed ordinance would apply to buildings in the D1 and D2 districts. While material requirements and first floor heights would apply to the entire structure, the visibility requirements would only apply to those street-level facades visible from the public right of way.

**Question:** The staff report says: “The Tier 1 energy efficiency required improvement percentage in Section 5:65(2)(b) has been lowered from 40% to 30%. To be awarded energy efficiency premium floor area, the building must achieve a 30% or higher improvement over the state approved energy code.” Why was the energy efficiency percent changed? (Councilmember Eaton)

**Response:** The energy efficiency percent was reduced in the draft to seek a balance where the standard was not too high, where petitioners would not seek to access the Tier one premium at all. Additionally, the 30% target is consistent with goals of the University of Michigan, as a benchmark of efficiency. As this standard is not included in the substitute ordinance approved at first reading, it is not anticipated to take effect at this time.

**Question:** Section 5:70 (b)(1) changed the term “usable open space” to “open space” What effect will the change from “usable open space” to “open space” have? (Councilmember Eaton)

**Response:** It will have no effect. The preface “usable” was dropped from the definition section of the Zoning Ordinance several years ago when the definition of “open space” was simplified and the term (and requirement) “active open space” was introduced. The change simply corrects an outdated term ahead of the zoning ordinance reorganization project. Since this amendment was not passed at first reading, the change will not go into effect upon passage of the amended ordinance focused on building design requirements. Instead, it will be addressed as part of the adoption of the Unified Development Code – the final product of the zoning ordinance reorganization project.

**Question:** Can you please provide an update on the portions of the July 17 ordinance that were placed on hold -- premiums and off-street parking. Has there been any action at the state level? When will Council likely see the premium and off-street parking components of the ordinance? (Councilmember Lumm)

**Response:** At this time, staff are no longer working toward any revisions to the premium option offered in the Zoning Ordinance and will instead focus on other priority items identified in the Planning Commission work program. Evaluating the off-street

parking requirements holistically is among the Planning Commission's work program priorities. As progress is made on other work program items and resources become available, staff will begin addressing this issue.

**Question:** Council received a communication that referenced a Design Review Board communication in May regarding suggestions related to its process. Can you please provide a status update on that and are any Design Review Board suggestions incorporated into this ordinance? (Councilmember Lumm)

**Response:** No, the proposed process changes considered by the Design Review Board were communicated to City Council, but no further direction has occurred. The Design Review Board did review the proposed design requirement standards being considered, and were supportive of the language.

**Question:** Can you please give a couple of examples of large D-1 buildings (post-2000 construction) from the Main St or South U area that would no longer be approved under the new regulations on materials? (Councilmember Westphal)

**Response:** Here are a few examples of large D-1 buildings that would likely not comply with the regulations on materials:

- Landmark (601 Forest) – May not comply for high quality materials on upper floors
- 603 E. Huron – Possibly insufficient glazing/transparency on first floor
- City Apartments – Does not comply: insufficient glazing on first floor, lack of high quality materials
- Residence Inn/Zingerman's Greyline – Lack of high quality materials on upper floors

## **DC-2 - Resolution to Support Carbon Fee and Dividend Plan**

**Question:** "RESOLVED, The Ann Arbor City Council formally supports a Carbon Fee and Dividend Policy." To whom is this support directed? What action is expected in response to this resolution? (Councilmember Eaton)

**Response:** Questions regarding Resolution DC – 2, Support Carbon Fee and Dividend Plan, need to be directed to the authors/sponsors of the resolution. The resolution does not direct staff or require staff action.

**Question:** The resolution indicates City Council's support for a Carbon Fee and Dividend Policy, but does not reference or include any specific action items. Does staff plan to take any action as a result of this resolution and if so, please provide some detail on the action and the cost? If not, can you please clarify what the purpose of the

resolution is (it is not being sent to any legislators, but perhaps someone is keeping a list of supporters somewhere)? (Councilmember Lumm)

**Response:** Questions regarding Resolution DC – 2, Support Carbon Fee and Dividend Plan, need to be directed to the authors/sponsors of the resolution. The resolution does not direct staff or require staff action.

**Question:** One of the communications we received on this item indicated that other cities have indicated support for this - can you please provide a list of those cities? (Councilmember Lumm)

**Response:** Questions regarding Resolution DC – 2, Support Carbon Fee and Dividend Plan, need to be directed to the authors/sponsors of the resolution.

**Question:** Who is the intended recipient of this resolution (e.g., will copies go to legislators)? Please differentiate the intended goal of this type of resolution from the functions expected of council's legislative policy committee. (Councilmember Westphal)

**Response:** Questions regarding Resolution DC – 2, Support Carbon Fee and Dividend Plan, need to be directed to the authors/sponsors of the resolution. The resolution does not direct staff or require staff action. This is a matter of police for the Council to discuss.

**DB-3 - Resolution to Approve Full Proposal Application to the USDA-NRCS FY 2018 Regional Conservation Partnership Program (RCP), in Partnership with Washtenaw County, Legacy Land Conservancy, and Others, to Secure Funding to Complete USDA-NRCS Agricultural Conservation Easement Program (ACEP) Purchases of Development Rights (PDR) Conservation Easements (up to \$1,000,000.00)**

**Question:** The cover memo indicates the City is obligated for up to \$1.0M in funding and \$70K in due diligence/administrative funding if the proposal is accepted. Can you please provide the commitments of the other participating partners? (Councilmember Lumm)

**Response:** Please see the table below for other contributing partners' expected contribution amounts, as of 8/21/2017. Please note that not all contribution amounts are finalized at this point as most but not all partners' governing bodies have had a chance to vote yet. These amounts should be considered "not-to-exceed" amounts. The full proposal is due September 7, 2017.

Partner	Funds contribution	Due diligence & admin costs
Greenbelt Program	\$1,000,000	\$70,000
The Conservation Fund	\$0	\$5,000
Legacy Land Conservancy	\$400,000	\$75,000
County	\$200,000	\$30,000
Southeast MI Land Conservancy	\$345,000	\$25,000
Scio Township	\$320,000	\$20,000
AA Township (tentative amounts)	\$1,336,000	\$40,000
Augusta Township	\$50,000	\$15,000
<b>TOTAL</b>	<b>\$3,651,000</b>	<b>\$280,000</b>

**Question:** The third whereas clause states that "The GAC strongly recommends a minimum of 25% matching funds on Greenbelt purchases". I don't recall seeing that 25% before, but perhaps just missed it. Is that a new target/standard? (Councilmember Lumm)

**Response:** The resolution should have cited 20% instead of 25%, as indicated in the latest annual report as referenced in the 2013 Strategic Plan. Specifically:

1. The 2013 Strategic Plan does not give a specific recommended amount, but instead places a priority on leveraging funds with goals established on an annual basis based on the criteria outlined in the strategic plan and included in the annual report.
2. The goals for leveraging funds this fiscal year in the latest annual report are:
  - *Apply for USDA Agricultural Conservation Easement grant funds on at least 2 properties.*
  - *Secure at least 20% matching funds on all transactions completed.*
  - *Secure at least one partner for all transactions.*

On average over the life of the Greenbelt Program, matching funds have averaged 53% of the fair market value of the properties.

**DS-1 - Resolution to Approve a Lease with Ann Arbor Rowing Club for Use of Bandemer Park (8 Votes Required)**

**Question:** This was postponed previously because there were open issues. Have those open items been worked out and is the lease proposal presented tonight supported by all parties involved? (Councilmember Lumm)

**Response:** to the best of staff knowledge, all parties involved support the lease proposal presented tonight. Since the postponement, Ann Arbor Rowing Club has met with and had on-going communication with the Pioneer and Huron High rowing coaches. Changes to the lease highlight that Pioneer and Huron are long-term users of the facility.