



TO: Mayor and Council

FROM: Derek Delacourt, Community Services Area Administrator
Craig Hupy, Public Services Area Administrator
Cresson Slotten, Systems Planning Manager

CC: Howard S. Lazarus, City Administrator

SUBJECT: Council Agenda Responses

DATE: 7/7/16

CA-1 - Resolution to Approve Street Closings for the UA Block Party and Plumbers & Pipefitters 5K – Monday, August 15, 2016

Question: Are the race and block party open to the public? (Councilmember Warpehoski)

Response: Yes.

CA-6 – Resolution to Award a Contract to PROCARE Tree Service LLC for Tree Pruning along City Street Rights-of-Way (\$46,050.00)

Question: The Urban and Community Forest Management Plan includes “Recommendation #14 Obtain the highest and best use of wood from trees removed by the City.” Does this contract include provisions to attempt to use removed for higher-value uses such as timber? (Councilmember Warpehoski)

Response: The bid documents, a component of the contract, state the following regarding wood disposal and wood utilization:

“The bidder will be responsible to pay for the disposal of all wood waste generated from tree pruning activities. The City encourages Bidders to consider wood utilization options for some larger branches generated during tree pruning (e.g.,

woodworker/artisan use; local sawmills, etc.). Wood utilization options may be discussed with winning Bidder(s).”

In meetings City staff have had with tree care contractors over the past two years, wood utilization options are always discussed prior to work commencing.

Question: How much would it cost to address the entire backlog of 335 trees? Could we achieve any economies of scale by expanding the contract? (Councilmember Grand)

Response: Staff anticipated that with City staff efforts during the time lag between the date of the bid release and the date the contractor receives the notice to proceed with work under this contract, there will be a reduction in the backlog of Priority 1 Prune trees. Therefore, the contract was written to address approximately 75% of the then existing backlog with the anticipation that City staff would be addressing the remaining 25%. Between the bid release date in April 2016 and today, Forestry staff have reduced the backlog of Priority 1 Prune trees from 335 to 302. The entire backlog of Priority 1 Prune trees will be addressed by December 31, 2016 utilizing both the contractor, CHOP, and City staff. Note that new trees will be added to the Priority 1 Prune category regularly as these trees mature, but the backlog of trees in this category, as described in the Urban and Community Forestry Plan, is anticipated to be addressed by December 31, 2016.

CA-7 – Resolution to Request an Appropriation from the Solid Waste Fund Unobligated Fund Balance and Approve a Professional Services Agreement with Proficient Training & Consulting, L.L.C. for On-Site Safety Compliance Inspection Services up to \$70,000.00 (8 Votes Required)

Question: It would seem that safety inspections are a normal cost of doing business so can you please explain why this is being funded by the City (Solid Waste fund balance) rather than through the normal operations of the MRF facility and operator? (Councilmember Lumm)

Response: This item was removed from the agenda.

CA-10 - Resolution to Approve Bylaws of the Ann Arbor Human Rights Commission

Question: Are redline versions of the bylaws available so we can easily see changes? (Councilmember Warpehoski)

Response: This body did not previously have bylaws, so no redline is available.

CA – 11 - Resolution to Approve Bylaws of the Ann Arbor Housing Board of Appeals

Question: Are redline versions of the bylaws available so we can easily see changes? (Councilmember Warpehoski)

Response: This body did not previously have bylaws, so no redline is available.

CA-12 – Resolution to Ratify, Appropriate Funds and Reimburse Resource Recovery Systems, Inc. for the City’s Share of the Emergency Replacement of the City-Owned Material Recovery Facility’s Baler (\$116,507.00) (8 Votes Required)

Question: The cover memo indicates that the current MRF capital funding mechanism is not adequate to fund this baler replacement. At \$580K, that’s understandable, but can you please provide what the balance is in the capital replacement reserve fund and is that also funded 80/20? Also, in terms of the replacement unit, does the City agree with the machine selection and can you please provide how much of a premium was paid for the emergency nature of the order? (Councilmember Lumm)

Response: There currently is a \$0 balance for the MRF Capital Account. ReCommunity pays \$4.00 on every ton of City and Merchant (non-City) recyclables they process, and the City pays \$2.00 per ton for every City-delivered recyclables. The City was satisfied with the selection of the Harris Baler that was purchased. The City is not aware of any premium paid for this baler as the manufacturer had the baler in stock available for purchase.

B-2 – An Ordinance to Amend Sections 2:42.5 and 2:42.6 of Chapter 28 (Sanitary Sewer) of Title II of the Code of the City of Ann Arbor (Ordinance No. ORD-16-13)

Question: The existing DOM program seeks to remove flows in the area in which a development occurs. How will this be handled with a cash in-lieu option? (Mayor Taylor)

Response: Under this option, wet weather capacity improvements and/or flow removals will likely be implemented at different times and locations than where new developments contribute flows into the sanitary sewer system. However, this option provides funding that can be consolidated to advance most quickly capacity improvements and/or flow removals in the prioritized areas of the collection system.

Question: Please provide documentation for the statement “The amount is based on the average cost of wet weather flow removal performed by the City in the past.” (Councilmember Warpehoski)

Response: The fee is based on the average cost of flow removal performed by the City in the past (i.e., the City’s Footing Drain Disconnection Program) as shown below.

Going forward, as the City undertakes new projects to mitigate flow, these project costs may influence the average cost charges per gallon either upward or downward.

Average Footing Drain Disconnection (FDD) costs per home (2010):

FDD Construction Cost	\$ 4,345
FDD Construction Management Cost	\$ 1,760
Exterior Drainage Piping Cost (i.e., curb drain, including installation & construction management cost)	\$ 3,484
City FDD Program Management Cost	<u>\$ 500</u>
TOTAL (2010 dollars)	\$ 10,090

TOTAL (2016 dollars, using ENR cost fwd factor = 1.18) \$ 11,906

1 FDD = 4 gallons per minute flow removal
Average Cost for 1 gallon per minute flow removal \$ 2,976

Question: In a previous agenda question, staff provided estimated total costs for payment in lieu for a variety of projects. Please elaborate on this data to include:

- Number of units and number of bedrooms for residential sites
- Total cost of project (if known)
- Cost to address offsite mitigation through FDDs (if known)
- Please also include the Foundry and 618 S. Main in the calculation (Councilmember Warpehoski)

Response: Please refer to the below table. The proposed flow amount for each project is based on the City’s design flow rate criteria (i.e., “Table A”) depending on the type(s) of use for the site, which is based on square footage of units rather than number of bedrooms. As a result, the number of units and quantity of bedrooms does not necessarily provide a direct comparison of the amount of mitigation required for each project. Instead, the proposed net increase in flow for each development is presented as a comparative measure for each site. The total project cost and mitigation cost for the development projects is not known.

Project	Proposed Net Increase in Peak Flow (gpm)	Payment In Lieu Cost (\$3000 per 1 gpm)
116-120 W. Huron Hotel	94	\$ 282,000
Traverwood Apartments	189	\$ 567,000
Davis Row Condominiums	5	\$ 15,000
Bank of Ann Arbor Addition	2	\$ 6,000
Dusty's Collision	3	\$ 9,000
MAVD Financial Building (State St)	1	\$ 3,000
Foundry	214	\$ 642,000
618 S. Main	134	\$ 402,000

Question: Please provide data for the cost to remove 1 gpm/minute of peak sanitary flow under the mandatory FDD program at the completion of the program.
(Councilmember Warpehoski)

Response: Please refer to the Average Footing Drain Disconnection (FDD) costs per home (2010) table in the response above.

C-1 – An Ordinance to Amend Chapter 55 (Zoning), Rezoning of 2.0 Acres from M1 (Limited Industrial District) to R4D with Conditions (Multiple-Family Dwelling District with Conditions), Kingsley Condominiums Conditional Rezoning, 221 Felch Street and 214 West Kingsley Street (CPC Recommendation: Denial – 5 Yeas and 3 Nays)

Question: Is there a definition of “minimal consideration” regarding the availability of the building at 214 W. Kingsley’s availability to the City or Conservancy?
(Councilmember Warpehoski)

Response: As a condition of site plan approval, the applicant stated that “Up to 50% of the building at 214 W. Kingsley shall be made available at minimal consideration to serve as an office and/or interpretive center for the Allen Creek Greenway Conservancy.” The term “*minimal consideration*” was not defined or nor expanded upon by the applicant. It was staff’s understanding that the term “*minimal consideration*” was to intended to mean at *minimal expense* (i.e. \$1) to the City or Conservancy. However, this term should be clarified by the applicant.

Question: The cover memo and minutes provide a sense of the Planning Commission discussion – that there was general agreement residential zoning was desirable, but there were concerns with the proposed R4D. What is not clear, however, is what the most appropriate alternative zoning would be and why, so can you please elaborate on that? (Councilmember Lumm)

Response: The most common residential zoning district in the immediate vicinity is R4C. However, although the intent of R4C is appropriate for this location, the development standards are not. While all other multi-family zoning districts allow height to be taller than 30 feet, R4C limits height to 30 feet (R4C was excluded from the Area, Height, and Placement amendments because it was being analyzed in a separate effort at that time). This height limitation in this location (floodplain) would result in the first floor being devoted to parking with one story of residential above. It would be difficult to get two stories of residential above parking with a pitched roof and remain under 30-feet in height. A flat roof would also be challenging since mechanical equipment in a floodplain are typically located on roofs and would likely result in a building with 2 floors of residential above parking being taller than 30 feet. The height limitation in the R4C might be appropriate for established historic neighborhoods, but is not appropriate for this site which is in the Allen Creek floodplain.

Question: How large is the 214 Kingsley building and are the Allen Creek Greenway Conservancy folks aware of this condition/offer? If so, are they supportive of using the facility? (Councilmember Lumm)

Response: The building at 214 Kingsley is 3,000 square feet. The developer of the project has had conversations with representatives of the Greenway Conservancy. It was relayed to City staff that they representatives of the Greenway Conservancy were supportive of the offer to use the facility. Specific details regarding leasing arrangements will be worked out if the project is approved and constructed.

Question: In the staff report for the May 17 Planning Commission meeting, it was noted there were concerns raised at the April 5 Planning meeting regarding the look and massing of the building, but based on the developer's response dated April 15th, it does not appear any changes are planned. Can you please elaborate on these concerns as well as why (as noted in the developer's response) the project does not need to be reviewed by the Design Review Board? (Councilmember Lumm)

Response: A couple of Planning Commissioners voiced concerns regarding the massing, materials, and the overall footprint of the building. These commissioners felt the building was too long and did not offer enough variations in the building materials of the façade to break up the length of the building. It was acknowledged that while it is a positive design to have the 'short' end of the building along Felch Street, more articulation in building design along the longer side of the building would be preferred to break up the massing appearance. It was also mentioned that the building did not seem to reflect the Industrial history of the site. While massing was a concern expressed, in general the Commission was accepting of the overall height of the building.

The project is not located in D1 or D2 Zoning District and is not under the jurisdiction of the Design Review Board.

C-2 – An Ordinance to Amend Section 5:1(1), 5:10.2, 5:10.4, 5:10.5 and 5.10.10 of Chapter 55 (Zoning Ordinance of Title V of the Code of the City of Ann Arbor (Accessory Dwelling Units)

Question: The current text reads “The ADU shall not be occupied by more than 2 related and their offspring or 2 unrelated individuals.” Is a word missing after “related”? (Councilmember Warpehoski)

Response: The language referenced is not being proposed, it was included in a previous memo to demonstrate the evolution of the proposed changes. The proposed ordinance is attached separately to C-2 and titled “ADU Ordinance – 7-7-16 Council”.

Question: The proposed ordinance allows no more than “four persons plus their offspring.” I have a friend with an adopted adult son who has fetal alcohol spectrum disorder. Could she and her husband have their adopted adult son live with them (for

two adults and their offspring) and still have an ADU with two adult tenants?
(Councilmember Warpehoski)

Response: Yes, elsewhere in the Zoning Ordinance, offspring is defined to include adopted children. She and her husband (2 persons plus offspring), plus an ADU with 2 adult tenants (2 persons) would be compliant.

Question: If a subsequent Council chooses to abolish the owner occupancy requirement for ADUs, is there an easy way to annul the owner occupancy requirement recorded in the deed restriction? (Councilmember Warpehoski)

Response: Yes, the City would have a record of all approved ADUs and will accordingly draft the document in a manner that can be removed in the future if the requirement were abolished, or the ADU is otherwise removed.

Question: Other communities have placed a cap on the number of ADU's (at least initially) which would serve as a way to essentially conduct a pilot – see what works and what doesn't. Did staff and the CPC consider a cap? If so, what was the reason we didn't adopt one and if not, what are staff's thoughts on the pros and cons of having a cap on the number (at least initially)? (Councilmember Lumm)

Response: Staff and the CPC did consider a cap, but elected not to include in the proposed language. Only 1 of the 15 communities that were benchmarked for comparison instituted a cap on the total number of units permitted. The City has piloted accessory apartments over the past several decades to limited utility, and these proposed changes are a response to this community experience. The conclusion to forgo any cap was reached when considering the intent to increase utilization of ADUs in the community and ideally, help contribute to affordable housing goals. By limiting the opportunity for such units in the community, the limited supply and/or availability would limit the potential positive impacts envisioned by City Council, CPC, and staff in regard to sustainability and affordability goals. Alternatively, if a cap was set adequately high (e.g. 100 units per year), it would likely not be realized, based on the experience of other communities. Communities that exceed such an average number of ADUs per year aggressively encourage them through fee waivers, facilitated inspection and permitting processes, and even publicly-supported financing mechanisms.

Question: At the CPC public hearing, a resident suggested Ann Arbor should consider specific ADU regulations (like Portland apparently has) with regard to setbacks, height, and overall size/lot area of the detached and local unit. That seems reasonable to me and I'm wondering if we did consider specific regulations like this and if so, why we concluded they were not necessary or appropriate? (Councilmember Lumm)

Response: The emphasis on these proposed changes is that the units are accessory to the existing primary or detached structure. Currently the City's ordinance regulates both of these building prototypes through setbacks, coverage, height, and other requirements. As it relates to detached structures, the intention of the proposed language here is to restrict to conforming detached structures. In Portland, there are no

differences in setbacks whether a detached structure has an accessory unit or not, however, they add a design review requirements when the height of the structure exceeds a threshold. This design review focuses more on architectural aspects than site layout requirements.

Question: Regarding parking, the requirement has been reduced from three offstreet spaces to one (and no offstreet parking is required at all if the ADU is within ¼ mile of a bus stop). During the council work session, it was pointed out that since most areas in Ann Arbor are within ¼ mile of a bus stop, that one space requirement isn't really a requirement at all and that it wasn't realistic to assume that no one in an ADU will have a car or that no one will park in the street rather than be blocked in a driveway by another vehicle. Staff's response at the work session seemed to be essentially to acknowledge this will add to existing on-street parking problems, but that was justified given the benefits and that there was no interest in adding a real parking requirement to the ordinance. I was unable to follow-up at the work session as we ran out of time, but can you please confirm that takeaway is essentially correct and if not, please clarify? (Councilmember Lumm)

Response: Currently, the ordinance requires two additional parking spaces for an accessory apartment (One space required for each single family dwelling, three total spaces required for single family dwelling with an accessory apartment). The proposed changes would reduce this requirement to one or no additional spaces, depending on the circumstance. This recommendation is made in the context of feedback heard from the perspective of concern in areas with parking demand exceeding supply, versus comments that requiring additional paving on properties for additional parking is highly undesirable. It is correct that the majority of parcels in the City are within ¼ mile of a bus stop. The discussion by Staff and Council at the working session was to acknowledge that there would be some degree of self-regulation to this. For example, if a person is interested in a ADU, but off-street parking is important to that resident, such a unit in a parking-dense neighborhood, where more on-street parking is relied upon may not be a good fit. The same unit will be very attractive to a transit and/or non-motorized transportation user.

DC – 4 – Resolution to Order Election, Approve Charter Amendment of the Ann Arbor City Charter Section for Election of Mayor and City Council Members Increasing the Term of Office for Each Member of Council, Including the Mayor, From Two to Four Years and Determine the Ballot Language for this Amendment

Question: The cover memo states that “if the ballot question is approved by the voters, the members of Council elected on November 8, 2016 would continue to serve until their successors were elected November 5, 2019” while the mark-up of section 12.4 states that “The term of the members of the Mayor and Council elected on November 8, 2016 shall terminate on the Monday next following the regular City election held November 6, 2018.” I believe the language in 12.4 is what is contemplated, but can you please confirm? (Councilmember Lumm)

Response: The cover memo is incorrect. The correct date is stated in the mark-up of Section 12.4.

Question: I'm confused by the resolved clause that states "RESOLVED, That if both Charter Amendments are not approved by the voters at the November 8, 2016 election and only the Charter Amendment to Increase the Term of Office for Each Member of Council, Including the Mayor, from Two to Four Years is approved by the voters on November 8, 2016, then the Section 13.4 shall have been adopted to read as submitted hereabove." The reason I'm confused is that the version of 13.4 right above that includes non-partisan language – what am I missing? (Councilmember Lumm)

Response: The Resolved clause immediately preceding this Resolved clause includes a mark-up of Section 13, 4 that will only be adopted if both the proposed ballot questions are approved by the voters. The term "hereabove" refers to the mark-up of Section 13.4 in the Resolved clause which appears above and is part of the proposed changes stated in the ballot question.

DB-1 – Resolution to Approve Residences at 615 South Main Planned Project Site Plan and Development Agreement, at 615 South Main Street (CPC Recommendation: Approval – 8 Yeas and 0 Nays)

Question: The cover memo of DB-2 indicates that "both the Brownfield Plan and the Project Site Plan will be considered by City Council after holding public hearings" but the agenda only includes a public hearing on the project site plan (PH-1). Do we need to schedule a public hearing on DB-2 as well and given that this was added late yesterday, is that adequate notice? (Councilmember Lumm)

Response: City Council has typically held a separate public hearing for Brownfield Plans. A noticed public hearing is being scheduled for the next regular City Council meeting on July 18, 2016, anticipating a delay in the action on this item.

Question: Also on the Brownfield, the cover memo indicates that the Ann Arbor Brownfield Review Committee established three conditions for approval. I'm assuming those are reflected in the actual agreement, but can you please confirm. Finally, of the \$3.5M TIF that will be reimbursed to the developer for eligible activities, how much of that would have accrued to the City and does approval of the Plan obligate or commit the City to do anything (other than reimburse the developer for eligible clean-up costs)? (Councilmember Lumm)

Response: The recommendations of the Brownfield Review Committee are reflected in the Brownfield Plan attached to this item. Approximately 27% of the Commercial non-homestead millage accrues to the City's General Fund. The City's only obligation is to capture taxes paid for this property and remit them to the Washtenaw County Brownfield Redevelopment Authority who then reviews the developer's actual expenses and reimburses the developer accordingly.

Question: On the 615 S. Main Planned Project Site Plan, can staff please speak to the concerns raised in the email Council received from Ken Clein (via CM Briere) regarding the traffic flows? (Councilmember Lumm)

Response: In Commissioner Clein's email, he said, "I think a Woonerf type passage, without gates – designed for pedestrians, but accommodating local vehicular traffic would be very workable, offering a connection to Madison". Such a condition would result in a significant number of vehicle trips exiting onto E. Madison immediately west of an active railroad. The City's traffic engineer had extreme safety concerns regarding this concept. The previous iteration showed an access lane and 11 parking spaces that would have limited egress onto Madison to only those vehicles with permits to park in one of the 11 spaces. Such a concept would have substantially limited the number of vehicles exiting onto Madison to only a few per day. Commission members expressed a desire for the access drive and parking spaces to be converted to a landscaped pedestrian path that would include a permanent pedestrian access easement. This open space could become part of the Allen Creek Greenway.

Question: The developer's response to the Design Review Board concerns included in the April 15th staff report do not seem to reflect any real substantive changes in the building massing or materials – is that accurate or am I missing something? (Councilmember Lumm)

Response: The developer provided the following response to this question: A shade study of the courtyard was completed indicating that the courtyard will not be in "perpetual shade" during the summer months when it will have the greatest use. Alternate building configurations were explored but resulted in compromises to the seclusion afforded to the courtyard as well as too significant a reduction in apartment quantity. Adding an additional story was considered but that was rejected as it would force the whole building into 'high-rise' construction and would therefore raise the construction costs too such a degree as to make the project unviable. The exterior design of the building was simplified and the number of building materials were reduced. Vertical and horizontal offsets in the building modules were increased/accentuated to improve building massing. Additional windows were added and the number of window configurations simplified. The building module/element of the new construction above the two-story buggy factory was redesigned so that it was better "informed" by the design elements in the old buggy factory building.