



TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Larry Collins, Fire Chief
Derek Delacourt Community Services Area Administrator
Craig Hupy, Public Services Area Administrator
Nicholas Hutchinson, City Engineer
Brett Lenart, Planning Manager
Cresson Slotten, Systems Planning Manager

SUBJECT: Council Agenda Responses

DATE: December 4, 2017

CA-1 - Resolution to Accept an Easement for Public Right-of-Way at 1430 South Maple Road from Grace Bible Church of Ann Arbor, Michigan (8 Votes Required)

CA-2 - Resolution to Accept a Water Main Easement at 1430 South Maple Road from Grace Bible Church of Ann Arbor, Michigan (8 Votes Required)

Question: Are right of ways and utility easements normally accepted before a site plan has been approved by the Planning Commission? If yes, can you give me an example? (Councilmember Eaton)

Response: The easements are related to a previously approved site plan. These easements are a requirement of the approved site plan for the parcel. The most recent amendment was approved on June 7, 2017.

CA-3 - Resolution to Accept an Easement for Sidewalks and Public Utilities at Pioneer High School from the Public Schools of the City of Ann Arbor (AAPS) (8 Votes Required)

Question: Will the AAPS contribute to the cost of the sidewalk when it is installed? (Councilmember Eaton)

Response: Ann Arbor Public Schools (AAPS) will be paying for the construction of the sidewalk adjacent to Pioneer High School Property. The estimated cost to AAPS, once the grants are taken into consideration, is approximately \$62,000. Staff is working with AAPS to finalize a written agreement for paying for the cost of the sidewalk.

CA-4 - Resolution to Accept an Easement for Sidewalk at 75 Scio Church Road from 75 Scio Church L.L.C. (8 Votes Required)

Question: Regarding CA-4, it is very rare that the city pays for an easement and the cover memo states that the \$8K payment is "in accordance with federal and state grant requirements for highway projects." Can you please elaborate on what that statement means and why there is a payment for this easement when the vast majority of easements are conveyed at no cost to the city? (Councilmember Lumm)

Response: Yes. This project uses grant funds from the federal Surface Transportation Program, which requires an offer of just compensation for acquisition of public right-of-way.

CA-6 Resolution Authorizing Sanitary Sewer Capital Recovery Charges for 2665 Geddes Ave. (\$25,954.00)

Question: Why is this property being added to system now? Was it previously on a septic field? Are there other properties that will be assessed in this manner? (Councilmember Warpehoski)

Response: This house was on septic and has connected to the city sanitary sewer that was recently constructed as part of the Geddes Ave project. There are approximately 10 other properties in a similar situation. This is a routine process required by code when sanitary becomes available to former township parcels.

CA-7 – Resolution to Approve a Services Agreement with WeCare Denali, LLC for Compost Facility Operations and Management

Question: Q1. It seems the gist of the City's recommendation and low scoring of Cocoa Corporation was that Cocoa does not understand municipal composting and that Cocoa's composting experience was not relevant. Can you please elaborate on that including what the differences are and what makes municipal composting so unique that Cocoa's experience was not considered relevant? (Councilmember Lumm)

Response: Cocoa's proposal included extremely limited experience in compost management, with its experience being at only a single facility that processes compostable materials in large part from a limited and consistent category of sources (large industrial food manufactures), and only since 2015. Cocoa did not show any experience with dealing with curbside residential yard waste/compost collection as the major component of their process. This material includes large volumes of grass clippings, brush and wood material, much of which is collected in yard waste bags; as well as residential food waste rather than consistent byproducts/food waste from large commercial food industry which was emphasized by Cocoa in their proposal. WeCare/Danali handles and deals with all of the material that residents deposit in their compost carts, including soil, rocks, lumber. This is a major difference from the homogenous materials the Coca listed as their source material.

Question: Q2. I remain a bit confused about how there can be such a large disconnect between Cocoa's view that the city facility is becoming a landfill and the city's October 25th response that "no correction or remediation actions are needed." I recognize that MDEQ permits our facility, but I'd appreciate more detailed responses to the Cocoa observations regarding (1) contaminants on site (metals, plastic, concrete, glass etc) and (2) their contention that the site has grown from 10,000 cubic yards of on-site waste to 61,000 cubic yards. (Councilmember Lumm)

Response: The "overs" material, or "tailings" pile, is sorted from the "finished" compost, and placed back into compost windrows for processing. This material is used with food waste material, e.g., residential food waste and U-M football stadium compostable material, which is co-mingled with a carbon source for the composting process. The "tailings" material is reused, as part of the day-to-day operations of the facility. The material is then screened and the finished compost is produced and sold. As noted earlier, WeCare/Danali handles all of the items that residents deposit in their compost carts, and over the course of the five years of WeCare's operations, only a minimal amount of material (litter and non-compostable material from curb carts, such as large rocks, concrete and even the occasional bowling ball) has been handled by WeCare/Danali and diverted to a landfill.

As to the "growth" of the material, with the in and out flows of material, there will never be an "in and out balancing" for these flows due to several factors. The largest factor is that the composition of the material changes during the process of composting, i.e., one ton of yard waste/food waste does not result in one ton of finished compost. Also, the seasonality of the operation - - variability of incoming yard waste, leaf season in the fall and the demand for the finish compost in early spring and fall. In addition, the duration of the composting process is a factor as some material collected in one-year breaks down and continues to "cook" over the winter season into the next year.

Question: Q3. I recognize the city's process is to score the written proposals first, but in a case like this with a large dollar, multi-year award and only two bidders (one Michigan, one out state) it would seem appropriate to at least site visit the local firm or

contact their references before rejecting their proposal as essentially non-responsive. Can you please comment on why that was not done or deemed appropriate? (Councilmember Lumm)

Response: The City held a pre-bid meeting on August 15, 2017, which Cocoa attended. The selection committee did not interview Cocoa or visit its facility (which would have been an unusual step) because its technical proposal was insufficient to warrant it moving forward in the process, and to do so would not have been an effective use of staff time, or the time and effort of Cocoa.

CA-8 - Resolution to Ratify Emergency Change Order Request to the Construction Contract with E.T. MacKenzie Company for the Plymouth Road and Green Road Water Main Replacement Project, (\$474,645.84)

Question: Regarding CA-8, it was good to see this major project completed and the intersection fully re-opened by the end of November as promised. A neighbor has inquired about the pavement surfaces/dips on Plymouth between Green and Commonwealth and Administrator Lazarus indicated staff would look into it. When it is available, can you please share staff's assessment of the situation and whether any further work is necessary? (Councilmember Lumm)

Response: The two-foot deep hole reported in the spring was a sinkhole over a very large culvert not related to the intersection/water main project. The culvert has been repaired and the excavation has a temporary patch. The permanent repairs necessary have not been done yet because the temporary traffic control for the larger project conflicted with the performing the permanent patch. A concrete patch will be placed in the next couple of weeks.

PH-1/B-1 - An Ordinance to Amend Chapter 55 (Zoning), Zoning of 6.4 Acres from PUD (Planned Unit Development) to C1A/R (Campus Business Residential District) WITH CONDITIONS, 1140 Broadway Rezoning, (CPC Recommendation: Approval - 6 Yeas and 1 Nays) (Ordinance No. ORD-17-17)

PH-2/DB-1 - Resolution to Approve 1140 Broadway Planned Project Site Plan and Development Agreement, with Modifications to Chapter 62 Landscaping and Screening (CPC Recommendation: Approval - 6 Yeas and 1 Nays)

PH-3/DB-2 - Resolution to Approve the 1140 Broadway Brownfield Plan

Question: Why has the developer not reduced the height condition on zoning after reducing the building height from 8 to 7. (Councilmember Kailasapathy)

Response: A developer has to voluntarily offer conditions to be consistent with the requirements of state law, and the developer has chosen not to offer any additional

conditions. Questions regarding further insight as to the basis for what conditions were proposed need to be directed to the petitioner.

Question: Q1. The statement of conditions in the packet has not been revised and still reflects the prior site plan (eg 8 stories). I'm assuming there will be a revised statement of conditions and if so, when will we be able to review that? If not, why wouldn't the conditions be revised to reflect the new site plan and reduced number of stories? (Councilmember Lumm)

Response: No revised statement of conditions are anticipated, as the petitioner is not proposing any changes to the proposed rezoning. The conditions don't need to be revised as the site plan is not a condition of the proposed rezoning.

Question: Q2. If the conditions are not revised and the re-zoning approved, could the petitioner subsequently submit as a revision the original (taller) site plan and argue it was a "by right" proposal and site plan? (Councilmember Lumm)

Response: Yes.

Question: Q3. On Friday, I submitted a request for a layperson's translation of the fire review analysis that was conducted and was attached to Legistar. I would still appreciate that translation/interpretation and a response to my question whether there was any fire safety history on these "doughnut" structures that might be available? (Councilmember Lumm)

Response: Each project is different when it comes to the Fire Code and its application. These early conceptual drawings and submissions do not provide a full detailed accounting of the project. Once staff knows those details, which should come in the next phase of the process, they will be in a better position to understand the full scope of the project and make certain all aspects of the fire code are adhered to.

Staff is in the early stage of locating information regarding these structures from a fire service industry perspective. We are not finding a great deal of information from within our industry. We do know that most of these structures appear to have been constructed in more moderate climates (i.e. Texas doughnut) than Ann Arbor's. This may have an impact on the necessary type of suppression systems that are acceptable. We continue to research the fire code aspects as well as any information regarding firefighting tactics that may be available from other fire departments.

Question: Q4. Also on Friday, I asked whether the revised site plan constitutes enough of a change to start over on the public hearings? I'd appreciate your including the response to that question in the agenda response memo as well, including what the threshold is to start over on public hearings (if the response is that these changes are not substantive enough)? (Councilmember Lumm)

Response: Staff confirmed with the City Attorney’s Office that the decision to allow individuals to speak an additional time as part of a reopened or new public hearing is at the discretion of the Council. Chapter 55, Section 5:122(3) of Ann Arbor City Code allows Council to approve site plans conditioned on revisions to the site plan, without the requirement of an additional hearing. Often, Council, after receiving significant changes to a site plan prior to a public hearing has reopened the public hearing to allow those who have spoken to speak again about the revised plan. While no change to the site layout is proposed, there are building massing changes that have been revised, and Council may want to allow for additional feedback.

Staff notes that there are no changes proposed for the Brownfield Plan or Rezoning petitions.

Question: Q5. In a communication I received, it was indicated that the Master Plan calls for buildings of 2-4 stories on this site. Can you please confirm that is accurate? (Councilmember Lumm)

Response: It is partially correct. Here are excerpts from the master plan:

- “The former Kroger site . . . and surrounding properties are appropriate for low rise (2-4 stories) to mid-rise (5-8 stories), mixed-use urban village.”
- “The height of residential buildings near Traver Creek should not exceed 4 stories in height to minimize visual impacts to adjoining neighbors. Most new buildings in the remaining portion of the village center should be between 3 and 5 stories in height with some buildings as tall as 8 stories.”

Question: Q6. The cover memo on B-1 still indicates 8 votes are required. Can you please confirm that is correct and if not, please provide a brief explanation of what has changed since November 20th? (Councilmember Lumm)

Response: This is correct. One additional protest petition has been received since November 20.

Question: Q7. Is the revised site plan submitted on November 30th a "final" offer/proposal or would the developer consider further revisions? (Councilmember Lumm)

Response: The proposed plan is a final proposal based on conversation with the petitioner this morning.

Question: Q. Regarding DB-1, does the November 2 development agreement on Broadway need to be revised at all for the site plan changes? If so, when will we be able to review the revised version? (Councilmember Lumm)

Response: The only amendment would be a proposed reduction in park contribution, based on the reduction in units. This would reduce the contribution by approximately \$2,500.

DC-1 - Resolution to Establish 2018 Council Calendar

Question: Regarding DC-1 (council calendar for 2018), I can understand the rationale for waiting until Monday January 8 to hold the first meeting as AAPS does not resume school until January 8th, but I don't understand why the normal "third Monday of the month" meeting is being moved. Some folks may have planned for the normal "third Monday" (January 15) and have conflicts with that meeting being moved to the fourth Monday (I do). Can you please elaborate a bit on the rationale for moving that second meeting in January and is this something we could re-consider? (Councilmember Lumm)

Response: The first regular meeting of January was moved by one week and therefore each succeeding meeting of the month was moved by one week. As the resolution is currently drafted, the first regular Council meeting is scheduled on January 8, and the work session for the month is scheduled the following week on Tuesday, January 16 due to the Martin Luther King, Jr. Observance on Monday, January 15. According, Council Rule 4, Setting the Working Session Format, "The second and fourth Monday of the month may be set-aside for the Council Work Session. The Council Work Session may be scheduled for other days if authorized by a majority vote of the Council."

DC-2 – Resolution Committing the City of Ann Arbor to Using 100% Clean and Renewable Energy for City Operations

Question: Q1. What is our current clean and renewable percentage status for both the Scope 1 and Scope 2 city operations? (Councilmember Lumm)

Response: The DTE grid is currently 10 percent renewable as mandated by State law. Over the next five years, DTE will add another 5 percent. In addition, the City's hydro facilities and landfill gas-to-energy system when combined supply an additional equivalent of 30% of the electricity demand for City operations. When coupling all forms of energy (electricity, natural gas, and transportation fuel) approximately 20% of the City's total energy needs are met by these city-owned renewables.

Question: Q2. Do we have any sense of the cost to achieve 100% by 2035 and do we have any benchmark information of other communities that have made a similar commitment? (Councilmember Lumm)

Response: DTE Energy currently has a rate option to supply portions of customer service by various options up to entire supply through renewable energy (through a

wind and solar farm in mid-Michigan). As communicated from DTE, a 25-year, 100% renewable option would entail a premium of close to \$14M over the entire timespan. If the City were to use this rate DTE has indicated that the City would experience higher premiums at the front end of this term, with the premiums declining over time to potentially becoming credits back to the City as conventional fuel costs increase, netting to the total estimate of \$14M. Around the 2035 timeframe, there may be no additional premium to continue subscribing.

Alternately, building on-site installations (solar primarily) to supply facilities, the high-level estimated capital costs are \$90M for just electricity and \$140M to cover all other forms of energy. These are best estimates for low and high end possibilities, and additional approaches could emerge in the future altering these estimates either up or down.

As to other communities making similar commitments, most 100% commitments have appeared this past year and so it is too early to begin benchmarking other municipalities' progress and/or costs. Those cities that own municipal power facilities are likely making better inroads as they have more control and options than cities serviced by investor-owned utilities. The highest level of success toward greener/low carbon energy tends to be in places with higher hydro-electric service (e.g., the pacific northwest).

Question: Q3. The last whereas clause indicates that the city has appointed an Executive Policy Advisor for Sustainability. Is that Mr. Mirsky, and can you please remind me what other Executive Policy Advisors there are (beyond Mr. Mirsky and Ms. Petersen)? (Councilmember Lumm)

Response: Yes, the Executive Policy Advisor for Sustainability is John Mirsky. The other current Executive Policy Advisor is Sally Petersen, who is the Executive Policy Advisor for Economic Development.