



TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Derek Delacourt Community Services Area Administrator
Brett Lenart, Planning Manager
Cresson Slotten, Systems Planning Manager

SUBJECT: Council Agenda Responses

DATE: September 5, 2017

DC-1 - Resolution Authorizing the City of Ann Arbor to be Listed as a Supporting Municipality in an Amicus Brief to be filed with the United States Supreme Court in State of Hawaii and Ismail Elshikh. v. Donald J. Trump, et al.

Question: Who contacted the City? (Councilmember Lumm)

Response: The City of Chicago Law Department.

Question: What other cities (you indicate "numerous") have or are filing amicus briefs? (Councilmember Lumm)

Response: At this point a final count of the number of cities that will be participating as Amici on this brief is not available. However, according to the City of Chicago Corporation Counsel the following cities have already taken the necessary actions to participate:

Chicago
Los Angeles
New York City
Philadelphia
Baltimore MD

Carrboro
Central Falls
Evanston Ill.
Honolulu HI
Iowa City IA
Ithaca, NY
Minneapolis MN
Madison, WI
Montgomery County (MD)
New Haven Conn
Portland OR
Saint Paul MN
San Jose CA
Santa Clara County (CA)
Tucson AZ
West Hollywood CA

The US. Conference of Mayors
National League of Cities

It is anticipated that some or all of the following cities, which participated as supporting municipalities in the amicus brief filed with the 9th Circuit Court of Appeals, will join this brief this week:

Austin, TX
Boston, MA
Cook County, IL
Gary, IN
Jersey City, NJ
Oakland, CA
Portland, OR
Providence, RI
St. Louis, MO
San Francisco, CA
County of San Francisco, CA
Santa Monica, CA
Seattle, WA
Skokie, IL
South Bend, IN

In addition, Chicago Corporation Counsel has indicated that a group of states, a group of former national security officials, a group of Democratic lawmakers, and at least one interfaith coalition of religious organizations will likely file separate amicus briefs. In a case of this magnitude this is a common practice for different groups to file brief in support of one or both sides of the issue before the Court.

Question: Has the City ever before formally weighed-in on a Supreme Ct. case?
(Councilmember Lumm)

Response: Yes. The City of Ann Arbor authorized the City to be listed as a supporting municipality in an amicus brief filed with the United States Supreme Court in *April DeBoer, et al., v. Rick Snyder, Governor of Michigan, et al.* (same-sex marriage prohibition)(R-15-026) and *McCullen v. Attorney General for the Commonwealth of Massachusetts* (right to enact “Fixed Buffer Zone Laws”)(R-13-333)

Question: What do you project as the cost for the City Attorney's Office to develop the City's amicus brief? (Councilmember Lumm)

Response: The Ann Arbor City Attorney's Office is not authoring the Amicus Brief. Chicago Corporation Counsel is lead attorney responsible for drafting the brief, which has already been reviewed by the City Attorney.

DB-1 - Resolution to Approve Participation Agreement with Washtenaw County Parks and Recreation for the Purchase of the Development Rights on the Donald H. Drake Trust Property in Lodi Township, and Appropriate Funds, Not to Exceed \$174,997.00, from the Open Space and Parkland Preservation Millage Proceeds (8 Votes Required)

Question: On DB-1 (Drake property), when Council approved this in April, the County was not participating in the funding, but now they are participating (and obviously that's good to see). Did the County change its mind or had County funding not been pursued prior to the April Council action? (Councilmember Lumm)

Response: A request for funding participation was submitted to the County; however, due to deadlines mandated by the award of USDA-NRCS ACEP grant funding, the City had to secure permission to acquire the Drake (North) property and start due diligence activities before the County could make a final decision on their participation in the project.

DB-2 - Resolution to Approve the Purchase of Development Rights on the Seeley Farm LLC Property in Ann Arbor Township, Approve a Participation Agreement with Washtenaw County Parks and Recreation, and Appropriate Funds, Not to Exceed \$143,367.00, from the Open Space and Parkland Preservation Millage Proceeds (8 Votes Required)

DB-3 - Resolution to Approve Participation Agreement with Ann Arbor Township and Washtenaw County Parks and Recreation for the Purchase of the Development Rights on the Stiles-Kaldjian Property in Ann Arbor Township, and Appropriate Funds, not to Exceed \$242,500.00, from the Open Space and Parkland Preservation Millage Proceeds (8 Votes Required)

Question: Ann Arbor Township has its own Greenbelt-type program and two of the PDR's (DB-2 and DB-3) are in Ann Arbor Township, but the township is participating in funding just one of the two (DB-3, not DB-2). Why is Ann Arbor Township not participating in the funding of DB-2 and have there been other PDR's in the Township (since AA Township adopted their program) where they did not participate in funding? (Councilmember Lumm)

Response: The Seeley Farm LLC property had initially applied to Ann Arbor Township as the lead, but were not able to come to an agreement on the acquisition terms with the township. They subsequently rescinded their application with the township and applied to the Greenbelt Program instead. Since the property met the Greenbelt Program requirements, the Greenbelt Advisory Commission recommended pursuing the acquisition of this property. The County is contributing 50% of the funding to the project, but Ann Arbor Township declined to contribute funding.

The Greenbelt Program has contributed funding to a total of eleven properties located in Ann Arbor Township. Nine of these were Ann Arbor Township-led projects where the Township contributed funding, and two properties were acquired in fee by the County where Ann Arbor Township did not contribute funding.

Question: On DB-3, the cover memo indicates that Ann Arbor Township has been the lead agency on this one. Typically, the City's Greenbelt program pays the due diligence, closing and endowment costs on PDR's (roughly \$50K), but there is no mention of those costs on DB-3. Is the Township paying these costs? Also, does the County ever fund any of these administrative/overhead costs and if not, why not? (Councilmember Lumm)

Response: The lead agency has the primary responsibility to pay the due diligence, closing, and endowment costs on PDRs. In the case of the Stiles-Kaldjian property, the Township, as lead agency, is paying these costs. When the County is the lead agency on a project, they have the primary responsibility for covering these expenses.

DB-4 - Resolution to Approve the Distribution of the Draft Plan, The Treeline - Allen Creek Urban Trail Master Plan, (CPC Recommendation: Approved - 6 Ayes and 0 Nays)

Question: Regarding DB-4, it's great to see the distribution of the draft Allen Creek Urban Trail Master Plan on the agenda. That seems to indicate the team will meet the Master Plan timing schedule of completion by year-end 2017 and given all the work and effort, that's quite an accomplishment. Once the Master Plan is adopted, what are the key initial steps in the implementation phase/work plan and what are the rough timing, cost estimates and funding sources for those steps? (Councilmember Lumm)

Response: This information is contained in **Chapter 4: Implementation** of the draft master plan document, which is attached to this item in Legistar. Chapter 4 of the document has been excerpted from the document and is attached for reference.

Question: Also, on DB-4, two key stakeholders we talked about at the June work session are Watco Companies and the UM. Can you please provide an update on any discussions we may have had with those stakeholders since that work session in June? (Councilmember Lumm)

Response: The summaries of these discussions are included on page 12 of the draft master plan document. This page has been excerpted from the document and is attached for reference.

Chapter 4: Implementation

Implementing The Treeline will be a complex and long-term effort that will require partnerships and coordination between City staff, technical experts, The Treeline Conservancy, project sponsors, and the public at-large. For a project of this magnitude, understanding the implementation challenges, long-term operational needs, and strategies for realizing the vision is critically important.

Phasing Strategy

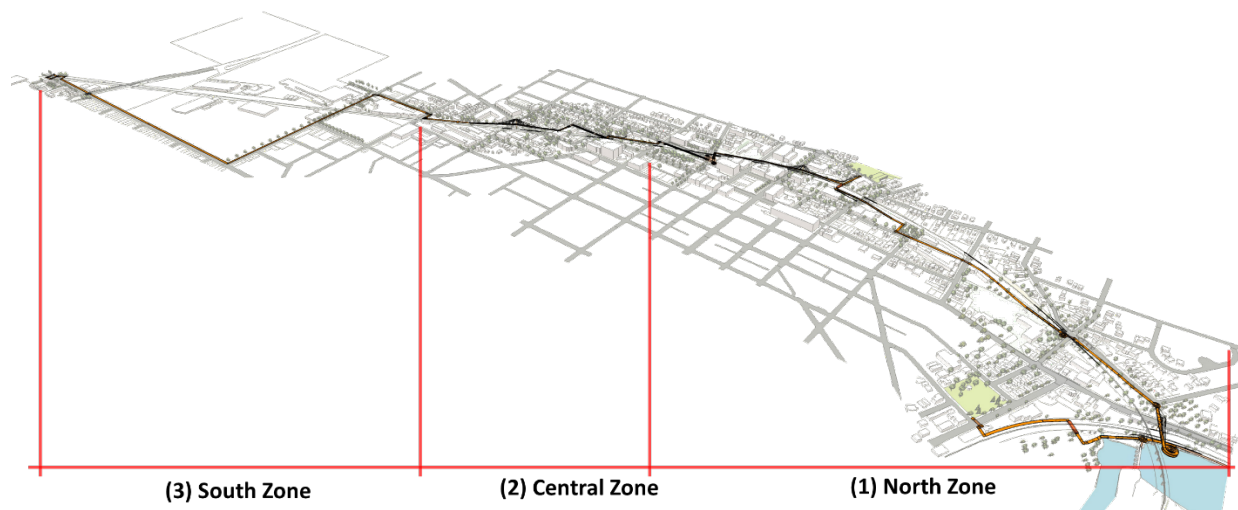
The Treeline urban trail (approximately 3 miles) is not likely to be constructed all at one time as a single project. The trail will most likely be implemented through a series of coordinated phases. Advantages of a phased approach include the following:

- Initial phases can (and should) connect directly to other significant trail assets and non-motorized facilities to begin building a more robust network immediately.
- Success of initial phases demonstrates a commitment to the process and can build momentum and additional support for the overall vision.
- Project phases can be sequenced around funding cycles, especially for granting agencies or other institutions that may be needed partners on the project.
- Phasing can capitalize on near-term opportunities or “low hanging fruit” improvements while negotiations and agreements with other property owners are resolved.

Anticipated Phasing Sequence

The diagram below indicates an anticipated phasing sequence over three zones.

Figure 24 – Overall Phasing Approach



- **(1) North Zone: Border-to-Border Trail (B2B Trail) to First & William Property** (see detailed enlargement below)



- » This zone provides the critical linkage to the B2B Trail near Argo Dam and provides a way to cross over major barriers – North Main Street and the MDOT rail corridor – in order to access the riverfront.
 - » Improvements in this zone can build on the progress currently underway in constructing the non-motorized tunnel under the MDOT railroad line (Allen Creek Berm project).
 - » This zone contains all three of the significant City-owned parcels within the project corridor. Use of City-owned parcels in combination with near-term opportunities and negotiations with Watco Companies, could result in the implementation of a significant and critical section of The Treeline.
- **(2) Central Zone: First & William Property to Hill Street**
 - » This challenging trail section requires coordination and cooperation between many private property owners.
 - » This is the most physically constrained zone, with a narrow railroad right-of-way and limited public property outside of the street rights-of-way.
 - **(3) South Zone: Hill Street to South State and Stimson Street Intersection**
 - » For the primary route alignment, this section proposes use of public street rights-of-way for the trail.

North Zone – Enlargement

Figure 25 – North Zone Phasing Detail



The diagram above identifies six specific project areas (A, B, C, D, E, and F) within the North Zone to consider from a phasing and cost evaluation perspective.

- **Project Area A** creates a critical connection to the B2B Trail and an alternative route for pedestrians and cyclists that use the North Main Street corridor. In conjunction with the proposed gateway bridge and spiral ramp, this section represents a highly visible signature element of The Treeline.
- **Project Area B** includes The Allen Creek Berm project (currently in a design and engineering phase) and is partially funded.



- **Project Area C** includes a combination of City-owned land, railroad property, and private property. In this area, private property access easements have already been secured (e.g., Kingsley Condominiums).
- **Project Area D** can be advanced in stages, either as near-term on-street improvements to Miller Street and crossing onto Chapin Street, or with the bridge over Miller Street and a tunnel through the railroad berm.
- **Project Area E** includes improvements and/or revenue generation opportunities on the City-owned 415 W. Washington property. Near-term connections may make use of the HAWK Beacon at the Huron Street and Chapin Street intersection while the elevated trail and bridge sections are advanced for implementation.
- **Project Area F** is mostly within the public rights-of-way, with a minimal encroachment on the railroad property near the First and William Street property.

Funding & Implementation

Funding Mechanisms

The Treeline reflects a significant, long-term public infrastructure investment. While the project will be expensive in comparison to other trail projects completed by the city in the past – it is important to consider the transformative potential of The Treeline. Like the success of the Argo Cascades in reinvigorating the riverfront and drawing people and activity into the city, The Treeline has the potential to become a magnet for the community and improve the quality of life for residents for generations.

Funding The Treeline will require partnership and collaboration with The Treeline Conservancy and intends to seek a broad range of funding support for the project – including a high reliance on funding sources not typically used for public projects in the City of Ann Arbor. It is also important to consider the capital cost needs to fund construction, as well as the needed on-going costs to support sustainable maintenance and operations of the trail facility.

Sources of Funding

The broad range of benefits and community impacts associated with the urban trail correlates with a broad range of potential funding sources. While a generic “trail” project may only qualify for transportation funding, a trail that also responds to stormwater/floodplain concerns, community health, recreational needs, safety, education, and environmental restoration can pursue a wider range of grant opportunities or other funding sources.

- Public agency grants in transportation, health, educational, & environmental fields.
For example:
 - » *Non-motorized transportation grants*
 - » *Pedestrian safety grants*
 - » *Healthy/livable community grants*
 - » *Safe routes to schools program*
 - » *FEMA floodplain relief grants*
 - » *Water quality and watershed related grants*
 - » *Federal TIGER transportation grants*
 - » *MDOT trail related grants*
 - » *Economic development grants*
 - » *Brownfield funding*



- Support from local, regional, and national organizations, agencies, and foundations.
For example:
 - » *Ann Arbor Area Community Foundation*
 - » *ERB*
 - » *Community Foundation for Southeast Michigan*
 - » *Rails-to-Trails*
 - » *U-M Outdoor Adventures (at Elbel Field)*
 - » *Sierra Club*
 - » *Residential neighborhood groups*
 - » *U-M Office of Sustainability*
 - » *YMCA*
 - » *Ford Foundation*
 - » *Huron River Watershed Council*
 - » *Chamber of Commerce*
 - » *Ann Arbor Public Schools*
 - » *Legacy Land Conservancy*

- Private and/or corporate sponsorship
For example: Naming rights for key elements, tech industry sponsors

- Direct funding mechanisms:
For example:
 - » *Tax increment financing (TIF) related to property redevelopment near the Treeline corridor.*
 - » *Business Improvement District (BID) or similar mechanisms.*
 - » *Dedicated local millages*
 - » *City and/or County funds*
 - » *Revenue from sale of property*
 - » *Crowdfunding campaigns (e.g., Kickstarter, Go Fund Me, etc.)*

- Revenue generation methods
For example:
 - » *Sales related to concessionaire fees*
 - » *Equipment rentals (e.g., bicycle rentals)*
 - » *Sale of The Treeline branded merchandise*

- In-kind donation of services
For example:
 - » *Adopt-a-trail programs*
 - » *Volunteer programs for maintenance tasks*
 - » *Trail ambassador program*
 - » *Ann Arbor Bicycle & Touring Society*
 - » *Washtenaw Bicycling & Walking Coalition (WBWC)*



Project Construction Conceptual Cost Opinion

Through the master plan process, a conceptual cost estimate for the Treeline has been developed. This cost estimate pertains only to the design, engineering, and construction cost of the physical infrastructure. Other transactional costs (e.g., property acquisition) or uncertain costs (e.g., environmental remediation) are not reflected in this estimate. The following outline lists items included and not included in the estimate:

Trail Amenities & Features Included:

- All primary trail alignment features and connector paths, including bridges and elevated ramp sections.
- Trees and landscaping along the trail
- Benches and other site furnishings
- Stormwater management for trail area
- Pedestrian-scale lighting and security (call boxes)
- Ornamental security fencing (as needed)
- Grading, retaining walls, and utility modification (as needed)

Cost Opinion ALSO Includes:

- Design and engineering fees
- Permitting, survey, and geotechnical related fees
- Design, estimate, and construction contingencies
- Project management and construction administration

Cost Opinion Does NOT Include:

- Any property acquisition and/or easement costs, as well as any other specific physical property modifications that may be required as part of securing access
- Major utility modifications or enhancements
- Environmental remediation
- Flood mitigation and/or floodplain enhancements
- Projection of on-going maintenance and operational costs
- “Other Opportunities” referenced in the framework plan

Construction Cost Opinion

- **Preliminary opinion of construction costs: \$53 to \$57 million.**
 - » This estimate is based on 2017 dollars with no adjustment for inflation into future years.
 - » The overall project timeline and phasing will impact this cost estimate as costs are adjusted for inflation.
- At approximately 2.75 miles in length, the Treeline is \$3,800 per linear foot of trail.

Benchmarks

The construction cost of The Treeline is within, or below, the cost range of other similar urban trail projects (see Appendix D for trail case studies).

- 606/Bloomington in Chicago (mostly elevated)
 - » \$95 million for 2.7 miles (\$6,650 per linear foot)
- Indianapolis Cultural Trail (mostly on-street)
 - » \$63 million for 8 miles (\$1,500 per linear foot)
- Chicago Navy Pier Flyover (mostly elevated)
 - » \$60 million for 0.6 miles (\$19,000 per linear foot)



Operational & Maintenance Needs

Urban trail maintenance is important for user safety and longevity of the trail system to make wise use of initial investments. Well-maintained facilities minimize hazards and promote continued use. Ensuring that maintenance needs are addressed and resources are made available to support maintenance is critical for trails on-street and off-street.

The items below reflect general types of maintenance activities that should be addressed in the operational plan for The Treeline.

Inspections: Routine inspections are integral to all maintenance operations. Inspections should occur on a regularly scheduled basis. Frequency of trail inspections will depend on the amount of trail use, location and age. Items to consider in trail inspections include: scheduling and documentation of inspections; the condition of railings, bridges, and trail surfaces; proper and adequate signage; removal of debris; and, coordination with other agencies associated with trail maintenance.

Trail surface maintenance

- Snow clearing to the full width of trail facilities
- Sweeping/washing
- Pavement marking maintenance
- Pavement repair

Furnishing & Amenity Maintenance

- Cleaning and repair of seating areas, benches, etc.
- Waste collection (trash and recycling)
- Signage repair/maintenance
- Light pole operations and repair/maintenance
- Security call box maintenance and 911 fees

Landscape Maintenance

- Stormwater (inlet & trap cleaning)
- Perennial beds
- Tree and shrub trimming/pruning – ensuring that trail areas are free and clear of any obstructions and that the 2-foot clear zones adjacent to bicycle areas are maintained.
- Lawn mowing
- Fence repair

Other Maintenance Needs

- Signal timing and adjustments
- Railroad crossing materials/surface maintenance
- Elevated trail and bridge inspections
- Utility inspections and maintenance



Operational & Programming Needs

Beyond physical maintenance, operating a successful urban trail may also require investment in programming to build support and utilization of the trail facility. These programming needs may be conducted with volunteer labor, but are often a responsibility of the trail operating entity and hence may have a cost associated with providing these programs. Typical programs include:

- Creation and rotation of interpretive signage
- Art installation/rotation and selection oversight
- Trail ambassadors (trail “rangers”) program coordination
- Special event coordination
- Project implementation coordination with other projects in the area
- Safety patrols and/or emergency fees
- Wayfinding and branding programs

Business Plan

The Treeline Conservancy is working with the City of Ann Arbor to develop a “Business Plan” that will advance implementation of the Treeline Project. This plan is comprised of three critical sections as follows:

- Governance Structure
- Financial Structure
- Implementation Strategy

Governance Structure

The sustained management of urban trails and greenways is a complex enterprise and requires that one or more organizations be responsible for overseeing construction and on-going operations. There are a variety of governance models and partnership structures that are used across the country, ranging from single-agency public management to multiple partnership or entirely privately operated.

The business plan under development by The Treeline Conservancy aims to establish a public-private partnership between the Treeline Conservancy and the City of Ann Arbor. The partnership arrangement could include an agreement to empower the Treeline Conservancy as the managing partner for The Treeline. Through such an agreement, The Treeline Conservancy would be responsible for the day-to-day operations and maintenance of the urban trail. The City of Ann Arbor, via City Council or staff actions, would help coordinate the implementation of capital improvements.

Partnerships

In addition to The Treeline Conservancy structure, forming partnerships with other organizations, City units, and entities that can help support The Treeline will be important to successfully achieving the vision of this plan.

Financial Structure

The financial needs of implementing the trail include capital costs and operating costs. The overarching funding goal is to generate the necessary capital to fund implementation while also building a sustainable source of funding for ongoing maintenance and operations. The Funding Mechanisms section identified many potential sources of funding, but it is important to



acknowledge that certain types of funding are better suited to capital expenses and others for operating expenses.

Funding sources for capital costs for design and construction

- City resources (funds and properties)
- Grants
- Donations and sponsorships
- Debt financing

Funding sources for operating expenses:

- Funding from operations of facilities
- Programming of spaces
- Sponsorships
- Limited City funding envisioned

Implementation Strategy

The final component of the business plan relates to the implementation strategy. Critical tasks to advance implementation in the near-term include:

- Project phasing (see Chapter 4: *Phasing Strategy*) and pursuit of future phases (e.g., connections south of the State and Stimson Street intersection).
- Continued outreach with property owners, University of Michigan, and Watco Companies.
- Detailed design, planning, and legal groundwork
 - Acquisition of easements and/or properties
 - Conceptual design approval and detailed cost estimates
- Project design – including survey, geotechnical, engineering, permitting and approvals
- Project implementation – construction and construction administration.

These strategies and approaches will be further refined as The Treeline business plan is finalized.



Photo taken by: John Sullivan; Images provided by: Treeline Conservancy



Key Property Owners

The University of Michigan (U-M), Watco Companies (including Ann Arbor Railroad), and other private property owners along the project corridor were engaged to obtain their input about preferred route alignments and project proposals. Property owner receptivity to a trail alignment being shown on their property as part of the master plan was assessed.

What we heard:

- Watco Companies
 - » Safety and liability is the primary concern. Watco Companies emphasizes the risk of a potential derailment and the impact it could have to a trail within the rail corridor.
 - » No precedent for a “rail with trail” in their holdings anywhere in the country.
 - » Watco Companies acknowledged that they want to be a good neighbor/steward in the Ann Arbor community.
 - » Route options that were mostly within the rail corridor raised significant concerns with Watco Companies and are not likely to be feasible options from their perspective.
 - » Watco Companies was encouraged to see that the preferred route alignment did not utilize the rail corridor in its entirety, and that only key essential segments of the railroad property were utilized.
 - » Future use of rail right-of-way will require detailed coordination with and approval from Watco Companies; it is acceptable to them to continue to show the proposed route in the Master Plan.

- University of Michigan
 - » U-M would rather see alignments that make use of public rights-of-way on State Street, Hill, Division, and Hoover around the south campus area.

- Other Private Property Owners
 - » Conversations have occurred with many property owners and in collaboration with the Treeline Conservancy. No new agreements have been made with property owners. The project team sought to determine whether property owners were amenable to showing a conceptual trail alignment through their property, understanding that design and operational details would need to be worked out to the satisfaction of affected property owners.
 - » Overall, private property owners were very supportive and saw the potential value an urban trail would bring to their tenants, businesses, or property users.
 - » For new development projects along the preferred route, the City is requesting easements from property owners during the site plan approval phase.