



TO: Mayor and Council

FROM: Milton Dohoney Jr., City Administrator

CC: John Fournier, Deputy City Administrator
Derek Delacourt, Community Services Area Administrator
Brett Lenart, Planning Manager
Aimee Metzger, Interim Police Chief
Missy Stults, Director, Sustainability & Innovations

SUBJECT: August 7, 2023 Council Agenda Response Memo

DATE: August 3, 2023

CA-14 - Resolution Approving an Agreement for I.T. Services between Oakland County and the City of Ann Arbor for Continued Participation in CLEMIS for Five Years FY24 - FY28 and Appropriate Funding (\$527,900.00) (8 Votes Required)

Question: The recent *Analysis of Ann Arbor Police Department Traffic Stop Data, 2017-2019* by SMART made the following recommendations (p. 37) regarding data access and transparency that pertain to the CLEMIS system. These changes would not only benefit AAPD, but every police department and community using the system. It appears that CLEMIS made some changes during the recent study to aid data-analysis and the Dr. Karpiak has indicated to me that he thought the changes below would likely be relatively simple changes CLEMIS could make to aid future data tracking. Has AAPD approached CLEMIS regarding making the changes outlined below? What assurances can we have before approving this contract that CLEMIS is amenable to making the following system improvements? (Councilmember Briggs)

Response: Please see responses below.

Q1. Furthermore, SMART offers recommendations for the nature and format of the data that would be shared:

- o In order to be of utility for future research, this data should be made available in a downloadable file format such as .csv or .html.*

Response: Yes, this data can be made available in both formats.

○ *AAPD and the City of Ann Arbor may want to reassess the racial categories available to officers in the CLEMIS system, potentially modifying them to more closely align with US census data.*

Response: AAPD is seeking to align the racial categories of traffic stops to the MSP crash report data.

○ *Stop Outcomes should be reported in such a way that the frequency of cases in which multiple outcomes (Verbal Warnings, Citations, and Arrest) resulting from a single Stop are reported. This will enable more robust Outcomes Analysis, such as an analysis of Hit Rates, which may speak more directly to racially targeted police action.*

Response: Today the CLEMIS software only allows an Officer to select one outcome. AAPD will request that CLEMIS add a feature for multiple traffic stop outcomes. CLEMIS puts agency software enhancement requests in a queue with other agency requests.

○ *Finally, in order to facilitate future analyses, it would be ideal to offer benchmark data, such as Collision data or Inter-Twilight time windows (for Veil of Darkness benchmarking), alongside Traffic Stop data. Such data can be difficult to locate for non-specialists, but are essential for calculating and assessing the types of Odds Ratios included in this report.*

Response: Traffic stop data is very close to going live on the AAPD's Transparency Dashboard: <https://portal.arxcommunity.com/dashboards/community/mi-ci-annarbor-pd> For Veil of Darkness (time of day) benchmarking, AAPD can request traffic stop time of day be added to the dashboard.

AAPD is also working on publishing collision data on the Transparency Dashboard.

C-2 – An Ordinance to Amend Sections 5.15, 5.16 and 5.17 of Chapter 55 (Unified Development Code) of Title V of the Code of the City of Ann Arbor (TC1 Uses, Auto-related and TC1 Development Use Specific Standards, Transit Corridor Additional Standards)

Question: When these modifications to TC1 were considered at Planning Commission, the Commission made two alterations about which I invite Planning staff to comment generally and/or to address the following specific questions (*in italics*).

Q1. The Commission voted 4-1 to change auto/truck equipment repair and auto sales and rental from a primary use to a SEU. a) *Does Staff think that the SEU designation is the most appropriate tool to achieve PC's intent, which was, in part, to limit auto-related uses consistent with TC-1's broad goal to reduce reliance on automobiles and, in part,*

also to ensure that storage of car inventory would not result in re-introducing larger than desired parking lots in TC-1 through a "back door." b) TC-1 aims to make form-based rather than use-based recommendations. Is it possible that the form-based specifications already built into TC-1 address most of the concerns that PC wanted to address via the application of the SEU designation to auto truck equipment repair and auto sales and rental? In staff's judgment, to what extent do the form-based specifications adequately address the concern that permanent outdoor storage of car inventory could allow what would look like large parking lots? (Councilmember Disch)

Response:

- a. While the review history will show that Planning staff was supportive of the uses as permitted vs. special exception uses, the Planning Commission recommends the uses be designated as Special Exception Uses. While this will require additional review criteria to be applied to the uses, it will enable additional contextual consideration of the uses in any TC1 area. While the City has robust regulations elsewhere in the UDC regarding parking, form, and placement of parking in the TC1 District, Special Exception Use designation will enable additional consideration of these factors.
- b. In staff's opinion, the form-based specifications can be fully relied upon to enable any permitted use to contribute to the desired form of our transit corridors. Vehicular parking is specifically regulated in form and quantity in the TC1 to a greater extent than other zoning districts.

Question: Q2. The Commission also voted 5-0 to apply the use specific standards 5.16.3c to automobiles, requiring repair services to be located in an enclosed building. *At the meeting, staff indicated that they did not want to analyze the implications of this change at the table but offered include such analysis in a memo to Council if they saw any concerns arising from this change. Does staff have any concerns about this change that would motivate providing such a memo? (Councilmember Disch)*

Response: No, upon reflection and the aforementioned existing regulations, staff does not have concern in regard to this change.

C-3 – An Ordinance to Add Chapter 106 (Home Energy Rating Disclosure) to Title VIII (Building Regulations) of the Code of the City of Ann Arbor

Question: Some realtors in my ward have written to me to raise concerns about the potential for the HERD to introduce additional costs and delays into the home selling process. Would staff please explain how the proposed version of the ordinance responds to those concerns? Would staff be able to highlight any other changes that have been made (to the ordinance, to OSI capacity, or other things) in order to address Realtor concerns and solicit their partnership in this process? (Councilmember Disch)

Response: The two major concerns OSI heard from realtors regarding HERD were related to costs and timelines for receiving the necessary assessment. In light of those concerns, staff responded with the following actions:

- OSI is dedicating Community Climate Action Millage dollars to hire a full-time home energy assessor to do **free** home energy assessments for residents. We expect this person to be hired in the coming weeks (the job is currently posted), so they'll be ready by the time this ordinance would take effect.
- OSI has been coordinating with local energy service providers to help meet any additional demand that may exceed the ability of the soon to be hired Energy Assessor. This includes meeting with firms that could be put under contract to offer additional help during high demand periods and working with those firms to hire additional capacity to ensure they are ready to support the program as needed. Furthermore, these firms have agreed to work with the City on additional workforce development (i.e. training additional assessors) to grow both the Ann Arbor as well as the region energy assessment labor field.
- Additionally, apart from the HERD ordinance, OSI has a goal to get all homes in Ann Arbor scored using the Home Energy Score. This goal helps move us toward achieving A²ZERO, and as it relates to HERD, getting homes scored *before* they decide to sell means it's not a non-issue come listing & sale.

Question: Q1. Can you provide more details about the stakeholders that have been engaged with during the formation of this ordinance, particularly the realtor community, and any changes that have been made to this ordinance in response to feedback that has been received and since Energy Commission recommended approval? ? (Councilmember Briggs)

Response: Throughout the process of developing the HERD ordinance, OSI staff met with many local real estate agents (including the Ann Arbor Area Board of Realtors, agency offices, and several one-off conversations with individual agents), local homeowners, the Energy Commission, and city staff from other jurisdictions where similar programs to HERD are in place. During this engagement, OSI staff heard concerns from local agents regarding the time it would take to obtain a Home Energy Score (HES), the cost to homeowners, as well as concerns regarding enforcement. To address these concerns, the OSI made the following changes to both the ordinance language and staff capacities (few changes were made past energy commission review but those that were are noted below):

1. OSI is dedicating Community Climate Action Millage dollars to hire a full-time home energy assessor to do **free** home energy assessments for residents. We expect this person to be hired in the coming weeks (the job is currently posted), so they'll be ready by the time this ordinance would take effect.
2. OSI has been coordinating with local energy service providers to help meet any additional demand that may exceed the ability of the soon

to be hired Energy Assessor. This includes meeting with firms that could be put under contract to offer additional help during high demand periods and working with those firms to hire additional capacity to ensure they are ready to support the program as needed. Furthermore, these firms have agreed to work with the City on additional workforce development (i.e. training additional assessors) to grow both the Ann Arbor as well as the region energy assessment labor field.

3. Additionally, apart from the HERD ordinance, OSI has a goal to get all homes in Ann Arbor scored using the Home Energy Score. This goal helps move us toward achieving A²ZERO, and as it relates to HERD, getting homes scored *before* they decide to sell means it's not a non-issue come listing & sale.
4. In response to agent concerns, OSI staff changed the language of the ordinance so that the responsibility for disclosure, and the associated enforcement, is no longer with the seller's agent, but instead the home seller. (only real change since Energy Commission saw the ordinance).
5. As additional context, in our outreach we spoke with other communities whose realtor community shared similar concerns. However, upon implementation of their ordinances, none of the communities we met with experienced any delay in home sales as a result of their ordinances.

Question: Q2. While the intent of this ordinance is to provide a home energy score rating and report to all potential buyers and have the score available at the time of listing, a seller would not face a penalty until the point of sale. One concern of the realtor community has voiced is the need for swift transactions when selling homes. What steps is OSI taking to ensure that prospective sellers can obtain a home energy assessment in a timely manner? What time frame does OSI consider timely (from time of request to time of assessment)? (Councilmember Briggs)

Response:

1. Homeowners do not need to wait until they sell to get a HES, and the HES is valid for 8 years (or until any major changes to the home are made). Therefore, the first step the OSI will take is to raise awareness about the HES requirement and encourage homeowners to get an assessment *before* they choose to sell, eliminating the need to get an assessment during the sale process.
2. As mentioned above, the OSI is also hiring an energy assessor and working with local energy service providers to help meet the local demand for assessments to keep the timeframes for getting an assessment as short as possible. These efforts, combined with the existing availability of local energy assessors, means the OSI expects assessment turnarounds of no more than 3-5 days. Of course, this timeframe is zero for homes that already have a valid HES.

3. Another intended action of the OSI is to work with local agents to offer Continuing Education Unit (CEU) credits. Pre-sale awareness of the HES requirements would allow both seller and buyer agents to help their clients get a HES prior to listing, providing an even greater service to their clients.
4. Finally, homeowners will not be required to use the City's energy assessor and may use the open market for alternative HES assessment options, thereby providing another flexible pathway to get an assessment should time be of the essence.

Question: Q3. How does OSI plan to evaluate the effectiveness and impacts of this ordinance (intended consequences and potentially unintended consequences), including time to access an energy audit. (Councilmember Briggs)

Response: Throughout implementation of this ordinance, the OSI will gather certain non-identifying metadata about and during the home scoring process, as well as publicly available information. Metrics for success include but are not limited to:

1. Total number of homes in Ann Arbor with a valid HES.
2. Number of homes scored prior to sale.
3. Time elapsed (in days) between a scheduled assessment and a HES provided.
4. The relationship between HES and final home sale price.
5. Number of public engagement events pertaining to HERD
6. Number of CEU classes offered.
7. Number of new HES assessors trained by the City or OSI collaborators.
8. And, of course, total greenhouse gas emissions for the community.

Question: Q4. What cities was this ordinance modeled after? (Councilmember Briggs)

Response: The HERD ordinance has been well informed by a number of different sources. The language was primarily modeled after the successful ordinance passed in Portland, OR in 2018. However, some components were influenced by an information-sharing cohort of jurisdictions across the nation who are developing or implementing similar ordinances, including Austin, TX; Bend, OR; Fort Collins, CO; Hillsboro, OR; Minneapolis, MN; Montgomery County, MD; Washington State, and more. Additional resources/insights were provided by RMI, Lawrence Berkeley National Laboratory (LBNL), the American Council for an Energy Efficient Economy (ACEEE), the US DOE, U of M researchers, and others.

Question: Q1. I know that this is coming to us a bit later than initially anticipated, in part because OSI was so invested in engaging with community stakeholders and thinking through the impacts that this ordinance may have on our housing market. Can you please share a little more background on which stakeholders were engaged throughout the process of developing this ordinance, and how some of those perspectives ultimately helped to shape the final language? (Councilmember Radina)

Response: Throughout the process of developing the HERD ordinance, OSI staff met with many local real estate agents (including the Ann Arbor Area Board of Realtors, agency offices, and several one-off conversations with individual agents), local homeowners, and city staff from other jurisdictions where similar programs to HERD are in place. During this engagement, OSI staff heard concerns from local agents regarding the time it would take to obtain a Home Energy Score (HES), the cost to homeowners, as well as concerns regarding enforcement. To address these concerns, the OSI made the following changes to both the ordinance language and staff capacities:

- OSI is dedicating Community Climate Action Millage dollars to hire a full-time home energy assessor to do **free** home energy assessments for residents. We expect this person to be hired in the coming weeks (the job is currently posted), so they'll be ready by the time this ordinance would take effect.
- OSI has been coordinating with local energy service providers to help meet any additional demand that may exceed the ability of the soon to be hired Energy Assessor. This includes meeting with firms that could be put under contract to offer additional help during high demand periods and working with those firms to hire additional capacity to ensure they are ready to support the program as needed. Furthermore, these firms have agreed to work with the City on additional workforce development (i.e. training additional assessors) to grow both the Ann Arbor as well as the region energy assessment labor field.
- Additionally, apart from the HERD ordinance, OSI has a goal to get all homes in Ann Arbor scored using the Home Energy Score. This goal helps move us toward achieving A²ZERO, and as it relates to HERD, getting homes scored *before* they decide to sell means it's not a non-issue come listing & sale.
- In response to agent concerns, OSI staff changed the language of the ordinance so that the responsibility for disclosure, and the associated enforcement, is no longer with the seller's agent, but instead the home seller.
- As additional context, in our outreach we spoke with other communities whose realtor community shared similar concerns. However, upon implementation of their ordinances, none of the communities we met with experienced any delay in home sales as a result of their ordinances.

Question: Q2. One of the initial concerns about implementing HERD was uncertainty about whether Ann Arbor had enough energy assessors to meet the demand that this may create. Can you please share how OSI is working to address this concern? ? (Councilmember Radina)

Response: There are two primary ways OSI is addressing this concern:

- OSI is dedicating Community Climate Action Millage dollars to hire a full-time home energy assessor to do **free** home energy assessments for residents. We expect this person to be hired in the coming weeks (the job is currently posted), so they'll be ready by the time this ordinance would take effect.

- OSI has been coordinating with local energy service providers to help meet any additional demand that may exceed the ability of the soon to be hired Energy Assessor. This includes meeting with firms that could be put under contract to offer additional help during high demand periods and working with those firms to hire additional capacity to ensure they are ready to support the program as needed. Furthermore, these firms have agreed to work with the City on additional workforce development (i.e. training additional assessors) to grow both the Ann Arbor as well as the region energy assessment labor field.

Question: Q3. Why can't Ann Arbor require and/or incentivize every dwelling to undergo a home energy assessment every 10 years, for example, instead of tying this process to home sales? (Councilmember Radina)

Response: The HERD requirement for a HES isn't inherently tied to the home sale process; homes that already have a valid HES don't need to re-score before being listed for sale. Part of the purpose of the OSI's goal to score all homes in Ann Arbor is to get homes scored before they enter the real estate process. Additionally, OSI has chosen to pursue the HERD ordinance as written in part because OSI believes a prospective homebuyer should have information to fully assess whether or not a home is right for them (and affordable, safe, and healthy). Moreover, there are many successful examples of similar ordinances in other municipalities across the nation. These examples are showing positive impacts in their communities and the OSI hopes to replicate those impacts here in Ann Arbor.

- a. Because the "incentive" pathway can sometimes mean the "voluntary" pathway, we'd like to reference some research published by Lawrence Berkeley National Laboratory; LBNL examined over 26,000 home sales that occurred after receiving a Home Energy Score. Among the many findings was that only in cities where the HES assessment was *required* to be disclosed at the time-of listing did they experience a positive market impact. Places with *voluntary* HES activities showed no statistical market benefit. The OSI hopes HERD will result in more educated homebuyers, finding homes that are affordable to them, and a market push for safer, healthier, more comfortable, and more efficient homes.
- b. In addition, the OSI is already prepared to pair incentives with the HERD requirements. The rebates being made available from the Community Climate Action Millage of 2022 will support home energy assessments for residents, and rebate eligibility may even require an assessment. These programs are still being crafted and should be available late 2023 or early 2024.