



TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Tom Crawford, CFO
Derek Delacourt, Community Services Area Administrator
Nate Geisler, Energy Programs Analyst
Craig Hupy, Public Services Area Administrator
Brett Lenart, Planning Manager
Cresson Sloten, Systems Planning Manager
Ellen Taylor, Assistant Fire Chief

SUBJECT: Council Agenda Responses

DATE: 5/1/17

CA-6 - Resolution to Establish the Inglis House Historic District Study Committee and to Require all Applications for Permits within the Proposed Inglis House Historic District to be Referred to the Historic District Commission for Review

Question: This property was part of a previous effort to protect individual historic properties throughout the City, which the Courts found illegal. Has staff taken any actions to address the loss of historic protections for the other individual properties? (Councilmember Eaton)

Response: After the Court of Appeals decision in 2001, staff supported the Historic District Study Committee for several years while considering new district descriptions. In 2005, no further appointments were made to the Committee, and no further action was taken.

CA-8 - Resolution to Approve a Purchase Order for Annual Maintenance and Support of TRAKiT System with Sungard Public Sector for FY2017 (\$41,616.12)

Question: Will this allocation help address TRAKiT's usability, such as the inability to link to specific projects or documents from an email? When does this agreement expire, and what are the consequences for early termination? (Councilmember Westphal)

Response: This resolution is just for the annual support that gives us the ability to call the vendor for issues/questions. There are no TRAKiT software enhancements as part of this resolution. The agreement will expire 3/31/2018. There are no consequences for early termination because we are paying for the software up front.

Question: Is there a plan to review providers of this service to see if a more user-friendly option is available? (Councilmember Warpehoski)

Response: Staff is going to create an RFP for a TRAKiT replacement. The tentative deadline for that RFP is early June.

Question: I recall some conversation around replacing the TRAKiT system. Are there any updates you could share? (Councilmember Grand)

Response: Staff is going to create an RFP for a TRAKiT replacement. The tentative deadline for that RFP is early June.

CA-12 - Resolution to Approve a Professional Services Agreement for Construction Materials Testing with CTI and Associates, Inc. for the 2017 Street Resurfacing Project (RFP No. 960; \$144,100.00)

Question: Has the city hired CTI for asphalt testing in the past? If so, for what projects? (Councilmember Westphal)

Response: Over the past three years, CTI has performed work on a variety of projects and has received positive reviews from City staff working with the firm. Projects worked on include: The 2014 through 2016 Street Resurfacing Projects, the 2014 and 2015 Ramp & Sidewalk Programs, Geddes Guardrail, Ferdon/Wells Storm Improvements, and Division St Water Main.

Question: It appears that the scope of work includes testing of the asphalt material, but not the installation. If so, why? Please provide some examples of how a firm like CTI has helped the city in preventing substandard road work. (Councilmember Westphal)

Response: The overall operations and methods of the contractor are inspected by City staff to ensure that work is performed, and materials are installed, in accordance with City specifications. Testing firms are hired by the City to perform testing on the materials themselves. This includes testing the density of aggregates and asphalt as they are installed to ensure adequate compaction, and performing tests on concrete and asphalt to ensure that the material provided meet the required specifications. These tests are critical to ensure that proper materials are used. Failing tests can sometimes result in requiring the contractor to remove and replace work that has been performed (at the contractor's expense) if materials tests fail. Testing firms are hired to perform this work because the City does not have the equipment, facilities, and staffing to perform the necessary testing.

Question: Please also provide a brief perspective on examples of substandard asphalt projects, either from the perspective of materials (Arlington) or installation (Glazier Way), what caused them, what we learned from them, and how CTI (or the city) could have prevented it. (Councilmember Westphal)

Response: As described above, testing firms perform tests on materials to ensure that they meet specifications. However, sometimes failures can occur even if materials pass all the testing procedures. Work done on Arlington in 2008 is an example of a problem with a particular type of asphalt mix that was specified by MDOT. This material was used as a surface material in some pavements, and despite passing testing procedures, it sometimes showed signs of raveling (breaking apart) in isolated areas (to use an analogy, the contractor did a sufficient job making the cake, but the recipe was not very good). When City staff started observing a pattern of failures with this particular mix, its use was discontinued and more reliable and consistent mixes were used in its place.

CA-13 - Resolution to Award a Construction Contract to Cadillac Asphalt, LLC (ITB. 4477, \$6,604,749.97) for the 2017 Street Resurfacing Project, and Appropriate \$875,000.00 from the Street, Bridge, and Sidewalk Millage Unobligated Fund Balance (8 Votes Required)

Question: Has anyone reached out to the University to ask for a contribution to our street resurfacing: (Councilmember Grand)

Response: City Staff has met with University staff to review road projects adjacent to University property that are coming up in the CIP in the next few years, and are working towards developing a plan for costing sharing with the University on many of these projects. The Church Street work consists of a relatively minor capital preventative maintenance treatment that would improve the road condition for the short term until needed water main improvements can be scheduled; therefore the University was not approached for a contribution at this time. When the eventual water main project and accompanying full resurfacing are performed in the future, the University will be approached about a contribution.

CA-14 - Resolution to Extend the Contract with Precision Concrete Cutting (Bid No. 4418) for the 2017 Ramp & Sidewalk Repair Project (\$150,000.00)

Question: When you say renewal at the same terms and conditions. I'm assuming that means the same price as well – correct? (Councilmember Lumm)

Response: Yes.

CA-15 - Resolution to Award a Construction Contract to Scodeller Construction, Inc. for the 2017 Street Crack Treatment Project (ITB No. 4476; \$378,393.20)

Question: How is it determined how much of the funding comes from the street millage vs. the major street fund? (Councilmember Lumm)

Response: The amount budgeted for this activity is based on the overall goals of the City's pavement asset management program. The Major Street Fund is paying for the work on major streets. Due to the relatively small amount of funds available in the Local Street Fund, the Street Millage is paying for the work on local streets.

CA-16 – Resolution to Approve Amendment No. 3 to the Professional Services Agreement with Orchard, Hiltz & McCliment, Inc. for the Nixon/Green/Dhu Varren Intersection Improvement Project (\$170,000.00)

Question: Why was the original MDEQ permit application not sufficient to satisfy public concerns? Please delineate the specific work products and the number of hours spent on each in order to "obtain permit approval from the MDEQ". How much was spent on the preparation of the original MDEQ permit? Were documents missing from the original application or were certain components of the application not acceptable to MDEQ? Or did MDEQ require them to re-do or produce additional drawings/surveys/etc. in response to public concerns that aren't normally required in the application process? (Councilmember Westphal)

Response: Following the original submittal of the MDEQ application in November 2106, the project was classified as a "Minor Project", meaning a public hearing was not required, and the MDEQ indicated that the permit was ready to be approved. This indicates that materials submitted by OHM were sufficient and complete. In the interest of public engagement and transparency, the City opted to hold a public hearing anyway, as a public hearing would be required anyway if there were requests from the public. The public hearing was heavily attended and many concerns were raised. While many of these concerns were not actually applicable to the MDEQ permit, OHM thoroughly and adequately addressed all of the concerns that were raised. After these responses, the MDEQ continued to withhold permit approval, for reasons not entirely clear to the City. Significant additional effort was required by OHM to meet with

and respond to the MDEQ's requests in order to keep the project on schedule. These efforts included three additional meetings (with the City and one in Lansing with the MDEQ), preparation of detailed responses to the MDEQ, and additional mitigation plans. The original effort by OHM to prepare plans and complete the application for the MDEQ permit cost approximately \$46,000. Since the submittal of the permit, OHM has spent an additional 211.25 hours and \$28,671 on this task and has requested \$25,000 in extra compensation to cover this unanticipated work.

Question: Regarding the \$140,000 in as-needed work, if some of this money is necessary, why is this an amendment and not part of the original project cost or contingency? Or is this in effect the "new contingency" because the other was used up? (Councilmember Westphal)

Response: When issuing an RFP for design services, support for the construction phase of the project is typically not included for two reasons. First, staff would like to evaluate the performance of the consultant during the design phase before extending their work into the construction phase. Second, the design of the project usually dictates the needs for additional support during the construction phase – at the outset of the design, it is not known what will be needed at the end. Thus, if additional support is needed, it is typically done as a contract amendment such as this one. In this case, a substantial portion of the construction phase support is for surveying to provide construction staking and layout for the project. While these services are often performed by the City for many projects, staffing constraints make it impossible to keep all projects moving forward in a timely manner without utilizing outside support. Being that this project has a higher level of complexity than most, and OHM is already intimately familiar with the design, it makes sense to use them for the construction staking for this project.

Question: Kindly provide the additional complaints and answers provided by the contractors to MDEQ regarding issuing of wetland permit for the intersection. (Councilmember Kailasapathy)

Response: A summary of the concerns raised and the responses is attached.

Question: Kindly provide how the issues raised regarding ADA compliance was addressed pertaining to the intersection. (Councilmember Kailasapathy)

Response: The ADA related issues were raised through a U.S. Department of Justice (DOJ) inquiry. It appeared the issues were raised based on a conceptual drawing that was not to scale, and not on the final engineering drawings. The issues raised were thoroughly reviewed by City staff and OHM, responses provided to the DOJ and MDOT. MDOT had no concerns regarding ADA within this project.

Question: Kindly provide the estimated breakdown of the \$140,000 additional expenses we are asked to approve this evening. (Councilmember Kailasapathy)

Response: Detail of the \$140,000 for construction phase work is in the Amendment document attached to the Legistar File. A brief summary is below. Note that these services will be “as-needed” and will not be expended unless specifically requested by City staff.

- a. Construction Staking – surveying services to layout the project during construction: \$75,000
- b. Project Meetings – As-needed attendance at pre-construction and progress meetings: \$35,000
- c. Design Support – engineering services for plan revisions if necessary: \$27,000
- d. Sub-Consultant – additional services for environmental/wetland consultant if needed: \$3,000

CA-17 - Resolution to Approve a Contract Agreement with the Michigan Department of Transportation for the Nixon/Green/Dhu Varren Intersection Project (\$782,850.00)

Question: The cover memo indicates the project budget for the intersection is \$2.8M and the City’s share is \$1.0M. Previously (staff response Sep 6, 2016) it was indicated the projected intersection cost was \$2.05M and the City share would be \$245K. That’s a \$750K (36%) difference in the City cost share! What am I missing? Is the scope somehow different or are the cost projections just that much higher – please provide a reconciliation? (Councilmember Lumm)

Response: The estimate from September 2016 was provided just as the project design was getting underway, and was reflective of what had been previously estimated for the CIP. This estimated did not account for the extent of the work that will need to be performed in order to satisfy the City’s Stormwater Permit and Green Streets Policy. These stormwater improvements represent the increase in the estimated project cost.

Question: Can you please provide the detail of the \$2.80M project budget? (Councilmember Lumm)

Response: The budget breakdown is as follows:

CMAQ	\$ 782,850.00
Developer Contribution	1,025,460.00
Street, Bridge, and Sidewalk Millage	<u>1,000,000.00</u>
TOTAL	\$2,808,310.00

Question: The developer’s contribution of \$1.025M was based on 50% of the projected costs of \$2.05M. As I recall, the development agreement stipulates the developer would be remitted 50% of any savings if actual costs were less than \$2.05M, but would

not have to pay more if the actual costs were more than \$2.05M. Can you please confirm if that's correct? (Councilmember Lumm)

Response: That is correct. The Conditional Zoning and Nixon Farm Traffic Mitigation Agreement require the developer to pay 50% of the projected cost of \$2.05M up to a maximum of \$1,025M.

Question: I also recall being told the city would be protected -- that the developer would not likely pay less than the intended 50% -- because the \$2.05M estimate was very conservative with significant contingency. If the \$2.05M estimate has now grown to \$2.8M, does the city have any recourse or would we at least request the developer increase their contribution to be consistent with the original intent of their paying half the costs? (Councilmember Lumm)

Response: The developer has met its obligation to pay the maximum \$1,025,460.00 required by the Conditional Zoning and the Nixon Farm Traffic Mitigation Agreement. The Agreement limited the developer's payment to the City to \$1.025M. The developer is not responsible for any additional costs.

CA-18 - Resolution to Authorize a Professional Services Agreement with Anlaan Corporation for \$292,500.00 and Amend the Morehead - Delaware Pedestrian Bridge Design - Build Project \$76,500.00 (8 Votes Required)

Question: How were the bids for this project solicited? Were any pre-fabricated bridge manufacturers directly solicited for the project? (Councilmember Westphal)

Response: The project was advertised following standard Procurement Unit procedures, which include posting on the City's website and posting on MITN (an electronic procurement system for municipal project which reaches a wide range of potential consultants and contractors). In addition, information on the RFP was shared with members of the focus group, many of whom had previous communications with pre-fabricated bridge manufacturers, and they were encouraged to share the information.

Question: Please describe ownership and obligations surrounding bridge post-construction. (Councilmember Westphal)

Response: The bridge is located on a strip of land that is part of the public right-of-way. Once completed, the bridge will be owned and maintained by the City of Ann Arbor, although the City will not perform snow removal on the bridge due to the narrow width that was selected.

Question: What are other footbridge locations where the city owns and maintains? (Councilmember Westphal)

Response: There are several other examples, which include pedestrian bridges over Mallett's Creek adjacent to South Main Street and Ann Arbor-Saline Road, a number of bridges within parks over the Huron River.

Question: Was there any discussion about different ways of handling ownership and budgeting, e.g., financial participation from the neighborhood? (Councilmember Westphal)

Response: While some discussion was had on different ownership arrangements with the focus group, it was not too extensive as that was not identified as the preferred method to move forward at this time; and any such arrangements would require substantial additional legal work. In terms of financial participation from the neighborhood, the neighborhood association that owns the adjacent weir was required to make repairs to the weir at their cost before the City would look at replacing the bridge. Additional financial participation from the neighborhood for the bridge replacement was not explicitly discussed with the focus group.

Question: Can further cooperation beyond what one might normally expect result in additional cost savings to this project? Much of the expense appears to be the result of the difficulty of working in a dense residential area. Can the neighbors offer additional easements and/or land for staging that would bring down the cost of this project? (Councilmember Grand)

Response: Grading easements are already anticipated to be needed from adjacent property owners, and prospective bidders were made aware of that. Based on staff's discussion with some of the adjacent residents, they are willing to provide the needed grading easements to help move the project forward. However, the benefit of additional easements beyond what has already been anticipated is limited by the limited space between houses.

C-1 - An Ordinance to Amend Section 5:10.23 of Chapter 55 (Zoning Ordinance) of Title V of the Code of the City of Ann Arbor (CPC Recommendation: Approval - 7 Yeas and 0 Nays)

Question: Has the Planning Commission approved any site plans for a property zoned C-3 that included a gas station or car wash while the zoning did not permit those uses in C-3 zones? (fo example the 7-11 station at Stadium and Packard). What needs to be done to address such approvals? (Councilmember Eaton)

Response: No, the last gas station approved by Planning Commission in a property zoned C-3 was prior to the amendment in 2014. The Circle K gas station under consideration at Packard and Stadium has not been approved by the Commission to date.

C-2 - An Ordinance to Amend Section 9:42 of Chapter 107, Animals, of Title IX of the Code of the City of Ann Arbor

Question: The cover memo indicates that the AAPS and County Health Department have been apprised of this and that no comments have been received from either as yet. Can staff please, at least before Second Reading, reach out to both to ensure they have reviewed this and are OK with it? Also can you please confirm that all other restrictions and rules that apply to keeping chickens in the City apply here as well? (Councilmember Lumm)

Response: Yes, staff can do that, although there has been some contact via Councilmember Ackerman. Yes, all other restrictions and rules apply.

DC-1 - Resolution Reaffirming City Council's Position on Immigration Enforcement in the City of Ann Arbor

Question: The language throughout the resolution and the title itself suggest there is nothing new/no change in AAPD behavior that would be required by adopting this resolution and its 15 resolved clauses. Can Chief Baird please officially confirm that is the case (no change in behavior) and that adoption of the ordinance does not inhibit AAPD's ability to keep Ann Arbor safe? And if this resolution would result in a change in behavior, please describe what it is and the impacts it may have (If any) on public safety? (Councilmember Lumm)

Response: The language throughout the resolution does not present any new practices for AAPD, and does not inhibit AAPD's ability to perform its public safety mission.

Question: Last week I requested, and still would appreciate, some type of statement from the City Administrator and/or City Attorney that can be shared publicly that covers the City Staff's position regarding the questions of compliance, legality and risk of loss of federal funding. (Councilmember Lumm)

Response: The legal landscape involving the entanglement between federal, state and local units of government in the field of civil immigration enforcement is currently playing out in litigation. It is public knowledge that the Department of Homeland Security (DHS) was recently tracking legislative actions of local units of government and maintaining a list of local units that have adopted policies perceived to be restricting cooperation with Immigration Control and Enforcement (ICE). However, as has also been widely reported, recently a federal district court in California issued a nationwide injunction holding that the President's executive order threatening to withhold federal funding from "sanctuary jurisdictions" violates the Constitution because it undermines both federalism and separation of powers—and for other reasons. The Resolution before Council on May 1 does not designate the City as a "sanctuary" jurisdiction as that is defined in the President's Executive Order and the action taken by the Resolution is consistent with current legal obligations and constraints at the federal and state level. Because this is a

constantly changing area of law, the City Attorney will continue to monitor legal developments and advise Council and staff appropriately.

Question: I understand that my question regarding the twelfth resolved clause regarding the City's engagement with other local law enforcement agencies is not a legal question, but I am interested in understanding how the City Administrator and City Staff interprets the direction and what staff will do as a result? (Councilmember Lumm)

Response: The County Sheriff has requested that law enforcement entities in Washtenaw County adopt a uniform message in addressing immigration status during community policing. The City Administrator and Chief of Police recognize the need to continue to work collaboratively with other local jurisdictions toward this end. However, should there be any conflict or inconsistency in this approach, the City Administrator and Chief of Police will be guided by the policies, requirements, and restrictions approved and adopted by the Ann Arbor City Council.

Question: Have there been any recent legislative developments related to immigration at the State level? Is there legislation pending? (Councilmember Lumm)

Response: Two nearly identical bills have been introduced in the Michigan House of Representatives this legislative session. House Bill 4105 and House Bill 4334 both state that a local government "shall not enact or enforce any law . . . that limits or prohibits a peace officer or local official, officer or employee from communicating or cooperating with appropriate federal officials concerning the immigration status of an individual." Both statutes state that a failure to comply with this section will result in withholding of the total annual revenue sharing payment that the local government receives.

HB 4105 includes two provisions that were removed in HB 4334: (1) a section requiring local governments to provide written notice to all peace officers of their duty to cooperate with appropriate federal and state officials concerning the enforcement of federal and state immigration laws; and (2) a section requiring a peace officer who has probable cause to believe a person under arrest is not legally present in the United States to report that person to ICE.

Both bills have been referred to the House Committee on Local Government. To date, neither bill has been considered by the Committee.

DC-3 - Resolution Authorizing a Commitment to Pursue Community Solar Options that are compatible with the City Council "Resolution Authorizing a Commitment to Making the City of Ann Arbor a Solar Ready Community"

Question: Can you please clarify what "including Community Solar in the A2 Solar Program" means – will the City be directly or indirectly participating in a Community Solar program, endorsing a program, listing available programs, simply providing educational information about what Community Solar is, or something else? Will the

City be contributing financially at all to a program or providing in-kind staff resources?
(Councilmember Lumm)

Response: The A2 Solar Program is currently administered by the City through a contract with the Clean Energy Coalition who is utilizing the Geostellar solar platform to assist homeowners or businesses to evaluate the solar energy potential of their property and guide them to installers. This program is currently limited to those who are able to install solar at their property. However, in recent years community solar has emerged as a way for residents and business with inadequate solar potential (e.g., shading, roof orientation, etc.), or for renters to contribute to the funding of other solar installations while receiving the financial benefits (e.g., credits, payments, etc.). Implementing the resolution would result in staff time investigating various community solar models and their applicability in Ann Arbor. If an applicable model(s) for community solar is identified, both future staff and financial resources necessary to implement a sustainable program would be quantified.

Question: I appreciate the caveats contained in the second resolved clause, but am wondering how the City will ensure it is not in any way financially or legally liable if it endorses investing in a Community Solar program even generally, let alone a specific programs? Also, is there any precedent for the City endorsing or promoting an individual financial investment? (Councilmember Lumm)

Response: The City Attorney's Office will review staff's findings and recommendations to ensure the City is properly positioned with respect to liability. Staff is unaware of the City having endorsed or promoted an individual financial investment.

Question: One of the whereas clauses states that "four Community Solar Options appear viable for endorsement by the City Council for Ann Arbor Citizens". Can you please provide information on those four programs? (Councilmember Lumm)

Response: The four potential options that would be investigated are:

1. *Utility controlled community solar (DTE Energy)* – DTE does not currently offer community solar, but recently Consumers Energy created a community solar option for their customers. The City would monitor, and/or proactively engage DTE on the potential of DTE creating their own community solar program.
2. *Explore behind the meter community solar* – A host site(s) would install solar that is not connected to the DTE grid, i.e., the energy is fully consumed on-site. Participants would contribute to the up-front capital costs of the installation and receive a return on this investment in some form from the host or a third-party.
3. *Participate in an established, non-utility community solar program* – There are existing organizations that offer their members community solar through platforms that take advantage of out-of-state factors, such as higher utility rates and virtual net metering for solar and relaying those benefits to the participant. There are non-profit examples with apparent activity in Michigan (Sierra Club).

4. *Utilize the City's Water Utility for community solar* – Participants would contribute to the up-front capital costs of the solar installation at a City utility facility, and receive credit on their utility bill.

DC-5 - Resolution Setting a Public Hearing on June 5, 2017 to Receive Public Comment on the Proposed Amendment of the Tax Increment Financing (TIF) and Development Plans for the Ann Arbor/Ypsilanti SmartZone Local Development Financing Authority (LDFA)

Question: The TIF Development Plan includes job creation numbers for the years from the 2002 plan to 2016 of 646 net new jobs. In the past, questions have been raised regarding the methods used to calculate job creation. Is the 646 number based on revised calculation of the performance of the LDFA, or are these numbers the result of the previous calculations? (Councilmember Eaton)

Response: The 646 is the number of jobs reported to the MEDC for the described period consistent with the attached methodology for counting companies served and jobs created with LDFA support. The methodology has been discussed with the MEDC, the State organization charged with tracking these job numbers.

Question: What are the specific next steps for the LDFA extension (and expected timeline) that follow this public hearing? (Councilmember Lumm)

Response: The Ypsilanti City Council is planning to hold a public hearing and consider the Plan at their May 23rd Special Meeting. If this resolution is approved, Ann Arbor City Council would hold a public hearing on June 5th and consider the Plan. Once both communities have approved and recommended the Plan, the Plan will be submitted to the State for signature by the MEDC and the State Treasurer, who are final signatories required for Plan approval.

Question: The TIF and Development Plan estimates that over the next 15 years, \$66M in TIF will be captured and 1,600 jobs will be created, which is about \$41,000 a job. What is the basis for the jobs creation projection and can you provide some context/perspective on the \$41,000 per job number? (Councilmember Lumm)

Response: Job creation numbers are based on the actual experience over the past five years for company creation and employment. It may not be entirely accurate to divide the total capture by the number of jobs because some of the expenditures have been used for education, infrastructure, etc. The State evaluated the job creation target in relation to the State funds captured.

Question: The TIF and Development Plan states that “the amended plan will exclude the hold harmless portion of the local school millage in order to ensure there is no direct impact to local school district funding from the LDFA tax capture.” The question of whether/ not the LDFA tax capture impacts local school funding was a discussion topic when Council approved the extension application two years ago and as I recall, city staff (Mr. Crawford) and the LDFA folks maintained that it didn’t. Can you please remind us what the basis for that conclusion was? (Councilmember Lumm)

Response: Attached is the methodology for counting companies served and jobs created with LDFA support. The methodology has been discussed with the MEDC, the State organization charged with tracking these job numbers.

DC-6 - Resolution to Adopt City Policy on Solar Power Generation and Energy Efficiency in City-owned Facilities

Question: What level of facility renovation will trigger the requirements in this resolution? (Councilmember Warpehoski)

Response: As written, the resolution requires all renovations to comply.

Question: Does the administrator have an active duty to inform Council that the resolution is sun setting? (Councilmember Warpehoski)

Response: As written, the resolution does not call for this to occur.

Question: Can you please provide a sense of the number of renovation projects the City plans over the next five years or so that would be impacted by this new policy? (Councilmember Lumm)

Response: As the resolution would apply to all renovations of City facilities, staff is unable to estimate how many projects would be impacted. In addition to the programmed projects in the City’s Capital Improvements Plan (CIP), there will be numerous renovations/modifications to City facilities that are below the CIP project threshold that are currently unknown or unanticipated.

Question: How will staff in practice interpret/implement the language in the first resolved clause “comply with current Leadership in Energy and Environmental Design (LEED) criteria for existing buildings and incorporate solar power and other alternative/renewable energy sources to the greatest extent possible”? Specifically, what role does cost play (if any) in determining “to the greatest extent possible”? (Councilmember Lumm)

Response: The costs to implement this policy will be included in the development of project scopes and estimates, which may affect the programming and timing of the projects.

DB-1 - Resolution to Approve The Collegian North Site Plan and Development Agreement, 1107 South University Avenue (CPC Recommendation: Approval - 8 Yeas and 0 Nays)

Question: The ground floor spaces are labeled "retail." Is the petitioner willing to exclude bank/financial institution uses from ground floor spaces? Please detail the south and west elevation changes between those originally submitted and final. (Councilmember Westphal)

Response: No, the petitioner is currently in negotiation for a bank tenant in a portion of the retail space. Restricting such use should be accomplished by zoning ordinance rather than petitioner agreement, as no mechanism is in place under the current petition to restrict use.

Regarding elevation changes, between site plan #1 and #4, a twelfth story was added, raising the building height from 144' to 149' 9" (and each story was reduced in floor-to-floor height by a few inches). The internal arrangement of apartments was revised from a mix of about 50% four-bedroom, 25% five-bedroom, and 25% six-bedroom units to an almost equal mix of three-, four-, five-, and six-bedroom units. These changes are reflected on the outside of the building by another entire column of windows in the central portion along with an adjusted central top on the south elevation. On the west elevation, there are two floors of windows above the lower tower instead of one. Elevations from the initial submission to final submission are attached for additional reference.

Question: The 15-year parking agreement with the DDA the developer is using to meet the 50 off-street space requirement is primarily overnight permits (33 to 45 of the 50 required). Where is it expected these cars will be parking during the day and isn't the Forest Structure one of the structures Nelson Nygaard identified as at 91% to 100% of capacity during weekdays? Also, what is the basis for the 50 off-street parking space requirement for this project and how does that compare with the incremental parking demand expected to be generated by this project? (Councilmember Lumm)

Response: The developer indicated to the DDA Operations Committee that their residents will have very little, if any, off-street parking needs. However, employees within the building, particularly for the ground floor retail spaces, will generate off-street parking demand. While the Forest structure is at-capacity during the day, it has ample space in the evenings and overnight. The parking agreement for 5 standard parking permits, 3 car share parking permits, and 33 limited overnight parking permits was crafted to address the stated needs of the developer. The basis for the off-street parking requirement is the amount of premium floor area included in the development,

per Section 5:169. One off-street parking space is required for every 1,000 square feet of premium floor area. Each space for a car share service counts as 4 stalls.

DB-2-Resolution to Approve 315-317 South Main Site Plan, 315 and 317 South Main Street (CPC Recommendation: Approval - 8 Yeas and 0 Nays)

Question: The ground floor spaces are labeled "retail." Is the petitioner willing to exclude bank/financial institution uses from ground floor spaces? Can you please provide a map of the historic district on this block of S Main St. and describe situations where demolition is permitted and not permitted? How much FAR and height are allowed on other parcels of this block? (Councilmember Westphal)

Response: We have not received a response from the petitioner on the question of bank/financial institution uses. As referenced in the question regarding DB-1, restricting such use would be accomplished through changes to the zoning ordinance.

See attached block map showing Historic District boundaries. Within a local historic district, demolition must be approved by the Historic District Commission and is typically reserved for non-contributing structures (structures that do not contribute to the history or character of the historic district). The building at 315-317 South Main was built in the 1960s, which is outside of the district's pre-1945 period of significance. It is therefore a non-contributing structure. On the portion of the block that is not in the historic district, demolition is permitted.

All of the properties on this block of South Main Street between Liberty and William are zoned D1. All are allowed 400% FAR with a maximum building height of 180 feet. Lots not in a historic district may use premiums of up to 700% of floor area or 900% with affordable housing. Lots within a historic district are not eligible for premiums.

Question: I recognize that the current rules do not require any off-street parking for this development, but do we have a sense of the incremental parking demand the project is likely to generate and where the folks will likely park? (Councilmember Lumm)

Response: Four vehicular parking spaces and four bicycle parking spaces are being proposed on site, all for private use by the building's occupants. The site backs up to the Fourth/William parking structure, which contains a pedestrian path to Blake Transit Center, making commuting by bus or from a park and ride especially attractive for this building. Tenants who choose to drive downtown would most likely purchase parking in a city lot.

DS-1 - Resolution to Adopt the Fire Services Display Fireworks Policy

Question: Please draft an amendment to the policy clarifying that permits shall only be granted for public displays of articles pyrotechnic and that the permit process shall include a notification requirement for residents in the vicinity of the display. (Councilmember Warpehoski)

Response: Attached to the Legistar file is a proposed amended resolution and related attachments, including the applicant procedure and fireworks policy, that staff drafted in response to this request. Council may choose to bring forward the amendment on the floor. Below is the list of the changes within the resolution along with the two referral documents of Firework Policy and Fire Marshal Breakdown of Steps:

Resolution Amendments

- The verbiage 'public or private display' was removed from the entire document;
- The reference to MCLA 750.243a of Michigan PA 238 was amended to reflect Michigan Fireworks Safety Act 256 of 2011 (750.243a through 750.243e were repealed).

Firework Policy Amendments

- The verbiage 'public or private display' was removed from the entire document;
- Definitions section for 'Display Fireworks' and 'Articles Pyrotechnic' was added;
- Under 'Purpose', reference to the National Fire Protection Associations was added to define NFPA acronym;
- Under 'Purpose', entire second paragraph was removed (now covered under definitions);
- Under 'Procedures' the reference to MCLA 750.243a of Michigan PA 238 was amended to reflect Michigan Fireworks Safety Act 256 of 2011;
- Under 'Procedures' the last bullet point was added referencing notifying adjacent resident and/or businesses of the date and time of the event a minimum of fourteen (14) days prior to the event.

Fire Marshal Breakdown of Steps Amendments

- Step 1(1): Added the word 'Display' in front of Fireworks and Remove 'other than Consumer or Low Impact;'
- Step 6 was added: 'If a firework display permit is approved by City Council, the applicant shall notify adjacent residents and/or businesses of the date and time of the event a minimum of fourteen (14) days prior to the event.'

DS-3 - Resolution to Approve FY 2018 Fee Adjustments for the Community Services Area

Question: Regarding the Building and Rental Services fees (DS-3), the cover memo indicates that the proposal is to combine the initial and first re-inspection fees into a single fee and the intent is to simplify and also to eliminate the perception of inspectors

ensuring a re-inspection to generate revenue. While that seems reasonable, we also received an email from a property manager saying that combining the fees does not make sense as some owners work hard to make sure there doesn't have to be a re-inspect. What is the response to the argument that combining the fees takes away a positive incentive that exists today? (Councilmember Lumm)

Response: Staff is proposing to extend the inspection cycle by 12 months for any property that passes at the time of its initial inspection. If Council approves the fee change staff will bring forward the necessary ordinance amendment to extend the inspection cycle.

Question: Also on rental inspection fees (DS-3), can you please provide the information that addresses the issues raised in the March 27 email exchange CM Westphal/me that was forwarded to city staff regarding inspection fees for rooming houses vs apartments and the costs/time to do inspections? (Councilmember Lumm)

Response: The May 27th email describing the costs associated with rooming houses was based on a draft fee schedule prepared for consideration by the Washtenaw Area Apartment Association. After hearing the concerns of the commission the final proposed fee schedule significantly reduces the fees for rooming houses. Currently the cost is \$60.00 for an initial inspection and \$40.00 if a re-inspection is necessary. Staff is proposing to reduce that fee to \$50.00 for the initial inspection and \$0.00 for first re-inspection.

2/14/2017

**Re: Nixon Road / Dhu Varren Road / Green Road Intersection Reconstruction
MDEQ Application 2HP-3JVY-E06V**

To whom it may concern:

The current delay in the MDEQ Part 303 permit approval is prohibiting the release and obligation of over \$700,000 of federal funds for the construction of this project and is posing a severe risk that the project cannot be constructed in the 2017 season. The project is funded partially through federal Congestion Mitigation and Air Quality (CMAQ) funds and therefore is bid through MDOT. Under MDOT's bidding schedule, the project would need to receive permit approval by February 17th to remain on the May 7th Letting Date, which likely equates to a late June/early July construction start. If the permit is not approved by approximately February 17th, the project will shift to the June 2nd Letting Date and an late July/early August construction start. The project has an estimated 3-month duration, without consideration to material, labor, or weather delays, which are more common with fall construction. There would be virtually no margin of error to complete the project prior to the November seasonal shutdown. This would put the City in the position of not fulfilling its obligation to the public to complete the intersection by the end of 2017.

The City of Ann Arbor requests immediate approval of the MDEQ permit for the subject project. The City has worked collaboratively with the MDEQ throughout the permit process to address the MDEQ's requirements for approval of a Part 303 Permit. The City has already responded to the MDEQ's requirements and the public's concerns in the original permit application from October 2016 (and re-submittal in November 2016). As a result, the MDEQ stated in November of 2016 that the permit is acceptable, and the MDEQ was ready to issue the permit under a Minor Permit Category.

However, although not required and in the spirit of transparency, in late November 2016, the City of Ann Arbor requested the MDEQ to hold a Public Hearing and a Public Comment Period. The MDEQ obliged and a Public Hearing was held on January 12, 2017. During the hearing and during the subsequent public comment period, members of the public expressed their concerns. The following explains how the City has already addressed the concerns of both the MDEQ and/or the public.

Concern #1 – "Segmentation" or Splitting Up the MDEQ Permits for the Toll Brothers Development and the Public Transportation Improvement Project (Roundabout at Nixon-Green-Dhu Varren)

Starting with the pre-application meeting in July 18, 2016 and throughout the permit process, the MDEQ indicated to the City that the MDEQ will treat the Toll Brothers Development in the adjacent area and the public transportation project (the roundabout at Nixon/Green/Dhu Varren) as two separate projects. The MDEQ indicated that the court had already upheld this position.

Concern #2 – Wetland Boundary Limits (Flagging)

Starting with the pre-application meeting in July 18, 2016, the MDEQ has stated that the wetland boundary survey (flagging) performed in the area was already vetted and approved by the MDEQ. Per the direction of the MDEQ, the transportation project was to use the same boundary limits.

Concern #3 – Minimizing Wetland Impacts and the Use of a Roundabout for Speed Reduction

As indicated in the permit application, the design of the intersection evolved from the intersection study (2013 – 2015) to the final geometric design (October 2016) in order to minimize impacts to environmental features. The MDEQ applauded the City for a detailed explanation in the permit application and strong efforts to minimize impacts.

In summary, wetland impacts were reduced from over 0.5 acres to 0.31 acres. This was primarily accomplished by shifting the intersection and approach roads to the south and east to avoid impacts to the wetland in the northwest quadrant containing a pond. The end result was only 0.006 acres of wetland impacts in this quadrant. In addition, impacts to the burr oak tree in the northwest quadrant and a culvert crossing on the north leg of the intersection were avoided. Shifting the intersection further east to avoid impacts to the west, as recently suggested by the public, would have resulted in wetland impacts on the east side of the Nixon Road.

Roundabouts are one the Federal Highway Administration's (FHWA) Proven Safety Countermeasures, and a roundabout was an appropriate solution for this intersection. The roundabout provided an opportunity to minimize environmental impacts and reduce speeds for safety purposes. The use of a roundabout allowed for significant geometric flexibility compared to a signalized intersection. The introduction of approach and entry curves to avoid wetland impacts resulted in an added benefit of speed reduction, which benefits safety for all users. As a result, a lower-speed, less impactful design was possible with a roundabout compared to a signalized intersection. A signalized intersection generally requires straight geometry (minimal curvature) and intersecting angles at approximately 90 degrees. Since the Green Road and Dhu Varren Road are offset from each other, this would not be possible without additional impacts to wetlands compared to the roundabout option.

Concern #4 – Impacts to the Pond in the Northwest Quadrant and Trumpeter Swans

As stated previously and in the permit application, the pond in the northwest quadrant will not be filled by the project. The roadway geometry was designed to avoid impacts to this pond. If trumpeter swans do indeed nest in this pond, they will not be impacted by the project.

There is no data to indicate that trumpeter swans are nesting in the impacted wetland areas in the southwest quadrant and west leg of the intersections. Both are adjacent to the roadway with little or no open water.

Concern #5 – Stormwater Flood Storage and Hydrologic Model

As requested by the MDEQ, the City performed a hydrologic model of the wetlands bounding the intersection project limits. As indicated in the permit application, the use of surface and underground stormwater storage, plus the placement of 2-18 inch culverts underneath Dhu

Varren Road results in no adverse impacts to the wetlands in the area during the 100-year / 24-hour duration design storm event.

Concern #6– Wetland Mitigation Location

Starting with the pre-application meeting in July 18, 2016 and through subsequent conversation and a second site meeting on September 22, 2016, the MDEQ indicated that mitigating on site was not a realistic option. Given the presence of invasive species and the fact that the MDEQ will not allow mitigation in the road right-of-way or within utility easements, the City decided to pursue other options. The City looked at mitigation at the Leslie Park Golf Course, which had the benefit of being located near the project site and in the Traver Subwatershed. However, the maintenance restrictions and other constraints in the MDEQ's standard wetland mitigation rules were not practical for the needs of the City staff at the Leslie Park Golf Course.

Even the site was not viable to meet the MDEQ's mitigation rules, the site was viable to meet the City's wetland mitigation requirements. As a result, the City is planning to mitigate 0.52 acres of wetland at the Leslie Park Golf Course in 2017.

Concern #7– Wetland Mitigation Credits

Since neither on-site mitigation nor mitigation at the Leslie Park Golf Course were viable options, the City has offered 2 solutions for wetland mitigation to meet the requirements of Part 303:

- 1) The purchase of credits from the Huron River Wetland Mitigation Bank from Niswander Environmental, which is pending final release of credits. The Huron River Wetland Mitigation Banking Agreement was signed in 2016. The Huron River Wetland Mitigation Bank (Bank) has completed all of the steps in the "PROCESS FOR DEVELOPING MITIGATION BANKS IN MICHIGAN" (attached). The Bank was constructed, seeded, and planted in 2016. A request for the release of credits will be made on June 30, 2017 and Niswander Environmental expects credits to be released by September 1, 2017. The Bank credits are approved according to MDEQ performance standards as outlined in the Huron River Wetland Mitigation Banking Agreement. The first release of credits (50% release) is based on hydrology only. Hydrology monitoring data completed to date indicates that the Bank will meet hydrology criteria necessary for release of credits. It is expected that approximately 10.4 acres of forested and 2.5 acres of emergent credits will be released. MDEQ permit requirements for mitigation state that mitigation be completed concurrently with construction. The Bank has already been constructed. It is expected that a MDEQ permit will be issued soon, and the release and purchase of credits will occur concurrent with construction. The purchase of credits from the Bank will satisfy all MDEQ mitigation requirements.
- 2) Site-specific mitigation. Niswander Environmental recently purchased another 80-acre property in the Huron watershed that they are developing as a wetland mitigation bank. It will be constructed in 2017. The City, through Niswander, can propose to do site-specific mitigation at this property in the event wetland credits (described above) are not approved. Niswander Environmental has already

submitted a mitigation plan for this site to the MDEQ. A site-specific mitigation plan is an accepted means of mitigating to fulfill requirements for Part 303.

The City is willing to pursue either option. If desired, the MDEQ could put a clause stating that if credits become available prior to construction of the site-specific mitigation, then credits can be purchased from the Bank in lieu of the site-specific mitigation.

In conclusion, the City has met the obligations of the MDEQ permit, and is requesting immediate approval of the Part 303 MDEQ Permit. The City is not requesting special conditions or exceptions, and has worked collaboratively and in good faith with the MDEQ throughout the process. Without permit approval, the project is in dire risk of not being completed in 2017 at a detriment to the traveling public.

Ann Arbor SPARK collects and reports data from its clients over and above what is required by the LDFA contract. Salesforce is employed as our Customer Relationship Management system to record company data. Information about all companies is gathered through several methods as described below. Ann Arbor SPARK continues to refine procedures to capture, store, and report data more efficiently, accurately and timely.

Companies Served

The number of tech companies that contractor provided services to; including accelerator grants, incubator space, Boot Camp, mentoring, consulting, training, etc.

Full-Time Equivalent (FTE)

All W2 employees and full time workers compensated in equity. All part time employees count as 0.5 FTE. Interns and independent contractors (1099) are not included in this definition.

Initial Data Entry

All entrepreneurs requesting assistance of Ann Arbor SPARK for Business Acceleration services, Incubator space or Boot Camp fill out an online form which is automatically fed into Salesforce. In an initial communication, additional data gathered by SPARK personnel determines if the entrepreneur meets minimum criteria to warrant further discussion and assistance. At that time, a better description of the applicant's needs, along with the initial number of FTEs are captured and input as the "Initial FTEs" and "Current FTEs"

Current FTEs

Each company in our database has a field to store the current number of FTEs employed. Ann Arbor SPARK staff refresh a company's 'Current FTEs' throughout the year as collected from entrepreneurs through three methods. FTE updates are documented when SPARK staff meets with entrepreneurs, when new engagements commence, and through our annual survey process during the summer.

Retained FTEs

We capture the number of FTEs that a company had at the start of each programmatic engagement i.e. Incubator Space or a Business Acceleration grant. This number becomes our retained jobs number associated with the engagement, and is not altered. This number also updates the current FTE number on file. As companies typically takes advantage of multiple LDFA funded services, they are tagged throughout time with multiple retained FTE numbers. As a result, the retained FTE number utilized for reporting can change depending on the report called. For example, when a team attends Boot Camp there may be two FTEs. When that team returns for Business Accelerator services there may be additional FTEs - co-founders or initial hires. When reports are generated on Boot Camp attendees, the team's retained FTE number would be two. When reporting on Business Accelerator clients, the retained FTEs would be

more than one. For the SMARTZONE extension report, we used at the oldest retained FTE number available to best capture the net new FTEs.

Created FTEs

Number of FTEs created by the companies that Ann Arbor SPARK served through any program. This number is calculated by subtracting the oldest available retained FTE figure from the Current FTE figure. Like any other figure, the Created FTE figure is a snapshot in time which quickly loses accuracy as the underlying database entries are updated weekly through normal course of program delivery.

The Collegian North
 Elevation Comparison (South and West only)

<p>Site Plan #1 West Elevation :</p>	<p>Site Plan #4 West Elevation :</p>
<p>Site Plan #1 South Elevation :</p>	<p>Site Plan #4 South Elevation :</p>

300 Block of South Main Street



Blue = Main Street Historic District

Pink = Liberty Street Historic District