



TO: Mayor and Council

FROM: Howard S. Lazarus, City Administrator

CC: Tom Crawford, CFO
Derek Delacourt, Community Services Area Administrator
Craig Hupy, Public Services Area Administrator
Brett Lenart, Planning Manager
Tom Shewchuk, IT Director
Cresson Sloten, Systems Planning Manager
Ruth Thornton, Conservation Fund
Robyn Wilkerson, Human Resources Director

SUBJECT: Council Agenda Responses

DATE: June 4, 2018

CA-5 - Resolution to Approve Participation Agreement with Legacy Land Conservancy, Salem Township, and Washtenaw County Parks and Recreation and Appropriate \$187,500.00 from the Open Space and Parkland Preservation Millage for Purchase of Fee Title to the Shatter Family Trust Property (8 Votes Required)

Question: Regarding CA-5, the cover memo indicated this property scored in the top half of applications received by the Greenbelt Advisory Commission. Is that (at least top half), the minimum standard for GAC to recommend use of Greenbelt Program funds? If not, what is the minimum standard with regard to scoring (or is there not a minimum)? Also, have there been any instances of using Greenbelt funds for properties that did not score in the top half of applications, and, if so, can you please identify the properties and associated city funding? (Councilmember Lumm)

Response: The Greenbelt Advisory Commission has not set a minimum score for applications to be considered for recommendation to City Council. It is, however, an important factor in their deliberations on whether to recommend a project. We do not

have the information compiled on which completed projects did not score in the top half of applications, and it would take significant staff time to complete this research.

CA – 7 – Resolution to Approve Purchase of Citrix Licensing, Support, and Professional Services from CDW Government LLC (\$72,437.72)

Question: Regarding CA-7, can you please provide a brief explanation of what the “new products” the city is purchasing actually are, and what they will allow us to do that we can’t do now? (Councilmember Lumm)

Response: The “new product” is Citrix NetScaler VPX200. We are currently using Citrix Secure Gateway to provide external access to Citrix applications to City staff in the field. This product has reached its end-of-life and is replaced by the NetScaler. This is a ‘firewall for Citrix’ that secures our environment while allowing external access.

Citrix is used off-premise for access to applications such as TRAKiT by Building and Rental Services staff and FieldManager by Engineering staff. It allows applications that have high bandwidth requirements to operate more efficiently than if staff were using them over VPN connections when they are run virtually from within the City network via Citrix.

These purchases are about modernizing our Citrix environment. Our current products will reach the end of their support phase this year and will no longer be supported by Citrix, nor will security updates be released to remediate issues.

Citrix currently hosts approximately 40 applications to City staff, both internally and externally. It also provides a secure method for us to allow City staff to access resources on personal devices. It is also our method of access for outside vendors to use when providing us support.

CA-17 - Resolution to Authorize Contract Amendment Number 5 with Recycle Ann Arbor for Municipal Resource Recovery Services and Appropriate \$65,000.00 from the Solid Waste Fund Fund Balance for Collection Truck Leasing (8 Votes Required)

Question: Q1. Can you please explain what changed in RAA’s operation that now require ten trucks rather than seven? Also, when were we made aware of this change/need? (Councilmember Lumm)

Response: The City became aware of RAA’s use of all ten trucks on their routes this past winter when discussions regarding the need to perform major repairs on the trucks were initiated. Staff inquired with RAA as to the details of the change in operation necessitating the use of all ten trucks, but has not yet received details on these changes.

Question: Q2. I'm confused on the numbers. This resolution extends the contract for a year (from June 30, 2018 to June 30, 2019). The cover memo indicates the monthly leasing costs is \$8,319/month in FY19 which suggests the 12 month cost is \$97K not the \$65K requested. What am I missing? (Councilmember Lumm)

Response: The term of the lease period is four (4) months, and as noted in the memo funding for up to two lease terms totaling eight (8) months is being requested as that is the maximum anticipated to complete the repairs to the City trucks.

Question: Q3. Are there any other terms of the contract (pricing, etc.) that are being changed as part of this 12 month extension? (Councilmember Lumm)

Response: A 3% increase for the tip rate from \$4.00/tip to \$4.12/tip for FY19 is also included in this amendment.

Question: Q4. The resolution includes the language "the City having the option to extend the contract for up to two additional five-year terms if it elects to do so." Can you please confirm that you would plan to bring any contract extension beyond June 30, 2019 to Council for approval? (Councilmember Lumm)

Response: The Resolution as written approves the City's option to extend the contract and authorizes the City Administrator to take the necessary administrative actions to implement this resolution, therefore future approval by City Council for the extension would not be required.

CA-18 – Resolution to Approve Agreement between the City of Ann Arbor and the Downtown Development Authority for Sidewalk Repairs within the Downtown Development District during FY 2018 through FY 2022

Question: Is it possible that the costs of sidewalk maintenance in the DDA will exceed the .125 amount listed in the resolution? If so, will the DDA reimburse for that additional cost? (Councilmember Warpehoski)

Response: The DDA annually remits back to the City the amount it collects from this sidewalk millage, approximately \$28,000 annually. Based on staff's experience with the amount of work that was needed on the sidewalks in the DDA during the first 5-year cycle of the Sidewalk Repair Program, it is highly unlikely that the maintenance costs would exceed the amount collected. Costs from the first 5-year repair cycle in the DDA could be obtained from project records if desired, but it would take some time to develop this data.

Separate from this, the DDA also undertakes sidewalk repairs on its own, including concrete work and relaying or replacing the brick in the sidewalk extensions and around the tree planters. Further, the DDA's streetscape improvements projects involve a

great deal of infrastructure replacement including sidewalks. In the recent years this has included replacing the broken sidewalks along South University between Washtenaw and East University, and the current City/DDA project which includes replacing damaged sidewalks along North Fifth and Detroit Streets between Kingsley and Catherine.

Question: Regarding CA-18, the cover memo indicates we've been using this same approach for the last few years. Can you please provide the amount of revenue that's been collected from the DDA and the city costs incurred (including all allocated costs) in repairing sidewalks in the DDA District for the last few years? (Councilmember Lumm)

Response: Please see response above.

Question: It is my understanding that the City will perform sidewalk repairs as necessary and the DDA will remit the 0.125 mill collected from its district. Will the DDA reimburse the City for sidewalk repair costs that exceed the amount collected under the 0.125 mill tax, if sidewalk repair costs exceed the amount collected? (Councilmember Eaton)

Response: Please see response above.

CA-20 – Resolution to Update and Adjust Parking Fine Schedule

Question: There have been conversations about adjusting parking fines so that 1st time offenders have a reduced fine. What is the status of those discussions? (Councilmember Warpehoski)

Response: The feasibility of 1st time offenders having a reduced fine is not feasible at this time due to a number of variables including, but not limited to:

- The definition of a first time offense:
 - Does this apply to the license plate? Registered Owner?
 - Does the one time forgiveness ever expire? For example, is it one free ticket per year per plate, or lifetime?
- When or how would you forgive the parking ticket?
 - Would you expect the handheld to notify the ticket writer that the license plate is eligible for a free ticket? Would you want something printed to place on the vehicle to notify the driver that they received their one free ticket?
 - Would you expect the waiving or voiding of the ticket to happen at another point? For example after the ticket is issued and uploaded to CDI's database.
- Other issues:
 - What if the driver is not the owner of the vehicle? This pertains to leased and rental vehicles there the registered owner is definitely not the driver of the vehicle.
 - If someone pays a ticket that has been forgiven, is it expected that the City issue a refund? Who would be responsible for creating the refunds?

Ideally the City would want a system where the handheld device could prevent/notify the ticket writer that this is a first time offense and the ticket should be waived. You would also want to provide notice to the violator that your first time offense has been used, and that any further violations would be issued. Otherwise, the City would anticipate a flood of customers filing appeals asking for their tickets to be voided under this policy.

The number of queries and communications that would be needed between CDIs servers and the existing handhelds to complete such a transaction simply aren't feasible at this time. And it's also not going to be 100% accurate since license plate numbers can be entered incorrectly and registered owner information can be stale.

Question: What is a "left to curb" violation? What is an "improper parking" violation? (Councilmember Warpehoski)

Response: Left to curb is essentially parking backwards on a 2-way street (Ch. 126 10:50). Improper Parking is either parking where a sign prohibits it (Ch. 126 10:59(1)) or parking outside of a designated marked space (Ch. 126 10:71).

Question: Q1. The cover memo indicates the rationale for raising the fine from \$20 to \$35 (75%) is "to ensure it's not less expensive for someone to accept a ticket rather than park legally in a parking structure." My recollection is that the DDA indicated they were not planning on increasing structure rates this year. If that's accurate, and with the structure rate at \$1.20/hr (or under \$10 for 8 hours), why is it necessary to move to \$35 to prevent this from occurring? And if the concern is that the \$10 fine (if paid within one day) may be encouraging that behavior, why not just eliminate that discount (many of the benchmark cities don't have a discounted fine, just the standard fine)? (Councilmember Lumm)

Response: The DDA and City work together to manage on-street parking with the goal of providing short-term spaces with regular turnover so that they are available for visitors, customers and other short-term users. With regard to the expired meter fine, the DDA is retaining hourly parking cost in the structures at \$1.20/hour and for a nine hour work day, the cost to park is \$10.80. Taking a parking ticket and paying within the day currently costs less than the cost to park in the structure for the day. Eliminating the discount would certainly address some of this imbalance. However, even with this, the cost differential wouldn't provide a significant incentive to forgo the much greater convenience of the on-street parking space. The recommended fine amount was proposed to incentivize more people to park off street for longer stays.

Question: Q2. A \$35 expired meter standard fine is much higher than the benchmarks you provided with the exception of the city of Detroit and I would think some of the benchmarks listed (Boulder, Madison, East Lansing, Grand Rapids) also have parking challenges in their downtown area. What are the structure hourly rates for those cities and how do they compare with their expired meter fines? (Councilmember Lumm)

Response: Although many cities have parking congestion in their downtown, it is often difficult to compare costs/fines across communities because there are numerous factors and strategies that can be used to manage parking. For example, the availability of other choices like mass or alternative transportation, availability of parking structures, density/type of business district, etc. can all affect how on-street parking demand is managed. The benchmark communities were provided for reference. Since the parking structure rates are not proposed to be changed, comparable data for structures was not acquired and is not readily available. The goal of the fine change is to help provide short-term spaces with regular turnover so that they are available for visitors, customers, and other short-term users.

Question: Q3. The current rate structure has other parking violation fines (alley, bus stop, crosswalk, taxi stand) that are higher than an expired meter. That differential makes sense, but with the proposed expired meter fines, the differential disappears. Can you please speak to the rationale for that? (Councilmember Lumm)

Response: The purpose of changing the expired meter fines is to incentivize compliance for on-street meter parking. At present the other areas have been judged to provide an appropriate incentive for compliance.

Question: Q4. Have we received any feedback on this from any of the downtown business associations (Main Street, State Street Assoc., South University) and if so, what was it? (Councilmember Lumm)

Response: While no specific outreach was done to the merchant associations, when the City presented its proposed budget at the April 16, 2018 Council meeting, the Main Street Association held a meeting about downtown parking. The concerns at that meeting centered more around extending the hours of meter usage into the evening rather than the fine increase. In addition, the Downtown Area Citizen's Advisory Committee recurrently comments that the cost of parking is less important than the good management of the parking system to ensure availability of spaces.

Question: I understand that the propose change to the expired meter fine is meant to make the fine consistent with the cost of other parking alternatives. What is the reason for raising the other parking fines (for example parking more than 12 inches from the curb)? (Councilmember Eaton)

Response: Although the entire fine schedule was attached to the agenda item as reference, the only fine that changed was the expired meter fine. The other fines are not recommended to change at this time.

B-1 - An Ordinance to Repeal Sections 4:16 through 4:20 and Section 4:30 of Chapter 47 (Streets and Curb Cuts) of Title IV; and Chapter 55 (Zoning), Chapter 56 (Prohibited Land Uses), Chapter 57 (Subdivision and Land Use Control), Chapter 59 (Off-Street Parking), Chapter 60 (Wetlands), Chapter 61 (Signs and

Outdoor Advertising), Chapter 62 (Landscaping and Screening), Chapter 63 (Soil Erosion and Sedimentation Control), of Title V; and Chapter 104 (Fences) of Title VIII of the Code of the City of Ann Arbor and to Amend the Code of the City of Ann Arbor with a New Chapter 55 (Unified Development Code) of Title V of Said Code (CPC Recommendation: Approval - 7 Years and 0 Days) (Ordinance No. ORD-18-08)

Question: Q1. Wendy Carman has graciously taken the time to review and compare the old/new versions section by section and she's provided staff many questions, observations and suggestions and identified minor and substantive changes. What is the status of staff's review of those items? Similarly, Chris Graham has offered suggestions and comments and can you please provide the status on those as well? (Councilmember Lumm)

Response: The project team has corresponded with Ms. Carman by email on several occasions, and has met with her in person to address her questions. Planning staff have evaluated Ms. Carman's observations, suggestions and identification of changes. The few errors that she noted will be incorporated into the document. She has identified other differences between the current language and the proposed draft that are intentional reorganizations and revisions.

Question: Q2. Beyond the comments from those two individuals, can you also please provide a summary of other comments/concerns received since First Reading on April 16th including staff's assessment of, and any recommendations, for those specific comments/concerns? (Councilmember Lumm)

Response: The project team has not received any comments, correspondence, or inquiries of any kind since aside from Ms. Carman's.

Question: Q3. In response to a question at First Reading, it was indicated that a ZORO 2.0 prioritization list was being developed by the Ordinance Revisions Committee and that Planning Commission was expected to devote time to a prioritization list at their annual retreat. Can you please share ORC's ZORO 2.0 list, and if Planning Commission has held their retreat and discussed a priority list, can you please provide a summary of the discussion? Also, what is your sense of the timing of Zoro 2.0? (Councilmember Lumm)

Response: This list has not been finalized, as the Planning Commission will be continuing the retreat discussion at an upcoming working session. Some of the potential areas of interest discussed thus far include refinement/development of design regulations, sustainability standards, unit mix requirements, transit-oriented and corridor mixed-use zoning, R4C/R2A zoning amendments, affordability, parking, and traffic review standards. Adoption schedule of any ordinance amendment will depend on the scope of the topic, but generally ranges from six months to multiple years. Staff anticipates starting other amendments immediately after adoption of the UDC.

Question: Q4, Understanding there has been a great deal of effort and great work put into this and a desire to act, is there any downside to taking a bit more time (say 30 days) to address the remaining open questions and suggestions that have been raised? (Councilmember Lumm)

Response: As previously reported, the project team has not received any comments, correspondence, or inquiries of any kind from any resident, stakeholder, or Councilmember aside from Ms. Carman and these agenda questions. If there are additional questions or suggestions to address, the project team would be happy to answer them or consider how best to incorporate them if appropriate. We note that the City Attorney's Office has recommended that approval of the UDC be postponed for two weeks to allow additional time to further review the detailed comments that have been provided, as well as all final staff edits, and to make a revised draft available prior to the next Council meeting.

Question: Residents have noted that changes made to the code have resulted in many errors or omissions, whether by accident or intentionally. When such errors or omissions are identified after the UDC has been adopted, what process will be followed to make the necessary or desired changes to the UDC? (Councilmember Eaton)

Response: Any error or omission will be evaluated and addressed on a case-by-case basis depending on its impact. If necessary, staff will immediately propose a single ordinance amendment to the Planning Commission for recommendation and City Council for adoption. Based on the files from the development, adoption and implementation in the 1960's of the current Zoning Ordinance, the Planning Commission and City Council should expect some amendments to the UDC in the coming year.

Question: When simple errors are identified that may change the meaning and intent of the UDC, will the literal meaning be followed or the intended meaning be followed? Is there a method Council could adopt, such as moratorium, that would protect against unintended consequences of changes, errors and omissions to the code? (Councilmember Eaton)

Response: Just as Chapter 55 Zoning Ordinance is administered by the Planning Manager, the UDC is administered by the Planning Manager per Section 5.27.6. If the Planning Manager determines there is a difference between the provisions of the code and the intended results, permits may be denied or plans may be recommended for denial. If necessary, ordinance amendments to clarify or correct the code may be proposed.

Question: Staff comments say "only those substantive changes strictly consistent with the project goals for consistency, clarity, and enforceability are included in the proposed UDC." The UDC has changed the definition of floor area ratio (to remove stairs, elevators, and other vertical shafts). It appears that the change was meant to add a definition of FAR, but the change results in larger allowable FAR than is currently

permitted. Should this substantive change have been made separately, with a separate public hearing? (Councilmember Eaton)

Response: Some substantive changes, including changing the definition of floor area, were called out as necessary in the original project scope, the Diagnosis and Annotated Outline, and included in every published draft. The proposed definition of floor area combines the current definitions of nonresidential usable floor area and residential useable floor area into a single term. Although previous drafts had a definition of floor area without any exclusions, the proposed definition is a codification of the exact interpretation applied to Floor Area Ratio since approval of the 601 South Forest Avenue Site Plan in 2008. Thus, the proposed definition will not result in larger allowable FAR as suggested in the question.

Comments from stakeholders have been received asking for more exemptions than proposed or currently interpreted. More exemptions would result in more building mass for the same floor area ratio and staff has recommended a separate process for consideration of those proposals.

Question: The current chapter 55 has an amendment process. Please identify where that process appears in the UDC. (Councilmember Eaton)

Response: Section 5.30.5 Chapter Text Amendment, page 234.

B-3 - An Ordinance to Amend Chapter 55 (Zoning), Rezoning of Approximately 1.8 Acres from P (Parking District) to C2B (Business Service District), Briarwood Mall Parcel 2 Rezoning, 700/720/760 Briarwood Circle (CPC Recommendation: Approval - 7 Yeas and 1 Nays) (Ordinance No. ORD-18-11)

Question: In addition to the temporary sales contemplated, what changes may result in the rezoning of this parcel, and does that comport with the current or future anticipated vision for the Briarwood property, or what staff believes is in the best interest of development in this area? (Councilmember Westphal)

Response: New development may result from the rezoning of this portion of Briarwood Parcel II from P (Parking) to C2B (Business Service). Additional mixed use development, which is enabled by rezoning to C2B, does comport with the overall tone of the City Master Plan. It must be noted, however, that the portion of the parcel to be rezoned is relatively small and would not achieve a transformation of the entire Briarwood area. Staff believes the rezoning is appropriate for the area, the owner and the City as an incremental change moving towards a larger transformation.

DB-1 - Resolution to Approve 2050 Commerce Drive Site Plan and Development Agreement (CPC Recommendation: Approval - 7 Years and 1 Day)

Question: Regarding DB-1, the staff report indicated no neighborhood comments had been received prior to the April Planning Commission meeting. Were any objections raised at the Planning Commission meeting (or subsequently) and if so, can you please summarize the concerns. (Councilmember Lumm)

Response: Yes. Concerns were expressed by adjacent property owners regarding the location of the dumpster enclosure, the size of the proposed development, traffic impacts, potential loss of trees, density and cost of rent.

Question: Also on DB-1, the cover memo indicates that “flow equivalent to 233 GPM will need to be removed from the sanitary sewer system in order to mitigate new flow from this proposed development. A payment may be made in lieu of performing actual flow removal.” I don’t recall seeing similar language to this previously – is this just the footing drain disconnect program described differently and is the payment in lieu referenced the normal FDD payment/process? (Councilmember Lumm)

Response: This language has been consistently used since the Developer Offset Mitigation program was amended a few years ago to provide fee-in-lieu as an option to any developer performed footing drain disconnects to meet requirements.

DS-1 - Resolution Authorizing Notice and Issuance of General Obligation Bonds - 350 South Fifth Avenue (6 Votes Roll Call)

Question: Q1. The cover memo states that prepayment of the debt in full is anticipated to come from 1. Proceeds from sale Library Lot or 2. Proceeds from sale of Y lot or 3. Other City or DDA resources. That suggests it’s the City’s plan to fully retire the bonds at the earliest time possible/as soon as any of these occur and generate the cash. Is that correct? For the Library Lot, can you please remind me at what point in the process the City receives the \$10M in cash from Core Spaces? (Councilmember Lumm)

Response: Correct. The City anticipates retiring the debt as soon as practical. The City would receive the sale proceeds from the development of the air rights above the library lot structure at closing, which is approx. 540 days after the sales agreement is signed.

Question: Q2. I understand we will be paying a variable interest rate and won’t know the exact rates until the deal is done, but what indications are we getting from our financial advisors regarding the approximate interest rate we likely will be paying initially (before any variable rate resets)? (Councilmember Lumm)

Response: The City’s outside financial advisor is assuming 3.0%.

Question: Q3. The cover memo references the DDA as a possible source of funding for a portion of the debt service. Has this been discussed with the DDA and/or by the DDA Board? If so, please summarize the discussion. (Councilmember Lumm)

Response: City staff has mentioned to the DDA Finance Committee the possibility of the City requesting financial assistance with the debt service. However, at this time no official City request has been made. The primary source of repayment is anticipated to be from the proceeds of the sale of the above ground development rights over the library lot. The proposed bond issuance would be callable such that prepayment can occur near the time of closing on the library lot development rights.

Question: Q4. Since a portion (\$1M) of the bond proceeds are utilized to settle litigation and not to purchase property, does that in any way effect the “tax exempt” status of the bonds or the DDA’s ability to participate in paying a portion of debt service? (Councilmember Lumm)

Response: No. The \$1 million was necessary to settle the litigation as a whole, which had to happen before the City could clear its’ title to the property. Accordingly, the \$1 million is considered an allowable expense for tax advantaged bonds.