



Special Planning & Public Safety Committee Meeting

September 19, 2017

Summary and Motions

Chair Scutchfield called the meeting to order at 1:02 p.m. Council Members Kay, Bledsoe, Gibbs, Henson, Mossotti, Plomin, J. Brown, Lamb and Smith were in attendance. Council Members Stinnett, Moloney, and F. Brown were also in attendance as non-voting members.

I. Approval of August 29, 2017 Committee Summary

A motion was made by CM Plomin to approve the August 29, 2017 Planning & Public Safety Committee Summary, seconded by CM Mossotti. The motion passed without dissent.

II. Comprehensive Overview of the PDR Program

Derek Paulsen, Commissioner of the Department of Planning, presented the item. He provided an overview of the application process from beginning to end. He reviewed the farm ranking criteria and how farms are selected. He discussed the RLMB make-up and the organizations involved. He discussed what the RLMB is permitted to do versus what they actually do. He explained that the chair of the board is actively involved. He reviewed the board members who have farms in the program and family members who have farms in the program. He explained that former board members are not prevented from submitting a farm; however, active board members cannot have their farms considered. He discussed the overview of the program spending and where all of the funds go. He also provided a breakdown of the spending. He reviewed the non-federally matched purchases which included about 16 farms. He said this was based on a federal decision and the farm not meeting the requirements. He reviewed the comparison of PDR to the federal program. He discussed the current PDR rankings including 13 that are in the pipeline. He explained that counter-appraisals are prohibited under the federal matching program and he said PDR permits counter-appraisals for locally funded farms.

CM Lamb asked about the application process and if there is a way to recognize the farm without recognizing the owner. Paulsen said the farm number is the way they are ranked and there is no mention of farm owners. He said when farms are being considered there is a ranking number, a description of the farm and pictures; farm owners are not named. CM Lamb asked if the RLMB falls under the Ethics Act and asked if they have to file and if there is confidentiality. Paulsen said yes.

CM Plomin asked when the last time was that we received counter-appraisals and Paulsen said it was in 2012, but he said that the farms being considered for federal match are no longer allowed to have counter-appraisals. CM Plomin commented that there are 6 board members, 2 that are currently on the board and 4 over the last 16 years that have farms in the program. Paulsen said yes; there are 6 board members with 9 farms total over the history of the program.

CM Stinnett asked what the reason is for federal ineligible farms on the list. He asked what

makes them federally ineligible. Overman said factors include the citizenship of the owner and soil quality. CM Stinnett commented on PDR funding that is used to keep farms in business and he asked what happens to the land and the easement if the farm that has received PDR money goes under. Paulsen said the easement stays. CM Stinnett asked if the new owner acquires the easement and Paulsen said yes, the easement is there in perpetuity. CM Stinnett said the PDR money would not need to be paid back and it would be there forever and Paulsen said that is correct. CM Stinnett asked what changes the administration is willing to bring forward as far as the PDR program. Paulsen said the board has been looking at recommendations. They have a subcommittee and 4 new board members have recently been appointed. He said they would like to meet and discuss these recommendations before bringing them forward to Council. CM Stinnett commented on the PDR ordinance and the referendum to set a funding source and he asked if the transient tax goes to a vote. Janet Graham, Department of Law, said yes. He asked if Council would initiate the referendum to fund PDR. Graham said she thinks it would start with action by Council.

CM Henson commented on the board members who want to sell the easement and asked what the time limit is for a board member to resign from the board if they want to sell their easement. She also asked what the period of time is before they can bring their farm forward and before going back onto the board. Paulsen said there is not a period of time; once you are off the board, you can submit your application. He said the application process is a 2-year process and then you have to be nominated by an organization to go back on the board, then you have to be approved by the Mayor. CM Henson asked about the current farms listed. He said farms stay in the application pool until they ask to be removed. They might get pushed up or down on the list of rankings. CM Henson asked if there was a list of farms they have PDR agreements with. Paulsen said there is a map of all of the farms on the PDR web site. CM Henson said she was curious how we purchase these easements every year.

CM F. Brown said the original ordinance was in 2000 and there were no changes as of 2004. He asked if there have been changes up to now. Overman said 1 in 2007 on how they value acreage. CM F. Brown asked Chair Scutchfield what the purpose of this was. CM Scutchfield said we started looking at this because it has not been reviewed in a long time and it is an overview to determine if updates or amendments need to be made. He asked about the overview of PDR spending. He said we have bonded 10 bonds to buy property and it has cost \$11 million more. He said we have borrowed over \$32 million to stay in this program. He said he thinks this needs to be acknowledged because our budget is strapped. CM F. Brown commented on the PDR program in the media and he said the perception is not good.

CM Mossotti asked about the PDR rankings and the 50% that are federally ineligible and the concern about the guidelines. Paulsen said without the federal match, it cuts in half the purchasing power of the program. He said the way we are bonding this, in a lean year the program could be in jeopardy. He said if we only use local money, it is half the acreage than we could have had with federal money. He said we are limiting ourselves if we do not use the federal match.

CM Moloney asked if there were other ways to get credit for farms who did not take the money. Paulsen said there were 35 farms who donated easements to the program. CM Moloney asked if a person got more money by taking the tax credit than they would the one-time fee. Paulsen said it would depend on the individual as to whether the money was needed or not. CM Moloney asked if a farm goes under and they opted out on the donation and a new farm comes in, would they be eligible for the PDR money. Paulsen said no. The tax credit goes to whoever entered the agreement. He asked if someone donates the farm, will the new owner know that the land is protected. Paulsen said yes.

CM Plomin asked about the pipeline and how long farms can stay there. Paulsen said as long as they want; until they want to be removed. He said their place on the list might fluctuate from year to year, but they will stay on. He said if they move up to the top, Beth Overman, PDR Manager, will reach out to them to see if they still want to be purchased. CM Plomin commented on board members who are perceived to be taking advantage of this having been on the board for so long.

CM Bledsoe asked about the program and asked if federal money is tapering with the state money having gone away. Paulsen said they have been lucky to have had this program for so long and they have had the local match for many years which is important, but they don't know from one farm bill to the next. CM Bledsoe said our farm land is an economic development tool and a tourism tool, she said finding a permanent funding solution has to come from somewhere. CM Bledsoe commented on the 6 year time period for the Affordable Housing Board and asked how they made that decision. Paulsen said he does not remember the rationale. He said it was a group discussion that led to the decision.

CM Henson said she supports the PDR program and in looking at the list of farms purchased, she asked if the last farm was purchased in 2012. He said no, they closed on 7 farms in the spring so there is an updated list. CM Henson asked if there was a backlog of funds and Paulsen said that is correct.

VM Kay commented on the about Affordable Housing Board and said the intent of 6 years was that no one was going to have a special advantage. He said they do not have active developers on the board, but they have people who are bankers or mortgage lenders with experience on that board. He said the information here is helpful. He said the board will be recommending changes and that is when we can go into detail about what needs to be done or not done and Council can modify as they wish. He said 17 years ago when the Rural Land Management Plan was developed and the PDR program was developed, people who owned land in rural areas were able to develop their land at 10-acre frontages. He said the Rural Land Management plan changed that to 40 acres. He asked how we can get to the goal of 50,000 acres with the least cost to this government. He said he would like to look at the funding, how it is funded, when we get a match or don't get a match and how it all works as far as how we move forward to the goal of 50,000 acres being protected.

CM Mossotti commented on the federal match and asked if we apply for a certain amount every year or how does that work. Paulsen said they are told how much is available and then they apply for that amount with specific farms. This year there is \$1.7 million so they apply with specific farms in mind and then try to qualify for the match. He said they do not always get the match; sometimes it is more and sometimes it is less. He said they tell us an amount that is available and we look at the farms on the list and try to piece them together to get to that amount. CM Mossotti asked if that money will go back to the federal government if we do not use it and Paulsen said yes. CM Mossotti asked if that has happened in the past. Paulsen said he feels sure it has. CM Mossotti asked about programs like Nature Conservancy and if they get paid for their program and easements. Paulsen said he believes PDR is the only program who pays for easements, but he believes others are donations.

CM Lamb commented on the make-up of the Planning Commission and the Rural Land Management Board (RLMB). She said these boards consist of members who are active in specific areas of expertise which are important. She said it is important that they have this knowledge so they have a better understanding of the Planning Commission and the RLMB responsibilities. She said they are both held to a higher accountability because they are covered under the ethics act and they have to follow rules and guidelines that other boards and commissions do not. The Chair of the RLMB in 2011 had requested an advisory opinion as far as the sale of a conservation easement. She said the Ethics Commission said there is not a conflict because of the tight legal controls that govern both entities and the differing duties and purpose of each group. She said she wants the public to understand that there are legal parameters that need to be followed and hold boards and commissions responsible for abiding by those. She said when considering the make-up, it is important to consider that we have a level of expertise in those areas.

CM Stinnett said it is important to go back to the beginning to see that this program has protected valuable farmland and has done what it was intended to do. He said 17 years later this needs to be revamped. He said the most important thing to consider is how we move forward. He said the rules we have in place are what they were when this was created and they need to be changed. He asked what the timeframe is on this. Paulsen said a timeframe has not been set, but maybe by first of the year. CM Stinnett said PDR protects our signature. He said we need assistance on the infill side and we need a program similar to PDR on that side. He said we are going to have problems in other programs. Paulsen said we have that, but we just don't have the funding. CM Stinnett commented on the possibility of using transient tax which is tied to tourism. He said we need to find a way to keep this afloat. Paulsen said the majority of the board will be in agreement with you and will want to make some recommendations.

CM Lamb asked for clarification on members serving on the Planning Commission and the RLMB at the same time. CM Stinnett said currently there are members who are serving on both the PDR board and the Planning Commission at the same time. CM Stinnett said the Council confirms them.

CM Moloney said the state and federal governments are having budget problems as well. He asked if we will continue to work with senators and congressmen to make sure we have the grant money to continue this program. He asked if there has been any feedback from the federal government and if there will be funding to continue and he asked what is needed. Paulsen said this is a national program and this is part of a larger farm bill. He said it will be heavily supported by the state and congress. Paulsen said he is not aware of any dangers to the funding of the program; it is funded through 2018. CM Moloney said federal budget has not been approved.

A motion by CM Bledsoe to add the Rural Land Management Board and the Board of Adjustments to the existing Subcommittee on Planning Commission appointments, now called the Subcommittee on Boards and Commissions, seconded by CM Mossotti, the motion passed without dissent.

CM Scutchfield said she was under the impression that these easements were in perpetuity. Paulsen said there is a way out and there are two scenarios laid out in the ordinance and he will send those (to Council). He said (getting out) is not an easy thing to do. The first scenario requires the landlord to file a written request after 15 years to release any part of the parcel of land which has to be inside the urban service boundary. He said while this is possible, it is not very probable, but there is a way out. He said they take care not to purchase farms too close to the urban service boundary because you lose points for that. He said this replaces a farm with a "like" farm. He said while one farm might be out, the acreage that is preserved will stay the same.

A motion was made by CM Mossotti to adjourn, seconded by CM Plomin. The motion passed without dissent.

The meeting was adjourned at 12:20 p.m.

KT 9.22.17