



Special General Government & Social Services Committee

May 14, 2019

Summary and Motions

Committee chair, Susan Lamb, called the meeting to order at 11:03 a.m. Committee members Steve Kay, Richard Moloney, Chuck Ellinger, Angela Evans, Fred Brown, Jennifer Reynolds, and Kathy Plomin were present. Committee members James Brown and Bill Farmer were absent. Councilmember Josh McCurn was in attendance as a non-voting member.

I. Homeless Camps

Polly Ruddick, Director of the Office of Homelessness, Prevention and Intervention, first distinguished the different processes to address homeless camps on private property versus public property. After emphasizing limitations associated with private property, she explained who contributes to the identification of camps, the LFUCG divisions that make the first contact and the notices that are posted at encampments when they are discovered. She said a plan is developed after the initial contact, which is created by a street outreach team. She reviewed the length of time between the first contact and the formal cleanup for two examples, one taking 37 days and the other 53 days. She pointed out that a flexible process is key for each camp to be addressed compassionately, on an individualized basis. Finally, she concluded that they do not recommend an ordinance, instead, LFUCG should continue operating under the standard operating procedures, with the addition of an annual review process that would be reported to the council.

Public comment was allowed and included the following comments: stuff being stolen from camps; not being aware a camp was going to be cleaned; that the homeless community will help move the stuff at a camp; a comparison to legal notice required for evictions; the idea to give a piece of land designated for people who are homeless to use; the desire for an ordinance to outline: a minimum of 21 days before a cleanup can take place to help protect the rights of people, that no camps are removed between November and March, and the compassionate caravan be notified, all with the understanding that it would only apply to public property; emphasis of justice and mercy; and to work in unity, together.

CM Reynolds asked about the possibility of ensuring a minimum of 21 days between the final notice and the actual cleanup. Melissa Murphy, attorney with the Law Department, said a carve out of a specific timeframe would violate criminal trespassing statutes, KRS 511.70 and 511.80, further explaining specific timelines could place Lexington on the hook for selective prosecution in other areas when people choose to be on LFUCG property. She said she doesn't believe Louisville's ordinance works well and the Law Department doesn't believe we should carve out a specific group of people.

CM Ellinger questioned the legality of Louisville's ordinance if it violates KRS. Murphy explained the challenges 21 days would present when considering the removal of someone that is not homeless as well as public scrutiny to adhere to specific timelines as deadlines. She said Louisville has experienced issues with their ordinance despite no constitutional challenges; they did not follow their own process, which was an issue with the public's expectation for a camp to be cleaned up on the 21st day. Murphy said our standard operating procedures ensure we make contact with individuals within the camp before it is cleaned, which provides better due diligence. She added that health and safety concerns continue to take precedence.

VM Kay confirmed Louisville's ordinance outlines a deadline of 21 days for homeless camps to be cleaned by. He said he wants to provide support for the intent of our process; Murphy said a resolution could support the intent of OHPI's standard operating procedures. She emphasized she has been advised that no camps on LFUCG property have been cleaned up without notice. Murphy said the Law Department feels an ordinance is not necessary or legally defensible. Kay said a resolution could reference components of the standard operating procedures, including a preamble that speaks to the intent.

CM Plomin said she supports the idea of an ordinance, pointing out the language could read a minimum of 21 days and she thinks the procedures need to be set in a permanent record. She believes that the wording on the notices that reference trash and debris, which get posted at the camps, needs to change because it is precious material that belongs to people of a marginalized community.

Ellinger was also supportive of an ordinance, mentioning he wants to understand what is happening in Louisville and how avoiding cleanups during the colder months is influenced by KRS. Murphy explained she does not think we can make an exception because it would carve out a specific population. She added that November through March by definition sparks health and safety concerns that would lead to a cleanup because those are Lexington's coldest months; in addition to a violation of criminal trespassing laws. She explained a hypothetical situation regarding college students and the difficulty to establish what qualifies as a camp.

CM Evans talked about fundamental property rights, explaining that she believes an ordinance would endorse criminal trespassing. She cautioned against ordinances that would carve out a specific group of people. She also mentioned difficulties with the enforcement of many existing laws, comparing it to speeding and other traffic laws. She said an ordinance that outlines 21 days would create an expectation. She wants to continue moving forward on the path that we are on.

CM Moloney clarified 21 days would only apply to public property. Ruddick explained how camps on private property fall under nuisance violations and are addressed by Chapter 12 of the Code of Ordinances through the Division of Code Enforcement. Alex Olszowy, Director of Code Enforcement, explained how camps on private property are considered trash and debris, therefore property owners are given 14 days to clean it up; he clarified the people could stay but the trash must be removed. They discussed a camp that was on federal property but actually controlled by the state, which OHPI outlined a written outreach and cleanup plan and shared with the state; the city cleaned up trash and debris and then the state cleared the underbrush.

CM Lamb said that Lexington takes this seriously and we want to retain the ability to address these situations individually. She said retaining flexibility is important. She supported the idea of working with the compassionate caravan and proposed an idea for the community to create a weather-proof package that could hold the belongings of individuals living in homeless camps that people would know to return to a specific location. She also pointed out the lockers at New Life Day Center. She believes an ordinance is too binding.

A motion was made by Kay for OHPI to draft a resolution for the committee to consider that expresses support of the standard operating procedures and any further information regarding the appropriateness or lack of, an ordinance be provided at that time. Discussion of the motion included the following comments. Evans questioned the need for a resolution. It was noted that an annual review could be referenced in the resolution. Plomin expressed support of an ordinance and didn't want it to be

diluted by a resolution, which is not enforceable. She said we should look at other cities that have ordinances regarding camps. Ellinger asked about a 21-day minimum being included in the resolution, emphasizing the need for it to reference notification. Kay explained the resolution should record the intent of the current standard operating procedures because of legal limitations in regards to an ordinance. Plomin asked Ramsey to provide feedback regarding a resolution versus an ordinance. After referencing a case reaching the supreme court in Idaho related to camping on public property, Ramsey asked for two months to allow her legal folks to provide the committee other legal information before making a decision. Moloney supported the idea to allow more time before the item returns to committee. Ellinger asked for more information regarding other cities and a 21-day rule, an exemption for cold months, and whether an ordinance is possible.

A motion by VM Kay for the OHPI to draft a resolution that expresses support of the standard operating procedures for homeless camps and any further information regarding the appropriateness or lack of, an ordinance be provided when the resolution is provided, seconded by CM Ellinger II. The motion passed with a 7 - 1 vote. (Kay, Moloney, Ellinger, Lamb, Evans, F. Brown, Reynolds voted aye; Plomin voted no.)

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

The meeting adjourned at 12:33 p.m.

H.A.
6/5/18