



Planning and Public Safety Committee Meeting

October 16, 2018

Summary and Motions

Chair Mossotti called the meeting to order at 1:03 p.m. Committee Members J. Brown, Kay, Bledsoe, Gibbs, Henson, Plomin, Lamb, Smith, and Worley were present. Council Members Farmer, Stinnett, F. Brown, Evans, and Moloney were also present as non-voting members.

I. Approval of September 11, 2018 Committee Summary

A motion was made by CM Plomin to approve the September 11, 2018 Planning and Public Safety Committee Summary, seconded by VM Kay, the motion passed without dissent.

II. PDR Annual Report on Easement Acquisition Status

Beth Overman, Director of PDR, presented the item. She presented a map which illustrates the urban services boundary and she pointed out the various locations of the farms that she would be discussing. She reviewed the application process and emphasized that we cannot close an easement until NRCS notifies us that it is ready to close. She said including the 10 farms conserved under the 2018 acquisitions, the total conserved acreage is 29,669 and the 766 acres conserved under the 2016 Federal Cooperative Agreement would bring the total to over 30,000 acres. Lastly, she explained the future acquisition summary and said the passage of the Farm Bill 2018 was delayed until later this year and said it includes full funding for the federal matching program we are using.

CM Lamb asked how farms are being encouraged to apply and what outreach is being utilized during the application process. Overman said mailers are sent to each eligible farm owner and information sessions are held with representatives from NRCS as well as stakeholders. Lamb asked for the current balance of PDR budget including the 7 farms that have been closed on under the 2016 Federal Cooperative Agreement. Overman said we have allowed for funding those farms in the budget and we have approximately \$1.35 million available if they all accept the offers. Lamb asked if the 2016 grant substitutions in process would close by end of calendar year. Overman said those will be submitted for approval this month and NRCS will determine when those will close at the time of approval.

CM Stinnett asked if all applications are assigned a number and if the board knows who is applying or if that remains anonymous throughout the process. Overman said it is supposed to be anonymous so board members can remain objective. She said we do not discuss farms in open session until the farm closes and even then, we do not use the name. Stinnett asked what the approximate dollar amount would be for the 2016 grant substitutions. Overman said she has that amount which she will send.

CM Plomin asked what the gross number of acres is that is out there. Overman said in the rural area it is 127,000. Plomin referenced the May 30 Rural Land Management Board (RLMB) meeting and questioned whether someone withdrew because it takes too long. Overman said no one has withdrawn for that reason and she explained that the speaker in question was frustrated at how long it is taking, but has not withdrawn. Plomin asked when that particular farm will close. Overman referred to the application process and said that one has been assigned to an attorney.

CM Mossotti asked what is causing the delay. Overman said it could be for several different reasons including soil quality, numerous applications, or the ranking process. CM Mossotti asked if this is why they did not ask for money in last year's budget. Overman said one of the big changes that came through in the 2014 farm bill that affected funding was substitutions which allow us to keep money without having to come back and ask for more; and they have not used counter appraisals since 2014 which saved money as well.

CM Evans asked if there is a reason why farms do not remain anonymous and asked if that is a concern. She said

we did have one landowner with a farm under contract who came to the May 30 board meeting to speak during open session; they made themselves known to the board. Evans asked if RLMB has a strategic plan and if the board is working in conjunction with Division of Planning staff to determine the percentage of land to be acquired. Overman said the board is sticking with the goal of 50,000 acres which is included in the 2017 Rural Land Management Plan. She said the plan is just to strategize what farms are available; and seek applications from those farms that would help us continue to build contiguous.

CM Lamb said she discovered in speaking with people at NRCS, the 2014 Farm Bill was the problem with the longevity of getting things through. She asked if we have learned better practices and how to make sure those are not challenges we need to overcome to make the process more productive and faster. Overman said in the contract provided to the landowner, we require a consolidation plat and they do not take that action until they have an offer from us and a signed contract. CM Lamb asked if applicants are told about this at the beginning of the application process. Overman said they are told of this in the beginning, but a consolidation plat is not something they want to do and it is not something we want them to do until a contract has been signed.

CM Henson asked about the other conserved land, how that came about, and what the total amount is. Overman said it is mainly Bluegrass Conservancy and she has that total which she will send. Henson asked if we can consider this conserved land as part of our contiguous plan. Overman said they do include Bluegrass Conservancy in the calculations. Henson asked where the funding comes from for Bluegrass Conservancy. Overman said they only take donations and they do not pay people for easements. Henson asked if the protected land is donated and Overman said yes; you can donate the land and the IRS allows a tax deduction for a conservation easement

No further comment or action was taken on this item.

III. Planning and Public Safety Subcommittee on Boards and Commissions

Hilary Angelucci, Research Analyst in the Council Office, presented the item. She said the subcommittee requested an opinion from Attorney General's office asking what they would be able to do with the Planning Commission, but they did not provide an opinion because the Council did not request an opinion as a body. She reviewed the current board member structure and she explained that the boards could explore options to modify boards' structure to strengthen them by expanding perspective and diversity. CM Bledsoe explained that the concern was the Planning Commission's representation by district. She said the committee looked at the 3 boards that govern the city's land to see if it is an accurate representation of our community by thought, district, race, diversity and what influence we had to address those things. She said their ideas came down to three concepts: 1) you should not be on two boards at one time as a way to allow others in the community to serve; 2) broaden the criteria of the board; 3) and if there is a way, to add more community representation. Bledsoe suggested voting on each recommendation separately.

CM J. Brown asked if Farm Bureau weighed in on the changes and Bledsoe said they were okay with the changes. He asked if Commerce Lexington had any concerns and Bledsoe said they were fine because agriculture is maintained in the preamble. J. Brown asked about the 2 members from a list to be submitted by councilmembers for the administration to consider and asked if "neighborhood leader" was a mandatory criterion. Bledsoe said that was a recommendation.

CM Plomin said the knowledge on the board is important for the rural area and we need someone from the RLMB on the Planning Commission.

VM Kay said we should hear from Director Overman on the reasons why RLMB is not supportive. He said there are people present today who do not support these changes and he would like to hear from them.

CM Stinnett asked if the subcommittee looked at the attendance and Bledsoe said they did not. Stinnett said he saw the letter from CM Scutchfield on the Planning Commission attendance and asked what the final outcome of that was. Bledsoe said we cannot remove someone from the Planning Commission so there was no need in

pursuing this if it could not be enforced. CM Stinnett said the way our council rules are worded, you can remove anyone from most of our boards and commissions by 8 votes of the council and he asked if that does not apply to the Planning Commission. Bledsoe said the subcommittee did not look at those issues.

VM Kay asked about the response of the RLMB on these proposed changes, what the discussion was, and if the vote was unanimous. Derek Paulsen, Commissioner of the Planning Division, provided a brief overview of the RLMB and said they were not particularly concerned with making changes to the membership. Kay asked if this is reflected in the minutes of the RLMB and Paulsen said the changes were discussed at the May 30, 2018 meeting which was televised and those minutes are available. Kay asked if an official vote was taken and Paulsen said no.

CM Lamb said she has reservations about the changes. She used the Ethics Commission as an example and said we were having trouble getting appointments to this commission because of the structure that was in place. She questioned if we are having complications in getting appointees for the RLMB and said if there are no complications from that, she would respect the RLMB and leave it as it is.

CM Evans said the point is not that we are having trouble getting people to serve. She said a big part of this is having diversity. She said it is a concern when so many representatives come from one district. She said it is not just about finding people to serve on it, but we need to be representative of the entire city.

Joan Whitman, former LBAR President, spoke on the reversed vote. She said there was discussion about the 60% restriction and they realized some of the people they would want on the board would likely not meet the 60%. She said selling farms is a specialty and it takes a lot of time and effort. She said most of the farm people do not want to sell commercial and might sell some residential, but it would not meet the 60% restriction.

Zack Davis, LBAR representative, spoke on the RLMB changes. He said the Ordinance Review Committee met for approximately 2 years before these changes came into discussion and at the most recent meeting when these were discussed, the general consensus of the committee was that so many stakeholders came together to craft the ordinance over an extended period of time that it would be irresponsible of us to amend it in such a way that it changes its nature when those 26 stakeholders did not have a seat at the table. He said the committee addressed what they thought was most pressing and would improve the program and its execution would not violate the original intent and trust that was put together in early 2000 by those stakeholders.

Frank Penn, member of RLMB and Planning Commission, spoke on the recommendation that a member should not serve on two boards simultaneously. He said you need experience for each board and this has nothing to do with stopping expansion; it is about saving what makes Lexington unique. His recommendation is that we back off this and if we want to expand RLMB, bring people on who have an interest in agriculture and understand what makes tourism work.

CM Bledsoe said the goal of the subcommittee was not to attack or be adversarial toward the RLMB. She said we started by looking at the Planning Commission and realized the Planning Commission and BOA had similar interests. She said we felt strongly that you should not serve on two boards. We cannot dictate that on the Planning Commission or BOA documents because those are done by the state. She said the only way to make it clear was to provide language in the RLMB ordinance that you could not serve on both and that is how RLMB became part of the conversation. She said by looking at the board diversity, we realized we had an issue there too.

A motion was made by CM Bledsoe that no member of RLMB can serve on Board of Adjustments (BOA) and Planning Commission at the same time, seconded by CM Worley, the motion failed with a 2 - 7 vote. (Yes: Bledsoe, Worley; No: Kay, Gibbs, Henson, Plomin, Brown, Lamb, Smith). (Discussion below followed the motion)

VM Kay said he agrees with CM Evans that this body needs to look more closely at representation to make sure that all segments of the community are represented as much as possible on all boards and commissions. He said he feels it is not appropriate at this time so he does not support the motion. He said we should not adopt any of these recommendations but look again to include all the boards and commissions and address the question of

representation.

CM Lamb said diversity was addressed at the last General Government and Social Services committee meeting and this administration is working with us to make sure we get the word out to more organizations and areas in the community. She said she thinks through our Rules and Procedures, Council will get notification of vacancies on boards and commissions and can advocate for people in the districts to be involved. She said this is not something that will happen overnight; it is a work in progress but we need to work to get more people of diversity and backgrounds on all of our boards and commissions.

CM J. Brown said he cannot support the motion because he does not see a conflict serving on both boards. He said he will support the changes that provide another opportunity for the administration to consider folks to be on the RLMB. He said currently all the names that are considered for placement on the board are submitted by organizations and now we have the opportunity to submit additional names which gives the administration more flexibility to diversify the board.

CM Worley said while these boards might not say specifically to add diversity here or there, the intention is to open it up for that opportunity. He said he believes we should be doing this with all of our boards, but this is the board we are discussing now. He said he believes a person is going to be better suited moving forward to not serve on both boards.

CM Plomin said Rural Land Management Plan is a document that someone at the table needs to be familiar with. She said the goal is to see what the best properties are out there for inclusion. She said she does not support the motion.

CM Lamb said this is well intentioned, but has only happened one time and she thinks we do not need this going forward. She said we have the ability to make the decision whether we approve someone or not and through this diligence, we can manage this without making this change.

CM Bledsoe said there are 6 people on the Planning Commission who live in the 12th district and that district is well-represented. She said there is a lot of representation from Rural Land Management districts on the Planning Commission. She explained the intent was not to go after RLMB, but to diversify some thought.

CM Plomin said a lot of the 12th district representation is in the neighborhoods and not the rural areas.

(At this time a vote was taken on the motion recorded above)

CM Stinnett said the problem with diversity started because no minority has ever served on this board. He asked about the discussion at the May 30 meeting where CM J. Brown and CM Smith were specifically mentioned and asked how the comments made at that meeting play into this discussion. He said there is an attendance issue on this board and said the ordinance states that if you miss more than 25% of meetings, you come off the board and that has not happened. It is for those reasons that we are here today.

A motion by CM Bledsoe to add two members from a list of names submitted by council provided that each nominee serve as a leader with a background and interest in agriculture, seconded by CM J. Brown, the motion passed without dissent. (Discussion below followed the motion)

CM J Brown said he seconded the motion because this could help diversify the board. He said he does not know the historical record of submitted names by organizations, but no people of color have been selected to be on this board and allowing Council to submit names to this board could help broaden the pool of applicants and potentially give us the ability to diversify the board. He said this is the only board whose membership comes entirely from recommendations by outside organizations.

CM Lamb said the problem is that the actual ordinance establishing this program for the preservation and management of agricultural rural and natural lands. She said that this is the way it was established and if we remove that term out of the membership, it could have a negative impact.

CM Bledsoe pointed out Section 26-3(2) that says all voting members shall be residents of Fayette County, shall have a demonstrated interest in farming, farmland preservation, conservation of natural areas, or other agricultural rural or natural land preservation and management issues. She said she just wanted to clarify that all neighborhood leaders would need to follow that criteria to be considered.

CM Stinnett requested clarification that this is not to have councilmembers on the board, but someone in the community. Bledsoe said this is specifically for community leaders recommended by councilmembers. Stinnett says he supports this because having that diversity would be great. He also said having representation inside the boundary would be good because of the conservation going on in neighborhoods; everyone has a right to want to protect that and has an interest in it.

VM Kay said he is hesitant to make piecemeal adjustments, but in this case given the nature of appointments to the board and the reliance we have otherwise to assure we have broad representation rests with those individual organizations, it is appropriate to add these 2 members so councilmembers can identify people who they think would be good to serve on this board who would otherwise not be represented.

CM Moloney asked if RLMB was aware that the subcommittee wanted to make this change, but did not want to put these people on the board. Bledsoe said RLMB did not wish to change the makeup or composition of the board.

(At this time a vote was taken on the motion recorded above)

CM Henson said she thinks it will be of some value to have a councilmember on the RLMB.

A motion by CM Henson to add 1 ex-officio councilmember to RLMB, seconded by CM Plomin, the motion passed without dissent.

IV. Update on Overview of PDR Program

Presentation and discussion of this item was postponed to the next meeting due to time constraints.

V. Items Referred to Committee

No further comment or action was taken on this item.

A motion was made by CM Bledsoe to adjourn, seconded by CM Plomin, the motion passed without dissent.

The meeting was adjourned at 2:54 p.m.
KT 10.30.18