



Environmental Quality & Public Works Committee

February 7, 2023

Summary and Motions

Chair Sheehan called the meeting to order at 1:04 p.m. Committee Members LeGris, Wu, Fogle, Lynch, Monarrez, Gray, Worley, F. Brown, and Seigny were present. Council Member Plomin was present as a non-voting member.

I. Approval of November 1, 2022 Committee Summary

Motion by Wu to approve the November 1, 2022 Environmental Quality & Public Works Committee Summary. Seconded by Gray. Motion passed without dissent.

II. Capacity Assurance Program (CAP) Audit Update

Chris Dent, Sanitary Sewer Section Manager with Division of Water Quality, began the presentation on the *Capacity Assurance Program (CAP) Audit Update* by reviewing what CAP means with regard to the sewer system and the consent decree. He displayed the website for locating additional information and explained the capacity tracking map. He reviewed the history of the CAP program and mentioned the formation of a taskforce which began work in May 2012 with a completion date of September 2012. Taskforce meetings were facilitated by Stantec and they brought forward 19 recommendations that became the framework of the program moving forward. One of the recommendations was an audit to take place every two years to ensure compliance. The audit presented today is from July 2019 to June 2021 with 18 random applications reviewed out of a total of 171 applications. CAP audit findings showed everything was in compliance with requirements outlined in the ordinance.

Dent confirmed the audits are not ordered by the consent decree and it came as a recommendation from the taskforce. When asked if there is a reason why the audit is done every 2 years, Dent explained this is codified in the ordinance so Council will need to make this change. Charlie Martin, Director of Division of Water Quality, said the frequency was chosen out of an abundance of caution to be fair and transparent. Speaking about where they are in the process, Dent said there were 111 sanitary sewer pumps to start and 84 of those have been abated. When asked how transparency is helpful for the public and what the recommended timeline would be, Dent feels 5 years is adequate. The committee requested a Draft Ordinance recommending a change to the audit timeline be presented at the next committee meeting scheduled for April 18. No action was taken on this item.

III. Hazardous Street Tree (Cost-Share) Program

Jennifer Carey, Director of Division of Environmental Services, began with proposed changes to Chapter 17B in the Code of Ordinances as it pertains to street trees. The ordinance was last updated in May 1994 and the Tree Board supports the proposed changes. Potential changes include height requirements; changes to the Tree Board membership and the number of Tree Board meetings; and clarifying 2 types of appeals based on various issues. She provided a background on the guidelines for the *Hazardous Street Tree (Cost-Share) Program* and said the guidelines provide a framework (intent, eligibility, participation guidelines, etc.) for the program. Updating the program guidelines would expand this program to include properties in the Urban Service Area and other rural residential areas. Guidelines also address the equity issues and Carey reviewed new options available. She concluded with a brief review of the draft ordinance

and draft guidelines and she requested consideration of the proposed draft ordinance and guidelines updates.

Regarding the responsibility for tree pruning, Carey said there are requirements for clearance pruning that fall to the property owner to make sure there is adequate clearance over the roadway and the sidewalk. She spoke about a program to provide street tree clearance pruning, but it is only offered in tax districts that contribute to fund 1115. When asked if there is a provision in place for removing and replacing trees that have grown into each other or if a person needs special permission from DES, Carey said they want the property owner to obtain a permit to remove and replace the street tree. When asked about reporting dead or overgrown street trees through the 3-1-1 system (Lex-Call), Carey explained there are specific codes for this when calling Lex-Call and there is also a code for additional information on the cost share program. Carey confirmed the proposed changes don't really impact the process for utilities, but they have tried to restrict in areas with overhead utility easements.

When asked about diversity on the Tree Board, Carey said the board is not currently diverse except for gender, but addressing diversity is one of the goals for bringing these changes forward. By not so clearly defining what types of background someone needs to possess to qualify for the board's positions, it provides an opportunity to diversify the board. There was some concern about making the membership requirements too broad in an effort to make it more diverse because this particular board should have expertise. Carey said she is comfortable with it because the passionate people who are on the Tree Board have the qualifications that they are seeking. Members of the public who attend the Tree Board meetings, but aren't Tree Board members, create a deep pool of qualified people that can fill expired terms. Addressing the removal of the Building Inspection Director from the board, Carey explained that reason for this is because streets trees aren't in the purview of Building Inspection. Additionally, they wanted to reduce the membership by one staff member so this was the logical choice.

When asked how much is allocated to the *Hazardous Street Tree (Cost-Share) Program*, Carey said funding is \$50,000 in the budget for 1101. Additionally, the Ad Hoc committee allocated \$150,000 to help clear and work through the backlog. Speaking about the expertise on staff, Carey explained that she, along with Tim Queary, Traci Wade, Doug Burton, and several folks in the Urban Forestry program, attend to provide support and knowledge. Carey said they try to keep close tabs on the queue so when they approach the maximum budget, the application is removed from the web site. If applications are received after the funds have run out, they notify the applicant that their application will be kept on file for future funding. Carey clarified if someone applies but does not ask to be considered for the (100%) low income/middle income qualification, the 50% grant is the default and they are kept on track for getting the 50% cost-share upon completion. If someone wants to be considered for the 100% grant and is determined to not be eligible, they are offered the 50% grant as a way for the city to pay 50% of the cost up front. Speaking about funding capacity, Carey said they could easily accommodate \$150,000 a year because the staff has proven they can handle that number of applications and get them through the entire application process. Carey explained the guidelines propose setting aside 25% of the budget to award 100% grants so they would carve out this piece to make sure it is not spent by those who do not need the grant. Regarding reaching out to underserved communities, Carey said they track council districts of participants and she can provide more information this summer at their annual committee update.

Motion by Sheehan to approve the proposed amendments to Chapter 17B of the Code of Ordinances, relating to street trees, as presented to the committee and as set forth in the committee packet. Seconded by Worley. Motion passed without dissent.

Motion by Sheehan to approve a Resolution approving guidelines for the *Hazardous Street Tree (Cost-Share) Program*, to provide financial assistance to owners of owner-occupied residential property in removing hazardous street trees pursuant to Chapter 17B of the Code of Ordinances. Seconded by LeGris. Motion passed without dissent.

Motion by Sheehan to have the Resolution approving guidelines for the *Hazardous Street Tree (Cost-Share) Program* reported out at Work Session today, February 7, 2023. Seconded by Monarrez. Motion passed without dissent.

IV. Items Referred to Committee

Motion by LeGris to remove *Wrong Way Driving* from the list of committee referral items. Seconded by Wu. Motion passed without dissent.

Motion by Worley to remove the *Single Use Plastics/Energy Conservation* from the list of committee referral items [this item will now be included with the *Explore Lexington's Sustainability Options* item]. Seconded by Gray. Motion passed without dissent.

Motion by LeGris to remove *Waste Management Fines* from the list of committee referral items. Seconded by Monarrez. Motion passed without dissent.

Motion by Lynch to remove the *5G Small Cell Wireless Plan Update* from the list of committee referral items. Seconded by LeGris. Motion passed without dissent.

Motion by Sheehan to remove *Hazardous Street Tree (Cost-Share) Program* from the list of committee referral items. Seconded by Worley. Motion passed without dissent.

Motion by Fogle to adjourn at 2:29 p.m. Seconded by Gray. Motion passed without dissent.