



## Environmental Quality & Public Works Committee

March 1, 2022

### Summary and Motions

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Chair F. Brown called the meeting to order at 1:02 p.m. Committee Members Kay, Ellinger, Moloney, McCurn, LeGris, Sheehan, Kloiber, and Bledsoe were present. Committee Member Worley was absent. Council Members Reynolds and Baxter were also present as a non-voting members.

#### I. Approval of February 1, 2022 Committee Summary

Motion by Ellinger to approve the February 1, 2022 Environmental Quality & Public Works Committee Summary. Seconded by McCurn. Motion passed without dissent.

#### II. Consent Decree & Remedial Measures Plan

Charlie Martin, Director of Division of Water Quality, provided the annual update on the Consent Decree and Remedial Measures Plan (RMP). He began with an overview of the consent decree status and said the Stormwater Compliance Obligations have been completed, but they became a permit condition and while there is no federal intervention, it is a state and local issue. Supplemental compliance obligations have been completed and approval letters have been filed. He explained Sanitary Sewer Obligations are ongoing and include CMOM (Capacity, Management, Operations, and Maintenance) which are day-to-day operations and RMP projects which are estimated at \$594M in capital construction. Martin reviewed the active RMP Construction Projects List and pointed out that supply chain disruptions have impacted the timeline of these projects. Martin gave an expense comparison to date and said the total spent is roughly \$311 million compared to the \$426 million projection. He noted that he does have concerns about rising costs due to inflationary pressure and rising crude oil prices. Martin highlighted the 2021 award of the Kentucky Cleaner Water Grant in the amount of \$11.8M for replacing chlorine gas with UV disinfection equipment to reduce RMP costs by \$395,000. He also noted the Kentucky Infrastructure Authority awarded Lexington an additional \$15.8 million low interest loan to complete phase two of the wet weather storage facility improvements at West Hickman Waste Water Treatment Plant (WWTP). RMP construction going through Overbrook Farm was avoided with regulatory approval which saved time and money and construction is now going around the farm. Martin also shared an overview of the East Hickman Force Main project which has an anticipated start date this fall. Next, he provided information including designs for the New Delong Road Pump Station along Armstrong Mill Road. He pointed out that this project will resolve sanitary sewer capacity limitations for the Armstrong Mill Road extended corridor. Next, Martin shared "ready to launch" projects which include Liberty Road Trunk Sewer project and the Hartland 3 Pump Station. He reviewed challenges the team is currently facing which includes issues with easements, supply chain disruptions, and escalating costs. Figures from 2021 showed we needed to complete eight projects a year for the next six years which would have been 48 projects to complete the requirement and we are now sitting at 51 which means we are losing ground. He said we need to determine what Kentucky and the EPA's position is about providing additional time as the Consent Decree timeline most likely didn't consider the impacts of a global pandemic.

Ellinger and Martin discussed what it means to have a project "pending" and Martin explained that this means it is on the master list, but they have not hired the engineer to start the design process. Ellinger and Martin confirmed that the consent decree requirement is to be completed by 2026. Considering the delays caused by a two-year pandemic, Ellinger asked what other communities are doing that are in a

similar situation. Martin said many communities asked for more time in the previous federal administration. Martin noted our biggest issues are supply chain issues, but he has not yet spoken to the EPA. Ellinger spoke about the East Hickman Force Main project and asked if we will have a detour around the bike path and Martin confirmed there would be several detours throughout the neighborhood.

McCurn spoke about the 51 projects remaining and the \$115M in cost savings to date. He asked if any of the remaining projects are larger projects that will be more costly and will eat into that cost savings. Martin expects that we will eat into that savings to some degree because, before the pandemic, the pipeline projects were underestimated on cost while the storage tank projects were overestimated.

Kay and Martin confirmed that the easements are a mix of both permanent and temporary easements. Martin gave the example of a temporary easements at a drive-thru which does not want to close for any period of time and said this adds time to the project. Kay asked what the process is when someone isn't willing to grant a temporary easement. Martin mentioned that we could use the power of eminent domain, but we are hesitant to be that forceful so we try to work with them. Kay asked why there are negotiations under way if we have the right to do this. Martin said they don't want to get into a situation where we aren't working with people and the Mayor's Office or Council is being contacted. Kay asked if there is an issue of reimbursement for the inconvenience and Martin said it is more of an issue of inconvenience than it is money. He spoke about having to go through a parking lot and potentially impede someone's business.

Moloney spoke about the pump station at Overbrook Farm where there is a new development on the other side of Squires Road. Martin said he is aware of development plans in this area because they are waitlisted due to lack of capacity at the Armstrong Mill Pump Station. Martin noted they have a capacity allocation for a mixture of single family homes and apartments in this area that would tie into the Armstrong Mill Pump Station which is capacity limited. Other merits to an approved development plan is up to the Planning Commission, but the sewerability issue gets removed. Moloney feels the progress made so far is amazing considering the impacts from the pandemic and he feels the EPA should give us 2 more years or more because future inflation is unknown. Martin mentioned that EPA and Kentucky have been easy to work with and he is optimistic we will find a solution that does not escalate things to that level.

Kay followed up on the previous comment of making sure we are ahead on the sewerability issue. Kay said there are arguments made whether it is about capacity, infill and redevelopment, or specific proposals for development and sometimes we hear that this is going to add to the sewer problem. He asked for clarification that there has to be sewer capacity for any proposed development at this point. Martin confirmed that we do need to have this per the Capacity Assurance Program which is a written document approved by EPA. This says if we do not have existing sewer capacity, we must have credits in place to be able to restore the capacity if someone else uses it. Regarding anything that comes before Council, Kay asked if we can be assured that sewerability is not an issue because it has been reviewed. Martin confirmed this and used properties on the left side of Armstrong Mill Road as an example. He said they are waitlisted and cannot move forward with full development because of the lack of sewer capacity at Armstrong Mill Pump Station.

No further comment or action was taken on this item.

### **III. Abandoned Shopping Carts**

David Kloiber, 6<sup>th</sup> District Council Member, provided an update on Abandoned Shopping Carts and said carts tracked through 3-1-1 showed consistent numbers with various divisions picking them up. Kloiber

reached out to community businesses (KREF, Kroger, etc.), gathered feedback, and worked collaboratively to modify a proposal because abandoned shopping carts are still a problem. Businesses expressed concern about a burden on businesses that are already working hard to retain carts. There is also a concern that signage requirements would require full cart replacement. Due to supply chain issues, carts are now more valuable and businesses would like them back. Kloiber worked within the previously proposed ordinance and made the following changes: removed the private land requirement, removed fines for any partners who are currently implementing measures to retain their carts, created more flexibility in signage by only requiring the identifying name on carts, and created more flexibility in communication. Based upon this and because of the cost associated with taking carts to the landfill, he proposed fostering relationships with local businesses to return more carts where they belong. He proposed a resolution to instruct (he later clarified the language should be *request* not *instruct*) the administration to reach out to businesses to develop a policy for return or retrieval of abandoned shopping carts. Another option would be to pass an ordinance which would codify the partnership between the city and businesses, ensuring a uniform response.

Reynolds and Kloiber discussed what this would look like if the ordinance passes. Kloiber said anyone who participates in providing a retention plan would not be assessed a fine. Reynolds and Kloiber clarified that if they are not in this partnership and do not have proper signage, there will be a fine. Kloiber explained that the goal is to establish partnerships in the community. Reynolds and Kloiber discussed the fines and Kloiber said it is on a sliding scale based on the number of occurrences. Reynolds noted that this is a problem in her district and she appreciates a possible solution to a complex problem.

Sheehan referenced the consistency of data from 311 calls and asked what the amount of these calls is per month. Jennifer Carey, Director of Environmental Services, explained that from Jan 3 - Feb 9, there were 13 calls but only 6 were found to be at the location where they were reported. Sheehan noted that this is an additional resource when you have to send someone to retrieve the carts so it can be inefficient when the carts are no longer there and employees have spent time retrieving them. Kloiber mentioned that a big issue is not having a coordinated effort and we don't know who is picking them up and everyone is doing a little bit of it which makes numbers more difficult to pin down.

Kloiber said businesses are expecting some kind of relief and he moved to approve a resolution asking the administration to work on these partnerships.

Motion by Kloiber to approve a resolution requesting the administration reach out and work with local businesses to develop a policy for the return or retrieval of abandoned shopping carts. Seconded by Ellinger. Motion passed without dissent.

Moloney recommended giving them a couple of years to transition to what other businesses are doing to make this work. He suggested that the business community be active in making these decisions because they are the ones losing money.

F. Brown mentioned using the language "instruct administration to reach out and work with local businesses" and said we need more detail on this and asked if it would be CAO's office or Department of EQPW. Kloiber clarified that the language was intended to say "request" rather than "instruct".

Bledsoe clarified between instructing versus requesting the administration work on this and said this is an issue. We need to know how to best administer oversight and accountability and she believes the administration has been working hard to address these issues.

McCurn agrees it is an issue effecting the whole city and he asked how we can maintain it going forward because he doesn't believe Code Enforcement has the manpower.

Reynolds and Albright discussed responsibility of the carts. Albright said they have had an employee in Environmental Services taking point on shopping carts on public property and Code Enforcement takes the ones on private property. Reynolds and Albright confirmed the response time is 24 hours on public property and there are some partners who will assist with picking up carts. Reynolds and Albright discussed staffing requirements for this and Albright said she hopes the initial burden of doing this will go away over time. She added that developing and maintaining partnerships would be part of the burden. Reynolds expressed concern that we have been talking about partnerships and relationships and she would prefer a more clearly defined solution.

Moloney asked if we have a truck that has the capacity to pick these up and asked where the cart is taken. Albright said we have a litter contractor that is already going to the transfer station so we will ask them to pick up for us rather than asking an employee who has to make repeated trips to the transfer station for a shopping cart or two. Moloney asked if they could be recycled. Albright said typically only pieces of them are recyclable, but she is not certain.

Ellinger asked for the motion to be restated and asked what the timeframe is for the administration to come back with a plan. Kloiber said we can come back and discuss this again so we can put this on the schedule for an update in the future. He said this a first step is to show the community we are looking for these partnerships.

[At this time, a vote was taken on the motion]

#### **IV. Items Referred to Committee**

No action was taken on this item.

Motion by Ellinger to adjourn at 2:12 p.m. Seconded by Kloiber. Motion passed without dissent.