



Planning and Public Works Committee
March 4, 2014
Summary and Motions

Chair Bill Farmer Jr. called the meeting to order 1:00pm. Committee members Charles Ellinger, Steve Kay, Chris Ford, Julian Beard, Harry Clarke and Peggy Henson were in attendance. Committee members Linda Gorton, Jennifer Mossotti and Diane Lawless were absent. Kevin Stinnett and Shevawn Akers attended as non-voting members.

1. February 11, 2014 Committee Summary

Motion by Beard to approve the February 11, 2014 committee summary. Seconded by Ellinger. Motion passed without dissent.

Farmer made a note to correct a typo in the summary by changing "inn" to "in"

2. Homeowners Rights & Responsibilities

Gorton asked who creates the HOA, is it created by the developer and then turned over. Nathan Billings, a guest attorney present for the meeting, commented on the difference between a neighborhood association and a homeowners association, and whether or not they are voluntary or required. In a voluntary association, there is no right to foreclosure because there are no dues. In a mandatory association, there is a right to foreclosure as dues are required. Gorton asked who creates the rules, the developer or the association. Billings stated that there are a couple of ways and explained them.

Stinnett asked what exactly Akers wanted from the committee. Stinnett added that the example given is probably the exception rather than the rule.

Akers commented that she had asked Law to provide a summary of HOAs in the city but did not receive anything from our law department. Commissioner Graham stated that they asked Jim Frazier for an opinion, as an expert on this topic, and he provided that at no cost to the government. This information was shared with Akers.

Stinnett added that this could possibly be added to the next legislative agenda.

Henson asked if there was a certain amount required before we could foreclose on a property. Graham stated that we set our own requirement for LFUCG based on getting funds back, etc. Henson felt there should be a limit. Graham said that would have to be set by state law.

Mossotti is concerned about changing the whole thing for one issue, adding that in this situation, it appears the homeowner chose to ignore correspondence.

Farmer work with Akers on this issue to determine if there is an opportunity for advocacy that can come back to the committee.

3. Historic Preservation Fees

Betty Kerr commented on the information included in the packet. They revisited the data provided previously to be sure it is still applicable and have found that it is. Kerr stated that research on application and permit fees show that it varies from city to city, some have no fees at all and others are minimal. The amount of fees that could be charged to homeowners tend to range from \$20 to \$25. The other possible fee amount looked at was a \$50 fee for more complicated projects the go to the Board of Architecture Review. The catch is that they receive 450 to 500 applications per year and based on this dollar amount, per the Director of Revenue results in a wash due to the associated processing costs. Kerr said their recommendation is the same as it has been in the past and that there is no need to change the fee structure.

Gorton stated that the link just wanted to review the fees to be sure they were paying for the services provided. We frequently set a fee and determine later that the cost of the service is greater than the fee.

Farmer stated that if the committee chooses to act on this issue, they should refer to page 18 for a possible structure. If there is no desire for the committee to act on this issue, then it can be removed from the committee.

There were no motions on this item. Farmer stated that it will remain in committee for now.

4. Fees for Planning, Preservation & Development Commercial Services

Commissioner Paulsen provided information to the committee on land disturbance permit fees, stating that these fees vary greatly across communities. Our fee is a flat rate of \$25, for residential and commercial, and does not account for the size of the project. They asked for information from Louisville but the Metro Area does not have a direct fee but does have a site disturbance fee which varies depending on what is being done. They are not recommending any change to the fee structure at this time. If we tripled our fee for commercial, it would only have brought in \$4,500 more last year. Paulsen added that they know the fees are not covering the cost of the service but we would have to raise them to a very high level to do this.

Gorton asked what do we do in the service and what is the cost. Paulsen said we currently have one fee covering residential and commercial. If we raise the fee, it will increase the cost of development for both. Gorton asked if there was a reason we could not separate the two. Paulsen deferred to law on that issue. Brad Frazier provided background on the process. If someone wishes to obtain a land disturbance permit, they would have to submit an erosion sediment control plan to the Division of Engineering. That has to be accepted per the manuals in place. Once it is accepted, they can get the permit. It then goes to Water Quality for review of the plan.

Gorton asked how much time would be spent reviewing and inspecting once the application is received. Frazier stated that it depends on the workload but they are obligated to get back within a 10 day window but the shoot for half that (5 days).

Mossotti asked if they used the same criteria when making the comparisons to other cities. Paulsen said it was. Mossotti asked if Paulsen felt the fees were justified. Paulsen said that he has no real concerns with the fee but as things pick up, they may see other increases that they have to deal with.

Farmer asked if any of the other municipalities were operating under a consent decree. Paulsen said no, adding that they could not do an apple to apple comparison to Louisville, which is why it was not included in the information.

Akers asked if the \$25 cost was the same if you were building one house or 100. Paulsen said yes. Akers asked for the number of residential permits were issued. Paulsen said there were 455 residential permits and 8 subdivision permits.

Kay asked if other municipalities reviewed make the distinction between residential and commercial. Jonathan Hollinger stated that some have an exemption for very small land disturbances and charge no fee. He pointed out that many do not have the staff to do this and hire someone by the hour to do the review. They are the same fee but there are some nuances in how they are applied. Kay asked specifically if the fee for Jessamine County was a flat fee. Hollinger stated that they have a \$200 flat fee and an additional hourly fee on top of it for paying outside staff. This does account for the scale but there is no distinction between residential and commercial. Kay would like to think about some differentiation to recoup some of the costs. Paulsen said they will look at it and come back to the committee with a better overall cost.

Beard commented on Scott County, specifically Toyota, asking if the size of the lot should have some impact. Paulsen said that it could but does not feel that is the only factor to consider. A smaller plot could be more complicated in terms of review than a larger one. They can look at size but build other factors in as well.

Clarke feels there would be complications in setting different prices for different projects. He is not in favor of this and feels we should stick with a single price for residential and commercial.

Gorton asked Hollinger about the waivers mentioned for small properties. Hollinger said these were for very small areas, i.e. installation of septic system. Gorton asked if this could be applicable to Fayette County. Martin stated that there are already waivers in place for small disturbances, example landscaping, etc. The consent decree started this because of run-off and stormwater issues. The Division of Water Quality is required to inspect all of these areas once a month. Some require more frequent inspections, i.e. close to a sink hole. Gorton asked if you could get a sense of how complicated a project would be from the application or if you would have to go look at it. Martin said from his sense, the large ones may require a site visit but residential areas tend to be a little more routine.

Motion by Gorton to request a proposal which would look at stratification of fees based on size and complexity for discussion by the committee. Seconded by Beard. Motion passed without dissent.

Kay suggested amending the motion to state a stratification rather than bifurcation. Amendment accepted.

5. Oliver Lewis Way Construction Update

Andrew Grunwald provided a project update to the committee. The current areas of work are phase I and phase II. At the request of Kay, Grunwald walked the committee through the map. Phase 1 is the Versailles Road viaduct. They have been working exclusively on this area and have purchased all property in this area. All structures have been demolished and rebuilt, storm sewers replaced and sanitary sewers replaced. With a few exceptions, all utilities are in the correct place. There are still a few to relocate to be sure they do not build over them. A portion of the land purchased in the State's name has been transferred to the City of Lexington. It will be consolidated, reconfigured and re-platted. It will then be given to the Lexington Community Land Trust, to partner with AU & Associates to build the final housing. At that time, people will be moved from temporary housing. They hope to have this built and people moved by the end of this year.

Phase II is Versailles Road to South Broadway. The Transportation Department has purchased 21 parcels. They have consulted with Strand & Associated to purchase the right-of-ways and smaller parcels that are still needed. The first thing we will likely see in this area is the utility work.

Phase III, Scott Street connection, the plans have not yet been drawn up as the construction is still 2-3 years out.

Clarke is concerned about the connection into Bolivar and asked that it be looked at to see what could be done to make it more accessible.

Beard asked how much had been spent and what is projected going forward. Grunwald said a rough number is \$50-\$55 million. The majority of the funding (\$70-\$75 million authorized to date) is waiting for further land acquisition. Grunwald gave the total cost estimate at around \$100 million but added that this could change.

6. Items Referred

Farmer said the April meeting will include the Affordable Housing issue, the Design Excellence update and the residential parking procedure to see if there is anything Council wants to change on that.

There were no changes to the referral list.

Motion by Ellinger to adjourn at 2:54pm. Seconded by Kay. Motion passed without dissent.

Submitted by: Stacey Maynard