



Planning and Public Safety Committee Meeting

October 8, 2019

Summary and Motions

Chair Mossotti called the meeting to order at 1:02 p.m. Committee Members Chuck Ellinger, James Brown, Josh McCurn, Jake Gibbs, Susan Lamb, Preston Worley, Amanda Bledsoe, Jennifer Reynolds, and Kathy Plomin were present. Vice-Mayor Steve Kay and Council Members Richard Moloney, Bill Farmer, Jr., and Angela Evans were also present as non-voting members.

I. Approval of July 2, 2019 Committee Summary

A motion was made by CM Plomin to approve the July 2, 2019 Planning and Public Safety Committee Summary, seconded by CM Ellinger, the motion passed without dissent.

II. Sidewalk Assistance Program

Alex Olszowy, Director of Code Enforcement, presented an update on the sidewalk assistance program's draft ordinance. He provided a history of the program, reviewed the historical data and explained how the grants have increased slightly over the years. He pointed out that in the last couple of years, more money has been requested to finish projects for which there was not enough budgeted. He explained that the grant money is for 50% of the reasonable cost of repair/replacement of sidewalks for owner occupied residential property.

CM F. Brown explained the need for the ordinance, saying there are outstanding fees that have not been paid and he asked how we can protect this from happening. He commented that the rental property can currently be reimbursed; which Olszowy confirmed, but said they are not the priority over owner occupied. F. Brown expressed concern that the ordinance currently ties this program to Fiscal Year.

CM Evans expressed concern for those individuals who may be unfortunate if they start the process, but the program runs out of funding. She asked how we can do this in a way that gives people the best shot at having this opportunity. Olszowy said he is unsure because the program running out of funds is a new occurrence. He said unless budgets amendments are made to increase these funds, the only funding the program can work with is the grant money. Evans asked if they have a way of knowing how many people have applied and how many are in line and Olszowy said they have a system in place to track that.

CM Lamb commented on the application for funding and asked if the language included in the application states that the program is only available if the funds are available and Olszowy confirmed that this language is stated on the application. Lamb said she supports the concern that people need to be reimbursed but this could be a result of applications being submitted after the funds are no longer available. She said if we are going to consider reimbursing prior applications, she would like to see additional information with specifics on when they were submitted compared to those who were granted money.

CM Moloney asked if the 50% applications are being paid from the sidewalk assistance fund and if the 100% applications are being paid from Community Development Block Grant (CDBG). Olszowy said it all comes out of the sidewalk assistance fund. Moloney asked why that is when we have CDBG money that we can use for this. Olszowy said it is currently one account in the budget. Moloney said he would like to consider using CDBG money for the 100% applications in the future.

CM F. Brown said this is a great program for revitalization, but it has been abused because it is complaint driven. He said if we need to budget more money and look for additional funding to provide for the 100% reimbursements, we should not put a price on this. He said we need to support this program and everyone who has applied should be eligible regardless of whether the program runs out of money.

CM J. Brown commented on the 100% that has been set aside and asked if we might have enough money left to go back and recapture the applications for sidewalks that have been completed, but not reimbursed. Olszowy said he does not think we can go back and recapture those applications because we are on track to spend all of the funds. He said if we don't get any more applications and we pay for all of the ones that have been submitted, that will be \$83,000 of the \$85,000 we were allocated. J. Brown said we need to look at the allocations to this program moving forward.

A motion was made by CM J. Brown to approve the changes to the Sidewalk Assistance Ordinance on pages 12-15 in the packet (sections 17-147, 17-148, 17-162, 17-163, 17-164, and 17-165 in the code of ordinances) to the full council. Seconded by CM Plomin. The motion passed without dissent.

III. Five-year Public Safety Plan, E-911

Robert Stack, Director of Division of Enhanced 911, presented his division's Five-year Public Safety Plan. He began the presentation with a review of the key responsibilities and statistics. He said the city has increased Police and Fire, but not 911. He explained that responders are unable to go anywhere without 911 to dispatch them. He described the requirements necessary for a 911 operator and said it is a 4-6 month hiring process. He reviewed the attrition charts and the staff challenges for call takers and dispatchers. He explained the mandatory staff needed to cover dispatch channels and he spoke about the radio system and staffing necessary for that. He continued the presentation with a review of the capital forecast for the next 5 years.

CM McCurn asked for an explanation of the funds and if they are one-time or recurring. Stack explained there is an annual fee for landlines in Fayette County that everyone with a landline is required to pay and the downside of this landline fund is that the number of people with a landline is decreasing. He said there is also money received from the state for wireless fees and that fee has not increased since it was created because it would be considered a tax increase. He said these are the only two funds that can only be used for expenses at the center and in the center. McCurn asked how frequently funding for the radio system and hardware refresh would occur. Stack said the radio system is refreshed every 10 years so we can use some of the 911 funds for that, but for sites away from the center, we need to use general funds or capital.

CM Plomin asked if 911 is at the table when there are discussions about a new fire station or police and Stack said they are not. Plomin said with the increase in population, there will be an increase in the demand for this division.

Lamb expressed appreciation for the presentation and said this plan will be helpful in looking at the budget and understanding the fund. She said this will be helpful during the legislative session when looking at the 911 fund and cell phones versus land lines.

CM Moloney commented on an issue along Versailles Road near the airport where an individual called

to report a problem, but was connected to Metro Louisville. Stack said this is first he's heard of that. He said we own our own call handling system and this sounds more like a cellular carrier issue

CM Mossotti asked what the biggest personnel hindrance is and Stack said getting qualified applicants and getting them through the six-month hiring process.

No further comment or action was taken on this item.

IV. Short-term Rentals

CM Farmer provided a brief introduction regarding the short-term rentals. He spoke about the hosts and he expressed appreciation for them wanting to make this work in Lexington. He said this legislation is the next step in finding a way for everyone to participate, be good hosts, and provide a safe environment. He said it is also important to make sure they are part of the structure, including fees that allow the city operate. Evan Thompson, Attorney in Law Department, provided an overview of the draft ordinance. He explained how the short-term rentals should be regulated with appropriate licensing, registration, fees, and advertising requirements. He explained the transient room tax to be submitted by the hosts to LFUCG and safety requirements that must be in place including smoke detectors, carbon monoxide detectors, fire extinguishers, emergency exits, and evacuation plans and LFUCG may require a signed affidavit to administer these requirements. He explained that short-term rentals are subject to only one contract (reservation) at a time and the host must provide a monthly report stating the number of reservations and number of nights per reservation. He described the various divisions within LFUCG who are charged with enforcing this ordinance. He explained that denial or revocation of registration may be appealed to the Code Enforcement Hearing Board. He said, under the draft ordinance, the Code Enforcement Hearing Board may subpoena information from hosting platforms to obtain information about unregistered short term rentals not registered with LFUCG.

CM Gibbs asked what the rationale is behind limiting this to one contract at a time. Thompson said this ordinance tried to mirror Louisville's framework and Louisville has this same requirement. Gibbs asked who the monthly report is filed with and Thompson said it would go to the administering division which is currently being worked out.

CM Lamb provided a couple of housekeeping remarks regarding references included in the draft ordinance. She asked what "short-term rentals" fall under in the building code, for inspection purposes. Olszowy explained that in the state building code, building inspection will require a building permit to build any structure regardless of whether it is owner-occupied or rental property. He said the conversions would be permitted as remodels, additions, or new entities from the standpoint of building inspection issuing the permit and doing the initial inspection.

CM J Brown asked if there has been a response from other hosts to the call for compliance. Jeff Lewis with Division of Revenue, said correspondence has been sent to other platforms, but we have not received a response. J. Brown commented on the requirement for hosts to submit a monthly report and he asked what type of report Airbnb submits and Thompson said they submit a report on transient room tax. J. Brown asked if this is enough to cover the property owner's requirement of a monthly report. Thompson said the Airbnb report would not list how many times the property was rented or where the property is located. J. Brown said this might be intense reporting for someone who is not used to running a business.

CM Ellinger asked what the difference is between a short-term rental and a bed and breakfast regarding the business license requirement. Jim Duncan, Director of the Division of Planning, said a bed and breakfast is defined in the zoning ordinance so in order to have one, you will need a conditional use which you would seek approval for through the Board of Adjustment. Ellinger asked if there is another license requirement aside from the business license and Duncan said he is not sure, but Lewis confirmed it is required for a bed and breakfast. Ellinger asked if we require a registration number for bed and breakfast and Lewis said we do not. Ellinger commented on a boarding and lodging house and asked what the difference is. Duncan provided a definition of a boarding and lodging house and said it is regulated under the zoning ordinance. Ellinger asked if monthly statements are required for each of these and Duncan said they are not.

CM Moloney asked if any improvements need to be made to rent a room in a house. Thompson said none aside from safety measures stated in the draft ordinance. Moloney asked who will inspect the property when the \$100 fee is submitted and Thompson said this is still being worked out but we will possibly require a signed affidavit to ensure compliance.

CM Evans said this might be overreaching and she asked what we are really trying to fix. Evans said this is something we should hold off on for now because it is too broad and it needs to have specific issues that are being addressed.

CM Worley said this has pointed out some problems we may see with inequities between other businesses, but the thing we need to realize is that these other businesses are regulated where short-term rentals are not. He asked if there has been any research on further regulations for other platforms who are not in compliance. He said he would like us to go as far as to prohibit platforms who do not comply. Thompson said there is Federal Law and constitutional concerns with potentially requiring Airbnb to remove listings and penalizing them for not doing so and requiring them to provide business information which is the purpose of the subpoena requirement. Worley said we need to find a way to regulate this on a state or local level.

Public comment was allowed and several constituents were in attendance to show support of the short-term rental industry in Lexington. There were comments expressed about the pride they take in their rental property; wanting to make them more appealing to visitors; and also having “no party” policies. They expressed support for registration; accountability; reporting; and better enforcement. Some of the concerns expressed were with over-legislation and being asked to do what other businesses are not required to do; the monthly reporting; and the limit of one reservation at a time or 52 per year.

No further comment or action was taken on this item.

IV. Items Referred to Committee

No further comment or action was taken on this item.

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

The meeting was adjourned at 2:57 p.m.
KT 10.21.2019