



Planning and Public Works Committee
February 12th, 2013
Summary and Motions

Chair Bill Farmer Jr. called the meeting to order 1:03pm. Council Members Jennifer Mossotti, Linda Gorton, Charles Ellinger, Steve Kay, Chris Ford, Diane Lawless, Julian Beard, Harry Clarke, and Peggy Henson were present.

1. Approval of January 15th, 2013 Summary

Motion by Ellinger to approve the summary. Seconded by Clarke. Motion passed without dissent.

2. Working with FCPS to Sustain Salt Services

Kevin Wenthe said that he met with Vice Mayor Gorton and Commissioner Richard Moloney to discuss the issue. Wenthe had also met with Mary Wright from the FCPS. Wenthe said that it is written in the Kentucky State Constitution (Section 186) that all funds accruing to the school fund shall be used for maintenance of public schools and no other purpose. Wenthe also has a list of people who can request additional services from the LFUCG. FCPS would like to partner with the LFUCG so that if additional salt is needed, the LFUCG could get a lower price per ton on their contract.

Gorton said that she was concerned about the money for additional salt and also about who could request additional the additional salt.

Wenthe said another aspect of the conversation is staging. Wenthe suggested that they have a staging area for their campuses.

Gorton said that she wants to use the tax payer dollars in the appropriate way.

Stinnett asked Wenthe if he has looked at other ways to fund the additional salt. Stinnett's suggestion was revising the Facilities Usage Policy. Stinnett said that since the LFUCG is spending money to help them, maybe the fees could be altered for using their facilities.

Farmer said that he wants to keep the item in committee. Wenthe told Committee members that he stays in constant contact with Ms. Wright.

3. Tree Board Street Tree Presentation

Karen Angelucci from the Tree Board came to the podium to present. Angelucci said that she would like to have a Council Member serve on the Tree Board. Farmer said that he spoke to Vice Mayor Gorton and she is going to seek out a volunteer to serve.

Angelucci said that there was a position that was eliminated a few years ago. The position involves talking to all business owners about how much landscaping they need and also how to keep it alive. The trees are starting to look really bad in many places.

Gorton how a new business owner knows they have any responsibilities for the trees? Tim Queary said that the Landscape Subdivision Regulations detail the plans that need to be followed. Now building inspectors do the educating. There is not a dedicated person who deals solely with trees. This is a check off for a certificate of occupancy.

Bob Carpenter said that even when the position was filled, their duties have shifted. The building inspectors were doing the inspection. After it is approved, the only time a representative from the LFUCG goes back to inspect the property is when there is a complaint.

Carpenter said that the development plan does not illustrate the landscaping layout. When they apply for a building permit that is when they approve the landscape plan. The building inspectors do not have landscaping backgrounds.

Susan Bush, the Director of Environmental Quality said that there is a slow degradation of trees around the community is what she receives the most complaints about. Since the process is complaint driven, they are not proactive. She suggested an inspection process.

Kay mentioned the trees that the LFUCG plants and is responsible for. He said that he would like the LFUCG to do better in the designing process for right of way trees. Kay said that the maintenance of trees on private property need better enforcement. Kay said that there are two issues; one is the maintenance of the LFUCG trees and the second is about enforcement generally. He said that we do not do a good job of making sure they do what they committed to do and we don't follow up and enforce.

Farmer suggested that the replacement of the position in the Division of Building Inspection should become part of links consideration during the upcoming budget process.

Angelucci said that developers currently have two options. They can plant the trees in the easement or they can plant from the sidewalk out approximately five feet.

Angelucci said that during new construction, the land is taken away. They only put back two inches of top soil. Trees cannot live in those conditions. Angelucci suggested that they are only given one option. She said that if the trees are planted closer to homes, the homeowners may take better care of the tree, but they could also want to cut it down.

Stinnett said that everyone is dealing with trees that are in the easements. He mentioned that homeowners cut tree roots to fix sidewalks. The mail carriers are complaining that the branches are hitting their trucks. Stinnett said that since we make the homeowners replant the trees, we need to have a discussion going forward. He also mentioned the leaves clogging up the storm sewers. Angelucci said that there has to be enough room in the easement to even plant a tree.

Angelucci said that they could have the homeowner opt out and then donate the tree to a public park.

Stinnett suggested keeping the item in Committee to work on improving the language in the Code of Ordinances.

Mossotti said that on the Clays Mill Road project, many homeowners opted out and those trees were donated to parks. Angelucci said that many of the trees that were planted were planted too deeply.

Commissioner Derek Paulsen said that street trees are currently part of the new development ordinance. Paulsen said that street trees were banned from the 1950's to the 1980's. Farmer asked Paulsen if he could work with the Tree Board on this. Paulsen committed to working with them.

4. Right of Entry

David Barberie from the Division of Law came to the podium to present. Barberie gave a brief history of the item. He said that the Building Inspection Task Force made proposals; the right of entry was one of them. Barberie said that the issue was eliminated due to concerns expressed by Planning Commission members. They voted to take it out. Dick Murphy spoke against it on behalf of the Landlord Tenant Association.

Gorton said that all of the other Building Inspection Task Force recommendations went forward and passed. Barberie asked the Committee members if they want to pursue this again and if so, he would like direction on the language.

Chris King said that the Planning Commission did not take it out. They cannot do that. The Council initiated the text amendment. The Division of Planning did not agree with the Planning Commission. The Commission heard it on the last possible day so they couldn't delay it. They wanted more information on what other communities do. King said that there were concerns from Planning Commission members that the language read that they could enter private properties without appropriate restraint. King said that those concerns were unfounded. This particular item was referred back to Committee and there are no time constraints for them to act on it.

Gorton asked for research to see if other communities do this.

Kay said that he has an interest in continuing this conversation. He asked for guidance from the Planning staff. He wants clarification on the concerns.

King said that currently, there is no law on the books where it says that the Divisions of Planning or Building Inspection can be charged with the review of property for enforcement purposes. If they go to a court to get a search warrant, the court asks if the government agency wants this division to have those powers. This text amendment would help them inspect the properties to better enforce the LFUCG ordinances.

Henson had questions about businesses operating illegally out of homes in residential areas. Henson said that we cannot impede on the rights of citizens but we should be able to reasonably enforce our laws.

Beard asked about inspections for illegal sanitary sewer hook ups. Barberie said that inspectors can walk around properties to get information and do not have to enter the structure. He said that there is language to assist them with the inspections when they need to enter onto private property.

Stinnett asked Barberie what needs to change in the current language. Barberie said that there were concerns that the Division of Planning could create a program laying out how it would work. The Director could create a rough program and the Council might not know what the Director is doing. They wanted the Council to have a say in any program they could implement. Barberie said that language they added at the end of the text amendment should have alleviated those concerns.

Stinnett said that he believes the language gives the Council power to approve any program that the Division of Planning may want to implement. Stinnett believes they are good to go with the language.

5. Items in Committee

Gorton suggested that the items referred by Doug Martin should be taken over by a new Council Member. Kay said that the Adult Day Care Centers should be listed under Chris Ford.

Clarke agreed to take the Re-Paving Program, Street Trees and Utility Poles in the Right of Way, all originally referred by Martin.

Motion to adjourn by Henson. Seconded by Beard. Motion passed without dissent.

Submitted by Jenifer Benningfield, Council Administrative Specialist