



## Special Budget, Finance & Economic Development Committee

March 17, 2020

### Summary and Motions

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Amanda Bledsoe, chair, called the meeting to order at 2 p.m. Committee members Richard Moloney, Chuck Ellinger, James Brown, Susan Lamb, Bill Farmer, Angela Evans, Fred Brown, and Jennifer Mossotti were in attendance. Committee member Steve Kay was absent. Councilmembers Jennifer Reynolds and Kathy Plomin were in attendance.

#### I. Review of the Exaction Program

Craig Bencz, Administrative Officer Sr., provided the presentation via Skype. He reviewed a map of the expansion areas and said 51 percent of the total expansion area (4,273 acres) remains unplatted. He provided an overview of the exactions program that was intended to provide an equitable means of allocating a fair share of the costs of capital facilities to serve new development. He reviewed a list of facilities or infrastructure covered in the program. He said the rate table separates costs between sewer and non-sewer, describing how developers can pay cash or enter into agreements with the city if they choose to build the improvements themselves. Article 23C-5(b) of the zoning ordinances directs the rate table to be updated quarterly, recommending the increases or decreases of all exactions. Bencz established the assumptions made to update the rate tables, including a reduction in the rate of vacant land to 7 percent. They also shifted from using the acreage assumptions from the expansion area master plan to GIS, which increased the overall acreage by 266 acres. These assumptions were applied to development from 2015, forward.

Bencz proposed a 2015 rate table update based on conditions as of January 1, 2015, which removed 182 acres of land that was platted after this date. He highlighted issues in EA 2C starting in 2009, including the city providing refunds of \$2.51 million because of over collections in the past. Currently over collections in EA 2C total \$1.34 million, which need to be resolved. He highlighted the changes in the 2015 rate table, compared to the 2010 rate table. He said most exactions decreased; the ones that increased were mostly non-residential and some were zeroed out. He said the 2020 rate table was based on recalculated plats starting in 2015 and the 2015 rate table, which resulted in a \$1.39 million reduction. For each facility, Bencz reviewed the total costs, amount collected, and remaining exactions under the 2020 rates, all of which are based on the goal to zero-out each category. He summarized the total program costs under the 2020 rate table is \$108.75 million, of which LFUCG has collected 51 percent, leaving a total of \$54.27 million remaining exactions. He recommended the adoption of the updated rate tables, reporting next steps to address refunds owed because of recalculated exactions under the 2015 rate table and the over-collection in EA 2C, and amending zoning ordinance Article 23C.

CM Mossotti questioned the decisions to update the rate annually versus quarterly. Bencz explained an annual adjustment is more than enough, pointing out how adjustments will be made along the way if significant rezoning takes place. He added that quarterly updates were likely established in anticipation of the land developing more quickly, noting how long the program has existed to only be halfway through anticipated development.

CM Plomin asked why we haven't updated the rate table since 2010. Bencz said it is a combination of the complexities associated with EA 2C that was unorthodox and required more creative solutions and general changes over time. Plomin asked for the acreage of rural open space, specifically the priority on the mile radius around an expansion area boundary. Bencz said there isn't a specific number, instead the value is \$1,000 per acre that would apply to obtain and reserve open space. They discussed how there isn't goal for a certain amount of acreage to be rural open space.

CM. F. Brown asked how parks and greenways were priced, with consideration of the value of the land. Bencz said it is valued per acre according to expected acquisition costs and based on past appraisals. F. Brown asked who is paying the exaction fee on park-land because it is usually donated to the city. Bencz said the fee is built into the overall collections of fees, pointing out how the city often obtains park-land through dedication at the time of development; the owner would then receive exaction credits. F. Brown confirmed the remaining exactions totaling \$4.8 million for parks and greenways is unplatted land. Bencz explained how exactions are calculated once the land is platted and considered collected with respect to the rate table. F. Brown and Bencz established that there are less than 10 large landowners in the expansion areas but also dozens of small landowners for the remaining land in total. Bencz said they have been working with the large land-owners to get their input, some of which has been implemented.

CM Worley asked about large increases for the community center, non-residential, and economic development uses. Bencz explained how some increases are due to the intensity of specific land use, for example, commercial roads have more traffic than residential roads. He associated other increases with rates applied for trip generation, in particular, recalculated trip generation for economic development land. The ED ZOTA that came before the council a couple of years ago was excluded from the 2015 calculations but included for 2020. Worley talked about the calculations using trip generation which he described as long-term cost and maintenance versus the cost of the original infrastructure; he wants to make sure this is done consistently and correctly and questioned why a long-term use would apply to the cost of the infrastructure. Bencz said the fees are only based on the development of the infrastructure and not long-term maintenance. With roads, he said best practices use proportionate fair share of the impact based on trips and referenced the use of the ITE trip generation manual that is generally accepted for impact analysis.

CM Moloney talked about the need for jobs in Lexington, as well as the need to make development affordable, providing flexibility. He eluded to situations in the past and turning people away. Public comment was allowed. Nick Nicholson spoke about representing two developers who have had different experiences with the exaction program, advocating for the passage of the proposed resolution if language is added to wrap this program up.

A motion was made by Farmer to approve a resolution for the adoption of the expansion area exaction rate tables for January 1, 2015, and March 1, 2020, for roads, parks, stormwater, open space, sewer transmission, and sewer capacity to reflect actual and/or contracted costs for eligible system improvements contracted for the department of finance, the department of environmental quality and public works, and the divisions of planning and reengineering. Discussion on the motion included the following comments.

A motion was made by CM Ellinger to amend the proposed resolution to add the following language to section 3 "that the administration be and hereby is authorized and directed to engage necessary consultants to perform a comprehensive review of the existing exactions program to determine whether alternatives exist to equitably allocate and distribute the costs of improvements in the Expansion Areas, with the ultimate objective of bringing the program to a full and final conclusion."

Discussion on the motion to amend included the following comments. F. Brown confirmed this meets Nicholson's needs and spoke about having the stakeholders involved in the resolution. Mossotti with Susan Speckert, Commissioner of Law, established that the administration is comfortable with the amendment. Farmer asked if this will end the entire program or part of it and what the aftereffect looks

like being halfway through the program. Speckert explained the plan to engage an expert to explore an alternative that applies to the entire program and expansion area. Farmer questioned the same intended outcome for the developers to pay for the infrastructure that isn't done. Speckert said the expansion area master plan still requires infrastructure to be built but the matter remains of how it is built and paid for. She eluded to not knowing the details of the process that will come from engaging an expert but pointed out the amendment for how often the rate table is amended will come forward under the direction of Bencz; there could be others. Farmer talked about a way to perform the functions that are needed and to find a way for all parties to be served, eluding to additional amendments, and follow up in the future.

CM Evans said we are unsure of what the comprehensive review will provide and that the result is hopefully different and better. CM Lamb asked about utilizing consultants and the potential timeline. Speckert said they plan to draft the RFP immediately and necessary funding is available. Lamb said she is hopeful to find the proper solution to finish the remaining 49 percent so it doesn't prohibit us in the future. Mossotti talked about developers being assured they won't face hiccups in the immediate future. Speckert said she cannot predict the timeline but expressed their desire is for this to happen as expeditiously as possible. They discussed the developer's future clients potentially choosing not to locate in Lexington because of this and working with LFUCG in the meantime. F. Brown and Bledsoe discussed how the agreement with the expert that the RFP recommends will come back to the council for approval. Bledsoe spoke about a long year since the last presentation but applauded the administration and stakeholders to get to a place to consider this amendment to move forward, as quickly as possible, and using the expansion area wisely.

A motion was made by Ellinger to amend the proposed resolution to add the following language to section 3 "that the Administration be and hereby is authorized and directed to engage necessary consultants to perform a comprehensive review of the existing exactions program to determine whether alternatives exist to equitably allocate and distribute the costs of improvements in the Expansion Areas, with the ultimate objective of bringing the program to a full and final conclusion"; seconded by CM J. Brown. The motion passed without dissent.

A motion was made by Farmer to approve a resolution for the adoption expansion area exaction rate tables for January 1, 2015, and March 1, 2020, for roads, parks, stormwater, open space, sewer transmission, and sewer capacity to reflect actual and/or contracted costs for eligible system improvements contracted for the department of finance, the department of environmental quality and public works, and the divisions of planning and engineering; seconded by Ellinger. As amended, the motion passed without dissent.

A motion was made by Mossotti to report this to the full council at work session on March 17, 2020; seconded by Lamb. The motion passed without dissent.

A motion was made by Mossotti to adjourn at 2:53 p.m.; seconded by Ellinger. The motion passed without dissent.