



## Planning and Public Safety Committee Meeting

March 13, 2018

### Summary and Motions

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CM Mossotti called the meeting to order at 1:03 p.m. Committee Members Kay, J. Brown, Smith, Gibbs, Lamb, Worley, Bledsoe, Henson, and Plomin were present. Council Members Stinnett, Farmer, and F. Brown were also present as non-voting members.

#### I. Approval of February 13, 2018 Committee Summary

A motion was made by CM Plomin to approve the February 13, 2018 Planning and Public Safety Committee Summary, seconded by VM Kay, the motion passed without dissent.

#### II. Comprehensive Review of PDR Program

Derek Paulsen, Commissioner of Planning, presented the item. He provided an update to the presentation that was given in September 2017. He reviewed the proposed changes to the Rural Land Management Board (RLMB) ordinance and RLMB policies. He discussed the RLMB subcommittee saying that it had met several times over four months. He said the recommendations have not yet been approved by the RLMB, but they will go before the board on March 28. He discussed conflicts of interest and adding language to the ordinance which will prevent board members from submitting farms for purchase while on the board or within one year of going off the board. He said there is no longer an option for a second appraisal. Lastly, he reviewed the recommendation that they would like to pursue a 50% match for farms that do not qualify for the federal match. He explained that owners would donate 50% of the appraised value and they would receive 50% of the appraised value from LFUCG. He said this would provide the same amount of leverage of local funding as federal match but it would allow RLMB to purchase farms not currently eligible for federal funding. He discussed the next steps which include approving changes to the ordinance and combining RLMB proposed ordinance changes with changes coming forward from the Subcommittee on Board & Commissions.

CM Lamb asked which subcommittee he was referring to in the presentation. Paulsen said it was a subcommittee of RLMB. He said at the last comprehensive review of the PDR program in September, the understanding was that Council wanted recommendations from RLMB about changes to the PDR program in terms of policies. He said these recommendations were made by RLMB board members who serve on the subcommittee and these recommendations will go forward to the full board on March 28. CM Lamb asked who served on the subcommittee. She commented that if this is a subcommittee of the RLMB and RLMB has not seen the recommendations, she has concerns. She also commented on Section 26-7 not allowing current members to file an application. She said she does not want the public to think that this has been a conflict of interest in the past. Paulsen said anytime this overview has been presented, he has tried to make it clear that there has never been a board member to submit a farm while they were on the board. CM Lamb said the lump sum payment concerns her during the budget season because it could eliminate the ability to purchase easements if we are held to one lump sum payment versus having payments over time. Paulsen said this is coming from numerous conversations with the Department of Finance. He said they have said we cannot purchase over time, but if we do purchase a large farm it can be split into separate tracts and paid separately. CM Lamb said we have not always practiced this. Paulsen said he does not know of any cases where we have purchased something over time and not received something in return for each purchase. CM Lamb said she would like to know factually if we have done this in the past. Paulsen responded to an earlier question and stated that the members of the subcommittee are: Greg Bibb (Chairman of the Board), Lucy Van Meter, Headley Bell, Mary Ann Delaney, and Zach Davis and they felt comfortable coming forward with these recommendations.

CM Henson asked if land owners would want to donate 50%. Paulsen said this was a recommendation that came from one of the board members and he feels there is a real chance they can get farm owners who would see this as a valuable option. He said any way we can open up options to get more farms in the program where we haven't

been able to because of federal match requirements, it is a great win. CM Henson asked if the ones listed are the only 3 reasons they would not receive a federal match. Paulsen said as of right now, these are the main reasons why people do not qualify. CM Henson questioned if someone would not qualify for the federal match if their income level was too high. Paulsen said that is correct. CM Henson commented on the Castleton-Lyons Farm and asked if this change could solve that issue. Paulsen said it is always an option and one we have discussed in the past. He said there are a lot of farms near the river that do not have high quality soil and soil quality is one of the federal requirements for the program. He said they are great farms and we would like to find a way to get them in the program. CM Henson asked him to explain why the federal program would be concerned with soil quality. Paulsen said it goes back to food safety. He said there could be emergency situations where they will need to grow food and we are trying to preserve the best agricultural land.

CM Plomin asked about the match program and how this affects family farms where people are just trying to get by. Paulsen said this is just an option and they are trying to expand the number of options available for purchasing farms. He said if there is a family farm and the tax benefit isn't there, they probably won't be limited by the citizenship or the income requirements. He said if they have good soil quality, the federal match should not be a problem for them. He said they are looking to find ways to catch some farms they are missing right now because they do not qualify for the federal match.

CM Lamb commented on the 50% donation and she said it does not seem logical to change the policy on this when there is no federal match. She said she knows that not all farm owners are wealthy and they rely on their income. Paulsen said we are not making it so this is the only way to get in; this is just providing more options for farms to get in when they do not qualify for the federal match. He said this is just in case your citizenship, income, or soil quality does not qualify you for the federal match. He said this is a way to make it more inclusive; make it more about the land; and remove some of the barriers that the federal program limits us on. CM Lamb said if people do not qualify for the federal match, this will be the next option. Paulsen said this will be an option, not the only option. He said they can still donate if they want to and we can still try to purchase the entire farm for the entire amount, or if they do not qualify for the federal match, there is the 50% match. He said he wants to emphasize that there is not just one option in terms of payment and that is what we are trying to do by finding ways to get more farms into the program. CM Lamb said she does not agree with this coming to committee before the RLMB has reviewed it because it is important for the committee to know what the RLMB's response to this is before making any decisions. Paulsen said the subcommittee is made up of RLMB board members and they have chosen to bring this forward to committee. He said this will go before the full board for review on March 28.

VM Kay commented on the 50% match and said the language is confusing. He said the board will pursue 50% donation of easement and he asked if they would continue to pursue the purchase of that property if they do not get the 50% donation of easement. Paulsen said this is something that would make it easier to purchase it and it depends on the appraised value. He said we have purchased farms in the past that do not meet the federal requirements. VM Kay said the language does not mean that simply because a farm does not qualify for federal match that it would not be considered for full funding. Paulsen said no, it is just another option to consider.

CM Stinnett asked for clarification that we no longer get state match. Paulsen said we do not; it has been gone since the early stages of the program. CM Stinnett commented on the federal match and asked if it is a viable program and if it would continue regardless of what happens in D.C. Paulsen said it is still going forward and it is contained within the farm bill. CM Stinnett asked when we received the last federal match. Paulsen said they receive federal match every year. CM Stinnett asked if all of the farms that have applied are under the federal match. Paulsen said it depends on the application; but once a farm applies they stay in. CM Stinnett asked how many farms are coming forward and asked how many we have approved since the last budget. Paulsen said we have about 1,000 acres coming forward and 966 pending federal match. CM Stinnett questioned whether non-U.S. citizens and those who do not reside in the U.S do not qualify for any type of federal assistance. Paulsen said he is not sure about all federal assistance, but with NRCS, one requirement is that you have to be a U.S. citizen. CM Stinnett asked if the board making the recommendation for the 50% was for that situation only. Paulsen said the three things that keep people from qualifying for federal match is the citizenship requirement, income, and soil quality. CM Stinnett commented on the board composition and said any time there is a perceived conflict of

interest, we should avoid those. He said PDR has done a great job protecting the land, but we also need to protect the horse and industries.

CM Mossotti said we will keep this in committee since we have to wait for this to go to the RLMB. She said there is a subcommittee to address some of these concerns about perception and we will be coming forward with recommendations from that subcommittee next month.

No further comment or action was taken on this item.

### **III. MAP Amendment Pre-meeting with Affected Neighborhoods/Public Outreach**

CM Mossotti introduced the item and provided a brief background describing how this came to committee. She said there was quite a bit of concern from neighborhoods that there was not enough advanced notice or knowledge of developments that were happening. Derek Paulsen, Commissioner of Planning, presented the proposed amendment to the zone change process. He said the proposed changes include a neighborhood meeting and all of this would take place before the Planning Commission review process. Paulsen reviewed the proposed benefits which include encouraging interaction between citizens and applicants; providing an opportunity to address problems; and it could reduce the number of applicant requested postponements. He said some of the concerns are the additional time and earlier commitment from applicants; additional expense; it applies to every zone change; and managing expectations for citizens and applicants. Lastly, he reviewed the next steps which include initiating a text amendment to require early notification, and adopting alternative regulations.

CM Bledsoe said she is concerned about getting public involvement earlier. She said her biggest concern is avoiding contentious zone change hearings and she does not see this fixing that issue. She said there is a conflict of interest between developers, the city, and neighborhoods and she worries these meetings will result in promises being made that can't be delivered.

CM Plomin commented on required neighborhood meetings and asked how that would be monitored. Paulsen said they would have to show they held a meeting with sign-in sheets and summary of the meeting for record which has to be done pre-application. CM Plomin asked what happens if they do not have the neighborhood meeting. Paulsen said they would have to have a meeting before the application can be received. CM Plomin asked about the time this will add to the process. Paulsen said he cannot say exactly; it depends on several factors.

CM Lamb said she is not in favor of mandating neighborhood meetings. She said public meetings between developers and neighborhoods happen now. She said a letter being mailed earlier in the process with all of the information gives the neighbor the option to be involved or not. She said at the end of the day we want to educate the neighbors on what is coming down the pike. She said mandating the meeting is not the way we should handle this. She said she understands there is an additional cost for the letter, but once the letter is out there at the earliest stage, the public can do with it what they want. She said having software the public can use will be helpful as well.

CM J. Brown said he is concerned with having 2 public hearings and with neighbors feeling like they are late to the process. He said they want a chance to voice their concerns. He said as much as developers want to work with the neighborhoods, they bring the plans downtown and since we are focused on dense infill projects, the plans do not always get approved. He said neighbors are sometimes unhappy about what is coming to their neighborhood, but he understands the intent. He said the ways to address this would include contacting the neighborhood association, and not just the property owners, but also the residents of these homes so renters know as well and can be involved in the process.

CM F. Brown asked what the total time would be with the new requirements. Paulsen said it will add time, but trying to determine how much time will be difficult. He said getting the developer to set up the meeting could take time. He said if you are adding time, you are adding it just before you get to the application and that could extend the time period. CM F. Brown said this could be extra time and extra expense for even the Planning staff. Paulsen

said he would think so. CM F. Brown said many of our zone changes will have several Neighborhoods Associations within the boundary and asked if this had been discussed. Paulsen said all neighborhood associations within 500 feet would receive notification which could extend time. CM F. Brown said he would be opposed to changing this because we are getting the message out. He said he has not seen any zone changes come forward in his district where the neighbors did not know in plenty of time. Paulsen said that it really bothers him to hear when people don't know about something so he is consciously trying to prevent that by making sure that people know about zone changes and developments.

VM Kay said we have several fairly routine zone changes that do not rise to the level of objection for most of the people in the area. He said he is reluctant to impose a requirement for all of these developers that would only apply to a small percentage of them. He suggested having language that encourages neighborhood meetings when there are potential concerns. He said we need to do everything we can to ensure there is adequate input where it is needed.

Walt Gaffield from the Fayette County Neighborhood Association spoke on this item.

Amy Clark also spoke on this item.

Paulsen presented the Building Eye front-end software program that he said will interface with Accela. He said it is development software which allows developers to submit plans that puts everything online. He said this allows submissions and reviews to be electronic. He said this is a way to enhance citizens' ability to review and search and see what is inside Accela. He said the way it would be used is to allow people to see every building permit, development plans, zone changes, etc. He said Building Eye will improve public outreach and implementation costs of \$45,000 were requested in the proposed budget with ongoing maintenance being a little less.

CM Lamb said she appreciates the overview of the software and she thinks this will be a powerful application. She asked about ongoing maintenance which is a little less than the cost of implementation. She asked if it matters how many hits there are. Paulsen said no, he thinks it is around \$38,000 and does not matter how much traffic. He said it is just ongoing maintenance and if features come up later, it is a cloud-based system and we are not limited on the amount of hits. He said this is a great tool and staff will continue to put out information. CM Lamb said once this goes into place, a link to this should be included in the letters of notification so the public knows where to go to look for this information. CM Lamb asked what the timeframe is on this and Paulsen said we would have to wait until the budget process is completed, but he is hopeful it will be up and running by fall. He said he cannot give an exact date at this time.

CM Bledsoe said this is a fantastic program and a good tool for transparency. She asked for an example of a complaint in the navigation system when searching for a permit. Paulsen said they get several complaints that come into building inspection. He said it mostly occurs when people call to report that something is not being done properly. He said the more common ones are water quality issues where DWQ will go out and inspect. He said some complaints might be perceived as a code enforcement violation, but once you have a building permit, it falls under building inspection. CM Bledsoe said at one point, they wanted to make sure that code enforcement complaints are showing up at the same time as building inspection complaints and she said this is a different thing. Paulsen said that is correct.

VM Kay asked how code enforcement would be integrated in this system. Paulsen said code enforcement is going into a different system and we just had the kick-off for that today. He said they will be part of the 311 system integration. He said that system should be up and running by June. He said the public outreach component will be more robust than it is now. VM Kay asked if that will be a searchable system so you can identify where there have been citations. Aldona Valicenti, Chief Information Officer, said Building Eye and the Code Enforcement system are separate systems and they do two different things. She said once they looked at the requirements, the staff and Director of Code Enforcement said they needed to use the 311 system. She said we kicked that off today and it will be ready in the June timeframe. She said Building Eye could best be described as a visualization system. She said that means the data resides in Accela and it pulls that data and GIS data and presents it in a way that you can see it

better. She said customers like to visualize because that is the way we learn the best. She said this is different than Code Enforcement because they need very rich data in a database that can be searched and retrieved as necessary. VM Kay said that will very helpful to the citizens.

CM Mossotti asked about the step by step process in searching the system for a zone change. Paulsen said when you type in your address, you pull up a map with dots all around your house and you click one of those dots where you think the zone change is and it will pull up a screen that provides an overview of what it is. He said then you can click on that button and it will take you to the Accela web page to get more information. He said the hard part is getting signed up for Accela and getting into it. He said you may end up getting more information than you want because it will hold all of the application materials for review. He said this is a way for citizens to get information without having to contact their Councilmember. CM Mossotti said she feels this is a step in the right direction and it will allay some of the concerns brought forward from the neighborhoods. She said hopefully we can get this implemented and secure the funding for it. He said the Planning Division strives to get more information to people as soon as possible.

CM Lamb asked at what point in the process and timeline is an application for a zone change or other project loaded into Accela. Paulsen said when the application is submitted in Accela, it gets loaded. Paulsen said it depends when the application comes in, but that is probably an average of 4-5 weeks. CM Lamb said Building Eye is a good tool for educating and allowing the public to do their homework and this community desires the ability to do their own homework. She said this is good for us because they are more educated for the most part. She said when this is put in place, we can put it in our newsletters and publicize it. She said she is excited for the opportunity this will provide to the community.

Amy Clark commented on the item.

No further comment or action was taken on this item.

#### **IV. Noise Ordinance Review**

VM Kay presented the item. He said he put this in committee because some of the issues that were raised years ago still persist today. He said if you look at the history of the noise ordinance as it was proposed then, what you will see is that for 3 years the subcommittee had meetings with stakeholders and an incredibly thoughtful process went into this. He said when it came before the precursor to this committee, it got killed wholesale. He said there was not a lot of detailed discussion of many of the elements but there was a concern that overall it was going to impinge on the rights of some of the businesses in town and they would be negatively affected and the proposed ordinance went down. He said the reason he put this in committee and chose to begin with what that subcommittee had done was because they did a lot of good work. He said there were sections of the proposed ordinance we might want to consider as a means to provide some relief to citizens who are still bothered by a variety of noise that impinge on their quality of life. He reviewed the major changes saying the definitions that describe what constitutes a violation in the existing ordinance are very brief. He said the subcommittee brought forward 8 specific standards that must be considered when determining a violation. He said in the existing ordinance there are 4 exceptions to the ordinance as it exists and the subcommittee came forward with 18 specific exceptions and standards for considering how they would be adjudicated. He said it also provides for a noise officer who would have the power to enforce regulations. He said his intent is for this committee to take a look at this and see if there are things that should be looked at again and determine if it is worth taking up again in committee or subcommittee.

CM Lamb said she appreciates the information and she thinks because the task force met between 2008 and 2011, this should be reviewed again.

CM Plomin agrees that this should be discussed again. She asked why this died before. Kay said there was a concern that it would unduly impinge on existing major businesses in the community that make noise. He said, as a city, we placed very industrial activities adjacent to residential areas. He said the impact of that is on the

businesses who try to be careful about what they do, but there is also an impact on the residences. He said the summary details how some businesses came forward and said if this were to go forward as proposed, it would have a negative impact. He said there was very little discussion on the other elements of the noise ordinance. He said he is not suggesting that we take what was proposed and bring it back, but he is suggesting that we look at it again. He discussed the Smuckers plant which was emitting a high pitch, high decibel noise from the factory that was irritating. Gibbs said it took them several months to get it under control, but Smuckers fixed the problem. He said his understanding is that with the current ordinance, they did not have to. He said if it is a natural sound that comes from their industrial operation it is not a violation of the noise ordinance, but we got lucky in this case because they fixed the problem. He said under the current noise ordinance, we had no recourse to make them fix the problem.

CM Stinnett asked for an example of this occurring since 2011-2012 when this failed and if there was anything specific that happened for him to want to revisit this. VM Kay said he cannot give anything specific, but there have been folks who were impacted who have had a continued concern, but he cannot give a date and time. He said people who are adjacent to a garage that works on high-performance engines and emits noise that forces some people to move out of the neighborhood. He said there are people who live next to a recycling center where they have heavy trucks coming in and there have been concerns. He said the people who initially stimulated this concern and this long set of meetings have continued concerns since the ordinance did not pass. CM Stinnett said during the period of 2008-2011, the big entity that pushed this forward is no longer there and that noise problem no longer exists. He said there were 3 reasons why this failed including too many exemptions listed, enforcement, and cost involved. He said unless there is something we are specifically trying to address, there is no need to bring this broad ordinance back up.

CM Bledsoe said there was a lot of work the subcommittee did on this. She said she sympathizes with the intent, but there were several things in the ordinance that she is concerned about. She said the vehicles and the self-propelled objects that emit sound make her nervous. She said the biggest concern is Economic Development. She said some of our zonings have quite a few restrictions on them and adding more restrictions to them seems harder given the way our city is set up. She said she sympathizes, but this seems too broad and too intense.

CM Henson said she remembers discussing this in the past and just defining a noise violation was very difficult. She said she has concerns about the noise, but we did get part of the ordinance passed regarding the brakes on semi-trucks. She said she remembers this topic being very contentious and she would not want to revisit it.

CM Gibbs said he would like to take another look at it and he would be happy to serve on a subcommittee.

CM J Brown said he has received noise complaints, but mostly they have been city complaints and have involved dumpsters and garbage trucks and he has been made aware. He said was recently made aware of the Smuckers situation and they were good neighbors and worked as fast as they could to address the situation. He said he is apprehensive to take another look at this. He said his other concern is with enforcement because our officers have so many other concerns that conflict with enforcing this.

CM Smith said in his district there was an individual who had an issue with a nearby factory. He said the individual would have to turn on noise to drown out the noise from the factory. He said they discovered the problem is that it is difficult to enforce.

VM Kay would like to leave this in committee and come up with specific alterations rather than trying to work off what has already been done.

CM Henson said when you look at businesses in our community, in many cases there was industry in the center of the city and the city grew up around these industries. She said that came into play as well as far as who was there first and who do you penalize.

No further comment or action was taken on this item.

**V. Items Referred to Committee**

A motion was made by CM Gibbs to remove the Residential Parking Permit Proposals for Scoville Road, Barberry Lane, and West Short Street items from committee, seconded by CM J. Brown, the motion passed without dissent.

A motion was made by CM Henson to remove the Representation of Women in Public Spaces item from committee, seconded by VM Kay, the motion passed without dissent.

A motion was made by CM Plomin to remove the MAP Amendment Pre-meeting with Affected Neighborhoods / Public Outreach item from committee, seconded by CM Henson, the motion passed without dissent.

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

The meeting was adjourned at 2:48 p.m.

KT 3.19.2018