



Environmental Quality & Public Works Committee

July 3, 2018

Summary and Motions

Chair Farmer called the meeting to order at 1:02 p.m. Committee Members F. Brown, Moloney, Stinnett, Gibbs, Evans, Worley, Mossotti, Bledsoe, and Plomin were present. Council Members Smith and Lamb were also in attendance as non-voting members.

I. Approval of Committee Summary – May 15, 2018

A motion was made by CM Plomin to approve the May 15, 2018 Environmental Quality & Public Works Committee Summary, seconded by CM Gibbs. The motion passed without dissent.

II. Review of Current Tax District Change Policy

Dowell Hoskins-Squier, Commissioner of Environmental Quality and Public Works, presented the item. She went over the outline which includes the urban tax districts, current policy for tax district changes, and correction of tax district assignment errors. She said there was an internal working group assembled to review the current policy for tax district changes. She explained the tax district errors that took place in district 12 and reviewed the recommendations to correct the errors.

CM Plomin expressed concern about errors that were made in her district and why it has taken so long to realize they need be corrected. Hoskins-Squier said she cannot say why, but she explained that the division is made up of multiple final plats. She said the portion of the subdivision that has already been transferred to tax district 1 was a final plat, but she can't say why the rest of the subdivision was not transferred to tax district 1. CM Plomin said the statute of limitations should be considered when making these decisions because after 15 years, these people should not be told things are going to change because of an LFUCG error. Michael Cravens with the Law Department said the issue in CM Plomin's district is that they are in tax district 2 and half of the neighborhood got moved over to tax district 1 in 2012 which is consistent with our new development policy. He said the problem is with the homes that are still in tax district 2 which is no urban services even though they are in the Urban Service Boundary and the corrections will fix this.

CM F. Brown asked if we have an obligation to provide refunds in this situation or the ability to recover tax revenues. Hoskins-Squier explained that no refund is owed because they have not been in the correct tax district. CM F. Brown asked if there were plans to go back and retroactively charge for services when these people should have been assigned to tax district 1. Hoskins-Squier said there are no plans to do that. CM F. Brown asked what the problem is if they are getting all of these services. CM Plomin said they are not getting these services, but they also do not want these services. CM F. Brown asked how they are being charged for this if they do not receive the services. Hoskins-Squier said the parcels are placed in an Urban Services tax district at the end of a calendar year and starting in July we provide services. She said these people will be offered services and they can choose to accept that or pay for private collection which would mean they will be paying for both city collection and private collection.

CM Bledsoe commented on a similar situation in her district and said it was very contentious because some were paying more than others for using the same services. She said people feel very strongly about paying these taxes. She asked when they determine that someone is moved to tax district 1 and Hoskins-Squier said when the final development plat is submitted, that will determine which parcels will change tax district. She said in the case of Walnut Grove Estates, it is more than one development plat that makes up an entire neighborhood and that is how a portion was assigned to tax district 1 and the other portion was left out. CM Bledsoe suggested we be mindful that people do not always read their mail so we need to find a way to inform people that they are being moved from one tax district to another.

CM Stinnett said these people should not be placed in tax district 2 until services are ready to be provided because issuing refunds makes no sense from an accounting perspective. He added that the charter states Council makes the decision. He said the neighborhood should make the decision whether they want street lights or not and we should not be forcing people to take them. He said we should be charging appropriately and should not expect people to want to pay over \$250 per month for the city service when private service costs about \$17 per month.

CM Lamb said there needs to be a review of the LFUCG charter because there are a few things that should be revised. She commented on the notification process and said if council members sit down with their constituents and explain the process along with written notification it will make the end result better. Chester Hicks with the Department of Environmental Quality and Public Works said these parcels can be broken down by district and disseminated to the appropriate council member which will be helpful in this process. CM Lamb said this will take more time, but more people will understand since there are so many who do not read their mail.

CM Evans said she has neighborhoods that are on private streets and they want city services but cannot because the developer made it a private street. She said we need to look at the process because people may not want to opt in now but down the road they might want to. She expressed concern about neighborhoods that choose not have street lights because that is a public safety issue. She added that it is not just about people wanting to opt out; it is about people wanting to opt in as well.

CM Moloney asked if any new development has to go on city collection and Hoskins-Squier said the policy states that any new development on a public street would be placed in tax district 1 for Full Urban Services which includes refuse collection. She said when we receive the final record plat, residents are placed in tax district 1 at the end of that calendar year. CM Moloney asked if we still allow private streets to be developed and Hoskins-Squier said yes. Paulsen said the policy was changed so that all private streets have to be built to public street standards; and there is less of a desire to build private streets because you can't make them small. CM Moloney asked why the citizens in CM Evans' district can't have city collection if they want it. Hoskins-Squier said the issue is not waste collection; it is an issue of accepting these private streets as public right of way and there is a process in place for making this happen. She said the street in question was reviewed and it was determined that it not be accepted as public right of way.

CM Worley asked for clarification on the private street requirement that it be finished to a public street's standards and asked if it is true that the street does not have to be finished while development is ongoing. Paulsen said that is a separate issue than the tax district. He said that is the new development process that they do not turn the street over until they do final surfacing. CM Worley said we should not be charging citizens for any service we are not providing to them and he appreciates the work being done on this to make it more uniform. He said citizens should be able to opt out or in and they should decide what services they want to pay for; we should not be forcing this on them.

CM Bledsoe said we don't want these people to pay for services they are not receiving, but if people are receiving the benefit of services, they need to be paying. Hoskins-Squier said they are quality checking each parcel that appears to be in the incorrect tax district and they will send the checked list out to council members so they are aware which parcels will be changed. CM Bledsoe said that will be a helpful tool to use in speaking with constituents. Cravens said it is that time of year when this year's changes are being processed so we will need direction as to what to do about this year's changes. CM Bledsoe suggested we move forward with the corrections and provide that list to council members so we can move forward with that piece. Cravens asked if the intent is to move forward with the corrections and put the others that we identified throughout the last year on hold or if the intent is to proceed with the ones we would normally do and address the corrections at a later date. CM Bledsoe said we should proceed with the corrections now as suggested in the packet today.

A motion was made by CM Bledsoe to make those changes outlined in the packet today as it refers to corrections and providing a list to council members of the parcels in their district, seconded by CM Plomin, the motion failed in

a tie vote (No - Stinnett, Moloney, F. Brown, Plomin, and Worley; Yes – Gibbs, Evans, Mossotti, Farmer, and Bledsoe).

CM Plomin asked if Walnut Grove Estates would be included in the corrections and Hoskins-Squier said yes. CM Plomin asked if there were other neighborhoods that are split with some being tax district 1 and some being tax district 2. Hoskins-Squier said yes, there are some in the Masterson Station area. CM Plomin asked for a clarification of the motion and asked if the intent was to take all of the corrections and put them in the correct district. CM Bledsoe said the motion was to move forward with the 200 corrections and provide that list to council members so they can see it.

A vote was taken on the motion.

CM Lamb said it is Council's role to approve or disapprove ordinances and resolutions that are brought forward to us. She said when it comes to resolutions and ordinances for services in the Urban Service Districts to be assigned, it has not been the role of the Council to say or not say what the administration brings forward. She said asking for this committee's approval for the 200 parcels does not seem like it would be the normal process. She said in the past when Urban Service Districts are changed, it is brought forward in a resolution format first and then it goes through the public hearing process and comes back to us in the form of an ordinance.

CM Moloney asked who decides if a street can be private or not and Paulsen said this normally comes up in the beginning of the development process during the technical review. CM Moloney commented on the Urban Service Boundary that was passed in 1996 which said anything outside that requires city pick-up and asked why we have allowed private streets to come back in. Paulsen said the intent in the charter is that any new development falls under Tax District 1. He said we do refuse collection on private streets but the big change we have made is making it so private streets are less desirable than they used to be because you have to build them to public standards.

CM Bledsoe said she would like to see the list of the 200 properties whether we move forward with putting them in the correct tax district or not. Hoskins-Squier said once they have checked the list, they will send it out to council members and added that they are not all residential, there is some commercial.

CM Stinnett said we have neighborhoods that have been built in the last ten years and people have been on private services and asked when the decision is made to have them put on city services for trash pick-up only. Hoskins-Squier said when the tax district is changed; we are prepared to offer that service beginning July 1. CM Stinnett asked why we don't put them in tax district 1 when the first house is built instead of putting them in tax district 2 and asked when the decision is made to move them from tax district 2 to tax district 1. Hoskins-Squier said when we receive the final development plat, those parcels are processed for tax district changes. CM Stinnett asked why we can't move forward without moving them from tax district 2 to tax district 1 since this was our mistake and why we can't give these people a choice to change or not. He asked why we are forcing them to go to tax district 1 after being in tax district 2 for a decade. Paulsen said if they are receiving the services, there is not much to discuss. CM Stinnett said the problem is they are not receiving the services in tax district 2 and asked why we would make them go to tax district 1. Paulsen said from a policy standpoint, we need to get those areas inside the Urban Service Boundary to tax district 1. CM Stinnett said there are neighborhoods that have been built in the last 5 years or so who are in tax district 2 and they have no idea we are going to come to them in the future and change them to tax district 1. He asked what the justification is for moving them from 2 to 1 after the final plat is done and filed. Paulsen said if the charter says they should be in tax district 1, we should move them to tax district 1. CM Stinnett said it is not fair for us to allow people to come to a public hearing and have a voice only to move forward with this anyway.

CM Plomin asked what percentage it takes when someone petitions to bring in city services. Hoskins-Squier said it would take 51%. CM Plomin asked if someone could petition to not have city services. Hoskins-Squier said it was the Law Department's opinion that the charter speaks to expanding Urban Services and not contracting those services. She said the recommendation is that we would not allow people to opt out of Urban Services.

CM Worley asked out of the 200 properties, if there will be some brought into tax district 1 that will not accept the services. Hoskins-Squier said that is the assumption, but in the last couple of years no one has come to the public hearing.

CM Plomin asked for this to remain in committee and form a subcommittee. CM Farmer said there are policy points that need to be addressed before moving forward with this.

III. Update on Kentucky Utilities / LED Collaborative

CM Farmer introduced the item and provided a brief background to explain how it came to committee. He requested an update on the Kentucky Utilities (KU) LED Lighting as part of the tariff and our franchise with them. James Bush, Program Manager with the Department of Environmental Quality and Public Works, provided this update. He said half our utility costs are related to leasing of street light services and it was disappointing that the rates were higher than the existing street light services. He noted that they received a lot of feedback on this from LFUCG, Louisville, school systems, and other municipalities. He explained that the PSC moved the rate case forward, but added a provision asking for the utilities to form a collaborative for stakeholder discussions. He said those discussions were limited to parties that were involved in the rates case and from December, 2017 – March, 2018 there were 3 meetings coordinated by KU/LGE and LFUCG participated in 2 of those meetings. He said they did acknowledge that their current approach to rate structure needs to be updated and KU anticipates filing a new rate case in September. Since collaborative has ended, Bush recommends that Council invite KU back for a presentation to explain the finding from that collaborative and if they have reached any conclusions as to whether they will offer LED lighting to Lexington and where they plan to go with this next rate case.

A motion by CM Bledsoe to request a presentation from Kentucky Utilities on the findings of the LED Streetlight Collaborative and the company's plans to expand or modify customer options to LED lighting, for either new installation and retrofit applications, seconded by CM Evans, the motion passed without dissent

IV. Review of Items Referred to Committee

A motion by CM Worley to remove Maintenance of Streets in Transition from Development to Completion, seconded by CM Plomin, the motion passed without dissent

A motion by CM Stinnett to remove Bicycle Lanes – location and timing, seconded by CM Plomin, the motion passed without dissent

A motion by CM Bledsoe to remove Electronic Billboards, seconded by CM Mossotti, the motion passed without dissent

A motion by CM Mossotti to remove the Pavement Plan, seconded by CM Plomin, the motion passed without dissent

A motion by CM Mossotti to Adjourn, seconded by CM Plomin, the motion passed without dissent.

The meeting was adjourned at 2:35 p.m.

KT 8.16.18