



Environmental Quality & Public Works Committee

August 24, 2021

Summary and Motions

Chair F. Brown called the meeting to order at 1:02 p.m. Committee Members Kay, Ellinger, Moloney, McCurn, Sheehan, Kloiber, Worley, and Bledsoe were present. Committee Member LeGris was absent. Council Members Plomin and Reynolds were also present as non-voting members.

I. Approval of June 22, 2021 Committee Summary

Motion by Bledsoe to approve the June 22, 2021 Environmental Quality & Public Works Committee Summary. Seconded by McCurn. The motion passed without dissent.

II. Annual Stormwater Drainage Program Update

Charlie Martin, Director of Division of Water Quality (DWQ), began the presentation with review of the stormwater priority list which is updated annually. He mentioned that the Consent Decree allowed for an improved approach which now includes a severity score process to determine whether or not a flooding complaint becomes a capital project. If a capital project is necessary, an assessment is done to determine what it will take to fix, what the alternatives are, and cost associated. When it is ready for the opportunity list, it will be put in one of three categories depending on the severity. Martin mentioned the project policy since 2001 stipulates that new projects must waitlist for two years before any action is taken. With regard to staffing, he said, they have had a lot of changes in the last year and a half and he hopes to be more competitive when trying to fill the remaining positions considering the upgrade that was made for municipal engineers. He highlighted some of the major projects throughout the city which include Southland Park/Yuma/Tucson, Joyland, and the Woodhill/Peachtree project and he explained the work being done in those areas. He spoke about the minor projects that are being done to mitigate the nuisance flooding and reviewed that list of active projects. He also touched on the larger projects in excess of \$50,000 that would require engineering design and are openly bid for construction, but would likely not fit the criteria for capital projects. He mentioned that many times the work is reactionary to a specific situation happening and when it rains, more problems surface. Martin reviewed the impact of COVID-19 and explained how they have worked through the uncertainties that have come as a result of the pandemic. He said there is still a lot of work to do, but LFUCG is no longer under the Consent Decree obligations and, at this time, it is more local decision making at a local pace. Martin outlined challenges for 2022 such as completing projects to clear up a backlog, maintaining infrastructure, and filling vacancies expeditiously.

McCurn commented on priority projects and asked why there are no projects in the north/northwest area of Lexington. Martin speculated that it could many of those projects on the list have been completed. He added that if there are other projects, they need to put in the queue so they can be taken care of. McCurn said he does have some older neighborhoods with concerning projects that may be flooding hazards and he questioned if this had to do with new development and construction. Martin spoke about older infrastructure, some of which was not built for the amount of stress we put in under. He noted that we get a lot more rain now than we did many years ago and multiple heavy rains will cause stress on the infrastructure that it was not built to handle.

Bledsoe spoke about projects in her district that started seven years ago are just now being completed and it was decided in 2015 or 2016 to combine several projects because it made more sense. She expressed appreciation to DWQ and Park and Recreation for taking into consideration what is best for the taxpayer and the community when working on these projects. She asked what the biggest impediment is for staffing in the division. Martin said it is a very competitive market and multiple companies are looking to hire engineers and operators and it is hard to compete when there is a small pool of candidates and a large pool of people who want those candidates.

Moloney spoke about the origination of the Consent Decree having to do with sewers flowing into the creeks and for clarification, he asked, what the differences are for sanitary sewer and stormwater. Martin agreed the original intent of Consent Decree focused on unpermitted discharges into the water system. Describing the difference in sanitary sewer and stormwater, he said, when you have a sanitary sewer problem, it is not hard to get people interested because no one wants sewage anywhere. With stormwater, the solution is most often not where the problem. For instance, the problem might be at the bottom of the hill, but the solution is at the top of the hill. Moloney and Martin discussed how there are always better opportunities to work with developers to address problems on the front end rather than waiting to address them later.

Sheehan asked about the pandemic impact for such things as rising costs for supplies or the demand on workers or contractors. Martin said the employees most directly impacted are the sanitary sewer crews because that is where most of the projects are. He expressed concern that crews might have to stop a specific project because the specified pipe is not available and the raw material cost has increased significantly. He added that it isn't just COVID that is making this difficult. There are other supply issues, but they are monitoring the situation closely.

No further comment or action was taken on this item.

III. 5G Small Cell Wireless Update

Aldona Valicenti, Chief Information Officer, provided an update on the 5G small cell wireless infrastructure in Lexington and she began by providing a history of wireless since 1979. Next, she spoke about 5G evolution versus revolution, saying that 5G evolution includes minimal lag streaming and provides instant access to files online. Some examples of revolution will be reliable internet in remote areas, enabling of autonomous vehicles, and enabling the internet of things, but all of this will likely take a long time to complete. She spoke about small cells which are portable base stations that require minimal power to operate and they prevent signals from being dropped. She illustrated how they are attached to the top of a street light and the intent is for them to be placed close together in a cluster so they can operate as a relay to prevent the signal from dropping. The city is responsible for 5G small cell deployment through awarding telecom franchise agreements to qualified applicants as well as managing the public right-of-ways. She said the city is beginning to look at a strategic plan to effectively utilize fiber assets and the 5G infrastructure to enhance city services and deploy smart city applications. Explaining why we need this, she said 5G wireless/small cell deployment will provide opportunities to implement new mobile services for citizens and will provide enhanced mobile internet access. She added that 5G will not replace the existing 4G wireless networks but will be an evolution of those networks over time. 5G is building a tremendous amount of infrastructure that we have not had. She said coverage for the rural area will be challenging due to the lack of density and geography and it could take two or more years before at least 2/3 of all Americans get 5G service.

Bledsoe mentioned a neighborhood in her district where one of these is installed and there have been several calls from residents expressing safety concerns. She asked if the best course of action is to provide the contact information for the point person at LFUCG with whom they can file a complaint. Valicenti said some people contact her through 311 when they want to ask about 5G and she will send copies of presentations that explain what 5G is, how it works, and the city's role in the process. If there is a concern that there could be an impediment to traffic or line of sight, she said, that could be addressed through Engineering or she would be happy to take any calls.

McCurn asked if there is courtesy information provided prior to installation, particularly when placed in someone's front yard to explain what will take place and when. Valicenti explained that this would be a question for Engineering because they issue permits for the right of way. Doug Burton, Director of Engineering, said utility companies are asked to reach out to adjacent property owners if they are going to be impacted, but this is not required. A common misconception is that the utility strip is part of someone's yard and this creates confusion because it is not. Unless there is a line of sight issue or they are creating another problem, he said, we can't tell them where to locate the pole. McCurn compared this communication to that required of MetroNet which we asked to place notes on front doors to explain what residents can expect. Burton said they will reach out to the utility companies to encourage this, but it is ultimately the FCC's decision where to locate the pole. McCurn asked, how many more years we should expect to be doing this. Valicenti didn't have the timeframe, but said, she has been told it would be two or more years before 5G is fully operational.

No further comment or action was taken on this item.

IV. Abandoned Shopping Carts

David Kloiber, 6th District Council Member, reviewed the issue of abandoned shopping carts which was last presented to committee June 22, 2021. He provided a recap and explained that there is no centralized way to address the issue of abandoned shopping carts and the financial burden falls on the city. He said they looked at other cities to develop the proposed ordinance. He reviewed some of the concerns mentioned at the last meeting and said they have reached out to businesses to get feedback on the potential ordinance and the biggest concern was that they wanted flexibility. He spoke about the current requirement in the ordinance for businesses with more than 10 carts to have a retention plan and they wanted to change it from an onerous burden to something with more flexibility so the proposed ordinance makes the retention plan "optional". The retention plan can now serve as a function for businesses to work with Code Enforcement to create a partnership to decide how best to address their responsibility for this issue. He said there is still a 24 hour period for the business to retrieve the abandoned cart unless there is a retention plan filed that adjusts this. Citations will be cited to the company and not as a lien placed on the property. The recommendation today, Kloiber said, is to approve the proposed Abandoned Shopping Cart Ordinance, to be effective 60 days upon passage.

At this time, public comment was allowed. Of particular concern was the intent of the ordinance and unfairly placing the burden on businesses who are essentially having their carts stolen from them. There was a recommendation to require grocery stores to charge a deposit for use of the shopping cart which would be returned when the cart is brought back.

Bledsoe expressed frustration that the person who is taking the cart is not the person we are punishing. She expressed concern with the 24 hour requirement to report the cart missing because 24 hours is not adequate when trying to locate the cart and there are added concerns that go along with entering someone's private property which is challenging to do.

Kay asked if there is a timeframe included in the retention plan for the retrieval of the carts that are picked up. For example, he said, a business could say in their plan that they will retrieve carts within 6 months. Kloiber said while the retrieval plan is optional, it would be approved by the Division of Code Enforcement and the intent is for this ordinance to include language that ensures the plan meets necessary standards. Kay commented about feedback from owners and asked if part of the requirement in the retention plan is to have a label on every cart to identify the shopping carts that belong to them and how businesses responded to this requirement. Kloiber said most carts have identifying material on them so this was not an added burden. Kay said ideally the burden would be on the person removing the cart, but there is no practical way to do this. Kloiber said this is a main reason why treating this as a partnership between us and the business to work together to solve the problem is a large focus of this ordinance as opposed to saying this is punitive against the business.

Reynolds spoke about this issue being a huge problem in her district and all over the city, but there is not a perfect solution. She said ideally she would agree that the burden would fall on the person removing the cart, but there is no way to enforce this. She said we should encourage stores to require a coin deposit for using the cart which would be refunded when the cart is returned.

Moloney asked where the collected shopping carts will be stored and Kloiber said if the cart could not be returned to the business, it would be disposed of. Moloney asked how long the carts would be kept and Kloiber clarified that the carts would not be kept. An abandoned shopping cart gets reported and if it is not collected in 24 hours, we would pick it up and take it to the landfill. Alex Olszowy, Director of Code Enforcement, explained the timeline for addressing an abandoned cart.

Kloiber spoke about the deposit option and the option to have wheels on the carts that will lock up. He said these would include upfront costs to businesses which is something to consider when thinking about forcing companies to have a similar option. He said we could create an ordinance that requires this, but we wanted to provide flexibility to stop the problem from happening.

Motion by Kloiber to move forward to the full Council, a proposed draft ordinance , creating section 12-11 of the code of ordinances related to abandoned shopping carts [including language to clarify parameters for an acceptable retention plan and how it would be enforced]. Seconded by Ellinger. Motion failed with a 2-7 vote (yes: Kay and Kloiber; no: Ellinger, Bledsoe, F. Brown, McCurn, Moloney, Sheehan, and Worley.

Discussion on the motion: Worley expressed concern that the ordinance in its current form penalizes business owners who have been stolen from. Moloney and Ellinger would like to hear from businesses to get their thoughts on this before taking action. Ellinger and Kloiber discussed Section 3-5 pertaining to the fine for violation and Kloiber explained that the fee escalates but is not to exceed a certain amount. Bledsoe said she doesn't disagree with the partnership, but the concern is that businesses don't know about this and it would be helpful to hear whether or not they are in support of the partnership.

No further comment or action was taken on this item.

V. Items Referred to Committee

No further comment or action was taken on this item.

Motion by Bledsoe to adjourn at 2:33 p.m. Seconded by Kay. Motion passed without dissent.