

Diane Lawless, Chair

Doug Martin, Vice Chair

Chuck Ellinger

Chris Ford

Julian Beard

Bill Farmer

Kevin Stinnett

K.C. Crosbie

Jay McChord

Peggy Henson

Staff:

Jenifer Benningfield

AGENDA

Public Safety Committee

September 11, 2012

1:00pm

- | | | |
|---|-----------------------|--------------|
| 1. Approval of Summary | | (1-4) |
| 2. Mining/Quarry Ordinance (UCG 8-4) | David Barberie | (5-6) |
| 3. Items Referred to Committee | | (7) |

Future Committee Meetings

October 9

November 13

December 4

“Public Safety Committee, to which shall be referred matters relating to the Department of Public Safety and its related Divisions.” Council Rules and Procedures, Section 2.102 (1)



Public Safety Committee

August 21st, 2012

Summary and Motions

CM Diane Lawless called the meeting to order at 1:00pm. Vice Mayor Linda Gorton and CM Blues were also in attendance. CM Crosbie was absent.

Approval of Summary

Henson made a motion to approve the summary from the July 10th, 2012 Public Safety Committee meeting. Seconded by Ellinger. Motion passed without dissent.

Fireworks

Blues introduced the draft fireworks ordinance to Committee members. Blues began his presentation with definitions of consumer fireworks as defined by KRS 227.702. Blues spoke about three categories of fireworks: ground and hand-held sparkling devices, aerial devices, and audible ground devices. Blues' draft would prohibit categories two and three. These categories of fireworks currently cannot be fired within 200 feet of any person or structure. You must be at least 18 years old to use them. Blues said that display fireworks would be allowed pending a permit from the Commissioner of Public Safety or his/her designee.

Blues mentioned that these categories of fireworks are a nuisance throughout the year, not just in July. He said that because of Lexington's density, it is almost impossible to use category two and three fireworks legally.

Various Council Members spoke about reports of noise, danger, and frequency of late night fireworks disturbing sleep patterns and animals. There was a general consensus that the fines need to be increased if there is a violation of the fireworks ordinance.

Stinnett noted that the Council had changed the law in 2010 in response to changes to KRS. He said that because of a few violators, the Council is now being forced to act. Stinnett asked Blues if the draft ordinance was the same as the last ordinance. Blues said that they are similar, but the draft does not allow for tent sales. There would be no seasonal sales. Blues said that representatives from the Division of Fire may support keeping tent sales.

Stinnett also said that he had received complaints from citizens about E-911. The complainants said that E-911 operators were not interpreting the ordinance properly and were not reporting the ordinance changes appropriately to people who called to report violations.

Commissioner Clay Mason said that there were 301 calls to report violations five years ago and over 2000 calls in 2012. Mason agreed that fines need to be stricter. Mason said that they issued 30 citations this year. Stinnett noted that the State of Kentucky gets the money from the fines. Mason also assured Committee members that the E-911 operators have been educated on the ordinance. Mason said that a simpler ordinance would assist E-911 operators.

Stinnett suggested forming a tactical team to deal with enforcing the ordinance and the implementation of a public awareness campaign.

Council Members discussed the importance of educating the public if the draft ordinance presented by Blues passed.

Henson asked about the citation process and was told by the Public Safety officials that they have to catch the perpetrator in the act of setting off the fireworks. Henson told Committee members that there were police specifically assigned to enforce the ordinance.

Martin said that he had concerns about the ordinance not being enforceable. He said that he supports the draft, but thinks that now that categories two and three have been allowed, it might take years to get it under control. He expressed great concern with enforcement. Mason stressed the importance of educating the public on changes to the ordinance.

McChord said that it is very difficult to legislate personal responsibility.

Stinnett asked Mason if he would be open to pulling together a group of Police and Fire staff to educate the public and enforce the ordinance. Mason said that he needs to look at staffing but is open to the idea and could potentially have something in place before January 1st, 2013.

There was a long discussion about the sale of fireworks. Public Safety officials said that retailers with business permits can sell fireworks. Mason noted that people will drive to other counties if category two and three fireworks are not sold in Fayette County. He said that the Division of Police inspects tents regularly. Currently, the fee to have a tent is \$500. Banning tent sales could open LFUCG up to legal ramifications.

Lawless asked Mason about the potential for the County Attorney to prosecute those who have violated the ordinance and gave the example of taking a photo of a violator for proof. He said that someone could bring an issue to the County Attorney. The Division of Police, however, would not cite based on photographs.

Lawless agreed that the fines must be high and would like the effective date of the ordinance to be 'upon passage.'

David Barberie said that the draft would allow for category one fireworks, ground and hand-held sparkling devices. Barberie said that legally, LFUCG may want to consider allowing tents so that they do not open LFUCG up to equal protection arguments. The tents could only sell category one fireworks.

Henson made a motion to move the Ordinance forward to full Council with amended penalties of \$250 for first violation, \$500 for second violation, and \$1000 for third violation and effective upon passage. Seconded by Farmer.

Stinnett made a friendly amendment to include temporary structures and for the administration to recommend a fee for the temporary structure. Seconded by McChord.

Henson accepted Stinnett's friendly amendment.

Martin asked Barberie about 9A-4. Barberie said that he can add the catch-all back in. Martin asked if they need a reference to distances from structures. Barberie deferred to Fire staff. Barberie said that they can put a distance in. Martin said that he wanted to put the language in the motion. Blues said that categories 2 and 3 are the ones that require a buffer of 200 feet.

Martin made a friendly amendment that the ordinance include a statement that permitted fireworks be handled, stored, used, possessed, and sold in accordance with applicable state and local laws. Seconded by Ellinger.

Henson's motion passed 9-0.

Examining Quarry Ordinance to Ensure Revenue Neutral

Barberie came to the podium and told Committee members that the item had been referred to the Public Safety Committee by the Public Safety Link. Barberie gave the Committee members three options. The first would add a COLA provision and/or ability to assess additional costs. Option two would allow the Division of Engineering to issue a nontransferable mining/quarrying permit following the approval of the application. The permit fee would be \$50.00. The mine operator would have to provide, at their cost, an inspection performed within the last 30 days. Option three would be similar to option two, except that the Division of Engineering would procure payment for a permit fee based upon the total of the costs incurred by LFUCG in performing the annual inspections required in section 8-9 of the previous year. The fee would be assessed on a per acre basis for the land to be affected in the next ensuing year. If the formula overcharges the mine owner, the mine owner would receive a refund.

Barberie suggested that the Council get buy-in from the Division of Engineering, as they would be the enforcers.

Stinnett asked how much revenue we generate. Mason said it was \$2254.00 in FY12. The expenses are approximately \$5000.00 per year.

Henson said that the Link simply wants to ensure that the process is revenue neutral. She does not want to wait until the next budget cycle to make a change to the ordinance.

Beard made a motion to keep the item in Committee until the Division of Engineering can be present. Seconded by Ellinger. The motion passed without dissent.

Lawless said that she will review the items in Committee and will do her best to get the item on the agenda for next month.

Items Referred to Committee

Lawless removed fireworks and public safety disability claims from the referral list.

Farmer made a motion to remove Paramedic Training from the Committee. Seconded by Martin. The motion passed without dissent.

Henson made a motion to remove the Chronic Nuisance Ordinance from the Committee. Seconded by Ellinger. Motion passed without dissent.

Farmer made a motion to remove Best Practices for Paramedic Staffing from the Committee. Seconded by Lawless. Motion passed without dissent.

Farmer made a motion to remove Horses Running at Large from the Committee. Beard seconded the motion. The motion passed without dissent.

Farmer renamed 'Compiling a list of safe places people can go in times of weather or emergency needs' to 'Tornado Safe Rooms.'

Henson and Stinnett would like for the recommendations from the Links to be worked on and direction given to Chair Lawless on how to proceed with them.

Farmer made a motion to adjourn. Seconded by Beard. Motion passed without dissent.

Submitted by Jenifer Benningfield, Council Administrative Specialist

Section 8-4(4)(a) of the Code of Ordinances (Mining/Quarrying Permit Fees)

Option 1

Current Draft

The division of engineering shall issue a nontransferable mining/quarrying permit following the approval of the application and written confirmation that the bond has been posted as defined in section 8-5. Board approval shall be required for new or expanded uses. The division of engineering shall procure payment for a permit fee of twenty-four dollars (\$24.00) per acre for land to be affected or a renewal fee by the operator of eighteen dollars (\$18.00) per acre for land to be affected by the total operation in the next ensuing year. All fees must be in the form of cash, cashier's check, certified check, or company check.

Option No. 1(a) – Add COLA provision and/or ability to assess additional costs

The fees shall be adjustable each July 1 beginning on July 1, 2013, by an amount based upon the Consumer Price Index for All Urban Consumers, the U.S. City Average ("CPI-u") published monthly by the Bureau of Labor Statistics. These rates shall be adjusted up if so indicated by a factor determined by averaging the monthly CPI-u published for the twelve-month period ending, and including, April of the year before the July 1 adjustment.

In the event that the actual costs incurred by the government in performing inspections exceeds the above fee, the operator shall be responsible for payment of the difference in cost upon presentation of an invoice or bill by the government. If the actual costs incurred by the government in performing the inspections is less than the above fee, the government shall remit the difference in cost to the operator.

Option No . 2

The division of engineering shall issue a nontransferable mining/quarrying permit following the approval of the application and written confirmation that the bond has been posted as defined in section 8-5. Board approval shall be required for new or expanded uses. The division of engineering shall procure payment for a permit fee of fifty dollars (\$50.00). In addition, the operator shall provide at its cost, an inspection performed within the last thirty (30) days which fully complies with the requirements of section 8-9 and which has been performed by an

engineer or other person qualified to perform such an inspection pursuant to section 8-9(6) who is independent from and not an employee of the operator. The inspection report shall be submitted under oath, certified and witnessed by a notary public. [twenty-four dollars (\$24.00) per acre for land to be affected or a renewal fee by the operator of eighteen dollars (\$18.00) per acre for land to be affected by the total operation in the next ensuing year.] All fees must be in the form of cash, cashier's check, certified check, or company check.

Option No . 3

The division of engineering shall issue a nontransferable mining/quarrying permit following the approval of the application and written confirmation that the bond has been posted as defined in section 8-5. Board approval shall be required for new or expanded uses. Beginning on January 1, 2013, the division of engineering shall procure payment for a permit fee [of twenty-four dollars (\$24.00) per acre for land to be affected or a renewal fee by the operator of eighteen dollars (\$18.00) per acre for land to be affected by the total operation in the next ensuing year. All fees must be in the form of cash, cashier's check, certified check, or company check.] based upon the total of the costs incurred by the urban county government in performing the annual inspections required in section 8-9 the previous year. The fee shall be assessed on a per acre basis for the land to be affected in the next ensuing year. Such fees shall include the costs of retaining any necessary consultants by the government. The annual fee schedule including the calculation shall be made available to the operator upon request. All fees must be in the form of cash, cashier's check, certified check, or company check. In the event that the actual costs incurred by the government in performing inspections exceeds the above fee, the operator shall be responsible for payment of the difference in cost upon presentation of an invoice or bill by the government. If the actual costs incurred by the government in performing the inspections is less than the above fee, the government shall remit the difference in cost to the operator.

Additional Provision for consideration

The fees shall be adjustable each July 1 beginning on July 1, 2013, by an amount based upon the Consumer Price Index for All Urban Consumers, the U.S. City Average ("CPI-u") published monthly by the Bureau of Labor Statistics. These rates shall be adjusted up if so indicated by a factor determined by averaging the monthly CPI-u published for the twelve-month period ending, and including, April of the year before the July 1 adjustment.

Public Safety Committee Referrals

Item	Referred By	Date	Status
Community Corrections Best System of Management	Myers/Kay	7-Jun-11	
Examine Quarry Ordinance (UCG 8-4) to ensure revenue Neutral	PS Link	17-Jun-11	Agenda for 9-11-12
ROW Signage	PS Link	17-Jun-11	
Examine Nuisance Abatement Process	PS Link	17-Jun-11	
Examine Nuisance Ordinance (UCG 12-1) to Ensure Appropriate Revenue	PS Link	17-Jun-11	
Emergency Management Long Range Strategic Plan	PS Link	17-Jun-11	
E-911 Routing Non-Emergency Calls	PS Link	17-Jun-11	
Community Corrections: Explore Receiving Federal/State Inmate	PS Link	17-Jun-11	
Electronic Monitoring Utilization: Work With Judicial	PS Link	17-Jun-11	
Off Premises Signage	PS Link	17-Jun-11	
Fleet Management Services	Myers	4-Aug-11	
Tornado Safe Rooms	Farmer	17-Mar-12	
Abandoned Housing	Myers	10-Apr-12	
Creation of a policy for systematically replacing and maintaining vehicles, appartuses and other recurring costs that are critical to public safety divisions	PS Link	17-May-12	