MINUTES
WATER QUALITY FEES BOARD
January 14, 2021
Regular Meeting

On behalf of the Board members and staff, Mr. Woolwine extended their condolences to Mr. Ely on the passing of Mrs. Ely and expressed that they were with him in spirit.

I. **<u>CALL TO ORDER</u>**: George Woolwine, Chairman, called the January 14th Meeting of the Water Quality Fees Board (WQFB) to order at 9:02 a.m. and read the following statement:

"Due to the COVID-19 pandemic and State of Emergency, this meeting is being held via live video teleconference pursuant to 2020 Senate Bill 150, and in accordance with KRS 61.826, because it is not feasible to offer a primary physical location for the meeting."

<u>Water Quality Fees Board Members in Attendance</u>: Harry Clarke, George Ely, Donna Fogle, David Lowe, and George Woolwine.

<u>Staff Members in Attendance</u>: Charlie Martin, P.E., Director, DWQ; Jennifer Carey, P.E., DWQ; Frank Mabson, DWQ; Denice Bullock, DWQ; Lee Hudson, DWQ; Melissa McCartt-Smyth, Mayor's Office; and Michael Cravens, Department of Law.

<u>Guests in Attendance</u>: Travis Stine, property owner of 2849 Walnut Hill Road; and Burgess Carey, property owner of 8291 Old Richmond Road; Freida Meyer, Opera House Square Townhouses Corporation; and Scott Southall, Earthcycle Design, LLC.

II. **<u>APPROVAL OF MINUTES</u>**: Mr. Woolwine asked the WQFB to review the minutes of the October 8, 2020, Water Quality Fees Board Meeting.

<u>Mr. Clarke moved to accept the minutes as written. The motion was seconded by Mr. Lowe, and the motion passed unanimously</u>.

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III. **<u>APPEAL OF WATER QUALITY MANAGEMENT FEE</u>**: An appeal of the Water Quality Management Fee for property located at 2849 Walnut Hill Road.

Before going forward with the Appeals process, Mr. Woolwine commented that the Board members voluntarily served on the Water Quality Fees Board and they receive no compensation for their service.

Mr. Woolwine briefly described the process of the Water Quality Fees Board Appeal Hearing and said that all parties giving evidence shall be sworn in as a group, which includes the Appellant, the Appellant's representative, and staff. He explained that the Appellant will present any information, as well as any evidence to the group first. The Division of Water Quality staff will follow up to present their information, as well as any evidence to the group. Mr. Woolwine said that both the Appellant and the Division of Water Quality will have the opportunity to present a closing summation to the group. Before the hearing is closed for further comment, the Board will have the opportunity to ask questions of either party and / or any witnesses.

Mr. Woolwine said that once the hearing is closed, the Board must adopt findings of fact upon which to base either denying the appeal or granting the appeal and order any appropriate adjustment to the Appellant's water quality management fee bill. He then said that at the conclusion of the meeting, the Chair will complete the Findings of Fact form and staff will mail a copy to the Appellant.

Mr. Woolwine asked if there was anyone present regarding the property located at 2849 Walnut Hill Road. Mr. Travis Stine indicated his presence.

Mr. Woolwine asked if there was anyone present regarding the property located at 8291 Old Richmond Road. Mr. Burgess Carey indicated his presence.

Mr. Woolwine asked all parties associated with the two appeals to raise their right hand and affirm with a Yes that the testimony they give will tell the truth, the whole truth, and nothing but the truth. Mr. Stine, Mr. Burgess, and Ms. Carey replied affirmatively.

Mr. Woolwine said that all persons speaking must state their name for the record. All documents considered by the Board shall be marked and numbered as exhibits and entered into the record by the person assigned to record the meeting. Ms. Carey indicated that Denice Bullock would be responsible for recording the meeting. Mr. Woolwine then said that the recording of the meeting should be verbatim without interruption.

Appellant's presentation: Mr. Travis Stine said that his property was not connected to any city services and to receive a bill because it rained was egregious. He then said that even if he wanted city service, a pipeline would have to be constructed through his neighbor's property to make a connection. That was not feasible since it is over a mile away. City services do not exist in this area.

Staff presentation: Ms. Carey presented a PowerPoint presentation to the Board and directed their attention to the Code of Ordinance, Chapter 16, Article XIV – Water Quality Management Fee. She explains that Chapter 16, Article XIV, Section 16-402 provides Lexington a set of definitions as to how to assess and collect the Water Quality Management Fee. Out of these definitions, the following three (3) pertain to developed properties:

(3) Water quality management area includes all developed parcels within Fayette County.
(4) Water quality management fee means the fee levied by the Urban County Government upon all developed parcels within the boundaries of the water quality management area as authorized by this chapter.
(12) Undeveloped means the condition of real property unaltered by construction or addition to such property by man of impervious ground cover or physical manmade improvements of any kind which change the hydrology of the property from its natural state.

Ms. Carey then said that Chapter 16, Article XIV, Section 16-403(1) relates to the Water Quality Management Fee that has been imposed on every parcel of land within the water quality management area except for the following items:

(a) Undeveloped parcels;
(b) Railroad tracks;
(c) State and federal roads;
(d) Urban county government streets and roads;
(e) Private streets which are used exclusively for access to single-family residential parcels.

Ms. Carey said that the Appellant's property is essentially a developed parcel, it cannot be excluded from Chapter 16, Article XIV, Section 16-403(1); therefore, it does qualify to be assessed the Water Quality Management Fee.

Closing summation: Mr. Woolwine asked for the staff, then the Appellant to present their closing summation to the group. Ms. Carey said that the Appellants parcel has been developed, and it meets the definition for the type of parcel for which the fee is assessed. She then said that the Appellants parcel is a Class A parcel because it is a single-family residential parcel; therefore, the parcel is assessed one (1) ERU (Equivalent Residential Unit) per month, which is currently $5.0 per month.

Mr. Stine said that the city does not provide him any services, and he understood that Lexington was in trouble with the EPA for the storm sewer issues and the fee is meant to help recover those funds, but the rainwater enters two sinkholes, not the storm sewer. He added that he understood that the Ordinance says what it says, but feels the fee is being misapplied in this situation. Mr. Stine stated that he would have no problem paying the fee, if he was receiving benefits from the city.

Ms. Carey understood the Appellants assertion with the lack of storm sewers in his part of the county, but the Water Quality Management Fee also helps to assure that any potential runoff at his site or others is mitigated. She then said that paying the fee assures that any runoff that enters or leaves a property is unencumbered from pollutants. She explained that if Juddmonte Farms decided to construct a building along the property line, the property owner would not want any sediment runoff to flow onto their land, entering the sinkhole. Programs funded by the Water Quality Management Fee would require Juddmonte Farms to put Best Management Practices (BMPs) in place to help prevent any impact from the neighboring property.

Mr. Stine had no further comment.

Board comments and questions: Mr. Clarke understood Mr. Stine's concern and said that the Water Quality Fees Board does not have the authority to counteract the Code of Ordinance. This issue is something that impacts other properties throughout the county, but to make an exception for this property would mean that the Board was overstepping its authority.

Ms. Carey replied affirmatively.

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Mr. Cravens replied that there is an Ordinance in place that mandates the Water Quality Management Fee, but there is also an Ordinance in place that allows property owners to come to the Board to dispute the fee. He said to help the Board decision as to whether or not the fee is properly assessed and / or the property could be exempt, the staff had cited Chapter 16, Article XIV, Section 16-403(1), and explained the different types of exemption that are allowed.

Mr. Cravens said that the Board was now charged with applying the Ordinance to the appeal and decide whether or not the appeal can be exempt.

Mr. Clarke indicated that the Board needs to determine if the appeal could be excluded from the fee. Mr. Cravens replied affirmatively.

Mr. Woolwine said that Chapter 16, Article XIV, Section 16-403(1) lists undeveloped parcel as an exemption. Ms. Carey replied affirmatively. Mr. Woolwine then said that if a house is developed on a piece of land then that parcel is considered developed. Ms. Carey replied affirmatively. Mr. Woolwine added that the property associated with this appeal does have a house built on the parcel. Ms. Carey replied affirmatively. Mr. Woolwine said that, by definition, the parcel is developed. Ms. Carey replied affirmatively.

Mr. Woolwine closed the hearing for the property located at 2849 Walnut Hill Road. He said that the Board must adopt findings of fact upon which to base either denying the appeal or granting the appeal and order any appropriate adjustment to the Appellant's Water Quality Management Fee bill.

Mr. Lowe moved to deny the appeal of the Water Quality Management Fee for property located at 2849 Walnut Hill Road. The motion was seconded by Mr. Clarke, and the motion passed unanimously.

IV. APPEAL OF WATER QUALITY MANAGEMENT FEE: An appeal of the Water Quality Management Fee for property located at 8291 Old Richmond Road.

Appellant's presentation: Mr. Burgess Carey briefly explained the history of the property and said that the subject property is a developed parcel that was originally zoned Agricultural Rural (A-R). Several years back, the property was rezoned to Agricultural Natural (A-N); at which time, Boone Creek Outdoors was established as an agri-tourism business for a tree-based canopy tour.

Mr. Carey indicated that there are two structures on the subject property. The first structure is a single-family home that was built in the mid-80s near Boone Creek gorge and the structure is used as a lodge area for Boone Creek Outdoor Anglers Club. The second structure is the house on Old Richmond Road that was converted to the Zip Line Canopy Tours Welcome Center. As part of the welcome center transformation, the bathroom shower and laundry facilities were removed and a new septic system was installed. He continued to say other than improving the small detention area located off the parking lot, nothing else was changed as far as the size of the structure or the size of the parking area. He indicated that the septic system for the welcome center was not changed because canopy tour numbers are minimal and the usage does not increase.

Mr. Carey said that during their research they discovered welcome center rates were less than single-family home rates, which is an important point to make as this appeal goes forward. He then said that when he inquired about the fee increasing from $5.00 a month to over $100.00 a month, he was told it was due to the status of the property being changed from single-family residential to a commercial. Even though the use of the property had changed, it was still an agri-tourism business, similar to a horse farm giving tours. He added that if horse farms and other agri-tourism businesses in the agricultural rural areas are being assessed with the commercial rates then the hearing could be over that instant. However, if those are being assessed differently, then he requests for Boone Creek Outdoors to be treated the same.

Mr. Carey requested for the Water Quality Fee Board to restore their rates to what they had been previously paying, which would be compatible with other agricultural operations in Fayette County.

Staff presentation: Ms. Carey presented a PowerPoint presentation to the Board and directed their attention to the Code of Ordinance, Chapter 16, Article XIV – Water Quality Management Fee. She explained that Chapter 16, Article XIV, Section 16-402 provides Lexington a set of definitions as to how to assess and collect the Water Quality Management Fee. Out of these definitions only one (1) pertains to farm properties:

> (13) *Farm property* means any parcel occupied exclusively for "agricultural use" as defined in Article 1-11 of the Zoning Ordinance.

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Ms. Carey then said that Chapter 16, Article XIV, Section 16-403(2) related to the Water Quality Management Fee which is established and imposed for all parcels within the water quality management area, excluding exempted properties:

> (a) *Class A properties:* Single-family residential or farm properties. The single-family residential rate shall be four dollars and thirty-two cents ($4.32) per month for each parcel and the farm property rate shall be four dollars and thirty-two cents ($4.32) per month for each parcel. This flat rate fee is based on each single-family residential parcel or farm property being equal to one ERU. The urban county government shall determine the number of single-family residential parcels and farm properties in the water quality management area.
> (b) *Class B:* All other parcels: The charge for all other parcels within the water quality management area shall be based upon the number of square feet of measured impervious surface, as determined by the urban county government through aerial photography and surface feature evaluation processes, expressed in whole ERUs by rounding to the nearest ERU (determined to be two thousand five hundred (2,500) square feet of impervious surface). The charge for Class B properties shall be computed by multiplying the number of ERUs for a given parcel by the unit rate established by the urban county government of four dollars and thirty-two cents ($4.32) per ERU per month but in no event shall any such parcel pay less than four dollars and thirty-two cents ($4.32) per month.

Ms. Carey added that agricultural use as stated by Article 1 of the Zoning Ordinance under General Provisions and Definitions "means the use of a tract of land of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including, but not limited to, livestock; livestock products; poultry; poultry products; grain; hay; pastures; soybeans; tobacco; timber; orchard fruits; vegetables; flowers or ornamental plants; including provision for dwellings for persons and their families who are engaged in the above agricultural use on the track, but not including residential building development for sale or lease to the public."

Ms. Carey said that the definition in the Water Quality Management Fee requires that a farm parcel has to be exclusively for agricultural use. She directed the Board's attention to the zoning map and aerial photograph of the subject property and explained that there is a well-defined parking area to the north and south of the welcome center. She also added that there are 40 parking spaces between the two parking areas. This is indicative of some type of commercial use, not necessarily for agricultural use. Ms. Carey said that the Appellant noted that the footprint of the parking area had not changed, but when comparing the 2018 aerial photograph to the 2016 aerial photograph, the parking area had been paved, which was a significant improvement.

Mr. Carey interjected and clarified that there was no additional square footage paved for the parking areas.

Ms. Carey said that the property located at 8385 Old Richmond Road is also owned by Mr. Carey. When reviewing the 2020 aerial photograph, there is nothing on this parcel that is indicative of a commercial enterprise, but rather the property seems to be used for agricultural use. She then said that even though there may be parts of the canopy tour crossing over the property line, there is no parking lot, there is no evidence of a commercial enterprise. She explained that when impervious areas are calculated, the staff would charge five (5) ERU for this parcel, but it is only being billed for 1 ERU, because it seems that the land is being used for agricultural farming. She indicated that 8291 and 8385 Old Richmond Road is a combined bill that totals 29 ERUs. One (1) ERU is for 8385 Old Richmond Road and twenty-eight (28) ERUs are for 8291 Old Richmond Road.

Ms. Carey directed the Board's attention to the aerial photograph and explained that impervious areas are determined by yellow shading. She explained that the yellow shading runs from 8385 Old Richmond Road down the long driveway to the Boone Creek Outdoor Anglers Club, and extended over to the two (2) parking areas around the Zip Line Canopy Tours Welcome Center. She said that 8385 Old Richmond Road is only being billed for one (1) ERU; whereas 8291 Old Richmond Road is being billed 28 ERUs.

<u>Closing summation</u>: Mr. Woolwine asked for the staff, then the Appellant, to present their closing summation to the group. Ms. Carey stressed that a farm parcel as defined in Chapter 16, Article XIV, Section 16-402 is any parcel occupied exclusively for "agricultural use" as defined in Article 1-11 of the Zoning Ordinance. These types of uses include such items as row crops, an orchard, livestock, or something along those lines; and do not include commercial uses such as zip line tours.

Mr. Carey said that the crux of the disagreement is with the classification. This is an agricultural use and it has been defined by the federal and state government as agricultural use. He then said that zip lines are regulated under the Department of Agriculture and have determined agri-tourism to be a legitimate agricultural use. He added that if there were no trees on this property then there

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would not be a tree based canopy tour. There is no opportunity to grow crops due to the steepness of the land. He noted that the parking lot is the same parking lot that was on the property and it has not changed.

Mr. Carey said that they went through the process of changing the zoning on this property to Agricultural Natural (A-N), not to a commercial zone. He also commented that based on the definition, he disagreed with the staff's decision because zip lining is an agricultural use and Boone Creek Outdoors is the only eco-tourism business in Fayette County. It was very difficult to get through the zoning process and to properly acquire the permits. Boone Creek Outdoors is a small business and it is designed to be maintained and taken care of just as any other agricultural use properties are accustomed. He said that if farms who are bringing in tour buses are being charged as a commercial use then his argument is moot; but if those farms are not then he believed they should not be singled out for being zoned as Agricultural Natural (A-N).

Board comments and questions: Due to technical difficulties with the video, a portion of the Board comments and questions were not captured.

Mr. Woolwine commented that 8385 Old Richmond Road is only being charged one (1) ERU; whereas 8291 Old Richmond Road is being charged twenty-eight (28) ERUs. The appeal is for the second parcel which is considered a commercial use.

Mr. Carey explained that the upgrades to the welcome center parking lot do not increase the runoff, but rather it helps reduce the runoff.

Mr. Clarke commented that he understands the Agricultural Natural (A-N) zones are appealing.

Mr. Woolwine asked if the detention basin catches the runoff from the parking lot. Mr. Carey gave a brief description as to how the detention basin works to catch any runoff.

Ms. Carey commented that the Appellant could apply for a Class B Infrastructure grant to install permeable pavement to further reduce the runoff from the parking lot.

Mr. Carey explained that he could not apply for the grant since the Division of Engineering had denied his request to install permeable pavers on the parking lot.

Ms. Fogle understood the Appellant's concerns and asked if the Ordinance could be reviewed for possibly changes or is it etched in stone.

Mr. Woolwine said that the decision to change the Ordinance would need the Urban County Council's approval. At this time, the Board must make their decision based on what is currently written in the Code of Ordinances. The Board cannot base their decision on what could happen down the road.

Mr. Cravens said that the Board's task is to apply the Code of Ordinances as it is written today. He explained that if the Ordinance were to be amended or expanded to include and recognize agri-tourism as appropriate use, that change would only be applied to those items after the date Council approves the amendment to the Ordinance, not before that date.

Mr. Clarke indicated that he was reluctant to make a motion; however, the Boards hands were tied. Mr. Lowe concurs with Mr. Clarke.

Mr. Clarke moved to deny the appeal of the Water Quality Management Fee for property located at 8291 Old Richmond Road. The motion was seconded by Mr. Lowe, and the motion passed unanimously.

V. OPERA HOUSE SQUARE TOWNHOUSES CORPORATION (OHSTC) – FY 2019 CLASS A NEIGHBORHOOD GRANT: A request to decrease the proposed permeable paver area from approximately 16,203 square feet to approximately 3,641 square feet for property located at 541 West Short Street.

Staff presentation: Mr. Mabson presented a PowerPoint presentation to the Board and briefly explained that the Appellant originally proposed to install 16,203 square feet of permeable pavers in the parking lot. The Appellant was now requesting to modify the scope of their FY 2019 Grant by reducing the square footage to 3,641 square feet.

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Appellant's presentation: Ms. Frieda Meyer, resident of the Opera House Square Townhouses, directed the Board's attention to the grant application and briefly explained that they applied for the Class A Neighborhood Grant, requesting $100,000.00 with a cost-share of $25,963.30 coming from the neighborhood association. She indicated that most of the townhomes are owner-occupied, and even though many homeowners are on a fixed income, they believed the Class A Neighborhood Grant would be an opportunity for them to address the stormwater problems in this area.

Ms. Meyer explained that one of the obstacles with this project was rising construction costs, which is the reason they are requesting to decrease the square footage. She said that, in reviewing the grant budget, the funding amount would remain the same, but how the funds are distributed would change. Another obstacle for this project was the timing. She indicated that the complications of the property flooding have impacted their original schedule for the project to start and end in 2019.

Ms. Meyer explained that except for the parking spaces, their goal was to add permeable pavers throughout the parking lot. Unfortunately, they had underestimated the cost of the permeable pavers, and now they are requesting to reduce the square footage from 16,203 square feet in size down to 3,641 square feet in size. This decrease, at a cost of twenty-seven (27) dollars per square foot, is estimated at approximately $98,307. Ms. Meyer said that the slope of the parking lot limits where the improvements can be done, so they believe the improvements could be made at the rear of the property near the dumpster area. She added that along with the improvements a concrete base would be installed under the dumpster.

Ms. Meyer requested the Board to approve the change as well as an extension to the timeline so that the location and square footage could be amended. She indicated that the Organization might also be interested in applying for a second grant for additional permeable pavers to be installed.

Staff response: Mr. Mabson said that Ms. Meyer did mention a few constraints, but one that was not mentioned was the utility easements running through the parking lot. He then said that not only was the cost a major issue but as a stipulation of the Grant, the permeable pavers could not be constructed within ten (10) feet of either side of an existing sanitary sewer and measures would have to be taken to prevent infiltration entering the sanitary sewer system. Mr. Mabson noted that the initial proposed project area has so many pipes running under the lot, that it would certainly be an issue.

Mr. Mabson then said that another constraint for this site would be the location of a temporary parking area for the residents during the removal and installation of the pavers. He added that staff does not believe the flooding at the fountain could be mitigated due to the runoff from the townhomes and the slope of the parking area.

Mr. Mabson said that when this request was first scored, it was up against three (3) other applications. He explained that the way the Class A scoresheet is structured, the staff was not able to rescore this project against those who were also seeking funding, but were denied due to insufficient funds. He said that the other applicants scored lower than Opera House Square Townhouses Corporation, but in terms of scope, the staff believes the outcome could have had a different impact.

Mr. Mabson said that staff understands the project was not started on time and the cost has fluctuated, but they have requested a revised budget to show the updated breakdown of each item as well as a revised timeline. He said that if staff had received the updated information, they could have presented that information to the Board showing the cost difference between then and now. Mr. Mabson said that with the lack of updated information from the Appellant, the staff could not support Opera House Square Townhouses Corporation's request, and recommended the Board to deny the request. He suggested for the Appellant to go back to the drawing board, assess what needed to be done to mitigate the flooding, and reapply for a future grant.

Board comments and questions: Mr. Lowe understood the problems this site faced, but to have the Appellant start over again and scoring well was unlikely.

Mr. Mabson replied saying the Appellant needed to reassess whether or not the permeable pavers were a practical option for this site; especially in terms of maintenance. He also noted that the integrity of the pavers might be compromised. He explains that since larger trucks will be accessing the site especially near the dumpster area and the location of the utility line easements, the staff does not believe this site is a good candidate for permeable pavers and should be re-evaluated. As part of the assessment, the Appellant could see if increasing the pipe size would help with the flooding in the parking lot area near the existing fountain.

Ms. Meyer understood where staff review was coming from and appreciated the feedback concerning the size of the pipe near the fountain. This property was unique because of the number of utility lines running through it.

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Mr. Woolwine said that the original project included installing permeable pavers on the entire parking area. Ms. Meyer replied negatively and explained that the drivable areas would have permeable pavers, and the parking spaces would not be changed.

Mr. Woolwine clarified that the Appellant is asking for the original grant, which includes 16,203 square feet of area, be reduced to 3,641 square area to add permeable pavers to either the rear parking area or the entrance at Bruce Street. He said that the request to reduce the scope of the project is to fit the funding that which was granted in FY 2019. Ms. Meyer replied affirmatively.

Mr. Woolwine said that if the Board did approve the changes as suggested, it still might not solve the issue with the flooding. He suggested a feasibility study to investigate the different options to best address the flooding in the parking lot.

Mr. Mabson said that there is a target amount of $40,000.00 for a feasibility study for Class A Neighborhood grant applicants. Ms. Carey replied affirmatively. Mr. Mabson said that the Appellant would be a good candidate to apply for that particular grant during the upcoming grant cycle.

Mr. Clarke agreed with the staff and said that he believed that this project needed to go back to the drawing board, as well. He then said that there was a significant need but how that need would be satisfied was more complicated than anyone realized at the beginning. He added that starting over was the right direction to go for this project, and asked what action does the Board need to make.

Mr. Mabson said that the revised plan showed permeable pavers not just in the rear parking area, but also included the parking spaces. He said that the Grant stipulated that for new drainage system there would need to be at least ten (10) feet between the existing buildings and the drainage system.

Ms. Meyer clarified that there needed to be ten (10) feet between the existing sanitary sewer lines and from the buildings. Ms. Carey and Mr. Mabson replied it was both. Mr. Mabson reaffirmed that the Grant stipulated that permeable pavers could not be constructed within ten (10) feet of either side of an existing sanitary sewer, and that the Code of Ordinances does not allow pavers within ten (10) feet of a foundation.

Mr. Clarke said that the feasibility study should hopefully reveal these types of issues. Ms. Carey and Mr. Mabson replied affirmatively. Ms. Meyer appreciated the information because she did not know there was a feasibility study grant.

Mr. Mabson said that the FY 2022 applications would be published within the next month and a half, but the deadline would not be until May 7th. He then said that there would be enough time to contact a consultant to help with the application.

Ms. Meyer thanked the Board and the staff for their time and the options and apologized for not pulling the information that they needed.

Mr. Woolwine thanked Ms. Meyer for her participation in the program and they want to be supportive of the project. He then said that the benefit of the feasibility study would give alternatives to solve the problem and be successful.

<u>Mr. Lowe moved to deny Opera House Square Townhouses Corporation's request to decrease the permeable pavers from approximately 16,203 square feet to approximately 3,641 square feet for property located at 541 West Short Street and move forward with the feasibility study. The motion was seconded by Mr. Ely, and the motion passed unanimously.</u>

<u>Discussion of motion</u>: Mr. Woolwine confirmed that the Board denied the Opera House Square Townhouses Corporation request to change the scope. He asked if the funds that were originally designated for the Opera House Square Townhouses Corporation would go back into the pool for future projects.

Mr. Mabson replied the Board denied the scope of the project to be changed and said that staff would need an official letter from the Appellant terminating the Grant. Ms. Carey said that the grant funds have not been spent so that amount would be returned to the pool, which can then be used during the upcoming FY 2022 cycle of grants. Mr. Mabson commented that the grant amount awarded was $100,000.00. Ms. Carey replied affirmatively.

Mr. Woolwine asked if Ms. Meyer understood what the Board's denial meant. Ms. Carey said that staff would follow up with Ms. Meyer after the meeting.

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Mr. Woolwine confirmed that the staff would follow up with Ms. Meyer to inform her of the Board's action and ensure her to consider what needed to be done. Mr. Mabson said that the reduction in scope was the Appellant's only option to move forward. He then said that the staff believed the Appellant understood, but they would communicate with the Appellant to clarify what needed to be done from this point.

VI. <u>COMMENTS / SUGGESTIONS FROM CITIZENS ABOUT INCENTIVE GRANT PROGRAM</u>: There were none.

<u>Note</u>: A brief recess was declared at 10:49 a.m. The meeting was re-convened at 10:55 a.m.

VII. <u>MEMORANDUM REGARDING PROGRAMMATIC CHANGES</u>: Mr. Woolwine said that the memorandum included some items that the Board has discussed every year, as well as reviewing any potential changes to the requirements. Mr. Mabson replied affirmatively and added that there are new items as well. .

Mr. Mabson directed the Board's attention to the memorandum dated December 17, 2020, and briefly explained each of the items as follows:

1. **Should we change the "Cost Share" requirements for any of the grant classifications? We have looked at cost-share percentages in previous years and the Board has made changes, so does it need to be adjusted again this year? For FY 2021, the Board decided to continue with the percent match for Class BE (above the first $2,500) from 50% to 20%, which has helped maintain consistency among the grant classes. (A, BE, BI)**
   - Pro – If % increases, it would mandate a larger contribution by Applicant (higher dollar project for the same LFUCG monetary investment), and if % decreases, the grant program might be more appealing to some Applicants and increase competitiveness.
   - Con – If % increases, it might discourage some Applicants from applying and make the grant program less competitive, and if % decreases, it might decrease the size of the project for the LFUCG monetary investment.

   <u>Staff presentation</u>: Mr. Mabson directed the Board's attention to Item #1, and briefly explained the pros and cons of whether the "Cost Share" requirements for any of the grant classifications should be changed.

   <u>Board comments and questions</u>: Mr. Clarke commented that the cost-share should remain as it currently is.

   <u>Mr. Clarke moved to sustain the current cost-share percentages for all three (3) grant classes; seconded by Mr. Lowe. The motion passed unanimously</u>.

2. **Should we continue with the Small Project Target (Projects $50,000 or Less) in the Class B Infrastructure program? For FY 2021, the target amount was lowered to $50,000, and $166,500 (15%) of budgeted funds for Class BI grants was allocated for the Small Project Target Category. Of the nine (9) Class BI applications scored for FY 2021 funding, only one (1) competed in the category of Projects $50,000 or Less. (BI only)**
   - Pro – Provides an opportunity for some of the smaller projects to be funded, since these typically score lower than the Applicants requesting full funding ($300,000 max request amount). Increases the number of Applicants who are awarded grants.
   - Con – Reduces available funding for the typically higher-scoring applications requesting full funding. Increases the number of grant projects for LFUCG staff to manage.

   <u>Staff presentation</u>: Mr. Mabson directed the Board's attention to Item #2, and briefly explained the pros and cons on whether or not to continue with the Small Project Target (Projects $50,000 or Less) in the Class B Infrastructure program.

   <u>Board comments and questions</u>: Mr. Clarke asked if the funds are not used for Small Project Target then those funds are moved to another category. Mr. Mabson replied affirmatively and said that the funds would go back to the general pool for that particular class.

   Mr. Woolwine said that this would open the grant up to smaller projects that normally would not qualify. Mr. Mabson replied affirmatively.

   <u>Mr. Ely moved to continue the Small Project Target (Projects $50,000 or Less) in the Class B Infrastructure program; seconded by Mr. Clarke. The motion passed unanimously</u>.

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3. **Should we consider continuing with the current funding allocation for Class B Infrastructure Projects $50,000 or Less? Currently, the allocation is $166,500, which was increased from $90,000 in FY 2020. The $166,500 was 15% of the Class B Infrastructure budget allocation for FY 2021. Of the nine (9) Class BI applications scored for FY 2021 funding, only one (1) was submitted for this category. The $166,500 allocation allowed full funding of the one application, with the remaining allocation returned to Class B Infrastructure projects. (BI only)**
   - Pro – Prior to the COVID-19 pandemic, this target category had increased in its competitiveness in previous years. Continuing the 15% allocation to this target would still allow for more of the Applicants to be awarded a grant if the trend general Class BI funds were to resume.
   - Con – Reduces available funding for the typically higher-scoring applications requesting full funding. Increases the number of grant projects for LFUCG staff to manage.

Staff presentation: Mr. Mabson directed the Board's attention to Item #3, and briefly explained the pros and cons on whether or not to continue with the current funding allocation for Class B Infrastructure Projects $50,000 or Less.

Board comments and questions: Mr. Woolwine said that there was one project that met the criteria from FY 2021, and asked what the budget was for that project. Ms. Carey replied that their budget was just under $50,000.

Mr. Woolwine said that the remaining funds for this category were made available to other projects. Ms. Carey and Mr. Mabson replied affirmatively.

Mr. Woolwine said that the question was now whether the 15% should be left as is or should the Board consider increasing or decreasing the percentage. Ms. Carey and Mr. Mabson replied affirmatively.

Mr. Lowe said that the future cannot be predicted so there could be an increase in applications. This amount allows room for three projects but there are funds leftover from the previous fiscal year. He said that three (3) openings seem sufficient so he is in favor of keeping the funds at $166,500.

Mr. Clarke and Mr. Woolwine replied in agreement.

Ms. Carey asked if the Board would like to keep the same dollar amount ($166,500) or the percentage (15%). She explained that if the 15% was kept then that would allocate extra funds in excess of $166,500 due to funds reallocated from prior years, or the Board could keep the dollar amount.

Mr. Clarke moved to continue with the current funding allocation of $166,500 for Class B Infrastructure Projects; seconded by Mr. Lowe.

Discussion of motion: Mr. Woolwine clarified that the funding would be $166,500 until such time the Board takes action to change that amount. Ms. Carey and Mr. Mabson replied affirmatively.

Mr. Lowe said that there would be three (3) openings for this funding with some funds remaining. He asked if the amount could be changed to $150,000. Mr. Clarke said that some of the projects will be less than $166,500 so there could be the possibility of more applications.

Ms. Carey said that there have been grants submitted for $15,000. Mr. Mabson said that the staff came to 15% due to last year's discussions.

Mr. Woolwine asked if the motion on the floor should be amended. Ms. Carey replied negatively. Mr. Mabson said that the motion on the floor should reflect the dollar amount as opposed to the percentage.

Mr. Clarke indicated that the dollar amount was his motion.

The motion passed unanimously.

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4. **Should we continue with the Feasibility Targets in the Class A and Class B Infrastructure programs? For FY 2021, the targets were $40,000 and $50,000 of budgeted funds, respectively. FYI – For FY 2021, zero (0) Feasibility Only applications were submitted for Class A and four (4) Feasibility Only applications were submitted for Class B Infrastructure. (A and BI)**
   - Pro – Provides an opportunity for feasibility projects to be funded since these typically score lower than the Applicants requesting funding for design and construction. Allows the Board to anticipate future grant applications for design and construction, and should allow for better use of grant funds. Increases the number of Applicants who are awarded grants.
   - Con – Reduces available funding for the typically higher-scoring applications requesting full funding. Increases the number of grant projects for LFUCG staff to manage.

   Staff presentation: Mr. Mabson directed the Board's attention to Item #4, and briefly explained the pros and cons on whether or not to continue with the Feasibility Targets in the Class A and Class B Infrastructure programs.

   Board comments and questions: Mr. Clarke said that the Opera House Square Townhouses discussions show the value of a feasibility study for any program.

   Mr. Lowe asked if the amount for the feasibility study was sufficient for each of the classes. Mr. Mabson indicated that Item #4 relates to whether or not the Board wants to continue feasibility studies, and should the Board continue them, then the amount of the funding for each class would be addressed under Item #5.

   Mr. Woolwine said that the Board needed to determine whether or not to continue the feasibility study. Ms. Carey replied affirmatively.

   Mr. Clarke moved to continue the Feasibility Targets in the Class A and Class B Infrastructure programs; seconded by Ms. Fogle. The motion passed unanimously.

5. **Should we consider increasing the allocation of funding for the Feasibility Targets in the Class A and Class B Infrastructure programs? For FY 2021, the targets were $40,000 and $50,000 of budgeted funds, respectively, which might possibly go to one grant Applicant in each class. (A and BI)**
   - Pro – If these targets are competitive, it would allow for more of the Applicants to be awarded a grant, especially for the Class B Infrastructure Feasibility Target.
   - Con – Reduces available funding for the typically higher-scoring applications requesting full funding. Increases the number of grant projects for LFUCG staff to manage.

   Staff presentation: Mr. Mabson directed the Board's attention to Item #5, and briefly explained the pros and cons on whether or not to consider increasing the allocation of funding for the Feasibility Targets in the Class A and Class B Infrastructure programs.

   Board comments and questions: Mr. Woolwine said that there were only four (4) feasibility studies submitted in FY 2021, and asked if there were sufficient funds to grant all four (4) projects. Ms. Carey replied negatively and said that there was not enough set aside to cover all four applications; however, only one small project was approved so between those remaining funds and some additional funding from both canceled projects, as well as projects that completed under budget, there was enough funding to cover all four (4) feasibility-only applications from FY 2021. Mr. Mabson concurred.

   Mr. Woolwine asked if there was the flexibility to move funds from one class to another class. Ms. Carey and Mr. Mabson replied affirmatively.

   Mr. Woolwine asked for the staff's thoughts about increasing the allocation of funds. Mr. Mabson replied that even though Class A was not as competitive as the other Classes, the staff feels the funds should be maintained for each class during FY 2022.

   Mr. Clarke moved to continue the allocation of funding for the Feasibility Targets in Class A and Class B Infrastructure programs; seconded by Mr. Lowe. The motion passed unanimously.

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6. **Should we continue with the Innovation and Experimentation funding allocation for FY 2022? This was first introduced in FY 2020; however, to date, no Applicant has received funding from this allocation. Note: The seed funding for the Innovation and Experimentation allocation came from an FY 2019 grant recipient who canceled their project. (A, BE, BI)**
   - Pro – Allows LFUCG to fund applications that are innovative, but that might not score well within the existing scoring matrix. Allows LFUCG to fund applications that are innovative, while maintaining funding levels for "traditional" applications.
   - Con – If the Board does not fund a grant from this allocation, then keeping the $300,000.00 held in reserve for Innovation and Experimentation prohibits using these funds for a "traditional" application.

Staff presentation: Mr. Mabson directed the Board's attention to Item #6, and briefly explained the pros and cons on whether or not to continue with the Innovation and Experimentation funding allocation for FY 2022.

Board comments and questions: Mr. Woolwine thought that if the funds are not used for innovation and experimentation projects, the funds would be used for other projects in a different classification. Mr. Mabson replied that the Board would have to approve transferring those funds from one classification to another classification. Ms. Carey said that right now the $300,000 is carved out and has remained in reserve as its own pot of money since the FY 2019 Aventics Corporation grant was cancelled.

Mr. Clarke said that the Board does not want $300,000 to just sit there, but on the other hand, he sees this as being one of the most important possibilities. He then said that inviting people in, encouraging them to be experimental, and helping them deal with the types of water quality problems throughout the county is a great idea. He added that it would be a mistake for the Board not to support innovation and we should be sure to communicate this opportunity to the public. This is a great idea to keep. Ms. Carey said that if this grant had existed when UKRF first proposed the rainwater project they would have been awarded the grant, even though they did not score well. She then said that UKRF repackaged their idea and received traditional funding the following year.

Mr. Woolwine said that it is troubling that the $300,000 is not being used for another potential project, and those funds should be made available for other projects. Mr. Mabson said that it sounds as if the Board wants to give the staff leeway to use those funds for other projects. Mr. Clarke replied that if the funds are not being used for an innovation and experimentation project then those funds should automatically be used for other projects. Mr. Mabson said that staff can add that to the recommendation, which the Board will approve. Ms. Carey said that if staff believes there are no acceptable Innovation and Experimentation projects submitted and the funds are not used at the July WQFB Meeting during the awarding of the Class A and Class BE or at the October WQFB Meeting during the awarding of the Class BI grants, then at the end of the October meeting the Board could revisit the FY 2022 applications that were denied due to lack of funding. Mr. Mabson said that if funds are remaining, the Board could approve one of the FY 2022 Class A or Class B Education applications that were not awarded, then the staff could reach out to the grantee afterward.

Mr. Woolwine said that the intent of having a pot of money is for the projects that do not score well through the traditional scoring system. He then said that if there are no projects that fall under the innovation and experimentation category then the Board wants to make sure those funds are used versus sitting in the pot until another innovative and experimentation project comes along. He added that it will be up to the staff as to the best way to achieve that goal and to advise the Board.

Mr. Woolwine asked how would the funds be used if there are no innovation and experimentation projects. Mr. Mabson replied that once the Class BI applications are awarded at the October meeting, the Board could revisit the FY 2022 applications that were denied to determine if any of those applications could be awarded the remaining funds.

Mr. Woolwine said that the staff would not know until the October meeting as to whether or not there would be funding left over. Ms. Carey and Mr. Mabson replied affirmatively and said that there could be Class A and Class BE applications from the July meeting that could qualify. Ms. Carey said that the Board could distribute the remaining funds to Class A Neighborhood, Class B Education, or Class B Infrastructure applications at any point during the grant cycle. She said that if the funds are not used at the conclusion of the Class B Infrastructure selection meeting, the Board could collectively review the

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applications throughout the entire grant season that did not receive funding and prioritize those applications to see which Applicants could receive the $300,000 until those funds are depleted.

Mr. Clarke commented that the Board would not know that information until the October meeting. Ms. Carey replied affirmatively. Mr. Mabson replied that the staff would include that information in their recommendation.

Mr. Woolwine said that if the remaining funds are allocated for the Class B Infrastructure, should those funds remain with the Class B Infrastructure grants. Ms. Carey said that the funds were allocated for the Class B Infrastructure grants, but the Board designated those funds to be made available for any grant classification.

Mr. Woolwine explained that if there any Class A Neighborhood and Class B Education applications that were not funded due to insufficient funding, and there are no applications received for the Innovation and Experimentation projects, then the funds that were designated to be used for Innovation and Experimentation projects should be made available to Class A Neighborhood and Class B Education projects. He noted that this would be determined at the October WQFB meeting during the Class B Infrastructure process. Mr. Mabson replied affirmatively.

Mr. Clarke recommended that instead of saying “if there are no applications received, say “if there are funds remaining in the $300,000.” Mr. Woolwine indicated his agreement and said that an application could be less than $300,000.

<u>**Mr. Clarke moved to continue with the Innovation and Experimentation funding allocation for FY 2022 and open any remaining funds from the Innovation and Experimentation funds for any unfunded grant applications received in any class during FY 2022; seconded by Mr. Ely. The motion passed unanimously**</u>.

7. **For Class B grant applications, should we clarify that not only does the Applicant (the entity asserting itself as a WQMF ratepayer) need to be paying the WQMF as a Class B ratepayer in order to be eligible for funding in that grant class, but that the location of the grant project being proposed is designated as a “Class B” parcel (in other words, Class B grant funds cannot pay for improvements on single-family residential and / or farm properties)? This issue arose in scoring Class B Infrastructure applications submitted by Beaumont Residential Association and by Manley Farm in FY 2021. (BE and BI)**
   - Pro – Clarifying this would explicitly remove the gray area staff might encounter when qualifying grant applications; specifically, proposed project areas. Encourages Applicants to investigate whether they are proposing a project on a qualified parcel. Clarifying this will ensure that long-term maintenance will be conducted by a Class B entity as opposed to an individual homeowner, or multiple homeowners.
   - Con – none

<u>Staff presentation</u>: Mr. Mabson directed the Board's attention to Item #7, and briefly explained the pros and cons on whether or not the FY 2022 Class B applications should clearly state in order to be eligible for funding there must be an active account paying the Water Quality Management Fee. This can be through the property owner or the tenant of the Class B parcel.

<u>Board comments and questions</u>: Mr. Woolwine said that Item #7 will clarify options to potential Applicants before applying. Mr. Mabson said that Item #7 would essentially add a note to the FY 2022 grant application clarifying what type of parcel qualifies for the Class B funding. He explained that as the language is written now, the grantee has to be a Class B ratepayer, but the applications do not designate the parcel type for proposed project areas.

<u>**Mr. Lowe moved to clarify the language written on the FY 2022 grant applications to clarify the location of the grant project being proposed must be designated as a “Class B” parcel; seconded by Mr. Clarke. The motion passed unanimously**</u>.

8. **Last year, the Board approved to give preference to funding projects that upon implementation will reduce *E. coli* pollution in the storm sewer system and Fayette County’s creeks and streams. Should we increase the weight of this scoring item in FY 2022 in an effort to reduce pathogen pollution in our streams and creeks? (A, BE, BI)**

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- Pro – Allows greater focus on the mission of the grant program, increases synergy between the grant program and the Stormwater Quality Management Program (SWQMP), and encourages Applicants to consider BMPs that will be of the most benefit to improving water quality in Fayette County.
- Con – Increasing this scoring item will diminish the weight of the existing scoring items.

Staff presentation: Mr. Mabson directed the Board's attention to Item #8, and briefly explained the pros and cons on whether or not to increase the weight of this scoring item in FY 2022 to reduce *E. coli* pollution in our streams and creeks for Classes A, BE & BI.

Board comments and questions: Mr. Woolwine asked if any past projects would have benefitted from having this designation. Ms. Carey said that there were applicants that honed in on this particular item and brought forth ideas that would address the *E. coli* pollution, but the scoring weight was not significant enough to make a delineation between the project applications that did include it versus the project applications that did not include it. She then said that it was good to get the idea out there, but to truly have an impact it would need to be given more weight in the scoring matrix to allow those applications to rise to the top.

Mr. Clarke asked how do applicants determine the impact of *E. coli* and what can be placed on the application. Ms. Carey explained that there is a lot of research, as well as published literature that shows the pollutant removal rate for the different types of pollutants and the various implementation of BMPs. The applicant would need to include that information with their application.

Mr. Clarke said that applicants can easily find the information. Ms. Carey replied absolutely. Mr. Mabson said that the applicant must present evidence of the research so the staff can consider that in the scoring of the application.

Mr. Clarke asked whether the applicant would need to also include where they obtained that information. Ms. Carey and Mr. Mabson replied affirmatively.

Mr. Woolwine said that since this topic is fairly new, he does not see enough new information to increase the weight of the scoring or to make any changes. He indicated that the point of the program is to improve water quality and that certainly includes reducing the *E. coli* pollutants. The Board would not want a project with a high number of *E. coli* pollution to be bumped out by a project that has a low number of *E. coli* pollutants.

Mr. Clarke asked what is the current percentage. Ms. Carey replied three (3) percent. Mr. Mabson concurred.

Mr. Woolwine said that three (3) percent is not much. Ms. Carey explained that if two Class B Education grant were submitted, the first application focused their educational component on the impact of dog waste and why it is important to pick up after the dog, and the second application focused their educational component on why using native plants in rain gardens is important; the staff will choose the application that is focusing their attention on which application is helping reduce *E. coli*. As a grant program, even though it is important to have the right plants in a raingarden, the application that has the educational component on the impacts of dog waste will be selected because it will help reduce *E. coli* pollutants.

Mr. Woolwine asked what the staff is recommending. Mr. Mabson said that the staff recommends increasing the weight of the scoring item for FY 2022 from three (3) to five (5) percent. Ms. Carey concurs.

Mr. Ely moved to increase the weight of the scoring item for FY 2022 from three (3) to five (5) percent; seconded by Ms. Fogle. The motion passed unanimously.

9. **Should we update the Class A scoresheet to provide a breakdown of the 15 points allocated for projects intending to improve water quality that reflects the footprint (*i.e.*, SF, LF, CF) of the proposed improvements? Currently, the scoring of the answers to the questions in the Class A application is vague and not quantifiable, which makes it difficult to differentiate between applications that propose the installation of similar features but at different scales or magnitudes. (Class A only)**

- Pro – If the Class A applications are competitive, adding this scoring breakdown will help to differentiate the impact of the proposed projects. Also, if, after receiving an award, a grantee requests a change in scope, particularly a reduction in

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the footprint of their project, then this type of scoring breakdown will assist in the rescoring process, as the current matrix offers limited evaluation based on the scoring in this regard.

- Con – Not all Class A projects look to install BMPs or are necessarily measurable and this might lower the scores of those applications.

Staff presentation: Mr. Mabson directed the Board's attention to Item #9, and briefly explained the pros and cons on whether or not to update the Class A scoresheet to provide a breakdown of the 15 points allocated for projects intending to improve water quality that reflects the footprint (*i.e.*, SF, LF, CF) of the proposed improvements.

Board comments and questions: Mr. Woolwine asked if the staff was trying to make the Class A scoresheet more quantifiable. Ms. Carey and Mr. Mabson replied affirmatively. Mr. Mabson said that the footprint of the project, such as the square footage, linear feet, or cubic feet, should reflect the proposed improvements.

Mr. Woolwine commented that staff wants the Class A scoresheet to be more quantitative and less subjective. Ms. Carey and Mr. Mabson replied affirmatively.

Mr. Clarke moved to update the Class A scoresheet to provide a breakdown of the 15 points allocated for projects intending to improve water quality that reflects the footprint (*i.e.*, SF, LF, CF) of the proposed improvements; seconded by Mr. Lowe. The motion passed unanimously.

10. **Should we update the Class A scoresheet to provide a breakdown of the 15 points allocated for projects intending to reduce stormwater runoff that reflects the drainage area to the proposed improvements? Currently, the scoring of the answers to the questions in the Class A application is vague and not quantifiable, which makes it difficult to differentiate between applications that propose the installation of similar features but at different scales or magnitudes. (Class A only)**

- Pro – If the Class A applications are competitive, adding this scoring breakdown will help to differentiate the impact of the proposed projects. Also, if, after receiving an award, a grantee requests a change in scope, particularly a reduction in the amount of stormwater runoff to be addressed, then this type of scoring breakdown will assist in the rescoring process, as the current matrix offers limited evaluation based on the scoring in this regard.
- Con – Not all Class A projects look to install BMPs that reduce stormwater runoff and this might lower the scores of those applications.

Staff presentation: Mr. Mabson directed the Board's attention to Item #10, and briefly explained the pros and cons on whether or not to update the Class A scoresheet to provide a breakdown of the 15 points allocated for projects intending to reduce stormwater runoff that reflects the drainage area to the proposed improvements.

Ms. Carey used a parking lot as an example and explained that to help differentiate the impact of the proposed parking lot, the staff would review the size as well as the drainage area to the parking lot.

Board comments and questions: Mr. Clarke said that this change would have helped on the Opera House application. Ms. Carey and Mr. Mabson replied affirmatively. Mr. Mabson said that this is similar to the Class B Infrastructure and the impact of the scoresheet will help quantify those items. Ms. Carey said that typically scorers review the application as all or nothing, but this change would allow an application to gain points depending on the square footage of the proposed improvements. She then said that if at the end of the fiscal year funds are still available in the Innovation and Experimentation it would give the opportunity to possibly fund Class A grants that were not funded at the beginning of the year.

Mr. Woolwine commented that the staff wants to be more quantitative and less subjective.

Mr. Clarke moved to update the Class A scoresheet to provide a breakdown of the 15 points allocated for projects intending to reduce stormwater runoff that reflects the drainage area to the proposed improvements; seconded by Mr. Ely. The motion passed unanimously.

11. **Percent Retainage**

Staff presentation: Ms. Carey directed the Board's attention to Item #11, and briefly explained that the percent retainage that is held on each of the grant classes was not the same across the board. She said that the Grant Award Agreement specifically states three (3) percent retainage for Class A Neighborhood grants, five (5) percent retainage for Class B Education grants, and ten (10) percent retainage for Class B Infrastructure grants. Staff believed the different percentages had evolved because of the maximum grant request amount in each of the grant classes. Mr. Mabson interjected and said that the cost-share that was allowed for Class B Infrastructure was 100 percent of the construction and ten (10) percent for just the design portion. Ms. Carey said that now that the cost-share is the same amount across the board, it seems that this would be a good opportunity to make the percent retainage the same amount across the board, which would make the contract agreements for all classes consistent.

Board comments and questions: Mr. Woolwine asked what the staff's recommendation is. Mr. Mabson replied that the staff is recommending to increase Class A Neighborhood from three (3) percent retainage to ten (10) percent retainage, increase Class B Education from five (5) percent retainage to ten (10) percent retainage and leave the percent retainage for Class B Infrastructure as is. Ms. Carey indicated that this change could be an incentive to those Homeowners Associations to fulfill their obligation to complete the grant project and receive the full funding.

Mr. Woolwine said that this would make more money being withheld so giving the Homeowners Association more incentive to finish their obligations to receive the money. Ms. Carey and Mr. Mabson replied affirmatively.

Mr. Lowe moved to standardize the percent retainage by increasing Class A Neighborhood and Class B Education to ten (10) percent; seconded by Mr. Ely. The motion passed unanimously.

VIII. FY 2022 GRANT APPLICATION DOCUMENTS:

CLASS A

Staff presentation: Mr. Mabson directed the Boards attention to Class A Application Document, #INC.2022A.1, and briefly explained there were two (2) proposed changes made to the FY 2022 grant applications. He indicated that the first change is to give *E. coli* more preference by adding the following section to Page 2.

- "Continuing from Fiscal Year 2021, projects addressing *E. coli* pollution will be given preferential scoring since these projects will help in Fayette County's efforts to implement *E. coli* reductions required by the EPA-approved Total Maximum Daily Loads (TMDLs)."

He then indicated that the staff prefers to have a more detailed construction budget for the grant versus one-liners and suggested the following language be added to Page 9:

- "Include as much detail as possible in the budget proposal, breaking out costs for various project phases and types of expenses, as well as which budget items will be covered by the Applicant's cost share."

Mr. Mabson directed the Boards attention to Class A Application Document, #INC.2022A.2, and briefly explained that to further expand on the budget the following sentence was added to Page 2 to separate what items will be covered under the grant portion of the funds and what items will be covered by the Applicant's cost-share:

- "b. Describe the portions of the project elements to be covered by the Applicant's cost share."

Ms. Carey indicated that the staff has seen conflicting information on the applications versus what is listed in the eligible expense table and adding the proposed language it will make the Applicant more aware of what items will be covered by the grant and what items will be covered under the cost-share portion.

Ms. Carey noted that the following statement is listed on the Grant Determination Form as the first stipulation:

- "I further certify that if my organization's application is selected for funding that my organization agrees to execute a Grant Award Agreement with LFUCG that will include all project elements, eligible expenses (*i.e.*, budget items), terms, and conditions, to be forwarded for approval by the Urban County Council."

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Ms. Carey said that by adding the statement to the application, the Applicant will be aware that they will have to agree to execute the Grant Award Agreement with the Lexington-Fayette Urban County Government should their grant be funded. By adding this to the application will in turn remove the first stipulation on the Grant Determination Form.

Mr. Woolwine confirmed that the first stipulation listed on the Grant Determination Form will be removed. Ms. Carey and Mr. Mabson replied affirmatively.

CLASS B EDUCATION

Board comments and questions: Mr. Woolwine asked if the changes made to the scoresheet will impact the information listed on the form or the application packet. Ms. Carey and Mr. Mabson replied negatively. Ms. Carey explained that those changes will be captured on the scoresheet.

Mr. Woolwine commented that does not include what is being proposed on the grant applications. Ms. Carey said that the staff understands there will be changes made as a result of today's meeting; however, no changes have been made at this time.

Mr. Mabson said that there will be an adjustment to the guidelines that will let the Applicant know the weight is being changed. Ms. Carey concurred, adding the change would be to Class A only.

Mr. Woolwine asked if the previous changes made to Items 1 through 11 on the memorandum will impact the proposed changes to the grant applications. Mr. Mabson replied negatively.

Staff presentation: Mr. Mabson directed the Board's attention to Page 4 of the #INC.2022E.1 and explained that the staff is proposed additional language so that the Applicant is aware that the FY 2022 grants would continue to address the *E. coli* pollution.

- "Continuing from Fiscal Year 2021, projects addressing *E. coli* pollution will be given preferential scoring since these projects will help in Fayette County's efforts to implement *E. coli* reductions required by the EPA-approved Total Maximum Daily Loads (TMDLs)."

Mr. Mabson then directed the Board's attention to Page 8 of the #INC.2022E.1 and explained that the staff is proposed the following additional language so that the Applicant is aware the staff will be requesting as much detail in the budget proposal that would be covered under the cost-share portion of the grant:

- "Include as much detail as possible in the budget proposal, breaking out costs for various project phases and types of expenses, as well as which budget items will be covered by the Applicant's cost share."

Mr. Mabson noted that the new language is being proposed for Class A, Class BE, and Class BI grant applications.

Mr. Mabson continued to explain the proposed changes to #INC.2022E.1 and said that the staff is proposed the below language under Item B so that the Applicant will provide more detail on the cost-share components:

- "B2. Also, describe the portions of the project elements to be covered by the Applicant's cost-share."

Mr. Mabson noted that the following statement is listed on the Grant Determination Form as the first stipulation:

- "I further certify that if my organization's application is selected for funding that my organization agrees to execute a Grant Award Agreement with LFUCG that will include all project elements, eligible expenses (*i.e.*, budget items), terms, and conditions, to be forwarded for approval by the Urban County Council."

Mr. Mabson said that by adding the statement to the application, the Applicant will be aware that they will have to agree to execute the Grant Award Agreement with the Lexington-Fayette Urban County Government should their grant be funded. By adding this to the application this will in turn remove the first stipulation on the Grant Determination Form.

CLASS B INFRASTRUCTURE

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Staff presentation: Mr. Mabson directed the Boards attention to Class B Infrastructure Application Document, #INC.2022I.1 and explained that on Page 2 of the application, the staff is proposing to add the following new language under other eligibility requirements to be aware of:

- "The proposed project must be located in Fayette Count on property designated as a "Class B" parcel."

Mr. Mabson said that the staff is hoping the new language will make it clear that any work being done that is associated with the grant must be done on a Class B parcel, not a Class A parcel, as well as the Grantee, must be a Class B ratepayer on a Class B designated parcel.

Ms. Carey indicated that the list of eligibility requirements was in a different order, but by reorganizing the list, the staff is hoping that the Grantee will recognize the proposed project area must be designated as a Class B parcel.

Mr. Mabson said that the reorganization of the list places the type of property near the section of who can apply for the funding.

Mr. Mabson directed the Board's attention to Page 6 of the #INC.2022I.1 and explained that the staff is proposed additional language so that the Applicant is aware that the FY 2022 grants would continue to address the *E. coli* pollution:

- "Continuing from Fiscal Year 2021, projects addressing *E. coli* pollution will be given preferential scoring since these projects will help in Fayette County's efforts to implement *E. coli* reductions required by the EPA-approved Total Maximum Daily Loads (TMDLs)."

Mr. Mabson said that there have been applications with a mix of projects throughout the past, so the staff is suggesting adding "and / or" to Item 2 under the three types of Class B Infrastructure Incentive Grants. He said that this would allow the Applicant to be able to pick which type of grant they are seeking to apply for.

Mr. Mabson directed the Board's attention to Page 10 of the #INC.2022I.1 and explained that the staff is proposed the following additional language so that the Applicant is aware the staff will be requesting as much detail in the budget proposal that would be covered under the cost-share portion of the grant:

- "Include as much detail as possible in the budget proposal, breaking out costs for various project phases and types of expenses, as well as which budget items will be covered by the Applicant's cost share."

Mr. Mabson noted that the new language is being proposed for Class A, Class BE, and Class BI grant applications.

Class B Infrastructure Application Form - Document #INC.2022I.2

Mr. Mabson directed the Board's attention to Class B Infrastructure Application Form - Document #INC.2022I.2, and explained that on Page 1, under the "Grant Being Applied for" the words "and / or" was added so the Applicant can pick which type of grant they are seeking.

Mr. Mabson said that if an application is not funded the staff will ask if the Applicant would like their application held on file for a year. He then said that since the application needs to be updated over time, the staff felt it was more appropriate for the Applicant to reapply to update any necessary information. The staff is recommending the following to be removed from the Class B Infrastructure application:

- "If your application is not selected for funding in Fiscal Year 2022, does the Applicant wish to keep this application on file for consideration during the Fiscal Year 2023 grant selection period? ☐ YES ☐ NO (If YES, the Applicant will be contacted during the Fiscal Year 2023 application process.)"

Mr. Mabson said that to further expand on the budget the following sentence was added to Page 3 to help separate what items will be covered under the grant portion of the funds and what items will be covered by the Applicant's cost-share:

- "b. Describe the portions of the project elements to be covered by the Applicant's cost-share."

Mr. Mabson noted that the following statement is listed on the Grant Determination Form as the first stipulation:

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- "I further certify that if my organization's application is selected for funding that my organization agrees to execute a Grant Award Agreement with LFUCG that will include all project elements, eligible expenses (*i.e.*, budget items), terms, and conditions, to be forwarded for approval by the Urban County Council."

Mr. Mabson said that by adding the statement to the application, the Applicant will be aware that they will have to agree to execute the Grant Award Agreement with the Lexington-Fayette Urban County Government should their grant be funded. By adding this to the application will in turn remove the first stipulation on the Grant Determination Form.

Board comments and questions: Mr. Woolwine said that the recommended changes are meant to clarify and make the applications for each of the classifications consistent. Mr. Mabson indicated his agreement and said that the staff addressed the programmatic changes through the presentation of the memorandum, and as for the applications each Class was tweaked with added language or removal of language.

Mr. Lowe moved to approve the changes made to Class A Neighborhood, Class B Education, Class B Infrastructure Application Packet & Forms, and the scoresheets; seconded by Mr. Clarke. The motion passed unanimously.

IX. INCENTIVE GRANT STATUS UPDATE: Mr. Mabson and Ms. Carey briefly provided an update on the Incentive Grants between FY 2016 to FY 2020; commenting on a few select projects.

X. OTHER MATTERS: There were none.

XI. ADJOURNMENT: The meeting was adjourned at 12:21 p.m.

APPROVED