

F. Brown, Chair
McCurn, Vice-Chair
Kay
Moloney
Ellinger
LeGris
Sheehan
Kloiber
Worley
Bledsoe



AGENDA
Environmental Quality & Public Works Committee
March 1, 2022
1:00 P.M.

- | | | | |
|-------------|---|-------------------|----------------|
| I. | Approval of February 1, 2022 Committee Summary | | (1-3) |
| II. | Consent Decree / Remedial Measures Plan Update | (F. Brown/Martin) | (4-24) |
| III. | Abandoned Shopping Carts | (Kloiber/Kloiber) | (25-35) |
| IV. | Items Referred to Committee | | (36) |

"Environmental quality and public works committee to which shall be referred matters relating to the department of environmental quality and public works and its divisions, including capital improvement projects and any related partner agencies.- Council Rules & Procedures, Section 2.102 (3) as adopted by Urban County Council November 1, 2018

2022 Meeting Schedule

February 1	July 5
March 1	September 13
May 3	October 11
June 7	November 1



Environmental Quality & Public Works Committee

February 1, 2022

Summary and Motions

Chair F. Brown called the meeting to order at 1:01 p.m. Committee Members Kay, Ellinger, Moloney, McCurn, LeGris, Sheehan, Kloiber, and Bledsoe were present. Committee Member Worley was absent. Council Members Reynolds and Plomin were also present as a non-voting members.

I. Approval of December 7, 2021 Committee Summary

Motion by McCurn to approve the December 7, 2021 Environmental Quality & Public Works Committee Summary. Seconded by Sheehan. Motion passed without dissent.

II. Fayette County Broadband Update

Aldona Valicenti, Chief Information Officer, provided an update on the Fayette County Broadband Report which LFUCG originally commissioned from Columbia Telecommunications Corporation (CTC) in 2017. She reviewed key findings from this report which showed that the primary challenge is low population density and the necessary investment. She said most of Fayette County has some form of connection, but there are underserved areas as well as unserved areas. She provided a summary of the findings from the CTC update and said there are broadband opportunities through state and federal funding. She reviewed the recommendation for a regional approach which looks at six of the surrounding counties. She said this would include building a regional collaborative to address digital inclusion and equity and she described the advantages and disadvantages of doing this on a regional level. Next steps would be to issue a regional broadband RFP, establish a broadband oversight office, and establish a jurisdictional RFP evaluation committee.

Plomin spoke about how this is a real issue in the rural area because since the onset of the pandemic, more people have been connecting remotely for work, virtual meetings, virtual school, and online shopping. This issue affects the productivity of the entire city and county so it is crucial to have this resolved and she asked how long a build-out would take. Valicenti explained that it would be a multi-year project which would include permitting, engineering design, digging, and placing poles. She stressed that it is important to keep in mind the labor shortages and issues with supply and demand. Plomin asked who would respond to the RFP and Valicenti thinks all of the present providers would respond. She explained that doing this in rural areas is more difficult than in the city, but she is hopeful that companies who have done this sort of work in other cities would be able to come here. Plomin and Valicenti discussed how Council could support this and Valicenti said it is important to have the constant reinforcement that this is something needed to make our community economically viable.

Kloiber and Valicenti discussed whether there is overlap with unserved and underserved areas which have utilities such as water and sewer as opposed to the unserved or underserved areas with no utilities and Valicenti explained that a map would show where the (utility) lines are and this is part of what Engineering does when they start to build. Kloiber spoke about Starlink and said speeds are faster than the 100 mbps in rural areas without the broadband infrastructure. His concern is that we were slow to put emphasis on broadband in Lexington and over \$40M in federal money has been spent on rural infrastructure in the last 10 years. New technology such as Starlink seems poised to solve the problem of not needing to put in the rural infrastructure in order to get broadband to these areas and he questions going into areas and placing

utilities when we don't have the other utilities such as water and sewer. He asked if there was a way to gauge this in our process moving forward before getting in too far and spending too much. Valicenti explained that Starlink relies on satellite and they are unsure how many satellites will be needed. Starlink sits slightly lower than a satellite and the uncertainty is whether enough of these can be put in the sky to cover the area without causing traffic jams and she added that doing this could also be costly.

McCurn agrees with finding new opportunities but would like to embrace what we have. He asked about the RFP and if there is an opportunity for another vendor to respond. Valicenti said fiber underground is important and fixed wireless is also important so it will be interesting to see who responds. She said every state is looking at rural areas and she said 5G only covers big cities in large areas, but not necessarily in rural areas.

Moloney and Valicenti discussed 5G impacts to the airport area and Valicenti said 5G is governed by FCC and she agreed that interference with communications at the airport are a concern.

No further comment or action was taken on this item.

III. Home Compost Pilot Report

Angela Poe with Environmental Services said the goal of the Home Compost Pilot Program was to offer an alternative for disposal of organic matter and this program provides people interested in at-home composting with an opportunity to do so. She provided an overview of the pilot program and said there were three workshops in September, October, and November that were facilitated by Seedleaf. Demonstrations were held at McConnell Springs and allowed for a maximum of 60 households or an average of 20 per workshop. She said in the end, a total of 45 households participated with a total of 64 participants. The pre-workshop survey showed that 22 households were already composting and the message was received from social media, newsletter, friends/family, ads, etc. She reviewed survey results and showed how those changed from before the workshop to after the workshop as an indicator for how the workshop educated people. From the post-workshop evaluation, Poe said most people showed interest in composting and were confident in their ability to do composting at home. Moving forward, she said, they would offer 3 workshops a year and move one of the workshop to winter. They would continue to use Seedleaf for facilitating the program and increase the cap of households from 20 to 30-35 with a more deliberate promotion of the program. She closed by reviewing the budget for each workshop and the total program budget which includes 3 workshops and promotion.

Reynolds and Poe discussed reaching more people who might have an interest in the program. Poe feels there is an interest but she is unsure what the level of interest is. Reynolds would like to look for ways to expand the outreach.

Sheehan spoke about the challenge with the supply chain and wondered if there is a voucher that might be available for people to submit for use with a local vendor to get a bin and do this on their own. Poe said one reason we couldn't do this was how much time it would take when trying to roll out a pilot in a short timeframe. LeGris said she is supportive of a voucher that would allow people to work with local businesses and we can look into this. She also wants to look into scaling this for more interest.

No further comment or action was taken on this item.

IV. Division and Program Review – 2022 Evaluations Selection

On behalf of the committee, Chair Brown and Vice-Chair McCurn selected Streets and Roads and Traffic Engineering for evaluations in 2022.

No action was taken on this item.

V. Items Referred to Committee

No action was taken on this item.

Motion by Bledsoe to adjourn at 2:27 p.m. Seconded by Ellinger. Motion passed without dissent.

CONSENT DECREE AND REMEDIAL MEASURES PLAN UPDATE

Environmental Quality & Public Works
Committee
March 1, 2022

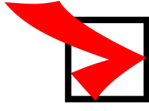
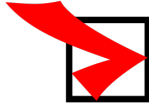


LEXINGTON

AGENDA

- Overall Consent Decree Status
- Remaining Capital Obligation - Overview
- Remaining Capital Obligation – 2022 Information
- Questions

OVERALL CONSENT DECREE STATUS

- Stormwater Compliance Obligations 
- Supplemental Compliance Obligations 
- Sanitary Sewer Obligations
 - CMOM (Capacity, Management, Operations & Maintenance)
 - RMP (Remedial Measures Plan)
- Reporting Obligations

2021 ACTIVE RMP CONSTRUCTION PROJECTS LIST

- Wolf Run D&E Trunk: 10th District
- Southeastern Hills Trunk: 8th District
- Upper Cane Run WWS Tank: 1st District
- West Hickman WWTP WWS Tank – Phase 2
- Various WWTP Improvements – both plants

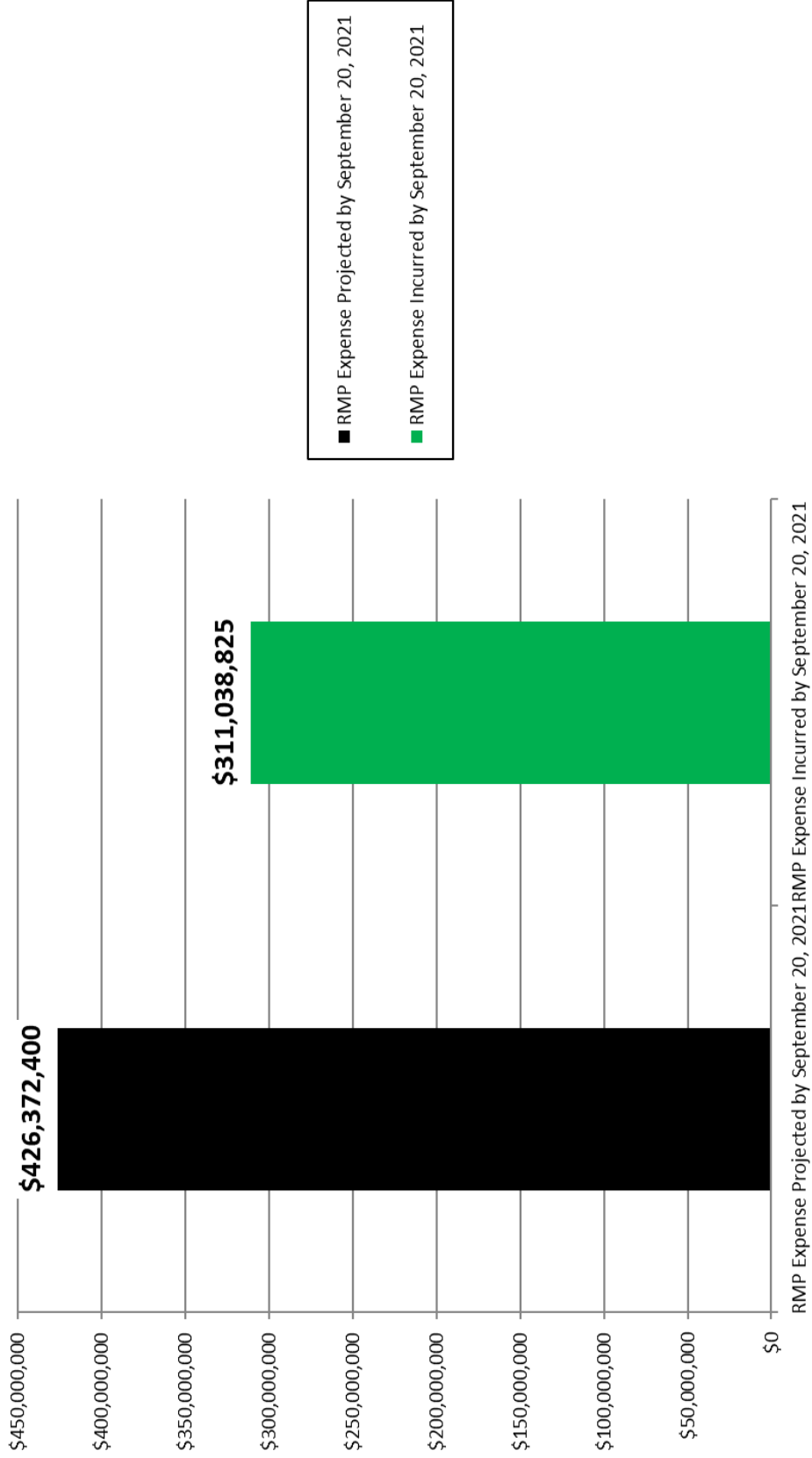
SANITARY REMEDIAL MEASURES PLAN (RMP) STATUS

Complete / Active / Pending Projects 2021 Q4 Report*

Projects	Complete	Design / Construction	Pending	Total
Conveyance / Storage	45	19	17	81
WWTP Reliability Upgrades	19	9	6	34
Totals	64	28	23	115

* Actual number of projects, fluid due to on-going schedule modification discussions with Kentucky and EPA.

Consent Decree Sanitary Capital Expense Comparison to Date Contractual Projection vs. Contractual Actual September 20, 2021



2021 WIN



Kentucky Cleaner Water Grant for replacing chlorine gas with ultraviolet (UV) disinfection equipment will reduce RMP costs by \$395,000 while allowing a much more expansive scope than originally contemplated in 2011.

2021 WIN



Kentucky Infrastructure Authority (KIA) awarded Lexington an additional \$15.8 M low interest loan to complete Phase 2 of the Wet Weather Storage Facility improvements at West Hickman WWTP.

2021 WIN

OVERBROOK FARM RMP CONSTRUCTION AVOIDED BY REGULATORY APPROVAL

(time and money saved)

Six (6) Revised RMP Projects:

- **Re-aligned EH-1 East Hickman Force Main**
- East Hickman Pump Station Pump Upgrade
- **Armstrong Mill Pump Station Replacement (aka Delong Road Pump Station)**
- Modified Hartland 1 Pump Station
- Modified Hartland 2 Pump Station
- New Hartland 3 Pump Station



East Hickman Force Main Projected Start Fall 2022?

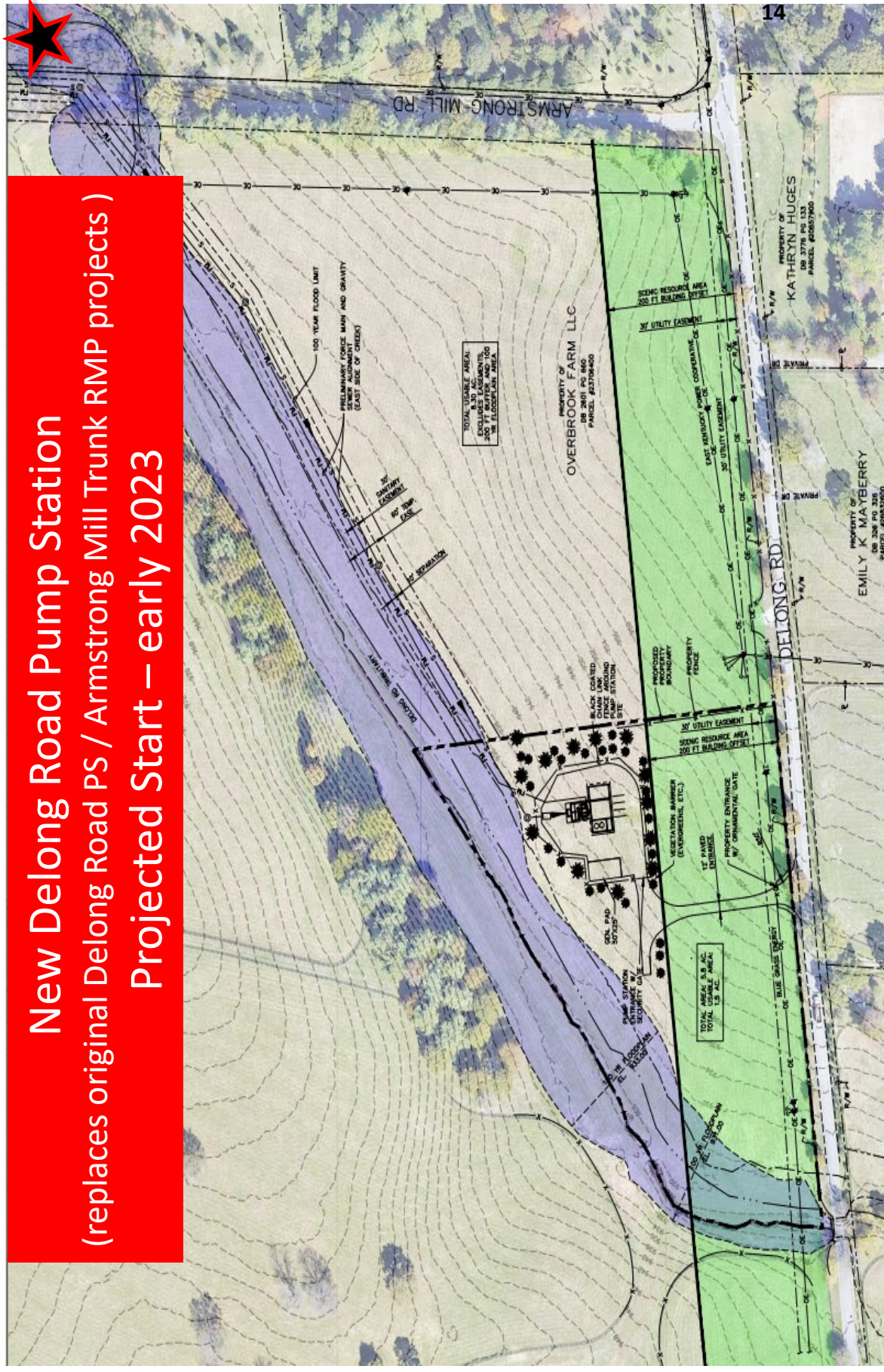
LEGEND
NEW 36" FORCE MAIN



New Delong Road Pump Station

(replaces original Delong Road PS / Armstrong Mill Trunk RMP projects)

Projected Start – early 2023

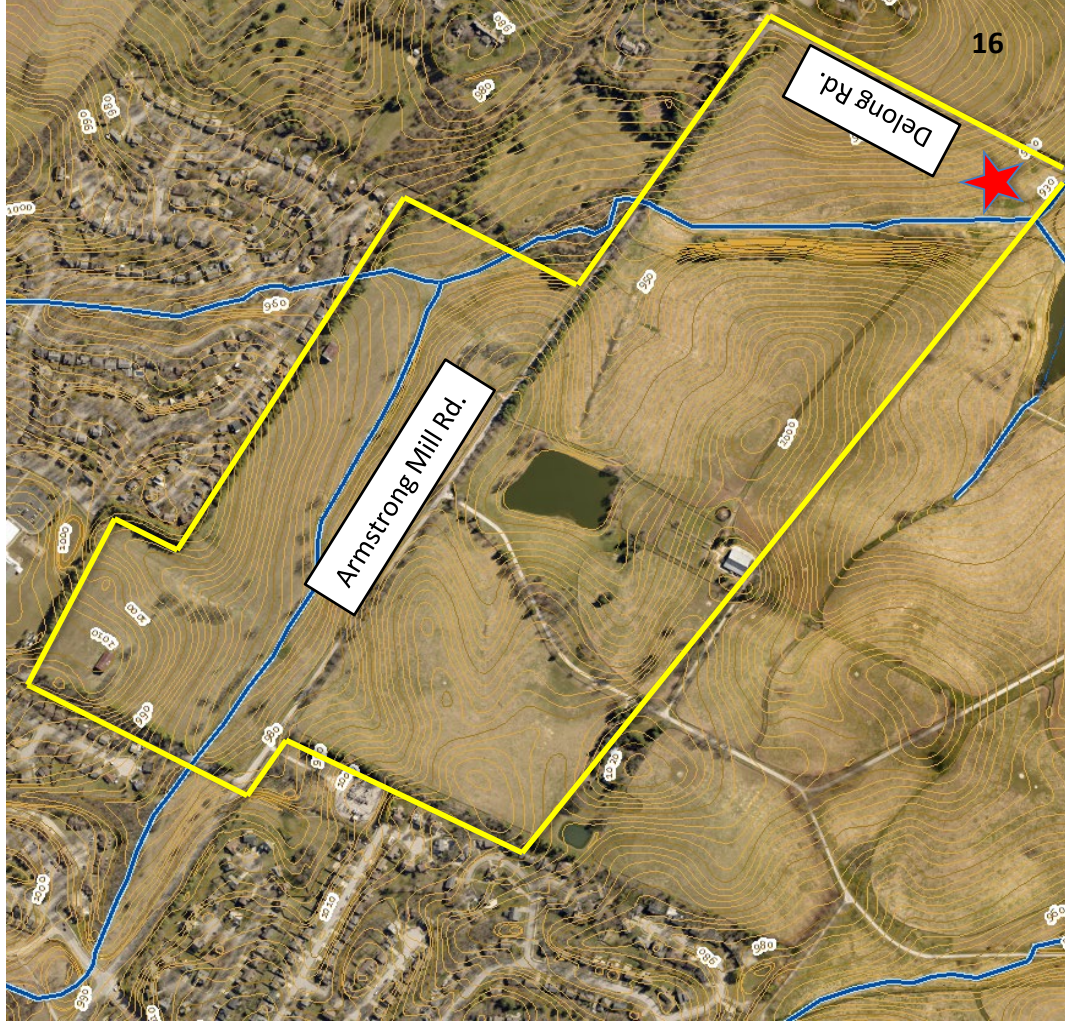


Proposed Delong Road Pump Station



Completion of the re-aligned East Hickman Force Main and new Delong Road Pump Station will resolve sanitary sewer capacity limitations for the Armstrong Mill Road extended corridor.

Projected Completion –
December 2024



RMP CONSTRUCTION PROJECTS

“READY TO LAUNCH”

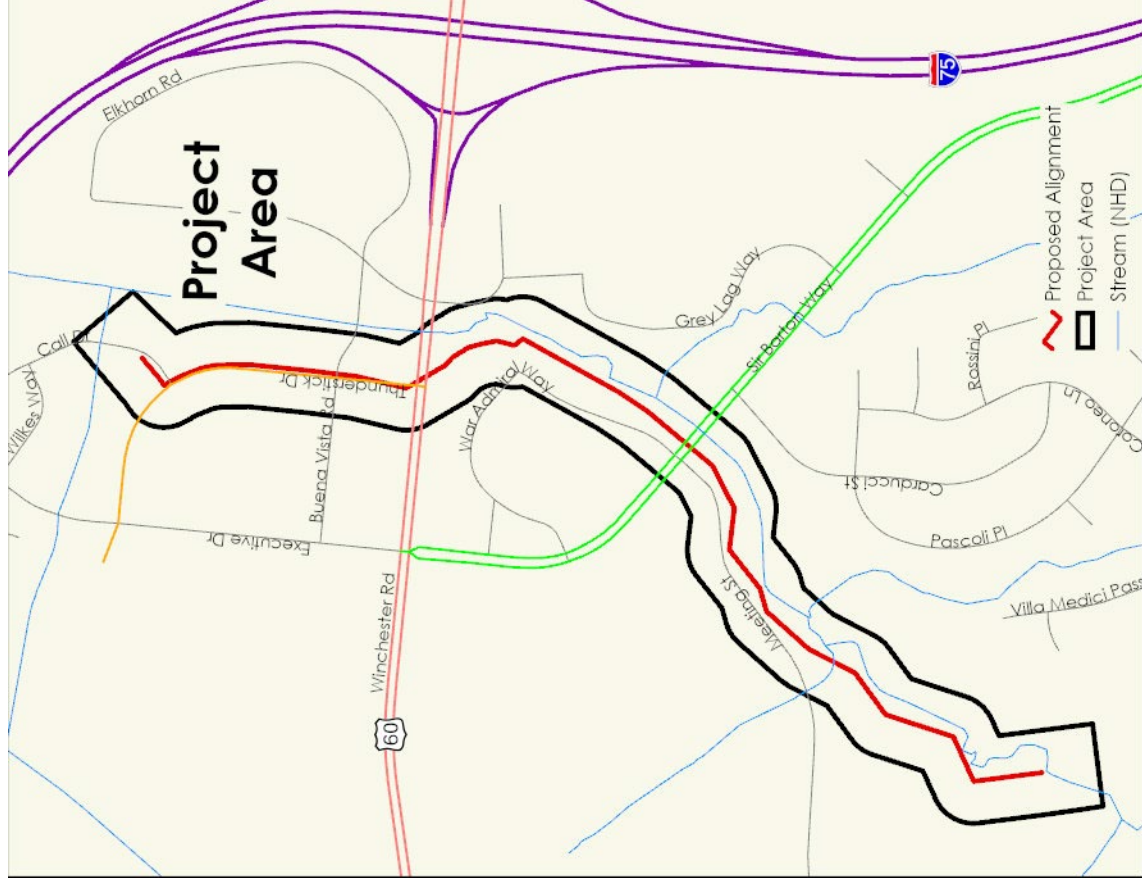
LIBERTY ROAD TRUNK SEWER PROJECT

Project Schedule:
3/1/22 to 5/31/23

Estimated Cost: \$3.6 M

Council District: 6th

Citizen Impact:
Medium





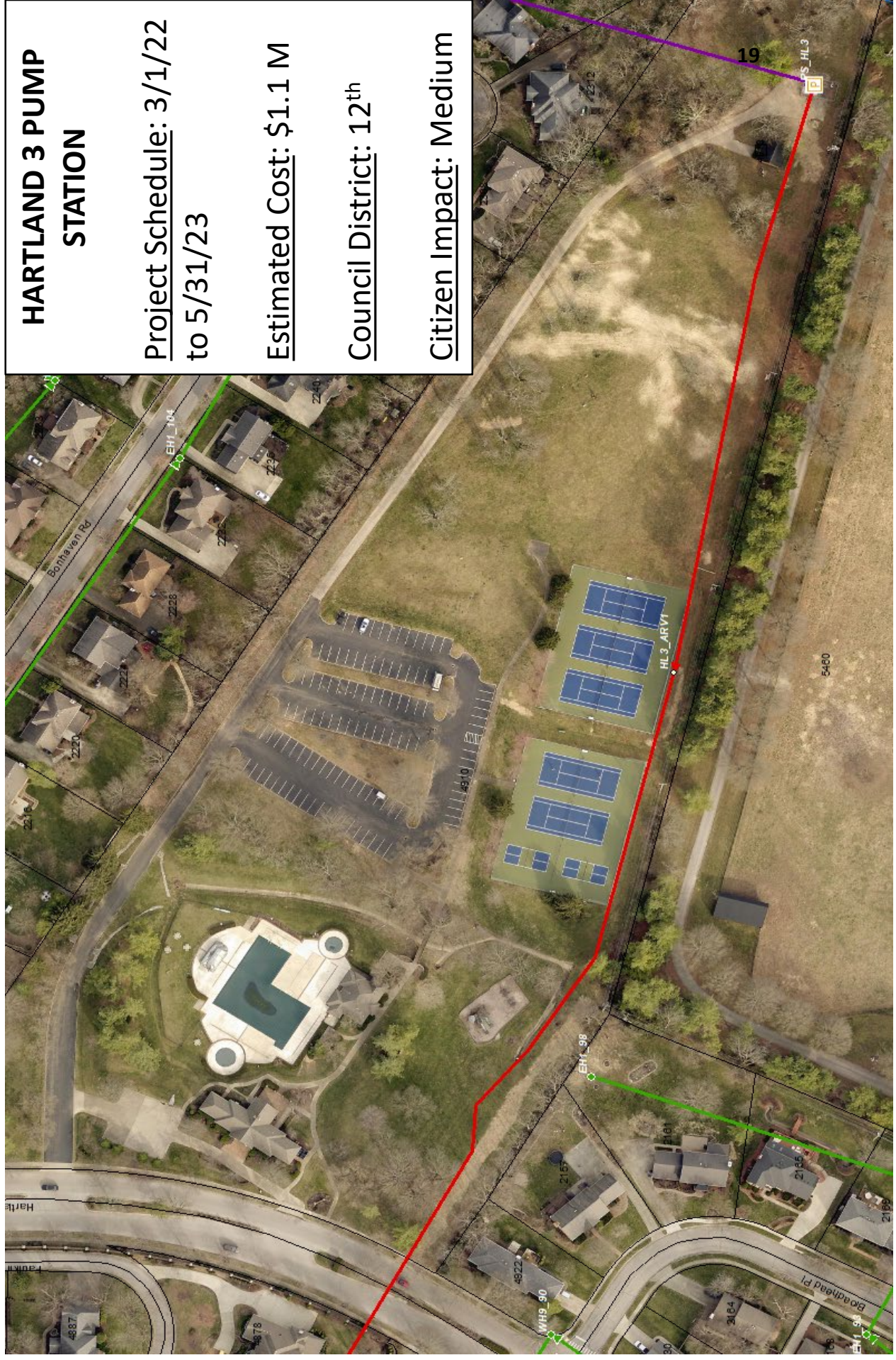
HARTLAND 3 PUMP STATION

Project Schedule: 3/1/22
to 5/31/23

Estimated Cost: \$1.1 M

Council District: 12th

Citizen Impact: Medium



NEAR-TERM CHALLENGES

STRUGGLING PROJECTS

- New Circle Trunk A&B
- Wolf Run Trunks F&G
- West Hickman Trunk E

WHY?

- Easements
- Supply Chain Disruptions
- Escalating Costs

2022 RMP QUESTIONS

1. Have we exhausted all remedies to complete the remaining 51 projects by December 31, 2026?
2. Is there regulatory relief available if Lexington can't complete all projects by December 31, 2026?

SUMMARY

- Overall Consent Decree status:
 - All compliance measures are complete except sanitary sewer RMP capital program and ongoing reporting obligations.
 - 80% of RMP projects either complete or in process (design or construction).
 - Maintenance of completed compliance measures is necessary and essential.

SUMMARY

- 2022 Challenges
 - Near-term projects are proceeding, but progress is hindered by external factors.
 - 2021 math said eight projects per year for another six years – will the “new reality” resulting from the pandemic allow that level of production?
 - What is Kentucky and EPA’s position on the fact that the Consent Decree, signed by Lexington in 2008, never contemplated the impacts of a global pandemic?

Questions



Abandoned Shopping Carts

EQPW Committee

March 1, 2022



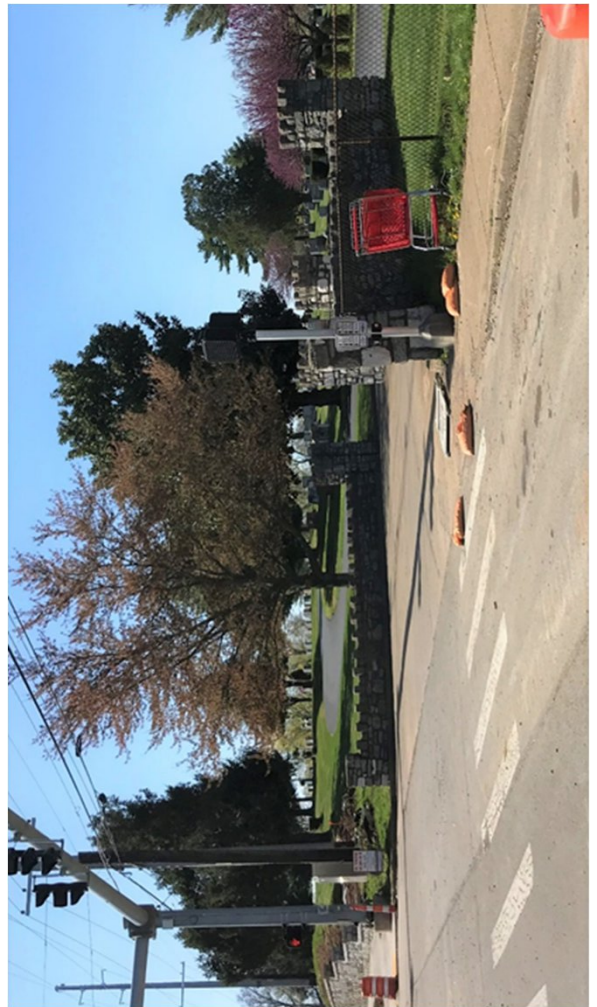
Recommendations and follow-up

Tracked abandoned carts through 311

- Numbers are still consistent
- Different divisions are still picking them up
- Still not able to track all carts

Reached out to community businesses (KREF, Kroger, etc.)

- Gathered feedback and listened to concerns
- Worked collaboratively to make changes to proposal



Business Feedback

Concerns

- Burden or penalty on businesses that are already working hard at retention
- Carts left on private land create problems for collection
- Strict signage requirements might require full cart replacements

Support

- Supply chain issues have made carts more valuable

Changes – New Proposed Ordinance

- Removed the private land requirement – all carts on private property will go through the same process as usual
- Removed any fines for partners who are currently implementing measures to retain their carts
- Created more flexibility in signage – Only require identifying name on carts with other information on file
- Created more flexibility in communication – Allows usage of all forms of contact including phone, email and website

Recommendation

- Costs associated with taking carts to the landfill places a burden on both the city and the community
- We need to create and foster relationships with our local businesses to return more of these carts to the stores they belong to

Resolution

Instructing the administration to reach out and work with local businesses to develop a policy for return or retrieval of abandoned shopping carts

Ordinance

Pass an ordinance codifying the partnership between businesses and the city, ensuring a uniform response to abandoned shopping cart retrieval in the future

Questions?



ORDINANCE _____ - 2022

AN ORDINANCE CREATING SECTION 12-11 OF THE CODE OF ORDINANCES RELATED TO

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

WHEREAS: The Urban County Council has declared that shopping carts that have been removed from the premises of businesses and left abandoned on public and private property throughout Fayette County constitute a public nuisance and a hazard to the health, safety and public welfare.

Section 1 — That Section 12-11 of the Code of Ordinances of the Lexington Fayette Urban County Government be and hereby created to read as follows: In order to serve the public health, safety and general welfare, it is the declared purpose of Sections 12-11 to 12-15 to impose requirements on shopping cart owners to abate the nuisance caused by abandoned shopping carts.

Section 2 – That Section 12-12 of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows:

For the purpose of Sections 12-11 to 12-15 , the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (1) *Abandoned Shopping Cart.* Means any shopping cart that has been removed without written consent of the owner, from the owner's business premises and is now located on public property.
- (2) *Code Enforcement Officer.* Means an employee of the divisions of code enforcement or environmental services authorized to issue citations.
- (3) *Director.* Means the director of code enforcement or code enforcement officer charged with enforcement of this section.
- (4) *Owner.* Means any person or entity that in connection with the operation of a business makes a shopping cart available to a customer. Owner does not apply to a business that owns ten (10)

shopping carts or less.

- (5) *Premises.* Means the entire area of the real property owned, occupied or utilized by an owner, including any parking lot or other property provided by or on behalf of an owner for customer use or parking.
- (6) *Shopping Cart.* Means a basket that is mounted on wheels and used for the transportation of goods, or any other similar device, that is provided by an owner for the use by a customer
- (7) *Unattended Shopping Cart.* Means a shopping cart containing personal belongings that are bagged or bundled

Section 3 – That Section 12-13 of the Code of Ordinance of the Lexington-Fayette Urban County Government be and hereby is created to read as follows:

- (1) Abandoned Shopping Cart Retention and Retrieval Plan. Every business with 10 or more shopping carts may create and implement a plan to retain and retrieve its shopping carts that are found throughout Fayette County. Each business may provide an annual copy of this plan to the director for his/her approval. The plan may be provided during the month of January for the upcoming year.

If the plan provides a timeline for retrieval of shopping carts, the plans timeline shall take precedence over the timeline in section 12-14(2). The plan may state a time of retrieval of no more than seven (7) days with a statement justifying the delay in retrieval. If no retrieval plan is submitted, the timeline for retrieval of shopping carts shall be as stated in section 12-14(2).

The plan may include variables that the owner institutes. Examples include GPS locking, coin locking or hiring of a third party recovery team. If any of these variables are in place, the fines stated in this section do not apply.

- (2) The retention and retrieval plan shall include: name of the

owner/manager, physical address of the business, and telephone number of the owner/manager or any point of contact to call and report an abandoned shopping cart.

- (3) Every shopping cart must have a permanently affixed sign that contains the identity of the owner.
- (4) A telephone number or email address shall be established and made available to the public for the purpose of reporting abandoned shopping carts. Said telephone number shall be posted on a sufficient number of conspicuously located signs on the owner's premises that also informs the public that shopping carts may not be removed from the premises without written permission of the owner.
- (5) Violation of subsection (3) or (4) of Section 12-13 shall result in a fine not to exceed \$500.00.

Section 4 – That Section 12-14 of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows:

- (1) A code enforcement officer or any member of the public may report the location of an abandoned shopping cart by calling the telephone number of the owner, by sending an email to the owner or by calling Lexington–Fayette Urban County Government.
- (2) Once a business owner is notified of the location of an abandoned shopping cart on public property, the owner has 24 hours to remove the shopping cart. If the shopping cart is not removed within 24 hours or the code officer removes the cart after 24 hours, the business shall be fined \$100.00 for 1-3 violations in a calendar year, \$200.00 for 4-6 violations in a calendar year, \$300.00 for 7-9 violations in a calendar year and \$500.00 for 10 or more violations in a calendar year.
- (3) Upon notice of an unattended shopping cart, the code officer

shall affix a notice to the cart. The notice shall state that the personal belongings shall be removed and disposed of after 7 days from the date of the notice.

Section 5 – That Section 12-15 of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows:

Any person or business may appeal a citation through the appeal process outlined in in chapter 2B-6 of the Code of Ordinances.

Section 6 - That this Ordinance shall become effective on July 1, 2022.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

MRS:X:\Cases\CO\08-CC0785\LEG\00169877.8.1

LIST OF COMMITTEE REFERRAL ITEMS

Environmental Quality & Public Works Committee

Referral Item	Sponsor/Referred by	Date of Committee Referral	Last Presented	Status	Legistar File ID
1 Solid Waste Trash Compactors	R. Moloney	August 22, 2017			
2 Explore Lexington's Sustainability Options	L. Sheehan	February 20, 2018			
3 Waste Management Fines	H. LeGris	April 17, 2018			
4 CNG Conversion and Use	D. Kloiber	October 25, 2016	January 24, 2017		0073-17
5 5G Small Cell Wireless Plan Update	J. McCurn	February 12, 2019	August 24, 2021		0846-21
6 Evaluation of Vacuum Leaf Collection (Efficiency and Fiscal Impact)	H. LeGris	November 12, 2019			
7 Single Use Plastics / Energy Conservation	S. Kay	March 12, 2019	May 18, 2021		0499-21
8 Urban Forestry / Street Trees Update	J. McCurn	September 17, 2019	May 18, 2021		0501-21
9 Backyard Composting - Home Compost Pilot Proposal	H. LeGris	February 2, 2021	February 1, 2022		0126-22
10 Consideration of a Local Tree Protection Ordinance	D. Kloiber	February 9, 2021	June 22, 2021		0642-21
11 Recycling General Practices	P. Worley	March 9, 2021			
12 Abandoned Shopping Carts	D. Kloiber	March 9, 2021	August 24, 2021	March 1, 2022	0223-22
13 Wrong-Way Driving	A. Bledsoe	June 22, 2021	December 7, 2021		1251-21
14 Fayette County Broadband Report	F. Brown	October 7, 2021	February 1, 2022		0125-22
15 Environmental Services Policy Regarding an Encroachment Agreement	F. Brown	August 17, 2021	December 7, 2021		1249-21
Annual Committee Presentations					
16 Energy Improvement Fund Update	F. Brown	January 10, 2017	January 19, 2021		0073-21
17 Snow/Ice Removal Plan	F. Brown	February 15, 2014	October 19, 2021		0962-20
18 Pavement Management Plan / Curbs Assessment	F. Brown	May 26, 2020	June 22, 2021		0532-20
19 Vacuum Leaf Collection Plan	F. Brown		October 19, 2021		0837-20
20 Capacity Assurance Plan (CAP) Audit	F. Brown	August 30, 2018	October 6, 2020		0964-20
21 Annual Stormwater Priority List Update	F. Brown	February 20, 2018	August 24, 2021		0844-21
22 MS4 Program Update	F. Brown	February 20, 2018	December 7, 2021		1250-21
23 Consent Decree and Remedial Measures Plan Update	F. Brown		January 19, 2021	March 1, 2022	0222-22
24 Division and Program Review - 2022 Evaluations	F. Brown	November 30, 2021	February 1, 2022		0127-22