

- L. **Sheehan, Chair**
- H. **LeGris, Vice-Chair**
- D. Wu
- T. Fogle
- S. Lynch
- B. Monarrez
- D. Gray
- P. Worley
- F. Brown
- D. Sevigny



AGENDA
Environmental Quality & Public Works Committee
April 18, 2023
1:00 P.M.

- | | | |
|-------------|---|----------------|
| I. | Approval of the February 7, 2023 Committee Summary | (1-15) |
| II. | Capacity Assurance Program (CAP) Ordinance Change | (16) |
| III. | FY24 Pavement Management Plan | (17-42) |
| IV. | Items Referred to Committee | (43) |

"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). Effective January 1, 2023. Adopted by Urban County Council September 22, 2022.

2023 Meeting Schedule

February 7	September 12
April 18	October 24
May 23	December 5
July 11	



Environmental Quality & Public Works Committee

February 7, 2023

Summary and Motions

Chair Sheehan called the meeting to order at 1:04 p.m. Committee Members LeGris, Wu, Fogle, Lynch, Monarrez, Gray, Worley, F. Brown, and Seigny were present. Council Member Plomin was present as a non-voting member.

I. Approval of November 1, 2022 Committee Summary

Motion by Wu to approve the November 1, 2022 Environmental Quality & Public Works Committee Summary. Seconded by Gray. Motion passed without dissent.

II. Capacity Assurance Program (CAP) Audit Update

Chris Dent, Sanitary Sewer Section Manager with Division of Water Quality, began the presentation on the *Capacity Assurance Program (CAP) Audit Update* by reviewing what CAP means with regard to the sewer system and the consent decree. He displayed the website for locating additional information and explained the capacity tracking map. He reviewed the history of the CAP program and mentioned the formation of a taskforce which began work in May 2012 with a completion date of September 2012. Taskforce meetings were facilitated by Stantec and they brought forward 19 recommendations that became the framework of the program moving forward. One of the recommendations was an audit to take place every two years to ensure compliance. The audit presented today is from July 2019 to June 2021 with 18 random applications reviewed out of a total of 171 applications. CAP audit findings showed everything was in compliance with requirements outlined in the ordinance.

Dent confirmed the audits are not ordered by the consent decree and it came as a recommendation from the taskforce. When asked if there is a reason why the audit is done every 2 years, Dent explained this is codified in the ordinance so Council will need to make this change. Charlie Martin, Director of Division of Water Quality, said the frequency was chosen out of an abundance of caution to be fair and transparent. Speaking about where they are in the process, Dent said there were 111 sanitary sewer pumps to start and 84 of those have been abated. When asked how transparency is helpful for the public and what the recommended timeline would be, Dent feels 5 years is adequate. The committee requested a Draft Ordinance recommending a change to the audit timeline be presented at the next committee meeting scheduled for April 18. No action was taken on this item.

III. Hazardous Street Tree (Cost-Share) Program

Jennifer Carey, Director of Division of Environmental Services, began with proposed changes to Chapter 17B in the Code of Ordinances as it pertains to street trees. The ordinance was last updated in May 1994 and the Tree Board supports the proposed changes. Potential changes include height requirements; changes to the Tree Board membership and the number of Tree Board meetings; and clarifying 2 types of appeals based on various issues. She provided a background on the guidelines for the *Hazardous Street Tree (Cost-Share) Program* and said the guidelines provide a framework (intent, eligibility, participation guidelines, etc.) for the program. Updating the program guidelines would expand this program to include properties in the Urban Service Area and other rural residential areas. Guidelines also address the equity issues and Carey reviewed new options available. She concluded with a brief review of the draft ordinance

and draft guidelines and she requested consideration of the proposed draft ordinance and guidelines updates.

Regarding the responsibility for tree pruning, Carey said there are requirements for clearance pruning that fall to the property owner to make sure there is adequate clearance over the roadway and the sidewalk. She spoke about a program to provide street tree clearance pruning, but it is only offered in tax districts that contribute to fund 1115. When asked if there is a provision in place for removing and replacing trees that have grown into each other or if a person needs special permission from DES, Carey said they want the property owner to obtain a permit to remove and replace the street tree. When asked about reporting dead or overgrown street trees through the 3-1-1 system (Lex-Call), Carey explained there are specific codes for this when calling Lex-Call and there is also a code for additional information on the cost share program. Carey confirmed the proposed changes don't really impact the process for utilities, but they have tried to restrict in areas with overhead utility easements.

When asked about diversity on the Tree Board, Carey said the board is not currently diverse except for gender, but addressing diversity is one of the goals for bringing these changes forward. By not so clearly defining what types of background someone needs to possess to qualify for the board's positions, it provides an opportunity to diversify the board. There was some concern about making the membership requirements too broad in an effort to make it more diverse because this particular board should have expertise. Carey said she is comfortable with it because the passionate people who are on the Tree Board have the qualifications that they are seeking. Members of the public who attend the Tree Board meetings, but aren't Tree Board members, create a deep pool of qualified people that can fill expired terms. Addressing the removal of the Building Inspection Director from the board, Carey explained that reason for this is because streets trees aren't in the purview of Building Inspection. Additionally, they wanted to reduce the membership by one staff member so this was the logical choice.

When asked how much is allocated to the *Hazardous Street Tree (Cost-Share) Program*, Carey said funding is \$50,000 in the budget for 1101. Additionally, the Ad Hoc committee allocated \$150,000 to help clear and work through the backlog. Speaking about the expertise on staff, Carey explained that she, along with Tim Queary, Traci Wade, Doug Burton, and several folks in the Urban Forestry program, attend to provide support and knowledge. Carey said they try to keep close tabs on the queue so when they approach the maximum budget, the application is removed from the web site. If applications are received after the funds have run out, they notify the applicant that their application will be kept on file for future funding. Carey clarified if someone applies but does not ask to be considered for the (100%) low income/middle income qualification, the 50% grant is the default and they are kept on track for getting the 50% cost-share upon completion. If someone wants to be considered for the 100% grant and is determined to not be eligible, they are offered the 50% grant as a way for the city to pay 50% of the cost up front. Speaking about funding capacity, Carey said they could easily accommodate \$150,000 a year because the staff has proven they can handle that number of applications and get them through the entire application process. Carey explained the guidelines propose setting aside 25% of the budget to award 100% grants so they would carve out this piece to make sure it is not spent by those who do not need the grant. Regarding reaching out to underserved communities, Carey said they track council districts of participants and she can provide more information this summer at their annual committee update.

Motion by Sheehan to approve the proposed amendments to Chapter 17B of the Code of Ordinances, relating to street trees, as presented to the committee and as set forth in the committee packet. Seconded by Worley. Motion passed without dissent.

Motion by Sheehan to approve a Resolution approving guidelines for the *Hazardous Street Tree (Cost-Share) Program*, to provide financial assistance to owners of owner-occupied residential property in removing hazardous street trees pursuant to Chapter 17B of the Code of Ordinances. Seconded by LeGris. Motion passed without dissent.

Motion by Sheehan to have the Resolution approving guidelines for the *Hazardous Street Tree (Cost-Share) Program* reported out at Work Session today, February 7, 2023. Seconded by Monarrez. Motion passed without dissent.

IV. Items Referred to Committee

Motion by LeGris to remove *Wrong Way Driving* from the list of committee referral items. Seconded by Wu. Motion passed without dissent.

Motion by Worley to remove the *Single Use Plastics/Energy Conservation* from the list of committee referral items [this item will now be included with the *Explore Lexington's Sustainability Options* item]. Seconded by Gray. Motion passed without dissent.

Motion by LeGris to remove *Waste Management Fines* from the list of committee referral items. Seconded by Monarrez. Motion passed without dissent.

Motion by Lynch to remove the *5G Small Cell Wireless Plan Update* from the list of committee referral items. Seconded by LeGris. Motion passed without dissent.

Motion by Sheehan to remove *Hazardous Street Tree (Cost-Share) Program* from the list of committee referral items. Seconded by Worley. Motion passed without dissent.

Motion by Fogle to adjourn at 2:29 p.m. Seconded by Gray. Motion passed without dissent.

ORDINANCE NO. _____ - 2023

AN ORDINANCE AMENDING CHAPTER 17B OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, RELATING TO STREET TREES, AS FOLLOWS: AMENDING SUBSECTIONS 17B-1(2), (3), (4), AND (6) TO AMEND THE DEFINITIONS OF LARGE TREE, MEDIUM TREE, SMALL TREE, AND TREE PLANTING EASEMENT; AMENDING SECTION 17B-2 TO DESIGNATE THE DIVISION OF ENVIRONMENTAL SERVICES AS THE AUTHORITY RESPONSIBLE FOR ISSUING TREE PLANTING PERMITS AND TO PROVIDE REQUIREMENTS FOR TREE PLANTINGS RELATIVE TO REGULATORY SIGNS AND OVERHEAD UTILITIES; AMENDING SECTION 17B-3 TO DESIGNATE THE DIVISION OF ENVIRONMENTAL SERVICES AS THE AUTHORITY RESPONSIBLE FOR ISSUING TREE REMOVAL PERMITS; AMENDING SECTION 17B-4 TO PROHIBIT THE ATTACHMENT OF WIRE OR NAILS TO STREET TREES; AMENDING SECTION 17B-5 TO DESCRIBE JURISDICTION FOR APPEALS TO THE TREE BOARD AND TO THE INFRASTRUCTURE HEARING BOARD; AMENDING SECTION 17B-6 RELATING TO THE COMPOSITION, MEMBERSHIP TERM, MEETINGS, AND DUTIES OF THE TREE BOARD; AMENDING SECTION 17B-7 TO PROVIDE THAT TREE TOPPING SHALL ONLY BE PERMITTED BY WRITTEN APPROVAL OF THE URBAN FORESTER OR THEIR DESIGNEE; AMENDING SECTION 17B-9 TO REQUIRE REPLACEMENT TREES TO MEET STREET TREE REQUIREMENTS; REPEALING SECTION 17B-11 AND AMENDING SECTION 17B-10 TO DESCRIBE SUGGESTED TREE SPECIES AND UNACCEPTABLE TREE SPECIES; RENUMBERING SECTION 17B-12 AS SECTION 17B-11; RENUMBERING SECTION 17B-13 AS SECTION 17B-12 AND AMENDING SECTION 17B-12 TO PROVIDE THAT APPEALS FROM CITATIONS FOR VIOLATIONS OF CHAPTER 17B OF THE CODE SHALL BE TAKEN TO THE INFRASTRUCTURE HEARING BOARD, WITH ENFORCEMENT PROCEDURES TO CONFORM TO CHAPTER 2B OF THE CODE; AND AMENDING SECTION 16-76 OF THE CODE TO DESIGNATE THE INFRASTRUCTURE HEARING BOARD AS THE CODE ENFORCEMENT BOARD HEARING MATTERS RELATING TO ENFORCEMENT OF ORDINANCES BY THE DIVISION OF ENVIRONMENTAL SERVICES.

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

Section 1 – That Section 17B-1 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-1. - Definitions.

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section:

- (1) Street tree shall mean any tree within the urban county government right-of-way or designated tree planting easement, excepting those trees regulated pursuant to Article 18 of the Zoning Ordinance or the Downtown Street Tree Ordinance.
- (2) Large tree shall mean any tree species which normally attains a ~~full-grown~~ height in excess of fifty (50) feet at maturity.
- (3) Medium tree shall mean any tree species which normally attains a height between fifteen (15) feet and fifty (50) feet at maturity.

- (4) Small tree shall mean any tree species which normally attains a height between ten (10) feet and fifteen (15) feet at maturity.
- (5) Person shall mean any person, corporation, partnership, company, contracting firm or other entity, including those employed under a contract with the urban county government.
- (6) Tree planting easement shall mean a planting area with a minimum width of ten (10) feet located immediately adjacent and parallel to the street right-of-way or directly adjacent to the sidewalk, if applicable.
- (7) Hazardous tree shall mean any street tree that is dead, diseased, or insect infested such that it poses a health threat to neighboring trees or creates a threat to the public safety or to property.

Section 2 – That Section 17B-2 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-2. - Tree planting.

- (a) Any person may plant a tree within the urban county government right-of-way immediately adjacent to their property upon obtaining a permit from the division of environmental services.
- (b) The permit shall be granted providing the following conditions are met:
 - (1) The tree to be planted is not an unacceptable tree species, as provided in section 17B-10 of this chapter.
 - (2) The recommended spacing between this and other trees is forty-five (45) feet (large tree), thirty-five (35) feet (medium tree), and twenty-five (25) feet (small tree).
 - (3) The minimum size of the planting area complies with the requirements of Article 6-10 of the Land Subdivision Regulations.
 - (4) If installed between the sidewalk and the street, the tree location is to be at least seventy-five (75) feet in advance of stop or yield signs, twenty-five (25) feet in advance of any other standard regulatory or warning signs, and ten (10) feet from fire hydrants or utility poles.

- (5) Only small trees shall be permitted for planting in areas where overhead utility wires are located or where utility easements for overhead utility wires have been dedicated.
 - (6) The property owner shall call Kentucky 811 to locate utilities and check proposed planting sites for compliance with requirements relating to utilities, obstructions and potential interference with future construction, including but not limited to compliance with KRS 367.4901 et seq.
 - (7) The property owner shall maintain the tree after the tree is planted. Maintenance shall include watering, pruning, removal of dead or diseased limbs and insect control, as necessary. The property owner also shall be responsible for any damage to existing utilities caused by the tree installation.
- (c) The division of environmental services may waive any of the conditions in granting a permit where such action would promote the preservation of the health, integrity or appearance of an area's tree population. Further, where such action would promote the public welfare, the urban forester or his designee may condition the granting of a permit upon the applicant's agreement to plant only a certain species of tree.
- (d) The division of environmental services may deny a permit although all conditions have been met, but only for just cause based on circumstances unique to the property affected which would create a threat to public welfare and/or safety if the proposed planting were permitted.
- (e) The decision of the division of environmental services shall be made within fourteen (14) days after an application is filed. Failure to issue such decision within said time period shall have the same effect as approval of the application.

Section 3 – That Section 17B-3 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-3. - Tree removal.

- (a) No person may remove a tree larger than three (3) inches in diameter, measured at a point four and one-half (4½) feet above the ground within the urban county government right-of-way without obtaining a permit from the division of environmental services.
- (b) The permit shall be granted provided the tree to be removed is dead or dying.
- (c) The division of environmental services may issue permits for the removal of live trees only in special circumstances. Instances where a permit for the removal of a live tree may be issued include, but are not limited to, the following:
 - (1) The tree is a threat to the public safety;
 - (2) The tree is a threat to the health of other trees in the community; or
 - (3) The tree is to be replaced by a more desirable tree.
- (d) If the division of environmental services determines that a street tree is a hazardous tree, he can order the property owner to remove the hazardous tree in a timely manner, as determined by the division of environmental services at the property owner's expense.
- (e) The division of environmental services can order the property owner to remove any street tree planted without a permit, or in violation of permit conditions.
- (f) Nothing contained in this chapter is intended to infringe on the authority of the urban county engineer, pursuant to KRS 179.070, to remove trees from the right-of-way of any publicly dedicated road when the trees become a hazard to traffic.
- (g) Except as provided in subsection (e) above, any person who removes a tree within the urban county government right-of-way shall replace the removed tree in accordance with the requirements set forth in section 17B-2(b). This requirement may be waived by the division of environmental services where replacement would be inappropriate under the standards set forth in section 17B-2(b).

Section 4 – That Section 17B-4 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-4. - Abuse or damage of street trees.

No person shall intentionally damage, cut, poison, carve, transplant or remove any tree without a permit as required by section 17B-3 of this chapter; nor shall any person attach any rope, wire, nails, advertising posters or other contrivance to any street tree; allow any gaseous liquid, herbicide or solid substance which is harmful to trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

Section 5 – That Section 17B-5 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-5. - Appeals.

Except as otherwise provided herein, any person adversely affected by any decision of the division of environmental services in the application or interpretation of any of the provisions of this chapter may appeal the decision of the division of environmental services to the tree board established by this chapter.

(a) The appeal provided herein shall be taken by filing written notice thereof with the clerk of the urban county council, with a copy thereof to be filed with the urban forester within ten (10) days from notification of the decision. The written notice provided for herein shall recite the reasons why the appeal is being taken.

(b) The appeal provided herein shall be heard at the first tree board meeting following the filing of this appeal. The urban forester, as a member of the tree board, shall abstain from voting on the appeal.

(c) Notwithstanding the foregoing, all appeals from civil citations issued pursuant to Section 17B-12 of the Code of Ordinances shall be taken by filing an appeal with the infrastructure hearing board, with the citations and civil process to conform to Section 17B-12 and Chapter 2B of the Code of Ordinances.

Section 6 – That Section 17B-6 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-6. - Tree board.

- (a) A tree board, appointed by the mayor, shall be established. The tree board shall consist of fifteen (15) members including the following:
 - (1) Eight (8) concerned and interested residents of Lexington, Fayette County, two (2) of whom shall be professionals in arboriculture;
 - (2) The commissioner of environmental quality and public works, or their representative;
 - (3) The director of parks and recreation, or their representative;
 - (4) The director of engineering, or their representative;
 - (5) A member of the urban county council, or their representative;
 - (6) The director of planning or their representative;
 - (7) The urban forester; and
 - (8) The director of streets and roads or their representative.
- (b) The membership of the commissioner of environmental quality and public works, the director of parks and recreation, the director of engineering, the director of planning, the urban forester, and the director of streets and roads, or their respective representatives shall serve ex officio. The urban county council member or their representative shall serve for the duration of their term in office. All other tree board members shall serve terms of four (4) years. All tree board members may only serve two (2) consecutive full terms. Members who have served two (2) consecutive full terms shall not be eligible for re-appointment to the tree board until the lapse of twelve (12) months from the end of their second consecutive full term.
- (c) In the event a vacancy shall occur during the term of any appointed member, a successor shall be appointed for the unexpired portion of the term. All members of the tree board shall serve without pay.
- (d) The tree board shall establish the board's rules, regulations and procedures and arrange for the holding of meetings on a regular basis, with not less than ten (10) meetings per calendar year.
- (e) The duties of the tree board shall be as follows:
 - (1) To promote urban forestry and advise appropriate municipal agencies on arboricultural matters.

- (2) To hear all appeals from any decision of the division of environmental services in the application or interpretation of any of the provisions of this chapter as authorized herein and to adopt rules for the conduct of such hearings, which rules shall uniformly apply to all such appeals and shall provide that both the appellant and the appellee shall have the right to:
- (i) Offer and examine witnesses and present evidence in support of their cases;
 - (ii) Cross-examine witnesses and offer evidence to refute evidence offered in opposition; and
 - (iii) Following the hearing of such appeals, receive the board's decision reduced to writing, such decision to contain the findings of fact based upon evidence produced at the hearing.

Section 7 – That Section 17B-7 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-7. - Tree topping.

- (a) It shall be unlawful as a normal practice for any person to top any tree within the urban county right-of-way or designated tree planting easement. "Topping" is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or trees under utility wires or other obstruction where other pruning practices are impractical, can be exempted from this section only by written approval of the urban forester or their designee.
- (b) It shall be unlawful to prune any tree within the urban county right-of-way or designated tree planting easement in such a way as to remove the normal canopy or twenty-five (25) percent or more of the crown for the purpose of increasing visibility of outdoor signs or building facades.

Section 8 – That Section 17B-9 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-9. - Tree protection.

All street trees within ten (10) feet of any excavation or construction of any building, structure, street work, or sidewalk, shall be guarded with a protective barrier of at least eight (8) feet square. All building materials, dirt or other debris shall be kept outside the barrier. Any trees damaged or removed due to excavation or construction shall be replaced in the original location or as close to the original location as possible by the person doing the excavation or construction. Replacement trees shall at a minimum meet original street tree requirements.

Section 9 – That Section 17B-10 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 17B-10. – Suggested and unacceptable tree species.

Trees with characteristics that make them appropriate for use in the public right-of-way and which are recommended as suggested street trees can be found in the Planting Manual for the Lexington-Fayette Urban County Government. Characteristics that make trees unacceptable for use in public rights-of-way and are not permitted for street trees include, but are not limited to:

- (1) Disease or insect problems;
- (2) Dirty, drooping branches, objectionable fruit or bark;
- (3) Weak-wooded, apt to lose large branches in wind or with age;
- (4) Unpredictable or irregular habits that may develop;
- (5) Root problems, shallow and destructive roots; or
- (6) Unsafe, dangerously thorny or poisonous.

Section 10 – That Section 17B-11 of the Code of Ordinances be and hereby is repealed.

Section 11 – That Section 17B-12 of the Code of Ordinances be and hereby is renumbered as Section 17B-11 of the Code of Ordinances.

Section 12 – That Section 17B-13 of the Code of Ordinances be and hereby is renumbered as Section 17B-12, and be and hereby is amended to read as follows:

Sec. 17B-12. - Violation.

Any violation of this chapter may be enforced through the issuance of a civil citation. Such civil citations shall be construed to provide an additional or supplemental means of obtaining compliance with this chapter. All citations issued pursuant to this chapter shall be issued by the citation officers authorized to issue such citations by section 14-10 of the Code of Ordinances and shall be referred to the infrastructure hearing board with the citations and the civil process to conform to Chapter 2B of the Code of Ordinances.

- (a) Prior to the issuance of the first civil citation for a violation of a section of this chapter, the urban county government shall issue a notice of violation, which shall specify a time period of at least twenty-four (24) hours for the correction of the violation. The time period specified shall not impose unrealistic requirements under prevailing weather and site conditions. If the violation is not corrected as specified in the written notice, the urban county government may issue a civil citation. A notice of violation shall precede the issuance of the first civil citation for such offense unless the violation is deemed to be a serious threat to the public health, safety and welfare; or, if in the absence of immediate action, the effects of the continuation of the violation would be irreparable or irreversible. No notice of violation shall be required prior to the issuance of a citation for any offense which occurs after the first citation is issued to a person or entity.
- (b) Appeal of the civil citation may be made to the infrastructure hearing board, as provided in sections 17B-5 and 16-76 of the Code of Ordinances.
- (c) For violations of this chapter, the civil fines associated with the issuance of a civil citation are as follows:
 - (1) Upon issuance of the first citation within any 12-month period the civil fine shall be a maximum of two hundred dollars (\$200.00).
 - (2) The civil fine imposed upon the issuance of the second citation for violation of the same section of this chapter within any 12-month period shall be a maximum of three hundred dollars (\$300.00).

- (3) The civil fine imposed upon issuance of the third citation for violation of the same section of this chapter within any 12-month period shall be a maximum of four hundred fifty dollars (\$450.00).
- (4) The civil fine imposed upon issuance of the fourth or more citation for violation of the same section of this chapter within any 12-month period shall be a maximum fine of five hundred dollars (\$500.00).
- (d) When there is reason to believe that the violation poses a serious threat to the public health, safety or welfare; or in situations where continuation of the violation would be irreparable or irreversible, the government may, without further notice, proceed to abate the conditions. In such cases, the government may, in addition to any fine imposed herein, charge the responsible person, persons or entities with the cost of the abatement, including equipment expense, disposal fee, if any, and an administrative fee of seventy-five dollars (\$75.00). The urban county government may file a lien for such abatement, in accordance with section 2B-9 of the Code of Ordinances and KRS 65.8835. Citations, if issued, shall not preclude the government from abating the conditions and billing the responsible person, persons or entities for the cost of abatement.
- (e) Nothing contained herein shall prohibit the urban county government from enforcement of this chapter by any means authorized by law.

Section 13 – That Section 16-76 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 16-76. - Hearing boards; establishment; powers.

Two (2) hearing boards are hereby created pursuant to KRS 65.8801 through 65.8840, one (1) to be known and referred to as the infrastructure hearing board and one (1) to be known and referred to as the environmental hearing board. The infrastructure hearing board shall hear matters regarding enforcement of ordinances by the divisions of engineering, water quality, planning, traffic engineering, environmental services, and streets and roads, as specified in applicable code sections, and those portions of the zoning ordinance and subdivision regulations subject to enforcement through civil citations. The environmental hearing board shall hear matters regarding enforcement of

ordinances by the division of solid waste and shall also hear matters relating to the enforcement of section 14-105 of the Code which classifies littering as a civil offense. The boards shall operate under and be subject to the provisions of chapter 2B of the Code.

Section 14 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
PUBLISHED:
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RESOLUTION NO. _____ - 2023

A RESOLUTION APPROVING GUIDELINES FOR THE HAZARDOUS STREET TREE (COST-SHARE) PROGRAM, TO PROVIDE FINANCIAL ASSISTANCE TO OWNERS OF OWNER-OCCUPIED RESIDENTIAL PROPERTY IN REMOVING HAZARDOUS STREET TREES PURSUANT TO CHAPTER 17B OF THE CODE OF ORDINANCES.

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

Section 1 – That Guidelines for the Hazardous Street Tree (Cost-Share) Program, which are attached hereto and incorporated herein by reference, be and hereby are approved, to provide financial assistance to owners of owner-occupied residential property in removing hazardous street trees pursuant to Chapter 17B of the Code of Ordinances.

Section 2 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

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ORDINANCE NO. _____ - 2023

AN ORDINANCE AMENDING SECTION 16-307 OF THE CODE OF ORDINANCES TO REQUIRE THE PERFORMANCE OF AN INDEPENDENT FORMAL REVIEW AND AUDIT OF THE CAPACITY ASSURANCE PROGRAM AND COLLECTED FEES ON OR BEFORE JUNE 30, 2025 AND EVERY FIVE (5) YEARS THEREAFTER.

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

Section 1 – That Section 16-307 of the Lexington-Fayette Urban County Government Code of Ordinances be and hereby is amended to read as follows:

An independent formal review and audit of the Capacity Assurance Program and collected fees shall be performed on or before ~~July 3, 2015~~ June 30, 2025 and every ~~two~~ five (25) years thereafter and the audit reports shall be sent to the urban county council.

Section 2 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF THE URBAN COUNTY COUNCIL

PUBLISHED:

PAVEMENT MANAGEMENT PLAN FY24

Environmental Quality & Public Works Committee

Nancy Albright

April 18, 2023



LEXINGTON

Agenda

- Pavement Management History
- Council Resolutions (2016)
- Budget & Expenditures (FY16-FY23)
- Paving Season
- Paving Plan Overview
- FY24 Paving Plan Updates
- Road Class Allocations
- Paving Plan Project Selection
- FY24 Paving Plan Timeline
- FY24 Requested Paving Budget
- Looking Forward
- Council Resolutions (2023)

Pavement Management History

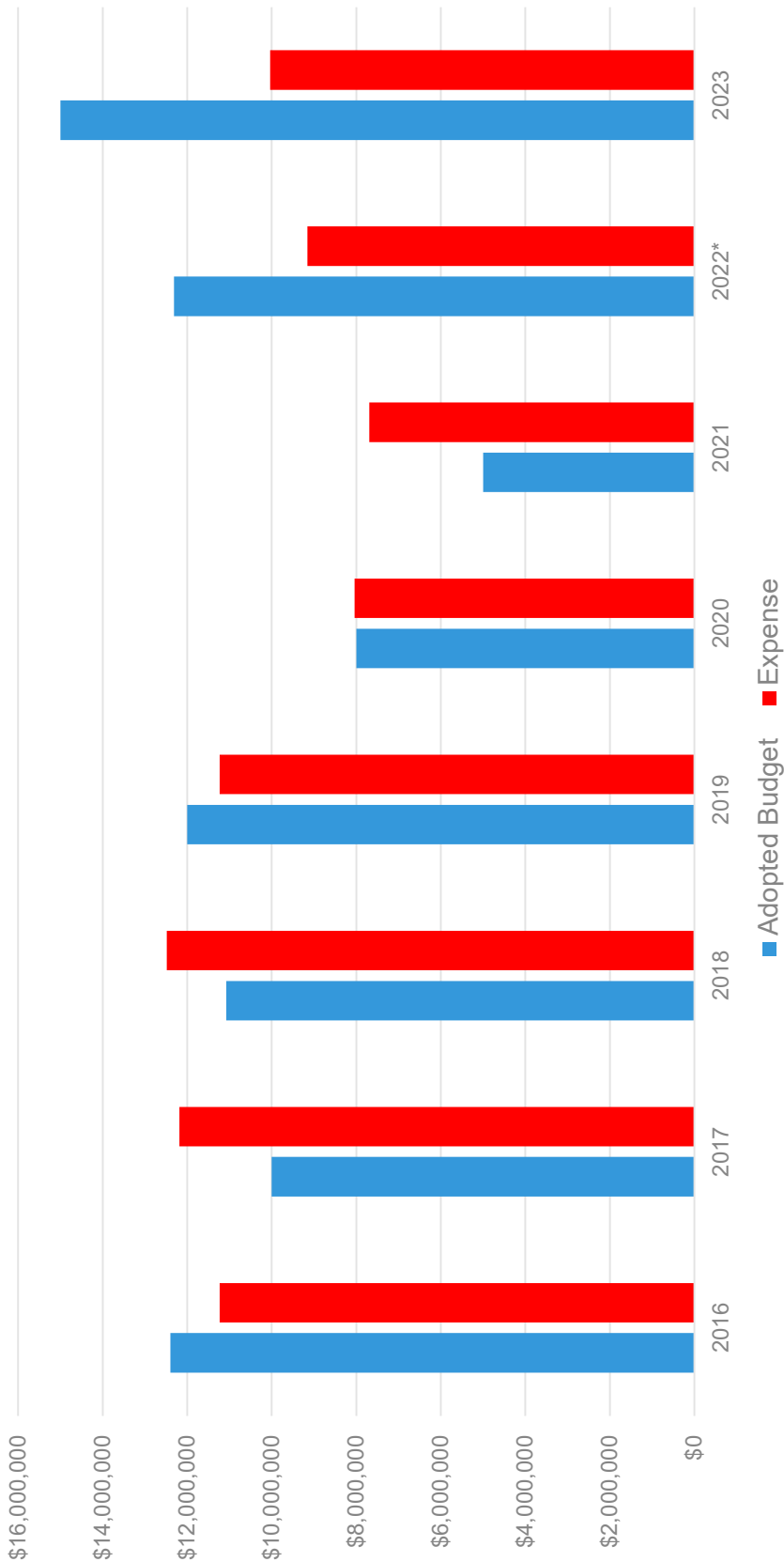
- Prior to Plan, LFUCG staff inspected roads supported by visual surveys from Engineering interns
- Council forms Paving Subcommittee to research data-driven approach to pavement management
- In 2015, LFUCG contracts with vendor to collect data using van with scanning equipment
- Pavement Management Plan authorized by Council in 2016
- Additional data surveys in 2018 and 2021
- In 2022, Paving Subcommittee reconvenes to review Plan and recommend updates



Council Resolutions

- Resolution 470-2016
 - A resolution directing the administration to include fifteen (15) million dollars in the budget for the pavement management plan annually beginning FY2017-2018.
 - Passed urban county council July 5, 2016.
- Resolution 471-2016
 - A resolution authorizing council acceptance of the pavement management plan.
 - Passed urban county council July 5, 2016.

Summary of Budget (Adopted) vs Expenditures (FY16-23)



*FY22 adopted budget included \$1.5 million in bond funds that were not bonded and instead pre-funded in General Fund in FY21

Paving Season

- Paving starts early April
- Plant closes mid-December
- Follows calendar year
- Weather-dependent

Pavement Plan Overview

- Road Types
 - LFUCG/Local
 - County
 - State
 - Private
- Road Classes
 - Neighborhood Road/Local Road
 - Service/Industrial
 - Collectors
 - Major/Minor Arterials
- Overall Condition Index (OCI)
 - OCI < 60
 - Prioritization
- Plan divides total paving allocation based on road class

FY24 Paving Plan Updates

Council's 2022 Paving Plan Subcommittee

- Added service/industrial roads as a category
- Council Offices provide priorities list representing 200% of budget
- Emphasis on efficiency using map-based data for project grouping
- Recalibrated road class percentages

Road Class Allocations

The updated Pavement Management Plan recommends allocations be apportioned according to the following percentages:

Budget Category by Road Class	Updated Plan Budget Allocations
Maj./Min. Arterials, Service/Industrial Rds.	25%
Collectors	25%
Local Class	40%
Preventative Maintenance	10%
TOTAL	100%

Pavement Plan Project Selection

- Council
 - Neighborhood Roads/Local Roads
- Administration with Council Input
 - Collectors
 - Major/Minor Arterials
 - Service/Industrial Roads

FY24 Paving Plan Timeline

- February / March – EQPW staff review priorities and budgets with Councilmembers
- Early April – Paving season begins
- July 15 (Optional deadline) – Councilmembers may submit a list of requests for fall paving
- August 15 – EQPW staff share FY24 data with Council District Offices
- October 15 – Deadline for Council Offices to submit a list of priorities representing 200% of available Council District budget
- Mid-December – Paving plant closes

FY24 Requested Paving Budget

FY24 Requested Paving Budget	\$14,000,000
Maj./Min. Arterial, Service/Industrial Rds. (25%)	\$3,500,000
Collectors (25%)	\$3,500,000
Local Roads (40%)	\$5,600,000
Maintenance (10%)	<u>\$1,400,000</u>
	\$14,000,000

FY24 Local Roads Requested Budget

- Percentage of local road lane miles with OCI less than 60

Local road paving budget = $(0.4) * \$14,000,000 = \$5,600,000$

FY 2024 PAVING FUNDS ALLOCATION BY LOCAL LANE MILES BY COUNCIL DISTRICT		
ALLOCATION BY LOCAL LANE MILES OCI<60		
Council District	Local Lane Miles with OCI < 60	Allocated Funds by District - FY24
1	78.76	\$ 551,936.69
2	68.87	\$ 482,654.27
3	55.79	\$ 390,986.46
4	54.15	\$ 379,476.55
5	79.02	\$ 553,731.14
6	80.25	\$ 562,355.60
7	48.10	\$ 337,060.31
8	56.14	\$ 393,455.14
9	68.21	\$ 478,011.55
10	90.95	\$ 637,331.93
11	65.50	\$ 459,005.34
12	53.37	\$ 373,995.01
Total	799.10	\$ 5,600,000.00

Milling & Resurfacing = \$86,993.68/Local Lane Mile

Looking Forward

- Continuously improve data quality, analysis, and tools
- Prepare for FY25 data field survey
- Expand use of recycled asphalt and environmental best practices
- Publish public map highlighting roads released to pave
 - www.lexingtonky.gov/construction-project-information

Council Resolutions

- A Resolution directing the administration to include fifteen (15) million dollars in the budget for the Pavement Management Plan annually beginning in FY 2024.
- A Resolution authorizing Council acceptance of the Pavement Management Plan.

Questions?





LEXINGTON

PAVEMENT MANAGEMENT PLAN

April 18, 2023

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Mission Statement

The Pavement Management Plan creates a strategic and data-driven approach to maintaining the 2,355 lane miles of city-owned roads by utilizing metrics such as overall condition index (OCI).

Goals

1. Develop a policy for maintenance of LFUCG streets

- a. Utilize pavement condition data, including overall condition index (OCI) and predicted pavement performance, to make informed decisions regarding capital projects for pavement maintenance and rehabilitation.
- b. Establish roles and responsibilities related to the pavement management process.
- c. Develop a plan for data collection (recommendation: entire network every three years).

2. Differentiate project development responsibility by roadway functional classification

- a. EQPW staff shall be responsible for making project recommendations for Minor/Major Arterials, Collectors, and Industrial/Service Roads as well as related base failure and preventive maintenance activities. Council Member input shall be integrated into the decision-making process.
- b. Council Members, with EQPW assistance, shall be responsible for making recommendations for Local Class Roads as well as related base failures.
- c. Council Members shall have a list of prioritized paving projects representing 200% of the total Council Office paving budget submitted to EQPW by October 15th annually.
- d. Annual budget allocations shall be defined based on functional classification with a separate allocation for preventative maintenance.
- e. Local roadway budget allocations shall be based on lane miles in each council district with an OCI rating below 60.
 - i. Districts that do not allocate paving funds and therefore have increased low OCI ratings below 60 should not receive higher budget allocations.

3. Develop capital improvement plan for Minor/Major Arterials and Collectors, including preventive maintenance and base failure repair

4. Develop annual capital improvement plan for Local/Residential streets

- a. Establish a recommended process for making project recommendations.
- b. Paving project data and maps to be provided by EQPW staff.

Overall Condition Index (OCI)

The Overall Condition Index (OCI) is the primary metric used to determine the condition of a pavement section based on all the collected data available for that section. The OCI scores range from 0 to 100, with a '0' OCI indicating failed pavement and a '100' OCI indicating perfect pavement. The OCI score is a combination of a surface distress rating and rideability. Surface distress is measured using the Pavement Condition Index (PCI) methodology, which reflects surface condition, rutting, and structural cracking. Rideability is measured using the International Roughness Index (IRI), which reflects ride quality.

OCI is calculated using a weighted average: $OCI = (0.80PCI) + (0.20IRI)$

This equation applies weighting factors to the PCI (80%) and IRI (20%) so that the OCI properly represents the impact of both indices on pavement performance.

A pavement treatment matrix is provided below outlining how the OCI rating corresponds to potentially needed repairs:

		Asphalt Surfaced Arterial-Collectors	Asphalt Surfaced Locals	Concrete
Overall Condition Index (OCI)	100			
	80	Very Good	Defer Maintenance	Defer Maintenance
			Crack Seal & Asphalt Rejuvenator	Crack & Joint Sealing
	60	Good	Thin Overlay	
	40	Fair	Resurfacing	Concrete Pavement Repairs
	20	Poor	Resurfacing with Basic Base Repairs	Full-Depth Repairs & Asphalt Overlay
0		Very Poor	Resurfacing with Major Base Repairs	Reconstruction with Asphalt Pavement
		Reconstruction with Asphalt Pavement		

Roles and Responsibilities

Role	Responsibilities
Mayor and Urban County Council	Establish and adopt annual budget for pavement management activities.
Urban County Council	- Analyze data, establish priorities, and recommend annual paving projects for Local Class Roads to EQPW Commissioner's Office by October 15th of each year. - Review plan annually in EQPW Committee.
Commissioner, Environmental Quality & Public Works	- Provide general oversight of administrative operations of pavement management process. - Coordinate with council offices. - Monitor quality control issues and EQPW compliance with this Pavement Management Plan.
Commissioner, Finance	Provide guidance to Mayor and Urban County Council regarding annual budget for pavement management activities.
Director, Streets & Roads	- Establish construction project schedule. - Establish weekly coordination meetings with contractor during construction to include relevant staff from Streets & Roads, EQPW Commissioner's office and Traffic Engineering.
Administrative Officer, EQPW Commissioner's Office	- Maintain pavement management dataset of record. - Update data annually at a minimum to reflect segments paved/treated. - Distribute data to each Council District by August 15th of each year. - Analyze data and utilize pavement management software to guide project recommendations for Major/Minor Arterials and Collectors. - Develop maps showing planned paving projects in Fayette County. - Ensure that quality control of data has been performed and is documented. - Provide quarterly budget status updates to Council. - Keep Council Districts informed of paving schedule and relevant changes.

Role	Responsibilities
Director, Traffic Engineering	Reviews proposed paving projects and identifies pavement marking changes. Changes are documented and sent to Director, Streets & Roads for coordination with contractor.
Director, Engineering	Reviews proposed paving projects and identifies conflicts with roadway capital projects and local utility company projects. Conflicts are documented and sent to Director, Streets & Roads and Commissioner EQPW for review.
Director, Water Quality	Reviews proposed paving projects and identifies conflicts with DWQ capital projects. Conflicts are documented and sent to Director, Streets & Roads and Commissioner EQPW for review.
Bicycle and Pedestrian Coordinator	Reviews proposed paving projects and identifies opportunities for bicycle lane and crosswalk markings. Changes are coordinated with the Division of Traffic Engineering and sent to Director, Streets & Roads for coordination with contractor.
Geographic Information Systems (GIS)	• Responsible for providing new roadway segments to EQPW Administrative Officer by February 1st of each year. • Responsible for GIS data quality control.
Paving Contractor	• Meet project schedule established by Director, Streets & Roads. • Attend weekly coordination meetings during construction. • Provide project list for distribution. • Advertise paving on roadways 48 hours in advance.

Calendar Year Paving Timeline

- **Late February/Early March** – Council Members and/or Aides meet with EQPW for updates and review of paving priorities
- **April 1** – Paving begins
- **August 15** – Data distributed to Council District offices from EQPW
- **October 15** – Priority paving list are submitted to EQPW for vetting
- **Mid-December** – Paving plants close for the season

Annual Budget Allocations

Fiscal year budget allocations are recommended as a percentage of the total paving budget, based on roadway functional classification with 10% of total funding reserved for maintenance. Whenever possible, the utilization of operating funds is preferable to bonded dollars for resources related to the routine paving and maintenance of Lexington-Fayette County roadways.

Budget Category by Functional Classification*	Budget Allocation
Major/Minor Arterials, Service/Industrial Roads	25%
Collectors	25%
Local Roads	40%
Preventative Maintenance	10%
TOTAL	100%

** Funds may be allocated for ADA ramp construction on roads not included on a project list*

Process for Development of Priority Projects Lists

Process Step	Description
1	EQPW distributes data, including cost estimates and OCI scoring, with color-coded mapping.
2	Council Offices develop a priority paving project list using the following tools: 1. Data – Segments that have the lowest Overall Condition Index (OCI) score are in the worst condition. Segments with an OCI score greater than or equal to 60 are unlikely to warrant repaving. 2. Reported Field Observations – Reports by constituents, field observations by staff, and/or areas with a high number of wet weather crashes can provide additional insights into project prioritization. 3. Mapping – Color-coded maps help identify and group contiguous segments with OCI scores less than 60. a. Segments with an OCI of 0 – 19 are in the worst condition and color-coded as red. b. Segments with an OCI of 20-39 are color-coded as orange c. Segments with an OCI of 40-59 are color-coded as yellow d. Segments with an OCI of 60-79 are color-coded as light green and are unlikely to need repaving e. Segments with an OCI of 80-100 are color-coded as dark green and are unlikely to need repaving
3	Council Offices develop a priorities list with a total cost estimate equal to a minimum of 200% of available funding. If there are concerns with determining prioritization, consult with EQPW staff as needed for further analysis regarding weighing projects.
4	Council Offices submit project lists to EQPW Administrative Officer for review and coordination activities.
5	Streets & Roads staff cross-check proposed priority lists with internal and external partners. Projects are reviewed for pavement marking changes.
6	Streets & Roads staff provide project lists to contractor for implementation.
7	Contractor provides lists of work to be completed for distribution.

RESOLUTION NO. _____ - 2023

A RESOLUTION DIRECTING THE ADMINISTRATION TO INCLUDE FIFTEEN (15) MILLION DOLLARS IN THE BUDGET FOR THE PAVEMENT MANAGEMENT PLAN ANNUALLY BEGINNING IN FY 2024.

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

Section 1 - That the administration include fifteen (15) million dollars in the budget for the pavement management plan annually beginning in FY 2024.

Section 2 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

RESOLUTION NO. _____ - 2023

A RESOLUTION AUTHORIZING COUNCIL ACCEPTANCE OF THE PAVEMENT MANAGEMENT PLAN.

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

Section 1 - That the Pavement Management Plan, which is attached hereto and incorporated herein by reference, be and hereby is accepted.

Section 2 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

Environmental Quality & Public Works

Referral Item	Current Sponsor	Date Referred	Last Presentation	Status	Legistar File ID
1 Process for Road Closures	D. Sevigny	August 16, 2022			
2 Sevierville Waste Digesters	L. Sheehan/Sevigny	March 29, 2022	May 3, 2022		0445-22
3 Solid Waste Trash Compactors	D. Gray	August 22, 2017			
4 Explore Lexington's Sustainability Options	L. Sheehan	February 20, 2018	May 31, 2021	May 23, 2023	0499-21
Annual / Periodic Updates					
5 Recycling General Practices	P. Worley	March 9, 2021	January 13, 2021		0292-19
* Note several recycling items were combined into this one item on March 9, 2021					
6 Backyard Composting - Home Compost Pilot Program	H. LeGris	February 2, 2021	February 1, 2022	May 23, 2023	0500-21
7 Urban Forestry / Street Trees Update	H. LeGris	September 17, 2019	July 5, 2022		0501-21
8 Capacity Assurance Program (CAP) Audit Update	L. Sheehan	August 30, 2018	October 6, 2020	April 18, 2023	0964-20
9 Annual Energy Improvement Fund Update	L. Sheehan	January 10, 2017	June 7, 2022		0572-22
10 Annual Snow/Ice Removal Plan	L. Sheehan	February 15, 2014	October 11, 2022		1034-22
11 Annual Pavement Management Plan / Curbs Assessment	L. Sheehan	May 26, 2020	May 3, 2022	April 18, 2023	0440-22
12 Annual Stormwater Priority List Update	L. Sheehan	February 20, 2018	September 13, 2022		0922-22
13 Annual Municipal Separate Storm Sewer System (MS4) Program Update	L. Sheehan	February 20, 2018	November 1, 2022		1122-22
14 Annual Consent Decree and Remedial Measures Plan Update	L. Sheehan	January 22, 2019	March 1, 2022		0222-22
15 Annual Division and Program Review (Pilot Program)	L. Sheehan	November 30, 2021	November 1, 2022		0127-22
Subcommittees					
16 Paving Management Plan Subcommittee	F. Brown	May 3, 2022		April 18, 2023	0924-22

Updated 02.07.23, KJT