



COUNCIL COMMITTEE REPORT

Public Utilities Committee

Date: April 15, 2015

Agenda Item #: 5

Agenda Item: Watershed Protection Department briefing, public comment, and possible Committee action on proposed amendments to City Code Chapter 15-2 relating to the drainage charge.

Vote: Approved unanimously 4-0

Original Sponsors/Department: Watershed Protection Department

Summary of Discussion:

Victoria Li, Director of the Watershed Protection Department (WPD), introduced a short video explaining the relationship between stormwater runoff and the percentage of impervious cover on a property. The video was shown.

The Committee inquired about the related lawsuit and Senior Attorney Mitzi Cotton of the Law Department provided an overview. She stated that the restructuring of the drainage fee is not a direct result of the lawsuit and that staff had been contemplating it before the lawsuit. She also added that a restructuring of the fee so that it more precisely reflects each property's contribution will moot the pending appeal of the lawsuit.

Craig Bell, Advertising & Outreach Coordinator for WPD, delivered a presentation on WPD's proposal to revise how the drainage fee is calculated and assessed, including the proposal to assess the fee on a singular property owner when the property includes multiple tenants (whether commercial or residential). The presentation included an overview of the history of the drainage charge and the programs and efforts it has funded, the goals of the effort to revise the methodology, the methodology itself, sample scenarios and calculations of charges if the methodology is revised, and the proposed schedule for Council consideration

During and after the presentation, Committee members posed a variety of questions and discussion was had between Committee members and staff. For example, Council Member Zimmerman inquired about the history of increases in the drainage charge and the projects it funded, pointed out complexities with modeling impacts, and offered remarks about the impact of the fee on affordability. He noted that restructuring of the fee made sense but posed the question of whether staff had a method by which to reduce fees and asked how that could be done.

Council Member Kitchen concurred with Council Member Zimmerman's concern about affordability. She inquired about the process and schedule, particularly in regards to knowing the base rate/revenue requirements of WPD that will be used in the calculation in order to evaluate any proposed methodology for calculating the fee. Council Member Garza concurred.

In response, Assistant City Manager Robert Goode explained that the purpose of the briefing was for WPD to brief the Committee on the methodology, and that the fee itself would be discussed as part of the budget process. He stated that he understood though why the Committee wanted to combine discussion of

the two items. Council Member Kitchen added that the methodology in isolation does not tell the Committee about the impact on affordability.

Council Member Kitchen also inquired about the impact of Council taking more time for consideration. Mr. Bell noted that the schedule was already tight but Ms. Li stated that she thought staff could provide further information about the base rate quickly and that staff would send a memo summarizing those details.

Council Member Troxclair inquired about the impact on small businesses, particularly like some of those in District 8 that were built when higher levels of impervious cover were allowed, and the notification process. She requested further sample scenarios of what the drainage charge would be for the same size house on lots of varying sizes. She noted the importance of the investments funded by the drainage fee but echoed Council Member Zimmerman's request for information about how the fee has grown since its inception and what the funds have been used for.

Council Member Garza noted that she has concerns about why City cannot bill tenants directly and the possibility that property owners might arbitrarily bill tenants. She and staff discussed the challenges of the City billing each tenant directly, which includes the difficulty for the City to determine how much each tenant uses, whether in terms of square footage or parking spaces, for example. Additionally, Ms. Li noted that the City loses revenue when a tenant moves and an electric account is terminated, though the impervious cover remains, these cost are then spread to the general public. Council Member Garza inquired about allocation by square footage, and Council Member Zimmerman noted that a shopping center may be 50% vacant but impervious cover still exists, which serves as motivation for collecting revenues from a singular property owner.

Prompted by Council Member Kitchen, the Committee discussed when a public hearing would be held, and noted that staff had proposed Council action on May 21. Given this, Council Member Zimmerman motioned that the Committee conduct a public hearing on May 20 and all voted in favor. However, Mr. Bell clarified that statute requires a public hearing conducted by the full City Council. The Committee then expressed a desire to not conduct duplicate hearings and, upon Council Member Zimmerman's motion, the Committee voted to not conduct a public hearing on May 20.

Council Member Garza asked the Committee about whether they wanted to send a recommendation to Council on the methodology. Council Member Kitchen noted that she was not prepared to do such.

Council Member Garza handed over the chairmanship duties to Council Member Zimmerman and motioned that staff provide options on how the drainage charge could be allocated based on the square footage of each tenant given concerns that, for example a tenant in a 500-square foot apartment could be charged the same as one in a 2000-square foot apartment. Ms. Li replied that WPD would provide options. Ms. Cotton added that staff could work with council members to prepare a motion sheet for Council action if desired. Council Member Troxclair seconded the motion. The Committee approved the motion unanimously on a 4-0 vote.

In closing the item, Council Member Garza:

- (1) Clarified that the motion was to
 - a. Send the item back to Council for a public hearing on May 21 and
 - b. Request options from staff; and
- (2) Noted that the Committee was not recommending any methodology at this time but only requesting options.

Public Comments:

For the Item: David King, spoke

Neutral: Marion Mlotok, spoke
Against: Mark Walters, spoke
Unspecified: Stuart Hersh, spoke

Direction:

Council Members Zimmerman and Troxclair requested additional information about how the fee has grown since its inception and what the funds have been used for.

Council Member Troxclair requested further sample scenarios of what the drainage charge would be for the same size house on lots of varying sizes.

The Committee unanimously approved the motion that staff provide options on how the drainage charge could be allocated based on the square footage of each tenant.

Recommendation:

The Committee unanimously approved the motion that

- Staff provide options on how the drainage charge could be allocated based on the square footage of each tenant, and
- The item is sent back to Council for a public hearing on May 21.