

RULES AND PUBLIC POLICY COMMITTEE

DATE: May 25, 2010

CALLED TO ORDER: 5:30 p.m.

ADJOURNED: 6:20 p.m.

ATTENDANCE

ATTENDING MEMBERS

Robert Lutz, Chairman
Bob Cockrum
Angela Mansfield
Michael McQuillen
Angel Rivera
Joanne Sanders
Ryan Vaughn

ABSENT MEMBERS

Monroe Gray

AGENDA

PROPOSAL NO. 149, 2010 - amends the Code to add and amend various chapters related to license and permit fees to be collected by the department of code enforcement pursuant to a cost analysis study determining the cost of the services underlying these fees to the department
"Do Pass As Amended" Vote: 6-1

PROPOSAL NO. 150, 2010 - amends the Code to amend the schedule of license, permit, inspection and administrative fees to be collected by the department of code enforcement pursuant to a cost analysis study determining the cost of the services underlying these fees to the department
"Strike" Vote: 7-0

RULES AND PUBLIC POLICY COMMITTEE

The Rules and Public Policy Committee of the City-County Council met on Tuesday, May 25, 2010. Chairman Robert Lutz called the meeting to order at 5:30 p.m. with the following members present: Bob Cockrum, Angela Mansfield, Michael McQuillen, Angel Rivera, Joanne Sanders and Ryan Vaughn. Monroe Gray was absent. Councillor Dane Mahern was also in attendance. General Counsel Robert Elrod represented Council staff.

Chairman Lutz asked Committee members to introduce themselves and indicate which portion of the County they represent.

Chairman Lutz asked for consent to hear Proposal Nos. 149 and 150, 2010 together. Councillor Vaughn moved to "Amend" Proposal No. 149, 2010 as per a handout he distributed to members, to combine the two proposals into one proposal by inserting all of Proposal No. 150, 2010 into Proposal No. 149, 2010. Councillor McQuillen seconded the motion, and Proposal No. 149, 2010 was amended by a vote of 7-0.

PROPOSAL NO. 150, 2010 - amends the Code to amend the schedule of license, permit, inspection and administrative fees to be collected by the department of code enforcement pursuant to a cost analysis study determining the cost of the services underlying these fees to the department

Councillor Vaughn said that, having amended Proposal No. 150, 2010 into Proposal No. 149, 2010, there is now no need to discuss Proposal No. 150, 2010. He moved, seconded by Councillor McQuillen, to send Proposal No. 150, 2010 to the full Council with the recommendation that it be stricken. The motion carried by a vote of 7-0.

PROPOSAL NO. 149, 2010 - amends the Code to add and amend various chapters related to license and permit fees to be collected by the department of code enforcement pursuant to a cost analysis study determining the cost of the services underlying these fees to the department

Rick Powers, Director of the Department of Code Enforcement (DCE), introduced Deputy Directors Nicole Randol and Emily Mack; Chief Financial Officer (CFO) and Administrator of the Bureau of Administration and Financial Services, Janice Mitchell; and Adam Collins, formerly with the Office of Corporation Counsel (OCC) and new Administrator of the Bureau of License and Permit Services. Mr. Powers stated that a recurring theme at Mayor Gregory Ballard's neighborhood "Night Outs" was the confusing code enforcement process. Mayor Ballard directed DCE to streamline the process and provide tangible results. He said that before DCE was created, multiple

entities were charged with code enforcement, and each entity had its own mission, priorities, budget, systems and board. The creation of DCE in 2010 allowed other departments, such as the Department of Public Works (DPW), to focus more on their core functions, like infrastructure, trash collection and snow removal. Mr. Powers stated that the department was created to be a fully fee-supported department, funded through permit, license and compliance fees; and the following functions were transferred to DCE:

- Department of Metropolitan Development (DMD) Division of Compliance
- Office of Finance and Management (OFM) Licensing Division
- Department of Public Safety (DPS) Division of Weights and Measures
- DPS and DPW Towing
- DPW High Weeds and Grass
- DMD Management of unsafe building program
- DPW illegal dumping enforcement
- Parts of the Office of Environmental Services (OES) from DPW
- Parts of Forestry regulations from the Department of Parks and Recreation (DPR).

Mr. Powers stated that DCE does not license general businesses like stores contained within malls, but does regulate 27 business licenses, as follows:

- Adult Entertainment
- Massage Parlor and Massage Therapist
- Nude Model
- Escort Services and Escort
- Dance Hall
- Amusement Location
- Secondhand Motor Vehicle
- Salvage/Scrap Metal Dealers
- Pawn Brokers
- Sound Truck
- Refuse Hauler
- Groomer/Kennel/Pet Store/Stable
- Hotel/Motel
- Taxi Driver and Taxi Owner
- Coachman Business
- Sidewalk Café
- Commercial Parking Facility
- Horse-Drawn Carriage
- Cart Vendor
- Pedal Cab
- Transient Merchant

- Public Pay Phone
- Alarm Company
- Fire Prevention Business/Serviceperson

Mr. Powers said that DCE was created to help protect the taxpayer from increasing property insurance rates, shift the costs for services from taxpayer subsidies to user fees, and to implement effective enforcement measures, which have in the past been strained due to a decentralized code enforcement structure. He referred to other cities, such as Dallas, Gainesville, Philadelphia, Sacramento and Tampa, which have also streamlined their code enforcement process. He referred to several accomplishments of DCE to date, such as with regard to high weeds and grass call-to-cut time, massage parlor regulation, hotels and motels, unlicensed dance halls, taxis, environmental services, nuisance abatement, and zoning. He added that they have taken steps to increase building safety and improve the City's insurance rating, which affects more than 387,000 homeowners, more than 24,000 business owners, and approximately \$55 billion of gross assessed value of real property by adding staff, improving the inspection rate, requiring mandatory certification, establishing pre-permit reviews, and launching a fully mobile field staff. Mr. Powers said that, realizing that current fees did not support effective business licensing, DCE completed a fee analysis, with the help of Milliman, an actuarial and consulting firm, to determine the appropriate costs for service-related functions for the new fee-supported department. He said that a fee-based funding approach will not fiscally impact the average citizen, and will shift the cost of services from the general taxpayer to the user, so that vital services and quality of life issues are addressed without using tax dollars. Mr. Powers reviewed proposed construction permit comparison costs showing Indianapolis far below other cities like Columbus, Philadelphia, Detroit and San Francisco, and competitive with surrounding cities such as Carmel, Brownsburg, Greenwood and Noblesville. He added that they are applying the Milliman financial tool to continue to assess costs for services, and have conducted nearly 100 meetings with stakeholders from businesses, construction industries, neighborhood leaders and Councillors.

Mr. Powers stated that this proposal, as amended, will provide a phased-in implementation, with 50% going into effect August 1, 2010, and the remaining increase effective January 1, 2011. He reviewed other key aspects of the proposal:

- Development of a pre-payable citation for work performed by an unlicensed/unregistered/unlisted contractor of \$250
- Development of a general services permit for electrical, HVAC (heating, ventilation and air condition) and plumbing work
- Development of a 50% discount for "green" building permits
- Updating licenses so they consistently have a single-year term that begins from the date of issuance
- Removal of pro-rating of business license fees, which will no longer be necessary with a term that begins from the date of issuance
- Removal of the sound truck license, which has become obsolete

- Removal of the second-hand auto dealer license, which is pre-empted by the State of Indiana
- Streamlining the sidewalk café regulation by removing this as a specific license type and including it in the existing encroachment license
- Development of an accelerated Class 1 plan review similar to the existing accelerated infrastructure plan review and inspection services for those organizations that choose to use this option.

Mr. Powers said that, additionally, they intend to re-introduce a 50% discount for the Improvement Location and Sign Permits for 501(c)3 non-profit organizations. Mr. Powers indicated various stakeholders involved in this process who support the proposal and asked the Committee for their support, as well.

Councillor McQuillen said that he appreciates all of the time Mr. Powers and his staff have put into these proposed changes. He said that there are many components, and he referred to the enforcement of massage parlors and illegal dance halls, which have become harbingers for prostitution, drugs and criminal activity. He asked how the new enforcement fees serve as a tool to help combat those issues. Mr. Powers said that the new enforcement fee schedule will add resources to the process in finding those illegal activities. He said that many of these entities do not advertise in the normal way, and therefore, finding them was sometimes an issue. With the new enforcement tool, they will have more resources to find them online or through neighborhood relationships. He said that one of the most important portals is DCE's relationship with the Indianapolis Metropolitan Police Department (IMPD), and these fees will help put checks in place and fund staff to do these types of investigations.

Councillor Sanders asked how, short of a neighbor calling in a complaint, the department will be able to get a handle on unlicensed contractors. Mr. Powers said that, besides neighbors, other contractors will call in these types of activities. He said that they also hear from those people who have been victimized by an unlicensed contractor. He added that they plan to provide education to help people find licensed contractors. Mr. Powers stated that the mobile office of inspectors will be a huge tool in combatting this problem, and with the right to write citations, if they come upon a vehicle outside of a construction site that comes up as unlicensed when running their license plate, they can issue a citation on site.

Councillor Vaughn asked Mr. Powers to explain why a local plan review process is needed, and if it is duplicative of what the state is doing. Mr. Powers said that in 2003, they underwent a study by the Insurance Services Office (ISO), which is a national standard for establishing insurance risk ratings, and Indiana did not fare well as a state, nor did Indianapolis. One of their findings in the study was that the city did not perform a commercial review, which the city then rebutted because they found a local review to be redundant in light of the state's review. The ISO responded that the state does not perform a credible plan review, and the city's rate was therefore not changed. In fact, they gave the city no rating, which is actually worse than a low rating. Mr. Powers said

that since that time, the city has been considering its options. To date, the state has not volunteered to be rated by the ISO. Therefore, the city was faced with the choice of another rate increase because of non-compliance or implementing a local review to mitigate insurance rates. He added that approximately 400,000 pieces of real property in Marion County are affected by this insurance rating. Chairman Lutz asked if this local plan review will then lead to a decrease in insurance rates for commercial buildings. Mr. Powers said that the ISO calls it a discount, meaning that the better the city does, the more credit they receive in the risk analysis. He said that he does not know if an insurance provider would actually reduce their rates, but they have found that they hold them level. Councillor Vaughn said that he called the ISO office in Chicago to ask them about the situation. The way it was explained to him was that the state is currently not rated because they do not perform the minimum standard level of review. If the city performs that minimum standard at a local level, they can achieve a rating between one and ten, one being the best and ten being the minimum. If the city scores between one and four, insurance providers in the area can offer a 4.5% discount credit to their customers as a competitive tool. The credit is 2% with a rating between four and eight, and 1% between eight and ten. By establishing this local plan review, the city is allowing insurance providers to offer the credit as a marketing tool.

Chairman Lutz said that one of his concerns has been to insure that the costs being charged for licensing and permitting were directly related to the service provided and time spent in processing these licenses. Mr. Powers said that Melliman conducted a very comprehensive study. He said that he has worked in several government capacities, and has never seen an actuarial tool actually left with the governmental entity by the actuary consultant, which helps them to continue to produce data on an ongoing basis and budget within a quarter hour for every process and review they do within the department. He said that this tool allows them to produce a snapshot of what they are spending to inspect or review, what they are spending on overhead, what inflationary impacts are, and what indirect costs, such as legal fees and fuel, are. He said that in discussions with stakeholders, they realized they did not need to inspect every single thing every single time. He said that where there is crime, environmental violations or non-compliance, it becomes a more resource-intensive area, and inspections and review will be performed more frequently. He said that the Melliman tool allows them to allocate costs per license, permit or abatement, and per process within the license, permit or abatement.

Councillor Vaughn asked if this updated fee schedule is completely self-sustaining and these processes are no longer subsidized by tax dollars. Mr. Powers responded in the affirmative and said that there are no tax dollars augmenting DCE's budget, and their 2010 budget is the 2009 budget of the Division of Compliance. However, extra duties have moved, and they have been working to fund those duties since the beginning of the year, and that is the reason for this proposal.

Councillor Sanders asked why this was originally submitted in two separate ordinances and asked if the figures are exactly the same in the new amended version as what was

introduced in Proposal No. 150, 2010. Mr. Collins said that when they initially drafted the ordinance proposal, there was some concern regarding how some of the fees in the first table were figured, such as moving from a variable fee to a flat fee. He said that the second ordinance was drafted to properly reflect the new language, and there was some question about whether this new language could be referred to without first acting on the other proposal. He said that it was submitted as two proposals, because the second one would become effective only after adoption of the first. After further discussion with Assistant Corporation Counsel Mark Mertz, who has drafted many similar ordinances throughout his years with OCC, it was determined that it would not be a technical problem to consolidate the two and would actually make the process easier to understand. He said that the language from the second proposal was simply copied and pasted into the amendment, and is therefore the exact same language that was in the originally introduced Proposal No. 150, 2010.

Chairman Lutz called for public testimony.

Chris Boomershine, IMPD Criminal Investigations, said that IMPD has a better partnership with code enforcement than they have ever had, and in addition to costs incurred by the department, IMPD incurs other costs responding to alarm runs with regard to illegal activity. He said that IMPD supports this proposal and believes it will address several quality of life issues.

Chairman Lutz asked if an officer takes a run to an illegal dance hall, if they would issue a citation themselves or refer the matter to DCE. Officer Boomershine said that in many instances, their officers issue the citations directly, as there is only one investigator assigned to this area. He added that responding officers will, as well, refer the offenders to DCE to get licensed and inspected and become legal. Councillor Vaughn asked if anything about this proposal takes conduct that is legal and permitted and makes it illegal or criminal. Officer Boomershine responded in the negative.

Councillor Sanders asked if the costs incurred by IMPD were factored into the process when the actuarial crunched numbers to determine costs. Ms. Mitchell said that IMPD costs were not included. Mr. Powers said that they do, however, consider the role IMPD plays in renewing licenses. Councillor Sanders said that it would be nice to see what the IMPD costs are.

Susan Blair, president of the Pike Township Residents' Association (PTRA), said that PTRA supports this proposal and has seen a vast improvement in code enforcement under the direction of the new department. She said that she gets calls and e-mails all the time, with residents reporting violations to her instead of calling the Mayor's Action Center (MAC). A big advantage of the new system is that the code inspectors have their office in their actual vehicles, and the Pike Township inspector stays in Pike Township, which makes reporting easier. She added that this is long overdue, and believes they will see a much better city because of the creation of this new department, and this proposed fee structure will only enhance enforcement efforts.

Ruth Hayes, Nora Northside Community Council (NNCC) president, stated that NNCC unanimously supports this proposal. She said that they hold a monthly code compliance meeting, and enforcements and inspections have indeed improved with the new department.

Pat Andrews, vice president of the Marion County Alliance of Neighborhood Associations (MCANA), stated that they are great fans of Mr. Powers and the new DCE. She said that when the 2010 budget was figured, this department's budget was configured so that they would be supported by a fee-based structure. She said some decisions have already been made with regard to whether or not this department can function properly. She urged the committee to support the proposal, and said that even though some of these fees are less than the actual costs and will likely place some restrictions on their budget, MCANA wholeheartedly supports the proposal.

Jean Farris, Greater Indianapolis Chamber of Commerce, said that Mr. Powers has addressed several of their members' concerns, and they wholeheartedly support the initiative, understanding the position the city is in.

Councillor Sanders asked if the comparison numbers presented earlier with regard to permit costs per city were based on the old or new rates. Mr. Powers said that these charts used the proposed rates. Councillor Sanders asked if the actuarial software the department is now in possession of will be a tool they will use each year prior to budgeting to re-evaluate these fees. Mr. Powers responded in the affirmative and said that they will be able to present an actuarial model, but it will be up to the Council to ultimately approve or reject what they present.

Councillor Mansfield asked if it is their intent, then, to re-do the numbers each budget cycle to determine where the department is regarding self-sufficiency. Mr. Powers said that at the minimum, they hope to re-evaluate the fees every two years, factoring in inflation from the Consumer Price Index.

Guy East, chairman of the Mayor's Construction Action Team, stated that the construction industry representatives appreciate the level of excellence happening with this proposal and support the changes. He said that it is important that the value of the fees match the service provided. He said that 10 years ago, only 18% of inspections were actually being accomplished, and with the creation of this new department, they have seen a shift to 97% in completed inspections. He said that the construction industry is looking for an environment to be proud of, and the level of excellence provided by this new department is supported by their industry representatives.

Councillor Vaughn moved, seconded by Councillor Cockrum, to send Proposal No. 149, 2010 to the full Council with a "Do Pass As Amended" recommendation.

Chairman Lutz asked what number citizens can call with weed problems. Mr. Powers said that citizens should call 327-4MAC (4622). He said that they have an automated system in place, and inspections usually happen within one day, with action occurring within two weeks if compliance is not forthcoming. He said that if the city then performs the cutting service, and the property owner does not pay, they assess those costs against their taxes. Councillor Mansfield asked what the cost is per mow. Ms. Mitchell answered that the cost is currently \$291, and the proposed fee is \$353.

The motion to send Proposal No. 149, 2010 to the full Council with a "Do Pass As Amended" recommendation carried by a vote of 6-1, with Councillor Rivera casting the negative vote.

There being no further business, and upon motion duly made, the Rules and Public Policy Committee was adjourned at 6:20 p.m.

Respectfully Submitted,

Robert Lutz, Chairman

RL/ag