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Sanitary Sewer System Capacity Assurance Program (CAP)



CAP TASK FORCE
Lexington-Fayette Urban County
Government
Division of Water Quality

June 14, 2012

AGENDA

- Recommendations for Task Force
 - **Credit Banking Unit**
 - **Retroactive Date for Harvesting Credits**
 - **Use of Record / Removal of Connections**
 - **Essential Services**
- June 28th Meeting



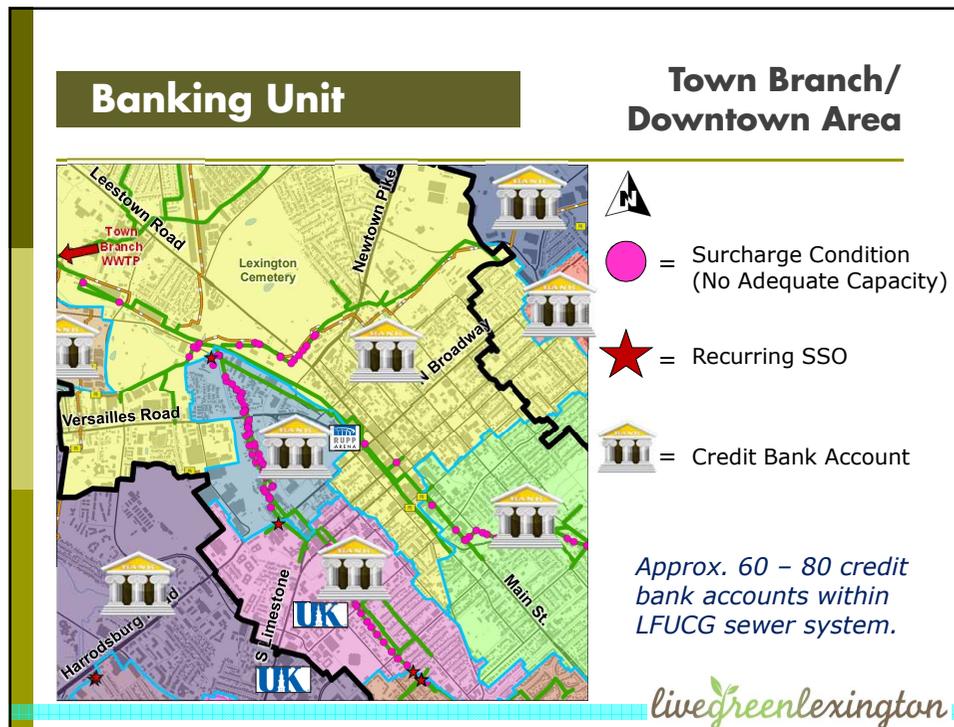
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Decision Item	Task Force Action Needed
<h1>Credit Banking Unit</h1>	
	

Credit Banking Unit	Concept
<ul style="list-style-type: none"><li data-bbox="386 1293 1273 1368">❑ If capacity cannot be certified, then a banked credits system may be used in lieu of certification.<li data-bbox="386 1395 1273 1506">❑ Credits are earned by improvements to LFUCG's sanitary sewer system. Earned credits can be used to offset flow from new connections.<li data-bbox="386 1534 1273 1644">❑ Banking Unit is the defined area(s) within the sanitary sewer system where credit transactions are recorded.<li data-bbox="386 1672 1273 1825">❑ Where capacity cannot be certified, new connections can only be offset with credits earned <u>in the same banking unit</u> that the new connection is located.	
	

Credit Banking Unit	Considerations
<ul style="list-style-type: none"> ❑ Other community models: <ul style="list-style-type: none"> ■ Louisville MSD banks at major Catchments. ■ Cincinnati MSD banks at SSO locations. ■ Knoxville Utilities Board banks are dynamic and defined as everything upstream of the new connection. ❑ Considerations: <ul style="list-style-type: none"> ■ Administrative effort to implement. ■ Potential to worsen existing SSOs or create new ones. ■ Transparency and ability to effectively communicate, comprehend, and implement. 	
	
	

Credit Banking Unit	Recommendation
<ul style="list-style-type: none"> ❑ Recommendation from DWQ/CAP Consultant <ul style="list-style-type: none"> ■ Banking unit at SSO locations. <ul style="list-style-type: none"> ❑ Cincinnati MSD model ❑ Good balance between accountability and affordability ■ SSO clusters will be a single bank. <ul style="list-style-type: none"> ❑ Bank at downstream SSO in cluster ❑ Avoids "sliver" banks ■ Additional bank defined at each treatment plant and major pump station. ■ Additional bank defined if trunk sewer has surcharge condition but there is no downstream SSO. <ul style="list-style-type: none"> ❑ Necessary to meet Consent Decree requirements ❑ Avoids worsening capacity limited trunk sewers 	



Credit Banking Unit

Outcome

Recommendation No. 1: Credit Banking Unit.

Bank accounts at SSO locations, treatment plants, major pump stations, and capacity limited trunk sewers.

▣ **Task Force Action**

- Disposition
- Council action required?
Yes (part of implementing ordinance)

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Decision Item	Task Force Action Needed
<h1>Credit Harvest Date</h1>	
	

Credit Harvest Date	Concept
<ul style="list-style-type: none"><li data-bbox="394 1327 1268 1442">□ The Credit Harvest Date is the retroactive date that LFUCG can earn credits for completed sewer improvements.<li data-bbox="394 1470 1268 1585">□ Sewer improvements completed after the Credit Harvest Date will earn credits that can be added to credit bank accounts.<li data-bbox="394 1613 1268 1721">□ DWQ has aggressively been performing improvements to its sewer system since the Consent Decree (CD) lodged in March 2008.	
	

Credit Harvest Date	Considerations
<p>CD Section VII, Paragraph 16.B. (iii)(i), page 48 <i>“LFUCG may use a banking credit system for projects completed <u>after the Effective Date of this Consent Decree</u>”</i></p>	
<ul style="list-style-type: none">□ When CD written, it was not anticipated that there would be 3 year delay between the lodge and effective dates (January 3, 2011).□ The credit harvest date for other communities (Cincinnati and Knoxville) is prior to the effective date of their respective CDs.	
	

Credit Harvest Date	Recommendation
<ul style="list-style-type: none">□ Recommendation from DWQ/CAP Consultant	
<ul style="list-style-type: none">■ Subject to EPA approval, authorize LFUCG staff to pursue changing Credit Harvest Date identified in Consent Decree.■ Unlikely will be able to earn credits for improvements made prior to Consent Decree lodging (March 2008).	

Credit Harvest Date	Outcome
<p><u>Recommendation No. 2: Credit Harvest Date.</u> <i>Authorize staff to communicate with EPA in order for LFUCG to receive credit for sanitary sewer improvements made between when the Consent Decree was lodged and entered.</i></p>	
<p>□ Task Force Action</p> <ul style="list-style-type: none">■ Disposition■ Council action required? Yes (Resolution)	

Decision Item	Task Force Action Needed
<p>Use of Record</p>	
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Use of Record	Concept
<ul style="list-style-type: none">□ New connections will require a capacity or credit allocation.□ Capacity/credit allocation need is based on the proposed flow increase from the planned development/redevelopment.□ CAP requirements applicable to increases in flow to sanitary sewer system.□ Use of Record refers to the sewage flow from the property already accounted for in the hydraulic model (baseline condition).	

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Use of Record	Considerations
	<ul style="list-style-type: none"> ❑ In other communities (Cincinnati, Knoxville) the unearned capacity is retained with the property. ❑ Can be used by property at a future date. ❑ Credits earned from a change in property use were earned with private dollars. ❑ Loss of unused capacity by the property to the public credit bank could be considered a <u>partial taking</u>.

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Use of Record	Recommendation
<ul style="list-style-type: none"> Recommendation from DWQ/CAP Consultant 	<ul style="list-style-type: none"> Any credits earned from unused capacity resulting from redevelopment of a property to a usage that generates less flow to the sanitary sewer system will be retained by the property. Credits earned in this manner will not expire and may only be used by the property owner. Property owner may be permitted to use unused credits on another property if owned by the same property owner and located within the same credit bank. Property owner may release these credits to the public credit bank.

Use of Record	Outcome
<ul style="list-style-type: none"> Task Force Action 	<div style="border: 1px solid #000080; padding: 5px; margin-bottom: 10px;"> <p style="text-align: center; margin: 0;"> <u>Recommendation No. 3: Use of Record.</u> <i>Credits earned from redevelopment to a lesser sewer use will be retained with the property unless released by property owner.</i> </p> </div>
<ul style="list-style-type: none"> Disposition Council action required? Yes (part of implementing ordinance) 	

Decision Item	Task Force Action Needed
<h1>Essential Services</h1>	
	

Essential Services	Concept
<ul style="list-style-type: none">□ CD includes provision for those facilities that are deemed essential to connect to public sewer even if adequate capacity can not be certified or there are not enough banked credits available to offset the proposed flow increase.□ Withdrawal from credit bank still taken.□ CD defines these Essential Services as:<ul style="list-style-type: none">■ Health care facilities■ Public safety facilities■ Public schools■ Illicit connections (septic tank removals, etc.) <i>Fayette County Health Dept. approval required.</i>■ Other facilities as agreed upon in writing by EPA and EPPC.	

Essential Services	Considerations
<ul style="list-style-type: none"> <li data-bbox="378 463 979 502"> □ Knoxville Utilities Board (KUB) <ul style="list-style-type: none"> <li data-bbox="435 527 1105 557">■ Similar Essential Services definition in their CD. <li data-bbox="435 570 1149 629">■ Have not issued a CAP denial to any proposed new connection. <li data-bbox="378 655 688 693"> □ Louisville MSD <ul style="list-style-type: none"> <li data-bbox="435 710 1105 740">■ Similar Essential Services definition in their CD. <li data-bbox="435 753 1182 812">■ Implementation decision to not provide exception for Essential Services at this time. <li data-bbox="378 838 696 876"> □ Cincinnati MSD <ul style="list-style-type: none"> <li data-bbox="435 893 1078 923">■ Only septic conversions identified in their CD. 	
	

Essential Services	Recommendation
<ul style="list-style-type: none"> <li data-bbox="378 1293 1021 1366"> □ Recommendation from DWQ/CAP Consultant <ul style="list-style-type: none"> <li data-bbox="427 1383 1138 1455">■ Allow the CAP exception for essential services provided in CD. <li data-bbox="427 1468 915 1506">■ Define health care facilities as: <ul style="list-style-type: none"> <li data-bbox="475 1519 1149 1549">□ KRS 216.510 definition for "Long-term care facilities" <li data-bbox="475 1553 1192 1583">□ Licensed by the Commonwealth's Division of Health Care <li data-bbox="475 1587 841 1617">□ Must possess a valid license <li data-bbox="427 1630 824 1668">■ Define public schools as: <ul style="list-style-type: none"> <li data-bbox="475 1681 1146 1710">□ Must be a registered non-profit in tax code 501(c)(3) <li data-bbox="475 1715 961 1744">□ Same definition used by Tap-On Desk <li data-bbox="475 1749 967 1779">□ Must be able to produce tax certificate 	

Essential Services	Outcome
<p><u>Recommendation No. 4: Essential Services.</u> <i>Allow exception in CD for Essential Services. Health care facilities must meet KY Division of Health Service definition. Public schools must meet 501(c)(3).</i></p>	
<p>□ Task Force Action</p> <ul style="list-style-type: none"> ■ Disposition ■ Council action required? Yes (part of implementing ordinance) 	

MEETING SCHEDULE	Next Meeting								
<p>□ Location: Council Chambers</p> <p>□ Time: 9 am – 11 am</p> <p>□ Future Dates:</p> <table border="0"> <tr> <td>■ June 14th</td> <td>■ August 9th</td> </tr> <tr> <td>■ June 28th</td> <td>■ August 23rd</td> </tr> <tr> <td>■ July 12th</td> <td>■ Sept. 6th</td> </tr> <tr> <td>■ July 26th</td> <td>■ Sept. 20th</td> </tr> </table>		■ June 14th	■ August 9 th	■ June 28 th	■ August 23 rd	■ July 12 th	■ Sept. 6 th	■ July 26 th	■ Sept. 20 th
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