Lexington-Fayette Urban County Government Council Meeting

Lexington, Kentucky   October 14, 2010

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in regular session on October 14, 2010 at 7:00 P.M. Present were Mayor Newberry in the chair presiding, and the following members of the Council: Council Members Lawless, Martin, McChord, Myers, Stinnett, Beard, Blues, Crosbie, Ellinger, Feigel, Gorton, Gray, Henson, James and Lane.

The reading of the Minutes of the previous meeting was waived.

Ordinances No. 160-2010 thru 164-2010 inclusive and Resolutions No. 493-2010 thru 520-2010 inclusive were reported as having been signed and published, and were ordered to record.

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The Invocation was given by Ms. Zina Merkin, SGI-USA Buddhist Community, and member of the Interfaith Alliance of the Bluegrass.

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The Mayor recognized the delegation from Lexington's City Sister, County Kildare, Ireland, and introduced Mayor Brendan Weld of County Kildare. Mayor Weld made remarks about their community and thanked Lexington for the invitation to visit. Mayor Weld made a presentation of a book about horses to Mayor Newberry. The Mayor thanked him for the gift, and presented a key to the city to Mayor Weld, as well as to each delegate.

The other delegates were introduced: Mr. Michael Malone, Ms. Anne Malone, Mr. Senan Griffin, Mr. Sean Cleary, Ms. Brenda Cleary, Mr. Tom Carberry, Ms. Marjorie Moore, and Mr. Peter O'Murchu.

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The Mayor introduced Ms. Crit Luallen, Kentucky State Auditor. Ms. Luallen introduced employees from her office, Mr. Brian Lykins, Director of Special Examinations, and Ms. Cindy James, Assistant State Auditor. Ms. Luallen made some opening remarks about the audit that her office had been asked to conduct regarding fraud allegations and procurement practices. She recognized Mr. Lykins to speak about the meeting that Ms. Lawless had with him on May 6, 2010.

Mr. Lykins gave a short statement. The Council asked questions of Mr. Lykins.

Mr. Beard asked a question regarding the date of receipt of a document pertaining to the investigation in the Council Clerk's Office. Ms. Susan Lamb, Clerk of the Urban County Council, stated that she would provide Mr. Beard with that information.

The Council and the Mayor continued to ask questions of Mr. Lykins, and of Ms. Luallen.

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An Ordinance authorizing the issuance of Cultural and Recreational Revenue Refunding Bonds, Series 2010A (Centenary United Methodist Church Project), in the authorized principal amount of $2,400,000 (the "Series 2010A Bond") and Cultural and

Recreational Revenue Refunding Bonds, Series 2010B (Centenary United Methodist Church Project), in the authorized principal amount of $1,100,000 (the "Series 2010B Bond") of the Lexington-Fayette Urban County Government, the proceeds of which shall be loaned to Centenary United Methodist Church, Inc. to finance the cost of the following: (I) Series 2010B Bond shall be used to refinance outstanding debt, including penalties and/or premiums, the proceeds of which were used to construct, install, renovate and equip certain capital improvements to the facilities of Centenary United Methodist Church, Inc., located at 2800 Tates Creek Rd., Lexington, Ky. 40502 (the "Main Campus"), including without limitation the construction of the Foundry, which consists of a Multi-Purpose Room used for fellowship and various instructional, cultural and recreational programs, and the installation of a new roof on the Main Campus, excluding, however, the Foundry, Sanctuary and Chapel; (II) Series 2010A Bond shall be used to refinance outstanding debt, including penalties and/or premiums, the proceeds of which were used to acquire approximately 100 acres located at 4701 Athens Boonesboro Rd., Lexington, Ky. 40509, which is used for athletic and recreational programs; and (III) to pay costs and expenses of issuance related to the foregoing, providing for the pledge of revenues for the payment of such Bonds, authorizing a Bond Purchase Agreement and a Loan Agreement appropriate for the protection and disposition of such revenues and to further secure such Bonds; recognizing the Bonds as qualified tax exempt obligations under I.R.C. §265(b)(3)(G) (i) and (ii); and authorizing other actions in connection with the issuance of such Bonds was on the docket for second reading with a public hearing being held.

The Vice Mayor opened the public hearing.

There being no one to speak, the Mayor closed the public hearing.

The ordinance was given second reading.

Mr. Ellinger asked a question of Ms. Linda Rumpke, Commissioner of the Dept. of Finance and Development, regarding the ordinance.

Upon motion of Ms. Crosbie, and seconded by Mr. Myers, the ordinance was approved by the following vote:

Aye: Lawless, Martin, McChord, Myers, Stinnett,
Beard, Blues, Crosbie, Ellinger, Feigel,
Gorton, Gray, Henson, James, Lane--------------15

Nay: --0

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An Ordinance amending Subsection 13-5(a) of the Code of Ordinances, Lexington-Fayette Urban County Government, to add the word initial and the term if otherwise required; creating Subsection 13-6(L) of the Code to exempt individuals and sole proprietorships from payment of the annual minimum license fee after initial licensure if their reported gross income is $4,400 or less; amending Section 13-9 of the Code to clarify the application of the minimum license fee, to require payment each year by no later than the due date for the filing of net profit returns with licensure valid for the calendar year in which payment of the fee was submitted, and to delete the requirements of obtaining a separate license for each location and the posting of said licenses was given second reading.

Upon motion of Ms. Crosbie, and seconded by Mr. Myers, the ordinance was approved by the following vote:

Aye: Lawless, Martin, McChord, Myers, Stinnett,
Beard, Blues, Ellinger, Feigel, Gorton,
Henson, James, Lane--------------------------------13

Nay: Crosbie, Gray---2

* * *

The following ordinances were given second reading. Upon motion of Ms. Crosbie, and seconded by Mr. Myers, the ordinances were approved by the following vote:

Aye: Lawless, Martin, McChord, Myers, Stinnett,
Beard, Blues, Crosbie, Ellinger, Feigel,
Gorton, Gray, Henson, James, Lane--------------15

Nay: --0

An Ordinance changing the zone from a Neighborhood Business (B-1) zone to a High Rise Apartment (R-5) zone, for 0.120 net (0.225 gross) acre, for property located at 165-167 Jefferson St.; and from a Neighborhood Business (B-1) zone to Planned Neighborhood Residential (R-3) zone, for 0.046 net (0.065 gross) acre, for property located at 163 Jefferson St., and requesting dimensional variances. (Lexington Home Ownership Commission, Inc. (AMD))

An Ordinance accepting the bid of Scheller's Fitness & Cycling, in the amount of $39,030 for fitness facility equipment, for the Div. of Police, and appropriating funds pursuant to Schedule No. 44.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a donation of $250 from Columbia Gas Transmission, LLC for the Div. of Fire and Emergency Services, and appropriating funds pursuant to Schedule No. 41.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Amendment to Agreement with the Ky. Transportation Cabinet, to amend the amount of funds budgeted for the various items for the Fiber Optic Cable Installation Program for FY2008, at no cost to the Urban County Government, and appropriating funds pursuant to Schedule No. 42.

An Ordinance amending certain of the Budgets of the Lexington-Fayette Urban County Government to reflect current requirements for municipal expenditures, and appropriating and re-appropriating funds, Schedule No. 43.

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An Ordinance amending Section 21-5(2) of the Code of Ordinances abolishing two (2) positions of Public Service Worker, Grade 106N, in the Div. of Waste Management and creating one (1) position of Computer Analyst Supervisor, Grade 117E, in the Div. of Computer Services and appropriating funds pursuant to Schedule No. 51 was on the docket for first reading.

Ms. James asked a question regarding the ordinance. Ms. Linda Rumpke, Commissioner of the Dept. of Finance and Administration, responded with as much information as she had access to.

Ms. James made a motion, seconded by Ms. Crosbie, to table the ordinance until Ms. Susan Bush, Acting Commissioner of the Dept. of Environmental Quality, was available to answer questions.

Ms. Feigel asked a question about the procedure once the ordinance was removed from the table, and whether it would delay the hire of a specific employee. The Mayor responded. Ms. James also responded.

The motion **failed** by a vote of 5-10 (Martin, Lane, Henson, Gray, Gorton, Feigel, Ellinger, Blues, Stinnett and McChord voted **no).**

The ordinance was given first reading and ordered placed on file one week for public inspection.

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The following ordinances were given first reading and ordered placed on file one week for public inspection.

An Ordinance amending Article 8-20(n) of the Zoning Ordinances to reduce the off-street parking requirements for bowling alleys and their accessory snack bar.

An Ordinance amending Article 16-10 of the Zoning Ordinance to allow for parking reductions when Park & Ride lots are provided.

An Ordinance relating to solid waste collection repealing Sections 16-16.4 and 16-16.5 of the Code of Ordinances.

An Ordinance authorizing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Ky. Transportation Cabinet, which Grant funds are in the amount of $400,000 Federal funds, are for the ITS/CMS (Intelligent Transportation System/Congestion Management System) Traffic Improvements Project, the acceptance of which obligates the Urban County Government for the expenditure of $100,000 as a local match, appropriating funds pursuant to FY 2011, Schedule No. 45, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the U.S. Dept. of Justice, Office on Violence Against Women, which Grant funds are in the amount of $377,635 Federal funds, are for a Safe Havens Project (continuation of the Sunflower Kids Visitation Center, expansion of services to underserved populations, and partial funding of the Director of the Fayette County Violence Prevention Board), the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 46, authorizing the Mayor to transfer unencumbered funds within the Grant budget and authorizing the Mayor to execute an Agreement with Sunflower Kids, Inc., for operation of a visitation center, at a cost not to exceed $338,975.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Justice and Public Safety Cabinet, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, which Grant funds are in the amount of $50,000 Federal funds, are for continuation of the Sexual Assault Nurse Examiner (SANE) Program, the acceptance of which obligates the Urban County Government for the expenditure of $28,150 as a local match, appropriating funds pursuant to Schedule No. 47, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Ky. Dept. of Military Affairs/Ky. Div. of Emergency Management, which Grant funds are in the amount of $775,969 Federal funds, are for acquisition and demolition of seven residential properties on Ft. Sumter Dr., Gayle Dr., Parkside Dr., Cabot Dr. and Shandon Dr., the acceptance of which obligates the Urban County Government for the expenditure of $134,501 as a local match, appropriating funds pursuant to Schedule No. 48, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance authorizing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 1 (Final) to the Contract with Marrillia Design and Construction, for the Lexington Streetscape Phase One Improvements, Cheapside Market Pavilion Project, increasing the contract price by the sum of $20,103.85 from $715,977.02 to $736,080.87, and appropriating funds pursuant to Schedule No. 49.

An Ordinance amending certain of the Budgets of the Lexington-Fayette Urban County Government to reflect current requirements for municipal expenditures, and appropriating and re-appropriating funds, Schedule No. 50.

An Ordinance amending Section 21-5(2) of the Code of Ordinances, abolishing one (1) position of Staff Assistant Sr., Grade 108N, and creating one (1) position of Engineering Technician, Grade 111N, in the Div. of Engineering, and appropriating funds pursuant to Schedule No. 52.

An Ordinance amending Section 22-5(2) of the Code of Ordinances creating one (1) temporary position of Microcomputer Support Specialist, Grade 113N, with a three (3) year term, within the Div. of Police.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Ky. Transportation Cabinet, which Grant funds are in the amount of $240,000 Federal funds, are for the Loudon Ave. Sidewalk Project, the acceptance of which obligates the Urban County Government for the expenditure of $60,000 as a local match, appropriating funds pursuant to Schedule No. 53, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Ky. Transportation Cabinet, which Grant funds are in the amount of $240,000 Federal funds, are for the Southland Dr. Pedestrian Improvements Project, the acceptance of which obligates the Urban County Government for the expenditure of $60,000 as a local match, appropriating funds pursuant to Schedule No. 54, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the U.S. Dept. of Justice, which Grant funds are in the amount of $143,243 Federal funds under the State Criminal Alien Assistance Program (SCAAP), are for reimbursement of costs related to the incarceration of undocumented criminal aliens, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 55, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Energy and Environmental Cabinet, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, which Grant funds are in the amount of $141,452 Commonwealth of Ky. funds, are for continuation of the Litter Control Program, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 56, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Supplemental Agreement No. 3 with the Ky. Transportation Cabinet, for the acceptance of additional Federal funds for the Clays Mill Rd. Improvements Project in the amount of $4,200,000, the acceptance of which obligates the Urban County Government for the expenditure of $15,000 as a local match, and appropriating funds pursuant to Schedule No. 57.

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A Resolution amending the following section of Appendix A, Rules and Procedures of the Lexington-Fayette Urban County Council: amending Section 2.101 relating to terms and appointments of chairs of committees; amending Section 2.102 providing the number of standing committees on which each councilmember shall serve and renaming and restructuring standing committees; amending Section 2.105 providing that the Committee of the Whole shall conduct work sessions; amending Section 2.202 providing that standing committees shall have no less than six regularly scheduled meetings per year; amending Section 2.204 removing the Mayor's authority to refer any item directly to a committee and providing that the Committee of the Whole shall not refer items to committee; amending Section 2.205 providing that permanent or standing committees shall report to the Committee of the Whole; replacing the words "work session" with "Committee of the Whole work session"; amending Section 3.103 to provide that Councilmembers may introduce legislation at any meeting of the Urban County Council; amending Section 4.102 to add committee reports to the order of business; amending Section 4.104 providing for the order of business at the Committee of the Whole work session; and providing that the restructuring shall be reviewed prior to June 30, 2011; effective January 1, 2011 was on the docket for second reading.

Mr. Lane made a motion, seconded by Mr. Beard, to table the resolution until the November 11, 2010 Council Meeting in order to provide more time for the Council Members to review the resolution.

The motion **failed** by a vote of 7-8 (Lawless, James, Gray, Gorton, Ellinger, Crosbie, Blues and Myers voted **no**).

Mr. Beard made a motion, seconded by Mr. McChord, to separate the resolution from the rest of the resolutions for second reading for voting purposes. The motion passed unanimously.

The resolution was given second reading.

Ms. Henson asked questions of Mr. Myers regarding the resolution.

Mr. Martin stated his concerns about the resolution and Mr. Myers responded.

The Council continued to discuss the resolution.

Upon motion of Ms. Gorton, and seconded by Ms. Crosbie, the resolution was approved by the following vote:

Aye: Lawless, James, Henson, Gray, Gorton,
Ellinger, Crosbie, Blues, Myers-------------------------9

Nay: Martin, Lane, Feigel, Beard, Stinnett,
McChord--6

Mr. Lane asked a question regarding the Urban County Government Charter of Ms. Glenda George, Dept. of Law. Ms. George and the Mayor responded.

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The following resolutions were given second reading. Upon motion of Mr. Beard, and seconded by Ms. Crosbie, the resolutions were approved by the following vote:

Aye: Lawless, Martin, McChord, Myers, Stinnett,
Beard, Blues, Crosbie, Ellinger, Feigel,
Gorton, Gray, Henson, James, Lane---------------15

Nay: ---0

A Resolution accepting the bid of Bluegrass Fire Equipment, establishing a price contract for fire hose, for the Div. of Fire and Emergency Services.

A Resolution accepting the bid of Paul Miller Ford, Inc., establishing a price contract for reflective vehicle decals, for the Div. of Police.

A Resolution accepting the bids of Vulcan Materials Co. and Lexington Quarry Co., establishing price contracts for rock, for the Div. of Streets, Roads and Forestry.

A Resolution accepting the bid of Brock McVey Co., establishing a price contract for central air filters, for the Div. of Community Corrections.

A Resolution accepting the bids of KOI Auto Parts; B.W. Rogers, Co. (Fluid Power Products Div.); Applied Industrial Technologies, Inc.; Superior Hose & Fittings, Inc.; General Parts, Inc.; and Power Train of Ky., establishing price contracts for hydraulic hose fittings, for the Div. of Facilities and Fleet Management.

A Resolution accepting the bid of S & S Truck Tire Center, establishing a price contract for truck tire re-treading, for the Div. of Facilities and Fleet Management.

A Resolution accepting the bids of Polydyne, Inc. and Atlanco, establishing price contracts for Polymer Flocculants, for the Div. of Water Quality.

A Resolution accepting the bid of Radio Communications Systems, Inc. d/b/a RCS Communications, establishing a price contract for communication system and component maintenance, for the Div. of Police.

A Resolution accepting the bids of Dixon Electric, Inc.; Hills Electric, LLC; Davis H. Elliott Construction Co., Inc.; and Arrow Electric Co.; establishing price contracts for underground electrical service installation, for the Div. of Parks and Recreation.

A Resolution specifying the intention of the Urban County Council to expand and extend the Full Urban Services District #1 to provide street lighting, street cleaning and garbage and refuse collection; finding a need for these services in the area included; finding the ability of the Urban County Government to provide these services in this area, which area is defined as certain properties on the following streets: Blackhorse Ln., Georgetown St., Goodpaster Way, Lakewood Dr., McConnells Trace, New River Place, Orchard Grass Rd., Patchen Wilkes Dr., Pokeberry Park, Polo Club Blvd., Polo Club Ln., Rain Garden Way, Real Quiet Ln., Sand Lake Dr., Sewanee Ln., Shaker Run Circle, Sorrell Way, Sunningdale Dr., Sweet Clover Ln., and Toll Gate Rd.

A Resolution specifying the intention of the Urban County Council to expand and extend Partial Urban Services District #3 to provide garbage and refuse collection; finding a need for this service in the area included; finding the ability of the Urban County Government to provide this service in the area, which area is defined as certain properties on the following streets: Bracktown Rd., Bradley Ln., Leestown Rd., Standish Way, and Winston Ave.

A Resolution specifying the intention of the Urban County Council to expand and extend Partial Urban Services District #5 to provide street lighting and garbage and refuse collection; finding a need for these services in the area included; finding the ability of the Urban County Government to provide these services in this area, which area is defined as certain properties on the following streets: Athenia Dr., Branchwood

Place, Hildeen Dr., John Alden Ln., Monticello Blvd., Plymouth Rock Ct., Rebecca Dr., and Wallingford Dr.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 3 to the Contract with Woodall Construction Co., Inc., for the Southend Park Temporary Housing Development for the Newtown Pike Extension Project, decreasing the contract price by the sum of $50,181.91 from $834,755.83 to $784,573.92.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Hustonville, LLC, for a Halloween event at Jacobson Park, September 23, 2011 through October 31, 2011.

A Resolution authorizing the Div. of Streets, Roads and Forestry to purchase a "Mr. Manhole" replacement cutter package and repair parts, from Critex, LLC, a sole source provider, at a cost not to exceed $30,000.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Bluegrass Regional Mental Health-Mental Retardation Board, Inc., d/b/a Comprehensive Care Center, for mental health services for inmates at the Detention Center, at a cost not to exceed $834,755.68.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Professional Services Agreement with Amy Slatin, as a Sexual Assault Nurse Examiner, to provide on-call forensic examinations under the Sexual Assault Nurse Examiner Program, at a cost not to exceed $40 for each scheduled on-call period, $230 for each completed forensic examination, $50 per case for professional testimony in court, and the reasonable cost of medical liability insurance.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with U.S. Geological Survey, for the continuing and ongoing maintenance and operation of existing stream flow and precipitation gauges, at a cost not to exceed $67,680.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Amendment to Agreement with the Ky. Transportation

Cabinet, for extension of the Healthway Trail Project through June 30, 2011, at no cost to the Urban County Government.

A Resolution declaring as surplus and authorizing and directing the Mayor, on behalf of the Lexington-Fayette Urban County Government, to execute deeds and any other necessary documents for the sale and transfer of property located at 359 E. Third St. and 950 Whitney Ave.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Purchase of Service Agreement with Bluegrass State Games, Inc., for organization and execution of the Bluegrass State Games, at a cost not to exceed $52,500.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 2 to the Contract with Free Contracting, for the Solid Waste Facility Expansion, decreasing the contract price by the sum of $69,051.64 from $1,208,101.20 to $1,146,142.36.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Contract for Like Kind Exchange with Big Ass Fans, Inc., for Isis Fans in exchange for admission and participation fees, in the Div. of Parks and Recreation.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Ky. Utilities Co., for electric service, for the Limestone Streetscape Project, at a cost not to exceed $31,920.24.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute Amendment No. 12 to the Contract with Entran (formerly known as American Consulting Engineers, PLC) for professional services for the Newtown Pike Extension Project, increasing the contract price by the sum of $37,850.00 $6,576,501.51 to $6,614,351.51.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to transfer property and temporary construction easements to the Ky. Transportation Cabinet and to execute Certificates of Consideration and any other necessary documents for the widening of Leestown Rd. along the south side of Leestown Rd. in the vicinity of the Bracktown Rd. intersection, at no cost to the Urban County Government.

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A Resolution ratifying the probationary civil service appointments of: Shandra McCauley, Stores Clerk, Grade 107N, $14.499 hourly, in the Div. of Streets, Roads and Forestry, effective October 25, 2010, Charles Burchett, Computer Analyst, Grade 115E, $1,760.00 bi-weekly, in the Div. of Computer Services, effective October 25, 2010, Robert Austin, Kenneth Newby, Equipment Operator Sr., Grade 109N, $17.354 hourly, in the Div. of Water Quality, effective October 25, 2010, Colleen West, Social Worker, Grade 111E, $1,732.64 bi-weekly, in the Div. of Adult and Tenant Services, effective October 25, 2010, Joe Anderson, Operations Manager, Grade 116E, $2,200.00 bi-weekly, in the Div. of Waste Management, effective October 25, 2010, James McCarthy, Public Service Supervisor, Grade 111N, $18.839 hourly, in the Div. of Waste Management, effective October 25, 2010, Darrell Hager, Public Service Supervisor, Grade 111N, $15.116 hourly, in the Div. of Parks and Recreation, effective October 4, 2010, Debbie Barnette, Engineering Technician Sr., Grade 113E, $1,348.40 bi-weekly, in the Div. of Water Quality, effective October 25, 2010; ratifying the probationary sworn appointments of: William Appleget, Tim Belcher, Patrick Bolzenius, Adam Cramer, Christopher Crowe, Adam Day, Derrick Desimone, Bryan Duty, Joshua Elam, Ricky Euler, Bradley Farkas, Zachary Ferguson, Andrew Hatfield, Casey Hogue, Russell Jones, Stephen Kinney, Kenny Kulpa, Joshua Lile, Christopher MacFarlane, Jeff Miles, Kevin Pletzke, James Praria, Casey Sparrow, James Thompson, William Willett, Firefighter, Grade 311N, $17.510 hourly, in the Div. of Fire and Emergency Services, effective November 1, 2010; approving the permanent civil service appointments of: Jeffery Burk, Heavy Equipment Technician, Grade 113N, in the Div. of Facilities and Fleet Management, effective October 12, 2010, Candace Wafford, Financials Manager Enterprise Solutions, Grade 119E, in the Div. of Enterprise Solutions, effective September 15, 2010, Timothy Bailey, Technical Manager Enterprise Solutions, Grade 120E, in the Div. of Enterprise Solutions, effective September 15, 2010, Michelle Gunter, HCM Manager Enterprise Solutions, Grade 119E, in the Div. of Enterprise Solutions, effective September 15, 2010, Jeff Giles, Public Service Supervisor, Grade 111N, in the Div. of Parks and Recreation, effective September 10, 2010, Paul Smith, Fleet Parts Specialist, Grade 109N, in the Div. of Facilities and Fleet Management, effective September 15, 2010, Tracey McElroy, Staff Assistant, Grade 107N, in the Div.

of Waste Management, effective September 22, 2010; approving the unclassified civil service appointments of: George Milligan, Administrative Officer, Grade 118E, $2,681.68 bi-weekly, in the Dept. of General Services, effective November 16, 2009, Carey Mason-Engleman, Probation Officer, Grade 110N, $13.882 hourly, in the Div. of Community Corrections, effective October 25, 2010 was given first reading.

Ms. James asked questions about the unclassified civil service appointment of George Milligan, Administrative Officer, Grade 118E of Mr. Mike Webb, Commissioner of the Dept. of Public Works and Development, Ms. Linda Rumpke, Commissioner of the Dept. of Finance and Administration and Ms. Glenda George, Dept. of Law.

Upon motion of Mr. Blues, seconded by Ms. Gorton, the rules were suspended by unanimous vote.

The resolution was given second reading. Upon motion of Mr. McChord, and seconded by Ms. Henson, the resolution was approved by the following vote:

Aye: Lawless, Martin, McChord, Myers, Stinnett,
Beard, Blues, Crosbie, Ellinger, Feigel,
Gorton, Gray, Henson, James, Lane-------------15

Nay: ---0

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A Resolution of the Urban County Council withdrawing the subpoena issued by the Urban County Council Special Investigative Committee to Bruce Sahli, Director of the Office of Internal Audit; requesting that the parties to the litigation challenging the authority of the Committee to issue subpoenas dismiss the action; and directing that no further Urban County Government funds be expended for any legal services provided after October 14, 2010, in connection with the litigation, except for those associated with dismissal of the action was given first reading.

Upon motion of Mr. Blues, seconded by Ms. Gorton, the rules were suspended by a majority vote of 13-0 (Mr. Lane and Mr. Myers recused themselves when the vote was taken).

The resolution was given second reading. Upon motion of Mr. McChord, and seconded by Ms. Henson, the resolution was approved by the following vote:

Aye: Lawless, Martin, McChord, Stinnett, Beard,
Blues, Crosbie, Ellinger, Feigel, Gorton,
Gray, Henson, James--------------------------------13

Nay: --0
(Mr. Lane and Mr. Myers recused themselves when the vote was taken.)

* * *

The following resolutions were given first reading. Upon motion of Mr. Blues, seconded by Ms. Gorton, the rules were suspended by unanimous vote.

The resolutions were given second reading. Upon motion of Mr. McChord, and seconded by Ms. Henson, the resolutions were approved by the following vote:

Aye: Lawless, Martin, McChord, Myers, Stinnett,
Beard, Blues, Crosbie, Ellinger, Feigel,
Gorton, Gray, Henson, James, Lane-------------15

Nay: ---0

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Environmental Protection Agency and to provide any additional information requested in connection with this Grant Application, which Grant funds are in the amount of $200,000 Federal funds, and are for a Brownfield Assessment Project.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements with Copperfield Neighborhood Association, Inc. ($400), Temple of Prayer Church of God in Christ, Inc. ($250), Cardinal Valley Neighborhood Association, Inc. ($1,000), for the Office of the Urban County Council, at a cost not to exceed the sums stated.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Federal Equitable Sharing Agreement with the Dept. of Justice and the Dept. of the Treasury, for participation in the Federal Equitable Sharing Program.

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The following resolutions were given first reading and ordered placed on file one week for public inspection.

A Resolution accepting the bids of Light Bulb Depot of America, Brock McVey Co., Graybar Electric, and West-Lite Supply Co., Inc., establishing price contracts for bulbs and ballasts, for the Div.'s of Facilities and Fleet Management and Community Corrections.

A Resolution accepting the bids of Henry Schein Matrix Medical; Kentron Health Care, Inc.; Bound Tree Medical LLC; and Midwest Medical Supply Co., establishing price contracts for emergency medical supplies, for the Div. of Fire and Emergency Services.

A Resolution accepting the bid of Intec Building Services, Inc., establishing a price contract for custodial services - Central Ky. Job Center, for the Div. of Facilities and Fleet Management.

A Resolution accepting the bids of Language Line Services and Masterworld Services, Inc., establishing price contracts for translation services, for the Div. of Emergency Management/911.

A Resolution accepting the bids of Galls (an Aramark Co., LLC) and GT Distributors, Inc., establishing price contracts for police car consoles, for the Div. of Police.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a greenway from the owner of record, for property located at 3278 Sweet Clover Ln., Unit 1-C, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Purchase of Service Agreement with the Lexington Humane Society, for administration of the Spay and Neuter Grant Fund and Program.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Purchase of Service Agreement and a Lease Agreement with Lexington-Fayette Animal Care and Control, LLC, for animal control services, at a cost not to exceed $1,035,000.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a LEAP Service Agreement with Neustar, Inc., to provide access to the Number Portability Administration Center in support of Enhanced 911 Services for a period of up to three years, subject to exercise of renewal option and sufficient funds being appropriated in future fiscal years, at a cost not to exceed $2,000 in FY 2011.

A Resolution authorizing the Div. of Traffic Engineering, pursuant to Code of Ordinances Section 18-86, to install multiway stop controls at Andover Forest Dr. and Brighton Place Dr.

A Resolution specifying the intention of the Urban County Council to expand and extend the Full Urban Services District #1 to provide street lighting, street cleaning and garbage and refuse collection; finding a need for these services in the area included; finding the ability of the Urban County Government to provide these services in this area, which area is defined as certain properties on the following street: Atwood Dr.

A Resolution specifying the intention of the Urban County Council to expand and extend Partial Urban Services District #5 to provide street lighting and garbage and refuse collection; finding a need for these services in the area included; finding the ability of the Urban County Government to provide these services in this area, which area is defined as certain properties on the following streets: Aldershot Dr., Blueberry Rd., Dellwood Dr., Potomac Dr., Springhill Dr., Sweetbriar Circle, and Worcester Rd.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements with Catholic Charities of the Diocese of Lexington, Inc. ($500), South Lexington Babe Ruth, Inc. ($1,000), Girls on the Run Lexington Corp. ($425), Step by Step, Inc. ($375), Downtown Lexington Corp. ($1,200), Brenda D. Cowen Coalition for Ky., Inc. ($325), Shriners Neighborhood Association, Inc. ($1,360), Lakeshore Village Homeowners Association, Inc. ($1,732), Chenault Rd. Neighborhood Association, Inc. ($350), Fairway Neighborhood Association, Inc. ($500), for the Office of the Urban County Council, at a cost not to exceed the sums stated.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute Change Order No. One to the Contract with Marrillia Design and Construction, for the Lexington Streetscape Phase One Cheapside Site Improvements Project (Final), decreasing the contract price by the sum of $45,429.00 from $1,767,879.10 to $1,722,450.10.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with M.A.S.H. Services of the Bluegrass, Inc., for operation of the M.A.S.H. Drop Inn Facility, at a cost not to exceed $180,000 in Grant funds from the U.S. Dept. of Health and Human Services.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agency Participation Agreement with the Ky. Housing Corp., for participation in the Ky. Homeless Management Information System, for the Div. of Adult and Tenant Services, at a cost not to exceed $1,800 annually.

A Resolution authorizing the Aging Services Administrator in the Dept. of Social Services to execute Exhibition of Artwork Agreements with artists for display of works of art at the Lexington Senior Center, at no cost to the Urban County Government.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute Certificates of Consideration and other necessary documents, and to accept Deeds for easements needed for access to the Burkewood Dr. Detention Basin, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements awarding Class A (Neighborhood) Incentive Grants for stormwater quality projects to Eastland Parkway Neighborhood Association, Inc. ($7,408) and Southern Heights Neighborhood Association, Inc. ($40,630.40), at a cost not to exceed the sums stated.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements awarding Class B Incentive Grants for stormwater quality projects to the Board of Education of Fayette County (Henry Clay High School) ($2,500), the Trane Co. ($4,677.19), Transylvania University ($4,878.75), and the Board of Education of Fayette County (Rosa Parks Elementary School) ($6,700) at a cost not to exceed the sums stated.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Facility Usage Agreement with Fayette County Board of Education, for ESP and REAL Programs.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Facility Usage Agreement with Fayette County Board of Education, for use of Jesse Clark Middle School Gym, at a cost not to exceed $5,670.

A Resolution authorizing the Mayor, on behalf of the Urban County Government, to execute a Subordination Agreement with Central Bank and Trust, to allow Central Bank to be primary lien holder for items financed.

*   *   *

The following Communications from the Mayor were received for information only: (1) Resignation of Michael Roland, Equipment Operator Sr., Div. of Waste Management, effective September 21, 2010; and (2) Termination of probationary appointment of Tim Jones, Public Service Worker, Div. of Waste Management, effective September 17, 2010.

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The report from the Div. of Building Inspection for the 3rd Quarter (July-September) of 2010 was received and ordered filed.

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Mr. Lane made a statement regarding the Special Investigative Committee. Ms. Gorton responded to Mr. Lane. Ms. James also responded to Mr. Lane's statement.

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Mr. Beard asked a question about any legal actions that the Urban County Government may be involved in regarding Flight 5191. The Mayor responded that there was no pending litigation.

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Mr. Bernard McCarthy, Harry Street, spoke about ‘alligator’ cracks in the pavement in various locations around Lexington, and recommended a course of action. He also spoke about the resolution regarding Council restructuring.

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Mr. Robert Dalton, Douglas Avenue, spoke about the shooting of a pet by an Urban County Government police officer.

*   *   *

Chief Robert Hendricks, Div. of Fire and Emergency Services, stated that Fire Lieutenant Darrin Day had committed the offense of Having Made Verbal Threats or Harassing Statements and Conduct Unbecoming an Officer in violation of KRS 95.450 (inefficiency, misconduct, insubordination or violation of law or rule) and Div. of Fire and Emergency Services Policy Statement 100.06: Workplace Harassment and Discrimination and Section 6C of the Uniform Disciplinary Code (Employee Handbook – Chapter 17, [Section 21-45(h)]; and LFUCG Code of Ordinances Chapter 23, [Sec. 23-41(5)], in that on the 22nd day of July, 2010, he made comments to another employee and that those comments had “…the purpose or effect of creating a hostile or intimidating environment and/or which interferes with the individuals work performance…” and further that could “…seriously alarm, annoy, intimidate, or harass a person or which could cause a reasonable person to suffer mental distress.", and that the appropriate punishment for this conduct is 72 Hours of Suspension Without Pay for Scheduled Work Hours. While his comments were substantiated and not disputed, the employee has accepted responsibility and states that, "he in no way meant to upset her or cause her concern, and regrets the comments he made." Further noting that the employee has already completed a mandatory referral/threat assessment to the Employee Assistance Program.

Ms. James asked a question of Chief Hendricks about the incident. He responded.

Upon motion of Mr. Ellinger, seconded by Ms. Gorton, the disciplinary action was approved by unanimous vote.

* * *

Commander Ken Armstrong, Div. of Police, stated that Detective Joshua Masterson had committed the offense of Inappropriate Action, in violation of KRS 95.450 and General Order 73-2/H, Operational Rules, Section 1.48, in that on the 8th and 9th days of April, 2010, he initiated involvement with a disorder in the vicinity of 200 E. Main St. His decision making with regard to handling that situation was not appropriate, including the following actions and inactions: Declined assistance from uniformed Patrol Units despite multiple and intoxicated subjects; chose not to enforce the AI Statute; assessed and described incident as Domestic Violence, did not complete a JC-3 Form; provided an escort to an intoxicated female without providing starting/ ending mileage; made multiple attempts to obtain information during the subsequent investigation into his actions, and that the appropriate punishment for this offense is a Written Reprimand.

Mr. Ellinger and Ms. Henson asked questions of Commander Armstrong about the disciplinary action. He responded.

Upon motion of Mr. Myers, seconded by Mr. Martin, the disciplinary action was approved by unanimous vote.

* * *

Upon motion of Ms. Gorton, seconded by Mr. Ellinger and approved by unanimous vote, the meeting adjourned at 10:04 p.m.

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Clerk of the Urban County Council