Lexington, Kentucky   October 18, 2007

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in regular session on October 18, 2007 at 7:00 P.M. Present were Mayor Jim Newberry in the chair presiding and the following members of the Council: Council Members Stevens, Stinnett, Beard, Blevins, Blues, Crosbie, DeCamp, Ellinger, Gorton, James, Lane, McChord, Moloney and Myers. Absent was Council Member Gray.

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

Ordinances No. 221-2007 thru 231-2007 inclusive and Resolutions No. 485-2007 thru 519-2007 inclusive were reported as having been signed and published, and were ordered to record.

Lexington, Kentucky October 18, 2007

The Invocation was given by Pastor Ruben Rodriguez, The Rock/La Roca United Methodist Church.

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Upon motion of Ms. Gorton and seconded by Mr. Ellinger, the minutes of the August 23 and 28 and September 13 and 18, 2007 Council Meetings were approved by unanimous vote.

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The Mayor stated that the presentation for the Southeast Lexington Baseball Team was postponed again.

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

Aye: Stevens, Stinnett, Beard, Blevins, Blues, Crosbie, DeCamp, Ellinger, Gorton, James, Lane, McChord, Moloney, Myers -------------- 14

Nay: -- 0

An Ordinance accepting the Lithko Restoration Technologies, in the amount of $153,500.00, for temporary shoring installation of the Annex parking structure, and appropriating funds pursuant to Schedule No. 66.

An Ordinance amending certain of the budgets of the Lexington-Fayette Urban County Government to reflect current requirements for municipal expenditures, and appropriating and reappropriating funds, Schedule No. 64.

An Ordinance amending Section 22-5 of the Code of Ordinances creating one (1) position of Senior Advisor, Grade 212E, in the Office of Policy and Budget.

An Ordinance amending Section 23-5 of the Code of Ordinances creating twenty-five (25) positions of Police Officer, Grade 311N, in the Div. of Police, to become effective December 10, 2007.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Ky. Transportation Cabinet, Dept. of Highways, which grant funds are in the amount of $12,800.00 Federal funds from the Surface Transportation Lexington (SLX) Program, are for design of a bike lane on Rose Street, the acceptance of which obligates the Urban County Government for the expenditure of

$3,200.00 as a local match, appropriating funds pursuant to Schedule No. 65, and authorizing the Mayor to transfer unencumbered funds within the grant budget.

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An Ordinance closing Red Mile Court, a public way determining that all property owners abutting the road to be closed have been identified and have consented thereto in writing, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Quitclaim Deed and/or a Consolidation Plat transferring the former right-of-way to the abutting owner was given first reading.

Upon motion of Mr. DeCamp and seconded by Ms. Gorton, the rules were suspended by majority vote. (Mr. Myers voted no.)

The ordinance was given second reading. Upon motion of Mr. DeCamp, seconded by Ms. Gorton, the ordinance was approved by the following vote:

Aye: Stevens, Stinnett, Beard, Blevins, Blues, Crosbie, DeCamp, Ellinger, Gorton, James, Lane, McChord, Moloney ------------------------ 13

Nay: Myers --- 1

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An Ordinance changing the zone from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone for 14.78 net (17.47 gross) acres of property located at 3600-3652 Winthrop Drive (JAH Winthrop) was given first reading with a public hearing scheduled to be held on December 6, 2007.

Mr. McChord recognized Mr. Stephen Amato, attorney for JAH Winthrop, who asked the Council to change the date of the public hearing because of a conflict he had on December 6th.

Mr. McChord made a motion, seconded by Ms. Crosbie and passed by majority vote (Ms. Gorton voted no), to change the public hearing date from December 6, 2007 at 8:00 pm to December 4, 2007 at 6:00 p.m.

The ordinance was ordered placed on file until a Public Hearing to be held at a Special Council Meeting on December 4, 2007 at 6:00 p.m.

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

An Ordinance changing the zone from a Single Family Residential (R-1C) zone to a High Density Apartment (R-4) zone for 6.62 net (6.89 gross) acres of property located at 1201 Devonshire Avenue, subject to a certain use restriction imposed as a condition of granting the zone change. (Scott Baesler & Neal Evans)

An Ordinance amending Article 1-11 and subsections (b) and (n) of Article 8-16 of the Zoning Ordinance to define a “banquet facility”, to allow banquet facilities as a principal use in the Neighborhood Business (B-1) zone, and to specify the off-street parking requirements for banquet facilities.

An Ordinance amending Section 21-5 of the Code of Ordinances abolishing one (1) position of Engineering Aide Sr., Grade 109N, creating one (1) position of Engineering Technician, Grade 111N, and reclassifying the incumbent, in the Div. of Traffic Engineering, to become effective retroactive to September 3, 2007, and appropriating funds pursuant to Schedule No. 68.

An Ordinance amending Section 21-5 of the Code of Ordinances abolishing one (1) position of Staff Assistant, Grade 107N, and creating one (1) position of Staff Assistant Sr., Grade 108N, in the Div. of Family Services, and appropriating funds pursuant to Schedule No. 69.

An Ordinance amending section 9 of Ordinance No. 330-2001, as amended by Ordinances No. 286-2003, 272-2004, and 143-2006, extending the payments and benefits provided to activated employees who are members of the United States Armed Forces Reserve or National Guard until they are released from active duty, or until January 1, 2009, whichever shall first occur.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Fayette County Commonwealth Attorney’s Office, for a “Fast Track” prosecutor for the Street Sales Enforcement Project, at a cost not to exceed $47,932.00, and appropriating funds pursuant to Schedule No. 70.

An Ordinance amending certain of the budgets of the Lexington-Fayette Urban County Government to reflect current requirements for municipal expenditures, and appropriating and reappropriating funds, Schedule No. 67.

An Ordinance amending certain of the budgets of the Lexington-Fayette Urban County Government to reflect current requirements for funds in the amount of $5,600.00 from Neighborhood Development Funds in the Div. of Streets, Roads and Forestry for a

Quiet Zone application for the Waller Avenue/Rosemont Garden railroad crossing, and appropriating and reappropriating funds, Schedule No. 74.

An Ordinance creating Section 17B-13 of the Code of Ordinances to create civil penalties for any violation of Chapter 17B regulating street trees, to allow appeal of citations to the Infrastructure Hearing Board, and to allow abatement of violations; amending Section 14-10(6) to reflect a change in the division for the Urban Forester; and amending Section 16-76 to grant jurisdiction to the Infrastructure Hearing Board over enforcement of Ordinances by the Div. of Streets, Roads and Forestry.

An Ordinance amending Section 21-5 of the Code of Ordinances creating one (1) position of Equipment Operator Sr., Grade 109N, in the Div. of Streets, Roads and Forestry.

An Ordinance amending Section 21-5 of the Code of Ordinances transferring two (2) positions of Clerical Assistant Sr., Grade 106N, and the incumbents, from the Div. of Computer Services to the Div. of Accounting, and appropriating funds pursuant to Schedule No. 72.

An Ordinance amending Section 22-5 of the Code of Ordinances creating one (1) temporary position of Administrative Officer P/T, Grade 118E, in the Div. of Waste Management, and appropriating funds pursuant to Schedule No. 71.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Loan Agreement with Hope Center, Inc,. for funds from the HOME Program for the construction of an apartment building for use as transitional housing for low-income men recovering from substance abuse, at a cost not to exceed $500,000.00, and appropriating funds pursuant to Schedule No. 73.

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A Resolution accepting the bids of Gordon's Food Service and Somerset Food Service, establishing price contracts for food, for the Family Care Center was on the docket for second reading.

Upon motion of Mr. Moloney, seconded by Ms. Gorton and passed by unanimous vote, the resolution was removed from the docket at the request of the Div. of Central Purchasing.

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

Aye: Stevens, Stinnett, Beard, Blevins, Blues, Crosbie, DeCamp,
Ellinger, Gorton, James, Lane, McChord, Moloney, Myers --------------- 14

Nay: -- 0

A Resolution accepting the bid of L-M Asphalt Partners, Ltd. dba ATS Construction, establishing a price contract for asphalt, for the Div. of Streets, Roads and Forestry.

A Resolution accepting the bid of L-M Asphalt Partners, Ltd. dba ATS Construction, in the amount of $386,850.00, for 2007 county aid resurfacing.

A Resolution accepting the bid of Pavement Technology, Inc., in the amount of $95,000.00, for asphalt surface maintenance with asphalt rejuvenating agent.

A Resolution accepting the bid of American Pavements, Inc., in the amount of $85,000.00, for asphalt emulsion slurry seal.

A Resolution accepting the bid of American Pavements, Inc., in the amount of $55,000.00, for 2007 cracksealing project.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Voting Membership Agreement with the National White Collar Crime Center (NW3C), for voting membership rights, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Sister Cities ($925.00), The African American Forum, Inc. ($1,800.00) and YMCA of Central Ky., Inc. ($400.00) for the Office of the Urban County Council, 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 all documents, including loan agreements, mortgages, subordination agreements and releases for the Community Development Block Grant Sanitary Sewer Financial Assistance Program for the Div. of Community Development.

A Resolution amending sections 1 and 2 of Resolution No. 287-2007 which authorized and directed the Mayor, on behalf of the Urban County Government, to execute Agreements with various organizations to delete the allocation to Arts Power, Inc. ($150.00) for the Office of the Urban County Council.

A Resolution amending section 2 of Resolution No. 411-2007 which authorized and directed the Mayor, on behalf of the Urban County Government, to execute an Agreement with Jane F. Brake, Ph.D. for the provision of mental health services to children and families served by the Div. of Youth Services and authorized payment not to exceed the amount of $1,000.00 to authorize payment not to exceed the amount of $2,500.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Facility Usage Contract with Fayette County Board of Education, for Winburn Middle School, at a cost not to exceed $23,467.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Option and Lease Agreement with SprintCom, Inc., for a cell tower at Coldstream Park, at no cost to the Urban County Government.

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A Resolution ratifying the probationary civil service appointments of: Matthew Epperson, Golf Course Clubhouse Attendant, Grade 106N, $11.494 hourly, in the Div. of Parks, effective October 1, 2007; Erin Bradford, Golf Course Clubhouse Attendant, Grade 106N, $9.936 hourly, in the Div. of Parks, effective October 1, 2007; Scott Bitner, Public Service Worker, Grade 106N, $12.663 hourly, in the Div. of Parks, effective October 1, 2007; Timothy Smith, Public Service Worker, Grade 106N, $14.806 hourly, in the Div. of Parks, effective October 15, 2007; Betty Landrum, Buyer, Grade 112E, $1,700.72 bi-weekly, in the Div. of Central Purchasing, effective October 15, 2007; Iris Gutierrez De Marchi, Social Worker, Grade 111E, $1,640.00 bi-weekly, in the Div. of Family Services, effective October 15, 2007; ratifying the permanent civil service appointment of: Anthony Kelly, Trades Supervisor, Grade 113N, in the Div. of Parks, effective September 19, 2007; ratifying the unclassified civil service appointment of: Rama Dhuwaraha, Senior Advisor/CIO, Grade 212E, $4,230.77 bi-weekly, in the Office of the Mayor, effective October 19, 2007, subject to confirmation by the Lexington Fayette Urban County Council was given second reading.

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

Aye: Stevens, Stinnett, Blevins, Blues, Crosbie, DeCamp,
Ellinger, Gorton, James, Lane, McChord, Moloney, Myers --------------- 13

Nay: -- 0
(Mr. Beard abstained when the vote was taken.)

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The following resolutions were given first reading. Upon motion of Mr. Beard and seconded by Mr. Myers, the rules were suspended by majority vote. (Dr. Stevens and Mr. Blevins voted no.)

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

Aye: Stevens, Stinnett, Beard, Blevins, Blues, Crosbie, DeCamp,
Ellinger, Gorton, James, Lane, McChord, Moloney, Myers --------------- 14

Nay: -- 0

A Resolution accepting the bid of Central Rock Mineral Co., LLC, in the amount of $4,589,461.13, for the Loudon Avenue Improvement Project.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Friends of Raven Run, Inc. ($25.00), and Centre Parkway Neighborhood Association, Inc. ($500.00) for the Office of the Urban County Council, 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 a Site Specific Agreement with the Jessamine South Elkhorn Water District and JAH Nicholasville Investment, LLC, to provide sanitary sewer service to the Noland Tract Phase 4 development in Jessamine County, 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 Site Specific Agreement with the Jessamine South Elkhorn Water District and JAH Nicholasville Investment, LLC, JAH Nicholasville Investment #4, LLC, and JAH Nicholasville Investment #3 to provide sanitary sewer service to the JAH Nicholasville Investment #3 and #4 developments in Jessamine County, 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 Site Specific Agreement with the Jessamine South Elkhorn

Water District and JAH Nicholasville Investment #2, LLC, to provide sanitary sewer service to the Noland Tract Phase 3, Section 1 development in Jessamine County, 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 Site Specific Agreement with the Jessamine South Elkhorn Water District and JAH Nicholasville Investment #2, LLC, to provide sanitary sewer service to the Noland Tract Phase 3, Section 2 development in Jessamine County, 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 Site Specific Agreement with the Jessamine South Elkhorn Water District and JAH Nicholasville Investment, LLC, and JAH Nicholasville Investment #3, LLC, to provide sanitary sewer service to the Noland Tract Phases 5 and 7, Section 2 development in Jessamine County, 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 Site Specific Agreement with the Jessamine South Elkhorn Water District and D & H Brannon Springs, LLC to provide Sanitary Sewer Service to the Smitson/Cox Farms Parcels 2 and 2A development in Jessamine County, at no cost to the Urban County Government.

A Resolution ratifying the probationary civil service appointments of: Robert Clay, Public Service Supervisor Sr., Grade 114E, $1,511.12 bi-weekly, in the Div. of Water and Air Quality, effective October 15, 2007; Latisha Williams, Telecommunicator, Grade 111N, $14.909 hourly, in the Div. of Enhanced 911, effective October 29, 2007; Danny Stevens, Public Service Worker, Grade 106N, $14.937 hourly, in the Div. of Parks, effective October 29, 2007; Jeffrey Baumgardner, Engineering Technician Sr., Grade 113E, $1,703.60 bi-weekly, in the Div. of Water and Air Quality, effective October 15, 2007; Allen Hinkle, Computer Analyst, Grade 115E, $2,109.44 bi-weekly, in the Div. of Computer Services, effective October 22, 2007; ratifying the permanent civil service appointments of: Joe Clift, Public Service Worker, Grade 106N, in the Div. of Parks, effective October 16, 2007; Scott Dickison, GIS Programmer/Analyst, Grade 117E, in the Div. of Engineering, effective October 16, 2007; ratifying the probationary sworn appointments of: Christopher Whited, Fire Lieutenant, Grade 315N, $16.261 hourly, in the Div. of Fire, effective September 17, 2007; David Ades, Fire Major, Grade 318E, $3,172.62 bi-weekly, in the Div. of Fire, effective September 17, 2007; Harold Miracle, Fire Captain, Grade 316N, $21.497 hourly, in the Div. of Fire, effective September 17, 2007; approving leave of absence for: Patricia Wallace, Staff Assistant, Grade 107N, in the Div. of Planning, requests a 90 day Council approved leave without pay from October 16, 2007 to January 13, 2008; approving the unclassified civil service appointment of: Josaphat Cardona, Family Support Worker Sr., Grade 112N, $17.774 hourly, in the Div. of Family Services, effective October 15, 2007; Jaclyn Phelps, Staff Assistant Sr., Grade 108N, $11.659 hourly, in the Office of Compliance, Department of Public Works, effective October 1, 2007.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a donation of technical assistance, signage and field renovation in the amount of $40,000.00 from the Cincinnati Reds Organization, Reds Community Fund to be used for the renovation of nine fields.

A Resolution of the Urban County Council of the Lexington-Fayette Urban County Government, Kentucky, requesting that the Ky. Economic Development Finance Authority adopt a Resolution providing for the issuance of Revenue Bonds in an amount of up to $125,000,000, the proceeds of which will be loaned to Bluegrass Equine & Tourism Foundation, Inc., to provide financing for the acquisition, construction, furnishing and equipping of a hotel and related improvements and expenditures constituting tourism and tourist facilities.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Ky. Utilities Co., for the relocation of utilities from the temporary housing site for residents displaced by the Newtown Pike Extension Project, at a cost not to exceed $5,949.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Ky. American Water Co., for the relocation of utilities from the temporary housing site for residents displaced by the Newtown Pike Extension Project, at a cost not to exceed $23,890.00.

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Upon motion of Mr. Myers, seconded by Mr. Beard and passed by unanimous vote, a Resolution authorizing and directing the Mayor, on behalf of the Urban County

Government, to execute a Grant Application and accept reimbursement in the amount of $8,322.69 from the Commonwealth of Ky., Environmental and Public Protection Cabinet, Div. of Waste Management, for remediation of illegal open dump sites by the Urban County Government was placed on the docket and given first reading.

Upon motion of Mr. Beard and seconded by Mr. Myers, the rules were suspended by majority vote. (Dr. Stevens and Mr. Blevins voted no.) The resolution was given second reading. Upon motion of Mr. Blues, seconded by Ms. Crosbie, the resolution was approved by the following vote:

Aye: Stevens, Stinnett, Beard, Blevins, Blues, Crosbie, DeCamp,
Ellinger, Gorton, James, Lane, McChord, Moloney, Myers --------------- 14

Nay: --- 0

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

A Resolution accepting the bid of L & N Commercial Cleaning, establishing a price contract for custodial services for the Recycling Center.

A Resolution accepting the bids of Gray Bar Electric Co., Inc., Rexel, Inc., Anixter, Inc., and Communications & Electrical Supplies, Inc., establishing price contracts for fiber optic cable and control equipment, for the Div. of Traffic Engineering.

A Resolution accepting the bids of Univar USA, Inc., Brenntag Mid-South, Inc., and KA Steel Chemicals, Inc., establishing price contracts for odor control chemicals, for the Div. of Sanitary Sewers.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying fee simple property from Preston W. and Anita M. Madden, Preston Ellen and Kevin Ausbrook, Patrick W. and Jennifer S. Madden, WWM, LLC, and Patricia L. Madden, as Trustee of Fund B of the Patrick Edward Madden Revocable Living Trust, located at 1745 Bryant Road, for Phase I of the Brighton East Rail Trail Project, and authorizing payment in the amount of $10.00, plus usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from Kitty

Seals Estate, located at 630 Caden Lane, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from Elizabeth and Earl Jones, located at 646 Caden Lane, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from Helen Young and Margaret Johnson, located at 662 Caden Lane, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from Charles Thomas and Rachel Y. Thomas and Joyce E. McGee and Neal McGee, located at 690 Caden Lane, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from James P. Crouch, located at 727 Caden Lane, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from NEWS, located at 752 Caden Lane, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from Alvin M. and Carr Chrysanthia Seals, located at 776 Caden Lane, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from Bernitha L. Kendrick, located at 784 Caden Lane, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from James and Sandy Reynolds, located at 2822 Liberty Road, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from James and Sandy Reynolds, located at 2826 Liberty Road, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from Rose Mary Griffith, located at 2838 Liberty Road, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from Dennis Anderson, located at 2852 Liberty Road, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from Janice Beall, located at 820 Campbell Lane, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer and temporary construction easements from Rick G. and Deborah Moore for property located at 813 Mickey Lane, for the Cadentown Sanitary Sewer Project, and authorizing payment in the amount of $930.00, plus usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from Alan W. and Wanchat Francis, located at 3061 Todds Road, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a permanent sanitary sewer easement and temporary construction easement from James D. and Sherry G. Taylor, located at 3081 Todds Road, for the Cadentown Sanitary Sewer Project, at no cost to the Urban County Government, with usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Statement of Compliance with Commonwealth of Ky., Transportation Cabinet, for bridge posting requirements.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Engineering Services Agreement with CDP Engineers, Inc., for Radcliffe Road Stormwater Improvement Design, at a cost not to exceed $38,500.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Clinical Services Agreement with the University of Ky., Chandler Medical Center, College of Medicine, Dept. of Pediatrics, for the provision of health care services to clients of the Family Care Center, at a cost not to exceed $303,184.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the University of North Florida Training and Service Institute, for Bloodstain Interpretation training course, at a cost not to exceed $9,000.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Memorandum of Agreement with the Ky. Law Enforcement Council, for conducting polygraphs for law enforcement candidates for other agencies, 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 Mutual Non-Disclosure Agreement with POLICEREPORTS.US, LLC, for distribution of collision reports on the internet, 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 Ky. Mansions Preservation Foundation, Inc., for the Mary Todd Lincoln House in conjunction with the Abraham Lincoln Bicentennial Celebration, at a cost not to exceed $10,000.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Contracts and any other agreements with Everest Indemnity Insurance Company for Asbestos Liability Insurance for the term October 16, 2007, through October 16, 2008, at a cost not to exceed $4,427.75 and ACE USA for Aviation Liability Insurance for the term October 21, 2007 through October 21, 2008, at a cost not to exceed $19,000.80 and authorizing payment to Marsh USA on behalf of Everest Indemnity Insurance Company and ACE USA.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 1 to the Contract with CM Construction, for the South Point parking lot, increasing the contract price by the sum of $42,810.50 from $39,700.00 to $82,510.50.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 1 to the Contract with Free Contracting, Inc., for the Solid Waste Facility Expansion Project, increasing the contract price by the sum of $7,092.80 from $1,208,101.20 to $1,215,194.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Release of Easement, releasing a portion of a streetlight easement on lots 643 and 644 in Masterson Hills Subdivision.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to purchase ten (10) Pro Laser 3 with battery and charger for use by the Traffic Offense Unit from Kustom Signals, Inc., a sole source provider, at a cost not to exceed $28,060.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Professional Services Agreement with Kinzelman Kline Gossman, LLC, for the Downtown Streetscape Master Plan, at a cost not to exceed $170,000.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Golfview Estates Neighborhood Association, Inc., ($1,000.00) for the Office of the Urban County Council, at a cost not to exceed the sum stated.

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Upon motion of Ms. Gorton, seconded by Mr. Myers and passed by unanimous vote, the communications from the Mayor were approved and are as follows: (1) recommending the appointment of Mr. Benjamin Brown to the Address Enforcement Hearing Board with a term to expire 10-30-2008, (2) recommending the appointments of Ms. Ellen M. Sam, Div. of Police Rep.; Mr. Lee Agee, Lexington Humane Society Rep., and Mr. Rick Curtis, Dept. of Public Safety, to the Animal Care & Control Oversight Committee with terms to expire 10-30-2011, (3) recommending the appointment of Dr. John Roth to the Board of Health with a term to expire 6-30-2008. Dr. Roth will fill the unexpired term of Dr. Kathryn Bolton. Also, recommending the appointment of Mr. Tom Blues to the Board of Health with a term to expire 00-00-00. Mr. Blues will fill the unexpired term of Dr. Stevens, (4) recommending the reappointments of Ms. Eileen O'Brien, Mr. William C. Davis and Ms. Pam Sexton to the Carnegie Literacy Center Board of Directors with terms to expire 9-1-2011. Also, recommending the appointment of Rev. Kelly Flood to the Carnegie Literacy Center Board of Directors with a term to expire 10-18-2011, (5) recommending the appointments of Mr. Greg Drake, Ms. Sarah Razor, Ms. Emily Lane, Mr. Joshua Ackerman and Mr. Jay Blanton to the Explorium Board with terms to expire 6-30-2010. Also, recommending the reappointments of Ms. Barbara Barr, Mr. Paul Ennis, Ms. Monica Mucci and Ms. Dana McNee to the Explorium Board with terms to expire 6-30-2010, (6) recommending the reappointment of Mr. Robert Hendricks, Fire Chief, to the Lexington History Museum with a term to expire 6-1-2010, (7) recommending the appointment of Mr. Louis A. Carmichael to the Library Board of Trustees with a term to expire 7-21-2011 and (8) recommending the appointment of Mr. Kevin Weaver to the Picnic with the Pops Commission with a term to expire 7-1-2010. Mr. Weaver will fill the unexpired term of Mr. Jim Clark.

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The following communications were received from the Mayor for information only: (1) Resignation of Joshua Cobb, Community Corrections Officer, Grade 110N, in the Div. of Community Corrections, effective October 30, 2007, (2) Resignation of Jeremy Warner, Community Corrections Officer, Grade 110N, in the Div. of Community Corrections, effective October 18, 2007, (3) Resignation of Sasa Cibula, Community Corrections Officer, Grade 110N, in the Div. of Community Corrections, effective October 12, 2007 and (4) Resignation of John T. Wright, Telecommunicator, Grade 111N, in the Div. of Enhanced 911, effective October 1, 2007.

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Mr. Bernard McCarthy, Harry Street, stated his objection to the ordinance regulating street trees.

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The Council recessed at 7:57 p.m.

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At 8:06 p.m., the Council returned with the same members present.

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An Ordinance changing the zone from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone for 1.140 net (1.476 gross) acres of property located at 1388 Alexandria Drive (Anthony W. Justice) was given second reading with a public hearing being held.

The Mayor explained the procedures and swore in the witnesses.

Mr. Bill Sallee, Div. of Planning, gave his presentation and filed the following exhibits: (1) Legal Notice, (2) Affidavit of notices mailed, (3) MAR 2007-18, Final Report and minutes of the Planning Commission, (4) 2007 Comprehensive Plan, (5) Land Subdivision Regulations, (6) Zoning Ordinance with amendments, (7) Zoning Map – USA 23, (8) Photographs, (9) 2007 Comprehensive Plan Map of Vicinity, (10) 2007 Comprehensive Plan Map – N Section and (11) Preliminary Development Plan.

Mr. Dick Murphy, attorney for the petitioner, gave the reasons for the requested zone change and filed the following exhibits: (1) Affidavit of sign posted, (2) Photographs and (3) Map showing 2006 Comprehensive Plan Requests.

The following witnesses spoke in favor of the requested zone change: (1) Mr. Todd Strecker, Parterre Court, President of the Calumet Area Neighborhood Association and (2) Mr. Obey Wallen, petitioner.

The Council asked questions of Mr. Murphy, Mr. Sallee and Mr. Wallen.

Mr. Moloney made a motion, seconded by Mr. Myers, to approve the following Findings of Fact for Approval:

The existing Professional Office (P-1) zoning is inappropriate and the proposed Neighborhood Business (B-1) zoning is appropriate for the following reasons:

1. There is a great need for space for small retail uses in this area. There is a large residential population in apartments in this area within walking distance of this property. The recent construction of the Walgreens store has removed space which was used for small neighborhood retail establishments. With the lack of available space, retail uses must locate farther and farther away from the neighborhood, which puts them outside of walking distance. Many residents in the area walk to businesses.
2. The smaller retail spaces serve as business incubators, and create employment opportunities and establishments where specific employment skills can be learned.
3. There is a lack of need for purely office use, but a great need for mixed uses which allow small retail and office facilities.
4. Granting this zone change will not change the appearance or size of the building. The building is well screened from adjoining high-density apartments.
5. This property is located near a concentration of higher density residential uses and will supply a service to residents who do not own automobiles, to provide both employment and service within walking distance.

6. This proposal is also consistent with the Goals and Objectives of the 2006 Comprehensive Plan, in particular the objectives which call for greater flexibility within commercial and office areas, establishment of retail uses with a neighborhood focus and character, providing employment opportunities and essential services closer to residences, and providing alternative modes of transportation, including encouraging biking and walking.

In addition, I move that the following conditional zoning restriction be imposed, pursuant to KRS 100.203(8):

The following uses shall be prohibited: Restaurants, cocktail lounges and nightclubs.

The reason for prohibiting restaurants and bars is that they have greater parking requirements than other uses and this property is adjacent to property which is zoned residential (High Density Apartment, R-4).

The motion passed by the following vote:

Aye: Stevens, Stinnett, Beard, Blues, Crosbie, DeCamp,
Ellinger, James, Lane, McChord, Moloney, Myers -------------------------- 12

Nay: Blevins, Gorton -- 2

Mr. Moloney made a motion, seconded by Mr. Myers and passed by majority vote (Ms. Gorton voted no), to amend the ordinance to provide that the zone change was subject to certain use restrictions imposed as a condition of granting the zone change.

An Ordinance changing the zone from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone for 1.140 net (1.476 gross) acres of property located at 1388 Alexandria Drive subject to certain use restrictions imposed as conditions of granting the zone change (Anthony W. Justice) was given first reading as amended.

Upon motion of Mr. Ellinger and seconded by Ms. Crosbie, the rules were suspended by unanimous vote. The ordinance was given second reading.

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

Aye: Stevens, Stinnett, Beard, Blues, Crosbie, DeCamp,
Ellinger, James, Lane, McChord, Moloney, Myers -------------------------- 12

Nay: Blevins, Gorton -- 2

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Upon motion of Dr. Stevens, seconded by Ms. Gorton and passed by unanimous vote, the Council adjourned at 9:14 p.m.

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Deputy Clerk of the Urban County Council