

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky April 26, 2011

The Council of the Lexington-Fayette Urban County Government, Kentucky, convened in special session on April 26, 2011 at 5:00 p.m. Present were Mayor Jim Gray in the chair presiding and the following members of the Council: Council Members Stinnett, Beard, Blues, Crosbie, Ellinger, Farmer, Ford, Gorton, Henson, Kay, Lane, Lawless, Martin and McChord. Absent was Council Member Myers.

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TRIAL OF POLICE SERGEANT EARL J. RAYFORD
(Continued)

LEGAL NOTICE

NOTICE is hereby given that a SPECIAL MEETING of the Lexington-Fayette Urban County Council will be held on Tuesday, April 26, 2011 at 5:00 p.m. in the Council Chambers, 200 E. Main St., Lexington, Ky., for a police hearing.

BY ORDER OF THE URBAN COUNTY COUNCIL.

Susan Lamb,
Council Clerk

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CLASSIFIEDS

The Mayor opened the hearing.

The defendant was present and represented by Attorney William C. Jacobs.

Upon request, the hearing was declared to be an open hearing.

The Mayor introduced Attorney David Enlow, and stated that Mr. Enlow was present to provide procedural counsel for the Council. He stated that each Councilmember had received a copy of the order of proceedings.

He asked Mr. Enlow to explain the process for the hearing. Mr. Enlow reviewed the procedures for the hearing, and stated that both parties had agreed to several stipulations, including that the opening statements would be limited to ten minutes, and that the Council had voted to allow ninety minutes for each side to present their case.

Mr. Keith Horn, Dept. of Law, attorney for the Urban County Government, asked Mr. Enlow for clarification on the procedure for closing statements. Mr. Enlow explained

the procedure. Mr. Horn also asked if Mr. Jacobs could confirm that the defendant had requested an open hearing. Mr. Jacobs confirmed that he had.

The Mayor stated that counsel could now enter their appearances of record. Mr. William C. Jacobs represented the defendant and Mr. Keith Horn and Ms. Glenda George, Dept. of Law, represented the Urban County Government.

Ms. George made her opening statement.

Mr. Jacobs made his opening statement.

The Government proceeded to introduce testimony to substantiate the charges made.

The Mayor swore in Police Officer Michael Jackson.

Evidence for the Government was given by Officer Jackson.

Mr. Jacobs cross-examined Officer Jackson.

Ms. George re-directed questions to Officer Jackson.

Mr. Jacobs re-examined Officer Jackson.

The Mayor swore in Police Officer Jack Hoskins.

Evidence for the Government was given by Officer Hoskins.

Mr. Jacobs cross-examined Officer Hoskins.

Ms. George re-directed questions to Officer Hoskins.

Mr. Jacobs made an objection to Ms. George's question regarding the booking of evidence on the grounds that it was leading. The Mayor sustained the objection. Mr. George rephrased her question.

Mr. Jacobs re-examined Officer Hoskins.

Ms. George re-directed questions to Officer Hoskins.

Mr. Horn re-directed a question to Officer Hoskins regarding his interpretation of the word "council" versus "counsel" in the context of a question. Officer Hoskins stated that his interpretation was "counsel."

Ms. George asked an additional question of Officer Hoskins.

The Mayor swore in Police Commander Lawrence Weathers.

Evidence for the Government was given by Commander Weathers.

Mr. Horn filed the following exhibit: (1) Lexington Fayette Urban County Div. of Police Formal Complaint Form 111 dated 9-28-2010.

Mr. Jacobs cross-examined Commander Weathers.

Mr. Horn made an objection to Mr. Jacobs' mischaracterization of the charges, and asked that Mr. Jacobs read the entirety of the charges rather than an excerpt. The Mayor overruled the objection and stated that Mr. Jacobs could explain his question.

Mr. Horn asked that it be made clear that Mr. Jacobs was reading from the Form 111 Complaint, and not from the formal charges filed against Sgt. Rayford by the Government.

Mr. Jacobs read a portion of the Form 111 Complaint aloud, and continued to cross-examine Commander Weathers.

Mr. Horn re-directed questions for clarification to Commander Weathers.

Mr. Jacobs re-examined Commander Weathers.

Commander Weathers was released to leave the hearing.

Mr. Jacobs requested an audit of his remaining time. The Mayor responded that he had forty minutes.

The Mayor swore in Assistant Police Chief Michael Bosse.

Evidence for the Government was given by Assistant Chief Bosse.

Mr. Horn filed the following exhibit: (2) Lexington-Fayette Urban County Div. of Police General Order 73-2/H. Assistant Chief Bosse read aloud from page 1 of Appendix B of General Order 73-2/H, regarding misconduct. Mr. Horn continued to question the witness.

Mr. Jacobs made an objection to Mr. Horn's question regarding how Sgt. Rayford's actions related to General Order 73-2/H on the basis of a lack of foundation. The Mayor overruled the objection. Assistant Chief Bosse responded to Mr. Horn's question.

Mr. Jacobs cross-examined Assistant Chief Bosse.

Mr. Horn made an objection to Mr. Jacobs' statement regarding the events in question, on the basis of it being a mischaracterization of a previous witness' testimony. The Mayor overruled the objection. Mr. Jacobs continued to question the witness.

Mr. Horn made an objection to Mr. Jacobs' line of questioning on the basis of mischaracterization. The Mayor sustained the objection. Mr. Jacobs continued to question the witness.

Assistant Chief Bosse was released to leave the hearing.

The Council recessed at 7:13 p.m.

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At 7:25 p.m., the Council returned with the same members present.

The Mayor asked Mr. Enlow to give an update on amounts of time used by each side in the hearing. He stated that Mr. Jacobs had 31 minutes left and that Ms. George and Mr. Horn had 52 minutes. He stated that there was 1 hour and 23 minutes remaining in arguments, and that closing statements would follow.

The Mayor swore in Chief of Police Ronnie Bastin.

Evidence for the Government was given by Chief Bastin.

Mr. Jacobs cross-examined Chief Bastin.

The Mayor asked Mr. Jacobs to allow Chief Bastin to answer the questions without interruption. Mr. Jacobs continued to cross-examine Chief Bastin.

Mr. Jacobs cited a portion of the Lexington-Fayette Urban County Div. of Police Officer Bill of Rights, and asked additional questions. He also cited a portion of the formal charges filed by the Government against Sgt. Rayford.

Mr. Jacobs moved to disqualify Chief Bastin as a witness on the basis of his having heard other witnesses' testimony. The Mayor stated that the motion would not be appropriate.

Mr. Horn re-directed questions to Chief Bastin.

Mr. Jacobs re-examined Chief Bastin.

Mr. Horn asked if Mr. Jacobs agreed that the formal charges filed by the Government were already a part of the record. Mr. Jacobs agreed. Mr. Horn filed the following exhibits: (3) Lexington-Fayette Urban County Code of Ordinances Section 23-42, Dismissal, Causes; and (4) Ky. Revised Statutes Section 95.450, Discipline of Members.

Mr. Horn concluded the Government's case.

Mr. Enlow stated that Mr. Jacobs had 16 minutes left for arguments.

The Mayor swore in Police Sergeant Earl Rayford.

Evidence for the defense was given by Sergeant Rayford.

The Mayor stated that Mr. Jacobs had 1 minute left for arguments. Mr. Jacobs concluded his questioning.

Mr. Horn cross-examined Sergeant Rayford.

The Mayor stated that Mr. Jacobs could have a few minutes if he desired to re-direct. Mr. Jacobs declined.

The Mayor reviewed the procedure for the portion of the hearing in which the Council could ask questions, and allotted ten minutes for those questions.

The Council asked questions of Sergeant Rayford and Chief Bastin.

The Mayor instructed the attorneys to make their closing statements, with each side having 15 minutes in which to give their statement.

Mr. Jacobs and Mr. Horn made their closing statements.

Upon motion of Mr. Farmer, seconded by Ms. Gorton, and approved by unanimous vote, the Council went into closed session at 8:49 p.m. to discuss a personnel issue.

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Upon motion of Ms. Gorton, seconded by Mr. Ellinger, and approved by unanimous vote, the Council returned to open session at 9:30 p.m. with the same members present.

The Mayor thanked everyone for attending the hearing.

Mr. McChord made a motion, seconded by Ms. Henson, that Sergeant Rayford be found guilty of Misconduct. The motion was approved by the following vote:

Aye: Lawless, Martin, McChord, Stinnett, Beard,
Blues, Crosbie, Ellinger, Farmer, Ford,
Gorton, Henson, Kay, Lane-----14

Nay: -----0

Mr. McChord made a motion, seconded by Ms. Henson, to approve the penalty of Demotion for Sergeant Rayford. The motion passed by the following vote:

Aye: Lawless, Martin, McChord, Stinnett, Blues,
Ellinger, Farmer, Gorton, Henson, Kay-----10

Nay: Beard, Crosbie, Ford, Lane-----4

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Upon motion of Mr. Ellinger, seconded by Ms. Gorton, and approved by unanimous vote, the meeting adjourned at 9:34 p.m.

Deputy Clerk of the Urban County Council

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Lexington-Fayette Urban County Government Council Meeting

Lexington, Kentucky April 28, 2011

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in regular session on April 28, 2011 at 6:00 P.M. Present were Mayor Gray in the chair presiding, and the following members of the Council: Council Members Beard, Blues, Crosbie, Ellinger, Farmer, Ford, Gorton, Henson, Kay, Lane, Lawless, Martin, McChord, Myers, and Stinnett.

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Upon motion of Ms. Gorton, seconded by Mr. McChord, and approved by unanimous vote, a Resolution adopting Findings of Fact and Conclusions of Law and imposing the discipline of Demotion to Police Officer upon Earl Rayford by reason of his misconduct within the meaning of and in violation of KRS 95.450, Section 23-42 of the Code of Ordinances of the Lexington Fayette Urban County Government, and the rules of the Div. of Police was placed on the docket and given first reading.

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

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

Aye: Beard, Blues, Crosbie, Ellinger, Farmer,
Ford, Gorton, Henson, Kay, Lane,
Lawless, Martin, McChord, Myers, Stinnett-----15

Nay: -----0

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Upon motion, the Council adjourned at 9:27 p.m.

/s/ Susan Lamb
Clerk of the Urban County Council