

General Government Committee

Ed Lane – Chair – 12th

Jay McChord – Vice Chair – 9th

Linda Gorton – Vice Mayor

Steve Kay – At Large

Chris Ford – 1st

Tom Blues – 2nd

Julian Beard – 4th

K. C. Crosbie – 7th

George Myers – 8th

Doug Martin – 10th

Staff

Scott Seymour – (258-3221)

AGENDA

GENERAL GOVERNMENT COMMITTEE

March 6, 2012

11:00 am

1. Approval of Summary (1-5)
2. Scrap Metal Ordinance – CM Stinnett (6-31)
3. Items in Committee (32)
4. Public Comment

“The General Government Committee, to which shall be referred matters relating to the general administration of government; The Department of Law; The Department of General Services; each department’s respective divisions; and, any related partner agencies.” –Council Rules & Procedures, Section 2.102 (1). Effective January 1, 2011; Adopted by Urban County Council October 14, 2010.

Committee Schedule 11:00 AM except as noted

January 10, 2012

February 7, 2012

March 6, 2012

April 10, 2012

May 1, 2012

June 19, 2012

August 21, 2012

September 11, 2012

October 2, 2012

November 13, 2012

General Government Committee
February 7, 2012
Summary & Motions

CM Ed Lane chaired the meeting and called it to order at 11:00 am. Committee members present were McChord, Gorton, Kay, Ford, Blues, Beard, Crosbie and Myers. CM Martin was absent. CM Stinnett attended as a non-voting member.

Approval of Summaries

Motions were individually made to approval the November 15, 2011, December 1, 2011 and January 10, 2012 meeting summaries. All passed without dissent.

Aquatics Management Plan

Chair Lane invited Commissioner of General Services Sally Hamilton to come to the podium. Commissioner Hamilton stated that the purpose of the aquatics presentation was to discuss the reprogramming costs for Berry Hill and Constitution pools as requested by CM Stinnett at the General Government Committee meeting on January 10, 2012. Commissioner Hamilton explained that the cost estimates for Constitution had increased primarily because the proposed ball field had to be reoriented and the pool's concrete has to be removed, not buried. She said that the additional \$20,000 needed can be secured from existing funds. Commissioner Hamilton then introduced Brian Rogers, Deputy Director, Enterprise, Division of Parks and Recreation.

Mr. Rogers gave a powerpoint presentation on the closing and reprogramming of the Berry Hill and Constitution pools. Demolition costs for Berry Hill are estimated at \$53,300 and estimates for Constitution have increased from \$34,500 to \$67,700. The combined pool operating cost reduction of \$99,500 for FY12 and FY13 for the two pools will help offset the combined total demo estimate of \$121,000.

Mr. Rogers next spoke to the reprogramming construction costs: Berry Hill estimates are \$50,000 for playground relocation, \$15,000 for sidewalks and \$300,000 for an "intermediate" skate park which is included in the park's FY 13 Capital Improvements Projects (CIP). A Friends of Skate Parks group is being formed to assist in fund raising. A public meeting is scheduled for February 21, 2012.

Total projected capital costs for the proposed ball field at Constitution are estimated at \$237,500, which is also included in the FY13 CIP.

CM Myers asked Mr. Rogers questions about the Berry Hill design and spoke about Friends of the Skate Parks. He said he believes the group will be able to raise \$100,000 to assist in the skate park's construction and maintenance. He also said that the proposed relocation of the playground provided a great asset for the neighborhood.

CM Beard inquired about the utilization of a new skate park. Mr. Rogers spoke about projected users of the skate park, and stated that they believed there would be enough users to justify a new location. Mr. Hancock and CM Myers also responded on utilization of the park and the associated demographics. They explained how the new park would be more appealing to those that are participating in what is a growing sport.

CM Beard also asked if the project would be bonded. Mr. Rogers stated it is on the capital project list, but he wasn't sure from where the money would be drawn.

CM Kay asked Mr. Rogers questions about costs of maintenance. Mr. Rogers said that maintenance will certainly be less than pools and the season for usage would be approximately ten months instead of ten weeks for pools. He added that would also be the case for the Constitution ball field. CM Myers added that Friends of the Skate Park will also be involved in issues of maintenance and repair in similar fashion to Friends of the Dog Park.

CM McChord spoke about different types of skate parks and the growing popularity and he envisioned this skate park to be a destination facility that will draw many users.

Chair Lane spoke of the wisdom of not closing the pools during the FY 2012 budget deliberations until there was a plan for reprogramming and he is favorably impressed with this plan. He said he thought it would be beneficial to now look at the current budget and then anticipate how the closures will affect future use of the other pools and revenues and cost efficiencies realized. This data could then assist in making decisions about bonding or paying out of cash flow for the new facilities. He requested the department to provide to the committee such information.

VM Gorton thanked Mr. Rogers and thanked CM Myers for working with Friends of the skate park. She said that Friends of the Dog Park is a good model to emulate. She asked CM Myers if a timeline had been established. CM Myers said they planned to develop a fund raising calendar as soon as the plan is approved by the full Council. He said some smaller initiatives are under way and he reiterated his belief that the group would be able to raise \$100,000.

Discussion ensued on budgeting for the reprogramming at the two parks.

CM Stinnett announced a public meeting on February 28, 2012 to discuss the plan for the Constitution pool. He also asked that the field designations be specified as gender neutral and classified as baseball/softball fields.

CM Crosbie also asked about designating usage for ball fields. Mr. Hancock responded that the goal is for fields to be multi-use. VM Gorton asked if there is still a disparity between fields for boys and girls. Mr. Rogers said yes but it is narrowing as girl's softball is growing. CM Stinnett added that there is a need for multi-use fields but it should be realized that the intended primary use of the Constitution field will be a 16 team girl's softball league.

There was further discussion on dedicating savings of pool operating costs over the next 3-5 years for sue to reprogram the pools. Commissioner Hamilton and CAO Moloney stated that the demolition would be covered but parks could not promise that long term, yet unbudgeted funds could be reserved for the reprogramming efforts.

A Motion by CM Myers to adopt the Aquatics Management Plan (endorse plan, with intent to secure funding for programming through budget process). Seconded by CM Beard. Passed without dissent.

Parks Master Plan

Director of the Division of Parks and Recreation Jerry Hancock gave a presentation on the Parks Master Plan. The first master plan was completed in 1998 and identified many areas that required additional funding. The 10 year updated plan was presented in 2009 and received a lot of public input including five public meetings and 10,000 home mail surveys. The 2009 Executive Summary contained 137 recommendations. Mr. Hancock said that the economic developments since 2009 have changed some of the expectations from that summary.

Mr. Hancock outlined the six sections in the detailed master plan report:

- 1) Demographic Profile of Lexington – county expected to grow over 10% by 2020, ethnicity mix changes which will impact offerings, uneven housing growth which creates park site issues.
- 2) Public Input Findings – renovate restrooms, more walking trails, renovate parks, bike paths, new senior citizen center, new indoor pool and aquatic center. Citizens preferred funding solutions were; seeking state/federal grants, charge developers impact fees, bond issues, dedicated tax or increase sales/other taxes.
- 3) Division Organizational Analyst – reclassifications, combined programs, merged planning and maintenance functions, reduce fixed costs in golf.
- 4) Programming Assessment Points – new programming for youth, growing sports need space, community center outdated, parks parity, more trails and greenways.
- 5) Budget and Funding Analysis – fluctuating CIP funding hurts planning efforts, dedicated funding source needs to be discussed, cost recovery at 25% is too low (national average is 34%).
- 6) Good Park Planning Ideas – move to rural, suburban and urban park districts, parks should be unique, community centers are outdated, need for multi-use fields.

Finally Mr. Hancock said the plan lacks a visionary focus so the division will be bringing ideas and directions to the general government committee over the course of the year to transform the old and traditional into something extraordinary.

CM McChord started the questions by emphasizing the need for a plan with vision. The city has been reactive so he asked Mr. Hancock to bring back a revised plan in a couple of months that offers fresh approaches He also asked about the value of certification. Mr. Hancock said that the value was in going through the process and learning how other communities support their parks and what are the best standards and practices in the nation.

CM Kay said to him the plan is a step in the right direction but needs further refinement and be tied to budget request priorities in the upcoming budget process.

VM Gorton asked about private funds for the Hisle archery range. Mr. Hancock said the KY Fish & Wildlife Foundation provided \$3,500 and \$35,000 of general fund money was used for the entrance and parking area. The money raised by the Friends of Hisle Archery was not needed to open the facility so they have those funds for later use. CM Gorton underscored how Friends groups are so valuable in these situations.

Chair Lane asked about the proposed development of soccer fields at Cardinal Run Park. Mr. Hancock said the project is at an impasse because LFUCG was required in the agreement to provide 50% of the cost to pave the road and parking area and build the ancillary facilities. He also said that LYSA is not as well funded as it used to be, so the project needs to be revisited.

Chair Lane inquired about the effectiveness of the Parks Advisory Board and if there were any vacancies. Mr. Hancock said the board is more effective than in the past and is more willing to devote time to projects. He said there are presently 3 openings and he will get the information to Council on which districts need to nominate members.

Chair Lane asked if whether it is possible to have financial sponsors for facilities, with naming rights. Mr. Hancock said there is a council approved naming rights policy in place, and they are open to naming sponsorships. Mr. Lane asked about safety issues and lighting at the parks. Mr. Hancock said all parks meet safety standards set by the industry but public perceptions of safety are often different.

CM Beard asked about lacrosse fields. Mr. Hancock said LFUCG has permitted lacrosse teams to use football fields for the past three years as long as they assist in their maintenance. Mr. Hancock added that with the maintenance assistance, the fields are actually in better shape now for football season than in the past. Furthermore, there is an effort underway to develop three fields at Shillito Park in cooperation with a Friends group.

Recent Cost of Living and Salary Increases for LFUCG Employees

Ms Glenda George, Department of Law, gave a presentation on recent cost of living and salary increases for LFUCG employees from 2006 to the present. She referred to the memorandum in the committee packet and spoke about codified requirements for raises, and conditions included in those requirements. She stated that there had been some confusion about whether the pay raise was mandatory, and clarified that according to the code, it was not

CM Ford stated that he asked for this information because it is important that LFUCG employees be recognized for their contributions and are adequately compensated. Mr. Ford asked questions regarding standards and measurements listed in the Code. Ms. George stated that 2.0 rating or above entitles the employee to a raise if funding is available. CM Ford asked a question about the merit pool and if the council or the administration administers the pool. Ms. George responded

that because the Mercer System was not properly funded, the merit pool section of the ordinance is not currently being used. Mr. Ford asked that the item be kept in committee in order to more fully discuss the costs associated with fully implementing at least the minimal increase for employees. He wants to know the real costs and if LFUCG can afford those costs. Wages are supposed to be a priority, he added.

CM Beard asked whether a new system was being investigated to replace the Mercer System. Ms. George said a person had been hired to work on that issue, but the evaluation was put on hold in the previous administration. There was not enough funding at the time.

CM Ford stated he thought further investigation on this issue was warranted. He encouraged council to move forward with discovering the costs of implementing section 2D of the ordinance. Commissioner of Finance Jane Driskell stated that a 1% increase for non-union personnel would be approximately \$950,000. He reiterated that he supported keeping this item in committee.

CM Stinnett spoke about the history of the merit raise systems and said he believed a new system should be put in place.

CM Lane passed the chair to VC McChord who recognized CM Lane for a motion.

Chair Lane made additional comments about making sure the pay raise system is simple to utilize and utilize.

Chair Lane made a Motion to recommend to council that the Department of Finance, the Division of Human Resources and the Department of Law review all ordinances relating to the evaluation and giving of pay raises to non-union employees, and to recommend appropriate ordinance changes to reflect best personnel practices and current economic conditions. Seconded by CM Myers, the motion passed without dissent.

Mr. McChord retuned the gavel to Mr. Lane. Chair Lane recognized Ms. George who stated that she was not sure that they had staff available with the expertise to make a proper analysis. Chair Lane said if that is the case, to make a recommendation on how to evaluate the pay for non-union LFUCG employees at the next meeting.

Items in Committee

There was no discussion on the items in committee.

Public Comment

There was no public comment.

There being no further business the meeting was adjourned at 12:50 pm.

SCRAP METAL ORDINANCE

Key Statistics - November 2010 – December 2011

Scrap Metal Theft Reports:	1450
Number of Arrest:	127
Total Reported Loss:	\$5,796,049

Highlights of Ordinance

Defines types of Materials: Ferrous Metals, Non Ferrous Metal (i.e. Copper), Plastics, Regulated Scrap Metal, HVAC, Vehicles, etc.

Dealer License - \$500 annual fee – 3 Known Scrap Dealers in Fayette County

Administration requirements of Dealers:

- Retain all information collected from purchase for 2 years
- Valid driver's license or other government issued ID of Seller
- Data system capable of flagging the third and subsequent transactions with Seller
- VIN numbers must be photographed on Vehicles and recorded
- Upload required data to a secure, electronic database approved by Chief of Police no later than close of business each day

Seller License - \$30 annual fee for individuals, \$150 for businesses

1. Required for any individual that sells scrap metal 2 or more times in a calendar year.
2. Application can be made at the Scrap Dealers locations or Department of Revenue. This will be approved and administered by Division of Police

Key Exemptions to Sellers License:

- Plumbers , Electricians, and HVAC Specialist who hold a valid professional license
- Municipal or Licensed Waste Haulers
- Any organization registered in Kentucky as a charitable, philanthropic, religious, fraternal, civic, patriotic social, or school sponsored organization
- Utility Companies
- Industrial, manufacturing, or commercial vendor who generates scrap metal as ordinary course of business

Hold Requirement - Retain *nonferrous metals* (i.e. Copper) and *catalytic converters* in its original form for **3 days** from date of purchase.

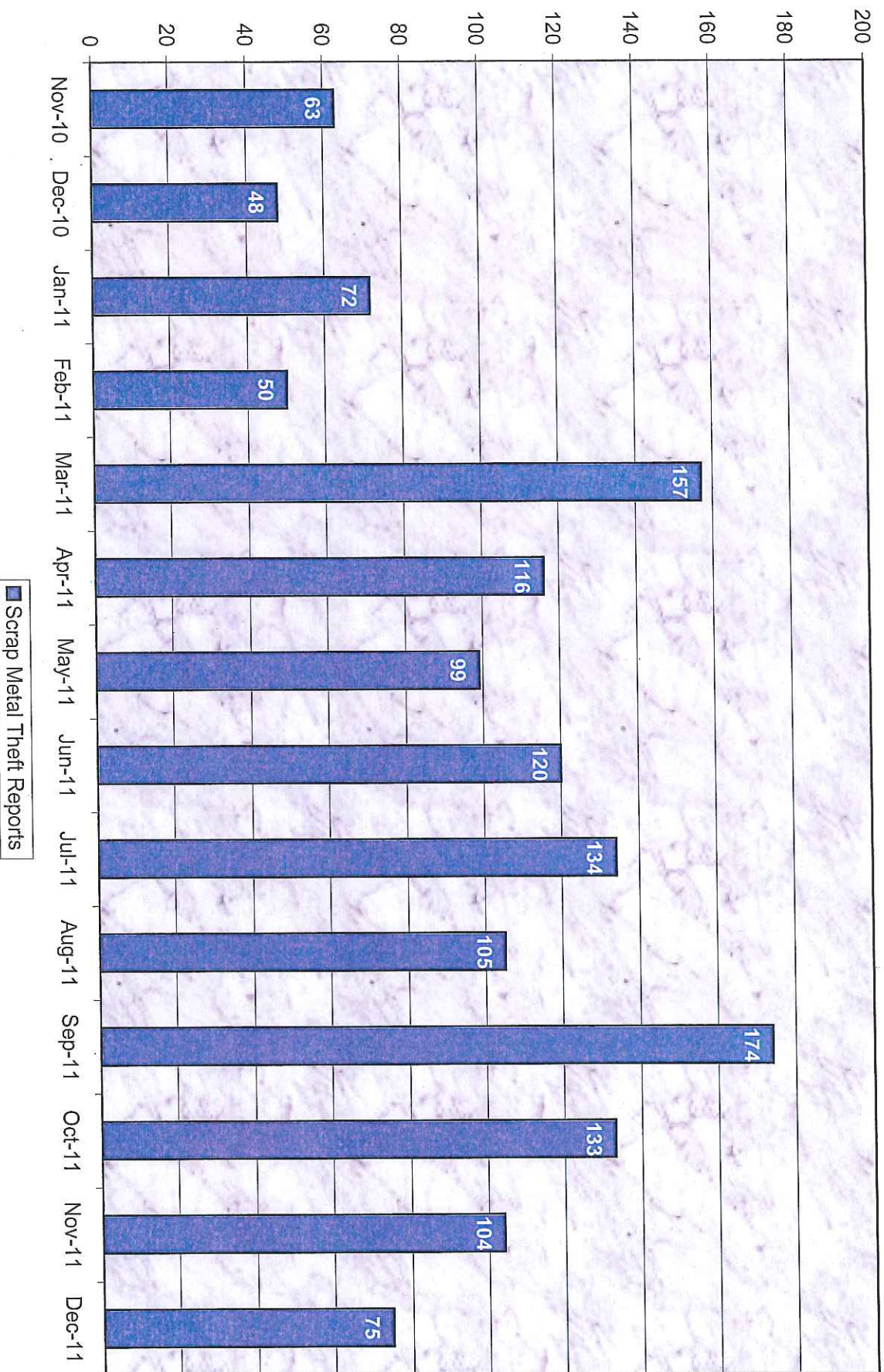
Fines and Penalties

1. 3 or more violations during a 12 month period shall result in probationary period for Scrap metal dealer/seller not to exceed 6 months. Any further violations results in revocation of dealers/sellers permit for 30 days.
2. Right to administration hearing before Public Safety Commissioner
3. Violations constitute a misdemeanor with first conviction and fine not less than \$100 or no more than \$200 or imprisoned for up to 6 months, 2nd offense and each subsequent is a min. \$200 up to \$500.

There shall be a 30 day grace period from the date this ordinance goes into effect.

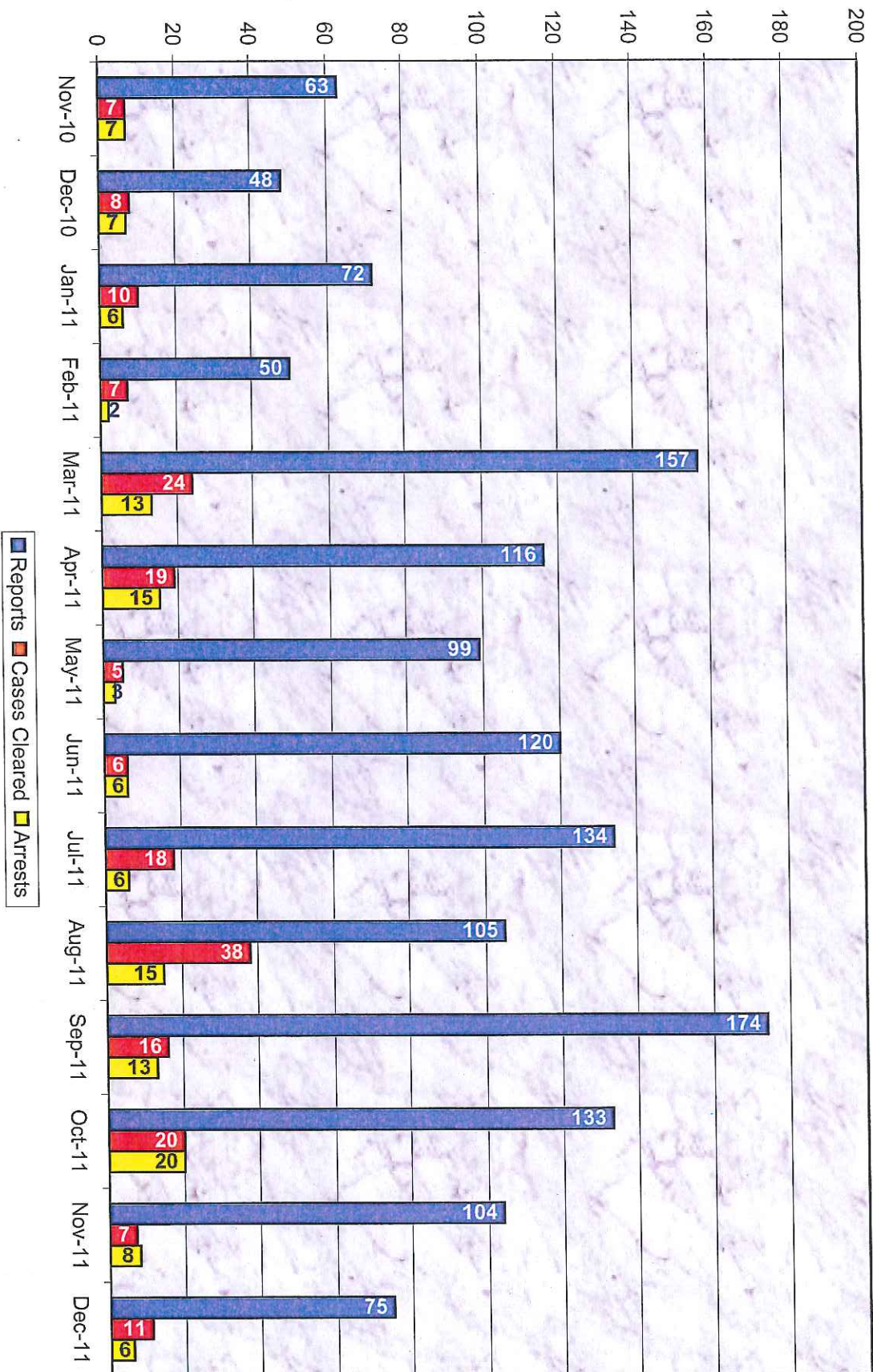
Lexington Division of Police

Scrap Metal Theft Reports



Lexington Division of Police

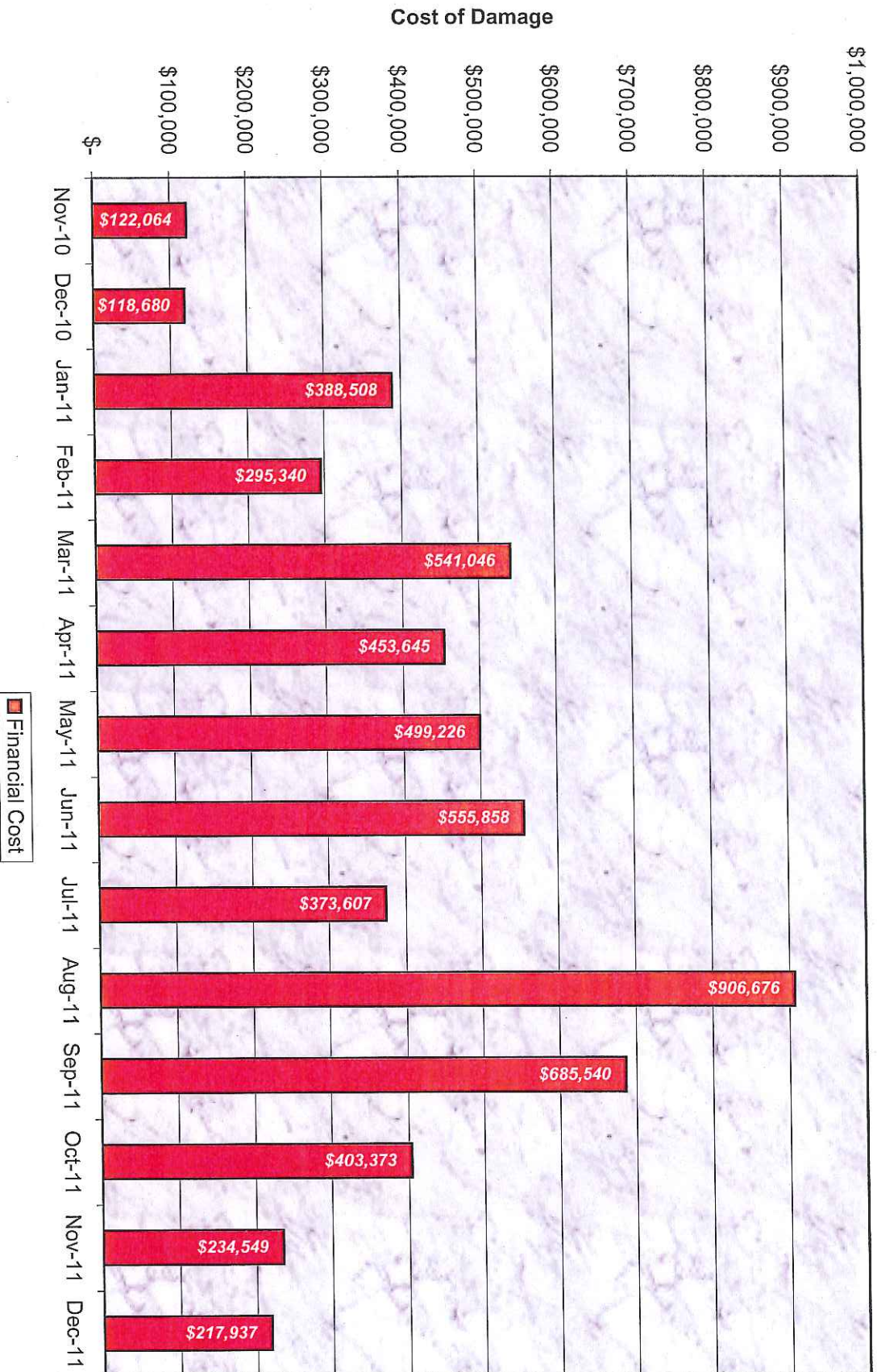
Case Analysis



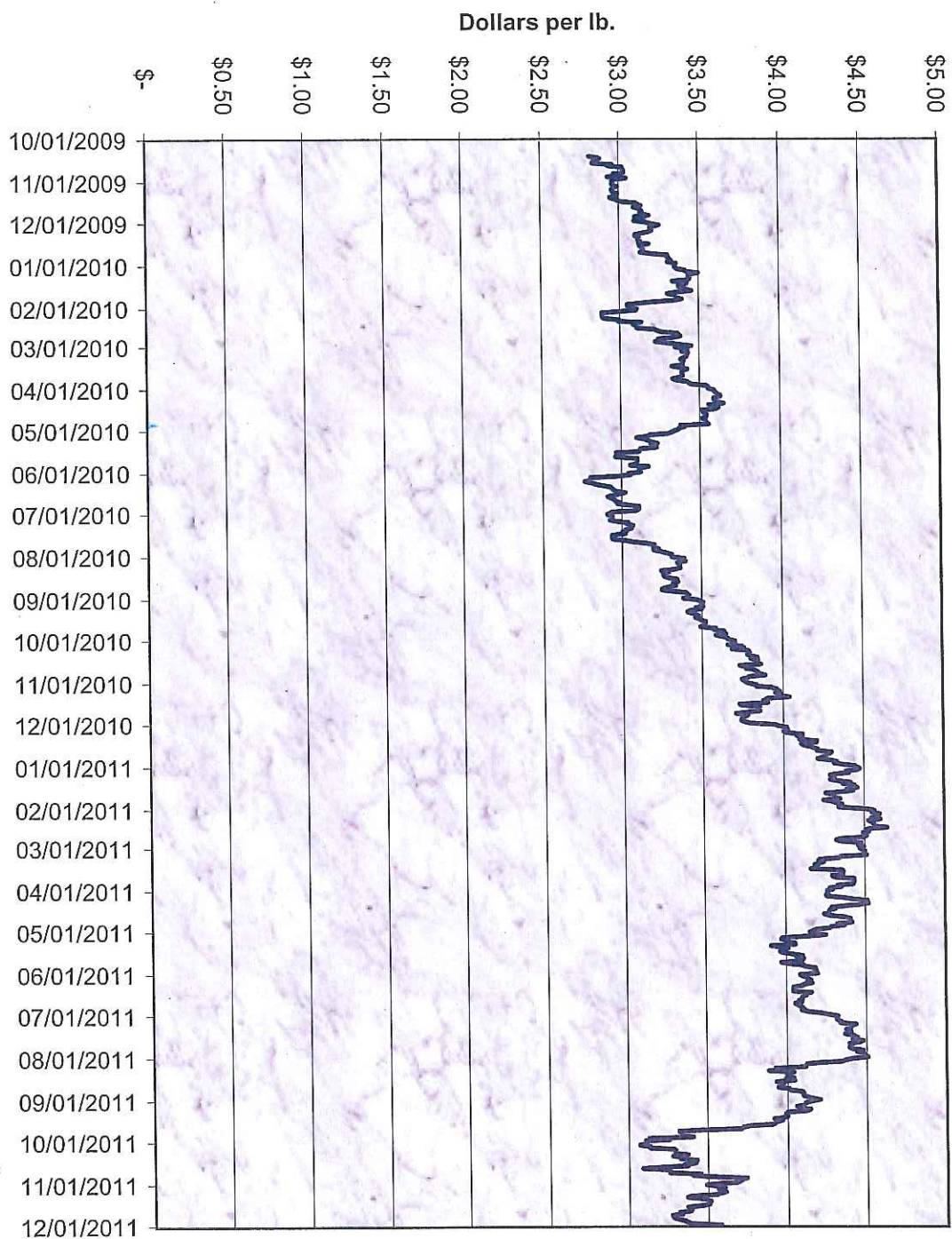
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Lexington Division of Police

Financial Statistics



National Copper Prices



— National Copper Prices

ORDINANCE NO. _____-2012

AN ORDINANCE CREATING SECTION 13-54.1 OF THE CODE OF ORDINANCES RELATED TO REGULATED SCRAP MATERIAL TO DEFINE FERROUS METAL, HVAC, NONFERROUS METAL, PLASTICS, REGULATED SCRAP MATERIAL, SCRAP METAL DEALER, SCRAP METAL SELLER, SCRAP METAL DEALER'S LICENSE, SCRAP METAL SELLER'S LICENSE, TRANSPORT VEHICLE, AND VEHICLE; CREATING SECTION 13-54.2 OF THE CODE OF ORDINANCES RELATED TO REGULATED SCRAP MATERIAL, TO CREATE THE APPLICATION AND REVIEW PROCESS FOR A SCRAP METAL DEALER'S LICENSE; CREATING SECTION 13-54.3 OF THE CODE OF ORDINANCES RELATED TO REGULATED SCRAP MATERIAL TO CREATE THE LICENSE APPLICATION AND REVIEW PROCESS FOR SCRAP MATERIAL SELLERS LICENSE; CREATING 13-54.4 OF THE CODE OF ORDINANCES RELATED TO REGULATED SCRAP MATERIAL TO DEFINE THE ADMINISTRATIVE REQUIREMENTS OF A SCRAP METAL DEALER; CREATING SECTION 13-54.5 OF THE CODE OF ORDINANCES RELATED TO REGULATED SCRAP MATERIAL TO CREATE THE RETENTION REQUIREMENTS FOR PURCHASED REGULATED SCRAP MATERIAL; CREATING SECTION 13-54.6 OF THE CODE OF ORDINANCES RELATED TO REGULATED SCRAP MATERIAL TO DEFINE PROHIBITED PURCHASES BY A SCRAP METAL DEALER; CREATING SECTION 13-54.7 OF THE CODE OF ORDINANCES RELATED TO REGULATED SCRAP MATERIAL TO PROVIDE FOR EXEMPTIONS TO THE SCRAP METAL SELLER'S LICENSE REQUIREMENT; CREATING SECTION 13-54.8 OF THE CODE OF ORDINANCES RELATED TO REGULATED SCRAP MATERIAL TO PROVIDE FOR PENALTIES FOR VIOLATIONS OF THIS SECTION AND TO PROVIDE FOR AN APPEALS PROCESS FOR ANYONE AFFECTED BY THIS SECTION.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the purpose of this section is to establish regulations for buying, selling, and processing regulated scrap materials.

Section 2 – That Section 13-54.1 of the Code of Ordinances of the Lexington-Fayette Urban County Government, be and hereby is created to read as follows. For the purpose of Sections 13-54.1 to 13-54.8 the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) Ferrous metal - is defined as materials containing iron which are, pure iron

steel, and certain steel alloys but not limited to these examples. These metals often have magnetic properties but not exclusively.

- (2) HVAC - Heating, Ventilating, Air Conditioning systems used in residential, commercial, and automotive environments, also included are the parts associated with such systems.
- (3) Nonferrous metal - is defined as material with little or no iron such as copper brass, titanium, and aluminum or alloys thereof. These metals often contain no magnetic properties.
- (4) Plastics - Any polymer based (natural or synthetic) material or any material further defined by the Society of Plastics Industry and or the American Chemistry Council and further stamped with a numbering symbol identifying its composition.
- (5) Regulated Scrap Material – catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rails, nonferrous metal or an alloy thereof, or an object containing nonferrous metal or an alloy thereof, ferrous metal or an alloy thereof, an object containing ferrous metal or an alloy thereof, vehicles sold for scrap, or plastics or other secondhand recyclable material.
- (6) Scrap metal dealer - is defined as a person, business, or corporation who: engages in the business of purchasing, trading, bartering or otherwise receiving regulated scrap material; and or uses machinery and equipment for processing and manufacturing ferrous or nonferrous scrap

into prepared grades, and whose principal product is ferrous or nonferrous metallic scrap or use similar equipment for the same purposes with other regulated scrap material.

- (7) Scrap metal seller - is defined as a person/s, business, or corporation who sells, trades, barter, or otherwise transfers ownership for compensation, of regulated scrap material.
- (8) Scrap metal dealer's license - a license issued to a scrap metal dealer conducting business in Fayette County.
- (9) Scrap metal seller's license – a license issued to a scrap metal seller conducting business in Fayette County.
- (10) Transport vehicle - any conveyance used to move ferrous and nonferrous metals for the purpose of selling, trading, bartering, or processing.
- (11) Vehicle - means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway other than by muscular power to include, but not limited to, heavy machinery i.e.; farm equipment and construction equipment.

Section 3 – That Section 13-54.2 of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows. **Scrap metal dealer license application process:**

- (1) Scrap metal dealer licenses
 - (a) Any "scrap metal dealer" located inside of Fayette County shall be required to obtain the license established in Section 13-13 by making application for the same to the Division of Police in order to

conduct business as described under the definition of a scrap metal dealer.

- (b) The license or copy shall be displayed at the final point of sale of the location notated on the permit so as to be clearly visible.

(2) Application and Review Process

- (a) The applicant for a license to engage in the business of scrap metal dealer shall file an application with the Lexington Division of Police on a form provided by that Division.

- (b) The following information shall be provided in or with the application:

- (1) Business name in which license is sought;
- (2) Business address, including street address, and zip code;
- (3) Telephone number;
- (4) The location(s) of the facility sought to be licensed;
- (5) Name and address of person responsible for management of the operation of the business, and shall include such other information as the Division of Police deems necessary to investigate the applicant and the applicant's proposed place of business. The Division of Police shall, within thirty (30) days of receipt of a completed application form, make a complete review of the accuracy of the information contained therein, including a criminal records check on any individuals named therein. If the application is to be approved, the

Division of Police shall provide the applicant with such written notification, for presentation to the Division of Revenue. The Division of Revenue shall issue the license if the application is approved. If the application is to be denied, the Division of Police shall provide the applicant with such written notification, including a statement of the reasons for denial. An aggrieved applicant shall, within ten (10) days of receipt of such notice, have a right to request, in writing, a hearing before the Commissioner of Public Safety, as authorized by Section 13-54.8.

- (3) The cost of each license is \$500 per year. The license shall expire on December 31 of each year, unless suspended or revoked. Application for the next year's license should be made at least thirty (30) days prior to the expiration date.

Section 4 – That Section 13-54.3 of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows. **Scrap metal seller license application process:**

- (1) Scrap metal seller's license
 - (a) Any "scrap metal seller", within Fayette County who sells, trades, barter, or otherwise transfers ownership for compensation, of regulated scrap materials, totaling three or more occurrences in a calendar year, within Fayette County, shall be required to obtain the license established in Section 13-13 by making application for the

same to the Division of Police in order to conduct business as described under the definition of a scrap metal seller.

(2) Application and Review Process

- (a) The applicant for a license to engage in the business of scrap metal seller shall file an application with the Lexington Division of Police on a form provided by that Division.
- (b) An application for a scrap metal seller's license may also be obtained at a scrap dealer's place of business. The applicant for a scrap metal seller's license may fill out the form and provide the required information and fees to the scrap metal dealer. The scrap metal dealer must file the application and fees with the Division of Police within five business days of receipt of the application and fees.
- (c) The following information shall be provided in or with the application:
 - (1) A photocopy of a valid state driver's license or other official state issued identification card which bears the subject's picture and,
 - (2) Any other information as the Division of Police deems necessary to investigate the applicant.
 - (3) The Division of Police shall, within thirty (30) days of receipt of a completed application form, make a complete review of the accuracy of the information

contained therein, including a criminal records check.

If the application is to be approved, the Division of Police shall provide the applicant with such written notification for presentation to the Division of Revenue. The Division of Revenue shall issue the license if the application is approved. If the application is to be denied, the Division of Police shall provide the applicant with such written notification, including a statement of the reasons for denial. An aggrieved applicant shall, within ten (10) days of receipt of such notice, have a right to request, in writing, a hearing before the Commissioner of Public Safety, as authorized by Section 13-54.8.

- (3) The cost of each license is \$30 per year for a private individual or \$150 for a business. The license shall expire on December 31 of each year, unless suspended or revoked. Application for the next year's license should be made at least thirty (30) days prior to the expiration date.
- (4) The seller will produce the license and government issued photo ID prior to making any sale to the scrap metal dealer, upon the third and subsequent sales during a calendar year.
- (5) The application for the scrap metal seller's license will be void if the applicant has been convicted of theft or receiving stolen property

within five years of the application date. If the holder of the scrap metal seller's license is convicted of a charge of Theft by Unlawful taking or Receiving Stolen Property, their seller's license shall be revoked by the Division of Revenue upon affirmation by the Division of Police.

Section 5 – That Section 13-54.4 of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows.

Administrative Requirements of Scrap Metal Dealers:

- (1) Every scrap metal dealer, whether such dealers have established places of business or operate a business of an itinerant nature, with regard to any regulated scrap material shall:
 - (a) Keep a register that contains:
 - (1) A photocopy of a valid driver's license or other government-issued identification card of the seller. If the purchaser has a copy of the seller's valid photo identification on file, it shall not be necessary for the purchaser to make another copy of the identification document for each purchase if the purchaser references the number on the identification document in the register at the time of each purchase; however, a photocopy of a valid driver's license or government-issued identification card must be presented with each purchase.
 - (2) A data system capable of flagging the third and subsequent

transactions of the same Seller within a calendar year.

- (3) The state and license number of the motor vehicle used to transport the regulated scrap materials to the place of purchase, which shall be provided by the seller of the items. If the displayed registration plate is a temporary license plate then the VIN number of the transport vehicle shall be recorded;
- (4) The time and date of the transaction;
- (5) A description in the usage of the trade of the kind and weight of the regulated scrap materials and information regarding the material acquired stating the weight and a detailed description of the materials. If the material is tubing, the diameter will be recorded and noted as new or used. All items for purchase shall be photographed in digital format from a position that is capable of revealing a true depiction of the material and,
- (6) The amount paid for the regulated scrap material and the unit basis of the purchase, such as by ounce or pound, etc.;
- (7) Purchases made from a utility, telecommunications, and/or data communication's company should be documented in a manner that accurately depicts the type of regulated scrap material purchased and the total weight of the purchase. If a mix of material is purchased then an accurate notation of the

various materials shall be noted in the registry, including the company making the sale and the employee or representative of the company making the transaction;

- (8) If the scrap is a vehicle as defined, the VIN number or other identifying number or mark shall be recorded along with a photograph of the VIN, other identifying number, or mark. The photograph shall be taken in digital format for future processing. If the VIN or other identifying number or mark is not readily accessible then photographs in the listed manner shall be taken from four vantage points to accurately depict the description of the scrapped vehicle in the manner in which it was purchased;
- (9) Retain the information required by this section for a period of two (2) years, after which time, the information may be retained or destroyed in a manner that protects the identity of the owner of the regulated scrap material and the seller of the material.
- (10) If the purchaser ceases business, transfer all records and information required by this section to the Chief of Police;
- (11) Upon written request of the Chief of Police, as appropriate, upload the required data to a secure, electronic database approved by the Chief of Police no later than the close of business on the day the regulated scrap material was

purchased by the scrap metal dealer.

- (12) Comply with a written request pursuant to paragraph (11) of this subsection until a written notice to cease sending the reports required by paragraph (11) of this subsection is received by the purchaser. A request may relate to:
 - (a) All records of purchases;
 - (b) Records of a specific class of metals or items purchased;
 - (c) Records of purchases during a specific period of time;
 - (d) Records of a specific purchase or purchases; and
 - (e) Photographs of regulated scrap material purchased.
- (13) The police department receiving records pursuant to this section shall retain the records for two (2) years, after which time, it may either retain or destroy the records in a manner that protects the identity of the owner of the regulated scrap material, the seller of the material, and the purchaser of the material; or if uploaded to a secure data base, the retention schedule will be regulated by that company's policy and procedure;
- (14) Any record required to be made or reported pursuant to this section may be kept and reported in hard copy and uploaded to a secure database in digital or in electronic format.

Section 6 – That 13-54.5 of the Code of Ordinances of the Lexington-Fayette

Urban County Government be and hereby is amended to read as follows: **Retention of purchased regulated scrap material:**

- (1) Retain the nonferrous metal regulated scrap material as defined in Section 13-54.1(3) and catalytic converters in its original form for a period of three business days from the date of purchase unless notified by a peace officer having reasonable cause to believe that the material may be stolen material, in which case, the material may be seized as evidence by the peace officer or, if not seized, shall be retained for an additional 30 days unless earlier notified by a peace officer that the material may be sold. All materials purchased will be maintained, in its received form, in addition, all purchased items will be tagged and stored separately in a manner so that no intermingling of material will occur;
 - (a) The material purchased from a utility, telecommunications, and or data company need not be held on site for the required time previously stated and may be processed immediately upon acquisition by the scrap metal dealer;
- (2) It shall be the duty of every scrap metal dealer, his agents or employees to hold all suspected stolen regulated scrap material in a secure place for 30 business days upon request by a peace officer. The metal scrap metal dealer, his agents or employees, may not process or remove the material from the dealer's premises before the 30th business day after receipt of the request from a peace officer to hold the material unless;

1. The material is released into a peace officer's care, custody and control at an earlier time;
 2. A peace officer releases the hold on the material upon an earlier date;
 3. A peace officer makes a written request to extend the holding period for up to 90 business days from the date the original request is received; or
 4. A court orders release of the material.
- (3) Permit any peace officer to inspect the register, and if the peace officer deems it necessary to locate specific stolen regulated scrap material, may inspect the regulated scrap materials received during business hours. This section also includes the inspection of holding areas where the materials are stored;

Section 7 – That Section 13-54.6 of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows. **A scrap metal dealer shall not make any of the following purchases:**

- (1) Any regulated scrap material from a person who:
 - (a) Is less than eighteen (18) years of age or;
 - (b) Is unable or refuses to provide the identification and information required in Section 13-54.4(1)(a)(1) or,
 - (c) Is visibly intoxicated by way of an alcoholic beverage or other impairing substance;

(d) Scrap Metal Dealers shall not purchase regulated scrap materials from Scrap Metal Sellers upon their third or subsequent transaction during a calendar year without a valid Scrap Metal Seller's License.

(2) A vehicle sold for scrap, less than fifteen years of age, without a valid title or copy of title produced at the time and location of the sale. Failure to produce the title will result in the recycler, scrap metal dealer, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, collector of or dealer in articles found in ashes, garbage, or other refuse, not completing the sale. Vehicles whose title has been surrendered pursuant to KRS 186A.295 are exempt from this section.

(3) Any Heating, Ventilating, Air Conditioning (HVAC) equipment in whole units or parts without the seller, while being an employee of a business that provides such services, produces city-issued HVAC permit or state-issued professional license while selling within the scope of their employment.

(a) Any individual wishing to sell Heating, Ventilating, Air Conditioning (HVAC) equipment must provide a permit issued by the city to a homeowner for the installation, alteration, or repair of an air-conditioning system at a particular address and an invoice or repair order for work completed which would show the location and customer name where the units or parts were serviced. Failure to produce any of the required information will result in the scrap

metal dealer not completing the sale;

(1) The scrap metal dealer will maintain a copy of the invoice or repair order for work completed at the business location of the sale for a period of time not to exceed two years.

(2) This provision shall not apply to window air conditioning units.

(4) It shall be unlawful for a scrap metal dealer, his agents or employees to purchase any of the following items of regulated scrap materials without obtaining proof that the seller owns the property (such as by a receipt or bill of sale) or proof that the seller is an employee, agent, or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer, or other person, business, or entity owning the property and the seller is authorized to sell the item of regulated scrap materials on behalf of the person, business, or entity owning the property:

(1) A manhole cover.

(2) An electric light pole and its fixtures and hardware

(3) A guard rail

(4) A street sign, traffic sign, or traffic signal and its fixtures and hardware

(5) A funeral marker or funeral vase.

(6) An historical marker.

(7) Railroad equipment, including but not limited to a tie plate, switch plate, E clip, or rail tie junction.

(8) Any metal used by, or that is the property of, or any item that is marked with any form of the name, initials, or logo of a governmental entity, utility company, cemetery, or railroad.

(9) An aluminum or stainless steel container or bottle designed to hold propane for fueling fork lifts.

(5) An item of regulated scrap metal in its original packaging unless the person selling such item presents a receipt or proof of purchase for that material.

(6) An item of regulated scrap metal that is marked with any form of the name or initials of a private company or that the scrap metal dealer knows or should reasonably be expected to know belongs to a private company unless the person selling such material presents at the time of sale a written, signed statement from the seller attesting to lawful ownership of the material, a receipt from the lawful owner, or a written, signed statement from the lawful owner of the property providing that the seller has authorization to sell or otherwise transfer that property.

(7) Any regulated scrap material that has been smelted, burned, or melted unless, in addition to the other requirements of this subsection, the seller provides the following and the purchaser maintains a copy thereof:

(a) A signed certificate of ownership stating that he or she is the owner of the material and is entitled to sell it; or

- (b) A signed certificate from the owner of the material stating that he or she is the owner of the material and that the person selling the material is authorized to sell the material on behalf of the owner;
- (8) Any regulated scrap material that is stolen or by reasonable diligence one should know is stolen. The scrap metal dealer, his agents, or employees, shall report to police any attempt to sell such stolen material or material acquired by the dealer subsequently determined or reasonably suspected to be stolen material, and the scrap metal dealer, his agents or employees, shall furnish such other information as might be helpful to the police in investigating the matter.

Section 8 – That 13-54.7 of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is amended to read as follows. **The following are exemptions to the scrap metal seller license requirement:**

- (1) Selling a non-returnable used beverage container or food container other than a metal beverage container that is capable of holding more than two liters of liquid and which is marketed as returnable;
- (2) Selling materials disposed of as trash or refuse that contains or may contain regulated scrap materials, which is collected by a municipal waste department or by a licensed waste hauler and no payment is made to the person from whom the material is collected by the person or agency collecting the material;
- (3) Selling regulated scrap materials under a written contract between a scrap metal dealer and an organization, corporation, or association registered

with the Commonwealth as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school sponsored organization;

- (4) Selling regulated scrap materials, pursuant to a written contract between a scrap metal dealer and a manufacturing, industrial or other commercial vendor that generates regulated scrap materials in the ordinary course of business.
- (5) A scrap metal seller's license is not required of a business with a valid scrap metal dealer's license.
- (6) A scrap metal seller's license is not required of the following licensed professionals: plumbers, electricians, HVAC specialists. The aforementioned license shall be issued from the Lexington-Fayette Urban County Government or the Commonwealth of Kentucky.
- (7) This ordinance shall not apply to the purchase, sale, or transfer of jewelry.

Section 9 – That Section 13-54.8 Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is created to read as follows. **The following are penalties and appeals process for this section:**

- (1) Convictions of three or more incidents in violation of any provision in this ordinance during a 12 month period shall result in a probationary period imposed on the scrap metal dealer/seller convicted for such offences not to exceed a six month period. If further convictions of violations pertaining to this ordinance occur during the probationary period then a revocation of the scrap metal dealer's/seller's permit will occur for a period not to exceed 30 calendar days.

- (a) Upon conviction of three or more incidents in violation of any section in this ordinance during a 12 month period or upon a conviction of a violation of this section during the probationary period, the scrap metal dealer/seller shall have the right to an administrative hearing to appeal the probationary period and or license revocation or license denial. The hearing will be held before the Commissioner of Public Safety or his/her designee.
- (b) Before the institution of the probationary period or license revocation, the Commissioner of Public Safety shall notify the scrap metal dealer/seller in writing of his intent to institute the probationary period or revoke the license, including a summary of the grounds for the action. The notice shall be sent to the scrap metal dealer/seller by certified mail to the person and address specified on the license. Within ten (10) days of receipt of such notice, the scrap metal dealer/seller may provide to the Commissioner of Public Safety, in writing, a response which shall include a statement of reasons why the license should not be put in probation or revoked and may include a request for a hearing. If a response is not received by the Commissioner of Public Safety within 10 days, the notice shall be a final administrative act of probation or revocation. If a response is received by the Commissioner of Public Safety within 10 days, he shall schedule a hearing and shall give notice of such hearing to the scrap metal

dealer/seller. The hearing shall be conducted within thirty (30) days of the Commissioner of Public Safety's receipt of the scrap metal dealer's/seller's response. The commissioner or designee shall render a written decision within (10) days after the completion of the hearing and shall serve the scrap metal dealer/seller with a copy of the decision by certified mail. The scrap metal dealer/seller may appeal the decision to the Fayette Circuit Court within thirty (30) days after receipt of the written notice of the decision.

- (c) It shall be the responsibility of the general manager or principal facility manager of the scrap metal dealer to see that the employees of the business understand the provisions set forth in this ordinance and that those provisions are adhered to.
- (d) Any violations of this section shall constitute a misdemeanor and shall upon the first conviction thereof be fined not less than one hundred (\$100.00) nor more than two hundred dollars (\$200.00), or imprisoned for not more than six (6) months or both; and for the second and each subsequent conviction shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or imprisoned for not more than six (6) months, or both.
- (e) There will be a thirty (30) day grace period from the date that this ordinance goes into effect. No enforcement action shall be taken during this grace period to help educate scrap metal dealers and scrap metal sellers of this new ordinance.

Section 10 – This Ordinance shall become effective on the date of passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
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General Government Committee Items

<u>Item</u>	<u>Referred By</u>	<u>Date Referred</u>	<u>Status</u>
Franchise Agreements	Ellinger	1-13-11	3-22-11
General Services Link Recommendations To General Government Committee	Kay	8-05-11	8-16-11/9-13-11 10-11-11/11-15-11 12-01-11/ 01-10-12 02-07-12
Parks Master Plan			
Resolution(s) To Amend Section 3.101 of The Council Rules	Lane	8-05-11	9-13-11
Recent Cost of Living Adjustments and Salary Increases for LFUCG Employees	Ford	9-27-11	02-07-12/
Recommend a Process By Which Non-profit And For-profit Entities That Support LFUCG Functions and Divisions Can Build Websites Or Place Links on LFUCG Websites.	Lawless	1-12-12	
Scrap Metal Ordinance	Stinnett	2-07-12	03-06-12