

LEXINGTON-FAYETTE URBAN COUNTY COUNCIL

WORK SESSION AGENDA

January 15, 2008

- I. Public Comment – Issues on Agenda**
- II. Requested Rezoning / Docket Approval – None**
- III. Approval of Summary- Yes, January 8, 2008, pp.4-5**
- IV. Budget Amendments – None**
- V. New Business, pp.11-17**
- VI. Continuing Business / Presentations**
 - A. Human Resources Position Evaluation & November 13, 2007, Work Session, Item Y**
 - B. AIA, Commerce Lexington and Downtown Development Authority: “What Can Be” Presentation**
 - C. Continuation of Sanitary Sewer Fee Proposal – CM Blevins**
- VII. Council Report**
- VIII. Mayor’s Report – None**
- IX. Public Comment – Issues Not on Agenda**

ADMINISTRATIVE SYNOPSIS

New Business Items

- A. Authorization to Approve the Contract and Agreement with Zambelli Fireworks Manufacturing Corporation for the Exhibition of Fireworks for July 4, 2008 and July 4, 2009. (025-08) (Ebel/J. Kelly)
This request will authorize the approval of the contract and agreement with Zambelli Fireworks Manufacturing Corporation for the exhibition of fireworks for July 4, 2008 and July 4, 2009 at a cost of \$35,000. A 50% deposit (\$17,500) is required and due with signed contract. Funds are budgeted in the Office of the Mayor's Professional Services Account and are paid by sponsorship donations. The balance is due three days prior to the scheduled display date.**p.11**
- B. Authorization to Amend Sections 22-5 and 21-5 of the Code of Ordinances within the Division of Planning. (026-08) (Allen/D. Kelly)
This request will authorize an amendment to Section 22-5 of the Code of Ordinances to abolish one (1) unclassified civil service position of Planner Sr. (Grade 117E), and amend Section 21-5 to create one (1) classified civil service position of Planner Sr. (Grade 117E). Funds were budgeted in the FY2008 budget.**p.12**
- C. Authorization of a Purchase of Service Agreement (PSA) between LFUCG and the Lexington and Fayette County Parking Authority (LFCPA). (024-08) (Koch)
This request will authorize a PSA with LFCPA for the administration and enforcement of on-street parking ordinances regulations, and for the management of on-street parking on behalf of LFUCG pursuant to Section 2-179 of the Code of Ordinances.**p.13**
- D. Authorization to Approve and Submit a Petroleum Storage Tank Environment Assurance Fund (PSTEAF) Application for Assistance to the Kentucky Department for Environmental Protection, Division of Waste Management for Reimbursable Funds and Approval to Sign Future Claims. (028-08) (McFadden/Taylor)
This request will authorize the approval and submission of a PSTEAF Application for Assistance to the Kentucky Department for Environmental Protection, Division of Waste Management, Underground Storage Tank Branch, for reimbursement costs for the closure of the underground storage tanks located at Fleet Services. Once this form is approved, LFUCG must submit a Claim Request Form for actual reimbursement. The estimated total cost of reimbursement has not been calculated but is fully refundable. Approval is also requested for the Department of

Environment Quality be authorized to sign future Claim Request Forms to expedite the process.**p.14**

- E. Authorization to Amend Section 21-5 of the Code of Ordinances within the Division of Parks and Recreation. (017-08) (Allen/Cole)
This request will authorize an amendment to Section 21-5 of the Code of Ordinances to reinstate one (1) classified civil service position of Public Service Supervisor Sr. (Grade 114E) that was abolished in error, and to correct the authorized strength count within the Division of Parks and Recreation. The position has been funded through personnel lapse and seasonal funds. This action will correct the funding stream for this position for the remainder of FY2008 by using the Division's Inversion Account.**p.15**
- F. Authorization of a Service Contract with Omni Architects on Behalf of the Division of Enhanced 9-1-1. (027-08) (Lucas/Bennett)
This request will authorize a Service Contract with Omni Architects for professional services related to the design of the Public Safety Operations Center (PSOC). The cost of Phase 1 is a maximum of \$302,845. Phase 2 fees equal 8.99% of construction cost plus a maximum of \$24,600 for reimbursable costs. Phase 2 is contingent on future funding. Funding that will not be needed for the Communications Technical Facility project will be reallocated to this project by a budget amendment at a later date.**p.16**
- G. Authorization to Accept Donation of Equipment from the US Department of Homeland Security on Behalf of the Division of Police Under the Commercial Equipment Direct Assistance Program (CEDAP). (021-08) (P. King/Bennett)
This request will authorize the acceptance of a donation from the US Department of Homeland Security of a Wolf Pack Thermal Remote Viewing System (CT/AT Kit) on behalf of the Division of Police, Emergency Response Unit under the CEDAP. The equipment is designed to assist in tactical operations, forensics and evidence recovery, physical security, and contraband interdiction with a value of approximate \$25,000. This equipment will be used for terrorism-related critical events. There is no budgetary impact.**p.17**

URBAN COUNTY COUNCIL
WORK SESSION SUMMARY
& TABLE OF MOTIONS

January 8, 2008

Mayor Newberry chaired the meeting, calling it to order at 3:00 pm. All Council Members were present, except CMs Crosbie and Moloney.

- I. Public Comment – Issues on Agenda-None
- II. Requested Rezoning / Docket Approval-Yes

A motion by CM Blues to place on the docket for 2/19/08 a special meeting public hearing on an ordinance changing the zone from an Agricultural Urban (A-U) zone to an Expansion Area Residential-2 (EAR-2) zone for 8.63 net (8.96 gross) acres of property located at 2020 Russell Cave Road, seconded by CM Blevins, passed unanimously.

A motion by CM James to place on the docket without a hearing, an ordinance changing the zone from a Professional Office (P-1) zone to a Highway Service Business (B-3) zone for 1.20 net (1.35 gross) acres of property located at 1537 North Limestone Street subject to certain use restrictions imposed as conditions of granting the zone change, seconded by CM Lane, passed unanimously.

A motion by CM Stevens to place on the docket without a hearing, an ordinance changing the zone from an Agricultural Urban (A-U) zone to a Single Family Residential (R-1B) zone for 3.3 net (3.8 gross) acres of property located at 1960 (a portion of) and 1964 Shadybrook Lane and a Single Family Residential (R-1C) to a Single Family Residential (R-1B) zone for 55.8 net (68.3 gross) acres of property located at 1803-1814 Lakehill Circle; 2128-2136 Lakeside Court; 2001-2213 Lakeside Drive; 2081-2093 Lakeside Place; and 2021 and 2025 Shadybrook Lane, seconded by CM Blevins, passed unanimously.

A motion by CM Ellinger to place on the docket without a hearing, an ordinance changing the zone from a Two-Family Residential (R-2) zone to a Planned Neighborhood Residential (R-3) zone for 1.560 net (1.766 gross) acres of property located at 1516, 1516 ½, 1518, and 1520 Versailles Road, seconded by CM Lane, passed unanimously.

A motion by CM James to place on the docket without a hearing, an ordinance changing the zone from a Professional Office (P-1) zone to a Neighborhood

Business (B-1) zone for 0.3580 net (0.4821 gross) acres of property located at 611 Winchester Road subject to certain use restrictions imposed as conditions of granting the zone change, seconded by CM Lane, passé unanimously.

A motion by CM Blues to place on the docket without a hearing an ordinance changing the zone from an Agricultural Rural (A-R) zone to a Light Industrial (I-1) zone for 18.41 net (18.83 gross) acres of property and from an Agricultural Urban (A-U) zone to a Light Industrial (I-1) zone for 0.93 net (0.98 gross) acres of property located at 2850 Spurr Road subject to certain use restrictions imposed as conditions of granting the zone change, seconded by CM DeCamp, passed unanimously.

A motion by CM Ellinger to place on the docket a resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Release of Easement, releasing a sanitary sewer easement on property located at 3101 Richmond Road, seconded by CM McChord, passed unanimously.

A motion by CM Ellinger to approve the docket as amended, seconded by CM Myers, passed unanimously.

III. Approval of Summary – Yes

A motion by CM Stinnett to approve the summary from December 11, 2007, was seconded by CM James, passed unanimously.

IV. Budget Amendments-Yes

A motion by CM Stevens to approve budget amendments, seconded by CM Ellinger, passed unanimously.

V. New Business

- A. Authorization of a Quitclaim Deed from the East End Church of Christ, Inc. to LFUCG for a Parcel of Land. (002-08) (Boland/J. Kelly)
- B. Authorization to Accept a Donation from Columbia Gas of Kentucky for Destination 2040. (004-08) (Boland/J. Kelly)
- C. Authorization of a Deed of Permanent Storm Sewer and Drainage Easement and a Temporary Construction Easement at 211 Floral Park for the Elizabeth Street Drainage Improvements Project. (003-08) (Martin/D. Kelly)
- D. Authorization of a Deed of Permanent Storm Sewer and Drainage Easement and a Temporary Construction and Access Easement at 220 Floral Park for the Elizabeth Street Drainage Improvements Project. (010-08) (Martin/D. Kelly)

- E. Authorization to Amend Section 21-5 of the Code of Ordinances within the Division of Streets, Roads, and Forestry. (007-08) (Allen/D. Kelly)
- F. Authorization to Amend Section 21-5 of the Code of Ordinances within the Division of Historic Preservation. (013-08) (Allen/D. Kelly)
- G. Authorization to Accept Award from the Kentucky Transportation Cabinet (KYTC) for the South Limestone Multimodal Safety Study – FY2008. (019-08) (P. King/D. Kelly)
- H. Authorization of a Cooperative Agreement with T-Mobile for the 3-1-1 Dialing Service within Fayette County. (018-08) (Lucas/Bennett)
- I. Authorization to Amend Section 22-5 of the Code of Ordinances within the office of the Chief Information Officer. (006-08) (Allen/Dhuwaraha)
- J. Authorization to Amend Section 22-5 of the Code of Ordinances within the Department of Social Services. (015-08) (Allen/Helm)
- K. Authorization of a Facility Usage Contract with the Fayette County Board of Education on Behalf of the Division of Parks and Recreation. (009-08) (Hancock/Cole)
- L. Authorization to Amend the Joinder Agreement with the Kentucky Public Employees' Deferred Compensation Authority on Behalf of LFUCG. (011-08) (Allen/Koch)
- M. Authorization to Amend an Agreement with ICMA-RC on Behalf of LFUCG. (012-08) (Allen/Koch)
- N. Authorization to Amend Section 1 of Ordinance No. 391-2005 to Correct a Typographic Error. (016-08) (Allen/Koch)
- O. Authorization to Submit Application to the Federal Emergency Management Agency (FEMA) on Behalf of the Division of Water and Air Quality for a Hazard Mitigation Project – FY2009. (020-08) (P. King/Taylor)

A motion by CM DeCamp to approve new business items A-O, seconded by CM Ellinger, passed unanimously.

A motion by CM Stevens to place on the docket for Thursday night a resolution concerning the PSC made, seconded by CM Gorton was made.

A motion by CM Stinnett to table the PSC resolution motion until Thursday, 1/10/08, seconded by CM Ellinger passed by an 8-5 hand vote, due to technical difficulties.

VI. Continuing Business / Presentations

A. Service Corps of Retired Executives (SCORE) Presentation

This presentation was given by Dennis Potts, Chapter Chair.

B. Sanitary Sewer Fee Proposal

This presentation was done by CM Blevins, along with Charlie Martin, Bill O'Mara, and Comm. Kyna Koch.

Several CMs spoke. CM Blevins stated that he will be bringing a formal request before the Council next week.

C. KY Water Supply Issue Presentation

This presentation was made by David Barberie, LFUCG Dept. of Law. Mayor Newberry and several Council Members spoke on this issue.

VII. Council Report

CM McChord-Announced Wyndham Downs Homeowners Association annual meeting on next Tuesday at 7 pm; congratulated CM James for being on the cover of Business Lexington.

CM Blevins-A motion by CM Blevins to approve the NDF list for January 8, 2008, seconded by CM DeCamp, was amended by CM Stevens and seconded by CM McChord passed unanimously.

CM Blues-Announced Meadowthorpe Neighborhood Association meeting tonight at 7 pm.

A motion by CM Blues to establish a Council rule to preclude the display of voting results until vote is complete failed for lack of second.

CM Stinnett-Asked Mayor Newberry if LFUCG liaison Ned Sheehy will be bringing forward pertinent state legislation information now that the General Assembly is back in session; CM McChord was assigned the task of interacting with Mr. Sheehy on this issue.

CM McChord-Invited everyone to the Welcome Back Frankfort reception tomorrow tonight.

CM Gorton-Asked about retreat details; Mayor Newberry stated that an update will be given in an upcoming committee meeting and the 6 pillars will be revisited; CMs McChord and Stinnett asked about the tabled PSC motion and explained the intent of the motion respectively.

CM Myers-Asked Comm. Koch about a change order request for a Parks project in

his district where money was supposed to have been encumbered. CM McChord further explained this issue with regards to the state recapturing their money that was given to UCG.

VIII. Mayor's Report-Yes

A motion by CM Stevens to approve the amended Mayor's report, seconded by CM McChord passed unanimously.

IX. Public Comment-Issues not on the agenda-None

X. Closed Session-Litigation

A motion by CM Blevins to go into closed session pursuant to KRS 61.810(1) (c) for the purpose of discussing a pending litigation matter, seconded by CM Stevens, passed unanimously.

A motion by CM Blevins to come out of closed session, seconded by CM DeCamp, passed unanimously.

A motion by CM Beard to adjourn, seconded by CM Blevins, passed unanimously.

Work Session was adjourned from closed session at 8:40 pm.

NEW BUSINESS ITEMS REQUIRING BUDGET AMENDMENTS

9

January 15, 2007 Work Session

If the item listed below is on the Agenda, approval of the listed Item includes approval of the attached Budget Amendment. These Budget Amendments are not voted upon as part of section IV on the Agenda and are for information only.

NEW BUSINESS ITEM	BUDGET JOURNAL	DIVISION	DESCRIPTION OF REQUEST
017-08	CB 0003	Parks	To provide funds for one position of Public Service Supervisor Sr. (Grade 114E) by reducing funds for personnel contingency.
E			1101 24,590
			1101 24,590CR
			0*
026-08	KC 0031	Planning	To provide funds for one civil service position of Planner Senior by deleting funds for one non-civil service position of the same (bicycle-pedestrian planner).
B			1101 13,480
			1101 13,480CR
			0*

EFFECT ON FUND BALANCES

FUND 1101 0* NO EFFECT ON: GENERAL SERVICES DISTRICT

Budget Information for New Business Items

January 15, 2008 Work Session

Item	Number	Amount	Fund	Name / Description
A	025-08	17,500	1103	Donation Fund (Contract to be paid from Donations)
B	026-08	NA	1101	General Services District Fund Budget Amendment
C	024-08	NA		
*D	028-08	NA		
E	017-08	24,590	1101	General Services District Fund Budget Amendment
F	027-08	302,845	2517	2008 Bond Projects Fund
G	021-08	NA		

* This item may have a fiscal impact, but the amount to be reimbursed is unknown at this time.



025 - 08

Lexington-Fayette Urban County Government

Jim Newberry, Mayor

To: Mayor Jim Newberry
Joseph Kelly, Sr. Advisor for Management
Urban County Councilmembers

From: Penny Ebel, Special Events Director *PE*

Date: January 7, 2008

Re: Authorization of Contract and Agreement with Zambelli Fireworks Manufacturing Corp.

This is to request authorization of a two-year contract with Zambelli Fireworks to sell, furnish and deliver fireworks to be exhibited on July 4, 2008 for the cost of \$35,000 in 08 and 09. Funds are budgeted and being paid for through sponsorship donations. There is no fiscal impact to the Lexington-Fayette Urban County Government. A 50% deposit (\$17,500) is required and will be paid out of 1103 134202 1478 71200 (professional services) and is due with signed contract. The balance of \$17,500 is due at Noon, three days prior to the scheduled display date.

I appreciate your consideration of this item and request your approval.



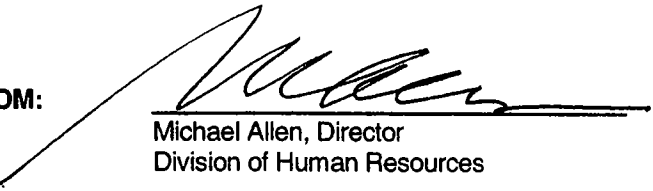
026-08

Jim Newberry, Mayor

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Division of Human Resources

MEMORANDUM

TO: Mayor Jim Newberry
Joe Kelly, Senior Advisor
Councilmembers

FROM: 
Michael Allen, Director
Division of Human Resources

DATE: January 8, 2008

RE: Abolish/Create position – Division of Planning

The attached action amends Section 22-5 of the Code of Ordinances, abolishing one (1) unclassified civil service position of Planner Sr. (Grade 117E). This actions also amends Section 21-5 of the Code of Ordinances, creating one (1) classified civil service position of Planner Sr. (Grade 117E), to become effective March 3, 2008.

The Division requests the creation of the civil service position due to the fact that at the time the Planner Sr. position was originally established (Bicycle-Pedestrian planner), it was unclear whether the position would have long-term value. The position originally was grant funded. The position will no longer be eligible for the grant support under which it was created. The Division feels the position has certainly proven its value to the Lexington-Fayette Urban County Government in a number of ways. All of the outcomes of this position have provided tangible benefits to the community through increased tourism, improved air quality, improved transportation, and economic development. The duties of the position will continue to grow with the communities increase in environmental/air quality awareness.

There is no fiscal impact for FY2008. Funds were included in the FY 2008 budget.

If you have questions or need additional information, please contact Tracey Stephenson at 258-3030.

Attachment

cc: Don Kelly, P.E., Commissioner of Public Works and Development
Darrylyn Combs, HR Manager, Division of Human Resources
Jim Dodson, HR Analyst, Division of Human Resources

Log # 08-0060



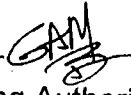
024-08

13

Lexington & Fayette County Parking Authority

MEMORANDUM

TO: Mayor Jim Newberry
Urban County Council
Joseph Kelly, SAM

FROM: Gary A. Means, Executive Director 
Lexington & Fayette County Parking Authority

DATE: January 8, 2008

SUBJECT: Purchase of Service Agreement (PSA) with the Lexington and Fayette County Parking Authority (LFCPA)

This request will authorize the Mayor, on behalf of LFUCG, to enter into a PSA with LFCPA for the administration and enforcement of on street parking ordinances and regulations.

Under the PSA, LFCPA will, install lease, construct, maintain, manage, operate, repair, acquire (on behalf of LFUCG), and control all parking meters (to include bagging) install, lease, construct, maintain, manage, operate, repair, acquire, finance and control new parking facilities and structures; plan, design and locate parking facilities, and structures in the urban-county area.

The LFCPA will receive all revenues from parking meters and parking citations subject to the terms of a Mortgage and Trust Indenture by and between LFUCG and Central Bank & Trust Co.

This agreement is for 12 months beginning July 1, 2007.

Request Council approval.



028-08

Mayor Jim Newberry

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Office of Compliance Department of Environmental Quality

TO: Mayor Jim Newberry
Urban County Council

FROM: Penny S. McFadden
Penny S. McFadden, Administrative Officer Sr.

DATE: January 8, 2008

RE: UST Claim Request Form

The Petroleum Storage Tank Environmental Assurance Fund (PSTEAF) provides reimbursement to owners and operators of USTs of eligible costs of corrective action or tank closure. Attached you will find a PSTEAF Application for Assistance Form for the closure of the underground storage tanks located at Fleet Services.

Once approved for reimbursement, the LFUCG must submit Claim Request Form (DEP6064/01/06) to allow the LFUCG and/or the LFUCG's contractor to be reimbursed for contract costs as allowed under Kentucky Underground Storage Tank regulations (401 KAR 42:250). Under these regulations, owners and operators of underground storage tanks can be reimbursed for cleanup and site assessment activities provided certain conditions are met (the LFUCG has met these conditions). For a government/nonprofit, the Claim Request Form must be signed by a principal, executive officer or ranking elected official.

At this time we do not have an estimate of the total cost of the project. However, the project is fully reimbursable. Please note that Claim Request Forms will need to be submitted to the Cabinet as work progresses- we are asking that approval to sign future Claim Request Forms be granted at this time to expedite the process.

If you have any questions, please contact Tom Webb at 425-2479. Thank you for your consideration of this matter.

H O R S E C A P I T A L O F T H E W O R L D



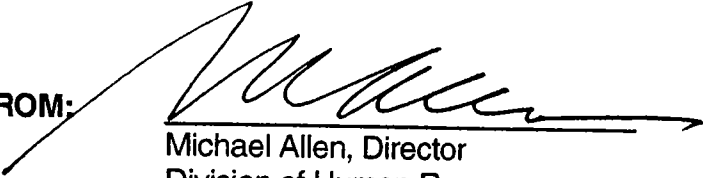
017-08

Jim Newberry, Mayor

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Division of Human Resources

MEMORANDUM

TO: Mayor Jim Newberry
Joe Kelly, Senior Advisor
Councilmembers

FROM: 
Michael Allen, Director
Division of Human Resources

DATE: December 27, 2007

RE: **Correction of Authorized Strength – Division of Parks and Recreation**

The attached action amends Section 21-5 of the Code of Ordinances, correcting the authorized strength count by adding one (1) classified civil service position of Public Service Supervisor Sr. (Grade 114E), to become effective upon passage by Council.

The Division requests this action to reinstate a position that was abolished in error through Ordinance No. 254-2004, but has been filled through the proper Civil Service practices. This action will also correct the authorized strength.

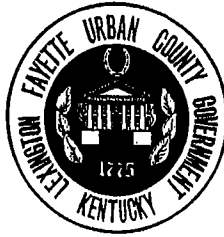
The salary for this position has been funded through personnel lapse, and seasonal money. This action will correct the funding stream for this position for the remainder of FY 08 by using their existing inversion account.

If you have questions or need additional information, please contact Tracey Stephenson at 258-3030.

Attachment

cc: Kimra Cole, Commissioner of General Services
Jerry Hancock, Director-Division of Parks and Recreation
Darrylyn Combs, HR Manager, Division of Human Resources
Jim Dodson, HR Analyst, Division of Human Resources

Log # 08-0066



027-08

Mayor Jim Newberry
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Division of Enhanced 9-1-1

January 4, 2008

TO: Mayor Jim Newberry and Urban County Council

FROM: David S Lucas, Director of Enhanced 9-1-1 

RE: Service Contract with Omni Architects

VIA: Tim Bennett  Commissioner of Public Safety

This request will authorize the mayor to enter an agreement with Omni Architects for professional services related to the design of a Public Safety Operations Center (PSOC) as outlined in Omni's RFP response.

The total cost for Phase I is a maximum of \$302,845 and all funds are currently budgeted within the current fiscal year. Phase 2 fees equal 8.99% of Construction Cost plus a maximum of \$24,600 for reimbursable cost. Services related to Phase 2 are contingent on future funding.

Omni Architects is not the lowest cost responder. However, Omni Architects was the unanimous selection of the PSOC Selection Committee based on the teams technical and experience strengths and their stronger local presence over the other applicants.

The following documents are attached:

1. Administrative review form. (Blue sheet)
2. PSOC Selection Committee recommendation memo.
3. Service Contract between Omni Architects and LFUCG

Please return completed documents to my attention for final disposition.



021-08

Mayor Jim Newberry
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Division of Community Development

TO: JIM NEWBERRY, MAYOR
URBAN COUNTY COUNCIL

FROM: PAULA KING, DIRECTOR
DIVISION OF COMMUNITY DEVELOPMENT

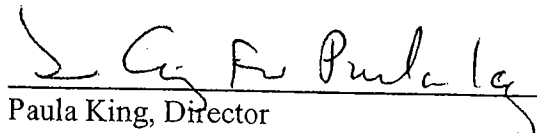
DATE: DECEMBER 26, 2007

SUBJECT: REQUEST COUNCIL AUTHORIZATION TO ACCEPT
DONATION OF EQUIPMENT FROM THE U.S. DEPARTMENT
OF HOMELAND SECURITY UNDER THE COMMERCIAL
EQUIPMENT DIRECT ASSISTANCE PROGRAM

On August 23, 2007 (Resolution No. 406-2007), Council approved the submission of an application prepared by the Division of Police to the U.S. Department of Homeland Security requesting the transfer of equipment under the Commercial Equipment Direct Assistance Program (CEDAP). The U.S. Department of Homeland Security has approved this application providing the Division of Police with a Wolf Pack Thermal Remote Viewing System (CT/AT Kit) designed to assist in tactical operations, forensics and evidence recovery, physical security, and contraband interdiction. The estimated value of this equipment is \$25,000. This equipment will be used by the Division of Police Emergency Response Unit in handling terrorism-related critical incident events.

CEDAP is an innovative federal agency designed to fill gaps with small agencies in areas of equipment they have not previously been able to acquire through other sources. CEDAP does not provide funds, but rather transfers the equipment to the local agency. CEDAP accepts applications for the transfer of equipment to emergency responder agencies not currently funded through the Urban Areas Security Initiative.

Council authorization to accept donation of equipment is hereby requested.


Paula King, Director

Xc: Tim Bennett, Commissioner of the Department of Public Safety

HORSE CAPITAL OF THE WORLD

200 East Main Street 6th Fl Lexington, KY 40507 (859)258-3070 (859)258-3081 fax www.lfucg.com

SERVICES COMMITTEE SUMMARY

JANUARY 8, 2008

Mr. Ellinger chaired the committee meeting. The meeting was called to order at 1:00 p.m. All committee members were in attendance except CM Crosbie and CM Lane. CM Gorton and Dr. Stevens were present also.

I. Noise Issues

CM Decamp there has been reference made to noise issues in different ordinances. He stated there has been a suggestion to create one noise ordinance that would cover all aspects of the issue.

CM Blues stated there are issues emerging from the close relationship between industrial areas and neighborhood. He stated as they review the noise ordinance this aspect should be included in the review. He stated he would support the forming of a task force to look at the issue.

CM James stated one of the issues is also the hours of enforcement of the noise ordinance. CM James read an email she received from a constituent regarding the noise issue from a scrap yard that is located very closely to his home. (Email attached). She stated we really need to look at enforcement and how to make this happen.

Dr. Stevens stated he received a complaint from a constituent that lives close to a high school that the public address announcement can be heard all over the neighborhood. He stated the commissioner told him that school events are exempt, however; it is not clear so he would ask the task force to look at this as well.

A motion by CM Myers to create a task force to look at all noise issues, seconded by CM Blues, passed without dissent.

II. Immigration Report

CM Ellinger stated Mr. Glen Krebs, Lexington Fayette Commission on Immigration Chairman, is present to speak. He stated they will hear from the administration regarding the report at a later date.

Mr. Glen Krebs, Lexington Fayette Commission on Immigration Chairman, gave an overview of the report and its recommendations. (Report attached).

CM Ellinger asked what Title VI requires LFUCG to do.

Mr. Krebs stated that in regards to medical emergency, fire, and other public safety areas there needs to be the capability to communicate with those needing services.

CM DeCamp thanked Mr. Krebs and the committee for the time they have spent on this.

CM James thanked Mr. Krebs. She asked the issues of trailer parks were ever mentioned in the Housing Code Enforcement.

Mr. Krebs stated not in their discussions. He stated in passing it was felt there was general discomfort in the community about enforcement of housing in general.

CM James asked if the comments made were from residence.

Mr. Krebs stated no residence of trailer parks but one example was residence of Cardinal Valley.

CM James asked if the Title VI compliance is just for those who don't speak English or could it be for those who are illiterate.

Mr. Krebs stated he doesn't know the answer to that question.

CM Beard stated one of the confusions that everyone has is that we label this as an immigration problem. He stated immigration is a legal process to come into the United States. He stated the problem is the illegal visitors. He stated we need to draw the line a little fine as to what we are attempting to do.

Mr. Krebs stated that is an area where extreme care needs to be taken because you can't profile.

CM Stinnett asked if Title VI only applies to those who have legal status.

Mr. Krebs stated his understanding is that it is for anyone who is in the United States.

CM Stinnett asked how we would verify who the person is on the ID cards.

Mr. Krebs stated yes they discussed verifying by taking fingerprints or some other kind of documentation but the committee voted that down.

CM Stinnett stated to basically the committee's recommendation is that they do not have to verify who they are or where they came from with a foreign ID card or anything like that.

Mr. Krebs stated that is correct.

CM Stinnett stated that education is a big piece that is missing in all this.

CM Ellinger stated the workshops last fall were very helpful.

CM Gorton asked about the discussion of Enforcement of Labor Laws.

Mr. Krebs stated basically there seems to be consensus throughout the nation that the problem of undocumented workers would be alleviated if employers didn't give them jobs. He stated if a community or state is interested in alleviating a problem of undocumented workers coming in to their community one area they always come back to is companies enforcing labor laws. He stated that is why this issue is important. He stated Arizona has received a lot of publicity for an ordinance they have created whereby a company who has been found to be hiring illegal workers can have their business license taken away for 10 days on the first offense. He stated if they continue to do it then on the second offense their business license is taken away completely. He stated the state will enforce it.

CM Blevins stated having the vote as it occurred is really helpful. He asked in regards to Title VI compliance recommendation if the committee is aware of the language complexity problem we have in Lexington.

Mr. Krebs stated they are aware of the many languages. He stated there are 102 different languages dealt with in Lexington.

CM Blevins asked about the dissents on the Enforcement of Labor Laws.

Mr. Krebs stated his dissent was based on two things: he thinks federal laws pre-empts state and local entities and because of the cost.

CM James if any business owners who employed undocumented workers came to speak to the committee.

Mr. Krebs stated none that admitted it.

CM James asked if there was a representative of ICE at the meetings.

Mr. Krebs stated they didn't. They did attempt to have someone come in from ICE but they were unwilling to do that in a public forum.

CM Ellinger asked about other laws that could apply before doing ICE.

Mr. Krebs stated he is not real clear on some of this. He stated ICE told him that since ICE is costly to a community there are other types of programs that could be used to identify criminals who didn't have proper documentation.

CM Ellinger stated they will ask the administration to present their recommendations at the next meeting.

III. Items in Committee

A motion by CM Blues to take the issue of trailer tie downs out of committee, seconded by CM McChord, passed without dissent.

The meeting adjourned at 1:49 pm.

Sarah Brown

From: larryhamilton@insightbb.com
Sent: Monday, January 07, 2008 12:13 PM
To: Sarah Brown; Andrea James
Subject: Noise ordinance

Andrea

Thanks for the chance to repond. Here is some of my thoughts on the junk yard. 1) Baker Iron and Metal was sold 2-3 years ago to Cohen Bros. which own several locations around the region. They closed the operation on the corner of 7th and Limestone and moved it to the 7th street yard. They also bought a scrap yard in Frankfort KY and closed it and moved it to 7th Street as well. The yard is at least two times bigger than when the Baker family owned it. It is much louder now than it used to be . They work longer hours and start every day between 6:15 and 6:30 Monday thru Saturday. Sometimes they work Sundays as well. Useally they finish around 5:30 to 6:00 pm, but they have worked several times to 9:00 . During the night large dump trucks will dump scrap metal at all hours which is very loud and disrupting to the neighbors. Currently the laws would allow the yard to stay open and work till 11pm. and there would nothing we could do. I have met with the operators several times to no avail. I would like to see the ordinance changed to where a loud business is not allowed to work till 11pm 7 days a week. There also needs to be hefty fines for people and businesses who violate the ordinance. Thanks Larry

01/07/2008

The Lexington-Fayette Commission on Immigration

Members

Glen Krebs, Attorney
Justice James E. Keller (Ret.)

Chairman
Vice Chairman

Barbara Connor, Civil Rights Compliance Officer, Fayette County Public Schools

Marilyn Daniel, Attorney and Director of the Maxwell Street Legal Clinic

Wendy Devier, Community Volunteer

Kay Dignan, Psychologist, Southeastern Program Evaluation, Inc.

Ray Larson, Fayette Commonwealth's Attorney

Dr. Brian L. Rich, Transylvania University and Kentucky Coalition for Immigrant and Refugee Rights

William Wharton, Executive Director of the Lexington-Fayette Human Rights Commission

ordinances that have been proposed, 20 have been tabled, 13 voted down, 8 stayed by the court, 38 pending, and 27 passed and active.

The Commission heard from other agencies in the community, including Fayette County Public Schools, Bluegrass Domestic Violence Program, and the Health Department. These agencies/programs serve all residents of Lexington, without regard to immigration status. The Commission learned that the public school system is required by U. S. Supreme Court case law and by statute to offer access to a free public education to all students. In addition, the Commission learned that the Bluegrass Domestic Violence Program and the Health Department serve all clients in order to fulfill their primary goals of assuring safety and protecting public health for the entire community.

The Commission held two public forums and received numerous emails from people in the community. On June 19th, 39 people addressed the Commission and on August 2nd, 57 people spoke. On both occasions, the majority of speakers was immigrant-friendly and made a number of suggestions, including creating a welcome center, issuing local IDs, offering more opportunities to learn English, and guiding and encouraging citizenship. A minority of speakers was immigrant-restrictive and insisted that local police enforce immigration law through Section 287(g) of the Immigration and Nationality Act. Others expressed concerns about their neighborhoods, including fear for their safety, decline of property values, and violations of the housing code.

The Commission was eager to hear from U.S. Immigration and Customs Enforcement (ICE) and attempted to schedule a time with an ICE officer who could answer questions. The Commission also wanted to hear from businesses, including farmers and the horse industry, regarding the hiring of foreign workers, but was unable to find representatives who were willing to speak.

In establishing the Commission, Mayor Newberry selected people with different opinions, experiences, and training. Members did not always agree on issues or how to handle them, but were able to express themselves without censure. Despite the differences, the Commission attempted to reach consensus on each recommendation. Differences, however, remained and two members of the Commission elected to write separate reports to the Mayor and the LFUCG Council. Their reports are appended to this report. Additionally, one commission member has attached information relative to crime in the community. These minority reports are to be viewed as personal statements by the commissioners.

5. Issuance of Local Identification Cards

It is recommended that the LFUCG establish a program like the New Haven, Connecticut, program for the issuance of local identification cards for all residents of Lexington.

In Favor: Connor, Daniel, Dignan, Keller, Rich, Wharton

Opposed: Devier, Krebs, Larson

6. Issuance of Driver's Licenses

It is recommended that the Mayor and City Government advocate to the Governor and State Representatives that driver's licenses be made available to all residents of the state, regardless of immigration status.

In Favor: Connor, Daniel, Dignan, Keller, Rich, Wharton

Opposed: Devier, Krebs, Larson

7. Enforcement of Labor Laws

It is recommended that the Mayor and the City Government advocate to the Governor and State Representatives that all labor laws be enforced. The state agencies responsible for enforcement should be adequately funded and staffed. There is an unacceptable level of basic human and worker rights violations, such as non-payment of wages, workplace safety negligence, and other labor abuses.

In Favor: Connor, Daniel, Dignan, Keller, Rich, Wharton

Opposed: Devier, Krebs, Larson

Note:

In a public meeting on October 22, 2007, eight of the nine Commissioners voted on each of the seven (7) recommendations included in this report. The ninth Commissioner voted in person at the Chair's office on October 23, 2007. The results of the voting are shown below each recommendation.

1993 that initiated dramatically increased funding. By 2002 the Border Patrol's budget had reached \$1.6 billion and that of the INS stood at \$6.2 billion, 10 and 13 times their 1986 values, respectively. With this additional revenue, more Border Patrol officers were hired. Between 1986 and 2002, the number of Border Patrol officers tripled, and the number of hours they spent patrolling the border grew by a factor of about eight. As a result, the cost to U.S. taxpayers of making one arrest along the border increased from \$300 in 1992 to \$1,700 in 2002, an increase of 467 percent in just a decade (Massey, 2005: 1-2).

It is widely believed - by both sides of the debate over immigration - that the current immigration system is broken and dysfunctional. On one side, it is argued that the United States must do all it can to reduce and even stop the flow of immigrants, while on the other side it is argued that the flow of immigrants is a necessary factor in continued economic growth and development of both countries. The system as it currently exists does not appear to meet the needs of U.S. employers or the expectations of families seeking permanent residence for close family members.

Unfortunately for state and local governments, there are severe legal limitations on the types of policies and other responses they can make to the immigrant communities that are forming all over the country, because international immigration to the United States is an area of law within the rather strict jurisdiction of the federal government. Nonetheless, there are possibilities for state and local governments to take policy initiatives to address the influx of immigrants into their communities. For this reason, Mayor Newberry has established this Commission on Immigration for the purpose of making recommendations to him and the Lexington-Fayette Urban County Government (LFUCG) as to how here, in Fayette County, we can legally address immigration issues.

Immigration Issues

1. Federal and State Laws

United States immigration policy is under the purview of the Federal government. Federal laws determine who can and cannot enter the United States. They also determine how and when persons can work in the United States and how and when they should be removed from the United States. Federal laws pre-empt state and local governments from legislating with respect to matters over which the Federal government has expressed its intent to "occupy the field." Federal laws also determine who should receive education and health-care, who should receive other government benefits, and what information should be made available in foreign languages. Any community interested in initiating local legislation relating to immigration should employ experienced legal counsel for guidance.

2. Public Schools

The Supreme Court of the United States has determined that all children must be provided an education, regardless of their citizenship or nationality. Our local schools are making an effort to fulfill that mandate and to comply with Title VI of the Civil Rights Act. More than 7% of the public school population is Hispanic. Over 100 other nationalities are also represented in the

should increase efforts to enforce its existing housing code and to educate its residents about the housing ordinances. We recommend that the City hire more Code Enforcement Officers and do a better job of training them to deal with the issues which they will face in overcrowded communities. It was felt that the expanded enforcement corps should be deployed more effectively during the evening hours, when more of the residents are in their dwellings, and that they should be deployed throughout the community without unfairly targeting the immigrant communities.

Finally, the Commission did discuss briefly the relationship between housing and income, as many residents have found it difficult to find affordable housing, including immigrants that may attempt to overcrowd in order to save money. The City should consider ways to increase the availability of low-income housing (in partnership with other governmental and non-governmental entities) as one way to reduce housing code violations.

5. Education, Cultural Training, and Language Needs

LFUCG should explore the establishment of an **enhanced International Affairs Office**, which could serve as the center for such community services as:

1. Connecting with the University of Kentucky and local employers who employ non-citizen workers to assist with integration into the community;
2. Planning multi-cultural events;
3. Distributing materials about the community in various languages;
4. Providing educational events and materials about other cultures;
5. Conducting an educational campaign in partnership with educational and social service agencies and the local media to inform the general public about immigration issues;
6. Encouraging community-sponsored visits to other countries;
7. Assisting government offices and agencies to meet their Title VI obligations;
8. Training LFUCG employees in immigration matters, including provisions of the Immigration and Nationality Act and statutes like 8 USC 1324;
9. Serving as an ombudsman for those residents with concerns about diversity and newcomers;
10. Linking with neighborhood associations experiencing cultural transitions;
11. Collecting and distributing demographic data about newcomers;
12. Encouraging naturalization, literacy and English competency among newcomers through dissemination and coordination of existing community services;
13. Working with resettlement organizations, such as the Kentucky Refugee Ministries, to ease integration of refugees into the community;
14. Coordinating delivery of social services to newcomers;
15. Publication of a resource guide for new move-ins;
16. Providing a helpline/referral service to prevent exploitation of immigrants.

Lexington is a jewel – the rolling green pastures inhabited by beautiful horses combined with the intellectual resources of a large university and medical center. It is large enough to provide challenges, opportunities, entertainment, and diversity; it is small enough for truly participatory government and caring neighborhoods. Lexington should be a place where newcomers – whether visiting or planning to stay, whether from another state or another nation - feel welcome;

A. Local Enforcement of Federal Immigration Law

We tried to complete our research about local officers enforcing immigration laws by having a conversation with a properly-trained officer of the Immigration and Customs Enforcement (ICE) service. INA §287(g) allows local governments to enter into a Memorandum of Agreement with ICE regarding the enforcement of federal immigration laws by local officers. The MOA would allow certain local officers to receive special training from ICE, so that the local officers could exercise the federal authority of ICE officers to enforce federal immigration laws. We recommend that no LFUCG agency or department enter into an MOA with ICE at this time for the following reasons.

- a. At this time, LPD is cooperating with ICE regularly in the conduct of the investigation and apprehension of any persons, including American citizens, who are suspected of serious criminal violations of immigration law. We commend and encourage LPD to continue to cooperate with ICE to investigate, apprehend, and detain any such individuals. One of public safety's highest priorities should continue to be the investigation of serious crime, whether violations are of federal or state law, and the apprehension, prosecution, conviction and detention of those who commit these crimes, regardless of immigration status.
- b. At the same time and for several years, LPD has expended significant effort and funding to build positive and cooperative relationships with the Hispanic and other immigrant communities in Fayette County, which consists of American citizens, those with legal immigration status and those without. In an effort to make Fayette County safe for all persons, LPD has worked to create an environment of trust and credibility with Hispanics to encourage the victims of crime to come forward for assistance, the witnesses of criminal activity to assist with investigations and prosecutions, and the Hispanic community to openly support law enforcement. Hispanics appear to be victims of personal robberies at a higher rate than their population percentage. Empowering any local law enforcement officer to perform a function of a federal immigration officer will lead to fear, suspicion and retreat into the shadows for Hispanics (with and without legal status), and Lexington will be less safe for all of us. The immigrant community would view Sheriff's deputies, detention officers and LPD officers as law enforcement officers. They would not be able to distinguish one uniform from another. If any of these officers were performing the functions of a federal immigration officer, the time, money and effort expended to date to build good relationships with the immigrant community would be lost. If people do not trust and will not cooperate with law enforcement, the community becomes a more frightening place, and those in the shadows become victims more often. It is critically important that all law enforcement officers be perceived as public safety officers and not as enforcers of immigration law. As public safety officers, they will continue to enforce the laws of the state and the county. Serious crime is and should be treated with the highest priority, regardless of the immigration status of the perpetrator.

consists of many contributing American citizens and individuals with legal immigration status who would be at risk in any effort to identify those without legal status.

- j. Federal immigration law consists of both civil and criminal violations. The Congressional Research Service states: "For example, mere illegal presence in the U.S. is a *civil*, not criminal, violation of the INA, and subsequent deportation and associated administrative processes are civil proceedings." However, entering the country illegally is a criminal offense. Using the criminal justice process to address civil matters is a contentious issue, such that the Immigration Committee of the Major Cities Chiefs (of Police) have strongly requested "that the federal agencies cease placing civil immigration detainers on N.C.I.C. and remove any existing civil detainers currently on the system" because "[t]he integrity of the system as a notice system for criminal warrants and/or criminal matters must be maintained." Clear guidance on this issue does not appear to exist.
- k. The Department of Homeland Security has several initiatives (outside the provisions of §287(g)) with state and local law enforcement agencies to facilitate the investigation and apprehension of foreign nationals (whether with legal status or not), who have violated the law, including the Alien Criminal Apprehension Program, Quick Response Teams, and the Absconder Apprehension Initiative, any of which could involve the LPD or the Sheriff's office upon request by ICE. In private conversations between ICE representatives and Chairman Krebs, ICE encouraged use of other options before pursuing an MOA under §287(g).

We commend the LPD for its continuing cooperation with ICE in its various other programs assuring the arrest and prosecution of all offenders suspected of serious criminal conduct, regardless of the immigration status of the offender. The Commission was unanimous in its support for the efforts of all levels of law enforcement to combat serious crime, including but not limited to violent crimes, human trafficking, drug crimes, and dangerous gang activity. We further note that in addition to any penalty imposed under the criminal statutes, the members of the Commission as well as the representatives of the Hispanic community favor the deportation of undocumented immigrants who are convicted of serious crimes.

B. Consular Notification

Federal law requires that when a non-U.S. citizen is arrested in the United States, his/her consulate should be notified. The Commission believes that the local enforcement and detention officers should make a more concerted effort to comply with this federal requirement.

8. Local Identification Cards

All residents of Fayette County would benefit from an LFUCG identification card designed like the one recently created and distributed in New Haven, Connecticut. There would be many advantages of providing such an ID card. Ensuring that as many residents as possible possess a valid ID will assist public safety and emergency workers (police, firefighters, emergency medical technicians, etc.). It will help them identify people and thereby be more effective in performing

Congress includes in the statute notice that the federal government has occupied this field and this federal statute preempts any attempts by State or local governments to impose civil or criminal penalties for this type of conduct.

For a local government to entertain an ordinance addressing this issue would be a clear disregard of existing law. Though frustration has been expressed with the manner in which the federal government has enforced this law, the proper course of action is to encourage more aggressive federal enforcement, if that is desired. It appears that more aggressive enforcement is, indeed, now occurring at the federal level. The LFUCG should not adopt new ordinances that attempt to penalize employers who hire, recruit or refer for a fee for employment, unauthorized aliens.

There is much evidence of many abuses of immigrant labor in our county and state, such as non-payment for hours and/or overtime worked, inadequate provisions for job safety requirements, and discriminatory and demeaning treatment on the job. In sum, there is an unacceptable level of basic human and worker rights violations occurring. For this reason the Commission makes the recommendation related to advocating for adequate enforcement of Kentucky's labor laws.

Conclusion

The issue of immigration, whether legal or illegal, is one that will not soon disappear. The Commission wishes to thank the community for assisting us in our research and in our discussions of this issue. We appreciate the opportunity to live in this great community and are pleased to note that despite the controversial nature of this debate, the members of our community were, for the most part, polite to one another and understanding of the divergent views. We were encouraged by the level of consensus that existed among the members of the Commission at the conclusion of our deliberations. We understand that there will be much discussion and debate about these findings and recommendations. We will be pleased to see the debate conducted with facts and logic, rather than emotion and hyperbole. Finally, we wish to express appreciation to the Mayor for allowing us to serve our community and we hope that our research and recommendations will help guide him and the Urban County Council in their deliberations about these issues.