

Lexington- Fayette Urban County Government Special Council Meeting

Lexington, Kentucky August 20, 2024

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on August 20, 2024 at 5:00 p.m. Present were Mayor Gorton in the chair presiding, and the following members of the Council: Reynolds, Sevigny, Sheehan, Worley, Wu, F. Brown, J. Brown, Ellinger, Elliott Baxter, Fogle, Gray, LeGris, Lynch, and Plomin. Absent was Council Member Monarrez.

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TRIAL OF FIRE LIEUTENANT TERRANCE GATEWOOD

(Charges)

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

STATEMENT OF FORMAL CHARGES

PURSUANT TO KRS 95.450

(To be filed with the Clerk of the

Lexington-Fayette Urban County Council)

CHARGES

Div. of Fire and Emergency Services (the "Div." Lieutenant Terrance Gatewood ("Gatewood")) is hereby charged with misconduct in violation of KRS 95.450(1), CAO Policy #5R, the Div. Uniform Disciplinary Guidelines, (UDG) 1.09, Harassment and Threats in the Workplace and UDG 2.01 Conduct Unbecoming in that:

FACTS

On at least three occasions between February and March of 2023, Lieutenant Gatewood made inappropriate comments to Firefighter Cali Warter ("Warta"), regarding her physical appearance. Gatewood was Warta's direct superior when the comments were made. Warta cited three incidents in which Gatewood made the comments.

Between February and March of 2023, Wart was walking up a flight of stairs at the fire station and Gatewood was coming up the stairs behind her. Gatewood made the comment "*The seams of those pants are putting in work.*"

Between February and March of 2023, Warta was walking around the fire station when Gatewood said to her, "*Cali, your thighs are looking proportionate now.*"

Between February and March of 2023, Warta and Firefighter Eric McClellan were standing in the kitchen of the fire station making food. Gatewood stopped at the island, leaned over, and looked her up and down while stating *“Yeah, you’re getting thick.”*

On July 26, 2023, the Div. forwarded Warta’s harassment complaint to the Div. of Human Resources and an internal investigation was initiated. Gatewood was questioned about the claims against him. He denied the first incident and said, *“I don’t recall. Wow. I don’t recall that.”* Gatewood confirmed Warta’s second claim and stated, *“We were literally talking about her weight. Now that she was putting on weight her thighs/everything else was looking proportionate. We don’t have that type of relationship.”* And finally, when asked about the third claim, Gatewood once again denied making the comment and said, *“If I did say thick, she’s not thick. I think she even might have called herself thick.”* Firefighter McClellan was interviewed by HR about the third claim. He confirmed he witnessed Gatewood make the comment to Warta.

The Div. of Human Resources concluded its investigation and substantiated that Gatewood made the second and third comments and determined the conduct to be harassment. HR recommended that the Div. of Fire and Emergency Services take administrative action against Gatewood.

COUNT I

Misconduct, within the meaning of KRS 95.450, CAO Policy #5, Lexington Div. of Fire UDG, 1.09 and UDG 2.01:

CAO Policy #5 (Harassment), which was in effect on or before the dates of the incidents involved herein provide:

It continues to be the policy of the Lexington-Fayette Urban County Government that unlawful harassment of its employees in any form is prohibited...

Workplace harassment prohibited by this policy is defined as unwelcome verbal or physical conduct that slanders or shows hostility toward an individual because of their race, color, religion, national origin, age, disability, gender, gender identity, or sexual orientation, or any other factor that is

prohibited by applicable law, and which has the purpose or effect of creating a hostile or intimidating environment and/or which interferes with an individual's work performance or employment opportunities.

UDG 1.09, Harassment and Threats in the Workplace, which was in effect on or before the dates of the incidents involved herein provide:

The Dept. has "zero tolerance" for any form of harassment, sexual harassment, or threats in the workplace... Harassment and threats can be in many different forms. Ranging from inappropriate jokes or gestures to threats of serious physical harm.

UDG 2.01, Conduct unbecoming, which was in effect on or before the dates of the incidents involved herein provide:

Sworn member shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the Dept. Conduct unbecoming an officer or a firefighter shall include that which tends to bring the Dept. into disrepute or reflects discredit upon the firefighter as a member of the Dept. or that which tends to impair the operation and efficiency of the Dept. or firefighter.

The conduct of Gatewood on the listed occasions between February and March of 2023 constitutes misconduct in violation of KRS 95.450, CAO Policy #5R, and the Div. UDG 1.09 and UDG 2.01. Gatewood, on three occasions made inappropriate comments to a person under his supervision and the comments made the person feel uncomfortable. Lieutenant Gatewood's conduct does not reflect favorably upon the Div. of Fire and Emergency Services, brings disrepute to the Div., reflects discredit on him as a member of the Div. and tends to impair the operation and efficiency of the Div.

RECOMMENDATION

For the above-stated reasons, the LFUCG Div. of Fire and Emergency Services recommends that Lt. Gatewood be suspended.

Signed
Jason Wells, Fire Chief
Div. of Fire and Emergency Services

COMMONWEALTH OF KENTUCKY
COUNTY OF FAYETTE

The foregoing was subscribed, sworn to and acknowledged before me by Jason Wells, Fire Chief, Div. of Fire and Emergency Services, this the 8th day of August 2024.
My commission expires July 29, 2027.

Signed
Mary J. Clark
Notary Public, Kentucky, State-at-Large

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WAIVER

In Re: Terrance Gatewood

Terrance Gatewood hereby waives his rights pursuant to KRS 95.450 to a hearing within 5 days of formal charges being served upon him and within 10 days of the formal charges being filed with the Council Clerk for the Lexington-Fayette Urban County Government (if applicable). It is further mutually agreed that this matter shall be heard on August 20, 2024, a date requested by Mr. Gatewood and counsel for LFUCG and scheduled by the Council.

Done this 12th day of August 2024.

Signed
Terrance Gatewood

To be filed with the Council Clerk,
Notice of Filing Waived:

Signed
Carlos Ross
Attorney for Lexington-Fayette Urban County Government

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NOTICE

To: Lieutenant Terrance Gatewood

From: Jason Wells, Fire Chief Div. of Fire & Emergency Services

YOU ARE HEREBY notified that the attached charges were filed on August 12, 2024 with the Clerk of the Urban County Council and that the hearing before the Lexington-Fayette Urban County Council will be held on this matter on the 20th day of AUGUST, 2024 at 5:00 p.m. 200 E. Main St., Council Chambers, 2nd floor.

The additional documents (attached) have been provided to you: CAO Policy #5R, Policy and Procedure for Harassment Complaints; the Divisions Uniform Disciplinary Guidelines (UDG), 1.09, Harassment and Threats in the Workplace, Uniform Disciplinary Guidelines (UDG), 2.01 Conduct Unbecoming, and the Div. of Human Resources investigation summary including witness statements. These additional documents will be presented at the hearing of this Charge.

You have the right to attend the hearing with or without an attorney and to subpoena witnesses and documents using the signed originals of Lexington-Fayette Urban County Government Subpoena/Subpoenas Duces Tecum (attached). **Ten (10) signed originals of the subpoenas are being provided to you.** You may request more through the Council Clerk.

Individuals that may provide testimony at the hearing include Fire Chief Jason Wells, Human Resource Analyst Audrey Jones, Firefighter Cali Warta, and Firefighter Eric McClellan. Any other individuals identified or referenced in the documents that are being provided to you with this Disciplinary Charge and Notice of Disciplinary Hearing may also provide testimony at the hearing.

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served to Lieutenant Terrance Gatewood by means of personal delivery on this 12th day of August, 2024 at the hour 10:00 a.m.

Signed

Carlos Ross

Managing Attorney

Filed with and received by the Lexington-Fayette

Urban County Government City Council by:

Abigail Allan

Council Clerk

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LEGAL NOTICE
BY ORDER OF THE URBAN COUNTY COUNCIL

NOTICE is hereby given that a SPECIAL MEETING of the Lexington-Fayette Urban County Council will be held on Tuesday, August 20, 2024 at 5:00 p.m. in the Council Chamber at 200 East Main St., Lexington, KY, 40507 for a fire discipline hearing. These documents may be viewed at <https://lexington.legistar.com/Legislation.aspx>. The legal notice may be found at <https://bit.ly/LFD-D-8-20> in the Council Clerk's Office at 200 E. Main St. Lexington, KY 40507. 859-258-3240, View all LFUCG legal notices at <https://www.lexingtonky.gov/public-notice>

Abigail Allan
Council Clerk

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The Mayor opened the hearing at 5:19 p.m.

The defendant was present and represented pro se.

By request of the defendant, the hearing was conducted in executive session and closed to the public.

At 5:25 p.m., upon motion by Mr. Worley, seconded by Ms. Reynolds, and approved by unanimous vote, the Council went into executive session pursuant to Reed versus City of Richmond and KRS 61.810(1)(f).

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At 9:05 p.m. upon motion by Ms. Fogle, seconded by Ms. Gray, and approved by unanimous vote, the Council returned to open session.

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At 9:07 p.m., upon motion by Mr. Sevigny, seconded by Ms. Fogle, and approved by unanimous vote, the Council went into executive session for purposes of deliberations pursuant to KRS 61.810(1)(j).

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At 9:47 p.m., upon motion by Ms. Fogle, seconded by Mr. Ellinger, and approved by unanimous vote, the Council returned to open session.

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Mr. Sevigny motioned, seconded by Vice Mayor Wu, that Count I of the Formal charges against Lieutenant Gatewood was found substantiated for a violation of CAO Police #5 (Harassment). The motion was approved by the following vote:

Aye: Reynolds, Sevigny, Sheehan, Worley, -----14
Wu, F. Brown, J. Brown, Ellinger, Elliott
Baxter, Fogle, Gray, LeGris, Lynch,
Plomin

Nay: -----0

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Ms. Elliott Baxter motioned, seconded by Ms. Plomin, that Count I of the Formal charges against Lieutenant Gatewood was found substantiated for a violation of UDG 1.09 (Harassment and Threats in the Workplace). The motion was approved by the following vote:

Aye: Reynolds, Sevigny, Sheehan, Worley, -----14
Wu, F. Brown, J. Brown, Ellinger, Elliott
Baxter, Fogle, Gray, LeGris, Lynch,
Plomin

Nay: -----0

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Vice Mayor Wu motioned, seconded by Ms. Elliott Baxter, that Count I of the Formal charges against Lieutenant Gatewood was substantiated for a violation of UDG 2.01 (Conduct Unbecoming). The motion was approved by the following vote:

Aye: Reynolds, Sevigny, Sheehan, Worley, -----14
Wu, F. Brown, J. Brown, Ellinger, Elliott
Baxter, Fogle, Gray, LeGris, Lynch,
Plomin

Nay: -----0

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The Council determined that the charges against Lieutenant Gatewood were substantiated on one more of the charges above.

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Ms. Reynolds motioned, seconded by Mr. Sevigny, to approve the penalty of 112 Hour Suspension without pay, which equates to one (1) pay period and Mandatory completion of the course “The Right Side of the Line” which will be facilitated by the Human Resources Dept., for Officer Gatewood. The motion passed by the following vote:

Aye: Reynolds, Sevigny, Sheehan, Worley, -----14
Wu, F. Brown, J. Brown, Ellinger, Elliott
Baxter, Fogle, Gray, LeGris, Lynch,
Plomin

Nay: -----0

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Upon motion by Ms. Fogle, seconded by Mr. Worley, and approved by unanimous vote, a Resolution adopting Findings, Determination and Holding concerning Formal Disciplinary Charges filed against Lieutenant Terrance Gatewood by Chief Jason Wells dated and filed with the Clerk of the Urban County Council on August 8, 2024 was placed on the docket and given first reading.

Upon motion by Vice Mayor Wu, seconded by Ms. Elliott Baxter, and approved by unanimous vote, the rules were suspended and the resolution received second reading.

Upon motion by Mr. Ellinger, and seconded by Mr. Worley, the resolution was approved by the following vote:

Aye: Reynolds, Sevigny, Sheehan, Worley, -----14
Wu, F. Brown, J. Brown, Ellinger, Elliott
Baxter, Fogle, Gray, LeGris, Lynch,
Plomin

Nay: -----0

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Upon motion by Ms. Fogle, seconded by Ms. Gray, and approved by unanimous vote, the meeting adjourned at 9:59 p.m.

Deputy Clerk of the Urban County Council