Lexington-Fayette Urban County Government Council Meeting

Lexington, Kentucky January 8, 2009

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in regular session on January 8, 2009 at 7:00 P.M. Present were Mayor Jim Newberry in the chair presiding and the following members of the Council: Council Members Beard, Blues, Ellinger, Feigel, Gorton, Gray, Henson, James, Lane, Lawless, McChord, Myers, and Stinnett. Absent was Council Member Crosbie. The 10th District seat was vacant at the time of the Meeting.

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

Ordinances No. 268-2008 thru 285-2008 inclusive and Resolutions No. 728-2008 thru 772-2008 inclusive were reported as having been signed and published, and were ordered to record.

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The Invocation was given by Rev. Troy Thomas, St. Paul AME Church.

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Upon motion of Ms. Gorton, seconded by Mr. Ellinger, and approved by unanimous vote, the Minutes of the June 10, 12, 24, 26, 2008, and July 3, 2008 Council Meetings were approved.

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An Ordinance amending certain of the Budgets of the Lexington-Fayette Urban County Government to reflect current requirements for municipal expenditures, and appropriating and re-appropriating funds, Schedule No. 94 was on the docket for second reading.

Upon motion of Mr. Ellinger, seconded by Mr. Lane, and approved by unanimous vote, the ordinance was removed from the docket.

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

Aye: Beard, Blues, Ellinger, Feigel, Gorton,
Gray, Henson, James, Lane, Lawless,
McChord, Myers, Stinnett--------------------13

Nay: ---0

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the U.S. Dept. of Justice, which Grant funds are in the amount of $7,818.32 Federal funds, are for the purchase of bullet proof vests for the Div. of Police ($4,886.32) and the Office of the Fayette County Sheriff ($2,932.00), the acceptance of which obligates the Urban County Government for the expenditure of $4,886.32 as a local match, appropriating funds pursuant to Schedule No. 92, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a donation of $500.00 from State Farm Insurance

Companies for community events involving child safety, and appropriating funds pursuant to Schedule No. 93.

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

An Ordinance amending Section 21-5(2) of the Code of Ordinances, abolishing one (1) position of Administrative Specialist Sr., Grade 112N, in the Div. of Accounting and creating one (1) position of Administrative Specialist Sr., Grade 112N, in the Div. of Human Resources and abolishing one (1) position of Risk Management Accountant, Grade 114E, in the Div. of Risk Management and creating one (1) position of Risk Management Accountant, Grade 114E, in the Div. of Accounting, transferring the incumbents, and appropriating funds pursuant to Schedule No. 96.

An Ordinance pursuant to Section 3.02(10) of the Charter of the Lexington-Fayette Urban County Government amending Section 21-5(2) of the Code of Ordinances abolishing six (6) positions of Community Corrections Major, Grade 117E, and creating six (6) positions of Community Corrections Captain, Grade 115E; accepting the voluntary demotions of the six (6) employees holding the position of Community Corrections Major to Community Corrections Captain; creating Section 21-53 of the Code of Ordinances granting the Director of Community Corrections the authority to make special duty assignments; providing that employees appointed to special duty assignments serve at the pleasure of the Director of Community Corrections and providing that those employees appointed to a special duty assignment shall receive a leave of absence from their permanent rank for and during the incumbency of any special duty assignment; expressing an intent to create the special duty assignment of Bureau Manager; and providing that employees appointed to the special duty assignment of Bureau Manager shall receive a stipend of $350.00 per pay period; effective upon date of passage.

An Ordinance amending Section 21-5(2) of the Code of Ordinances correcting the subsection line number for the Director of Facilities and Fleet Management.

An Ordinance amending Section 21-5(2) of the Code of Ordinances creating one (1) position of Environmental Program Manager (Energy), Grade 117E, in the Div. of Environmental Policy.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a donation of $500.00 from the American Water Company for the purchase of a treadmill for the Dunbar Community Center, and appropriating funds pursuant to Schedule No. 95.

An Ordinance amending certain of the Budgets of the Lexington-Fayette Urban County Government to reflect current requirements for municipal expenditures, and appropriating and re-appropriating funds, Schedule No. 100.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Ky. Infrastructure Authority, which Grant funds are in the amount of $3,100,000 Commonwealth of Ky. Funds, are for construction of the Expansion Area 2A Class A Pump Station and Trunk Sewer, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 97, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the U.S. Dept. of Housing and Urban Development, which Grant funds are in the amount of $1,430,000 Federal funds, are for continuation of the Housing Opportunities for Persons with AIDS Program, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 99, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance authorizing and directing the Mayor, on behalf to the Urban County Government, to accept a Grant from the Ky. Infrastructure Authority, which Grant funds are in the amount of $600,000 Commonwealth of Ky. Funds, are for the provision of sanitary sewer service to underserved households in the Leesway Neighborhood, the acceptance of which does not obligate the Urban

County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 98, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

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The following resolutions were on the docket for first reading. Upon motion of Mr. Myers, seconded by Ms. James, the rules were suspended by unanimous vote.

The resolutions were given second reading. Upon motion of Mr. Stinnett, seconded by Mr. McChord, the resolutions were approved by the following vote:

Aye: Beard, Blues, Ellinger, Feigel, Gorton,
Gray, Henson, James, Lane, Lawless,
McChord, Myers, Stinnett--------------------13

Nay: ---0

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Right-Of-Way Encroachment Agreement with the Transit Authority of the Lexington-Fayette Urban County Government ("Lextran") and Art in Motion, Inc., in order to erect a bus shelter in the public right-of-way located at 1306 Versailles Rd., at no cost to the Urban County Government.

A Resolution authorizing and directing the Commissioner of Public Works and Development, on behalf of the Urban County Government, to execute a Right-Of-Way Encroachment Agreement with the Transit Authority of the Lexington-Fayette Urban County Government ("Lextran") in order to erect a bus shelter in the public right-of-way located at 845 Red Mile Rd., at no cost to the Urban County Government, and further authorizing and directing the Commissioner of Public Works and Development, on behalf of the Urban County Government, to execute any and all future Right-Of-Way Encroachment Agreements with Lextran for the placement of additional bus shelters in the public right-of-way that are entered into pursuant to the Memorandum of Agreement authorized by Resolution No. 313-2008 and compliant with the requirements of that Agreement, and that shall also be at no cost to the Urban County Government.

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The following resolution was on the docket for first reading. Upon motion of Mr. Myers, seconded by Ms. James, the rules were suspended by unanimous vote.

The resolution was given second reading. Upon motion of Mr. Stinnett, seconded by Mr. McChord, the resolution was approved by the following vote:

Aye: Beard, Blues, Ellinger, Feigel, Gorton,
Gray, Henson, James, Lawless, McChord,
Myers, Stinnett------------------------------------12

Nay: --0
(Mr. Lane recused himself when the vote was taken.)

A Resolution calling for the Lexington-Fayette Urban County Airport Board Chairman to resign as Chair and suspend all activities with the Lexington-Fayette Urban County Airport Board and Airport management until after the audit by the Ky. State Auditor is complete; urging the Lexington-Fayette Urban County Airport Board to suspend approval of all non-essential out-of-state travel for all Board members and Airport staff until after the audit by the Ky. State Auditor is complete; and recommending to the Mayor that no new appointments to the Lexington-Fayette Urban County Airport Board be made until after the audit by the Ky. State Auditor is complete.

Ms. Feigel asked if the Council could be presented with a report on findings from the Airport audit as they became available.

The Mayor stated that he would pass the request on to the Airport Board.

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Upon motion of Mr. Myers, seconded by Ms. James, and approved by unanimous vote, a Resolution accepting the bid of Cooper Surgical, Inc., in the amount of $21,600.00, for the Digital Colposcope Secure Image Documentation System for the Div. of Police was placed on the docket and given first reading.

Upon motion of Mr. Myers, seconded by Ms. James, the rules were suspended by unanimous vote.

The resolution was given second reading. Upon motion of Mr. Stinnett, seconded by Mr. McChord, the resolution was approved by the following vote:

Aye: Beard, Blues, Ellinger, Feigel, Gorton,
Gray, Henson, James, Lane, Lawless,
McChord, Myers, Stinnett--------------------13

Nay: ---0

* * *

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

A Resolution accepting the bids of Ferguson Enterprises and H.D. Supply Water Works, establishing price contracts for sanitary sewer repair materials, for the Div. of Water Quality.

A Resolution accepting the bid of Hydro Controls, Inc., establishing a price contract for electric actuators, for the Div. of Water Quality.

A Resolution accepting the bid of Straeffer Pump & Supply, Inc., establishing a price contract for luminescent dissolved oxygen sensors and controllers, for the Div. of Water Quality.

A Resolution accepting the bid of Compass Group USA, Inc. D/B/A Canteen, establishing a price contract for vending services, for the Div. of Community Corrections.

A Resolution accepting the bids of Brenntag Mid-South, Inc., Delta Chemical Corporation, and Kemira Water Solutions, Inc., establishing price contracts for phosphorus reduction chemicals, for the Div. of Water Quality.

A Resolution accepting the bid of Enforcement Technology Group, Inc., in the amount of $25,052.99, for the Crisis Communications System for the Div. of Police.

A Resolution accepting the bid of Rehrig Pacific Company, establishing a price contract for yard waste containers, for the Div. of Waste Management.

A Resolution accepting the bid of American Fire & Security, LLC, establishing a price contract for sprinkler inspections, for the Div. of Facilities and Fleet Management.

A Resolution ratifying the probationary civil service appointments of: Joseph Lyon, Landfill Inspector, Grade 108N, $11.590 hourly, in the Div. of Waste Management, effective January 5, 2009, Mattie Morton, Program Administrator, Grade 117E, $2,417.28 bi-weekly, in the Div. of Youth Services, effective January 5, 2009, Elizabeth McGee, Budget Officer Sr., Grade 120E, $2,454.00 bi-weekly, in the Div. of Budgeting, effective January 5, 2009; ratifying the permanent civil service appointments of: Thomas Hilbrand, Treatment Plant Operator, Grade 113N, in the Div. of Water Quality, effective December 9, 2008, Jennifer Myatt, Program Specialist, Grade 112E, in the Div. of Water Quality, effective December 9, 2008, David Jett, Equipment Operator Sr., Grade 109N, in the Div. of Waste Management, effective November 26, 2008, Timothy Edwards, Equipment Operator Sr., Grade 109N, in the Div. of Waste Management, effective November 26, 2008; ratifying the permanent sworn appointments of: Todd Samuelson, Fire Captain, Grade 316N, in the Div. of Fire & Emergency Services, effective January 7, 2009, Phillip McClain, Fire Lieutenant, Grade 315N, in the Div. of Fire & Emergency Services, effective January 7, 2009; approving the unclassified civil service appointments of: Jessica Clark, Family Support Worker Sr., Grade 112N, $15.718 hourly, in the Div. of Family Services, effective January 5, 2009; approving the unclassified civil service appointment to the Office of the Urban County Council of: Willard Fogle, Aide to Council, Grade 000E, $1,923.08 bi-weekly, in the Office of the Urban County Council, effective January 5, 2009.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed conveying a temporary construction easement from Winona White, for the property located at 644 Wellington Way, for the 3184 Trinity Rd. Storm Sewer Rehabilitation Project, and authorizing payment in the amount of $200.00, plus usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Consent Agreement with Fellon-McCord & Associates, Inc., and Fellon-McCord & Associates, LLC, consenting to the assignment by Fellon-McCord & Associates, Inc., of the Agreement for management of natural gas procurement for the Detention Center to Fellon-McCord & Associates, LLC, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Ky. Office of Homeland Security, for extension of the Portable Interoperable Communications Tower Project through June 30, 2009, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Ky. Office of Homeland Security, for extension of the Div. of Police's Mobile Data Computer Network Project through June 30, 2009, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Ky. Office of Homeland Security, for extension of the Regional 911 System Project through June 30, 2009, at no cost to the Urban County Government.

A Resolution pursuant to Section 21-16(b) of the Code of Ordinances approving an acting assignment pay increase of greater than ten percent (10%) for the Acting Senior Advisor for Policy and Budget due to market demands and in recognition of the experience and exceptional qualifications of the employee.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. State Police and to provide any additional information requested in connection with this Grant Application, which Grant funds are in the amount of $40,468.00 Federal funds, and are for an Enforcing Underage Drinking Laws Project.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the U.S. Dept. of Homeland Security and to provide any additional information requested in connection with this Grant Application, which Grant funds are in the amount of $14,000.00 Federal funds, and are for a Juvenile Firesetter Program ($5,000.00) and the purchase of controllable propane fueled fire extinguisher training equipment and videos ($9,000.00).

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Environmental Assessment License with the Marathon Petroleum Company, LLC, for performing activities related to an assessment of potential contamination at 1631 Old Frankfort Pike (Landfill), at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Memorandum of Understanding with the U.S. Marshals Service, for the District Fugitive Task Force and authorizing the Mayor to execute all future Agreements with the U.S. Marshals Service that have the same terms, at no cost to the Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with U.S. Bancorp, for lease of a copier, at a cost not to exceed $4,257.60.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a donation from Ky.'s Div. of Emergency Management of child decontamination kits, voice amplification units, headsets, cables and pelican cases, for use at the Div. of Emergency Management, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with GEI Calgraph, for service of a GEI Calgraph machine, at a cost not to exceed $1,720.00 with future years' payments subject to appropriations by Council.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Addendum to the Master Agreement with Computer Sciences Corporation and/or any of its affiliates ("CSC"), for Third Party Program license protection for Third Party software programs installed during the RiskMaster software upgrade, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Contract Amendment with Joyland Neighborhood Association, for extension of the Contract for Neighborhood Action Match Program funds through June 30, 2009, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Transportation Cabinet and to provide any additional information requested in connection with this Grant Application, which Grant funds are in the amount of $132,000 Federal funds, and are for an update of the Freight Study, for the Div. of Planning.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Dept. of Military Affairs/ Ky. Emergency Management Agency, which Grant funds are in the amount of $1,004,692.50 Federal funds, are for a flood mitigation project, including the purchase of nine properties on Ft. Sumter Dr., Cabot Dr., and Shandon Dr., the acceptance of which obligates the Urban County Government for the expenditure of $334,897.50 as a local match, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

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Upon motion of Mr. Blues, seconded by Ms. Gorton, and passed by unanimous vote, the communications from the Mayor were approved and are as follows: (1) Recommending the appointment of Mr. Clarence H. Thomas to the Address Enforcement Hearing Board with a term to expire 11-1-2011, (2) Recommending the appointments of Ms. Karen J. Ekstrom and Mr. Jeffrey S. Collins to the Alarm Advisory Board, with terms to expire 7-1-2010 and 7-1-2011, respectively, (3) Recommending the appointments of Ms. Peggy Henson and Ms. Tammie K. Geis to the Commission for Citizens with Disabilities, with terms to expire 1-1-2011 and 1-1-2013, respectively. Ms. Henson fills the unexpired term of Mr. Don Blevins, Jr. Also, recommending the reappointment of Ms. Margaret N. Steinman to the Commission for Citizens with Disabilities, with a term to expire 1-1-2013, (4) Recommending the appointment of Dr. William Brooks to the Emergency Medical Advisory Board, with a term to expire 7-1-2012, (5) Recommending the appointments of Mr. Scott Brown and Mr. Tom Wilson to the Exaction Appeals Board, as ex-officio members. Mr. Brown and Mr. Wilson will serve in place of Sandra Nichols and Bob Drakeford, who are no longer serving, (6) Recommending the appointment of Mr. Ed Lane to the Internal Audit Board, with a term to expire 12-1-2012. Mr. Lane will fill the unexpired term of Dr. David Stevens who is no longer serving as a Council representative, (7) Recommending the appointment of Ms. Marilyn F. Machara to the Parks and Recreation Advisory Board, with a term to expire 1-14-2010. Ms. Machara will fill the unexpired term of Mr. Roger Cleveland, 2nd District Representative, and (8) Recommending the appointment of Mr. Michael Jordan to the Special Events Commission, with a term to expire 6-1-2012.

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The communications from the Mayor for information only were received and are as follows: (1) Resignation of Tyrone Alexander, Public Service Worker, Grade 106N, in the Div. of Water Quality, effective December 9, 2008, (2) Resignation of Jerry Burton, Stores Clerk, Grade 107N, in the Div. of Streets, Roads and Forestry, effective November 21, 2008, and (3) Resignation of James Collins, Police Officer, Grade 311N, in the Div. of Police, effective January 3, 2009.

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Ms. James gave a remembrance of Ms. Bernice Dickerson, of Adairsville, Logan County, who passed away January 6, 2009. Ms. Dickerson served on the Adairsville City Council for twenty-two years, having been elected at age seventy.

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Mr. Blues recognized State Rep. Jesse Crenshaw who was in attendance at the meeting.

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The Mayor extended a welcome to new Council Members.

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Mr. Louis Cobb, Scottsdale Circle, expressed gratitude for all the people in his life, and spoke about the economics of small business.

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Mr. Bernard McCarthy, Harry Street, spoke about tapping into the rainy day fund as opposed to laying off employees especially police officers and also spoke about different modes of transportation that he used.

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Mr. Eric Patrick Marr, Cassidy Ave., started his presentation and addressed the 3-minute rule for speakers.

The Council asked questions of Mr. Logan Askew, Commissioner of the Dept. of Law. Mr. Askew spoke to the Council about the rule, and stated that Section 4.106 of the Rules and Procedures was the only rule that addressed the 5-minute public comment.

Mr. Stinnett stated that the Council could make their own rule as to the time limit because in Public Comment there was not a specific question at stake.

Mr. Marr asked questions of the Mayor and Mr. Stinnett regarding the rule.

Ms. James made a comment about the rule.

Mr. Stinnett clarified for Mr. Marr why the rule of public comment was 3 minutes.

Mr. Marr started his presentation over and was given 3 minutes.

Ms. Lawless made a motion, seconded by Mr. Gray, and approved by a majority vote of 12-1 (Mr. Blues voted no) to extend his time by 3 minutes. Mr. Marr concluded his presentation.

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Upon motion of Mr. Myers, seconded by Ms. Gorton, and approved by unanimous vote, the meeting adjourned at 7:58 p.m.

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Clerk of the Urban County Council