Budget and Finance Committee
Kevin Stinnett - Chair
Ed Lane – Vice Chair
Jim Gray
Linda Gorton
Chuck Ellinger
Andrea James
Tom Blues
Julian Beard
George Myers
Peggy Henson

AGENDA

BUDGET AND FINANCE COMMITTEE

March 24, 2009

1:00 P. M.

1. Financial Reports For February, 2009 and Discussion - Fister
   - . Debt Service Savings for FY 2009

2. "Proposed Committee of the Whole Budget Meeting FY 2010

3. Council Links –
   - Committee Assignments
   - General Link Questions
   - Council Link Recommendation's Form for FY 2010
   - Example of Link Report Out Form

4. Sale & Disposal of Obsolete Property Proceeds – CM James
   - November 25, 2008 Letter From the Law Department, David J. Barberie, Attorney Senior

"PROPOSED" COMMITTEE OF THE WHOLE BUDGET MEETINGS FY 2010

MTG NO.	MEETING DESCRIPTION	DATE	DAY	TIME	LOCATION
1	Mayor's Budget Address	4/14/2009	Tuesday	3:00 PM	Council Chambers
2	Presentation on the Mayor's Proposed Budget by Senior Policy & Budgeting Advisor	04/16/2009	Thursday	4:00 PM	Council Chambers
3	Council Links should begin discussions with their assigned divisions.	04/17/2009	[redacted]		
4	Discussion relating to Debt and Capital Projects **(Scheduled B&F Meeting)**	04/28/2009	Tuesday	1:00 PM	Council Chambers
5	Quarterly COW Meeting	05/05/2009	Tuesday	11:30 AM	5th Floor Conf Room
6	Discussion on Revenue Projections	05/07/2009	Thursday	4:00 PM	Council Chambers
7	Council Link Report Outs and Recommendations - General Services and Public Safety	05/14/2009	Thursday	4:00 PM	Council Chambers
8	**Public Hearing Regarding Mayor's Proposed Budget - To be determined by Budgeting per KRS requirements**	05/14/2009	Thursday	7:00 PM	Council Chambers
9	Council Link Report Outs and Recommendations - Public Works, General Government and Finance, Social Services & Outside Agencies **(Scheduled B&F Meeting)**	05/26/2009	Tuesday	1:00 PM	Council Chambers
10	All Council Link and Individual Council Recommendations to be Submitted to Council Administrator/Budget Analyst	06/01/2009	Monday	5:00 PM	Submissions via electronic/hard copy
11	Review & Discussion of Possible Changes to Mayor's Budget	06/02/2009	Tuesday	9:00 AM	Council Chambers
12	Review & Discussion of Council Links and Individual Council Member Recommendations for Changes to MPB	06/09/2009	Tuesday	11:00AM	Council Chambers
13	Discussion on Proposed Amendments to Mayor's Budget	06/11/2009	Thursday	5:00 PM	5th Floor Conf Room
14	Discussion on Proposed Amendments to Mayor's Budget	06/16/2008	Tuesday	8:00 AM	5th Floor Conf Room
15	Ratify Budget & Motion to Place on Docket	06/16/2008	Tuesday	3:00 PM	Council Chambers
16	Special Council Meeting to Give First Reading on Council Approved Budget **(Approved Date on Council Calendar)**	06/23/2009	Tuesday	3:00 PM	Council Chambers
17	Council Meeting to Give Second Reading on Council Approved Budget **(Approved Date on Council Calendar)**	06/25/2009	Thursday	7:00 PM	Council Chambers

Council Links
FY 2010 Budget

The Budget and Finance Committee recommends to the Council that the Council Links activity be started again this year. Below are the Council Member assignments for FY 2010 Budget process. The purpose of the Links is to facilitate communication between the line departments and divisions of the government and the Council. One or more members of each Link should meet informally with the designated groups to discuss their programs and their budgetary needs. The Link Committees are encouraged to gather background data and to report out to the Committee of the Whole.

Council Link Committee Assignments

General Government, CIO, Administrative Services, Council Clerk, and Citizen's Advocate:
Tom Blues, Chair
Julian Beard
George Myers

Finance, Budgeting, Social Services, Outside Agencies:
Peggy Henson, Chair
Diane Lawless
Chuck Ellinger II

General Services:
Ed Lane, Chair
Doug Martin
Cheryl Feigel

Public Safety:
K. C. Crosbie, Chair
Kevin Stinnett
Jay McChord

Public Works & Environmental Quality
Andre James, Chair
Linda Gorton
Jim Gray

GENERAL COUNCIL LINK QUESTIONS

1. Identify and discuss any major increases for your budget that are included in the Mayor's Proposed Budget.

2. Have there been specific needs during FY 2009 that are NOT being met? Please identify and discuss.

3. What initiatives have you developed or plan to implement that will reduce costs for the government in the short or long term? Please identify and discuss.

4. Does your Department/Division have a mission statement? If so, how does that mission statement tie in with how your Department's/Division's work performance is measured.

5. What are your thoughts or comments that the Council should consider as they continue to work towards a balanced budget for FY 2010?

FY2010 Budget Links

Link ______________________ Department ____________________

Number of Employees ____________

General Fund ____________ Urban Services ____________

% of total General Fund [ ]

	FY2010 BUDGET	FY2009 BUDGET
Personnel	____________	____________
Capital	____________	____________
Operating	____________	____________
TOTAL		

<u>HIGHLIGHTS</u>

<u>LINK RECOMMENDATIONS</u>

<u>$ Amount</u>

Addtions

Subtractions

TOTAL LINK RECOMMENDATIONS +/- [ ]

"EXAMPLE OF FORMAT"
LINK REPORT OUT

COUNCIL LINK AND COUNCIL MEMBER RECOMMENED CHANGES TO MPB FY 2009

DESCRIPTION	ACCOUNT NUMBER	ADOPTED FY08	MAYOR PROPOSED FY09	COUNCIL LINK PROPOSAL	LINK CHANGE +/-
I. PUBLIC SAFETY:					
A. Commissioner's Office					
i. Reduce the Animal Control Personnel Request	1101-505002-0001-71299	$ 830,680	$ 1,084,020	$ 1,029,020	$ (55,000)
B. Fire and Emergency Services					
i. Mobile Data Cards - Service Fees	1101-505701-5701-72203	490	440	54,090	53,650
ii. EMS Coordinator Salary Correction	1101-505702-5712-71299	23,700	21,330	23,700	2,370
iii. EMS Operating Supplies	1101-505702-5712-75101	317,012	289,680	316,680	27,000
iv. Fire Suppression Operating Supplies	1101-505702-5716-75101	50,600	46,860	50,860	4,000
v. Fire Radio Tower Site Leases	1101-505705-5754-71301	16,800	-	29,400	29,400
vi. Fire Recruit Training Costs Correction due to Budgetary Error	1101-505703-5731-75101	12,930	11,650	19,210	7,560
C. Code Enforcement					
i. Code Enforcement - Abatement Funds	1101-505802-5812-71212	88,400	79,560	107,560	28,000
Public Safety Net Cost/(Savings)		**$ 1,340,612**	**$ 1,533,540**	**$ 1,630,520**	**$ 96,980**
II. FINANCE, BUDGETING, SOCIAL SERVICES & OUTSIDE SERVICES:					
A. Social Services					
i. Eliminate the funding for position of Administrative Officer for Commissioners' Office.	1101-606101-6001-63XXX	$ -	$ 54,650	$ -	(54,650)
ii. Fund request to replace sand with mulch product under playground equipment	1101-606404-001-90320	0	0	14,950	14,950
iii. Restore funding to full year operation of day treatment w/modifications. Do not transfer to Fayette County Schools.	1101-606503-6521-63XXX	871,540	437,310	656,780	219,470
iv. Fund a full-time Social Worker Senior	1101-606xxx-0001-63XXX	0	0	56,200	56,200
v. Fund two (2) full-time Social Workersin the division of Youth Services for Family Courts - currently filled, not funded for FY2009. Funding would be $113,390	1101-606xxx-0001-63XXX	0	0	113,390	113,390

Mayor Jim Newberry
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Department of Law

TO: Councilmember Dr. David Stevens, Chairman Budget and Finance Committee

FROM: Department of Law

DATE: November 25, 2008

RE: Ordinance Section 7-15
Log No. 08-CC1710

The Urban County Council's Budget and Finance Committee has asked for a legal interpretation regarding the applicability of Section 7-15 of the Code of Ordinances, Lexington-Fayette Urban County Government, which appears below, to proceeds derived from the sale of surplus property purchased with funds from a dedicated tax. Section 180 of the Kentucky Constitution prohibits taxes "levied and collected for one purpose" from ever being devoted "to another purpose"; therefore, the proceeds from the sale of such items should be placed into the account for that particular funding source.

> There is delegated to the mayor the power, and he is authorized on behalf of the urban county government and in its name, to sell for cash, or to exchange for other equipment to replace any equipment in the urban county government whenever in his judgment, because of obsolescence, wear and tear or cost of the repair and maintenance of the same, it is for the best interests of the urban county government that the same be sold and exchanged. All money received from the sale of any such equipment shall be paid into the general fund of the urban county government.

Code of Ordinances, Section 7-15. This section is expressly limited to "obsolete" and worn-out equipment, which is a more limited category of property than all of the property that is sold or disposed of by the Urban County Government.

It is our understanding that the current issue arose in the context of a question regarding proceeds derived from the sale of property that was acquired with specific tax funding (i.e. Urban Services District taxes). It is also our understanding that the Urban

County Government has normally placed such funds back into the account for that particular funding source, and has not paid them into the general fund. This practice is consistent with Section 180 of the Kentucky Constitution, which prohibits taxes specifically levied for one purpose being devoted to another purpose; and is not necessarily inconsistent with Section 7-15, which can be interpreted as only applying to qualifying equipment that was originally purchased with general funds.

Notwithstanding the above, there is statutory authority applying to both counties (KRS 67.0802)(copy attached) and cities (KRS 82.083)(copy attached) mandating that "[a]ny compensation resulting from the disposal of this real or personal property" (i.e., sale proceeds) be transferred to the general fund of these types of governments. However, even though the Urban County Government could choose to avail itself of these statutory rights, powers and privileges, it is not required to do so. (See KRS 67A.060; Holsclaw v. Stephens, Ky., 507 S.W.2d 462 (1974); there is no similar statute that applies specifically to urban county governments).

Moreover, if the Urban County Government elected to utilize either of these statutes as a basis to pay all surplus sales revenues regardless of source into the general fund, it would then have to comply with all of the statutory requirements pertaining to the disposition of the property, which include, for example, making written determinations prior to sale, and following certain statutory procurement requirements. Therefore, if there is a desire to utilize either of these statutes, input from the Division of Central Purchasing should be obtained as to whether any of these requirements would create additional issues.

It is also not clear that these statutes are intended to allow the specific tax funds at issue to be moved to the general fund, or that either statute would survive a legal challenge based upon Section 180 of the Kentucky Constitution if they were used to do so, as there is no reported case law on either of these statutes.[1] Accordingly, it is our opinion that the current practice of depositing sale proceeds into the same fund from which the property purchase was made should continue.

[1] It should be noted that KRS 68.120, which allows a fiscal court to transfer funds to the general fund once the purpose for the levying of the tax has been accomplished, has been upheld. (See e.g., Fannin v. Davis, Ky., 385 S.W.2d 321 (1964). However, it is unlikely this case could be used to support the Urban County Government using KRS 67.0802 or KRS 82.083 as a basis to move all surplus sale funds into the general fund as neither contains similar "exhaustion of purpose" language, and the Urban Services Districts have ongoing funding needs.

If the Council is desirous of amending or changing Section 7-15, please let me know. The above considerations should be taken into account with respect to any such decision.

David J. Barberie
Attorney Senior

ATTACH

cc: Kyna Koch, Commissioner of Finance
James Deaton, Director of Budgeting
Members of the Budget and Finance Committee
Joe Kelly, Senior Advisor to the Mayor for Management
Brian Marcum, Director of Central Purchasing
Rebecca Langston, Council Administrator
Paul Schoninger, Staff to Council

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67.0802 Sale or other disposition of county property.

(1) A county may sell or otherwise dispose of any of its real or personal property.

(2) Before selling or otherwise disposing of any real or personal property, the county shall make a written determination setting forth and fully describing:

(a) The real or personal property;

(b) Its intended use at the time of acquisition;

(c) The reasons why it is in the public interest to dispose of it; and

(d) The method of disposition to be used.

(3) Real or personal property may be:

(a) Transferred, with or without compensation, to another governmental agency;

(b) Sold at public auction following publication of the auction in accordance with KRS 424.130(1)(b);

(c) Sold by electronic auction following publication of the auction, including the uniform resource link (URL) for the site of the electronic auction, in accordance with KRS 424.130(1)(b); or

(d) Sold by sealed bids in accordance with the procedure for sealed bids under KRS 45A.365(3) and (4).

(4) If a county receives no bids for the real or personal property, either at public or electronic auction or by sealed bid, the property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the county. In those instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made.

(5) Any compensation resulting from the disposal of this real or personal property shall be transferred to the general fund of the county.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 153, sec. 2, effective July 13, 2004. -- Created 2000 Ky. Acts ch. 223, sec. 2, effective July 14, 2000.

82.083 Sale or other disposition of city property.

(1) A city may sell or otherwise dispose of any of its real or personal property.

(2) Before selling or otherwise disposing of any real or personal property, the city shall make a written determination setting forth and fully describing:

(a) The real or personal property;

(b) Its intended use at the time of acquisition;

(c) The reasons why it is in the public interest to dispose of it; and

(d) The method of disposition to be used.

(3) Real or personal property may be:

(a) Transferred, with or without compensation, to another governmental agency;

(b) Transferred, with or without compensation, for economic development purposes;

(c) Sold at public auction following publication of the auction in accordance with KRS 424.130(1)(b);

(d) Sold by electronic auction following publication of the auction, including the uniform resource link (URL) for the site of the electronic auction, in accordance with KRS 424.130(1)(b); or

(e) Sold by sealed bids in accordance with the procedure for sealed bids under KRS 45A.365(3) and (4).

(4) If a city receives no bids for the real or personal property, either at public or electronic auction or by sealed bid, the property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the city. In those instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made.

(5) Any compensation resulting from the disposal of this real or personal property shall be transferred to the general fund of the city.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 153, sec. 1, effective July 13, 2004.