Lexington-Fayette Urban County Government Council Meeting

Lexington, Kentucky March 26, 2009

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in regular session on March 26, 2009 at 7:00 P.M. Present were Mayor Jim Newberry in the chair presiding and the following members of the Council: Council Members James, Lane, Lawless, Martin, McChord, Myers, Stinnett, Blues, Crosbie, Ellinger, Feigel, Gorton, Gray, and Henson. Absent was Council Member Beard.

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

Ordinances No. 32-2009 thru 34-2009 inclusive and Resolutions No. 151-2009 thru 205-2009 inclusive were reported as having been signed and published, and were ordered to record.

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The Invocation was given by Rev. Dr. C.B. Akins, Sr., Pastor of the First Baptist Church Bracktown.

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Upon motion of Ms. Gorton, seconded by Mr. Stinnett, and passed by majority vote (Mr. Myers was absent when the vote was taken), the Minutes of the September 9, 18, and October 2, 23, 2008 Council Meetings were approved.

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

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

Nay: ---0
(Mr. Myers was absent when the vote was taken.)

An Ordinance changing the zone from a Light Industrial (I-1) zone to a Highway Service Business (B-3) zone for 2.82 net (3.70 gross) acres, for property located at 3695 Nicholasville Rd., subject to certain use restrictions imposed as conditions of granting the zone change (Caller Properties, LLC).

An Ordinance relating to stormwater discharges creating Section 16-1(f) of the Code of Ordinances defining terms and creating Article X of Chapter 16 of the Code of Ordinances to ensure compliance with the Urban County Government's MS4 Permit and reduce impacts to public health, welfare, and the environment due to stormwater runoff; Incorporating the Stormwater Manual by reference; expressing intent to ensure adequate maintenance of stormwater control devices on private property; providing that in residential areas where a public easement for a stormwater control device exists the private property owner is responsible for non-structural maintenance of any stormwater control device; providing that in residential areas where a public easement for a stormwater control device exists the Urban County Government is responsible for all structural repairs necessary to maintain the stormwater detention function of the stormwater control device but the Government shall not undertake any action to maintain the stormwater control device as a retention facility that permanently contains water; providing that in a residential area where no public easement exists, the property owner is responsible for all non-structural maintenance and structural maintenance of the stormwater control device; providing that no trees, structures, equipment, unsafe conditions, or conditions that adversely affect control of water quantity or water quality shall be permitted in stormwater control devices in residential areas; providing that all maintenance and repair of stormwater control devices in commercial and industrial areas is the responsibility of the owner or manager of the property; providing for notice of any maintenance or repair problems; providing that where a stormwater control device is located fully or partially underground, the owner or manager shall cause an annual inspection to be performed and reported to the Div. of Water Quality; and providing that no trees, structures, equipment, unsafe conditions, conditions that adversely affect control of water quantity or water quality shall be permitted in stormwater control devices in commercial and industrial areas.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Environmental Protection Agency, which Grant funds are in the amount of $20,000.00 Federal funds, are for health education and outreach to the underserved Medicaid pediatric population in Fayette, Bourbon, Clark, Jessamine and Madison Counties regarding exposure to lead-based paint poisoning, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 118, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

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. 117.

An Ordinance amending Section 22-53.1 of the Code of Ordinances deleting the requirement that the Div. of Police conduct at least two (2) police academy classes per year; providing that upon request, the Urban County

Council may extend a police eligibility list from twelve (12) months to twenty-four (24) months; and deleting the requirement for quarterly oral and written examinations.

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An Ordinance amending Section 1 of Ordinance No. 270-2008 amending the schedule of meetings for the Lexington-Fayette Urban County Council for the calendar year 2009, to change the Mayor's Budget Address from April 7, 2009 to April 14, 2009 was given first reading.

Upon motion of Ms. James, and seconded by Ms. Gorton, the rules were suspended by unanimous vote.

The ordinance was given second reading. Upon motion of Mr. Lane, and seconded by Ms. Henson, the ordinance was approved by the following vote:

Aye: James, Lane, Lawless, Martin, McChord,
Myers, Stinnett, Blues, Crosbie, Ellinger,
Feigel, Gorton, Gray, Henson------------------14

Nay: ---0

* * *

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

An Ordinance changing the zone from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone for 0.08 net (0.09 gross) acre; and from a Planned Neighborhood Residential (R-3) zone with conditional zoning restrictions to a High Density Apartment (R-4) zone, for 0.35 net (0.40 gross) acre, for property located at 852 Campbell Ln., subject to certain use restrictions imposed as conditions of granting the zone change (RML Construction, RLLP (AMD.)).

An Ordinance changing the zone from a Single Family Residential (R-1B) zone to a Light Industrial (I-1) zone, for 1.16 net (1.26 gross) acres, for property located at 550 and 560 Stone Rd., subject to certain use restrictions imposed as conditions of granting the zone change (Property Partners, LLC).

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Remotec, Inc., a sole source provider, for hybrid radio assembly and foldable video antenna assembly, at a cost not to exceed $55,307.00, and appropriating funds pursuant to Schedule No. 119.

An Ordinance amending Section 22-5(2) of the Code of Ordinances creating two (2) temporary positions of Staff Assistant Sr., Grade 108N, for a term of three (3) years beginning March 1, 2009 and ending April 1, 2012, in the Div. of Water Quality, and appropriating funds pursuant to Budget Schedule No. 120.

An Ordinance reclassifying Donald Bowman from Treatment Plant Operator-Apprentice, Grade 107N, to Treatment Plant Operator, Grade 113N, in the Div. of Water Quality, to become effective retroactive to December 22, 2008; and pursuant to Ordinance No. 197-2002, adjusting the salaries of three (3) employees in the Div. of Water Quality, after review pursuant to the Pay Equity Ordinance, to become effective retroactive to December 22, 2008; and appropriating funds pursuant to Budget Schedule No. 121.

An Ordinance amending Section 21-5(2) of the Code of Ordinances, abolishing one (1) position of Human Resources Analyst, Grade 115E and creating one (1) position of Total Rewards Assistant, Grade 112N, in the Div. of Human Resources and appropriating funds pursuant to Schedule No. 122.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Ky. Dept. of Military Affairs, Div. of Emergency Management, which Grant funds are in the amount of $372,300.00 Federal funds, are for continuation of the Chemical Stockpile Emergency Preparedness Program (CSEPP), the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 124, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance accepting the bid of Elza Construction, LLC, in the amount of $540,335.25, for demolition and site preparation for the construction of single family homes, for the Office of the Mayor, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Elza Construction, LLC, related to the bid and appropriating funds pursuant to Schedule No. 125.

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. 126.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Ky. Transportation Cabinet, which Grant funds are in the amount of $324,000.00 Commonwealth of Ky. Funds, are for the Intelligent Transportation System/Congestion Management System (ITS/CMS) Traffic Improvement Project, the acceptance of which obligates the Urban County Government for the expenditure of $81,000.00 as a local match, appropriating funds pursuant to Schedule No. 127, 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 execute a Modification to Agreement with the Ky. Office of Homeland Security, for the purchase of related equipment for the Total Containment Vessel, at no cost to the Urban County Government, and appropriating funds pursuant to Schedule No. 123.

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

Aye: James, Lane, Lawless, Martin, McChord,
Myers, Stinnett, Blues, Crosbie, Ellinger,
Feigel, Gorton, Gray, Henson------------------14

Nay: ---0

A Resolution accepting the bids of Quality Cleaning Service, Inc. and Advance Construction of KY, LLC, establishing price contracts for cleaning services for flooding, for the Div. of Water Quality.

A Resolution accepting the bid of J & R Construction Services, Inc., establishing a price contract for roof repairs and maintenance, for the Div. of Facilities and Fleet Management.

A Resolution accepting the bid of Rehrig Pacific Company, establishing a price contract for Universal Refuse/Recycling Carts, for the Div. of Waste Management.

A Resolution accepting the bid of Baesler Farms, establishing a price contract for Land for Lease at Bluegrass Station, for the Div. of Parks and Recreation, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Baesler Farms related to the bid.

A Resolution accepting the bid of Fritz Farms, establishing a price contract for Land for Lease at Cardinal Run Park, for the Div. of Parks and Recreation, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Fritz Farms related to the bid.

A Resolution accepting the bid of Frantz, Inc., in the amount of $120,290.00, for the HVAC Upgrade to Police Technical Services Unit Building, for the Div. of Police, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Frantz, Inc., related to the bid.

A Resolution accepting the bid of Claunch Construction, LLC, in the amount of $254,357.15, for the Radcliffe Rd. Stormwater Improvements, for the Div. of Water Quality, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Claunch Construction, LLC, related to the bid.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Salvation Army, for use of Grant funds for a program to provide essential services and homelessness prevention services to families and individuals who are homeless or at risk of becoming homeless, at a cost not to exceed $9,000.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. Three to the Contract with CDP Engineers, Inc., for design services for the South Elkhorn Pump Station and

Force Main Improvement Project, increasing the contract price by the sum of $47,000.00 from $487,500.00 to $534,500.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. One to the Contract with CMH of Kentucky, Inc., D/B/A Luv Homes #853, for temporary housing for the Newtown Pike Extension Project, increasing the contract price by the sum of $11,337.00 from $706,906.76 to $718,243.76.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements with Blue Grass Council of Boy Scouts of America, Inc. ($1,275.00), and Citizen's Fire Academy Alumni Association of Lexington, Inc. ($1,125.00), for the Office of the Urban County Council, at a cost not to exceed the sums stated.

A Resolution ratifying the probationary civil service appointments of: Brian Bottom, Program Manager Sr., Grade 120E, $2,700.00 bi-weekly, in the Div. of Environmental Policy, effective March 2, 2009, Mark York, Program Manager Sr., Grade 120E, $3,100.00 bi-weekly, in the Div. of Environmental Policy, effective March 2, 2009, Kevin Wagner, Engineering Technician Sr., Grade 113E, $1,468.96 bi-weekly, in the Div. of Water Quality, effective March 16, 2009; ratifying the probationary sworn appointments of: Ann Gutierrez, Police Sergeant, Grade 315N, $27.013 hourly, in the Div. of Police, effective March 16, 2009, Christopher Van Brackel, Police Lieutenant, Grade 317E, $2,827.44 bi-weekly, in the Div. of Police, effective March 16, 2009; approving the unclassified civil service appointment of: Krista Greathouse, Administrative Aide to the Mayor, Grade 118E, $2,653.85 bi-weekly, in the Office of the Mayor, effective February 28, 2009.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Partner Agreement with the University of Ky. Bluegrass Health Marriage Initiative, for the establishment of a cooperative partnership to increase child well-being and family stability in Central Ky., for the Div. of Family Services, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a donation from Ms. Judy Craft of a treadmill, for use at the Div. of Police, 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 Engineering Services Agreement with CDP Engineers, Inc., for Appomattox LOMR Submission and Sherwood Dr. Drainage Improvements, at a cost not to exceed $32,700.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. One to the Contract with Spectrum Contracting, for the Gainesway Pond and Educational Trail System Project, increasing the contract price by the sum of $29,151.37 from $828,520.00 to $857,671.37.

A Resolution amending Resolution No. 273-2003, previously amended by Resolution No. 173-2004, Resolution No. 366-2007, and Resolution No. 469-2007 to change the name of the approved company, which was granted an inducement pursuant to the Ky. Jobs Development Act, from Tempur World, LLC, to Tempur-Pedic Management, Inc., and to change the name of the approved affiliate Tempur-Pedic North America, Inc., to Tempur-Pedic North America, LLC, and to recognize Tempur-Pedic Management, Inc., and Tempur-Pedic North America, LLC, as approved companies for the economic development project, effective retroactive to July 1, 2008.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Justice and Public Safety Cabinet and to provide any additional information requested in connection with this Grant Application, which Grant funds are in the amount of $75,000.00 Commonwealth of Ky. Funds from the Law Enforcement Service Fee Program, and are for police officer overtime hours for a Traffic Alcohol Patrol Program.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Justice and Public Safety Cabinet and to provide any additional information requested in connection with this Grant Application, which Grant funds are in the amount of $227,500.00 Federal funds, and are for continuation of the Street Sales Drug Enforcement Project.

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 Springdale Baptist Church, Inc., for the property located at 1380 Higbee Mill Rd., for the Clays Mill Rd. Improvement Project, and authorizing payment in the amount of $13,725.00, plus usual and appropriate closing costs.

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 Windstream Ky. East, LLC, for the property located at 1401 Higbee Mill Rd., for the Clays Mill Rd. Improvement Project, and authorizing payment in the amount of $2,375.00, plus usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and to accept a Deed for the property located at 138 Northwood Dr. from Cecil and Linda Cooper, for the Northwood Dr. Stormwater Project, and authorizing payment in the amount of $113,700.00, plus usual and appropriate closing costs.

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 permanent sanitary sewer and temporary construction easements from BBBBP & S, LLC, for the property located at 172 S. Forbes Rd., for the North Elkhorn Force Main Project, and authorizing payment in the amount of $5,875.00, plus usual and appropriate closing costs.

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 permanent sanitary sewer and temporary construction easements from Linda Johnson, for the property located at 1214 Liggett St., for the North

Elkhorn Force Main Project, and authorizing payment in the amount of $1,375.00, plus usual and appropriate closing costs.

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 Autumn Park Apartments, for the property located at 3361 Holwyn Rd., for the Clays Mill Rd. Improvement Project, and authorizing payment in the amount of $8,425.00, plus usual and appropriate closing costs.

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 Donald and Peggy Adkins, for the property located at 3433 Holwyn Rd., for the Clays Mill Rd. Improvement Project, and authorizing payment in the amount of $550.00, plus usual and appropriate closing costs.

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 Southern Heights Baptist Church, for the property located at 3437 Holwyn Rd., for the Clays Mill Rd. Improvement Project, and authorizing payment in the amount of $900.00, plus usual and appropriate closing costs.

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 Lurid Gulley Living Trust, for the property located at 651 Graviss Ct., for the Clays Mill Rd. Improvement Project, and authorizing payment in the amount of $925.00, plus usual and appropriate closing costs.

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 William and Betty Hall, for the property located at 3343 Keithshire Way, for the Clays Mill Rd. Improvement

Project, and authorizing payment in the amount of $2,100.00, plus usual and appropriate closing costs.

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 Joyce Adams, for the property located at 3344 Keithshire Way, for the Clays Mill Rd. Improvement Project, and authorizing payment in the amount of $1,350.00, plus usual and appropriate closing costs.

A Resolution authorizing and directing the Dept. of Law, on behalf of the Urban County Government, to execute a letter engaging Terry Sellars to provide legal services in acquiring the Blue Sky Wastewater Treatment Plant and providing sewage treatment to the area currently served by the plant.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements with Bluegrass Area Chapter of the American Red Cross ($1,150.00), and Lexington Humane Society ($525.00), for the Office of the Urban County Council, at a cost not to exceed the sums stated.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Service Agreement with Devomni Corp., for software support for licensed software, at a cost not to exceed $5,900.00.

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A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Memorandum of Agreement with the Ky. Economic Development Finance Authority regarding entry into Tax Incentive Agreement for the Lexington Distillery District Mixed-Use Redevelopment Tax Increment Financing Project, at an initial cost not to exceed $47,000.00 was on the docket for first reading.

Upon motion of Mr. Blues, seconded by Ms. Henson, and approved by majority vote (Mr. Martin recused himself when the vote was taken), the resolution was amended to state that the $47,000 would be taken from the Urban County Council's Economic Development Fund to be reimbursed into the same fund

The Council asked questions of Mr. Gray, Mr. Blues and Mayor Newberry.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Memorandum of Agreement with the Ky. Economic Development Finance Authority regarding entry into Tax Incentive Agreement for the Lexington Distillery District Mixed-Use Redevelopment Tax Increment Financing Project, at an initial cost not to exceed $47,000.00 from the Urban County Council's Economic Development Fund to be reimbursed into the same fund was given first reading as amended.

Upon motion of Mr. McChord, seconded by Mr. Blues, the rules were suspended by majority vote (Mr. Martin recused himself when the vote was taken).

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

Aye: James, Lane, Lawless, McChord, Myers,
Stinnett, Blues, Crosbie, Ellinger, Feigel,
Gorton, Henson-----------------------------------12

Nay: Gray--1
(Mr. Martin recused himself when the vote was taken.)

* * *

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Memorandum of Agreement with the Ky. Economic Development Finance Authority regarding entry into Tax Incentive Agreement for the Phoenix Park/Courthouse Signature Tax Increment Financing Project, at no initial cost to the Urban County Government, and a Letter Agreement with the CentrePointe, LLC, regarding payment of the consulting fee in an amount up to $50,000.00 was given first reading.

Upon motion of Mr. McChord, and seconded by Mr. Blues, the rules were suspended by majority vote (Mr. Lane recused himself when the vote was taken.).

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

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

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

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The following resolutions were given first reading. Upon motion of Mr. McChord, and seconded by Mr. Blues, the rules were suspended by unanimous vote.

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

Aye: James, Lane, Lawless, Martin, McChord,
Myers, Stinnett, Blues, Crosbie, Ellinger,
Feigel, Gorton, Gray, Henson-----------------14

Nay: --0

A Resolution accepting the bids of Chester Pool Systems, Inc., in the amount of $96,083.00, and Swim Pro Service, in the amount of $3,310.00, for pool drain modifications for compliance with the Virginia Graeme Baker Act, for the Div. of Parks and Recreation.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Office of Homeland Security and to provide any additional information requested in connection with this Grant Application, which Grant funds are in the amount of $72,277.00 Commonwealth of Ky. Funds from the Law Enforcement Protection Program, and are for the purchase of police service weapons and ammunition.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements with Beaumont Presbyterian Church of Lexington, Ky., Inc. ($250.00), Beaumont Residential Association, Inc. ($500.00), the Southland Association, Inc. ($1,000.00), Faith in Action: Elder Outreach, Inc. ($575.00), Urban League of Lexington Fayette County, Inc. ($2,000.00), Korean War Veteran's Association, Inc. ($600.00), Big Brothers/Big Sisters of the Bluegrass, Inc. ($900.00), Friends of the Lexington Mounted Police, Inc. ($975.00), and Girls on the Run of Lexington Corp. ($775.00) for the Office of the Urban County Council, at a cost not to exceed the sums stated.

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 Douglas and Kathleen McCord, for the property located at 3367 Clays Mill Rd., for the Clays Mill Rd. Improvement Project, and authorizing payment in the amount of $325.00, plus usual and appropriate closing costs.

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 Jo Ann Omvig, for the property located at 3478 Clays Mill Rd., for the Clays Mill Rd. Improvement Project, and authorizing payment in the amount of $3,000.00, plus usual and appropriate closing costs.

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Upon motion of Mr. Lane, seconded by Mr. Myers, and approved by a majority vote of 13-1 (Gray voted **no**), a Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Confidential Agreement for Registration and Payment of Net Profit Tax in order to resolve disputed net profit license fees was placed on the docket and given first reading.

Upon motion of Ms. Lawless, and seconded by Ms. Gorton, the rules were suspended by a majority vote of 12-2 (Martin and Gray voted **no**).

The resolution was given second reading. Upon motion of Ms. Feigel, seconded by Ms. Lawless, the resolution was approved by the following vote:

Aye: James, Lane, Lawless, McChord, Myers,
Stinnett, Blues, Crosbie, Ellinger, Feigel,
Gorton, Henson-----------------------------------12

Nay: Martin, Gray---2

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

A Resolution accepting the bid of KIMCO, establishing a price contract for custodial services at the Operation Adjustment Center, for the Div. of Facilities and Fleet Management.

A Resolution accepting the bid of KOI Auto Parts, establishing a price contract for truck and automobile batteries, for the Div. of Facilities and Fleet Management.

A Resolution accepting the bid of Education Remedies, Inc., establishing a price contract for custodial services - Police Headquarters, for the Div. of Facilities and Fleet Management.

A Resolution accepting the bid of Education Remedies, Inc., establishing a price contract for custodial services - Phoenix Building, for the Div. of Facilities and Fleet Management.

A Resolution accepting the bid of Education Remedies, Inc., establishing a price contract for custodial services - Streets Roads and Forestry, for the Div. of Facilities and Fleet Management.

A Resolution accepting the bids of G & G Paving & Construction, Inc., in the amount of $37,100.00, and Asphalt Paving & Maintenance, Inc., in the amount of $5,750.00, for Valley Park Parking Renovation, for the Div. of Parks and Recreation, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Agreements with G & G Paving, Inc., and Asphalt Paving & Maintenance, Inc., related to the bids.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Professional Services Agreement with Sherry Guiler, as a Sexual Assault Nurse Examiner, to provide on-call forensic examinations under the Sexual Assault Nurse Examiner Program, at a cost not to exceed $40.00 for each scheduled on-call period, $230.00 for each completed forensic examination, $50.00 per case for professional testimony in court, and the reasonable cost of medical liability insurance.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Amendment to Lease with Baesler Farms, to amend the lease for mowing at Haley Pike Landfill to also permit the planting of tobacco, 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. League of Cities and to provide any additional information requested in connection with this Grant Application, which Grant funds are in the amount of $922.50 under the 2009 Safety and Liability Grant Program, and are for the purchase of personal protective safety jackets for traffic technicians, for the Div. of Traffic Engineering.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Bluegrass Youth for Christ, Inc. ($360.00), for the Office of the Urban County Council, at a cost not to exceed the sum stated.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Certificate of Consideration and accept a Deed for the property located at 272 Derby Dr. from Erik Miller, for the Derby Dr. Storm Water Improvement Project, and authorizing payment in the amount of $118,300.00, plus usual and appropriate closing costs.

A Resolution ratifying the probationary civil service appointments of: Darryl Clay, Public Service Supervisor, Sr., Grade 114E, $1,605.44 bi-weekly, in the Div. of Waste Management, effective March 30, 2009; Bill Warren, Jr., Engineering Technician Sr., Grade 113E, $1,981.20 bi-weekly, in the Div. of Water Quality, effective April 13, 2009; James Worten, Jr., Plant Operations Supervisor Sr., Grade 118E, $2,182.80 bi-weekly, in the Div. of Water Quality, effective March 30, 2009; ratifying the permanent civil service appointment of: Jill Wilson, Recreation Specialist Sr., Grade 113E, in the Div. of Parks and Recreation, effective February 27, 2009; ratifying the probationary sworn appointments of: Christopher Sweat, Fire Captain, Grade 316N, in the Div. of Fire and Emergency Services, effective February 13, 2009, Christian Ulrich, Fire Lieutenant, Grade 315N, in the Div. of Fire and Emergency Services, effective February 13, 2009, Mark Brown, Fire Captain, Grade 316N, in the Div. of Fire and Emergency Services, effective March 10, 2009, Chris Bartley, Fire Lieutenant, Grade 315N, in the Div. of Fire and Emergency Services, effective March 10, 2009; approving the unclassified civil service appointments of: Adam Clary, Deputy Coroner, Grade 112E, $14.554 hourly, in the Office of the Coroner, effective March 30, 2009, Conni Hayes, Staff Assistant Sr., Grade 108N, $13.000 hourly, in the Office of the Coroner, effective March 30, 2009.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Facility Usage Contract with the Fayette County Board of Education, for use of the Sandersville Elementary Gym, at no cost to the Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Facility Usage Contract with the Fayette County Board of Education, for use of the Cardinal Valley Elementary Gym, at no cost to the Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Purchase of Service Agreement with Farm and Garden Market Cooperative Association, Inc., D/B/A Lexington Farmers' Market, for the management of the Lexington Farmers' Market in downtown Lexington.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute the Designation of Applicant's Agent Resolution designating Acting Commissioner of Finance William O'Mara as the Urban County Government's authorized agent for the purpose of obtaining certain federal financial assistance under the Disaster Relief Act or the President's Disaster Relief Fund.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Lease Agreement with the Lexington and Fayette County Parking Authority, for office space for the Parking Authority in the Phoenix Building, at an annual rental rate of $4,500.00 to be paid by the Parking Authority to the Urban County Government.

A Resolution recognizing the 2010 World Equestrian Games as a local celebration such that related decorations or displays are generally exempted, pursuant to Section 17-2(e) of the Zoning Ordinance, Lexington-Fayette Urban County Government, from the provisions of Article 17 of the Zoning Ordinance, and establishing guidelines for use by the Lexington-Fayette Urban County Government in determining whether such a decoration or display by a business is exempt.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Commitment Card to join the Waste Buster Recycling Program with Bluegrass PRIDE, for promotion of recycling, at no cost to the Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a State Funded Memorandum of Agreement with the Commonwealth of Ky., Energy and Environment Cabinet, for the Waste Tire Amnesty Program, providing for the reimbursement in an amount not to exceed $100,000.00 from the Waste Tire Trust Fund.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Contract Modification (#1) to the Engineering Services Agreement with Strand Associates, Inc., for design of the salt barn at 5680 Athens-Boonesboro Rd., at a cost not to exceed $15,000.00.

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 permanent drainage easement from Arthur and Linda Blanton, for the property located at 404 Shawnee Ave., for Phase 3C of the Meadows-Northland-Arlington Neighborhood Improvement Project, and authorizing payment in the amount of $1,050.00, plus usual and appropriate closing costs.

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 permanent sidewalk easement from Lones and Marian Wells, Jr., for the property located at 462 Shawnee Ave., for Phase 3C of the Meadows-Northwood-Arlington Neighborhood Improvement Project, and authorizing payment in the amount of $100.00, plus usual and appropriate closing costs.

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 permanent sanitary sewer and temporary construction easements from Merv Properties, LLC, for the property located at 1211 Manchester St., for the North Elkhorn Force Main Project, and authorizing payment in the amount of $9,625.00, plus usual and appropriate closing costs.

* * *

The following communications were received from the Mayor for information only: (1) Resignation of Linwood Johnson, Public Service Worker, Grade 106N, in the Div. of Waste Management, effective February 26, 2009; (2) Resignation of Stephanie Doss, Community Corrections Officer, Grade 110N, in the Div. of Community Corrections, effective March 27, 2009; and (3) Resignation of Robert Rose, Community Corrections Officer, Grade 110N, in the Div. of Community Corrections, effective March 29, 2009.

* * *

Commander Michael Blanton, Div. of Police, stated that Officer John Boyle has committed the offense of Improper Use of Sick Time in violation of KRS 95.450 and General Order 73-2/H, Section 1.35, Violating Any Rules of the Division, in that on the 26th day of November, 2008 he was scheduled to work West Sector, Third Shift, from 2200 hours until 0800 hours the next day. According to Lieutenant Raymond Roller, Officer Boyle contacted Sergeant Kevin Goldie at approximately 1800 hours that same date and asked to have the night off to visit with his sister. There was a 'wait list' to take leave on the night of November 26, 2008 and Officer Boyle could not be granted leave time. Lieutenant Roller advised that at approximately 2100 hours on November 26th, Sergeant Goldie contacted Officer Boyle and advised him he could not have leave time due to minimum staffing requirements. Officer Boyle advised he was not physically able to come in and sick time had to be used. Lieutenant Roller advised that on November 27th, 2008, Sergeant Goldie determined Officer Boyle did not report to work on the previous night in order to spend time with his visiting sister. According to General Order 92-7/B, Section H, sick time is used for illness, injury, prescribed medication, treatment or illness or injury of an immediate family member. According to Lieutenant Roller, after talking with Officer Boyle and Sergeant Goldie, it is his belief that Officer Boyle improperly used sick time, and that the appropriate punishment for this conduct is 20 hours suspension without pay.

Upon motion of Ms. Gorton, seconded by Mr. Ellinger, the disciplinary action was approved by unanimous vote.

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Commander Michael Blanton, Div. of Police, stated that Officer Christopher Michael Flannery has committed the offense of refusal to obey supervisor's work-related order and failure to follow directions and instructions in violation of KRS 95.450 and General Order 73-2/H, Section 1.36, Insubordination, in that on the 17th day of December, 2008 he failed to attend a scheduled re-training class required as a result of a previous misconduct complaint. On December 19, 2008, Lieutenant Joseph Blakely was contacted by Sergeant Franklin Patrick who advised that Officer Flannery failed to complete the class. On December 28, 2008, Lieutenant Blakely and Sergeant Patrick met with Officer Flannery at the Central Roll Call Facility. Lieutenant Blakely asked Officer Flannery why he had not completed the training as required and Officer Flannery responded that 'there was no excuse' for his not completing the training. Officer Flannery said that he was aware of it and that he did not know why he failed to go. Lieutenant Blakely issued a Letter of Counseling and attempted remedial training in an effort to resolve the previously mentioned complaint. According to Lieutenant Blakely, Officer Flannery failed to complete the training as required and was unable to provide an explanation as to why he had not completed it. According to Lieutenant Blakely, Officer Flannery exhibited behavior which reflects an employee's refusal to be supervised, including but not limited to, 'direct refusal to obey a supervisor's legitimate work-related order or failure to follow directions and instructions which are normal operating procedures for the Unit,' and that the appropriate punishment for this conduct is a Written Reprimand.

Upon motion of Ms. Gorton, seconded by Mr. Ellinger, the disciplinary action was approved by unanimous vote.

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Mr. Bernard McCarthy, Harry Street, spoke in opposition to the concept of changing one-way streets to two-way streets.

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Mr. Mike Winkler, Olympia Road, spoke in opposition to any change orders made by the Contractor in the Gainesway Pond project.

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Upon motion of Ms. Feigel, seconded by Ms. Gorton, and approved by unanimous vote, the Council went into closed session at 8:01 p.m. pursuant to KRS 61.810(1)(c) for purposes of discussing proposed litigation on behalf of Lexington-Fayette Urban County Government, which will also involve the discussion of information made confidential by KRS 67.790, KRS 131.190 and Section 13-11 of the Code of Ordinances and pursuant to KRS 61.810(1)(f) for the purposes of discussions which might lead to appointment, discipline or dismissal of individual employees.

* * *

Upon motion of Mr. Blues, seconded by Ms. Gorton, and approved by unanimous vote, the Council returned to open session at 8:44 p.m. with the same members present.

* * *

Upon motion of Ms. Crosbie, seconded by Mr. Myers, and approved by unanimous vote, the meeting adjourned at 8:49 p.m.

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Clerk of the Urban County Council