

Lexington-Fayette Urban County Government Council Meeting

Lexington, Kentucky July 2, 2009

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in regular session on July 2, 2009 at 7:00 P.M. Present were Mayor Jim Newberry in the chair presiding and the following members of the Council: Council Members Ellinger, Feigel, Gorton, Gray, Henson, James, Lane, Lawless, Martin, McChord, Myers, Stinnett, Beard, and Blues. Absent was Council Member Crosbie.

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

Ordinances No. 95-2009 thru 128-2009 inclusive and Resolutions No. 403-2009 thru 475-2009 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. Dan Hans, Second Presbyterian Church.

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

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

Nay: -----0

An Ordinance amending Articles 1, 3, 4, 7, 8, 9, 12, 15, 16, 18, 22, 26, 28 and 29 of the Zoning Ordinance to clarify and modify regulations in the defined infill and redevelopment area to expand the limits of mixed uses, change parking requirements, add accessory dwelling units, and increase the flexibility of the design of the Neighborhood Character Design Overlay (ND-1) zone.

An Ordinance 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 Justice, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, which Grant funds are in the amount of \$410,023.00 Federal funds, are for installation of Wireless Mesh Network inside of New Circle Rd., for the Div. of Police, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to FY10 Schedule No. 17, 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 Ky. Justice and Public Safety Cabinet, which Grant funds are in the amount of \$2,063,763.00 Commonwealth of Ky. funds, are for police training incentive funds, the acceptance of which does not obligate the Urban County Government for the expenditure of funds,

appropriating funds pursuant to FY10 Schedule No. 18, 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 Commission on Fire Protection, Personnel, Standards and Education, which Grant funds are in the amount of \$1,875,159.00 Commonwealth of Ky. funds, are for training incentive funds for firefighters, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to FY10 Schedule No. 19, and authorizing the Mayor to transfer unencumbered funds within the Grant budget.

An Ordinance ratifying the 2009 Div. of Community Corrections Policy and Procedural Manual and adopting it in lieu of the Policy and Procedure Manual adopted in Ordinance No. 219-2007, which provides procedures for general management, public information, inmate information system and inmate records, budgeting and accounting, inmate accounts, commissary, staffing, disciplinary actions, sworn status, appearance, code of ethics, court proceedings, personnel records, physical fitness, training requirements, off-duty employment, drug free workplace policy, employee assistance program, tobacco free/no smoking designation, admissions, commitment authority, inmate records, inmate searches, inmate property, orientation, transfer and release, objective classification, security assessments, custody assessments, disciplinary segregation, administrative segregation, inmate supervision, security procedures, inspections, searches, transportation of inmates, use of restraints, use of force, weapons, use of firearms, emergency procedures and operations, inmate health care, food service procedures, equipment maintenance, control and use of dangerous materials, sanitation, hygiene, inmate services unit, statement of inmate rights, disciplinary offenses, hearing procedures, inmate grievance procedures, probation services unit, community alternative program-goals, drug testing unit, and community service unit.

An Ordinance amending Section 21-5(2) of the Code of Ordinances, abolishing one (1) position of Payroll Analyst, Grade 115E, in the Div. of

Accounting and creating one (1) position of Payroll Analyst, Grade 115E, in the Div. of Human Resources, appropriating funds pursuant to FY10 Schedule No. 20 and transferring the incumbent.

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. 21.

An Ordinance amending certain of the Budgets of the Lexington-Fayette Urban County Government to reflect current requirements for funds in the amount of \$1,483,300.00 for the Recycling Center equipment purchase, and appropriating and re-appropriating funds, Schedule No. 22.

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An Ordinance creating Article XXXXIV in Chapter 2 of the Code of Ordinances of the Lexington-Fayette Urban County Government to create the Corridors Commission was given second reading.

Upon motion of Mr. Blues, seconded by Mr. Ellinger, the rules were suspended by unanimous vote.

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

Aye: Ellinger, Feigel, Gorton, Gray, Henson,
James, Lane, Lawless, Martin, McChord,
Myers, Stinnett, Beard, Blues-----14
Nay: -----0

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An Ordinance accepting the bid of L-M Asphalt Partners, LTD d/b/a ATS Construction, in the amount of \$13,146,557.19, for the Lexington Streetscape Phase I Improvements - South Limestone St., for the Dept. of Public Works and Development, authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with L-M Asphalt Partners, LTD d/b/a ATS Construction, related to the bid, and appropriating funds in the amount of \$14,260,916.00, pursuant to Schedule No. 29 was given first reading.

Ms. Lawless asked questions of Mr. Mike Webb, Commissioner of the Dept. of Public Works and Development, regarding the project and its financing.

Mr. Gray spoke about the ordinance.

Mr. Lane and Ms. Feigel spoke about the ordinance, and asked questions of Mr. Webb.

Ms. Lawless asked additional questions of Mr. Webb, and of the Mayor.

Mr. McChord spoke about the ordinance.

The ordinance was ordered placed on file until July 7, 2009 for public inspection.

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The following ordinances were given first reading and ordered placed on file until July 7, 2009 for public inspection.

An Ordinance creating Article IV, Sections 7-39 through 7-43 of the Code of Ordinances, Lexington-Fayette Urban County Government, to establish an abandoned urban property classification for the purpose of ad valorem taxation, which rate is to be set by the Urban County Government at a rate which does not exceed the maximum rate allowable by law and which is based upon each \$100 of the January 1 assessment value of the property, and providing for a determination by the Vacant Property Review Commission of each such property with a list to be provided to the Div. of Revenue and the Office of the Fayette County Property Valuation Administrator by January 1 of each year, the removal of properties from the list upon a showing that the property no longer meets the criteria, an annual notice of determination mailed to owners or other interested parties, an appeal within thirty days, and the Vacant Property Review Commission to establish policies and procedures; and amending Section 12-82 of the Code of Ordinances to provide for fulfillment of duties by the Vacant Property Review Commission.

An Ordinance amending Subsection 18C-2(1) of the Code of Ordinances of the Lexington-Fayette Urban County Government to eliminate the registration requirement; amending Section 18C-3 of the Code of Ordinances to provide for the maintenance of insurance as required by law; amending Subsection 18C-4(1) of the Code of Ordinances to add that the ambulance service provider be appropriately authorized by the Commonwealth of Ky. to provide service within Fayette County; repealing and deleting Section 18C-8 of the Code of Ordinances pertaining to permit registration in its entirety; amending Section 18C-9 to add

Fayette County and the Ky. Board of Emergency Medical Services or any other state agency tasked with regulating these services; and renumbering the sections of Chapter 18C of the Code of Ordinances accordingly; all effective upon date of passage.

An Ordinance amending Section 21-5(2) of the Code of Ordinances abolishing one (1) position of Administrative Officer, Grade 118E, and creating one (1) position of Human Resources Generalist, Grade 118E, all in the Div. of Human Resources.

An Ordinance amending Section 21-25, 22-22, 22-5(2), 22-53.2, and 23-28 of the Code of Ordinances providing a one percent (1.0%) structure movement to the salary schedules applicable to classified civil service employees, unclassified civil service employees, including Council staff, and traffic school guards, and a one percent (1.0%) increase to the maximum of the pay range of Program Assistant - P/T, providing that all classified and unclassified civil service employees, except seasonal employees in account 332 and Div. of Parks and Recreation employees in accounts 333 and 334, who receive a satisfactory score on their performance evaluation, pursuant to Sections 21-29(d) and 22-26(5) of the Code of Ordinances, shall receive a one percent (1.0%) pay increase; amending Section 23-32(d) of the Code of Ordinances modifying the existing step structure for the positions of Police Chief, Grade 324E, and Fire Chief, Grade 324E; increasing the salary by one percent (1.0%) of one (1) position of Friend of the Court, Grade 000, within the Office of the Circuit Judges, one position of ABC Administrator - P/T, Grade 000, within the Office of Alcohol Beverage Control, three (3) positions of Law Clerk - P/T, Grade 000, within the Dept. of Law, and three (3) positions of Skilled Trades Worker - P/T, Grade 000, within the Div. of Community Corrections, and adjusting the salary structure for all bargaining unit members in the Div. of Community Corrections and Fire Majors in the Div. of Fire and Emergency Services, all to become effective retroactive to June 22, 2009.

An Ordinance relating to stormwater discharges from high risk industrial and high-risk commercial facilities amending Subsections 16-1(f)(2), 16-1(f)(3),

16-1(f)(9), 16-1(f)(15), and 16-1(f)(16) of the Code of Ordinances to redefine terms; creating Subsections 16-1(f)(16) and Subsections 16-1(f)(18) through 16-1(f)(48) of the Code of Ordinances defining terms; creating Sub-Article C of Article X of Chapter 16 of the Code of Ordinances (Sections 16-89 through 16-91) to ensure adequate control of stormwater where high-risk industrial and high-risk commercial facilities are located; requiring a high-risk industrial facility to submit a copy of its KPDES permit and Stormwater Pollution Prevention Plan (SWPPP) to the Div. of Water Quality ("Div."); requiring other industrial facilities to submit a Stormwater Pollution Prevention Plan to the Div. and specifying requirements thereof; requiring submission of monitoring program results to the Div. and allowing the Urban County Government to require monitoring programs as part of a Stormwater Pollution Prevention Plan; requiring high-risk commercial facilities to develop a Stormwater Pollution Prevention Plan within ninety (90) days of notice by the Div., specifying the requirements thereof and authorizing the Urban County Government to require monitoring programs as part of a Stormwater Pollution Prevention Plan; authorizing the Urban County Government to develop general permits for industrial and commercial facilities that are not required to be covered under a KPDES permit; authorizing the Div. to require best management practices or stormwater controls for any industrial, commercial, or institutional activity, operation, or facility that may contribute to pollution of stormwater; creating Sub-Article D of Article X of Chapter 16 of the Code of Ordinances (Sections 16-92 through 16-98) relating to illicit connections and illicit discharges; prohibiting illicit discharges to the MS4, with certain exceptions; prohibiting illicit connections to the MS4; authorizing suspension of access to the MS4 when such action is necessary to stop a discharge which presents or may present imminent and substantial danger to the environment, or persons, or to the MS4; requiring remedial plans to eliminate an illicit connection or illicit discharge; requiring persons to maintain watercourses free of pollution, contamination, and unreasonable obstruction; and requiring notification to the Div. of release of materials which are resulting in or may result in illicit discharges.

An Ordinance relating to solid waste collection, solid waste disposal, sanitary sewers, and stormwater amending Section 16-1(c) and Section 16-1(g) of the Code of Ordinances defining terms; amending Section 16-2 of the Code of Ordinances to replace the Commissioner of Public Works with the Commissioner of Environmental Quality; repealing Sections 16-3.1 and 16-3.2 of the Code of Ordinances; amending Section 16-4 of the Code of Ordinances to replace the Commissioner of Public Works with the Commissioner of Environmental Quality, replace the Dir. of Solid Waste with the Dir. of Waste Management, and clarify enforcement actions; amending Section 16-4.1 of the Code of Ordinances to replace the Dir. of Solid Waste with the Dir. of Waste Management, to provide that dumpsters or screening placed without a permit shall be removed within forty-eight (48) hours unless a permit is immediately obtained, setting the fee for such permit at one hundred dollars (\$100), providing that no permitted dumpster shall be removed without notifying the Div. of Waste Management at least forty-eight (48) hours before, and clarifying enforcement actions; amending Section 16-8 of the Code of Ordinances to clarify enforcement actions; amending Section 16-10 of the Code of Ordinances to replace the Dir. of Solid Waste with the Dir. of Waste Management, replace the Commissioner of Public Works with the Commissioner of Environmental Quality, and clarify enforcement actions; repealing Sections 16-18 through 16-28 inclusive, of the Code of Ordinances; re-creating Sections 16-18 and 16-19 of the Code of Ordinances to require persons disposing of or managing solid waste within Fayette County to obtain required permits and comply with permit terms; amending Section 16-40 of the Code of Ordinances to clarify enforcement actions; amending Section 16-44 of the Code of Ordinances relating to grease and oil interceptors to add requirements that a site map, design documents, and as-built drawings be submitted to the Div. of Water Quality, clarify permit provisions, and transfer approval authority to the Div. of Water Quality; amending Section 16-44.1 of the Code of Ordinances relating to special grease and oil interceptors to replace the Dir. of Sanitary Sewers with the Dir. of Water Quality and clarify enforcement actions; amending Section 16-46 of the Code of Ordinances to replace the Dir. of Sanitary Sewers with the Dir.

of Water Quality and clarify enforcement actions; amending Section 16-49 of the Code of Ordinances to replace the Dir. of Sanitary Sewers with the Dir. of Water Quality; repealing Sections 16-73, 16-74, and 16-75 of the Code of Ordinances; amending Section 16-74.1 of the Code of Ordinances by re-numbering it as Section 16-94.1; creating Article XII of Chapter 16 of the Code of Ordinances relating to civil fines and enforcement to provide enforcement response actions of informal notice, notice of violation, civil citations, and administrative orders, including an order to appear before the Dir. of Waste Management or Water Quality, a compliance order, or a cease and desist order; providing specific requirements for issuance of Notices of Violation (NOVs) and providing that an NOV shall precede issuance of a civil citation except in cases of serious threats to the public or environment, potential irreparable effects, or repeat offenders; providing specific requirements for issuance of civil citations and providing a right to a hearing before the Environmental or Infrastructure Hearing Board if the citation is contested within seven (7) days; providing for service of NOVs, administrative orders, and citations by personal service or regular mail and providing for a copy to be sent to the property owner; providing that civil fines may be issued for failure to perform duties under or violation of Chapter 16; providing that the maximum civil fine that may be imposed is fifteen thousand dollars (\$15,000) and each day in violation shall be a separate offense; providing that a citation shall specify the amount of the fine and that two-thirds (2/3) of the fine specified will be imposed if the violator does not contest the citation and has complied with applicable administrative orders; providing that persons who hold a permit under Chapter 16 may be issued a stop work order for violation of the permit or the provisions of Chapter 16 where there is a threat to the public or property and providing for appeal to Fayette District Court; specifying the rights of appeal of civil citations and providing that failure to appeal shall represent a determination that a violation has been committed and finally adjudicated; providing for appeal to Fayette District Court of decisions of the Administrative Hearing Boards; providing that violators shall become liable to the Urban County Government for its expenses occasioned by the violation and that violators shall

be responsible for repairing or restoring any facility, natural outlet, or stream that is damaged by the violation; providing that the Urban County Government may pursue equitable relief in court when necessary and may abate the conditions and charge the violator an administrative fee of two hundred and fifty dollars (\$250) and the costs of abatement; providing that the authorized enforcement agency may enter on private property if necessary to abate a violation; providing for filing of a lien for Urban County Government costs; providing that the Urban County Government may enter and inspect construction sites and facilities subject to regulation under Chapter 16 to determine compliance; providing that legal action may be instituted by the Urban County Government for the recovery of penalties and costs, including attorney's fees and court costs; providing that violations of Chapter 16 are a public nuisance; providing that knowing or wanton violators may be subject to criminal prosecution; providing that no building permit will be granted to a person adjudicated in violation of Chapter 16 unless an appropriate consent order and compliance schedule has been entered into with the Div. of Environmental Policy; creating Subsection 5-88(i) of the Code of Ordinances providing that a contractor must certify that it has not been adjudicated in violation of Chapter 16 before being registered to act as a contractor within Fayette County; creating Subsection 5-90(e) of the Code of Ordinances providing that before renewal of registration contractors must certify that all information provided remains accurate; and creating Subsection 5-98(a)(6) of the Code of Ordinances providing that the registration of a contractor may be suspended or revoked for violation of any provision of Chapter 16.

An Ordinance amending Section 14-10(f) of the Code of Ordinances to clarify citation authority for enforcement of Chapter 16 of the Code of Ordinances.

An Ordinance 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 Justice, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, which Grant funds are in the amount of \$86,168.00 Federal funds, are for the Project

Safe Neighborhoods Program, for the U.S. Attorney's Office for the Eastern District of Ky., the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 23, 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 and submit a Grant Application to the U.S. Dept. of Justice, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, which Grant funds are in the amount of \$1,394,105.00 Federal funds, under the 2009 Recovery Act Edward Byrne Memorial Justice Grant Assistance Program, are for the purchase and installation of various types of equipment for the Div. of Police, to establish a full-time (three years) civilian unclassified position for the Computer Information Systems Unit in the Div. of Police, a full-time social worker unclassified position for the Offender Reentry Program at the Div. of Community Corrections, an assistant prosecutor position in the Fayette County Commonwealth Attorney's Office, a gang coordinator position in the Fayette County Attorney's Office, and an extradition coordinator in the Fayette County Sheriff's Office, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 24, 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 Ky. Transportation Cabinet, which Grant funds are in the amount of \$15,000.00 Federal funds, are for participation in Bluelights Across the Bluegrass, for the Div. of Police, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 25, 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 and submit a Grant Application to the Ky. Dept.

of Education, Div. of School and Community Nutrition, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, which Grant funds are in the amount of \$62,000.00 Federal funds, are for participation in the Child Care Food Program for the operation of the nutrition program, at the Family Care Center in FY 2010, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 26, 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 and submit a Grant Application to the Ky. Dept. of Education, to provide any additional information requested in connection with this Grant Application, and to accept this Grant if the application is approved, which Grant funds are in the amount of \$35,500.00 in Federal funds and Commonwealth of Ky. funds, are for the National School Lunch Program - 2010, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 27, 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. 28.

An Ordinance authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a Grant from the Ky. Energy and Environment Cabinet, which Grant funds are in the amount of \$14,035.00 Commonwealth of Ky. funds under the Ky. Recycling and Household Hazardous Waste Grant Program, are for support of a partnership with Lexington Habitat for Humanity to establish a program to collect, bulk and resell leftover latex-based paint to generate revenue and reduce hazardous landfill-bound waste, the acceptance of which obligates the Urban County Government for the expenditure of \$4,678.00 as a local match, to be provided in-kind by Lexington Habitat for Humanity, appropriating funds pursuant to Schedule No. 30, 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 Ky. Energy and Environment Cabinet, which Grant funds are in the amount of \$113,154.00 Commonwealth of Ky. funds under the Ky. Household Hazardous Waste Management Grant Program, are for the support of a one-day household hazardous waste recycling event, the acceptance of which obligates the Urban County Government for the expenditure of \$29,481.00 as a local match, appropriating funds pursuant to Schedule No. 31, 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 funds in the amount of \$12,000.00 for Animal Control, and appropriating and re-appropriating funds, Schedule No. 32.

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A Resolution accepting the bid of Denham-Blythe Co., Inc., in the amount of \$5,560,322.66, for the Lyric Theatre Renovation and Addition, for the Mayor’s Office, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Denham-Blythe Co., Inc., related to the bid was on the docket for second reading.

Mr. Lane recognized Ms. Shaye Rabold, Chief of Staff, to speak and go over the 20-year costs associated with the Lyric Theatre. Mr. Lane asked questions of Ms. Raybold about estimated costs and parking, and of Ms. Susan Hill, Tate Hill Jacobs.

Mr. Beard asked questions of Ms. Rabold and Ms. Hill.

The Council continued to discuss the resolution.

The resolution was given second reading. Upon motion of Ms. James, and seconded by Ms. Gorton, the resolution was approved by the following vote:

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

Nay: Feigel-----1

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

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

Nay: ----- 0

A Resolution accepting the bid of Pedal Power Bike Shop, Inc., establishing a price contract for police bicycles, for the Div. of Police.

A Resolution accepting the bid of Path Master, Inc., establishing a price contract for illuminated street signs, for the Div. of Traffic Engineering.

A Resolution accepting the bids of KOI Auto Parts, Republic Diesel, Power Train of Ky., Fleet Pride, Worldwide Equipment, and Applied Industrial Technologies, Inc., establishing price contracts for filters, for the Div. of Facilities and Fleet Management.

A Resolution accepting the bid of Schroeder Construction, in the amount of \$356,416.00, for the Pump Station Upgrade at Haley Pike Landfill, for the Dept. of Environmental Quality, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Schroeder Construction, related to the bid.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 1 to the Design Services Contract with CDP Engineers, Inc., for the Radcliffe Rd. Drainage Project, in order to meet the economic stimulus funding requirements of the Ky. Infrastructure Authority, increasing the contract price by the sum of \$8,000.00 from \$43,500.00 to \$51,500.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 1 to the Contract with G & G Paving and Construction, Inc., for Valley Park Parking Renovation, increasing the contract price by the sum of \$3,600.00 from \$37,100.00 to \$40,700.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Lease with MES Enterprises, LLC, for the lease of space for Project Synergy, at a cost not to exceed \$49,725.00.

A Resolution amending Section 1 of Resolution No. 322-2008, which authorized and directed the Mayor, on behalf of the Urban County Government, to execute an Amendment to the Agreement with the Georgetown Neighborhood Association, decreasing the allocation from \$5,000.00 to \$2,980.00 and reflecting a change in the use of the funds from sidewalk repair in Douglass Park to ceiling tile installation in the community center, at no additional cost to the Urban County Government.

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 the Edna Rae Kerns Estate, for the property located at 463 Shawnee Ave., for Phase 3C of the Meadows-Northland-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 accept a donation from Ky.'s Div. of Emergency Management and the Jessamine County Emergency Management Agency of batteries, monitors, wristbands and medical bags, for use at the Div. of Fire and Emergency Services and Div. of Emergency Management/911, at no cost to the Urban County Government.

A Resolution amending Section 2(c) of Resolution No. 350-2009 to change the reference to 372 Glen Arvin Ave. to 372 ½ Glen Arvin Ave., effective retroactive to May 14, 2009.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Amendment to the Plan Management Agreement and the Stop Loss Policy with Humana Insurance Co. for the administration of health care claims for the period of January 1, 2009 through December 31, 2009.

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 Justice and to provide any additional information requested in connection with this Grant Application, which Grant funds are in the amount of \$46,550.00 Federal funds, and are for the purchase of bulletproof vests for the Div. of Police, the Div. of Fire and Emergency Services, and the Fayette County Sheriff's Office.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Statement of Compliance with the Commonwealth of Ky., Transportation Cabinet, for bridge posting requirements.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute Change Order No. 2 (Final) to the Contract with W. Rogers Co., for the North Elkhorn Pump Station Project, increasing the contract price by the sum of \$56,289.95 from \$4,077,710.00 to \$4,133,999.95.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Engineering Services Agreement with Stantec Consulting Services, Inc., for Sanitary Sewer Assessment (SSA) Groups 2 and 3 Field Activities, at a cost not to exceed \$599,200.00.

A Resolution suspending the voting power of the Corridors Committee until such time as the Urban County Council by Ordinance establishes the Corridors Commission.

A Resolution adopting the Downtown Lexington Master Plan as a conceptual plan.

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

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

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

Nay: -----0

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Site Access Agreement with ATC Associates, Inc. and Verizon South, Inc., for access to Shillito Park for a limited subsurface investigation, at no cost to the Urban County Government.

A Resolution accepting the bid of Bluegrass PRIDE, Inc., in the amount of \$562,234, for the Environmental Public Education Program, for the Dept. of Environmental Quality, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Bluegrass PRIDE, Inc., related to the bid.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to accept a donation from Friends of Raven Run of \$500,000.00, for use at the construction of the new Raven Run Nature Sanctuary and Visitors Center, at no cost to the Urban County Government.

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The following resolutions were given first reading and ordered placed on file until July 7, 2009 for public inspection.

A Resolution accepting the bid of ZKB Construction Services LLC, in the amount of \$17,350.00, for the Roof Installation at Tates Creek Community Center, 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 ZKB Construction Services LLC, related to the bid.

A Resolution accepting the bid of Allen Brothers Construction, Inc., in the amount of \$19,200.00, for roof replacement - Jordan Building, for the Div. of Fire and Emergency Services.

A Resolution ratifying the probationary civil service appointments of: Dan Dettman, Environmental Compliance Coordinator, Grade 119E, \$2,289.28 bi-weekly, in the Div. of Environmental Policy, effective July 6, 2009, Gregory Sheffer, Public Service Worker, Grade 106N, \$13.287 hourly, in the Div. of Water Quality, effective July 6, 2009; approving leaves of absence for: Pamela Moses, Personnel Records Supervisor, Grade 114E, in the Div. of Police, request 90 day Council approved leave without pay from June 17, 2009 to September 14, 2009,

Ardonna Angel, Telecommunicator Sr., Grade 113N, in the Div. of Emergency Management/911, request 90 day Council approved leave without pay from June 28, 2009 through September 25, 2009; approving the unclassified civil service appointment of: Anthony Snowden, Security Officer, Grade 106N, \$11.161 hourly, in the Dept. of General Services, effective June 29, 2009.

A Resolution authorizing and directing the Mayor, the Fire Chief, and the Director, Div. of Emergency Management/911, on behalf of the Urban County Government and pursuant to KRS Chapter 39F, to execute a Statement of Affiliation pertaining to the establishment and designation of the Urban County Government's Div. of Fire and Emergency Services; Special Operations Technical Rescue Team as the recognized rescue squad for Fayette County, 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 Board of Trustees of the Lexington Public Library, to provide a part-time staff position to serve as a Community Development Coordinator at Gainesway Community Center, at no cost to the Urban County Government.

A Resolution pursuant to Section 21-16(b) of the Code of Ordinances approving the continuation of the acting assignment pay increase of greater than ten percent (10%) for Mary Fister, Dir. of Accounting, who will also be serving as the Acting Dir. of Budgeting, effective July 1, 2009.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with Ky.-American Water Co. for the billing, accounting and collecting of the Water Quality Management Fee, at a cost not to exceed 36.23¢ per month, for each account billed, to be adjusted by the CPI-U on July 1, 2011.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute and submit a Grant Application to the Ky. Div. of Emergency Management and to provide any additional information requested in connection with this Grant Application, which Grant funds are in the amount of \$775,968.75 Federal funds and \$124,155.00 Commonwealth of Ky. funds under

the Federal Emergency Management Agency's Hazard Mitigation Grant Program, and are for the acquisition and demolition of seven residential properties in the Ft. Sumter/Gayle Dr. area and the Parkside/Shandon/Cabot Dr. area.

A Resolution accepting the bid of Schroeder Construction, Inc., in the amount of \$356,416, for the Haley Pike Landfill Leachate Pump Station Upgrade, for the Div. of Waste Management, and authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Contract Agreement with Schroeder Construction, Inc., related to the bid.

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 142 Northwood Dr. from James and Pamela Hopkins, for the Northwood Dr. Stormwater Project, and authorizing payment in the amount of \$114,200.00, plus usual and appropriate closing costs.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Mutual Aid Agreement with Lexington-Fayette Urban County Airport Board, for mutual aid, at no cost to the Urban County Government.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to accept Remotec, Inc., as a sole source provider of Andros Hazardous Duty Robot Systems, including radio systems, related upgrades, accessories, parts, training, refurbishments and service.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Authorization with Cellco Partnership, for a site survey, at Castlewood Park 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 Purchase of Service Agreement with Urban League of Lexington-Fayette County, for support of initiatives designed to enable African-Americans and disadvantaged citizens to achieve social and economic equality, at a cost not to exceed \$66,500.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute a Purchase of Service Agreement with Road to Homeownership, Inc., for the provision of educational programs to economically disadvantaged and low to moderate income families, at a cost not to exceed \$32,060.00.

A Resolution authorizing and directing the Mayor, on behalf of the Urban County Government, to execute an Agreement with the Lexington-Fayette Urban County Human Rights Commission, for purchase of services for FY 2010, at a cost not to exceed \$180,500.00.

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Upon motion of Mr. Stinnett, seconded by Mr. Martin, and approved by unanimous vote, a Resolution authorizing and directing the Dept. of Law to institute condemnation proceedings in Fayette Circuit Court to obtain permanent sanitary sewer and temporary construction easements at 168 Beverly Ave. for the Beverly Ave. Sanitary Sewer Project was placed on the docket, given first reading, and ordered placed on file until July 7, 2009 for public inspection.

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Ms. James made an announcement about a dedication for the East End Smart Shelter at the corner of Elm St. and Third St. on August 2, 2009 at 3:00 p.m. She gave some information about the new shelter.

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Mr. Blues announced that he and Council Member McChord would be participating in the Bluegrass 10,000 race downtown on Saturday, July 4, 2009.

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Mr. McChord wished everyone a happy Fourth of July, and thanked all employees for their hard work on the Fourth of July festivities.

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Mayor Newberry also thanked all employees for their hard work on the Fourth of July festivities, particularly Penny Ebel, Administrative Aide to the Mayor.

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Mr. Martin invited everyone to hear the Lexington Singers at the Patriotic Concert held on July 3, 2009 at 8:00 p.m. at Transylvania University.

* * *

Police Commander William Henderson, Div. of Police, stated that Officer Gary M. Thurman has committed the offense of Use of Force in violation of KRS 95.450 and General Order 73-2H, Section 1.23, Use of Force, in that on the 29th day of March, 2009, he was off duty exiting Saddle Ridge Night Club located at 1030 S. Broadway. While in the parking lot at approximately 0240 hours, Officer Thurman attempted to gain control of a handcuffed, resisting subject who he perceived to be attempting to assault him. Lieutenant Wallace D. Hays advises that on Sunday, March 29, 2009 at approximately 0340 hours, he arrived in the parking lot of Saddle Ridge Night Club located at 1030 S. Broadway in response to a 'response to resistance incident involving an off-duty officer'. Lieutenant Hays says off-duty Officer Thurman stated, while acting under the color of law, he attempted to gain control of a handcuffed, resisting subject, who he perceived to be attempting to assault him. Lieutenant Hays says Officer Thurman reported grabbing the handcuffed subject around the neck with both hands and attempted to apply pressure to the subject's mandibular angle. Lieutenant Hays also advises Officer Thurman reported maintaining a hold with both hands around the subject's neck, forcing him back approximately 15-20 feet, until the subject was lying on his back on the trunk of police vehicle. Lieutenant Hays says Officer Thurman advised he did not utilize any alternative levels of force during the incident. Lieutenant Hays believes Officer Thurman did not use force in accordance with law and established procedure, and that the appropriate punishment for this conduct is 4 Months Suspension Without Pay.

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

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Upon motion of Ms. Gorton, seconded by Mr. Myers, and approved by unanimous vote, the meeting adjourned at 8:43 p.m.

Clerk of the Urban County Council