

Lexington-Fayette Urban County Government

*200 E. Main St
Lexington, KY 40507*



Tuesday, October 16, 2012

3:00 PM

Packet

Council Chamber

Urban County Council Work Session

**URBAN COUNTY COUNCIL
SCHEDULE OF MEETINGS
October 15 – October 22, 2012**

Monday, October 15

Design Excellence Task Force.....3:30 pm
Conference Room – 7th Floor Phoenix Building

Tuesday, October 16

Corridors Commission.....9:00 am
Conference Room – 5th Floor Government Center

Social Services & Community Development Committee.....11:00 am
Council Chambers – 2nd Floor Government Center

Planning & Public Works Committee.....1:00 pm
Council Chambers – 2nd Floor Government Center

Council Work Session.....3:00 pm
Council Chambers – 2nd Floor Government Center

Wednesday, October 17

Mayor's Commission on Homelessness.....3:00 pm
Conference Room – 3rd Floor Phoenix Building

Town & Gown Commission.....4:00 pm
Maxwell St. Presbyterian Church – 180 East Maxwell Street

Thursday, October 18

Keep Lexington Beautiful Commission.....9:00 am
Conference Room – 5th Floor Government Center

Friday, October 19

No Meetings

Monday, October 22

ZOTA Work Group.....1:30 pm
Conference Room – 5th Floor Government Center

URBAN COUNTY COUNCIL

WORK SESSION SUMMARY

TABLE OF MOTIONS

October 9th, 2012

Mayor Jim Gray called the meeting to order at 3:00pm. All Council Members were present.

- I. Public Comment – Issues on Agenda – Yes
- II. Requested Rezoning / Docket Approval – Yes

Motion by Myers to approve the docket. Seconded by Beard.

Motion by Lawless to add to the docket a resolution establishing a residential parking permit program for the 400 block of Hollywood Drive, 24 hours a day, Monday through Sunday, along the east side of the block. Seconded by Gorton. The motion passed 12-3. Farmer, Lane and Martin voted nay.

Motion by Lawless to add to the docket a resolution establishing a residential parking permit program for the 700 block of Providence Road, from 8:00am to 5:00pm, Monday through Friday; August 1 through May 15. The motion passed 12-3. Farmer, Lane and Martin voted nay.

Motion by Henson to place on the docket for Thursday, October 11, a resolution authorizing and directing the Division of Traffic Engineering, pursuant to Code of Ordinances section 18-86, to install multiway stop controls at the Intersections of Cross Keys Road and Traveller Road. Seconded by Lawless. The motion passed 12-3. Farmer, Lane and Martin voted nay.

Amended docket passed without dissent.

- III. Approval of Summary - Yes

Motion by McChord to approve the summary. Seconded by Stinnett. The motion passed without dissent.

- IV. Budget Amendments - Yes

Motion by Gorton to approve the budget amendments. Seconded by Kay. The motion passed without dissent.

V. New Business - Yes

Motion by Ellinger to approve the new business items. Seconded by Myers. The motion passed without dissent.

VI. Continuing Business – Presentations - Yes

Motion by Henson to approve the Neighborhood Development Funds list. Seconded by Ellinger. The motion passed without dissent.

VII. Council Reports - Yes

Motion by Martin to refer Article 17-7(E) of the Zoning Ordinance, relating to permitted signage in Professional Office and Mixed Use 1 Zones to the Planning and Public Works Committee. Seconded by Crosbie. The motion passed without dissent.

Motion by Martin to refer adding a review of our nuisance abatement procedures, time specifications and how the Division of Code Enforcement follows up with citizens on abatement notices to the Nuisance item currently in the Public Safety committee. Seconded by Gorton. The motion passed without dissent.

VIII. Mayor's Report – Yes

Motion by Crosbie to approve the Mayor's Report. Seconded by Gorton. The motion passed without dissent.

IX. Public Comment – Issues Not on Agenda – No

X. Adjournment

Motion by Blues to adjourn. Seconded by Gorton. The motion passed without dissent.

**Lexington-Fayette Urban County Government
Work Session Agenda
October 16, 2012**

- I. Public Comment - Issues on Agenda**
- II. Requested Rezoning/ Docket Approval – No**
- III. Approval of Summary – Yes p. 1 - 2**
- IV. Budget Amendments – Yes p. 6**
- V. New Business – Yes p. 7 - 23**
- VI. Continuing Business/ Presentations**
 - a** Special COW UDAG October 9, 2012 Summary p. 24 - 27
 - b** General Government Committee October 2, 2012 Summary p. 28 - 32
 - c** Presentation: Capacity Assurance Program Update;
By: Charlie Martin, Director Water & Air Quality p. 33 - 46
 - d** Presentation: 21c Museum Hotels;
By: Craig Greenburg, President 21c Museum Hotels p. 47 - 68
- VII. Council Reports**
- VIII. Mayor's Report**
- IX. Public Comment - Issues Not on Agenda**
- X. Adjournment**

Administrative Synopsis - New Business Items

- a 0956-12** Authorization to execute Change Order No. 1 to Agreement with Verdin Company for restoration of historic Skuller's Street Clock. (L956-12) (Kerr/Paulsen)
This is a request to execute Change Order No. 1 to Agreement with Verdin Company for an amount of \$1,000 for restoration of historic Skuller's Street Clock. This increase brings the total project cost to \$26,415. Funds have been raised by the Historic Preservation Commission through donations dedicated for this project. p. 7 - 8
- b 1032-12** Authorization to execute Facility Usage Contract with the Fayette County Board of Education for rental of Norsworthy Auditorium on Saturday, December 8, 2012, for the Kiddie Kapers Program. (L1032-12) (Hancock/Hamilton)
This is a request to execute Facility Usage Contract with the Fayette County Board of Education for rental of Norsworthy Auditorium in the amount of \$1,059.75 on Saturday, December 8, 2012, for the Kiddie Kapers Program. Funds are budgeted. p. 9
- c 1037-12** Authorization to accept award from The Kentucky Transportation Cabinet for the construction phase of the Grimes Mill Road Bridge Project. (L1037-12) (Gooding/Paulsen)
This is a request to accept award in the amount of \$685,000 from The Kentucky Transportation Cabinet for the construction phase of the Grimes Mill Road Bridge Project. No match is required. Budget amendment in process. p. 10
- d 1051-12** Authorization to transfer right-of-way (King St.) to O'Nan Properties, LLC, via Quit Claim Deed. (L1051-12) (Moloney)
This is a request to transfer right-of-way (King St.) to O'Nan Properties, LLC, via Quit Claim Deed. There is no budgetary impact. p. 11
- e 1074-12** Authorization to amend Section 22-5 of the Code of Ordinances, abolishing one (1) position of Program Manager Sr., (Grade 120E) and creating one (1) position of Construction Manager (Grade 122E) in the Department of Environmental Quality and Public Works. (L1074-12) (Maxwell/Moloney)
This is a request to amend Section 22-5 of the Code of Ordinances, abolishing one (1) position of Program Manager Sr., (Grade 120E) and creating one (1) position of Construction Manager (Grade 122E) in the Department of Environmental Quality and Public Works. The total annual impact is a cost savings of \$15,831.12. p. 12

- f 1075-12** Authorization to amend Lease Agreement with Ann Tower Gallery, LTD for space within the Downtown Arts Center (DAC). (L1075-12) (Hamilton)
This is a request to amend Lease Agreement with Ann Tower Gallery, LTD for space within the DAC to allow month-to-month occupancy beginning November 16, 2012, for an increase in rent of \$167.67 per month. This increase brings the monthly rent to \$558.04 (\$6,696.48 per year). p. 13 - 14
- g 1083-12** Authorization to execute Memorandum of Understanding (MOU) between the United States Attorney for the District of Columbia, the Metropolitan Police Department of Washington, D.C. and the Lexington Division of Police to permit the Lexington Division of Police to participate with the inaugural law enforcement efforts for the 2013 Presidential Inauguration. (L1083-12) (Bastin/Mason)
This is a request to execute MOU between the United States Attorney for the District of Columbia, the Metropolitan Police Department of Washington, D.C. and the Lexington Division of Police to permit the Lexington Division of Police to participate with the inaugural law enforcement efforts for the 2013 Presidential Inauguration. There is no budgetary impact. p. 15
- h 1084-12** Authorization to execute Memorandum of Agreement (MOU) with the Lexington-Fayette Urban County Airport Board allowing LFUCG to operate a firearms range for use by the Lexington Division of Police on the premises on a parcel of land located just off Parkers Mill Road. (L1084-12) (Bastin/Mason)
This is a request to execute MOU with the Lexington-Fayette Urban County Airport Board allowing LFUCG to operate a firearms range for use by the Lexington Division of Police on the premises on a parcel of land located just off Parkers Mill Road. There is no budgetary impact. p. 16
- i 1085-12** Authorization to amend Towing Ordinance Section 14 - 85, 87, 88, 89, 90, 91, 92 and 93, relating to Private Impound Towing to prevent over charges, and illegal towing practices, and to benefit legal tow operators. (L1085-12) (Bastin/Mason)
This is a request to amend Towing Ordinance Section 14 - 85, 87, 88, 89, 90, 91, 92 and 93, relating to Private Impound Towing to prevent over charges, and illegal towing practices, and to benefit legal tow operators. There is no budgetary impact. p. 17
- j 1088-12** Authorization to approve a Substantial Amendment to the 2012 Consolidated Plan, establishing 21c Museum Hotel Lexington as a new economic development project. (L1088-12) (Gooding/Moloney)
This is a request to approve a Substantial Amendment to the 2012 Consolidated Plan, establishing 21c Museum Hotel Lexington as a new economic development project and to submit a Section 108 loan application to the U.S. Department of Housing and Urban Development in the amount of \$6,000,000 for purposes of re-loaning to 21c Lexington LLC. Requires Public Hearing On October 25, 2012. p. 18 - 23

NEW BUSINESS ITEMS REQUIRING BUDGET AMENDMENTS

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If the New Business item listed below is on the Agenda, approval includes approval of the attached Budget Amendment. These Budget Amendments are not voted upon as part of section IV on the Agenda and are for information only.

NEW BUSINESS ITEM	BUDGET JOURNAL	DIVISION	DESCRIPTION OF REQUEST
1074-12	CB0093	Environmental Quality and Public Works	To create one position of Construction Manager (Grade 122E) and abolish one position of Program Manager Sr., (Grade 120E) in the Department of Environmental Quality and Public Works. 1101 70,740.00CR 70,740.00CR* 4002 61,610.00 61,610.00*

EFFECT ON FUND BALANCES

FUND 1101	70,740.00	INCREASE TO:	GENERAL SERVICE DISTRICT FUND
FUND 4002	61,610.00	DECREASE TO:	SANITARY SEWER REVENUE AND OPERATING FUND



Lexington-Fayette Urban County Government
Division of Historic Preservation

Jim Gray
Mayor

MEMORANDUM

TO: Mayor Jim Gray
Richard Moloney, CAO
Urban County Council Members

FROM: Bettie Kerr, Director
Division of Historic Preservation

DATE: September 28, 2012

SUBJECT: Memorandum to Change Order #1 to The Verdin Company contract for Restoration of historic Skuller's Street clock

This is to request authorization for a Change Order for the previously approved contract with the Verdin Company which, as you are aware, is carrying out the restoration of the historic Skuller's street clock.

The change order amount of \$1,000.00 is to accomplish the creation of original hand-painted artwork for the "eyes" signage that was historically within the three-dimensional eyeglass frames, which are being re-created as part of the historic clock restoration. We had previously anticipated having to have the hand painted artwork designed and created by a source outside of Verdin Company, however, I am pleased to report, have found that an artist with Verdin Company will be able to create original artwork reflecting the design documented in the historic photograph of the clock. This will result in art creating the "eyes" in a design very similar to the original.

Having the original art able to be created by an artist with Verdin Company will assure appropriate design and design details, as well as facilitate quality of the completed design through fabrication as the overall restoration project continues. As you are already aware, the needed funds for the restoration have been raised by members of the Historic Preservation Commission on behalf of the LFUCG through donations dedicated for this purpose. The necessary additional amount of \$1,000, as reflected in this Change Order, is in place as well in the LFUCG budget for this project, which is being overseen by the Division of Historic Preservation staff.

Cc: Derek Paulsen, Commissioner of Planning, Preservation and Development
Keith Horn, Department of Law
John Rhorer, LFUCG Historic Preservation Commission
Win Meeker, Past Chair, LFUCG Historic Preservation Commission

CONTRACT HISTORY FORMContractor: The Verdin CompanyProject Name: Skullers Clock RestorationContract Number and Date: 0550-12 07-Jun-12Responsible LFUCG Division: Historic Preservation**CHANGE ORDER DETAILS**

	<u>Summary of Previous Change Orders To Date</u>	<u>Dollar Amount</u>	<u>Percent Change to Original Contract</u>
A.	Original Contract Amount:	\$ <u>25,415.00</u>	
B.	Cumulative Amount of Previous Change Orders:	\$ <u>0.00</u>	<u>0%</u> % (Line B / Line A)
C.	Total Contract Amount Prior to this Change Order:	\$ <u>25,415.00</u>	
	<u>Current Change Order</u>		
D.	Amount of This Change Order:	\$ <u>1,000.00</u>	<u>4%</u> % (Line D / Line A)
E.	New Contract Amount Including this Change Order:	\$ <u>26,415.00</u>	<u>104%</u> % (Line E / Line A)

SIGNATURE LINES

Project Manager:

Kathleen O'NeillDate: 10-10-12

Reviewed by:

Beth L. KerrDate: 10-10-12

Division Director:

Beth L. KerrDate: 10-10-12



Lexington-Fayette Urban County Government
DEPARTMENT OF GENERAL SERVICES

Jim Gray
Mayor

Richard Moloney
Chief Administrative Officer

MEMORANDUM

To: Jim Gray, Mayor
Urban County Council Members

FROM: 
Jerry Hancock

RE: Facility Usage Contract

DATE: September 27, 2012

This is a request for Council approval of a Facility Usage Contract between the Fayette County Board of Education and the LFUCG Division Parks and Recreation, Kiddie Kapers Program

This Facility Usage Contract is for the purpose of using Norsworthy Auditorium on Saturday December 08, 2012 for our Kiddie Kapers program.

The cost of the program is \$1,059.75 from account 1101-707604-7324-71302-729

Please contact me if there are any questions.

CC: Sally Hamilton

JEH/bac



Mayor Jim Gray

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Division of Grants and Special Programs

TO: JIM GRAY, MAYOR
URBAN COUNTY COUNCIL

FROM: IRENE GOODING, DIRECTOR
DIVISION OF GRANTS AND SPECIAL PROGRAMS

DATE: SEPTEMBER 27, 2012

SUBJECT: REQUEST COUNCIL AUTHORIZATION TO ACCEPT AWARD FROM
THE KENTUCKY TRANSPORTATION CABINET FOR THE
CONSTRUCTION PHASE OF THE GRIMES MILL ROAD BRIDGE
PROJECT

On July 12, 2005 (Ordinance No. 213-2005), Council authorized acceptance of federal funds in the amount of \$125,000 from the Kentucky Transportation Cabinet for the design phase of the Grimes Mill Road Bridge Project. The source of funds was Federal Bridge Replacement Funds.

The Kentucky Transportation Cabinet has offered the LFUCG an award from the Federal Bridge Replacement Funds (BRZ) in the amount of \$685,000 for the construction phase of this project. No match is required—KYTC has approved the use of toll credits in lieu of local funding for the necessary twenty percent (20%) match. New project total is \$810,000.

The project includes reconstructing the two abutments and the center pier, refurbishing the existing steel truss, installing new concrete box beams and performing some minor road work on the two approaches. The completed project will be a single lane bridge following the same horizontal alignment and vertical profile as the existing structure. The existing steel truss is to be reused to maintain the historic continuity and character.

Council authorization to accept the award is hereby requested.

Irene Gooding
Director

Xc: Derek Paulsen, Commissioner of the Department of Planning, Preservation, and Development

HORSE CAPITAL OF THE WORLD

200 East Main Street 6th Fl Lexington, KY 40507 PH (859)258-3070 FAX (859)258-3081 www.lexingtonky.gov

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Lexington-Fayette Urban County Government
DEPARTMENT OF ENVIRONMENTAL QUALITY & PUBLIC WORKS

Jim Gray
Mayor

Richard Moloney
Commissioner

MEMORANDUM

To: Mayor Jim Gray
Urban County Council
Richard Moloney, CAO

From: Kevin Wente, Administrative Officer

Date: September 28, 2012

RE: Request for transfer of right-of-way via Quit Claim Deed – King St

This memorandum is to request Urban County Council authorization for the transfer of LFUCG right-of-way (King St) to O'Nan Properties, LLC. LFUCG Division Directors and utility company representatives have responded with comments and consented to this request. The adjacent property owners will accept full responsibility of the maintenance and repair of the right-of-way. Consent Certificates have been signed, and submitted to the Law Department and are attached for your review. I am requesting Council authorization of the closure as presented and execution of all related documents. Should you have any questions regarding this request please feel free to contact me at 258-3407.



Lexington-Fayette Urban County Government
DIVISION OF HUMAN RESOURCES

Jim Gray
Mayor

Janet Graham
Commissioner

M E M O R A N D U M

TO: Jim Gray, Mayor
Richard Moloney, Chief Administrative Officer
Council Members

FROM: _____
John Maxwell, Director
Division of Human Resources

DATE: October 5, 2012

SUBJECT: Abolish/Create position – Department of Environmental Quality and Public Works

The attached action amends Section 22-5 of the Code of Ordinances, abolishing one (1) position of Program Manager Sr., (Grade 120E) and creating one (1) position of Construction Manager (Grade 122E) in the Department of Environmental Quality and Public Works, effective upon passage by Council.

This new position will be responsible for oversight and management of the capital construction program (Remedial Measures Plan) related to the Consent Decree which duties will include identify and eliminate project delivery bottlenecks within the Urban County Government; direct outsourced technical staff in the development of project delivery mechanism that ensure a cost-efficient and on-schedule delivery of the final products; manages all aspects of professional and contractor selection and makes sure that Lexington achieves the required results of the Consent Decree mandated capital construction program without spending more than what is necessary.

The fiscal impact for FY2013 (16 pay periods) will be a savings of \$9,133.34. All costs include benefits. This amount does not include lapse which has been included in the attached Budget Amendment.

Name	Position Title	Annual Salary Before	Annual Salary After	Annual Increase/Decrease
Vacant	Program Manager Sr.	\$91,148.20	\$0	\$(91,148.20)
Vacant	Construction Manager	\$0	\$78,718.38	\$78,718.38
Total Annual Impact/ Salary and Benefits \$(15,831.12)				

If you have questions or need additional information, please contact Daniel H. Fischer at 258-3030.
Attachment

cc: Richard Moloney, Acting Commissioner - Department of Environmental Quality and Public Works
Log #13-0025



Lexington-Fayette Urban County Government
DEPARTMENT OF GENERAL SERVICES

Jim Gray
Mayor

Sally Hamilton
Commissioner

MEMORANDUM

TO: Mayor Jim Gray
Urban County Council

FROM: Sally Hamilton
Commissioner of General Services

DATE: October 4, 2012

RE: Month-to-Month Extension of Lease Agreement (Contract #4688; R-713-2001) with Ann Tower Gallery, LTD. for space within the Downtown Arts Center (DAC).

I am requesting Urban County Council approval to amend the lease agreement with Ann Tower Gallery, LTD for space within the DAC located at 141 – 143 East Main Street. The current lease identifies approximately 969 S/ft on the first and 1,415 S/ft on the second floor of the facility (total of 2,384 S/ft) and the agreement is set to expire on November 15, 2012. Ann Tower Gallery, LTD. has expressed a desire to remain in the space on a month-to-month basis and pay an annual rent increase of \$2,000.00 (\$166.67 per month). This amendment will extend the agreement, beginning November 16, 2012 and ending upon required written notification. LFUCG will receive \$558.04 per month for use of the space.

LEASE AGREEMENT OVERVIEW

Occupant: Ann Tower Gallery, LTD

Location: Downtown Arts Center

Address: 141 – 143 East Main Street

OVERVIEW	
S/ft of space occupied	2,355
S/ft of shared space (occupant's pro-rata share)	0
Total S/ft	2,355
Annual pro-rata share of utilities, O&M and CIP (approx. \$7.19 S/ft)	\$16,913.25
Annual base (approx. \$3.96 S/ft)	\$9,318.77
Adjusted Annual Rent	
Established Annual Fair Market Value (\$/ft)	\$11.14
Annual Fair Market Value (FMV) of Space	\$26,232.02
Recommended Annual Adjustment to FMV	-\$19,547.58
RECOMMENDED ANNUAL RENTAL RATE	\$6,684.44
Current annual rental rate	\$4,684.44
Difference	\$2,000.00

JUSTIFICATION FOR WAIVER

Commissioner of General Services Sally Hamilton recommends that the lease agreement with Ann Tower Gallery, LTD be amended to allow a month-to-month occupancy for use of the space.

- The General Government Committee heard discussion about this lease during the September 11, 2012 meeting
- This is a "for-profit" occupant and LFUCG currently receives an annual rental rate of approximately \$1.99 S/ft (\$4,684.44 per year)
- LFUCG's annual O&M expenditure for the space is approximately \$7.19 S/ft (\$16,913.25) per year
- The recommendation is that the lease be amended to allow a month-to-month occupancy
- LFUCG shall provide the tenant a sixty (60) day written notification whenever the space is to be vacated by the gallery
- An annual rent increase of two thousand dollars (\$2,000.00) shall apply during the occupancy (\$167.67 per month)
- Other terms and conditions of the lease will remain the same



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1083-12

LEXINGTON DIVISION OF POLICE

150 East Main Street • Lexington, KY 40507 • (859) 258-3600

TO: Mayor Jim Gray
Urban County Council

FROM: Chief Ronnie Bastin
Division of Police

DATE: October 5, 2012

RE: Memorandum of Understanding – 2013 Presidential Inauguration Task Force

Please find attached Memorandum of Understanding between the United States Attorney for the District of Columbia, the Metropolitan Police Department of Washington, D.C. (MPD) and the Lexington Division of Police. This agreement permits the Lexington Division of Police to participate with the inaugural law enforcement efforts for the 2013 Presidential Inauguration. I have attached three (3) original agreements requiring the Mayor's signature.

Upon approval and signing, please forward two (2) original agreements to the Chief's Office.

If you have any question or require additional information, please contact my office.

A handwritten signature in cursive script that reads "R. Bastin".

Ronnie Bastin
Chief of Police

Attachment

cc: Clay Mason, Commissioner of Public Safety



LEXINGTON DIVISION OF POLICE

150 East Main Street • Lexington, KY 40507 • (859) 258-3600

TO: Mayor Jim Gray
Urban County Council

FROM: Chief Ronnie Bastin
Division of Police

DATE: October 5, 2012

RE: Memorandum of Agreement – Lexington-Fayette Urban County Airport Board

Please find attached Memorandum of Agreement with the Lexington-Fayette Urban County Airport Board and the Lexington-Fayette Urban County Government (LFUCG). This agreement is pursuant to a lease by and between LFUCG and the Airport Board dated April 8, 1977. LFUCG operates a firearms range for use by the Lexington Division of Police on the premises on a parcel of land located just off Parkers Mill Road. The Range and Obstacle Course may be used by LFUCG and its employees, agents and invitees solely as a training facility for LFUCG's police department.

The attached agreement is being forwarded for Council approval and the signature of Mayor Gray. Upon approval and signing please forward an original agreement to the Chief's Office.

If you have any question or require additional information, please contact my office.

A handwritten signature in cursive script that reads "R. Bastin".

Ronnie Bastin
Chief of Police

Attachment

cc: Clay Mason, Commissioner of Public Safety

**LEXINGTON DIVISION OF POLICE**

150 East Main Street • Lexington, KY 40507 • (859) 258-3600

TO: Mayor Jim Gray
Urban County Council

FROM: Chief Ronnie Bastin
Division of Police

DATE: October 5, 2012

RE: Amending Towing Ordinance, Section 14-85, 87, 88, 89, 90, 91, 92, 93

Requesting approval of the attached draft Ordinance with changes to Towing Ordinance Section 14 - 85, 87, 88, 89, 90, 91, 92 and 93, relating to Private Impound Towing. The recommended changes have been implemented to prevent over charges, and illegal towing practices, while some reflect changes that will benefit the legal tow operators. Our goal is to minimize towing complaints in our community and offer clear regulations for the tow companies.

Section 14-85 (a)

Section 14-87 (3)

Section 14-88 (1-4)

Section 14-89.1

Section 14-90 (1-2, 4, 6-7)

Section 14-91 (7)

Section 14-92 (1, 3-5)

Section 14-93 (11-12)

Upon approval and signing, please forward a copy of the ordinance to my office.

If you have any questions or require additional information, please contact my office.

A handwritten signature in cursive script, reading "R. Bastin".

Ronnie Bastin
Chief of Police

RB/rmh

Attachment

cc: Clay Mason, Commissioner of Public Safety



Mayor Jim Gray

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Division of Grants and Special Programs

**TO: JIM GRAY, MAYOR
URBAN COUNTY COUNCIL**

**FROM: IRENE GOODING, DIRECTOR
DIVISION OF GRANTS AND SPECIAL PROGRAMS**

DATE: OCTOBER 8, 2012

**SUBJECT: REQUEST COUNCIL AUTHORIZATION TO APPROVE A
SUBSTANTIAL AMENDMENT TO THE 2012 CONSOLIDATED
PLAN, PROVIDING FOR ESTABLISHMENT OF A NEW
COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT--
REQUIRES PUBLIC HEARING ON OCTOBER 25, 2012**

A substantial amendment is proposed to the 2012 Consolidated Plan. The 2012 Consolidated Plan was approved by the Urban County Council on April 26, 2012 (Resolution No. 200-2012), approving acceptance of federal funds under the Community Development Block Grant Program, the HOME Investment Partnerships Program, and the Emergency Shelter Grants Program.

A new project is proposed under the Community Development Block Grant Program. The new project is an economic development project that requires the submission of a Section 108 Loan application in the amount of \$6,000,000 for the renovation of Fayette National Bank Building located at 159-67 West Main Street into a combination hotel and art museum. The 100,000 square foot project will house 90 hotel rooms, approximately 12,000 square feet of public and gallery spaces, a 5,000 square foot restaurant, and 5,000 square feet of meeting spaces. The total cost of the project is \$36,500,000. Other project funds include a construction loan of \$14,000,000, federal and state historic tax credits of \$7,300,000, New Markets Tax Credits of \$2,400,000, Equity, repaid by state and local TIF of \$5,800,000, and a LFUCG loan in the amount of \$1,000,000.

21c Lexington LLC proposes to repay the \$6.0 million Section 108 loan over 20 years. It is requesting to pay interest only for the first seven years following closing and then amortize the principal over 13 years. The entire project will be owned by 21c Lexington LLC, a limited liability company controlled by the development team. The development team will provide the following as collateral for the Section 108 Loan: (1) a pledge of the project's cash flows (such pledge being junior to a similar pledge to secure the primary construction/permanent loan); and, (2) a second mortgage on the project..

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This is an economic development project that will principally benefit persons of low- and moderate-income through the creation of jobs. The developer is projecting the creation of 125 full-time equivalent jobs, of which at least 75 (60%) will be filled by low- and moderate-income persons.

Section 108 is the loan guarantee provision of the Community Development Block Grant (CDBG) program. Section 108 provides communities with a source of financing for economic development, housing rehabilitation, public facilities, and large-scale physical development projects. Section 108 loans are not risk-free, however; local governments borrowing funds guaranteed by Section 108 must pledge their current and future CDBG allocations to cover the loan amount as security for the loan. In addition, all federal regulations pertaining to federal prevailing wage rates, Uniform Real Property Acquisition and Relocation Assistance Act, and environmental review requirements are applicable to this project.

This requirement for a public hearing to review plan amendments is required by both federal regulations and the approved Citizen Participation Plan.

It is hereby requested that Council approve a substantial amendment to the 2012 Consolidated Plan establishing 21c Museum Hotel Lexington as a new economic development project and to submit a Section 108 loan application to the U.S. Department of Housing and Urban Development in the amount of \$6,000,000 for purposes of re-loaning to 21c Lexington LLC



Irene Gooding, Director

Xc: Richard Moloney, Chief Administrative Officer

Section 108 Loan Guarantee Program

The Section 108 Loan Guarantee Program is a source of financing allotted for the economic development, housing rehabilitation, public facilities rehab, construction or installation for the benefit of low- to moderate-income persons, or to aid in the prevention of slums.

Section 108 is the loan guarantee provision of the Community Development Block Grant (CDBG) program. Section 108 provides communities with a source of financing for economic development, housing rehabilitation, public facilities, and large-scale physical development projects. This makes it one of the most potent and important public investment tools that HUD offers to local governments. It allows them to transform a small portion of their CDBG funds into federally guaranteed loans large enough to pursue physical and economic revitalization projects that can renew entire neighborhoods. Such public investment is often needed to inspire private economic activity, providing the initial resources or simply the confidence that private firms and individuals may need to invest in distressed areas. **Section 108 loans are not risk-free, however; local governments borrowing funds guaranteed by Section 108 must pledge their current and future CDBG allocations to cover the loan amount as security for the loan.**

Lexington-Fayette Urban County Government's annual award of federal funds under the Community Development Block Grant Program is \$1,993,717. The allocation was \$2,724,000 in 2002. It is reasonable to believe that this downward trend in funding will continue in the future.

Activities eligible for Section 108 financing include:

- economic development activities eligible under CDBG;
- acquisition of real property;
- rehabilitation of publicly owned real property;
- housing rehabilitation eligible under CDBG;
- construction, reconstruction, or installation of public facilities (including street, sidewalk, and other site improvements);
- related relocation, clearance, and site improvements;
- payment of interest on the guaranteed loan and issuance costs of public offerings;
- debt service reserves;
- public works and site improvements in colonias; and

- in limited circumstances, housing construction as part of community economic development program.

For purposes of determining eligibility, the CDBG rules and requirements apply. As with the CDBG program, all projects and activities must either principally benefit low- and moderate-income persons, aid in the elimination or prevention of slums and blight, or meet urgent needs of the community.

An entitlement public entity may apply for up to five times the public entity's latest approved CDBG entitlement amount, minus any outstanding Section 108 commitments and/or principal balances of Section 108 loans.

Loan Details

Security: The principal security for the loan guarantee is a pledge by the applicant public entity of its current and future CDBG funds. Additional security will also be required to assure repayment of guaranteed obligations. The additional security requirements will be determined on a case-by-case basis, but could include assets financed by the guaranteed loan.

Repayment: The maximum repayment period for a Section 108 loan is twenty years. HUD has the ability to structure the principal amortization to match the needs of the project and borrower. Each annual principal amount will have a separate interest rate associated with it.

Financing Source: Section 108 obligations are financed through underwritten public offerings. Financing between public offerings is provided through an interim lending facility established by HUD.

Interest Rates: Interest rates on interim borrowing are priced at the 3 month London Interbank Offered (LIBO) rate plus 20 basis points (0.2%). Permanent financing is pegged to yields on U.S. Treasury obligations of similar maturity to the principal amount. A small additional basis point spread, depending on maturity, will be added to the Treasury yield to determine the actual rate.

Economic Development Activities

A recipient may use CDBG funds for special economic development activities which may be carried out as part of an economic development project. Guidelines for selecting activities to assist under

this paragraph are provided at 24 CFR 570.209. **The recipient must ensure that the appropriate level of public benefit will be derived pursuant to those guidelines before obligation of funds.** Special activities authorized under this section do not include assistance for the construction of new housing. Special economic development activities include:

(a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.

(b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible in 24 CFR 570.207(a). In selecting businesses to assist under this authority, the recipient shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods.

Public Benefit Standards

■ Recipients making loans for special economic development projects (24 CFR 570.203) must comply with the public benefit standards (24 CFR 570.209). These standards have two levels:

Aggregate benefit – minimum of one job per \$35,000 of CDBG or one LMI resident served per \$350 of CDBG; and

Individual benefit – maximum of \$50,000 of CDBG per job created or one LMI resident served per \$1,000 of CDBG

Financial Guidelines mattielou

24 CFR 570.209 outlines six objectives for economic development underwriting:

- That project costs are reasonable;
- That all sources of project financing are committed;
- To the extent practicable, CDBG funds are not substituted for non-Federal financial support;
- That the project is financially feasible;

- To the extent practicable, the return of the owner's equity investment will not be unreasonably high; and
- To the extent practicable, CDBG funds are disbursed on a pro-rata basis with other finances provided to the project.

The underwriting guidelines give public underwriters a good framework for lending public funds. The guidelines allow communities great flexibility and ensure that public investments are utilized judiciously and add value.



LEXINGTON-FAYETTE URBAN COUNTY COUNCIL

SPECIAL COMMITTEE OF THE WHOLE: UDAG OCTOBER 9TH, 2012

SUMMARY

Council Members in Attendance: VM Linda Gorton, CM Charles Ellinger, CM Steve Kay, CM Chris Ford, CM Tom Blues, CM Diane Lawless, CM Julian Beard, CM Kevin Stinnett, CM George Myers, CM McChord, CM Martin, CM Henson, and CM Lane.

VM Gorton called the meeting to order at 10:30am.

Urban Development Action Grant (UDAG)

CM Stinnett asked Commissioner Jane Driskell for the UDAG account balance. Driskell came to the podium and said that the balance was \$1,153,397.00. She mentioned that the HOME match could top out at \$250,000 but said that the match could potentially come from another source.

Senior Citizens Center - Kristy Stambaugh

Stambaugh presented on her proposal to allocate monies to the Senior Citizens Center. She said that the current center cannot accommodate the large number of seniors and the necessary programming. She said that there is insufficient parking, limited restroom facilities and a faulty roof.

Myers asked Stambaugh for an update on the site selection process for a new Senior Citizens center. Stambaugh said that the consultants should be coming before Council in November of 2012. Henson asked if there would be one center or multiple satellite centers. Stambaugh said that there are currently satellite centers, but their plan is to have one large single center to accommodate the senior citizens in Fayette County.

Berry Hill – George Myers

CM Myers presented on the Berry Hill skatepark. He asked for \$100,000 and illustrated the plan for the redesigned park on the projector. He reminded Council Members that they had closed the pool and said that there is a desire to build a large skatepark there. He mentioned that there are over 12 million skateboarders in the US and showed a video of interviews with skateboarders.

Gainesway Small Area Plan – George Myers

CM Myers asked the Council to consider \$80,000 for a Gainesway Small Area Plan and \$250,000 toward Gainesway Small Area Plan projects. He mentioned the Gainesway Master Plan and said that the cost is approximately \$1.1 million. He went on to talk about food access in Fayette County. He told Council Members that the money would be used to get the small area plan started.

Old Courthouse Renovation – Jamie Millard

Millard presented his proposal for renovations of the Old Courthouse. Millard spoke about the hazards in the Courthouse, specifically mold and lead. He said that it would cost \$373,100 to complete the project. He said that the specific projects would include box gutter permanent repair and replacement, weathervane replacement, exterior flood light replacement and lead cleanup and isolation abatement. He said the project would take a few weeks and would employ veterans. He emphasized the importance of using the structure and said that often closed buildings become candidates for demolition.

Foster Ockerman spoke about long-term funding and mentioned historic renovation credits, a commercial funding component and the Courthouse Square Foundation. He said that although they will do private fundraising, they will need to come back to the LFUCG at some point to discuss funding.

Commissioner Sally Hamilton came to the podium and said that she has been in discussions with Millard. However, after receiving a report from Air Source that the lead abatement would be \$250,000 and the mold abatement would be \$50,000, she consulted with the LFUCG's Division of Risk Management and concluded that the risk was too great to keep the building open in the current condition.

Chevy Chase Redesign Project – Bill Farmer

CM Farmer presented on the Chevy Chase Intersection Improvement project. He said that if the Council allocated monies, it would add safety elements to the project. It would improve pedestrian crossings, restripe and add a wider painted median. He was requesting they consider allocating \$35,000 to the project.

Shillito Park Lacrosse Fields – Bill Farmer

CM Farmer said that the \$20,000 request is to install a fence between the LFUCG's property from that owned by Lexington Christian Academy. The fence that is currently in place is a chain link fence and is 150' inside the LFUCG property line. The Lexington Youth Lacrosse Association has expressed interest in partnering on the field development process.

Local Match of Trail Grants – Doug Martin

CM Martin asked the Council Members to consider allocating \$500,000 for local match on trail grants. He specified two projects: Pedestrian/multi-use bridge connecting Georgian Way to the Beaumont trail system and the trail connecting Dogwood Trace Park to South Elkhorn Village Shopping Center via existing tunnel under Harrodsburg Road.

CM Martin said that trails have been identified as key amenities by Commerce Lexington's economic development prospects and stressed that they improve the quality of life and health of our residents. He went on to say that his proposals would connect private investment to public infrastructure.

21C Funding – Jeff Fugate

Fugate presented Mayor Jim Gray's proposal to allocate \$1 million to the 21C Museum Hotel project as a loan, not a grant, which would be paid back within 10 years. Fugate said that it is complex project with many funding sources, listing private financing and equity, federal Historic and New Market Tax Credits, state Tourism incentives and local participation. The DDA is recommending the following: Local TIF, HUD 108 Loan application and the loan from UDAG repayment fund. The \$1 million loan would be no-interest with a lump repayment before the end of ten years. There would be no prepayment penalty due to the expectation it will be taken out at refinancing at the end of seven years.

The overall cost of the project is \$36.6 million. Fugate said that the project will bring 150 new low to moderate income jobs and VM Gorton told Council Members that the project would be the first downtown TIF.

VM Gorton noted that the money, once paid back, could be used again for projects in our community.

Living Arts and Science Center Capital Campaign – Heather Lyons

Lyons presented her proposal on the Living Arts and Science Center. She said that the LASC has seen significant growth in programming and said that over 7400 students from 30 Kentucky counties participated in their activities in 2011.

The Capital Campaign has secured a \$1 million grant from the Lucille Little Fund, a \$500,000 private foundation gift and \$410,000 in corporate, private and grant funds. The \$400,000 LFUCG investment would complete the match for the Lucille Little fund and would also complete phase one of the Capital Campaign which provides 100% of new construction and site improvement costs. It would also leverage \$1.2 million in potential grant awards and \$900,000 in additional local corporate, foundation, and private support.

Lyons said that the LASC has never requested capital or operating support from LFUCG.

Discussion

Motion by Farmer to recommend to the full Council the 21C loan of \$1 million to be paid back in 10 years or sooner. Seconded by Kay. Motion passed without dissent.

Motion by Farmer to approve the use of \$20,000 in UDAG funds for lacrosse fields at Shillito Park. Seconded by Myers. Motion passed without dissent.

Motion by Kay to place the discussion of the use of the remaining UDAG funds into the Budget and Finance Committee. Seconded by Lane. Motion passed without dissent.

Motion by Lawless to adjourn. Seconded by Myers. Motion passed without dissent.

Submitted by Jenifer Benningfield, Council Administrative Specialist

General Government Committee

October 2nd, 2012

Summary and Motions

CM Ed Lane chaired the meeting and called it to order at 11:00 am. Committee members present were VM Linda Gorton, Steve Kay, Chris Ford, Julian Beard, KC Crosbie, George Myers and Doug Martin. Kevin Stinnett was also in attendance.

1. Approval of Summary

CM Beard made a motion to approve the summary. CM Kay seconded the motion. The motion passed without dissent.

2. Review of Ordinance 4-75 Meet and Confer

Ed Gardner from the LFUCG's Department of Law presented on the item. He said that the activity in Waste Management brought the issue to the forefront. He went on to say that the resolution was enacted on October 3, 1974. It allows employees to meet and confer with the government over specific issues such as working conditions and employee benefits. The parties cannot make a bargain or a concession. It only applies to non-supervisory employees. In 1975, an Ordinance detailed the procedure to recognize an employee organization. Waste Management has selected AFSCME.

- Section 1 sets out the definitions of terms used in the ordinance
- Section 2 states the policy of the government as to public employees' rights
- Section 3 sets out the recognition procedures
- Section 4 sets out the steps to be take in the representation election
- Section 5 sets out that a certified employee organization and LFUCG administrators will meet and confer at a reasonable time and place over "employee benefits and working conditions." Neither party is required "to agree to a proposal or make a concession" unlike in "collective bargaining"

The goal of the ordinance was to provide a procedure by which employees could elect to join an employee organization for the discussion of limited issues. In 1980, an ordinance was passed that expressed intent of the government not to enter into any collective bargaining agreements pertaining to wages, hours or work, benefits and similar matters with any group of employees of the government or any agent of any groups of employees of the government. This was changed for the LFUCG by the Kentucky Legislature for Police, Fire and Community Corrections.

Gardner said the only time it has been fully invoked was the recent election in Waste Management. He also said that no employee has the right to strike.

The LFUCG could pass a local ordinance allowing employees the right to collectively bargain. The only employees that can do it currently are those that are employed in Police, Fire, and Community Corrections.

Gardner said that AFSCME has been identified as the employee organization that will represent the Waste Management employees. They are a national union. CM Martin asked if they collect dues. Gardner said that they are not collecting dues at this time. CM Martin also asked if the LFUCG would take the money out of their paychecks. Gardner said that they would, but only from the employees that wanted to contribute to the union.

Gail Coller, a member of the public, spoke about the use of her taxes. She said that she wants them to be used fairly. She said that she supports a living wage and is concerned about the health insurance costs, working conditions and work assignments for Waste Management employees. She said they need a collective voice.

Joe Phelps, also a member of the public, spoke. Phelps is an AFSCME member. Various CMs asked Phelps questions. He said that Council 62 represents Indiana and Kentucky. He also said that they represent numerous municipal and state employees.

CM Stinnett asked Phelps how much the employees would be paying and Phelps said that it would be \$16/paycheck (\$416 per year). He mentioned scholarship opportunities and life insurance. Phelps said that when they meet and confer it is not done as a contract, but instead as a Memorandum of Understanding. Phelps said that it is not about the money. He said that they want to give employees a voice on the job.

CM Stinnett said that he has concerns regarding what our employees will get by meeting and conferring.

Phelps mentioned the pension issue. He said that the pension system is squeezing municipalities so tight that AFSCME cannot negotiate wage increases.

Phelps said that he has met with the benefits committee and with the Division of Community Corrections. He has not had formal meetings with Waste Management but has requested a meeting.

CM Myers asked about employees in Solid Waste that do not want to participate. Phelps said that they can opt out if they choose to. CM Myers went on to discuss the wage issue. He expressed concern that if they went to AFSCME to increase their wages, why would they take money out of their paycheck? Phelps said that there is currently favoritism within the Division and AFSCME is going to work to ensure standardization.

Myers asked Commissioner Janet Graham if the employees are able to come and meet with the administration to express their concerns. Graham said that there are a lot of equipment operator seniors and there are pay discrepancies. She mentioned the salary compensation study and said that they will review this position and suggest recommendations.

CAO Richard Moloney said that he has an open door policy. Moloney said that Waste Management employees are doing a different job now than 10 years ago. He said that he has brought this to the attention of our Human Resources Department.

CM Ford mentioned Frankfort, Louisville and Memphis. He asked why our sworn units traveled to Frankfort to solicit the assistance of the delegation of the General Assembly to get collective bargaining. Why did they have to resort to go to Frankfort? He also asked if Louisville Metro's employees have collective bargaining. Finally, he asked why the LFUCG would not welcome the opportunity for our employees to come to the table to talk about their working environments.

Commissioner Jane Driskell came to the podium and told CM Ford that there are 26 individual collective bargaining agreements in Louisville, with 13 different unions. 30% are non-union.

CM Martin asked Phelps about the Fair Share Clause. He said that he is concerned that employees will be stuck in the union. Phelps said that the Fair Share Clause came about because employees wanted to get out of the union and not pay any fee to the union and the courts said that the union can charge reasonable charges to them for not honoring the contract.

CM Martin asked if they hire lobbyists. Phelps said that they do not hire lobbyists but some of the members are lobbyists. CM Martin asked Phelps if they intend to go to Frankfort to lobby the Legislature. Phelps said that they have five or six registered lobbyists that may or may not go to Frankfort depending on what the issue is.

CM Martin said that he is concerned that the employees will develop greater political rights than the LFUCG. Phelps said that he has never gone to Frankfort to lobby for raises for employees. He said that is done at the local level.

CM Kay asked Phelps what the present status is. Phelps responded that AFSCME has been voted and approved to represent the Sanitation employees. They are going through a process to become a local. They have to write a constitution and it has to be approved. Then, they will request a meeting with the administration. The local union will elect a negotiating committee. Their concerns will be compiled and submitted.

Gardner said that they have complied to become a recognized employee organization. Next, the administration must meet and confer about specific items only with the employee organization.

Robert Akin, a member of the public, spoke in support of the Waste Management workers.

CM Stinnett answered CM Ford's questions about why employees were forced to go to Frankfort. CM Stinnett said that at that time, the administration would not meet and confer. He went on to ask Graham why the administration is not meeting with the employees to have conversations about the Waste Management issues. She said that she has had email exchanges with the division. She said that she assumed the ball was in their court, but offered to email them again.

Moloney said that there is a little more money this year than in recent years and employees were given a raise this year. Moloney said they have not been able to do any step-ups. Some members of Council have said that they can now do step-ups, but Moloney said that opens the door for other divisions as well. He recommended a consultant. Moloney said that the best way to deal with this is to do everything at once. Moloney said that the pay structure does need to be straightened out. CM Stinnett agreed that the pay structure does need to be fixed. CM Stinnett said that if the Waste Management workers are due, the Council needs to know.

CM Myers asked Graham about reclassifying. Graham said that the problem is that if they immediately reclassify one group, it brings up equity issues from other groups. CM Myers asked why they need a consultant. Graham said that they need someone who understands the system. Myers told Moloney that we do not need an outside consultant. Myers asked Moloney to just sit down with the employees of Solid Waste and start with doing a survey to gather their concerns. He then asked him to schedule a time, then inform the Council of that time, to meet with them. Moloney said that he has sat down with them but agreed to do it again.

VM Gorton responded to Ford's questions and told him that the process was very political. She said that every year the Police and Fire would pack the Chamber to discuss salaries. The Council asked Frankfort to not put collective bargaining on the LFUCG.

CM Martin said that he disagreed with VM Gorton, because taking the decision making out of the Council's hands has put it completely in the hands of the Mayor. He said that this is a lack of accountability and checks and balances.

3. Review of Ordinance Governing the Setting of Council Member's Pay

Graham and Driskell asked the Council for direction on the setting of the Council Member's pay.

Chair Lane said that he thinks the will of the Council is to follow the ordinance and increase council member's pay based on the CPI index.

CM Kay said that he doesn't see it the same way as CM Lane. He said that he thinks the Council Members would get a large raise next year if they follow the current ordinance.

Driskell said that if they compute the figure with inflation since 1972, council members would be making \$29,700 annually, but they are currently making \$26,644. CM Kay asked Driskell if they leave the current ordinance in place if the pay would be increased to \$30,000. Driskell said that it would be around that number but she would have to compute it.

CM Lane asked Driskell to provide a memo regarding council member's pay based on the current ordinance with the approximate annual salary within a week. Driskell agreed to provide that information.

VM Gorton said that when employees do not get raises, the Council has not voted to take a raise.

CM Martin said that he would like to see the Council Member's pay not be driven down. He said that the Council should not have to interfere with their own pay. He would like to see a diverse group of people serve on the Council.

CM Myers said that he thinks the system works and they need to leave it alone and let it work.

4. Items in Committee

Chair Lane placed the Parks Master Plan, Resolution 3.101, CAO Policy #3 and the Website Linking Policy onto the upcoming November 13th, 2012 General Government agenda. He dropped Council Member pay and the Lease Agreements.

CM Myers asked if the Parks master plan presentation would include a discussion of accreditation. Chair Lane said that he would request that they include it.

CM Crosbie made a motion to adjourn. Seconded by CM Martin. Motion passed without dissent.

Submitted by Jenifer K. Benningfield, Council Administrative Specialist

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Sanitary Sewer System Capacity Assurance Program (CAP)

COUNCIL WORK SESSION
 Lexington-Fayette Urban County Government
 Division of Water Quality



October 16, 2012

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PRIOR PRESENTATIONS

**Public CAP
Presentations**

Forum	Date
Environmental Quality Committee	March 13, 2012, May 15, 2012
Planning Commission	May 17, 2012
UCC Work Session	August 14, 2012
CAP Task Force	Eleven (11) Task Force Meetings held between May 3, 2012 and September 25, 2012




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PRESENTATION

Challenges

The challenge for the Task Force and ours as a government: how to comply with the Consent Decree requirement that no development can occur unless sewer capacity is assured or offset, while simultaneously minimizing disruption and delay of development projects important to the well-being and prosperity of our community.


- ▣ **Very Complex Topic**
 - Over 15 pages of the Consent Decree devoted to CAP requirements
 - Over 22 hours of work by the Task Force
- ▣ **Work Session time allocation limit**
 - Focus will be on “what time it is” and not “how to build a watch”




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AGENDA

- ▣ **CAP Task Force**
- ▣ **Introduction to Key Recommendations**
 - Credit Banks
 - Grandfathering
 - Capacity Allocation
 - Expiration Period
 - Schedule
- ▣ **Discussion**





INFORMATION ITEM

CAP Task Force

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CAP TASK FORCE

Voting Members

- Chair – CM Tom Blues (2nd District)
- Task Force
 - CM Linda Gorton (Vice Mayor) – Vice Chair
 - CM Steve Kay (At-large)
 - CM Chuck Ellinger (At-large)
 - CM Peggy Henson (11th District)
 - CM Kevin Stinnett (6th District)
 - Derek Paulsen
(Commissioner of Planning)


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CAP TASK FORCE

External Stakeholders

- Stakeholders
 - Fayette County Public Schools
 - University of Kentucky
 - Home Builders Association
 - Commerce Lexington
 - Ball Homes
 - North Forty Properties
 - The Fayette Alliance
 - Fayette County Neighborhood Council
 - Associated General Contractors of Kentucky
 - Various attorneys and consultants representing the development community
 - General Public





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CAP TASK FORCE

Internal Stakeholders

- LFUCG
 - Department of Environmental Policy and Public Works
 - Department of Law
 - Division of Planning
 - Division of Engineering
 - Division of Building Inspection
 - Division of Environmental Policy
 - Planning Commission
 - Division of Water Quality
- CAP Consultant Team

- Stantec (Prime)
 - Integrated Engineering
 - ERI International
 - Blue Heron




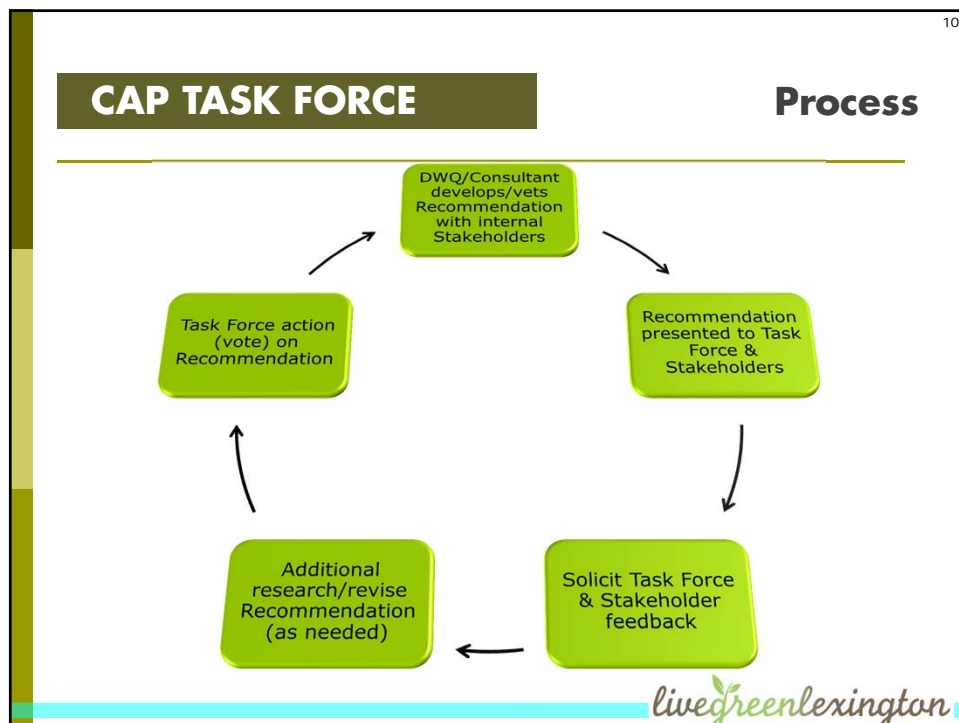


CAP TASK FORCE

Meetings

- ▣ Objective – involve stakeholders to provide perspective and input during the development of the CAP
- ▣ Eleven (11) Task Force Meetings were held between May 3, 2012 and September 25, 2012
- ▣ Meetings held in Council Chambers, open to the public, and advertised on LFUCG's website
- ▣ Stakeholders were heavily involved throughout and extremely helpful in vetting recommendations
- ▣ Detailed Meeting Notes prepared for each meeting and posted on LFUCG's website
- ▣ Task Force summary report to be prepared for distribution to Council





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TASK FORCE OUTCOME

No fairy tale endings

- Consent Decree's expectations present huge, near-term challenges for Lexington
- Task Force objective was a CAP that everyone in the community can live with
- Nineteen (19) recommendations vetted by Stakeholders and approved by Task Force
- Implementing ordinances based on the Task Force recommendations represent a **fair and transparent CAP Plan for the neighborhoods and the development community**

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INFORMATION ITEM

**Introduction to
Key Recommendations**

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RECOMMENDATION

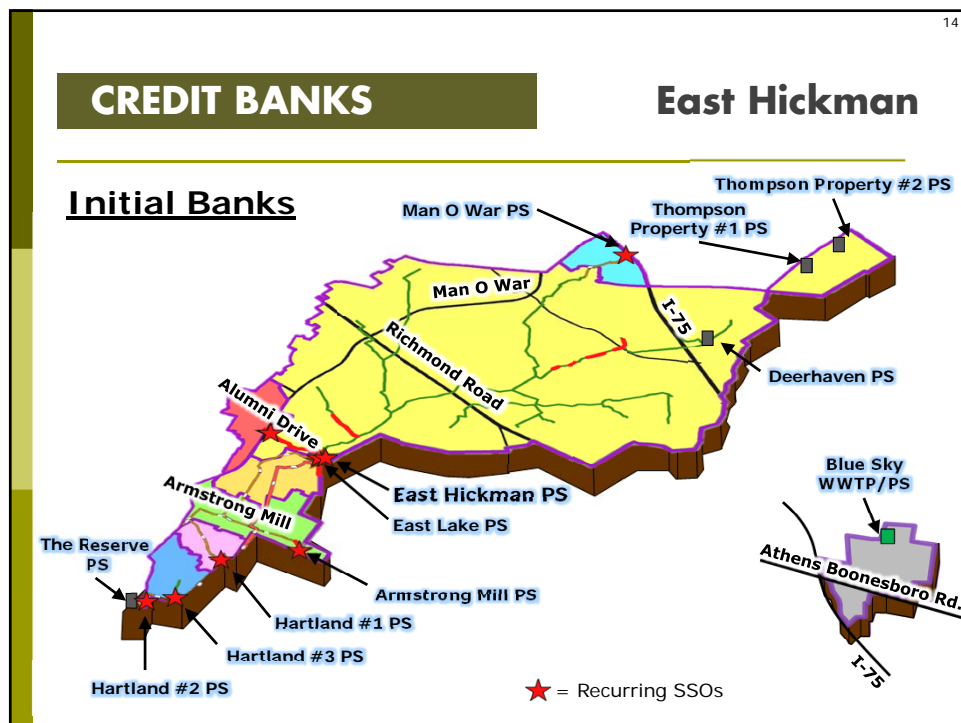
Credit Banks

Credit Banking Unit

Bank accounts at Sanitary Sewer Overflow (SSO) locations, treatment plants, major pump stations, and capacity-limited trunk sewers

Why?

- ✓ *It represents a middle ground approach to what other benchmark cities are doing*
- ✓ *Belief that EPA will not approve a more liberal approach*
- ✓ *Belief that recommendation has a fairness level that avoids a high administrative cost burden*
- ✓ *Belief that this recommendation is the fairest approach to both the development community and the neighborhoods*



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CREDIT BANKS

Recurring SSOs




5th District – Recurring SSO in backyard – public park in background

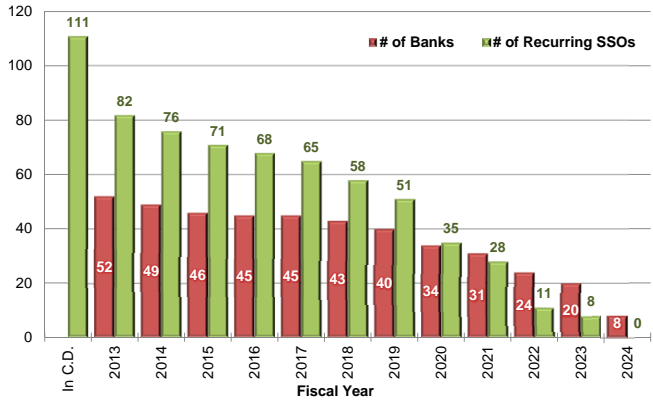
7th District – Recurring SSO in backyard – public risk

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CREDIT BANKS

Credit banks will change with time

▣ The number of credit banks will diminish as Remedial Measures Plan projects restore adequate capacity/eliminate SSOs and credit banks are merged.



Fiscal Year	# of Banks	# of Recurring SSOs
In C.D.	111	52
2013	82	49
2014	76	46
2015	71	45
2016	68	45
2017	65	43
2018	58	40
2019	51	34
2020	35	31
2021	28	24
2022	11	20
2023	8	8
2024	0	0

Based on current, tentative Remedial Measures Plan schedule.

RECOMMENDATION**Grandfathering****How to Allocate Sewer Capacity to On-Going Development Projects (Grandfathering)**

All developments with an approved Preliminary Subdivision Plan (PSP), Final Development Plans (FDPs), or Amended FDP will receive a sewer capacity credit allocation (grandfathered). All developable property within Expansion Area #2 (EA2) will also be grandfathered, regardless if an approved Plan is on file.

- Task Force recognition that LFUCG should honor previous commitments for sewer capacity
- Recommendation allows those developments currently in process but not yet at grandfathered stage to attain that level by **July 3, 2013**
- Risk Issue – Grandfathering will cause some areas (credit banks) to have negative initial credit balances


RECOMMENDATION**Grandfathering**Pros:

- Does not create additional financial risk for on-going developments
- Allows LFUCG to draw a clearer “line in the sand” when transitioning into full CAP implementation

Cons:

- Creates a credit bank drain from approved plans that aren’t “active” or “near-term”
- Negative bank balances may not be well received by EPA
- Potential for some SSO locations to worsen before a Remedial Measures project is implemented




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RECOMMENDATION

Credit Allocation
Expiration Period

Expiration Period for Capacity Allocations
No expiration period for permanent capacity allocations.

- ❑ Grandfathered Developments – Assuming EPA approval of the Authorized Future Connections List (grandfathered developments), sewer capacity credit allocation becomes a **permanent record for the parcel or tract**
- ❑ Future Capacity Allocations – Sewer capacity allocation becomes permanent upon approval of Preliminary Subdivision Plan or Final Development Plan or Amended Final Development Plan (whichever applicable)



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RECOMMENDATION

Schedule

When does the CAP begin?
Full Implementation of the CAP on **July 3, 2013**

Event	Schedule
Present CAP at Council Work Session	November 13, 2012 December 4, 2012
Present Draft CAP Plan to Planning Commission	November 29, 2012
Submit CAP Plan to EPA	January 3, 2013
Earliest date EPA could require CAP Implementation to commence	February 3, 2013



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RECOMMENDATION

Schedule

Full Implementation of the CAP on July 3, 2013

Why?

- ▣ No way to determine when EPA will formally approve the CAP
- ▣ Delaying implementation leaves post-January 3, 2013 development projects in “sewer capacity availability limbo”
 - CAP implementation uncertainties pose additional risk for development community
 - Can't get a permanent sewer capacity allocation unless program is in place




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November 13, 2012

Topics

Next Work Session presentation will discuss:

- ▣ **CAP Entry Point**
 - Non-grandfathered sewer capacity connection requests
- ▣ **Use of Record**
 - Existing parcels with existing sanitary sewer connections
- ▣ **Essential Services**
 - Sewer capacity exceptions for schools, health care facilities and public safety facilities



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DISCUSSION

More information on the CAP is available on LFUCG's website at:
<http://www.lexingtonky.gov/capacityassurance>






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TASK FORCE RECOMMENDATIONS

To be included in implementing ordinance(s)

No.	Recommendation	Description	Decision
1.	Credit Banking Unit	Bank accounts at SSO locations, treatment plants, major pump stations, and capacity-limited trunk sewers.	Plan
2.	Credit Harvest Date	Negotiate with EPA for the date of the baseline condition in hydraulic models (Group 1 = 8/19/2008; Groups 2&3 = 6/1/2009)	Plan
3.	Use of Record	Credits earned from redevelopment to a lesser sewer use will be retained with the property unless released by property owner.	Implement
4.	Essential Services	Allow exception in CD for Essential Services.	Plan
5.	Third-Party Trading	No third-party trading of publicly or privately earned credits.	Implement
6.	Developer-Earned Credit Program (DECP)	Include provision for voluntary DECP. Developer enters contract with LFUCG. LFUCG either does work or has stop-work authority.	Implement
7.	Credit Allocation Priority	A credit amount of 2,500 gpd will be reserved in each bank for minor connections unless waiver approved by Commissioner of Planning. Credit allocations will be made on a "first-in, first-out" basis. Essential Services will be unaffected.	Plan
8.	Expiration Period	No expiration period for permanent allocations.	Implement



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RECOMMENDATIONS		To be included in implementing ordinance(s)	
No.	Recommendation	Description	Decision
9.	CAP Entry Point	If construction of public infrastructure or subdivision of property, permanent credit allocation at approval of Preliminary Subdivision Plan (PSP) or Final Development Plan (FDP). If no construction of public infrastructure, then permanent allocation required prior to building permit issuance. Reservation may be made anytime after submission of Preliminary Development Plan and has 1-year expiration (with 1-year renewal upon request).	Plan
10.	Grandfathering	All developments with an approved PSP, FDP, or Amended FDP will receive a permanent credit allocation (grandfathered). All developable property within EA#2 will also be grandfathered, regardless if an approved Plan is on file.	Plan
11.	Essential Services	Established criteria to further define public schools and health care facilities to guide reviewer during CAP implementation. Public schools must document non-profit status in tax code 501(c)(3) or as defined by state. Health care facilities must meet KRS 216B.015 definition and be licensed by the state. Amended to include ancillary buildings adjacent to licensed health care facilities. (Companion to Recommendation No. 4.)	Implement

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RECOMMENDATIONS		To be included in implementing ordinance(s)	
No.	Recommendation	Description	Decision
12.	Administrative Fee	Payment of a non-refundable, administrative/processing fee will be required for capacity/credit requests.	Implement
13.	Deposit/Charge for Credit Allocations	A deposit will be assessed for capacity/credit reservations. The reservation deposit will be applied to Capacity Charge. A non-refundable Capacity Charge will be assessed for permanent capacity/credit allocations.	Implement
14.	Schedule for Full Implementation	CAP will be fully-implemented within 180 days of EPA approval of CAP Plan. LFUCG has set internal target date of July 3, 2013.	Plan
15.	Review Time	Set a goal of 10 days from the date that a completed sewer capacity request is received for a determination letter to be sent to applicant. Average review time will be assessed quarterly.	Implement
16.	Appeals Process	A written appeal may be submitted to Commissioner of Environmental Quality and Public Works. A determination will be made by the Commissioner within 30 days. If appeal based on technical data, then must submit the technical data with appeal.	Implement

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RECOMMENDATIONS		To be included in implementing ordinance(s)	
No.	Recommendation	Description	Decision
17.	Conditional Approvals	Conditional approval may be granted if approved by both the Commissioner of Finance and Commissioner of Planning. LFUCG to set aside dedicated funding to perform sewer improvements necessary to support conditional approval (i.e. will not re-prioritize/delay other planned neighborhood or RMP projects).	Implement
18.	Public/Stakeholder Access	Maps illustrating bank boundaries, bank balances, transaction history, and waiting lists will be made available to the public via the internet. Quarterly reports to EPA are also publicly available.	Implement
19.	Program Auditing	CAP to be audited after 2 years and every other year after that. Audit to be performed by third party (i.e. not internal audit).	Implement

