

## **Social Services & Community Development Committee September 23, 2014 Summary**

CM Ford called the meeting to order at 11:00 AM. CMs Ford, Ellinger, Kay, Stinnett, Scutchfield, Myers, and Beard were present. CMs Akers, Lawless, and Lane were absent. CM Clark was also in attendance.

### ***Committee Summary***

On a motion by CM Beard, second CM Ellinger, the summary of the August 26, 2014 Social Services & Community Development Committee meeting was approved unanimously.

### ***Workforce Investment & Training – Interlocal Agreement***

CM Ford introduced the item, and reviewed the information provided in the committee packet.

Kevin Atkins provided background information, and introduced Judge Executive John Wilson (Garrard County) and Mayor Ed Burtner (City of Winchester). He stated that the Law Department and the Administration are in the process of reviewing the proposed Amended Interlocal Cooperative Agreement (“Amended Agreement”) for compliance with current and pending workforce legislation.

Mayor Burtner stated that the Amended Agreement contains significant improvements in comparison with the existing Agreement. He stated that the Amended Agreement removes some of the powers of the Chief Local Elected Official (CLEO). Under the current Agreement and legislation, the CLEO may designate the fiscal agent or the grant subrecipient. The CLEO also has the authority to approve the WIB budget, appointments to the WIB, and the work plan of the WIB. As part of the Amended Agreement, those duties are transferred to the Chief Elected Officials of each member county.

Mayor Burtner stated that the Amended Agreement has been approved by Beth Brinly, Kentucky Commissioner of Workforce Investment and the sixteen fiscal courts of the Bluegrass ADD. Commissioner Brinly initially imposed a July 15 deadline for approval of the Agreement, but has since extended the deadline to October 15, 2014.

Mayor Burtner referred to LFUCG Resolution 213-2014, which requested the Chief Elected Official of the Bluegrass WIB take the necessary steps to identify and retain a new fiscal and administrative agent independent of the BGADD beginning July 1, 2014. Mayor Burtner stated that he did not know this item was being considered by the LFUCG prior to its approval. He was asked to make a two-year appointment beginning July 1, 2014, but designated the Bluegrass Area Development District as the fiscal agent for a six month period of time. He stated that a six month appointment was chosen to provide a probationary period to allow for issues to be addressed.

Motion by CM Ellinger, seconded by CM Myers, to provide 10 additional minutes for Mayor Burtner's presentation. Motion passed without dissent.

Mayor Burtner stated that the Auditor's report included 8 findings regarding the BGADD, and some related to the WIB. He stated that Commissioner Brinley has retained professional staff to identify disallowed costs. He reiterated that the proposed Amended Interlocal Cooperative Agreement is an improvement in comparison with the existing Agreement, and institutes a democratic process that requires the Chief Local Officials for each county to be engaged in the process as a governing board.

Charles Payne stated concerns with the Amended Agreement. He stated that the governing board only meets twice annually, and an executive committee meets in the interim periods. He stated that the executive committee required only four votes for quorum, removing 13 voices from the process.

Mr. Payne stated that the Amended Agreement appears to be a consolidation of power, and stated examples of same.

Motion by CM Myers, seconded by CM Kay, to provide Mr. Payne with 10 additional minutes. Motion passed without dissent.

Mr. Payne presented seven potential amendments to the Agreement to address concerns:

1. All services that are mandated to be procured by the workforce innovation and opportunity act must be procured. This includes one-stop and youth services.
2. The WIB director and staff must not be under the supervision of the fiscal agent, the service provider, or the grant subrecipient.
3. The fiscal agent must not be allowed to also be the service provider, and vice-versa.
4. Responsibilities granted to the local workforce board or the CLEO must not be granted to the fiscal agent, service provider or designated grant subrecipient.
5. Budgetary control must not be bestowed upon the fiscal agent, service provider or the grant subrecipient.
6. The fiscal agent must be procured and agreed upon by the CLEO, the governing board and the WIB.
7. All decisions made by the governing board must be made by unanimous decision and never delegated to a smaller committee where regional policy could be voted upon by as few as four persons.

Mr. Payne stated that these recommendations have been successful in other states, and would make significant improvements to the Amended Agreement.

Daryl Smith, Chairman of the Bluegrass Workforce Investment Board, thanked the Council and Mayor Gray for putting forth a Resolution for the independence of the WIB. He stated that the WIB has asked for a procurement process to be utilized for the

selection of a fiscal agent, and asked that the CLEO recuse himself, as the Auditor's report identified a conflict of interest in any matter related to the WIB and the BGADD.

Mr. Smith stated that the WIB is seeking their full rights under federal law, and is taking steps to be an effective agency.

CM Myers asked Mr. Smith if he was in favor of the seven points Mr. Payne presented. Mr. Smith stated that a fiscal agent should not be a program provider, and he provided examples related to conflicts of interest. He provided examples of states where fiscal agents are chosen through a competitive procurement process, and provided additional information.

CM Myers asked Mr. Payne if he intended for votes (reference item 7) to be unanimous, and suggested a supermajority vote. Mr. Payne stated that a simple- or supermajority vote would be a reasonable compromise.

CM Ford referenced the existing Agreement in the packet, and stated that the LFUCG had great hesitation in signing that agreement, even before the release of the state auditor's report. He stated that Lexington is the final signature required for the proposed Amended Agreement, and asked for deadline information. In response, Judge Wilson stated that any local government can terminate their participation in the Agreement at any time.

Judge Wilson stated that, under the current agreement, the highest elected officer at the BGADD is automatically the WIB's CLEO. The Amended Agreement allows the 17 local officials to make these decisions. He explained that a working committee of five members of the WIB drafted the Amended Agreement with assistance from Commissioner Brinly. The Amended Agreement creates a dispute resolution process, as well as a process to address disallowed costs. He stated that Mr. Payne's seven areas of concern will be addressed in a Memorandum of Understanding, which will be adopted subsequent to the execution of the Amended Agreement.

Judge Wilson stated that mandated procurement processes will be followed. He reiterated that 16 of the member counties as well as Commissioner Brinly have signed off on the Amended Agreement.

CM Ford asked if federal law dictates the language in the existing agreement related to selection of the CLEO. Jon Gay, attorney for the BGADD, stated that federal law states that the Chief Local Elected Officials, by Agreement, can set forth how the duties and responsibilities are carried out, which includes the designation of a fiscal agent or subrecipient.

The current Agreement states that the highest ranking elected official of the BGADD shall serve as the CLEO. The Amended Agreement includes a process for the member counties to elect a CLEO. He stated that the current agreement is compliant with the current federal law, but the current law allows each region to determine how the CLEO

will be selected. Mayor Burtner provided additional information, and stated that current policy is that the highest ranking elected official who is an officer of the BGADD is, by default, the CLEO. The Amended Agreement would make this selection a democratic process.

CM Myers asked Mr. Gay if the current agreement could be modified to address the CLEO issue by vote without adoption of a new agreement. Mr. Gay responded that the current agreement could be amended. He stated that these items are addressed in the proposed Amended Agreement.

CM Myers asked if approval of the Amended Agreement would preclude the LFUCG from addressing issues with the WIB. Mr. Gay responded that signing the agreement would empower the LFCUG to be represented. CM Myers stated that many of the issues identified in the Auditor's report occurred without knowledge of the Board; he stated concerns that the process proposed in the Amended Agreement would be unsuccessful. Mr. Gay stated that the Amended Agreement requires the 17 member counties of the WIB to choose the CLEO, and that discussion is not guided by the BGADD. The member counties will also guide the decisions that address Mr. Payne's comments.

In response to a question from CM Myers, Mr. Gay stated that the proposed Amended Agreement allows the fiscal agent to be separate from the BGADD. Mr. Smith disagreed, and stated that Mr. Burtner has petitioned Commissioner Brinly to extend the BGADD's designation as subrecipient and fiscal agent to one year. He also stated that efforts were taking place to extend the BGADD's designation for the full two year period. He recommended that Council contact Commissioner Brinly to discuss the agreement.

Mr. Smith stated that the Amended Agreement contains some requirements for the governing board and the fiscal agent that are contrary to the Workforce Investment Act. He provided specific examples.

In response to a question from CM Myers, Mayor Burtner confirmed that he has requested a six month extension of the BGADD as subrecipient and fiscal agent. He provided additional clarification regarding the extension.

In response to a question from CM Kay, CM Ford stated that the proposed Amended Agreement is being reviewed by the LFUCG, and the information being presented in this meeting is informational. He further stated that Council authorization is required for the Mayor to execute the Amended Agreement. Mr. Kay asked if there is a deadline for executing the Amended Agreement. Mayor Burtner responded that the deadline has been extended to October 15, 2014.

Mr. Atkins reported that the LFUCG has asked the U.S. Department of Labor to review the proposed Amended Agreement. In response to a question from CM Kay, he stated that the request was made in late August 2014, and the response to that request would be shared with the Council upon receipt.

CM Kay suggested that Council staff work with the Administration to provide a briefing to Council when this item comes back before the committee.

In response to a question from CM Myers, Mr. Atkins stated that Mr. Smith's concerns and Mr. Payne's concerns would be included in the request for review from the U.S. Department of Labor.

### ***Partner Agency Funding Process (FY16)***

Commissioner Mills presented the proposed amendments to the FY16 Social Services Partner Agency process. She stated that the name of the process is recommended to be changed to Extended Social Resource (ESR) Grants.

CM Kay clarified that the LFUCG is funding programs, but does not object to the name change.

CM Scutchfield stated the importance of the quarterly and annual reporting component of the program.

Commissioner Mills reviewed existing requirements that will remain in place: Applicants must attend a pre-application meeting, must have a current 501(c)(3) status and a GoodGiving.net profile, and the total request from any agency cannot exceed 20 percent of their prior year actual expenditures. Applicants must meet the deadline, providing for a one week staff review period. She reviewed the six funding categories that will remain in place from prior years.

Commissioner Mills reviewed the application scoring and award protocol, and stated that bonus points will be provided for programs responsive to the Need Study. Applications for programs that are currently (FY15) funded will also receive bonus points if they meet or exceed FY15 outcome requirements.

Commissioner Mills recommended that the total amount of funding available to partner agencies be set at one percent of the total General Fund budget. This funding amount would be a guideline presented at the preapplication meeting. She also recommended that funding for emergency shelter programs be moved to the Office of Homelessness Prevention and Intervention for administration.

CM Kay stated that he favored separating emergency shelter grants from the remainder of the partner agency grants. In response to a question from CM Kay, Commissioner Mills clarified that a set amount of funding would be moved to the Office of Homelessness Prevention and Intervention for distribution.

CM Clarke stated agreement with setting aside one percent of the General Fund for partner agency funding. He stated that there should be discussion regarding potential budget conflicts as the process moves forward. He is in favor of separating emergency

shelter funding. In response to a question from CM Clarke, CM Ford stated that the issue of relocating the Office of Homelessness Prevention and Intervention is in committee, and will be addressed in the future.

CM Scutchfield asked if separating funds for emergency shelters would create requests to separate other need categories. Commissioner Mills clarified that the other need categories are represented within the Department of Social Services.

CM Ford asked Commissioner Mills to review all action items at the conclusion of her presentation.

Commissioner Mills recommended that applications be accepted on a biannual basis. Awards would be the same amount for both years of the application cycle, and program funds must be expended by the end of each fiscal year. Programs will have the opportunity to amend goals and outcomes in year two of funding. She stated that the total amount of funding would be announced in the Mayor's budget address, but specific program awards would not be announced at that time. Specific program awards will be announced prior to finalizing the budget.

Commissioner Mills recommended placing a cap on the number of program applications an agency can submit. She also recommended that agencies cannot apply for both Partners for Youth grassroots grants as well as LFUCG partner agency funding for a single program.

CM Scutchfield asked if collaboration between agencies will be encouraged, and stated the need to identify all LFUCG funding sources for the program. Commissioner Mills responded that the former is addressed later in the presentation, and applications must provide information regarding the latter in their application.

CM Kay stated that clarification is needed regarding encouraging innovative programming.

Commissioner Mills recommended that the Department of Social Services review letters of intent from potential applicants to identify issues, and provided examples. She stated that programs should provide a direct impact on the need category. She stated that the Department of Social Services is developing program requirements to encourage collaborative grants. Finally, she recommended that the Council Link be internal to the LFUCG only, and not consider requests from partner agencies.

CM Ford thanked Commissioner Mills, and stated that the committee would take action on these items during the committee's October 21, 2014 meeting.

The meeting adjourned at 12:58 PM.