Budget, Finance & Economic Development
February 27, 2018
Summary and Motions

Chair Stinnett called the meeting to order at 1:04 p.m. Committee Members in attendance: Bledsoe, Moloney, Kay, J. Brown, Lamb, Farmer, Evans, F. Brown and Mossotti. Smith, Henson and Plomin were present as non-voting. Mossotti was absent.

I. Approval of November 28, 2017 Committee Summary as Amended

Motion by Farmer to approve the November 28, 2017 Budget, Finance & Economic Development Committee Summary as amended. Seconded by J. Brown. Motion passed without dissent.

II. Approval of January 30, 2018 Committee Summary

Motion by F. Brown to approve the January 30, 2018 Budget, Finance & Economic Development Committee Summary. Seconded by Farmer. Motion passed without dissent.

III. Financials Update – January 2018

Commissioner O'Mara gave a presentation of the FY18 January financials. Unemployment rates continue to be very good news. In December, the USA unemployment was at 4.1 compared to 4.1 in November. Kentucky was at 4.4 compared to 4.7 in November. Our MSA was 2.9 in December compared to 3.2 in November and Lexington was 2.8 compared to 3.1. We were up in Permits issued, 914 versus 876 at the same time last year. Business License, there were 219 issued in January 2018 compared to 201 a year ago. Home Sales were slightly below at 728 compared to 776 at the same time last year. Foreclosures were at 21 compared to 27 the year before. Comparing to prior year, we are flat to prior year. Two of the four are below prior year.

Rusty Cook, Director of Revenue, gave a presentation of the January Top 4 revenue sources, Employee Withholding, Net Profit, Insurance and Franchise Fees. The top 4 are slightly below budget by .3%, $500,000. They look at a 3 year average of the budget to come up with the budget number. Employee withholding is flat. Net Profit is up $906,000. We've had increases in some estimated payments and extensions coming in. Insurance is an example where we budget based on history and payments are coming in the next month. Franchise Fees is flat to budget. Comparing to prior year, we are flat to prior year. Two of the four are below prior year. Net Profits shows a strong growth of 2.7, a bounce back from prior years. Franchise Fees shows up $643,000.

Melissa Lueker, Director of Budgeting, presented the remaining revenues and cash flow variances for January. The bottom line of the revenues didn't change much from the Top 4. The variance shows under budget a little more than half million dollars for the first seven months of the year. In Services, Bed Fees are still up but EMS Fees are tracking down as well as Excess Fees & Collections. The rest of them are real close to budget. In expenses, Personnel is over budget through the first seven months by $900,000. It's primarily due to our health insurance. The health insurance subsidy for the year has already been spent. They are working closely with the consultants to track it. The payouts for sick checks in January came in under budget. The Operating Budget has a $6M variance year to date due to variances across the government in Professional Services, Supplies, Equipment, Repairs & Maintenance, all of the various operating accounts. She thinks we will see some of that variance go away as we get toward the end of the year. This is the first year that divisions have spread out their budgets on a monthly basis so it has been a learning year. Insurance and Debt Service are close to budget. Capital is at budget. She explained the negative variance in Transfers – there will be a transfer coming over from MAP Fund to pay the debt service for the paving bill that occurred in 2013. The transfer hasn't happened yet. Once it does, that line will net back out. For the first seven months of the fiscal year, we have a change in fund balance of $4.3M.

Moloney says Personnel is a lot better now than it was this time last year. He asked if we look at health insurance in the next 5 months and compare it to last year and try to average it out. Lueker said she's worked on comparing our medical and pharmacy claims year over year from FY17 to FY18 and has projected that out for the rest of year based on the increase the first 7 months. She's looking at it on a monthly basis, updating the Administration on a monthly basis when she gets the actuals from Accounting. We're tracking about $200,000 a month increase just on the pharmacy and medical claims lines. Moloney asked what a good number is to stay within budget on Operating. Lueker said she thinks the large variance right now is due to the new software being able to create monthly budgeting. Divisions were asked to enter their budgets on a monthly basis as to how much would be spent. They're used to entering an annual amount and not thinking ahead to monthly expenses so it's a big learning curve.

Farmer said he thought that Partner Agencies would balance out with the budget at year end. Lueker said it should. Farmer said Operating has dropped down and asked if we were trying to make savings. Lueker replied that we have not placed a freeze any operating.

Lamb asked what percent of our revenue is our total current fund balance. She said that back in November, O'Mara talked about the current fund balance being 19% of our total revenue. O'Mara said that was as of June 30. That occurs when they do the CAFR. They do the accruals and have all of the revenues and expenses matched up. That analysis occurs as fiscal year end. Lamb asked if it wasn't something that's tracked during the fiscal year. O'Mara said no. Lamb continued that O'Mara has said that once it gets closer to 15% it becomes concerning. O'Mara said that's a metric that the Bond Counsel and Moody's and Standard & Poor's take a look at to evaluate when we issue bonds. Lamb said that with the new bond resolution, going forward if we increase our bond debt to $1.5M how will that affect the bond rating. O'Mara responded that as revenues go up, your percentages change. So you're looking at what your total revenue base is and that's at each June 30. Again, that's the time we do the analysis.

F. Brown asked if the $4M in fund balance as reserved would be used if we need money. Lueker replied yes, if we choose to go that route. We will try to manage our other expenses to make up for that deficit rather than having to use that fund balance. Brown asked if the $4M was a cushion that they're not anticipating using. Lueker said that we don't know at this point. Brown said Lueker just stated that they couldn't almost project on the health cost for the next five months being maybe an additional $200,000. That's $1M so you could be theoretically at a $2M variance in personnel if we're projecting out the numbers that she's talking about. I realize that you've got that $4M set aside for that particular line item but if you come to these other expenses and make up the difference……to ask the question in another way, how important is it to keep that $4M in reserve instead of putting it in General Fund or unassigned funds. O'Mara responded that he would argue very important. We work with the consultants who have data for lots of employers, whether it's governmental or private enterprise, that have self-funded health insurance. They're the ones who recommend what that reserve should be. The first opportunity to use it is in cash flow. If we have in one month large, large claims that we have to pay then we would look to that for cash flow and pay it back from future cash flow. For managing in a current year our goal is always for revenues to be equal to or greater than total expenses. If we have an overage in one category we hope we can make that up with savings in another category so that when the financial statements are presented at the end of the year our revenues are equal to or greater than our total expenses. If we cannot achieve that, then we would go to the reserve to cover the overage in the personnel caused by health insurance. Brown responded that at best the $4M may be used partially if necessary but what we're seeing now, actual to budget for seven months it looks pretty good that we can close the year out and not use that $4M. Is that a fair assessment? O'Mara said that's our hope. We were able to manage through it last year by using savings in other categories. We're hoping we can manage through in the same way this year. Brown asked if they were going to work on whether to keep the $4M in the budget for next fiscal year. O'Mara said he would have that conversation when we have the financial statements and also working with our consultants as to what they think a reserve as a percentage on our total health insurance claim should be. O'Mara continued saying that he thinks our health insurance fund is about $28M so we're looking at a percentage of that total as our exposure. Then we go into recommending what we have as a reserve.

Plomin asked about the 45% off in the Investment Income line. Lueker responded that it's an accounting entry that has to be made. So if we were to close out things that would be what we'd have to take a hit on our books. We have to have it in here but it's really not an actual number. It's basically an accounting line.

Lueker continued that we are slightly ahead on revenues for this fiscal year versus last fiscal year. On the expense side there is an increase over FY17 which we had an increased budget.

Stinnett asked at what percentage we're at in our Economic Contingency. O'Mara said that he thinks we're close to the 10% but he'd check. Stinnett has that when he provided the percentage to also provide the balance.

No further action or discussion on this item.

January 2018 MTD Actual Compared to Adopted Budget

Revenue Category	Actual	Budget	Variance	%Var
OLT- Employee Withholding	12,345,921	11,831,204	514,717	4.4%
OLT - Net Profit	2,765,964	1,347,804	1,418,160	105.2%
Insurance	2,502,586	3,698,081	(1,195,495)	-32.3%
Franchise Fees	2,588,097	2,029,395	558,702	27.5%
TOTALS	20,202,568	18,906,484	1,296,084	6.9%

January 2018 YTD Actual Compared to Adopted Budget

Revenue Category	Actual	Budget	Variance	%Var
OLT- Employee Withholding	108,099,567	107,889,944	209,623	0.2%
OLT - Net Profit	15,080,140	14,173,869	906,271	6.4%
Insurance	17,971,118	19,495,219	(1,524,101)	-7.8%
Franchise Fees	14,187,271	14,293,906	(106,635)	-0.7%
TOTALS	155,338,095	155,852,938	(514,843)	-0.3%

2018 Fiscal Year – Cash Flow Variance Revenue (Actual to Budget)

For the 7 months ended January 31, 2018				
	Actuals	Budget	Variance	% Var
Revenue				
Payroll Withholding	108,099,567	107,889,944	209,623	0.2%
Net Profit	15,080,140	14,173,869	906,271	6.4%
Insurance	17,971,118	19,495,219	(1,524,101)	-7.8%
Franchise Fees	14,187,271	14,293,906	(106,635)	-0.7%
Other Licenses & Permits	3,686,711	3,561,550	125,161	3.5%
Property Tax Accounts	21,289,816	21,080,989	208,827	1.0%
Services	12,412,160	12,731,629	(319,470)	-2.5%
Fines and Forfeitures	120,482	139,543	(19,061)	-13.7%
Intergovernmental Revenue	174,882	216,049	(41,167)	-19.1%
Property Sales	172,291	116,667	55,624	47.7%
Investment Income	165,405	301,496	(136,090)	-45.1%
Other Income	1,839,451	1,741,248	98,203	5.6%
Total Revenues	**$195,199,292**	**$195,742,108**	**($542,816)**	**-0.3%**

2018 Fiscal Year – Cash Flow Variance Expense (Actual to Budget)

For the 7 months ended January 31, 2018				
	Actuals	Budget	Variance	% Var
Expense				
Personnel	126,461,333	125,543,120	(918,213)	-0.7%
Operating	26,192,961	32,233,681	6,040,720	18.7%
Insurance Expense	1,118,961	987,786	(131,176)	-13.3%
Debt Service	24,685,051	24,707,903	22,852	0.1%
Partner Agencies	12,091,834	13,225,937	1,134,103	8.6%
Capital	1,421,822	1,527,154	105,332	6.9%
Total Expenses	**$191,971,963**	**$198,225,582**	**$6,253,619**	**3.2%**
Transfers	**2,852,741**	**1,524,789**	**(1,327,952)**	**94.2%**
Change in Fund Balance	**$374,588**	**($4,008,263)**	**$4,382,851**	

Comparison of Economic Indicators 2016/2017

Economic Indicators		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Fayette County	2016	4.2%	4.3%	4.1%	3.3%	3.6%	3.9%	3.8%	3.3%	3.4%	3.3%	2.9%	3.1%
Unemployment Rate	2017	4.0%	3.9%	3.9%	3.6%	3.6%	4.4%	4.5%	3.9%	3.2%	3.2%	3.1%	2.8%
	2018	N/A											
Quarterly Fayette County	2016	-	-	188,039	-	-	192,063	-	-	194,300	-	-	196,500
Employment	2017	-	-	191,760	-	-	193,700	-	-	N/A	-	-	N/A
	2018	-	-	N/A	-	-	N/A	-	-	N/A	-	-	N/A
Fayette County Permits Issued	2016	937	1,206	1,510	1,631	1,453	2,071	1,042	744	860	737	742	721
	2017	876	739	924	899	1,357	995	1,207	1,283	1,054	1,053	994	965
	2018	914											
Fayette County New Business	2016	203	248	445	564	658	299	173	260	219	231	211	153
Business Licenses	2017	201	253	418	468	621	328	206	281	205	247	213	140
	2018	219											
Home Sales (MSA)	2016	640	773	950	1,139	1,313	1,419	1,230	1,338	1,155	1,050	1,012	1,081
	2017	776	794	1,060	1,067	1,411	1,428	1,353	1,311	1,084	1,115	951	1,000
	2018	728											
Fayette County	2016	22	36	25	27	31	21	26	40	14	31	31	16
Foreclosures	2017	27	17	16	19	16	17	20	22	19	16	26	16
	2018	21											

N/A indicates information not available.
BLS Release Dates for Fayette Co. Quarterly Employment - 6 months after quarter end

FY18 Code Enforcement Nuisance Abatement/Lien Collections

Month	Administrative Collection Fees		Miscellaneous		Penalty & Interest		Total Collections	
	FY 2018	FY 2017	FY 2018	FY 2017	FY 2018	FY 2017	FY 2018	FY 2017
July	825	225	603	253	6,936	15,545	8,364	16,023
August	1,125	1,125	1,711	802	35,892	10,163	38,728	12,090
September	800	545	1,260	2,153	55,540	71,112	57,600	73,810
October	375	1,275	536	2,132	50,654	39,069	51,565	42,476
November	525	975	1,664	962	40,359	27,457	42,548	29,394
December	600	300	572	1,456	31,407	48,596	32,579	50,352
January	424	525	1,832	2,230	56,185	43,903	58,441	46,658
Totals	4,674	4,970	8,178	9,988	276,972	255,845	289,824	270,803

IV. Review of LFUCG Funds

Wes Holbrook, Administrative Officer Sr. in the Department of Finance presented this item. This is a high level overview of what these look like.

LFUCG maintains more than 60 separate funds that carry a balance from year to year. They are broke up into seven different categories and each category has different parameters. The broad categories are: General Fund, Urban Services, Special Revenue, Capital Projects, Proprietary Funds, Internal Service Funds and Fiduciary Funds. General Funds are the main funds we use for most government expenditures. The deals with our 1101, our main fund, whenever we talk about fund balance. It includes the Capital Projects Fund that Council has allocated money to during fund balance discussions. It also includes Jobs Fund, Affordable Housing and Homelessness.

Urban Services Fund is funded by property taxes based on the type of service available to property owners in specific areas. The services are solid waste collection, streetlights and street cleaning. The property taxes that generate revenue in those areas can be used to finance only those services.

Special Revenue Funds most typically are some sort of state revenue and they're legally restricted for specific purposes. Examples are County Road Aid, Municipal Aid Program, Coal Severance and Public Safety Funds. There are very specific uses for those funds.

Capital Projects Funds are typically seen in our bond accounts. They can be used for major capital facilities and equipment. All of our bond project funds fall under this as well as Public Library Funds and Exaction Funds.

Grant Funds are state and federal funds that are restricted for a very specific purpose.

Proprietary Funds are for government facilities and services which are entirely or mostly self-supported by user fees. Examples: Sanitary Sewer, Water Quality, Landfill and E-911. They're revenue generating funds. People pay a fee for the service and those fees go to the expenses to have that service.

Internal Service Funds include our Insurance and Risk Management Funds and Fiduciary Funds include City Employee Pension Fund and Police & Fire Retirement Fund.

Holbrook continued, saying part of what CM Henson asked for was to review which funds hadn't been utilized. In looking at funds as of the prior fiscal year that had a fund balance and didn't have any expense activity in FY17, we identified this group of funds (1102 – Family Care Center; 1116 – Urban Services Construction; 1134 – Spay & Neuter Fund; 1135 – Industrial Revenue Bond; 2000-2008 – Exactions; 2502 – Cultural Center & Civic Center Expansion; 4004 – Expansion Area Sanitary Sewer; 4023 – PFC Construction; 4122 – Landfill Construction; 4161 – Public Parking Corporation; 4206 – Small Business Development). These go across our different categories for funds. They didn't have any expense activity in FY17 per the CAFR. All of the funds, outside of General Fund, typically have some sort of restrictions as to their use based on revenue source, state law or ordinance.

J. Brown commented that when Holbrook was referring the Special Revenue funds, he stated that they it is legally restricted for specific purposes and asked if any of the other 6 funds were legally restricted as well. Holbrook replied that they all would have restrictions outside of the General Fund. For instance, in our Capital Projects, where most are bond issued funds, they would have restrictions in the bond covenants of what those could be used for. Brown continued that the Coal Severance Fund seems like a pretty restricted, dedicated fund but he remembers Council relocating money from those fund to fund other things. He asked what empowers the Council to do that. Holbrook said we get an allocation from the state and there are parameters that the state sets, he believes it's by statute, that establishes what that can be used for. With Coal Severance specifically, we've used that for transportation infrastructure and paving as well.

Kay referred to the slide showing the balance of funds, stating it looks like these are funds that haven't been active for a year. Holbrook said that's correct. We would have to go back through to confirm that for FY18 but for FY17 there was no expense activity in these funds, there may be revenue activity. Kay asked if it would be fair to say that the reasons why they'd be inactive might vary from one to the other, it's not always the same reason why nothing is happening. Holbrook replied that's correct. Kay asked how the Administration thinks about those funds. Are they to keep sitting there in case they're needed? Are they to be included in future budgets? There are a fair number of these and they may vary but can you talk generally then maybe a little more specifics. Holbrook said generally when they're putting together a budget they would look at all funding sources and all requests based on what may be appropriate usage. That's an exercise we go through every year. Kay responds that those funds could be included in the FY19 budget. Holbrook said yes, if there is a request that is appropriate for that funding source. Kay said tell me about Exactions. Why is there that amount of money in there and what is the thinking is about what that might be used for? Holbrook replied that Exactions are very specific and is one that probably wouldn't be considered. Exactions if specific to the Exaction Program to put in public infrastructure in the expansion areas that we expanded in 1996 outside the Urban Service area. Those are collections that we've had through the Exaction Program and also serve for the credits on that program as well. Kay said so those exactions are based on the development on those properties and those funds, as he understood it, were to be used to defray the costs of infrastructure for those developments. Holbrook said yes. Kay continued by asking that we have $3.3M that hasn't been used? And is Sanitary Sewer the same deal? Holbrook said correct. Kay said we haven't expended those funds on infrastructure because developments have not occurred out there yet? Holbrook replied that we collect funds as plats are developed. Some of those funds are spent down when a developer comes to get a building permit, for instance. Kay asked if the anticipation for those two is that at some point the developer is going to come forward and say "I need some of those funds for what I'm developing". Holbrook said they would be able to use some of those funds that they may have paid for a credit on the building permits. Kay said how about Public Parking Corporation. Holbrook said in the fall the Public Parking Corporation had been on our books for a while and the corporation was dissolved. Those are funds remaining from the dissolution of the corporation. Several years prior to the, Lex Park separately managed all of the capital assets for parking garages. Kay asked if it's fair to say that those fund available for other uses in the upcoming budget. Holbrook said we're evaluating all of the final funds and what the restrictions may be just to make sure. That's one that we're confirming what other restrictions there may be. Kay said as we go through the FY19 budget process, can we get an update on those funds and whether or not they've been allocated in the FY19 budget? Holbrook said yes. Kay continued by requesting what funds that have not been allocated and might be available for other uses.

Moloney referred to the Public Parking Fund. He understands that there is nothing out there so this money would go back into the General Fund to be used in the FY19 budget. This program no longer exists. O'Mara said on that one specific, they're still doing due diligence to find out what areas these funds could be used for or could be released for. He can't answer until they've finished that review. Same thing with Family Care Center and Small Business Development. Moloney said so those funds came out of General Fund. O'Mara said they're not General Funds. These are specific funds that had a history. We have to go back and make sure that the activity does not have future hooks for us to have. Once we find that out, then we can test whether another use of that is an appropriate use of the funds or not. Moloney asked what funds that would have come from. O'Mara said this would have come from activity when we ran the parking and whether it was on-street or off-street. Moloney said so we would get money from that account. O'Mara said that's right. Moloney asked if the Family Care Center was money we were getting from the state for certain programs. O'Mara said it could have been for services rendered, reimbursements from Medicaid/Medicare. Whenever you have federal funds involved, we have to make sure that the use of the future funds all meets all of the criteria that we may have. Moloney said he understands that Exactions for parks if we want to buy greenspace. O'Mara said they the city has liabilities that equal these amounts. Moloney said he's still a confused on the Expansion Area Sanitary Sewer. Holbrook said its part of the Exaction Program. Moloney asked for an example. Holbrook said the Exaction Program is broke up into two pieces: the sewer piece and the non-sewer piece. This is the other side of the Exaction Program. Moloney asked if we had ever used any of the Exaction for the sewer fees. Do we have an example where someone has come in and asked for money? Holbrook said there are examples where developers have put in sewer infrastructure and generated the exaction liability but, as far as a draw down, per the CAFR there wasn't any in 2017. There may have been in prior years but they would have to look. Moloney requested information and examples where someone has drawn it down.

F. Brown said "very interesting". We should get from the Administration, as quick as possible, how we can take any of those funds and put them into General Fund so that we can then deal with the General Fund which is what we're all accustom to doing. Until we get those out of that fund, close those funds if you don't need them, we don't need all of this information or these fund balances. If we can close some of those, it's better record keeping. If you determine they're not needed anymore, put the money in General Fund and let the Council know that and we can deal with that General Fund because everybody keeps crying about our fund balance being low. We're not going to have enough for pensions or we're not going to have enough for health expenses. The Administration is finding some money. We just need to deal with it and try to prioritize some of our expenditures and we have some priorities within our districts. I would hope that as soon as possible we could get rid of some of those accounts and get it moved over to General Fund.

Henson asked about the Parks Acquisition Fund which is not listed. Where would you find it? Holbrook replied that it's in the Proprietary Funds under the PFC Parks Projects Fund. It's a subset of that fund. Henson asked how many of these funds have subsets. Holbrook said a few. That's something he can look into. Henson asked if the funds originated by ordinance or KRS. Holbrook said it varies by fund. Henson requested that Teresa Grider, Budget Analyst Sr. for the Council Office, look into the history of the funds and if we can get the specifics for their uses. Henson asked if the balance shown for the Family Care Center was set aside for something in particular. Holbrook said we'd have to go back and look at it. Henson said if we could do it for just these funds and any of the listed subsets. She agrees with CM (Fred) Brown, there's no need in having the funds just sitting there unused. She knows the Family Care Center has needs.

Lamb referred to the Industrial Revenue Bond and the Small Business Development Fund. She said she saw in other notes that the Small Business Development Fund has federal restrictions but she doesn't know about any in the Industrial Revenue Bond. She would think that these two would need to be streamed into the Jobs Fund for our Economic Development Investment Board. She thinks those funds align more with job creation and would like to see, if those funds can be rolled over, be rolled in that capacity. She further stated that we need to be careful when we start talking about closing funds. There's a lot of research that has to go in to that.

Evans said there seems to be a lot of research to be done. She thinks that there may be some creative uses for these funds. She asked if the intention was for this item to stay here before any of it is used in this coming budget or is there a plan to use this for the upcoming budget. Holbrook said when we put the budget together we look at all of the requests and available funds. We'll occasionally match funding to what the request may be. If there are any that are appropriate to use in a budget request, we may look at that. Evans asked how quickly they can get the intentions and purposes of these funds. If it's something that can just be freed up, she doesn't think she would like that. She'd like the money to be used for something closer to the intent as opposed to being thrown back into the General Fund. Is there a way to get the information sooner rather than later? Holbrook said that they have just begun budget hearings and we're in the middle of preparing the Mayor's proposed budget at this time. It's a huge time restriction but we can see how quickly we can put something together. Evans said she's referring to this request – how feasible all of this because when we know we've got budget issues and this is money that potentially can be used. If not for CM Henson asking the question, she's not convinced any of them would have known all of this is here. Now that we're aware, I think we have a responsibility and duty to pay more attention to it. I think we need to know as much about these accounts as we can. Holbrook responded that one piece of this is that these funds are fairly old and predate a lot of electronic records that we have through the Clerk's Office. Unfortunately, that is another hindrance to getting this information quickly. Evans said she would ask them to do their best because she thinks we still need to know especially when you're looking at something like the Family Care Center. Somebody's going to ask where's that money going and if we just put that back in General Fund, that's not going to look good for anybody.

(Lost broadcasting at 57:53, returned at 58:58.)

Henson responded to Evans by saying that she had spoken with Grider and would work to get the information associated with the funds.

Stinnett said it was his understanding that there hadn't been any money taken out of the Park Acquisition Fund. He asked Holbrook if $214,000 came out of the fund last year. Holbrook said it came out of the fund where the Parks Acquisition Fund is housed. Whether it was designated for parks acquisition, he'd have to check. Stinnett said it should be housed separately since it's a revenue generating fund that gets revenues from building inspection fees. So what else would be in there? O'Mara said the most recent activity in that was the park out south of the county and the purchase of golf carts. We'll go back and double check. Stinnett stated he didn't see the Economic Contingency Fund on the list. Holbrook said it's a subset of the General Fund. Stinnett asked if it was the very first line, 1101. Holbrook said yes. Stinnett commented that on the Exactions line item. Derek Paulsen, Commissioner of Planning, is working on this. It's actually close to the amount that is owed to somebody who has paid into the program but hasn't received their credit yet. It's in expansion areas 1, 2 and 3. The sewer piece is still available for sewer expansion in those areas that don't have sewer yet that are in the boundary. Stinnett thinks there is a big project that Charlie Martin, Director of Sanitary Sewers, will be using those funds for. Both of the funds are already earmarked for use. As your negotiating with the expansion folks who own the land, you can't expend the money until you reach an agreement. The Small Business Development we can't use because it's federally restricted. There are some heavy handcuffs on that one. His concern is the Landfill Fund. Holbrook said Water Quality, Sanitary Sewer, Landfill and Urban Services are paired funds so they have their operating fund and a construction fund. The Landfill Construction fund pairs with the Landfill Operating fund. Stinnett asked if the overall Landfill Fund has $37M in it. Holbrook replied that's the balance of that fund as of June 30, 2017. Stinnett asked if the $12,000 in the Landfill Construction could be for anything. Holbrook said capital related directly to landfill. Lueker said a couple of years ago, while working with James Bush on the Energy Improvement Fund, what they do is capture the savings, put them back and reinvest them. We had to create construction funds to go along with all of our major funds in order to put this energy improvement funding there. This money is staying there until it gets built up until he can do another project with that from the savings. Stinnett said the $37M in Landfill and $28M in Water Quality, is that from the $4.59 water quality fee? Is that how it's being built up? Holbrook said yes, that's how those are generated. Stinnett said those are large fund balances. He assumes we have programming or projects to utilize that money. Holbrook said in 2017 for Water Quality as an example they have a $28M fund balance but there's also over $9M in expenses. So those are very active funds. Stinnett said he'd like to see the statute that created the Landfill Fund and what exact uses we can use that for because that's a large fund balance sitting there. The garbage fund is in there, too. He'd like to see more detail on those uses.

Moloney said going back to some of the things he has concerns about. Stinnett talked about some of things that can't be touched. We have to pay garbage pickup and some people don't have it. We have extra money and it goes only to the people who have garbage pickup. When you look at Public Parking, that money came from people parking downtown. From a legal standpoint it's going to be said that money can be used only for parking. He doesn't think it can just be thrown into the General Fund. Then the Family Care Center fund, if the money came from the state to help those students/folks, even if the program has now been taken out, it can only be used for the Family Care Center. It isn't going to be as simple as everyone thinks it is to just throw all of this into the General Fund. You can close out these accounts and zero them out but you're going to have to find the rules as to what that money was for.

No further action or discussion on this item.

V. EPAD Draft Ordinance

Stinnett introduced this saying it was an item that the committee voted to have an RFP established.

Holbrook said an RFP was issued and evaluated. The next step in order to put a contract in place is an actual EPAD ordinance authorizing the program. This is the next step that needs to happen is this ordinance being adopted by Council or an ordinance substantially similar to this. Stinnett asked about the results of the RFP. Todd Slatin, Director of Purchasing, said we received three proposals – Energize Kentucky Group from the Northern Kentucky area, the Fayette County Sheriff's Office and the Fayette County PVA. Energize Kentucky was selected as the prime for this agreement. They had the most experience in the marketing aspect of it. The Fayette County Sheriff's Office was chosen for the collections piece. Stinnett asked if an agreement had been reached with everyone. Slatin replied that we need to formalize the ordinance before we finalize the agreements with the other entities.

Kay said there was some extensive conversation about the fee that would be charged for collecting the fees. It appears that there have been strike outs and additions. He asked how it would be calculated and what the thinking is. Slatin said the state language really dictates what the fees can or can't be. They basically copied the state's fee arrangement. David Barberie, Attorney in the Department of Law, said the strike outs in the packet reflect getting the ordinance closer to state law. When this first came up, the only ordinance we were familiar with was in Louisville. They had put some extra restrictions in their ordinance which really aren't legally necessary. We're trying to have it model the state law as closely as possible. He's not certain that there's been an actual agreement reached on the fee. That wouldn't be included in this portion of what's being done. That would be in the agreement with the Sheriff's Office and us or with the Sheriff's Office and the entity that's going to do the marketing on the project. If you want to go forward with doing this, we would recommend you adopt an ordinance to go ahead and get it started. Hopefully soon, Council will have an actual agreement to consider on moving forward with the management of the program. Kay said it looks like there is language in the ordinance that is fairly specific about fees. What you're saying is that's not…Barberie asked which language Kay was referring to. Kay replied that he was looking at what's in the packet, referring to "commission for the collection of the assessment by the Sheriff shall not exceed the actual costs incurred". Barberie said they struck out all of the language after that and indicated when the timing of the collection would be. Kay asked if the actual fee will or will not be negotiated. Barberie said the fee will be negotiated. We didn't want to put it in the actual ordinance because it's going to be negotiated. We put the legal restriction that is in place in the state statute in the ordinance. Barberie is not aware of the fee being determined at this point. That remains to be determined during the negotiations between the Sheriff's Office and the management entity on this. Kay said so the issues like the question of how the cost would be accounted for and those kinds of things would be included in a final agreement? Barberie replied yes. Kay continued by asking if that final agreement comes back to the Council. Barberie said yes. Two steps – you'll have this ordinance first to put it in place, the parameters of the program, then the Council would have the actual agreement with the more specific details put in front of you at a later date for consideration.

Farmer said this has more or less been rewritten to follow the example of the state's….Barberie said to more closely track that, yes. Farmer asked if we consider it ready to move forward here. Barberie said yes. In our opinion, you could go ahead and adopt the ordinance as changed and that would be your starting point to get this program off the ground.

Motion by Farmer to approve of the EPAD Draft Ordinance to the full council for approval. Seconded by Kay. Motion passed without dissent.

J. Brown asked what some of the deciding factors were in selecting the Sheriff's Office instead of the PVA. Slatin said the standard process was used where we come up with criteria like experience, past successfully completed projects, that type of thing. We felt like the two entities combined had everything that we wanted to be part of this program and the PVA was kind of the outlier there.

Public Comment was given by Luke Morgan of McBrayer Law Firm on behalf of the Fayette County Sheriff's Office with Sheriff Kathy Witt in attendance. He asked that the Council not insert the language under Section 8, page 5 of the proposed ordinance and leave the language as it is currently. They realize no ordinance had been passed but when it says that it shall not exceed 1% as opposed to the actual costs incurred. KRS 65-207 Subsection 4 talks about the imposition of an assessment, the assessment shall be collected and distributed by the Sheriff in the same manner as the other taxes on the bill. It's not distinguished between actual costs and percentage. It says do it the same way you do all of the other assessments and taxes and that make sense. KRS 134.119 Subsection 6 (a) talks about what the Sheriff's Office can do. They're all the same essentially whether it's a state or a county tax it's up to 4.25%. The third section talks about the taxing districts and he thinks EPAD is a taxing district. It says that the Sheriff shall be compensated by law as negotiated if negotiation is permitted. The point is there is no language talking about actual costs. Other statutes dealing with how the Sheriff's Office can collect, there's one dealing with school taxes that talks about not less than 1.5% but no more than 4%. The Legislature has in its mind that the Sheriff's Office should be allowed to collect these percentages rather than actual costs. In Jefferson County, 1% is what the Sheriff's Office is allowed to do. Bowling Green doesn't use the Sheriff because it's the city but they say that's a 1% assessment fee. Trying to determine actual costs is very difficult. You all spent a considerable amount of time a few minutes ago looking at all these other funds. To the fairness of the collecting office, when they're required to put all of these assessments on the bill, trying to say the EPAD assessment costs this but the school is going to be that. It's not done that way for a good reason and that's why the state legislature as well as our other neighbors has done these with percentages rather than actual costs. It's important to keep in mind and address the reasons that the Sheriff's Office was awarded this part of the RFP. They have a sterling record. Last year, a 99.55% collection rate; so far with two months left to go they're at 98.9%. On behalf of the Sheriff's Office we ask that they be allowed to continue to do this and they do so with this structure based upon a 1% as opposed to an actual cost which is going to be very difficult to determine. We ask that the language in the proposed ordinance as it pertains to the 1% versus actual cost that it not be done.

Kay asked Barberie are we or are we not setting rates when we look at this ordinance. Barberie replied that he thinks the confusion is that we're looking at two different parts of the statute. We're looking at a restriction in a different part of the statute, 65.206 that indicates what we're allowed to do on the program. There's language saying that we can impose fees to do this but those fees cannot exceed the cost of services performed. That's where we're getting the language to put in the ordinance. He doesn't think doing it that way precludes this issue from coming up if it's a legitimate issue under another part of the statute. He thinks the concern with putting a rate in there is going to be that you're then stuck at that being your minimum base point of what you're going to do going forward. He doesn't know enough about these programs to know whether that creates an obstacle to getting one of these loans from a private entity or not. There's an argument that the more the administrative costs are to doing this program the less inclined someone's going to be to use it versus going a traditional financing route. We were simply trying to leave it so that could be whatever ends up being negotiated versus putting it in the ordinance. Barberie doesn't think it's legally necessary to have the 1% in there. Kay responded that the ordinance that would come back to Council would include language that specifies what the fee will be? Barberie said the ordinance that's in front of you won't if you take the draft in front of you. He believes they're going to have to have the fees established as part of the management/collection of this program as some point in time. That's going to be back in front of you when you're approving those. Kay said there will be a final agreement that comes back to us….. Barberie said the rates will be in there somewhere, yes.

Lamb asked when Barberie anticipates having a second phase/ordinance to come forward to Council. Slatin replied that it's hard to say. We've worked on an agreement to some extent but we wanted to take a step back, get this resolved and then get back on the agreement. He thinks within a month they could have something back to Council that would be the resolution accepting the agreement with these other entities.

J. Brown said the way that its' written now, whoever does the collections can only charge, based on what we negotiate, the cost of what it costs them to collect the fee. But if we put 1% or a range from 1 to 4, it gives whoever collects an opportunity to potentially profit from it. Do I understand what we're talking about correctly? The other question is in the RFP process, how was this addressed? How was the fee of collection factored in to the application? Barberie responded that he wasn't involved in the RFP selection process. Any time you put the actual fees in here you have the danger of that becoming your fee even if it ends up being a lower amount. If the 1% ends up in there, he thinks it will be 1% no matter what even if it could be a lower amount. He suspects in order for this to come together based on what the Sheriff's Office is saying, if it's not 1% they're going to have heartburn with this and it may take us a while to get these back in front of you for final approval. That issue has to be worked out. Until that issue gets worked out with the Sheriff's Office, in his opinion, these agreements won't be back in front of Council. Brown said with part of selecting the Sheriff's Office over the other applicants, was the rate that they proposed part of what factored in to their selection. Slatin replied that it was like many RFPs; competitive bid telling everyone to give us a lump sum. It's very easy to compare prices. With requests for professional services it's more of a gray area but the fees were not an issue from their perspective in making the selection. Everyone was comparable.

Stinnett asked Barberie how do we know what the Sheriff or whoever it may be is computing actual costs? How do we know what they are? How would they prove that to us? Barberie replied that that was a good question. There isn't a great answer to that. It's going to have to be negotiated and put in the agreement. He thinks there are models of this program where the involvement of the Sheriff's Office is De Minimis because my understanding of the model that the preferred vendor would like to use is like a bank loan. He thinks the payment would be made to the bank that actually lent the money, the Sheriff would be looped in on that and be required to send the notice in the tax bill because that's part of the legal requirement. Stinnett commented on why we wouldn't go ahead and do the 1%. The program doesn't work if we do more than 1%. Barberie said he doesn't have a problem with putting 1% in there. He doesn't know what practical problems that might cause if 1% ends up being the difference in someone taking one of these loans or not. I'm not an expert on it so I don't know. He's also not going to assume that the Sheriff's Office will do it free. Stinnett said that being uniform across the board, whether a big project or small project, it's know what the expectation is for payment. If we do actual costs, it's going to be hard to determine and we don't have any way to enforce that. He would be more comfortable with the 1% in there.

Motion by J. Brown to amend, reverting to the original language in Section 8 (page 5) (add the 1% back into the ordinance). Seconded by F. Brown.

Kay said the original language still leaves the actual fee to be charged to be negotiated, shall not exceed 1%, but shall be based on actual costs however that's determined. Is that correct? Barberie said that's technically true.

Lamb asked where the original language came from. Barberie said they copied Louisville's ordinance. The 1% is not unusual. There are several instances where 1% is in the ordinance.

Motion passed with 8 - 1 vote, Farmer voting No.

VI. Items Referred to Committee

No action or discussion of this item.

Motion by Farmer to adjourn. Seconded by Kay. Motion passed without dissent.

The meeting adjourned at 2:29 p.m.

TG 3.6.18