Fayette Fiscal Court Meeting Minutes 6/05/2025

Location: Pam Miller Downtown Arts Center, 141 E. Main Street, Room 301, Lexington, Ky.

Present: County Judge/Executive Mary Diane Hanna, District 1 County Commissioner Brian Miller, District 2 County Commissioner Alayne White, District 3 County Commissioner David Lowe, Susan Lamb (Fayette County Clerk), Meredith Watson (Fayette County Deputy Clerk), Angela Evans (Fayette County Attorney), John Hayne (Fayette County Attorney), Nancy Albright (LFUCG Dept. of Environmental Quality & Public Works), Andrew Grunwald (LFUCG Dept. of Environmental Quality & Public Works), Doug Burton (LFUCG Div. of Engineering), Rob Allen (LFUCG Div. of Streets and Roads), Mark Feibes (LFUCG Div. of Engineering), Scott Gabbard (LFUCG Div. of Engineering), Patrick Jorgensen (LFUCG Div. of Engineering), District 12 Councilmember Hil Boone, Olivia Lasheen Grigsby (LFUCG Council Office, District 12), Valarie Spears (Lexington Herald-Leader), Samantha Valentino (WKYT), Kiley Hill (Fox 56), Keith Yarber of 1850 Clear Lake Dr., Taft McKinstry of 1957 Hillgate Dr., Lyle S. Hanna of 6398 Old Richmond Rd., Adrian Bryant of 1200 Unity Dr., Jon Larson of 215 W. Short St., Devon McVey of 371 Short St.

1:32 p.m.: Ms. Hanna called the meeting to order and welcomed everyone present. She noted the quorum present.

Ms. Lamb read the following Notice of Special Meeting: The Fayette County Clerk's Office posted on the website the Fiscal Court agenda seven days prior to the meeting, posted signs of the meeting in the County Clerk's Office, published in the Lexington Herald-Leader virtual newspaper twenty-four hours prior to today's meeting, and issued a press release that was distributed to the main media outlets on Monday, June 2, 2025.

Mr. Lowe made a motion, seconded by Ms. White, to advance item #3 under New Business, Consideration of the Fayette County School Board Resolution No. 01-2025, on the agenda and place it directly after the approval of the Minutes.

Mr. Miller stated his recusal from this vote and all votes and discussions pertaining to the Fayette County School Board Resolution 01-2025 based on his employment with the Fayette County Public Schools.

The motion passed by a vote of 2-0, with Mr. Miller recusing himself from the vote.

Approval of Minutes. Ms. Hanna asked if everyone had reviewed the Minutes of the May 8, 2025, meeting, and asked if there were any corrections to be made. There were none.

Ms. White made a motion, seconded by Mr. Lowe, to approve the Minutes of the May 8, 2025, meeting. The motion was approved by unanimous vote.

Ms. Hanna made the following statement regarding New Business Item #3, Consideration of the Fayette County School Board Resolution No. 01-2025: Given the Attorney General's opinion that was issued on June 4, 2025, (Exhibit) and upon advice of the Fayette County Attorney, the Fiscal Court could not address this matter as it was presented. Since this was a special meeting, the item could not simply be removed from the agenda. Out of respect for everyone's time in the audience who has come to address this specific issue, the Fiscal Court would not be taking any action on the school board resolution at this meeting. Public comment on the issue would still be allowed. Ms. Hanna welcomed everyone there for that particular issue to stay for public comment, or leave as they wished.

Public Comment. Ms. Hanna asked the Clerk to call those forward who had signed up for public comment. Ms. Lamb reviewed the rules for public comment.

Mr. Larson, former Fayette County Judge-Executive, gave a brief history of the Lexington and Fayette County merger in 1974, and the overall responsibilities of the Fiscal Court in Fayette County. At the expiration of his time, he was ceded time by Mr. Lyle Hanna, and continued his comments, concluding with his belief that the Fayette Fiscal Court is not the proper body to approve the school board occupational license tax increase.

Mr. Hanna spoke about the road damage issues on Evans Mill Road, and requested work in the area.

Mr. Yarber spoke about the dangerous conditions on Evans Mill Road because of the shoulder issues. He stated his vehicle has sustained damage in the past. He asked that funding be directed toward improving the road.

Ms. McKinstry requested repairs to Evans Mill Road. She also posed two questions. The first was regarding the culvert off Richmond Road. The second question was regarding the deferred maintenance on Evans Mill, and what could be done in the meantime to improve conditions there.

Review of the County Road Program for FY 2025. Mr. Grunwald reviewed the status of remaining projects from the County Road Program for FY 2025. He stated the review had been finished for Bowman Mill Road and base failures were identified. The work needed is still within the budget.

Consideration of County Agreement with LFUCG (FY 2026). Mr. Grunwald presented the proposed resurfacing projects for FY 2026 (EXHIBIT): Gentry Road from N. Baxter Blvd. to Gentry Ln. (1.48 miles, $374,000), Kenney Lane from Iron Works Pike to Talking Picture Ln. (0.24 miles, $61,000), and Kenney Ln from Talking Picture Ln. to Dixiana Domino Rd. (0.62 miles, $158,000). These roads were selected because they had the lowest Overall Condition Index (OCI) number. All were considerably lower than Evans Mill Road.

Mr. Grunwald went through the list of projects also included on the list. The list includes a 20% match for Berea Road repaving. The LFUCG intends to apply for County Priority Project Funds

(CPPF), and in order to make the application, matching funds are required. The section is from Georgetown Road to Iron Works Pike (1.1 miles, $56,000).

LFUCG has been notified by Kentucky American Water Company that they intend to make improvements to their facility on Evans Mill Road over the next five years. Therefore, LFUCG intends to hold off on resurfacing until construction that might further damage the road is complete at the facility. The 2026 proposal allocates $90,000 for shouldering on Evans Mill Road from the driveway at 1520 Evans Mill to the beginning of the pond at 1571 Evans Mill Road (0.24 miles). There is also $25,000 for inspection of the culvert on Evans Mill at 0.28 miles from Old Richmond Road. These projects will not solve the problems on the road, so LFUCG will revisit for the next budget year.

Ms. Hanna asked questions regarding the inspection and safety of the culvert on Evans Mill Road. Mr. Grunwald spoke about the inspection process, the age of the culvert, and the load rating designation.

The proposal includes $100,000 to help fund the work at the Jack's Creek Pike Slope Failure. The initial estimate for the project was $1.2 million, but the LFUCG requested a proposal using a different repair method, and the new estimate came back at @$850,000. The $100,000 will fund any cost overruns.

The proposal also includes funding of $55,000 for to repair a hole in a culvert on Alexandria Drive 1/3 mile from the New Circle Road overpass. The total cost of the resurfacing and projects in the FY 2026 County Road Agreement is $919,000.

Ms. White asked questions with issues of shoulder failures on county roads. She expressed concern with steep shoulder drop-offs, and asked if more funds would be requested in FY 2027 for shoulder work on Evans Mill Road. Mr. Grunwald responded in the affirmative.

Mr. Yarber asked a question about the chance of failure on the culvert on Evans Mill Road. Mr. Grunwald spoke about the integrity of the structure, and stated he didn't see any obvious reasons for imminent failure. Ms. McKinstry asked if another culvert near that one would also be reviewed. LFUCG will check on it.

Ms. White made a motion, seconded by Mr. Miller, to approve the County Road Agreement with LFUCG for FY 2026. The motion was approved by unanimous vote.

2025 Local Board of Property Tax Appeals Membership and Hearing Date. Ms. Hanna asked if everyone had reviewed the Board of Assessment Appeals Order for 2025. Ms. Watson gave an update on the Board of Assessment Appeals for 2025, and stated there were fewer appeals submitted this year, thus necessitating only one board. Ms. Watson read the order into the record (Exhibit).

Mr. Miller made a motion, seconded by Mr. Lowe, to approve the Order of Appointment of the Board of Assessment Appeals for 2025. The motion was approved by unanimous vote.

Ms. Hanna stated the Court would discuss meeting dates for 2026 at a later meeting.

There being no further meeting items, Ms. Hanna asked for a motion to adjourn.

Upon motion of Mr. Lowe, seconded by Ms. White, the meeting adjourned at 2:04 p.m. by unanimous vote.

Respectfully submitted,

Meredith Watson

County Judge/Executive

Mary Diane Hanna

EXHIBIT A – JACKS CREEK PIKE ROAD FAILURE

EXHIBIT

COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KY 40601
(502) 696-5300
FAX: (502) 564-2894

June 4, 2025

OAG 25-07

Subject: Whether the Fayette County School Board's vote to increase the occupational license tax without sufficient notice was lawful.

Requested by: Amanda Mays Bledsoe,
State Senator

Written by: Christopher Thacker,
General Counsel

Syllabus: The School Board's failure to provide the statutorily-required notice makes the vote unlawful and void.

Opinion of the Attorney General

On the day after Memorial Day, May 27, 2025, the Fayette County School Board voted 3-2 to certify a .25% increase of the occupational license tax. This increased the tax from 0.5% to the maximum allowed for cities having 300,000 or more inhabitants, 0.75%. KRS 160.607. For authority to impose this increase, the School Board cited KRS 68.185, 160.482 to 160.488, and 160.607(2).[1] Board members were first told that the tax increase would be considered at the May 27 meeting on the Friday before the Memorial Day weekend, and at least one board member stated that she did not learn of the proposal until Saturday, May 24.[2] State Senator Amanda Mays Bledsoe has asked this Office to opine on whether the vote was lawful.

By law, school districts cannot levy any of the taxes authorized by KRS 160.601 to 160.633 until after complying with the statutory notice requirements. KRS 160.603. Specifically:

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1 Resolution No. 01-2025 ("This Board hereby certifies to the Fiscal Court its request for: (a) the levy of an OLTS effective for taxable years beginning on or after January 1, 2026, under authority of KRS 68.185, KRS 160 to 160.488 and KRS 160.607(2).").

2 May 27, 2025, meeting video, *available at* https://www.youtube.com/live/vRLSzTCCruk?si=fCj5JxGRYSja5txf. The discussion of the tax increase begins at 1:05:20.

> [N]otice shall be given by causing to be published, at least one (1) time in a newspaper of general circulation published in the county . . . the fact that such levy is being proposed. The advertisement shall state that the district board of education will meet at a place and on a day fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement." *Id.*

There appears be no dispute that the Board failed to publish an advertisement, or otherwise provide the minimum 1-week public notice that is required under KRS 160.603.

The Fayette County School District, however, has issued a statement to the media asserting that the notice requirements of KRS 160.603 do not apply to its May 27 vote because the occupational license tax is a "county-level tax" that the Fayette County Fiscal Court must also vote to impose.[3]

This position is not supported by the relevant statutory language. The statute allowing the additional .25% tax for cities with 300,000 or more inhabitants is explicitly identified in KRS 160.603 as a statute to which the notice requirements apply. Moreover, KRS 160.482 expressly recognizes that levying an occupational license tax is a power shared jointly by the School Board and the Fiscal Court. KRS 160.482 ("To help provide for an efficient system of common schools in any county having three hundred thousand (300,000) or more inhabitants, the General Assembly delegates to the fiscal courts *and* boards of education of any such county the powers and duties set forth in KRS 160.482 to 160.488." (emphasis added)).

The Fiscal Court could not vote to "impose" the tax unless the Board first "certified" the new rate. Indeed, KRS 160.484(4) says that once the Board certifies a new rate, the Fiscal Court "*shall* impose the license fee at the higher rate." (emphasis added). Accordingly, when the School Board properly certifies a new rate, the Fiscal Court's role is ministerial; the discretion and decision-making power lies with the School Board—which is why it is the body that must give public notice prior to voting on whether to impose the additional tax. Therefore, it is the opinion of this Office that the Fayette County School Board's May 27 vote to increase the occupational license tax was unlawful.

As a result, the vote and resolution passed at the May 27 meeting is void and of no effect. *See Pendleton Cnty. Bd. Educ. v. Dickison*, 1993 WL 13969247, at *3 (Ky. App., 1993) (holding that "KRS 160.603 requires strict compliance," and affirming circuit court judgment declaring vote without proper notice void). The proposed

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[3] *See* Samantha Valentino, *Questions raised over legality of FCPS tax vote,* WKYT, https://www.wkyt.com/2025/05/28/questions-raised-over-legality-fcps-tax-vote/.

increase of the occupational license tax is, therefore, not properly before the Fayette County Fiscal Court at this time, and the Fiscal Court should not consider any change to the rate unless the change is certified by the School Board at a meeting held after the notice required by KRS 160.603. Any vote on an increase of the occupational license tax by the Fiscal Court without proper certification from the School Board would also be void.

Russell Coleman
ATTORNEY GENERAL

Christopher L. Thacker
General Counsel

cc: Angela C. Evans, Fayette County Attorney
Shelley Chatfield, Chief Legal Officer, Fayette County School District

EXHIBIT

AGREEMENT – FY 2026

THIS AGREEMENT, made and entered into on the 2nd day of July, 2025, by and between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an Urban County Government of the Commonwealth of Kentucky created pursuant to KRS Chapter 67A (hereinafter Government), on behalf of its Department of Environmental Quality & Public Works and the FAYETTE FISCAL COURT, a Fiscal Court of the Commonwealth of Kentucky (hereinafter Court) and Honorable MARY DIANE HANNA, Fayette County Judge/Executive (hereinafter County Judge).

WITNESSETH

That for and in consideration of the mutual promises and covenants herein expressed, the parties agree as follows:

1. All sums payable to Fayette County pursuant to KRS 179.415 County Road Aid Fund for the period of July 1, 2025 until June 30, 2026, including any sums due from prior years, shall be paid directly to the Government.

2. County Judge shall be entitled to all sums payable for Fayette County pursuant to the KRS 67.722 County Road Program Expense Fund for the period from July 1, 2025 until June 30, 2026.

3. Government by and through its Department of Environmental Quality & Public Works, shall, subject to the receipt of funds provided for in paragraph 1 above, perform all duties and services with respect to the following County Road Aid Fund projects; except as otherwise specified in this AGREEMENT, as indicated in ATTACHMENT A of this Agreement.

4. The parties understand that the cost of the projects referred to in paragraph 3 above may exceed the expected funds available for the period covered by this AGREEMENT and it is understood by the parties that once the funds available for the period covered by this AGREEMENT are committed, no additional projects shall be undertaken and any project not completed will be given first consideration for completion during the next fiscal year.

5. The parties understand that the estimated funds for FY 2026, identified in paragraph 1, are listed in ATTACHMENT B of this Agreement and will be used to complete the projects listed in paragraph 3.

6. Government recognizes that the projects referred to in paragraph 3 are listed in order of intended priority, but it is agreed by the parties that such listing shall not require a specified order for beginning or completing projects, nor shall it preclude the use of County Road Aid Funds for any regular, routine maintenance or emergencies on county roads, as specified by an amendment to this AGREEMENT approved by the parties hereto.

7. It is further agreed by and between the parties that any sums provided in paragraph 1 above which are not expended for the projects specified in paragraph 3 shall be used for resurfacing on

county roads, repairs to the county roads and/or county road projects, as specified by Amendment to this AGREEMENT approved by the parties hereto.

8. For the projects specified in paragraph 3 of this AGREEMENT, County Judge shall:

a. Relate to the Commissioner of Environmental Quality and Public Works, or his designee, within a reasonable time, not to exceed ten (10) days from receipt, any and all complaints received concerning these projects, with copies to the Mayor, Urban County Council Office, and members of the Court; and

b. Process an amendment to this AGREEMENT, as provided for in paragraph 6 or 7 hereof, for approval by Government and Court for 2025-2026 regular routine maintenance or emergencies on county roads and resurfacing.

9. For the purpose of selecting projects to be done during the period from July 1, 2025 until June 30, 2026, County Judge shall:

a. Forward to the Commissioner of Environmental Quality and Public Works, within a reasonable time, not to exceed ten (10) days from receipt, any and all complaints, requests, or comments received concerning the condition of county roads, so that these may be considered for funding from either 2024-2025 or 2025-2026 funds.

b. Schedule a public hearing for the Court for the purpose of receiving comments from the public as to the use of 2025-2026 KRS 179.415 funds. The County Judge shall notify the Urban County Council, the Office of Public Information so that the media can be notified and notify the Clerk of the Urban County Council so that notices can be published.

c. Process a resolution and 2025-2026 Agreement through the Court for the purpose of designating which projects shall be funded the next year. The County Judge shall thereafter forward the same to the Department of Environmental Quality & Public Works and the Urban County Council.

10. County Judge shall promptly respond to any and all citizen complaints, calls, etc., he/she receives relating to the county roads. In his/her absence, inquiries regarding immediate attention shall be directly referred to the Office of either the Commissioner of the Department of Environmental Quality & Public Works.

11. The records of all parties to this AGREEMENT which pertain in any respect to the County Road Aid Fund or to the county roads generally shall be made available upon request, for inspection by either party.

12. County Judge shall be present at the Government's meetings when requested, for purposes of discussing the County Road Aid Fund or the county roads.

13. County Judge shall forward to the Mayor, all correspondence other than citizen's inquiries, pertaining to the KRS 179.415 County Road Aid Fund within a reasonable time of his/her receipt of the same. County Judge shall also forward to the Mayor immediately all other correspondence, notices, etc., pertaining to the Government which are unrelated to his/her official duties, such as letters concerning the KRS 177.365 Municipal Aid Program, KRS 42.450 Local Government Economics Assistance Fund, KRS 186.535 Operator's License Fee Revenues, notification of special grants; programs applying only to counties, etc. In order to reduce confusion for everyone, County Judge further agrees to affirmatively notify appropriate agencies, officials, and individuals that matters not related to his/her official duties such as those listed above, should be directed to Government's Mayor.

14. This AGREEMENT shall continue in effect until completion of the projects specified in paragraph 3.

15. Government shall provide County Judge and members of the Court general liability insurance coverage in the amount of at least $5,000,000.00 to insure them against omissions or acts of negligence that may be committed in their official capabilities.

16. County Judge shall execute a bond for faithful performance of his/her duties as provided in KRS 67.720. Government shall pay the premium on such bond as provided in KRS 62.150.

17. This instrument contains the entire AGREEMENT between the parties, and no statement, promises, or inducements made by any party or agent of either party that is not contained in this written AGREEMENT shall be valid and binding; and this AGREEMENT may not be enlarged, modified, or altered, except in writing signed by the parties endorsed hereon.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT at Lexington, Kentucky, the day and year first above written.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

Marchetta Watson, DC
ATTEST:

BY: _____
MARY DIANE HANNA., Fayette Fiscal Court

Linda Gorton

Marchetta Jack
ATTEST:

BY: _____
LINDA GORTON, MAYOR - Lexington Fayette Urban County Government

ATTACHMENT A
COUNTY AGREEMENT FY 2026

County Roads for Resurfacing FY- 2026

Resurfacing

Street Name	Section_From	Section_To	Length (miles)	Estimated Cost
Gentry Rd	N Baxter Blvd	Gentry Ln	1.48	$374,000
Kenney Ln	Iron Works Pike	Talking Picture Ln	0.24	$61,000
Kenney Ln	Talking Picture Ln	Dixiana Domino Rd	0.62	$158,000
				$593,000

Projects

Street Name	Section_From	Section_To	Length (miles)	Estimated Cost
20% Match for Berea Rd Repaving	Georgetown RD	Iron Works Pike	1.1	$56,000
Shouldering on Evans Mill Road	Driveway at 1520 Evans Mill	Beginning of Pond at 1571 Evans Mill	0.24	$90,000
Inspect Culvert on Evans Mill	0.28 Mile from Old Richmond Road		N/A	$25,000
Funding for Jack Creek Pike Slope Failure	0.5 from Dead End		N/A	$100,000
Slip line - Culvert on Alexandria Drive	1/3 mile from New Circle Road Overpass		N/A	$55,000
				$326,000
			Total	**$919,000**

ATTACHMENT B
COUNTY AGREEMENT FY 2026

Estimated FY 2026 (July 1, 2025 to June 30, 2026) Funding to be accepted by the Lexington Fayette Urban County Government $919,019.83.

EXHIBIT

COMMONWEALTH OF KENTUCKY
COUNTY OF FAYETTE

IN RE: BOARD OF ASSESSMENT APPEALS FOR
FAYETTE COUNTY, KENTUCKY

ORDER

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The Board of Assessment Appeals for 2025 shall consist of one board for residential and commercial appeals, and the membership shall be as follows:

Board Members	Term
Keith Mays	2023 – 2025 Fiscal Court Appt
E. Clark Toleman	2024 – 2026 Judge-Executive Appt
Jennifer Mossotti	2025 – 2027 Mayor Appt
Alternates	
Seth Tuska	2025
Rick Queen	2025

For 2025, Seth Tuska and Rick Queen shall serve as alternates to the Board, and Keith Mays shall serve as Chair of the Board.

The Board shall convene on June 23, 2025 for orientation and shall continue in session until all appeals for this year are heard.

Date: June 5, 2025

MARY DIANE HANNA
FAYETTE COUNTY JUDGE EXECUTIVE
200 E. MAIN STREET
Lexington, KY 40507

FAYETTE CO, KY FEE $0.00
SUSAN LAMB
COUNTY CLERK
PRESENTED/LODGED: 06/05/2025 02:42:13 PM
HANNAH ALLEN, DEPUTY CLERK
202506050148
BK: ORD 114
PG: 446-446