

City Council Special Meeting  
September 13, 2011

A special meeting of the Dayton City Council was held on Tuesday, September 13, 6:00 p.m. in the Council Chamber of the Dayton City Building, 514 Sixth Avenue. The meeting was advertised as required by law. The purpose of the meeting was for the second reading of Ordinances 2011 No. 8 through No. 13, for discussion of city finances, and an executive session for KRS 61.810 (b) deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency; and (c) discussions of proposed or pending litigation against or on behalf of the public agency.

Mayor Rankle called the meeting to order.

ROLL CALL:

Mayor Rankle	present	Member Ashford	present
Member Hurtt	present	Member Gifford	present
Member Burns	present	City Adm. Redmond	present
Member Volter	present	City Att. Fischer	present
Member Boruske	present		

SECOND READING:

**CITY OF DAYTON, KENTUCKY**

2011 - #8\_\_

**AN ORDINANCE ADOPTING NEW SECTIONS OF DAYTON, KENTUCKY CODE OF ORDINANCES, CHAPTER 93, AND AMENDING THE DAYTON, KENTUCKY CODE OF ORDINANCES, CHAPTER 93, SECTION 93.99 REGARDING FIREWORKS.**

This ordinance adopts two sections of the Dayton Code of Ordinances concerning fireworks, which bans use of fireworks within the city from 12:00 midnight until 9:00 a.m with the exception of New Years Day when they are banned from 1:00 a.m. until 9:00 a.m. It further bans the use of fireworks on public streets, sidewalks, alleys, rights-of-way, parks and other publicly owned property without obtaining a permit from the City. It sets a penalty for violation of these sections as follows:

(A) Any person violating the above provisions, the regulations issued thereunder or any order issued thereunder, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not more than \$500 or imprisoned for not more than 30 days, or both.

I, John C. Fischer, an attorney licensed to practice law in the Commonwealth of Kentucky, as City Attorney for the City of Dayton, Kentucky, do hereby certify that this summary was prepared by me at the direction of the Council of the City of Dayton, and that said summary is a true and accurate summary of the contents of the ordinance.

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JOHN C. FISCHER

Motion to approve Ordinance 2011 No. 8 by Member Ashford, seconded by Member Boruske.

ROLL CALL:

Member Boruske	aye	Member Hurtt	aye
Member Ashford	aye	Member Burns	aye
Member Gifford	aye	Member Volter	aye

Motion carried--so ordered.

**CITY OF DAYTON, KENTUCKY**

2011 - #9

**AN ORDINANCE AMENDING THE DAYTON CODE OF ORDINANCES CHAPTER 50, SECTION 50.05 PERMITTING CONFISCATION OF TRASH RECEPTACLES ON PUBLIC PROPERTY INAPPROPRIATELY.**

This ordinance amends the Dayton Code of Ordinances to allow the city to confiscate trash receptacles left on the public right of way more than 24 hours before or 24 hour after trash collection. Any receptacles so confiscated will be held for 14 days and can be reclaimed within that 14 day period 1 time within 12 months without charge. Any receptacle(s) so confiscated a second or subsequent time within 12 months can be reclaimed within that 14 day period for a charge of fifty dollars (\$50) per receptacle. Any confiscated receptacles not claimed within 14 days will be disposed of.

I, John C. Fischer, an attorney licensed to practice law in the Commonwealth of Kentucky, as City Attorney for the City of Dayton, Kentucky, do hereby certify that this summary was prepared by me at the direction of the Council of the City of Dayton, and that said summary is a true and accurate summary of the contents of the ordinance.

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JOHN C. FISCHER

Motion to approve Ordinance 2011 No. 9 by Member Hurtt, seconded by Member Volter.

ROLL CALL:

Member Ashford	aye	Member Burns	aye
Member Gifford	aye	Member Volter	aye
Member Hurtt	aye	Member Boruske	aye

Motion carried--so ordered.

**CITY OF DAYTON, KENTUCKY**

2011 - #10

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DAYTON CHAPTER 154, SECTIONS 154.095, CREATING AN HISTORIC PRESERVATION OVERLAY ZONE**

This ordinance adopts Section 154.095 of the Dayton Code of Ordinance to add a Historic Preservation Overlay Zone to the zoning code text. It states that the purpose of the zone is to preserve historic and/or architecturally significant buildings or areas within the city. Further it states that permitted, conditional, and accessory uses, area, height and yard requirment and other development controls are the same as they present exist. Further it requires that exterior changes to buildings in the zone that are visible to the public must receive a certificate of appropriateness under Section 156 of the Dayton Code of Ordinances.

I, **JOHN C. FISCHER**, an attorney licensed to practice law in the Commonwealth of Kentucky, acting as attorney for the City of Dayton, Kentucky, do hereby certify that this summary was prepared by me at the direction of the Council of the City of Dayton, and that said summary is a true and accurate summary of the contents of the ordinance.

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JOHN C. FISCHER

Motion to approve Ordinance 2011 No. 10 by Member Volter, seconded by Member Hurtt.

ROLL CALL:

Member Gifford	aye	Member Volter	aye
Member Hurtt	aye	Member Boruske	aye
Member Burns	aye	Member Ashford	aye

Motion carried--so ordered.

# CITY OF DAYTON, KENTUCKY

2011 - # 11

## AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DAYTON ZONE

This ordinance amends the zoning map of the City of Dayton to include the following properties in the Historic Preservation Overlay Zone: All property abutting Sixth Avenue from the eastern side of O'Fallon Street to the western side of Main Street. And in addition, the following properties: 611, 613, and 615 O'Fallon Street; 611, 612, 614, and 616 Walnut Street; 130, 132, 142, 200, 204, 206, 229, and 902 Fifth Avenue; 605, 611, and 612 Vine Street; 605, 701, 702, 704, 705, 706, 707, 708, 709, and 710 Ervin Terrace; 321 Eighth Avenue; 509, 511, 606, 608, and 610 McKinney Street; 511, 512, 516, and 602 Dayton Ave; 508, 607, 609, 611, and 613 Berry Street; 503, 507, 511, 513, 515, and 610 Clay; 514 Main Street; and 112 and 901 Sixth Avenue;

I, **JOHN C. FISCHER**, an attorney licensed to practice law in the Commonwealth of Kentucky, acting as attorney for the City of Dayton, Kentucky, do hereby certify that this summary was prepared by me at the direction of the Council of the City of Dayton, and that said summary is a true and accurate summary of the contents of the ordinance.

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JOHN C. FISCHER

Motion to approve Ordinance 2011 No. 11 by Member Volter, seconded by Member Hurtt.

### ROLL CALL:

Member Hurtt	aye	Member Boruske	aye
Member Burns	aye	Member Ashford	aye
Member Volter	aye	Member Gifford	aye

Motion carried--so ordered.

Mayor Rankle said we will read 2011 Ordinance No. 12 first, and then maybe we won't need to read 2011 Ordinance No. 13, because the only difference between the two is the tax rate.

# CITY OF DAYTON, KENTUCKY

2011- # 12

## AN ORDINANCE PROVIDING FOR THE IMPOSITION, LEVY, COLLECTION AND APPORTIONMENT OF TAXES FOR THE CITY OF DAYTON, CAMPBELL COUNTY, KENTUCKY FOR THE FISCAL YEAR JULY 1, 2011 THROUGH JUNE 30, 2012.

### BE IT ORDAINED BY THE CITY OF DAYTON, CAMPBELL COUNTY, KENTUCKY:

**SECTION ONE:** There shall be imposed, levied and collected for the Fiscal Year July 1, 2011 through June 30, 2012, by the City of Dayton, Kentucky, the sum of .4730 under the General Chapter of said City, as amended, and also an Act concerning the assessment and valuation for taxation of the corporate franchise and intangible properties, as amended, on each \$100.00 valuation of real and mixed property; .5009 on all automobile and watercraft personal property and .7500 on all other personal property, choses in action, evidence of debt, and corporate franchises within said City as certified by the Property Valuation Administrator to Council, as assessed and returned for taxation to said City by the State Railroad Commission, the State Board of Valuation and Assessments and the Revenue Cabinet and certified by the State Auditor to the Council; if for any reason property has not been listed for taxation, then by the Mayor and Council; further, upon such property within the corporate limits of said City subject to taxation, except the deposits of Banks and Trust Companies, hereinafter mentioned.

**SECTION TWO:** Said levy and assessment of .4730 on real and mixed property; .5009 on all automobile and watercraft personal property and .7500 on all other personal property on each \$100.00 valuation as set out above, shall be imposed, collected, levied and apportioned to and for the following purposes, and in the following proportions:

**Real Property:**

For the current general and incidental expenses of said City the sum of .4230

For the acquisition and maintenance of parks within the City, the sum of .0500.

**Personal Property:**

For the current general and incidental expenses of said City the sum of .7500

For the acquisition and maintenance of parks within the City, the sum of .0000

**Automobiles and Watercraft:**

For the current general and incidental expenses of said City the sum of .5009;

**SECTION THREE:** There shall be imposed and collected for said City, as permitted under KRS 136 on the taxable fair cash value of bank deposits within the city as assessed, corrected, altered, certified and returned by the Revenue Cabinet or as assessed by the Mayor and Council, if for any reason said deposits have not been listed in any manner for taxation, sum equal to twenty-five thousandths of one percent (.025%) of those deposits. The levy called for in this Section shall be imposed, levied, collected and apportioned for payment of incidental expenses of the City. Those banks upon which the above tax is imposed may pay the sum due less 2% if paid by December 31, 2011 or the full amount by January 31, 2012. Thereafter the penalty and interest herein shall be imposed.

**SECTION FOUR:** All revenues received are hereby apportioned as in the preceding Sections and set apart and shall be apportioned and set apart exclusively for the several purposes therein mentioned. Any transfer of such funds are hereby prohibited.

**SECTION FIVE:** The City Clerk/Treasurer shall make out the tax bills in accordance with the altered, corrected and returned assessment list in books provided for that purpose and said City Clerk/Treasurer shall show in the books of the City the total amount of taxes collectable for the year. Further, the City Clerk/Treasurer shall publish all notices of taxes due as required by law, if any, according to the requirements of KRS Chapter 424.

**SECTION SIX:** The taxes hereby levied shall be due and payable on and after September 15, 2011 at the office of the City Clerk/Treasurer and shall be delinquent after November 6, 2011, or as otherwise provided by Council by order, and the City Clerk/Treasurer shall thereafter proceed to attach to each bill a penalty of 10%. The City Clerk/Treasurer shall proceed to collect the delinquent taxes as provided by law until such time as the Council shall instruct the City Clerk/ Treasurer to refer all delinquent bills to the City Attorney for collection by taking legal action, if necessary. Interest at the rate of 12% per annum shall be charged on the account of such tax from November 6, 2011, or as otherwise provided by Council by order, to the date of payment.

**SECTION SEVEN:** This ordinance shall be signed by the Mayor, attested by the City Clerk, recorded, published, and shall be in effect at the earliest time provided by law.

**PASSED** by City Council of the City of Dayton, Kentucky assembled in regular session.

First Reading:

Second Reading:

**CITY OF DAYTON, KENTUCKY**

by \_\_\_\_\_

Kenneth E. Rankle

its Mayor

**ATTEST:**

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Donna Leger, its Clerk

Mr. Dennis Redmond, City Administrator stated that today we received an additional 15 exonerations. He cautioned council that this tax rate will result in a decrease in tax revenue, and will require a budget amendment. Member Ashford stated he would rather keep the real estate rate low and increase the rental fee.

Motion to approve Ordinance 2011 No. 12 by Member Boruske, seconded by Member Ashford.

**ROLL CALL:**

Member Burns	aye	Member Ashford	aye
Member Volter	aye	Member Gifford	aye
Member Boruske	aye	Member Hurtt	aye

Motion carried--so ordered.

**FINANCIAL DISCUSSION**

Mayor Rankle stated we are waiting for the outcome of the administrative hearing regarding the Fire Department payout. City Attorney Fischer said it is up to us to decide when we write the settlement check; the longer we wait, the more it will cost.

Mr. Redmond stated we are not sure that we won't have to pay more money to the firemen we've already settled with. City Attorney Fischer thinks it is over with them. He also said the appeal process could take over four years.

Mr. Redmond said our letter, which asks for the Dept of Labor's guidance regarding paying the fire department salaries correctly, is being used in the administrative hearing. Technically we had no complaints. The best case scenario for the settlement cost is \$140,000. We have \$100,000 in contingency. Mr. Redmond asked where do we get the \$40,000 to meet the demand?

Mayor Rankle asked Fire Chief Denny Lynn about the \$115,000 carryover. \$40,000 of it was a loan from the City of Bellevue; the rest has been budgeted. Mayor Rankle remarked to Chief Lynn that he couldn't rely on the city to bail him out. Chief Lynn said the Fire Department wasn't counting on that.

Motion to go into executive session by Member Gifford, seconded by Member Ashford. Motion carried--so ordered.

Motion to go back into regular session by Member Boruske, seconded by Member Ashford. Motion carried--so ordered.

Motion to adjourn by Member Boruske, seconded by Member Gifford. Motion carried--so ordered.

Meeting adjourned.

Respectfully Submitted,

Barbara Washington  
Assistant Clerk/Treasurer

**ATTEST:**

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Kenneth E. Rankle, Mayor