

CITY OF DAYTON, KENTUCKY
COUNCIL MEETING
JULY 17, 2007

The regular meeting of Dayton City Council was held on Tuesday, July 17, 2007, 7:10 p.m. in the Council Chamber of the Dayton City Building. Mayor Rankle opened the meeting with a moment of silent prayer and the Pledge of Allegiance.

ROLL CALL:

Mayor Rankle	Present	Member Gunning	Present
Member Ashford	Present	Member Allen	Present
Member Hurtt	Present	City Adm. Redmond	Present
Member Volter	Present	City Att. Fischer	Present
Member Boruske	Absent		

MAYOR'S REPORT:

Mayor Rankle congratulated Bellevue's Mayor and Citizens for being selected as one of the top 10 places to live by Cincinnati Magazine.

CITY ADMINISTRATOR'S REPORT:

The bids for the street repaving is as follows:

Barrett Paving - \$124,842.20
Bluegrass Paving - \$119,098.13
Paul Michaels & Sons - \$124,574.00

The best bid is Bluegrass and includes Brooklyn Ave., Benham, Clay, Dayton, McKinney, Second, Seventh, Chateau Drive, Lincoln Road and a patch on Greendevil Lane, which is 256' long. We currently have \$68,000 in our Municipal Aid fund and \$19,000 grant money for Chateau and a portion of Dayton Pike. Plus, we have \$25,000 in the infrastructure fund for streets. This amounts to \$103,000 to spend. The question is, what do we leave off this year? Don Riley, Supt. P.W., said the Second and Third Block of Benham is in the Industrial Park and both have to be milled. We can leave them off. The cost is \$19,000. Member Ashford said Lincoln Road and Belmont have a lot of traffic. Member Volter said because of the heavy equipment on Chateau Drive, would it be possible to do this street at a later date? City Adm. Redmond said the \$19,000 must be spent in this area and we don't have much time left in the grant. It must be done now. The alley between Fifth & Sixth is not on the schedule. This alley has some really bad spots and needs to be sawed and repaired not blacktopped. Don Riley is getting a bid from Butch Hauger for the bad end of the alley. Motion by Member Ashford, seconded by Member Gunning to spend \$100,500 and delete the 200 & 300 block of Benham Street and do Chateau Ridge based on the grant. Comments: City Adm. Redmond said payment would come from three different accounts this year. Member Volter asked if the 300 block of 8th Avenue would ever be done? This will be looked at later. Member Hurtt said they have CDB grants for streets and infrastructure in the Industrial Park. Motion carried—so ordered. Mr. Sherman, Belmont LLC, said if the city would like they could pay his company now and they would fix Chateau Ridge after the large trucks were no longer using the street. City Adm. Redmond will talk with City Att. Fischer tomorrow and see what options we have. The city has received a request from Ft. Thomas to change our weight limit on Dayton Pike. The weight limit is only 3 tons. Because of this the trucks from Belmont Lake are using North Ft. Thomas Avenue instead of Dayton Pike. We have no plans to change the weight limit but hope to rebuild Dayton Pike with a nice blacktop street in the future.

CONSENT AGENDA:

Motion by Member Allen, seconded by Member Hurtt to approve the minutes from the June 19th meeting. Motion carried—so ordered.

ORDINANCES & ORDERS:

Second Reading 2007#14

ORDINANCE NO. 2007#14

AN ORDINANCE AUTHORIZING THE CREATION OF A LOCAL DEVELOPMENT AREA TO PROVIDE FOR THE FINANCING OF NECESSARY PUBLIC INFRASTRUCTURE IMPROVEMENTS RELATING TO THE BELMONT LAKE, LLC PROJECT AND AUTHORIZING THE EXECUTION OF AGREEMENTS AS MAY BE NECESSARY PURSUANT TO THIS ORDINANCE.

Motion by Member Volter, seconded by Member Ashford to approve 2007#14 as read.

ROLL CALL:

Member Ashford	Aye	Member Boruske	Absent
Member Hurtt	Aye	Member Gunning	Aye
Member Volter	Aye	Member Allen	Aye

Motion carried—so ordered.

Second Reading 2007#15

COUNCIL ORDINANCE 2007-#15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY, ADOPTING AN ORDINANCE TO PROCEED WITH THE BELMONT LAKE PUBLIC IMPROVEMENTS BY SPECIAL ASSESSMENTS PURSUANT TO KRS 91A.200 THROUGH 91A.290.

Motion by Member Ashford, seconded by Member Gunning to approve 2007#15 as read.

ROLL CALL:

Member Hurtt	Aye	Member Gunning	Aye
Member Volter	Aye	Member Allen	Aye
Member Boruske	Absent	Member Ashford	Aye

Motion carried—so ordered.

First Reading 2007#16

ORDINANCE NO. 2007#16

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY, AUTHORIZING THE ISSUANCE OF UP TO \$1,300,000 PRINCIPAL AMOUNT OF CITY OF DAYTON, KENTUCKY TAX INCREMENT AND SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2007 (BELMONT LAKE PROJECT) (THE "BONDS"), ISSUED FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION, AND EQUIPPING OF CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS LOCATED IN THE CITY OF DAYTON, KENTUCKY; AND APPROVING, AUTHORIZING AND ACKNOWLEDGING THE EXECUTION AND DELIVERY OF (1) A TRUST INDENTURE BETWEEN U.S. BANK NATIONAL ASSOCIATION, A NATIONAL BANKING ASSOCIATION, AND CITY OF DAYTON, KENTUCKY; (2) A PLACEMENT AGREEMENT AMONG THE CITY OF DAYTON, KENTUCKY AND RBC CAPITAL MARKETS (THE "PLACEMENT AGENT"); (3) A SERVICE AGREEMENT BETWEEN THE CITY OF DAYTOBN, KENTUCKY AND BELMONT LAKE, LLC (THE "DEVELOPER") AND (4) ANY AND ALL OTHER RELATED DOCUMENTS NECESSARY THERETO.

WHEREAS, the City of Dayton, Kentucky (the “Issuer”), a political subdivision of the Commonwealth of Kentucky, is authorized and empowered by Kentucky Revised Statutes (“KRS”) Chapters 65.680-65.699, as amended by House Bill 549 (the “TIF Act”), and KRS Chapters 91A.200-91A.290 (the “TIF Act”) to issue tax increment and special assessment revenue bonds to defray the costs of certain public improvements as authorized in the respective Acts; and

WHEREAS, the City is authorized by the terms and provisions of the TIF Act to execute a Local Development Area Agreement with the County of Campbell, Kentucky in acknowledgement of benefits to be derived by the City within a local development area by the undertaking of a project and in order to promote economic development and job opportunities in the local development area; and

WHEREAS, the City has established by Ordinance No. 2007-___, adopted on July 17, 2007, a local development area known as the Belmont Lake Tax Increment Finance Local Development Area (the “Local Development Area”) within the City, as more particularly described in Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, the City and Belmont Lake LLC, a Kentucky limited liability company, its successors and assigns (“Developer”), have entered into a development agreement (the “Development Agreement”), setting forth the terms and conditions under which assistance shall be provided to Developer to assist in the development in the Local Development Area a residential development, which costs of construction, acquisition and development is currently estimated to be approximately Twenty Million and no/100 Dollars (\$20,000,000.00) (the “Project”); and

WHEREAS, the City has established by Ordinance No. 2007-___, adopted on July 17, 2007, a special assessment (the “Special Assessments”) on the property more particularly described in Exhibit A hereto, to finance a portion of the costs of certain public infrastructure improvements related to the Project, such special assessment being levied in an amount equal to \$400.00 per parcel on a 69-lot subdivision; and

WHEREAS, Developer will not undertake the Project (the “Project”) but for the commitment by the City to provide certain economic incentives to Developer;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DAYTON AS FOLLOWS:

1. AUTHORIZATION OF BONDS.

For the purpose of paying the costs, not otherwise provided, of the Project, the Issuer hereby authorizes and approves the issuance of the City of Dayton, Kentucky Tax Increment and Special Assessment Revenue Bonds, Series 2007 (Belmont Lake Project) (the “Bonds”) dated as of the date of delivery of the Bonds, in the maximum aggregate principal amount of up to One Million Three Hundred

Thousand Dollars (\$1,300,000) as more fully provided for in the Trust Indenture hereinafter approved. The Bonds shall mature no later than December 1, 2029 and bear interest from the date of delivery to the purchaser(s) thereof as provided in the Trust Indenture with a maximum rate of interest of 10%. The principal and interest requirements of the Bonds are specified in the Trust Indenture.

2. APPROVAL AND AUTHORIZATION OF EXECUTION OF VARIOUS DOCUMENTS; TRUST INDENTURE; BOND PLACEMENT AGREEMENT; AND SERVICE AGREEMENT.

The following documents in the respective forms attached to this Ordinance are hereby approved, subject to such minor changes, insertions or omissions as may be approved by the Mayor, such approval to be conclusively evidenced by his execution of said documents, in order to effectuate the purposes of this Ordinance; and the Mayor is hereby authorized to execute and acknowledge the same for and on behalf of the Issuer. Said documents are hereby ordered to be filed in the office of the City Clerk, labeled respectively, Exhibits A and B, as identified below, and each of said documents is ordered to be recorded with this Ordinance in the official records of the Issuer.

(a) The Trust Indenture (the "Indenture"), dated as of August 1, 2007, between the Issuer and U.S. Bank National Association, Cincinnati, Ohio (Exhibit A).

(b) The Bond Placement Agreement dated August __, 2007, among the Issuer, the Developer and RBC Capital Markets, Cincinnati, Ohio, as the Placement Agent, providing for the sale of the Bonds at the aggregate price of 100% of par and upon the respective terms and conditions set forth in the Bond Placement Agreement. The approval of said Agreement by the Developer and a separate letter from the Developer to the Issuer evidences the request of the Developer that the Bonds be sold at private sale upon a negotiated basis as authorized by KRS 66.021 (Exhibit B).

(c) The Service Agreement dated August 1, 2007 between the Issuer and the Developer, providing for the payment of certain payments in lieu of taxes ("Service Payments") in the event that revenues received under the Local Development Area Agreement and the Special Assessments are insufficient to pay debt service charges on the Bonds, as well as requiring the provision of a letter of credit by the Developer, for the benefit of the Issuer, in accordance with the terms and conditions of the Service Agreement.

3. DISBURSEMENT OF PROCEEDS OF BONDS.

The Developer and the Trustee are authorized to carry out the procedure specified in the Indenture and the Construction Agency Agreement made between the Developer and the Issuer, dated as of July __, 2007 (the "Agency Agreement") for the supervision of the acquisition and installation of the Project and for the payment from time to time of the costs of such acquisition, construction and installation and related expenses as same progresses.

4. REVENUES OF THE PROJECT.

The revenues and other payments to be received by the Issuer under the terms of Local Development Area Agreement, the Service Agreement and the Special Assessments are determined to be sufficient to pay the principal of and interest on the Bonds as the same become due and payable and all said payments are hereby pledged to secure such payments and revenues, and in addition, for such other purposes as are more fully specified in the Indenture.

5. DESIGNATION OF TRUSTEE.

U.S. Bank National Association, Cincinnati, Ohio, is hereby designated as trustee (the "Trustee") under the Indenture and also as the paying agent and bond registrar for the Bonds.

6. EXECUTION OF BONDS.

The Bonds shall be executed in the manner provided in the Indenture and shall be delivered to the Trustee for proper authentication and delivery by the Trustee to the purchasers thereof with instructions to that effect, as provided in the Indenture.

7. MAYOR AND OTHER OFFICIALS OF ISSUER TO TAKE ANY OTHER NECESSARY ACTION.

Pursuant to the Constitution and laws of the Commonwealth of Kentucky, the Mayor, the City Clerk and all other appropriate officials of the Issuer are hereby authorized and directed to take any and all further action and to execute and deliver all other documents as may be necessary to effect the issuance and delivery of the Bonds.

8. THE BONDS SHALL NOT BE A GENERAL OBLIGATION OF THE CITY BUT A LIMITED OBLIGATION PAYABLE SOLELY FROM THE AMOUNTS PAYABLE UNDER THE LOCAL DEVELOPMENT AREA AGREEMENT, THE SPECIAL ASSESSMENTS AND OTHER REVENUES OF THE PROJECT. NEITHER THE CITY OF DAYTON, THE COMMONWEALTH OF KENTUCKY NOR ANY OTHER POLITICAL SUBDIVISION OF THE COMMONWEALTH SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF OR INTEREST ON SUCH BONDS OR OTHER COSTS INCIDENT THERETO EXCEPT FROM THE REVENUES OF THE PROJECT PLEDGED THEREFOR. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY, THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION OF THE COMMONWEALTH IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, OR PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR OTHER COSTS INCIDENT THERETO.

9. The Offering Memorandum to be issued with respect to the Bonds is hereby approved and is "deemed final" (except for permitted omissions) as of its date or is a final official statement for purposes of SEC Rule 15c2-12(b)(i), (3) and (4).

10. SEVERABILITY CLAUSE.

If any section, paragraph, clause or provision of this Ordinance shall be ruled by any court of competent jurisdiction to be invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions hereof.

11. CAPTIONS OF CLAUSE.

The captions of this Ordinance are for convenience only and are not to be construed as part of this Ordinance nor as defining or limiting in any way the scope or intent of the provisions hereof.

To the extent any Ordinance, Ordinance or part thereof is in conflict, the provisions of this Ordinance shall prevail.

12. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall take effect from and after its adoption, approval and publication of Notice of Passage hereof, including the title of this Ordinance, which publication is hereby approved by the Clerk pursuant to KRS 67.077.

PASSED: First reading: _____, 2007

PASSED: Second reading: _____, 2007

CITY OF DAYTON, KENTUCKY

Mayor

City Clerk

PASSED AND APPROVED: August __, 2007

Mr. Sherman said the site work should be done by the end of the year and Fischer Homes can begin building the beginning of next year. Mayor Rankle wishes them all the luck in the world. `

Order 2007#17R

2007-17R
RESOLUTION

WHEREAS, the City of Dayton, Kentucky in Campbell County proposes to re- develop the entire Central Business District to provide the community with both retail and service-related business, and

WHEREAS, the City of Dayton has now accomplished the task of being recognized as a Certified Kentucky Main Street community and

WHEREAS, the Governors Office for Local Development (GOLD) has made available the opportunity for Certified Cities a Grant- In - Aid program through the Renaissance Kentucky office, and

WHEREAS, the city's project is a streetscape to include removal of many overhead wires, installation of ornamental lighting, tree plaiting and street furniture in the CBD from Ervin Terrace east to the Berry Street intersection, and

WHEREAS, the intent of the City of Dayton is the application for Renaissance funds in an amount not to exceed \$150,000.00 and a local match of \$50,000.00 from both the City General Fund and in-kind contribution.

NOW THEREFORE BE IT RESOLVED, that in the event a grant is awarded, the City of Dayton, Kentucky understands that it will give assurances to comply with all applicable Federal and State laws, rules and regulations, especially the Title VI of the Civil Rights Act and section 504 of the 1973 Rehabilitation Act.

Kenneth E Rankle, Mayor

ATTEST: _____

Motion by Member Hurtt, seconded by Member Volter to approve 2007-17R as read.

ROLL CALL:

Member Volter	Aye	Member Allen	Aye
Member Boruske	Absent	Member Ashford	Aye
Member Gunning	Aye	Member Hurtt	Aye

Motion carried—so ordered.

DEPARTMENT HEAD'S REPORT:

Dennis Lynn, Fire Chief, gave everyone a copy of the total runs by the FDBD so far this year. Chief Lynn said the EMS runs are up by 140 and the fire incidents runs are up by 59. Member Hurtt asked about the life squad billing. She said her mother received three bills. Finally she just paid the final bill. Chief Lynn said two bills are usually sent out. If you keep receiving bills bring them to the Fire Department or Clerk's Office.

Marvin Knobloch, Main Street Manager, said the Dayton Business Owners Meeting would be held this Wednesday, 12:00 p.m., at the NBCC. Mayor Rankle will be the speaker. The Main Street will start

asking for membership fees. It's time the business owners get on board with the program financially. This money will be put into a matching grant fund for the business owners in Downtown Dayton. Dayton Day's at Coney Island will be Friday, July 27th. The Main Street Association will sponsor an open house on September 15th. This will be to help market the empty business fronts. Realtors, banks, etc. will be invited. Currently Marvin is talking with a florist who is interested in locating in Dayton.

Don Riley, Supt. P.W., said public works is working on cleaning the sidewalks, curbs and alleys. If you have a bad alley give the city a call. Don explained the procedure he uses to get the pricing for the street resurfacing cost. He checks the prices once a month. Bidding early does not always give the city a better price. This year bidding in July was the best, we saved about \$2,253.00. Last year bidding early was the best. Mayor Rankle said it's a gamble in the economy, no one really knows. City Adm. Redmond said Member Ashford is generally right, early bidding is usually better.

CORRESPONDENCE:

None.

STANDING COMMITTEE REPORTS:

Finance (Member Volter):

The July 24th finance meeting will not be needed this month. Prior to the next council meeting, 6:30 p.m., the finance committee will hold a meeting.

Public Safety (Member Allen):

Member Allen commended Don's department for the work they did on Saturday. Mayor Rankle said Chief Werner is not in attendance tonight because he is patrolling the streets.

Public Works (Member Ashford):

No report.

Parks & Real Estate (Member Hurtt):

Music Fest is August 3 and 4th. The gate opens at 5:00 p.m. and the music starts at 7:00 p.m, lasting until 1:00 a.m. Admission is \$5.00. The proceeds will go towards a new basketball court and a tot lot playground at Gil Lynn Park.

Economic Development (Member Boruske):

No report.

Personnel, Law & Printing (Member Gunning):

No report.

PETITIONS:

Mr. Riley, 638-640 Sixth Avenue said his property is a 4 residential and 1 commercial unit but the city only has it listed as a 2 residential and 1 commercial unit. Mr. Riley is asking council to have his property officially listed as 4 residential and 1 commercial unit on the city records. City Adm. Redmond said based upon your purchase and use and our knowledge the city needs to amend your class to a 4 residential and 1 commercial. Based upon the city's previous action your Attorney, Mr. Luerson will take legal action. I don't think the city can win in court and the reality is in this downtown and others if you can combine living and working, it's good for the community. My decision stands, Mr. Riley should be allowed to have a 4 residential and 1 commercial building. Motion by Member Hurtt, seconded by Member Volter to classify 638-640 Sixth Avenue as 4 residential units and 1 commercial unit provided you back pay the fees. Comments: Donna Leger, Clerk/Treas., will send Mr. Riley a letter for the back fees. Motion carried—so ordered.

UNFINISHED BUSINESS:

Member Ashford asked about the sign issue. He would like to get our sign ordinance changed. City Att. Fischer said our ordinance is taken from Bellevue sign ordinance in reference to projecting signs. But their sidewalks are twice as wide. The 100 and 700 block in Dayton does have wider sidewalks. Mayor Rankle suggested 36" as the width and no sponsorship on the signs. City Att. Fischer said no sponsorship on the signs is already in the ordinance. This will now be referred to Planning and Zoning.

City Att. Fischer reported on the budget meeting of the Cable Board. Their auditor said they need to have 2-3 months cost of expenditures and about \$92,000 on hand. They currently have \$790,000. They said they would need to purchase some major equipment about \$480,000 worth. I asked if the difference would be refunded to the cities? They said no, they're going to hold onto the money until the

end of the franchise, which is Feb. or March of next year. Mayor Rankle said think about this and we'll revisit the issue at our next council meeting.

NEW BUSINESS:

The Senior Citizens Picnic will be Wednesday, Sept. 12th at the VFW Hall.

ADJOURNMENT:

Motion by Member Gunning, seconded by Member Allen to adjourn. Motion carried—so ordered.

Respectfully submitted,

Donna Leger
Clerk/Treas.

ATTEST:

Kenneth E. Rankle
Mayor