CITY OF DAYTON

COUNCIL MEETING

July 5, 2016

A regular meeting of Dayton City Council was held on Tuesday, July 5, 2016, 7:00 p.m. in the board meeting room of the Dayton Independent Schools Administration Building, Third & Clay Street. Dayton, KY. Mayor Boruske opened the meeting with a silent prayer and led the Pledge of Allegiance.

ROLL CALL:

Mayor Boruske Aye Member Gifford Aye

Member Neary Aye Member Lynn Aye

Member Burns Aye City Adm. Giffen Aye

Member Tucker Aye City Att. Edge Aye

Member Baker Aye

Audience:

Tammy Cornett, 225 Third Avenue, gave an update on Music Fest 2. It was a huge success. A total of $10,800 was made by the Civic Club, Park Board, Youth Football, Youth Baseball and others. About 800 people attended the event. A big thanks goes out to everyone who volunteered and donated. Thanks to: Dave Imboden, API, The Bands, Craig Cornett, Police Department, City Administrator, City Council and Mayor Boruske, who was one of the last people along with Tammy and her husband to leave the park.

On July 14, the Civic Club will host a “Dine to Donate” at Applebee’s in Highland Heights. If you present a flyer, ten percent of the sales will be donated to the Civic Club.

Mayor Boruske thanked Tammy Cornett, President Civic Activities Board, for a job well done.

Scott Beseler, 231 Sixth Avenue, is looking at purchasing 325 Ninth Avenue. Mr. Beseler would like council to reduce the cost of a lien that the city has on this property. The city is happy you have an interest in this property but the lien is via a mortgage and there is no forgiveness. City Att. Edge researched this issue before tonight’s council meeting.

Walter Welch, a summer resident at 37 Mary Ingles Hwy., submitted plans to Campbell County Planning & Zoning for a building permit. This property is in the floodplain. Mr. Welch would like to make improvements to his cottage. The cottage is 70 years old. The County said this would be a substantial improvement and the guidelines of the floodplain must be followed. Doyle’s Country Club dates back 97 years. Mr. Welch’s Grandfather was an original founder. Mr. Welch understands the flood risk and no one at the camp carries flood insurance, because it’s not worth it. Mr. Welch asked the city for a waiver or variance so he does not have to raise his cottage 8 ½ feet. City Adm. Giffen said this ordinance was passed in 2014 so residents could get flood insurance. This work is substantial. This property must meet the requirements of the zone. City Adm. Giffen advised this is not the only building affected, if you make an exception there will be others. This was passed so the city could continue to get National Flood Insurance. This can be appealed to the Board of Adjustments. City Council cannot grant this waiver. City Att. Edge will speak with Mr. Welch and council, advising both on how to go forward.

Marcella Sandsenbacker, noted there is a much bigger picture. Doyle’s County Club started in 1913 with members as early as 1919. Thirteen of the sixteen cottages are Historic content. The deadline to submit paperwork for a Historical District is Oct. 1, 2016. We should know something by Oct. 1, 2016. I ask the council to consider this as a whole. We are in the middle of Historical Preservation.

Cathy Gordon, 314 Fourth Avenue, asked what safe guards are mandated to protect residential property because of the development North of the Avenue near O’Fallon Avenue. How is the developer or the city protecting our property and foundations? City Adm. Giffen reported the developers must go through two stages of Planning & Zoning, the Corp of Engineers, and a Federal Process. They are trying to do the work as low impact as humanly possible. This would be a civil matter if something did happen, reported City Att. Edge. These people are experts but there is no promise or guarantee. Ms. Gordon feels the 400 homeowners need to have faith the developer is looking out for us. I’m asking council to be proactive. Member Gifford suggested Ms. Gordon contact her Insurance Company and let them know about the development. Council does care about the 400 Homeowners.

Motion by Member Lynn, seconded by Member Burns to approve the minutes from the June 7, 2016 council meeting. Member Gifford abstained. Motion carried—so ordered.

**CITY OF DAYTON, KENTUCKY**

**MUNICIPAL ORDER NO. 7R**

A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CINCINNATI BELL TELEPHONE COMPANY, LLC FOR PHONE AND INTERNET SERVICES.

 **WHEREAS,** City wishes to contract with Cincinnati Bell Telephone Company, LLC to provide phone and internet services for the City of Dayton City Building; and

 **WHEREAS,** Cincinnati Bell Telephone Company, LLC represents it is willing to perform such services.

BE IT HEREBY ORDERED BY THE CITY OF DAYTON, KENTUCKY AS FOLLOWS:

Section I

That the City hereby approves and authorizes the Mayor to execute the attached and incorporated herein Service Agreement with Cincinnati Bell Telephone Services, LLC to provide telephone and internet service for City of Dayton City Building.

Section II

That this Order shall be maintained and indexed in the Official Order Book by the City Clerk/Treasurer.

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MAYOR VIRGIL L. BORUSKE

ATTEST:

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DONNA LEGER

CITY CLERK/TREASURER

Motion by Member Neary to table this until next month, he just received the information this afternoon and it’s a five year contract. Member Neary would like more time to review. City Adm. Giffen noted this is for a new phone system and updated internet. All Department’s will be under one contract. The money will be paid from the General Fund and the Fire Dept. will be billed. Member Burns and Member Tucker said they received the information last Thursday. Motion dies for lack of a second.

Motion by Member Burns, seconded by Member Lynn to approve 2016#7R as read.

ROLL CALL:

Member Tucker Aye Member Lynn Aye

Member Baker Aye Member Neary Nay

Member Gifford Aye Member Burns Aye

Motion carried—so ordered.

**CITY OF DAYTON, KENTUCKY**

**MUNICIPAL ORDER NO. 8R**

A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH REPUBLIC SERVICES OF OHIO HAULING, LLC FOR RESIDENTIAL SOLID WASTE COLLECTION, TRANSPORT AND DISPOSAL.

 **WHEREAS,** City wishes to contract with Republic Services of Ohio Hauling, LLC to provide solid waste collection, transport and disposal for the City of Dayton; and

 **WHEREAS,** Republic Services of Ohio Hauling, LLC represents it is willing to perform such services.

BE IT HEREBY ORDERED BY THE CITY OF DAYTON, KENTUCKY AS FOLLOWS:

Section I

That the City hereby approves and authorizes the Mayor to execute the attached and incorporated herein Residential Solid Waste Contract with Republic Services of Ohio Hauling, LLC to provide solid waste collection, transport and disposal for the City of Dayton.

Section II

That this Order shall be maintained and indexed in the Official Order Book by the City Clerk/Treasurer.

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MAYOR VIRGIL L. BORUSKE

ATTEST:

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DONNA LEGER

CITY CLERK/TREASURER

Motion by Member Baker, seconded by Member Gifford to approve 2016#8R as read.

ROLL CALL:

Member Baker Aye Member Neary Aye

Member Gifford Aye Member Burns Aye

Member Lynn Aye Member Tucker Aye

Motion carried—so ordered.

**CITY OF DAYTON, KENTUCKY**

**MUNICIPAL ORDER NO. 9R**

A MUNICIPAL ORDER AUTHORIZING THE EXECUTION OF THE INTERLOCAL AGREEMENT FOR BUILDING INSPECTION AND PLAN REVIEW SERVICES.

**WHEREAS**, the City Council has received and reviewed a copy of the Interlocal Agreement for Building Inspection and Plan Review Services; and

**WHEREAS**, City Council is in agreement with the contents of the Interlocal Agreement with Campbell County to have Campbell County Fiscal Court, Department of Planning and Zoning, provide building inspection and plan reviews in compliance with 815 KAR 7:120 Kentucky Building Code as granted by Expanded Jurisdiction Agreement with the Department of Housing, Buildings and Construction (DHBC) pursuant to KRS 198B.060(5).

**BE IT HEREBY ORDERED BY THE CITY OF DAYTON, KENTUCKY AS FOLLOWS:**

Section I

That the City is hereby authorized to execute the attached and herein incorporated Interlocal Agreement with the Campbell County Fiscal Court for Building Inspection and Plan Review Services.

Section II

That the Mayor and any other necessary official is authorized to sign all documents necessary to effect the above provision.

Section III

That this Order shall be maintained and indexed in the Official Order Book by the City Clerk/Treasurer.

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MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREAS.

 **INTERLOCAL AGREEMENT**

This **Interlocal Agreement For Building Inspection and Plan Review Services** (“Agreement”) is by and between the **Campbell County Fiscal Court** (“County”), and the **City of Dayton, Kentucky** (“City”).

**RECITALS:**

 **WHEREAS**, Chapter 65 of the Kentucky Revised Statutes permits local governmental units to cooperate with other local governmental units to provide services that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities;

 **WHEREAS**, the City of Dayton has approved by ordinance, resolution or otherwise pursuant to law (copy attached), entering into an agreement with Campbell County to provide building inspection and plan reviews in compliance with 815 KAR 7:120 Kentucky Building Code and 815 KAR 7:125 Kentucky Residential Code, as granted by Expanded Jurisdiction Agreement with the Department of Housing, Buildings and Construction (DHBC) pursuant to KRS 198B.060(5);

 **WHEREAS**, Campbell County has approved by ordinance, resolution or otherwise pursuant to law (copy attached), entering into an agreement with City of Dayton to provide building inspection and plan reviews for the City in compliance with 815 KAR 7:120 Kentucky Building Code and 815 KAR 7:125 Kentucky Residential Code, as granted by Expanded Jurisdiction Agreement with the Department of Housing, Buildings and Construction (DHBC) pursuant to KRS 198B.060(5); and

 **WHEREAS**, this Agreement will be submitted to the Department for Local Government (DLG) for approval in compliance with KRS 65.260(2) and to the DHBC for approval in compliance with KRS 65.300. The DLG and DHBC have sixty (60) days to review the Agreement. Failure by either the DLG or DHBC to disapprove the Agreement within the sixty (60) days constitutes an Agreement on behalf of that Department.

**NOW, THEREFORE**, pursuant to the authority of KRS 65.210 through KRS 65.300, and in consideration for the mutual and promises set forth herein, the parties agree as follows:

**1. SERVICES PROVIDED.** The County shall provide Kentucky Building Code and Kentucky Residential Code building permit review and inspection services for the City.

**2. RESPONSIBILITIES OF CITY.** The City agrees to adopt, by ordinance, the Kentucky Building Code, the Kentucky Residential Code and International Energy Conservation Code or the current edition of these respective codes, as the building code regulations for construction within the City, if necessary. The City shall designate the Campbell County Fiscal Court, Department of Planning & Zoning as the local building code inspection agency for the City. The City shall also agree to utilize the then current form of the Campbell County building permit fee schedule as the City’s building permit fee schedule. The City shall also agree that in lieu of payment from the City to the County for reimbursement of the cost of these services, the building permit fees shall be paid directly from the applicant to the County.

**3. Fees.** In exchange for the services provided, The County shall agree that in lieu of payment from the City for reimbursement of the cost of these services, the building permit fees shall be paid directly from the applicant to the County and that no additional fees shall be levied against the City for the provision of these services.

**4. Effective Date.** This Agreement shall not become effective until:

**A.** The DHBC grants approval for the expanded jurisdiction;

**B.** A certified copy of this Agreement is filed by County with the Secretary of State and the County Clerk of any County affected by this Agreement.

**5. DURATION AND TERMINATION.** This Agreement shall remain in effect until terminated by either party with ninety (90) day written notice submitted to DHBC and the non-terminating party.

**6. GOVERNING LAW.**  This Agreement shall be interpreted, construed and enforced according to the laws of the Commonwealth of Kentucky.

**7. ASSIGNMENT.** This Agreement may not be assigned by either party. This Agreement is only for the benefit of the County and City and the enforcement of it is limited to the parties. No provision of this Agreement shall be interpreted or construed to provide any benefit or right to anybody else, directly, indirectly, or otherwise.

**8. AMENDMENT.** This Agreement may not be amended by any means other than a written agreement signed by the County and City.

**9. CAPTIONS AND HEADINGS.** The captions and headings of the paragraphs and sub-paragraphs of this Interlocal Agreement have been inserted for convenience of reference only, and shall in no way affect the interpretation of any of the terms and provisions of this Agreement.

**10. FORCE MAJEURE.** Neither the County nor City shall have any responsibility or liability pursuant to the provisions of this Interlocal Agreement for the delay or default caused by war, riot, fire, acts of God or other causes beyond their reasonable control; but, upon the cessation of such cause, each of them shall diligently pursue the performance of those provisions delayed or precluded by such cause.

**11. AMBIGUITIES.** The County and the City each acknowledge that they have been represented by separate counsel in the negotiation of this Interlocal Agreement, to such an extent that there is precluded thereby any and all rules of interpretation and construction of the provisions of this Interlocal Agreement to the effect that any ambiguities therein shall be interpreted against the one who prepared or drafted that provision.

**12. WAIVER.** No consent to or waiver by either the County or City of any breach or default of any provision of this Agreement, whether express or implied, shall constitute or be interpreted as a consent to, waiver of or excuse any subsequent breach or default of the same or any other provision of this Agreement.

**13. SEVERABILITY.** In the event that any one or more of the provisions of this Agreement, or any part of a provision, shall be judicially determined to be contrary to law or otherwise invalid or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of this Agreement; and such provision or part of a provision shall be reformed so that it would be legal, valid and enforceable or this Agreement shall be reformed, interpreted and construed as if such provision or part of a provision had never been included in this Agreement.

**14. NOTICES.** All notices required by the provisions of this Agreement shall be in writing and mailed to the chief executive officer of the County or City at the address thereof according to the records of the Kentucky Department of Local Government, by certified mail, return receipt requested.

 **IN WITNESS WHEREOF, the parties have executed this Interlocal Agreement as of this \_\_\_ Day of July, 2016:**

Motion by Member Burns, seconded by Member Gifford to approve 2016#9R.

ROLL CALL:

Member Gifford Aye Member Burns Aye

Member Lynn Aye Member Tucker Aye

Member Neary Aye Member Baker Aye

Motion carried—so ordered.

**CITY OF DAYTON, KENTUCKY**

**MUNICIPAL ORDER NO. 2016#10R**

A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH SMARTWATT ENERGY INC. FOR LIGHTING INSTALLATION AT CITY BUILDING AS PART OF THE DUKE ENERGY SMALL BUSINESS ENERGY SAVER PROGRAM.

 **WHEREAS,** City wishes to contract with Smartwatt Energy Inc. to provide installation of lighting at City Building

 **WHEREAS,** Smartwatt Energy Inc. represents it is willing to perform such services.

BE IT HEREBY ORDERED BY THE CITY OF DAYTON, KENTUCKY AS FOLLOWS:

Section I

That the City hereby approves and authorizes the Mayor to execute the attached and incorporated herein Small Business Energy Saver Installation Contract with Smartwatt Energy Inc. for the City of Dayton.

Section II

That this Order shall be maintained and indexed in the Official Order Book by the City Clerk/Treasurer.

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MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

July 5, 2016

Motion by Member Lynn, seconded by Member Tucker to approve 2016-10R as read.

Member Lynn Aye Member Tucker Aye

Member Neary Aye Member Baker Aye

Member Burns Aye Member Gifford Aye

Motion carried—so ordered.

First Reading:

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2016-#12**

**AN ORDINANCE AMENDING THE DAYTON CODE OF ORDINANCES SECTION 50.09, WASTE COLLECTION FEE AND 50.11 DUMPSTER USER FEE FOR UNIFORMITY AND COMPLIANCE WITH CURRENT CONTRACTUAL AND ACCOUNTING OBLIGATIONS.**

 **NOW, THEREFORE BE IT ORDAINED BY THE CITY OF DAYTON, CAMPBELL COUNTY, KENTUCKY AS FOLLOWS:**

Section I

That City of Dayton Code of Ordinances, Section 50.09 is amended as follows:

**§ 50.09 WASTE COLLECTION SERVICE FEE.**

**(A)** For the purposes of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**(1)** **"OWNER OF IMPROVED REAL ESTATE."** The titleholder of record.

**(2)** **"PERSON, FIRM, OR CORPORATION DOING BUSINESS IN THE CITY OF DAYTON. KENTUCKY."** The person, firm, or corporation in whose name the occupational license fee for said business is registered.

**(3) “RESIDENTIAL UNIT.”** A principal residential space occupied or designed for occupancy for residential purposes.

**(4) “COMMERCIAL UNIT.”** A principal non-residential building space of any size occupied or designed for occupancy by an individual non-residential business or public or private enterprise.

**(B)** There is hereby levied and imposed upon the owners of improved real estate in the City of Dayton, Kentucky and upon persons, firms, and corporations doing business in the City of Dayton, Kentucky, a waste collection service fee as follows:

**(1)** For each residential and commercial unit, the sum of one hundred twenty-eight dollars and sixteen cents ($128.16)[~~one hundred forty three dollars ($143.00) per annum in fiscal years 2008, 2009 and 2010,one hundred forty-nine dollars ($149.00) per annum in fiscal year 2011, one hundred fifty-five dollars ($155.00) per annum in fiscal year 2012, one hundred sixty-one dollars ($161.00) per annum in fiscal years 2013 and 2014, one hundred sixty-eight dollars ($168.00) per annum in fiscal years 2015 and 2016, and each fiscal year thereafter~~], payable as stated herein;

[**~~(2)~~** ~~For each business or commercial unit, one hundred fifty-eight dollars ($.158.00) per annum in fiscal years, 2008, 2019, and 2010, one hundred sixty-four dollars ($164.00) per annum in fiscal year 2011, one hundred seventy dollars ($170.00) per annum in fiscal year 2012, one hundred seventy-six dollars ($176.00) per annum in fiscal years 2013 and 2014, one hundred eighty-three dollars ($183.00) per annum for fiscal years 2015 and 2016, and each fiscal year thereafter, payable as stated herein;~~

**~~(3)~~** ~~For each business or commercial unit and attached living unit in which the owner of said business resides, the sum of one hundred forty-four dollars ($144.00) per annum in fiscal year 2004, 2005 and 2006 and one hundred fifty dollars ($150.00) per annum in fiscal year 2007 and each fiscal year thereafter, payable as stated herein;~~

**~~(4)~~**] **(2)** For each business or commercial unit disposing of solid waste on average in excess of six (6) ninety (90) gallon containers per week [~~products in an amount equal averaging the use of more than the equivalent of ten (10) eighteen (18) gallon trash containers per pickup~~] shall contract directly with and pay directly a private waste collection service.

**(C)** The waste collection service fee provided by this section shall be added to the yearly ad valorem tax bill for the said property and shall be collected on or before the date due for such ad valorem taxes. All waste collection service fees remaining unpaid after such date shall be deemed delinquent and shall be subject to the same penalty as set for delinquent ad valorem taxes for the same year in addition to any other penalty provided under this chapter. Further, delinquent waste collection fees may be collected by the City Attorney in civil suit against the responsible party if all other methods of collection fail in any manner allowed by law.

**(D)** All proceeds collected under this section shall be paid into a separate fund to pay for the collection of waste, collection of debris, [~~and~~] upkeep and cleanliness of the city and its properties and associated administrative costs. [~~Nothing in this section shall be interpreted to prohibit payment of monies from the separate fund into the city's General Fund for services of the type described herein paid from General Fund revenues.~~]

Section II

That City of Dayton Code of Ordinances, Section 50.11 is amended as follows:

**§ 50.11 DUMPSTER USER FEE.**

(A) Each and every resident of the city having refuse materials created in the city of a nature and size not accepted by the city's residential waste contractor, may have use of the city dumpster for the discharge of said materials provided that: (a) the materials do not include grass, weeds, trees or other biodegradable yard materials; (b) the materials are not of a toxic or hazardous nature; and (c) the materials will be accepted by the city's trash hauler.

(B) Each such qualified person shall make written application in person at the city business office between 9:00 a.m. and 3:30 p.m. to the City Clerk/Treasurer stating his or her name and address, the address of the property at which he or she resides, the date and time that materials will be transported to the dumpster, that the refuse material was created in the city, the amount of the material and the kind of material proposed for discharge. The City Clerk/Treasurer may request proof of any of the information requested and may request verification by the City Inspector that the refuse materials were created in the city and are acceptable.

(C) Upon satisfaction that the user meets the requirement, the City Clerk/Treasurer shall charge zero dollars ($0.00) for the first ninety-six (96) cubic feet of materials, or portion thereof, per residence, and collect a fee of forty-five dollars ($45.00) for each additional ninety-six (96) cubic feet of materials or portion thereof. The City Clerk/Treasurer shall issue the user a receipt stating the amount of materials, type of materials, date and time of discharge, and amount paid.

(D) The resident shall take the receipt, along with the materials to the dumpster site and present the receipt to the Superintendent of Public Works or his or her designee who shall inspect the materials and certify that the type of materials are acceptable and that the amount of materials does not exceed that stated in the receipt. Upon such finding, the user may discharge the materials into the city dumpster.

(E) All funds collected by the city shall be placed in the [~~General Fund~~] a special fund as created in §50.09(D) [~~and used for the general operating expenses of the city~~].

Section III

This ordinance shall be in full force and effect from and after its adoption, approval and publication as is required by law.

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

First Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Second Reading: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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MAYOR VIRGIL L. BORUSKE

ATTEST:

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DONNA LEGER

CITY CLERK/TREASURER

Second Reading:

**CITY OF DAYTON, KENTUCKY**

**2016-#5**

**AN ORDINANCE RESCINDING CITY OF DAYTON CODE OF ORDINANCES CHAPTER 42 AND CREATING A NEW SECTION OF DAYTON CODE OF ORDINANCES AUTHORIZING AND REGULATING THE ISSUANCE OF SEARCH WARRANTS.**

 This ordinance recinds Chapter 42 of City of Dayton Code of Ordinances entitled Search Warrants and creates a new section 10.50 for administrative search warrants for the application and authority of administrative search warrants for the purposes of inspection, investigation, and compliance with City of Dayton Code of Ordinances.

 I, Tom Edge, 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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 **TOM EDGE**

Motion by Member Neary, seconded by Member Lynn to approve 2016#5 as read.

ROLL CALL:

Member Neary Aye Member Baker Aye

Member Burns Aye Member Gifford Aye

Member Tucker Aye Member Lynn Aye

Motion carried—so ordered.

Second Reading:

**CITY OF DAYTON, KENTUCKY**

**2016- #6**

**AN ORDINANCE RESCINDING CHAPTERS 38 AND CHAPTER 39 OF DAYTON CODE OF ORDINANCES TO ELIMINATE AND REDUCE REDUNDANCY, INCONSISTENCY AND INVALID PROVISIONS.**

 This ordinance recinds Chapter 38 and 39 of City of Dayton Code of Ordinance except for Section 38.002, Participation in County Employees Retirement System, which remains in effect and is renumbered as Section 31.65.

 I, Tom Edge, 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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 **TOM EDGE**

Motion by Member Burns, seconded by Member Tucker to approve 2016#6 as read. Comments: Member Neary, just to clarify 38.001 on the job classification, 38.002 on the CERS participation are moved to a different chapter. City Att. Edge replied, just the CERS.

ROLL CALL:

Member Burns Aye Member Gifford Aye

Member Tucker Aye Member Lynn Aye

Member Baker Aye Member Neary Aye

Motion carried—so ordered.

Second Reading:

**CITY OF DAYTON, KENTUCKY**

**2016- #7**

**AN ORDINANCE CONCERNING THE REGISTRATION OF VACANT RESIDENTIAL PROPERTY LOCATED WITHIN THE CITY AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF.**

 This ordinance creates a new chapter of City of Dayton Code of Ordinance for the registration of vacant residential property located within the City of Dayton for the purposes of assuring effective preservation and management of such property. The ordinance requires property owners and creditors to register vacant properties with the City Clerk Treasurer and pay a registration fee. The ordinance sets the following penalties:

**§ 157.05 PENALTY.**

**(A)** Any Creditor of vacant, foreclosed residential property or owner of vacant residential property that fails to register such property with the City Clerk/Treasurer shall be subject to a civil fine of one hundred ($100.00) dollars for each day of the violation.

**(B)** Failure to maintain accurate information once having registered the property shall constitute a violation and shall be subject to a civil fine of one hundred ($100.00) dollars for each day of the violation.

 I, Tom Edge, 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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 **TOM EDGE**

Motion by Member Neary, seconded by Member Burns to approve 2016#7 as read.

ROLL CALL:

Member Tucker Aye Member Lynn Aye

Member Baker Aye Member Neary Aye

Member Gifford Aye Member Burns Aye

Motion carried—so ordered.

Second Reading:

**CITY OF DAYTON, KENTUCKY**

**2016- #8**

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DAYTON.**

 This ordinance amends the official zoning map of the City of Dayton by adopting Phase A and Phase B of the Manhattan Harbour Community Theme/Pattern Books for the Manhattan Harbour Mixed Land Use Zone as previously adopted by the Planning Commission and City Council for the City of Dayton through resolution.

 I, Tom Edge, 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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 **TOM EDGE**

Motion by Member Lynn, seconded by Member Neary to approve 2016#8 as read.

ROLL CALL:

Member Baker Aye Member Neary Aye

Member Gifford Aye Member Burns Aye

Member Lynn Aye Member Tucker Aye

Motion carried—so ordered.

Second Reading:

**CITY OF DAYTON, KENTUCKY**

**2016- #9**

**AN ORDINANCE REVISING DAYTON CODE OF ORDINANCES SECTION 154.062 AS RECOMMENDED BY THE PLANNING COMMISSION FOR THE PURPOSES OF REGULATING CELLULAR ANTENNA TOWERS AND SMALL CELL SYSTEM TOWERS**

 This ordinance revises City of Dayton Code of Ordinances Section 154.062, Cellular Antenna Towers and Small Cell System Towers for the purposes of regulating cellular antenna towers and small cell system towers as recommended by the City of Dayton Planning Commission. The Ordinance adopts an additional alternative process for facilitating and regulating small cell system tower. Furthermore, the Ordinance updates terms and definitions as applied specifically to Section 154.062.

 I, Tom Edge, 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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 **TOM EDGE**

Motion by Member Neary, seconded by Member Burns to approve 2016#9 as read.

ROLL CALL:

Member Gifford Aye Member Burns Aye

Member Lynn Aye Member Tucker Aye

Member Neary Aye Member Baker Aye

Motion carried—so ordered.

Second Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2016 #10**

**AN ORDINANCE ADOPTING THE CITY OF DAYTON, KENTUCKY'S ANNUAL BUDGET FOR FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, & ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS FOR THE CITY TO THE FULL EXTENT AUTHORIZED BY KRS 82.082 AND INTERPRETATIVE CASE LAW.**

 This ordinance adopts the budget for Fiscal Year 2017 for the General Fund, Municipal Aid Fund, Park Board Fund, Park Tax Fund, Economic Development, the Sargent Park Fund, and the Waste Collection Fee.

 I, Tom Edge, 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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 **TOM EDGE**

Motion by Member Lynn, seconded by Member Tucker to approve 2016#10 as read.

ROLL CALL:

Member Lynn Aye Member Tucker Aye

Member Neary Aye Member Baker Aye

Member Burns Aye Member Gifford Aye

Motion carried—so ordered.

CITY ADMINISTRATOR’S REPORT:

Request for a handicap parking space from Mariah Hardy, 707 Walnut Street. Applicant does not meet all the requirement of the handicap parking ordinance. There is off-street parking.

Special Event Application from Dayton Eagles, 5:00 p.m. to 11:00 p.m. on July 9th. This is an event the Eagles have every summer. They would like the closing of Berry Street between Fifth and Sixth Avenue. Motion by Member Gifford, seconded by Member Baker to approve the street closing for the Eagle’s event. Motion carried—so ordered.

Request to change Berry Street between Sixth and Seventh Avenue as a two-way street. If approved, the city would need to eliminate parking on the West Side of the Street. There are only two homes on this side and one has parking. There are four homes on the other side. Member Gifford suggested talking with the residents and businesses. The corner is very tight in this area. If we change and it doesn’t work out add a clause that it could be changed back. City Adm. Giffen will invite all residents and businesses in this area to the August 2, 2016 council meeting. Member Tucker suggested not eliminating parking. Mayor Boruske would like the Police Dept. and Fire Dept. to look at this area and share their findings at the August meeting.

CITY ATTORNEY’S REPORT:

City Att. Edge reported three more cases have been filed with the County Attorney’s office. There are still 15 open cases and Tiffany Myers, Asst. Clerk/Treas, is working on the delinquent letters for 2016. Warning letters were sent out on May 1, 2016 for delinquent real estate. The city has collected $28,243.00 in real estate taxes since May 1, 2016.

DEPARTMENT HEAD’S REPORT:

Donna Leger, Clerk/Treas., submitted a copy of the current financials and check register. The city ended the fiscal year not using any of the carry over that was budgeted. The General Fund surplus increased.

Tina Neyer, Main Street Manager, submitted a copy of the CCAP report. The only money that has gone out of CCAP is four rental abatements.

In the CBD several properties are for sale:

624 Sixth Avenue - $149,000 firm. This property needs minimal work.

626 Sixth Avenue

640 Sixth Avenue

635 Sixth Avenue, is very anxious to sell.

The Street Scape Grant and Safe Route to School Grant has been cleared by e-clearing house. Right now it’s in the design phase. The flags have been installed. Mayor Boruske, Member Baker and Tina walked the city will representatives from Bright Center. They were here to promote employment training. The next Main Street Board meeting is August 30th.

A copy of Chief Auteri’s report was submitted to council.

Sgt. Baldwin, Police Dept., submitted his report to council.

Richard McAllister, Code Enforcement Officer, explained how the new tracking program is working. Rich will have the ability to generate letters from the field. To date Rich has issued $20,000 in citations and no one has appealed. The burned out house on Ninth Avenue has been scheduled for demolition. This property will be taken down by Public Work’s. City Att. Edge will put a lien on the property, then foreclosure. The city will most likely take a loss.

STANDING COMMITTEE REPORTS:

Public Safety (Member Gifford):

Member Gifford suggested a right turning lane, going West by the Monument during school hours. The traffic is bad in the morning. Mayor Boruske suggested we get a recommendation from the State.

Public Works (Member Burns):

Public Work’s needs to cut the grass at Fifth and Clark by the Fire Hydrant.

Park & Real Estate (Member Tucker):

The next Park Board meeting will be July 18, 7:00 VFW. Member Tucker has been speaking with Cathy Gordon to put together some type of Landlords Association in town. This is to share information. Please contact Member Tucker if interested.

NEW BUSINESS:

Member Burns suggested the Project Manager of the job at Fourth & Mary Ingles be contacted concerning the piles of dirt and large tree roots left on city property.

Member Neary requested the crosswalks across Ninth & across Vine be painted. School starts in six weeks. Motion by Member Baker, seconded by Member Neary to paint the cross walks both ways at Ninth & Vine. Motion carried—so ordered.

Member Neary reported the city has had a lot of interest in property on the Avenue. We have a big gap. The Neighborhood District in the 100 Block and then when you get to Ervin Terrace, North Side that is where the CBD starts down to Clay Street. Member Neary would like to extend the Neighborhood Business District. A lot of the homes in the 200 and 300 block could be used as offices. Bud Fowler is having a problem selling his property at Sixth & Main Street. City Adm. Giffen suggested a new zone. Something we don’t currently have.

Member Baker asked about placing two “Slow Down Children at Play” signs in the alley between Fifth and Sixth Avenue between McKinney Street and Ervin Terrace. Mayor Boruske suggested more speed bumps in the alley. Member Burns also felt more speed bumps are needed. Motion by Member Baker, seconded by Member Gifford to put signs at the end caps of the alley. Comments: Member Lynn asked if the signs would be placed on each corner of the alley. Member Baker felt it should be up to Public Works where to place the signs.

ROLL CALL:

Member Neary Aye Member Baker Aye

Member Burns Nay Member Gifford Aye

Member Tucker Aye Member Lynn Aye

Motion carried—so ordered.

Mayor Boruske entertained a motion to go into executive session to discuss KRS 61.810 1(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. Motion by Member Neary, seconded by Member Burns to go into executive session. Motion carried—so ordered.

Motion by Member Burns, seconded by Member Gifford to go back into regular session. Motion carried—so ordered.

Motion by Member Neary, seconded by Member Burns to accept the Developers proposal to move the Walnut Street playground to 300 Third Avenue. The Developer will acquire 300 Third Avenue and prepare the site for the Playground to meet Public Work’s approval. The Developer will remove and move all the playground equipment from the Walnut Street Park. The City will install the equipment. This must be done within 90 days of the permit issued. Comments: Member Tucker asked about the Basketball Courts. City Adm. Giffen said yes, the Basket Ball Court is part of the Park.

Member Burns Aye Member Gifford Nay

Member Tucker Aye Member Lynn Nay

Member Baker Aye Member Neary Aye

Motion carried – so ordered.

Motion by Member Burns, seconded by Member Tucker to adjourn. Motion carried—so ordered.

 Respectfully submitted,

 Donna Leger

 Clerk/Treas.

ATTEST:

Virgil L. Boruske

Mayor