CITY OF DAYTON

COUNCIL MEETING

April 5, 2016

A regular meeting of Dayton City Council was held on Tuesday, April 5, 2016, 7:00 p.m. in the board meeting room of the Dayton Independent Schools Administration Building, Third & Clay Street. Dayton, KY.

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:

Elmer Perry, 419 Third Avenue, announced the Tharp Dayton Heritage Museum is open the Second and Fourth Saturday of each month from 10:00 a.m. until 2:00 p.m. Beyond the Curb is Sunday, April 24th. The museum will be open that day from 10:00 a.m. until 4:00 p.m.

David Halfhill, Police Chief, awarded Sergeant Tony Baldwin with a plaque to honor his 20 years of service with the Dayton Police Department. This is 20 years of excellent service. Chief Halfhill said Sergeant Baldwin is an asset to the Police Dept. Sergeant Baldwin attended a five month class in Frankfort and recently graduated from CJED (Criminal Justice Executive Development Program).

Nelson Stark, Dayton Marina, noted it has been a tough year this season. The road by the Marina is on the city’s list for resurfacing in the fall but Mr. Stark asked council to move the paving of this road up to this Spring. It would help if the area looks good for the boaters at the beginning of the season. The road is mostly gravel. Mr. Stark noted from the stop sign to the driveway is 600 feet. Mr. Stark is okay with 30’ wide. City Adm. Giffen estimated the cost at $28,200 (50’X600’). The road is 50’ wide. Previously council approved a bid from Bluegrass Paving for $128,580. This paving work will be starting soon. Dodd Drive was not included in this bid. This section of Dodd Drive would need to be re-advertised and bid out. There is currently $424,000 in the Municipal Aid Account. City Adm. Giffen asked for a motion to honor Mr. Stark’s request and take the necessary steps to get this on the Spring paving list. If we rebid now the bids should be in by the May meeting. Motion by Member Neary, seconded by Member Tucker to advertise for bids 600’x50’and 600’x30’ for Dodd Drive from Fourth Street North. Comments: Member Baker confirmed the $28,200 is based on 600’x50’ and this will come off the Fall repaving list. City Adm. Giffen confirmed. Motion carried—so ordered.

ROLL CALL:

Member Lynn Aye Member Tucker Aye

Member Neary Aye Member Baker Aye

Member Burns Aye Member Gifford Aye

Motion carried—so ordered.

Justine Ryan, YMCA, will be leaving the YMCA after five years. Justine is moving to Pittsburgh. Justine thanked the City for all their support and said the YMCA will be in good hands with Dylan Richardson, her replacement. The YMCA is in urgent need of funding. Justine presented a Power Point presentation showing her budget is in a $10,000 deficit. Justine is asking the City for $20,000. This would cover the $10,000 deficit and the other $10,000 would be used for quality programs. Member Neary feels this is a good investment for the Community and asked the finance committee to consider this request. Justine has made a positive impact on the City. Member Lynn, Finance Committee Chair, said the Finance Committee is meeting next week.

MAYOR’S REPORT:

Consent Agenda:

Motion by Member Neary, seconded by Member Gifford to approve the minutes from the Feb. 2, 2016 meeting. Motion carried—so ordered.

Ordinance & Orders:

**CITY OF DAYTON, KENTUCKY**

**RESOLUTION NO. 2016-1R**

A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH THE TRANSPORATION CABINET FOR GRANT OF FUNDS FOR THE RIVERFRONT COMMONS PROJECT.

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

Section I

That the City of Dayton has been granted $530,387.00 from the Kentucky Transportation Cabinet for the Riverfront Commons project, Item No. 6-3705, P02-628-1600002095.

Section II

That the City of Dayton agrees to ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the Grant Agreement, as attached hereto and so incorporated.

Section III

That the Mayor may sign and execute all necessary documents to effectuate this project including but not limited to the Agreement between the Commonwealth of Kentucky Transportation Cabinet and the City of Dayton as attached hereto and so incorporated.

Section IV

That this Resolution shall be maintained and indexed in the Official Resolution 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 Burns, seconded by Member Lynn to approve 2016-#1R 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.

First Reading:

# **CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2016-#1**

**AN ORDINANCE AMENDING CHAPTER 150 OF THE DAYTON CODE OF ORDINANCES AS IT RELATES TO IMPLEMENTATION AND ADOPTION OF THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE AND AMENDING PENALTIES FOR VIOLATIONS.**

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

Section I

That Ordinances 2014-10, as codified by City of Dayton Code of Ordinances, Section 150.03 are rescinded.

Section II

That the following sections shall be added in the Code of Ordinances for the City of Dayton:

**§150.03 Adoption of International Property Maintenance Code; Amendments.**

**(A) Adoption.** That certain document, three copies of which are on file in the office of the City, being marked and designated as "The 2015 International Property Maintenance Code" as published by the International Code Council, Inc. (ICC) is hereby adopted as the property maintenance code of the city for the control of buildings and structures as herein provided; and each and all of the regulations of "2015 International Property Maintenance Code, "are hereby referred to, adopted, and made a part hereof, as if fully set forth herein.

**(B) Suits pending, etc.** Nothing in this section or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this section.

**(C) Amendments.** The following sections of the 2015 International Property Maintenance Code, are hereby revised as follows:

**(1)** Section 101.1, Insert: “the City of Dayton, Campbell County Kentucky”

**(2)** Section 102.3, Delete in its entirety and replace with “Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Kentucky Building Code, Kentucky Residential Code, the Uniform State Building Code as is established by the Board of Housing, Buildings and Construction of the State of Kentucky, National Electrical Safety Code, the National Electric Code and City of Dayton Code of Ordinance.

**(3)** Section 103.2, Delete “chief appointing authority” and replace with “Mayor”; Delete “appointing authority” and replace with “Mayor.”

**(4)** Section 103.3, Delete in its entirety.

**(5)** Section 103.5, Delete in its entirety.

**(6)** Section 111.1, Delete in its entirety and replace with “Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the City of Dayton Code Enforcement and Nuisance Board, provided that a written application for appeal is filed with the City Clerk/Treasurer within 7 days after the day the decision, notice or order was served.

**(7)** Section 111.2, Delete in its entirety.

**(8)** Section 111.7, Delete: “appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.” and replace with “Campbell County District Court within thirty (30) days of the final decision of the appeals board.”

**(9)** Section 111.8, Delete “by the appeals board.”

**(10)** Section 201.3 Delete in its entirety and replace with “Where terms are not defined in this code and are defined in the Kentucky Building Code, Kentucky Residential Code, City of Dayton Code of Ordinances, National Electrical Code or any applicable code adopted and enforced by the State of Kentucky, such terms shall have the meanings ascribed to them as stated in those codes.”

**(11)** Section 202, Insert “OUTDOOR STORAGE. The keeping of personal or business property in any open space or outdoor area outside of a building or structure. For the purpose of this definition, property shall not include items that were originally designed for continuous outdoor use (ex: lawn furniture, grills, playground equipment).”

**(12)** Section 302.1, Insert: “and all outdoor storage shall be removed.”

**(13)** Section 302.4, Insert: “six (6) inches”

**(14)** Section 302.8, Delete in its entirety and replace with “No inoperative, abandoned or unlicensed motor vehicle, trailer, recreational vehicle, camper, boat or similar equipment shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. All motor vehicles, trailers, recreational vehicles, campers, boats and similar equipment shall be parked, kept or stored on a paved surface. All trailers, recreational vehicles, campers, boats and similar equipment shall be parked, kept or stored in the rear yard and may be parked, kept or stored in the side yard behind the front structure line of the principal structure if approved by the Board of Adjustment. In no case shall more than one trailer, recreational vehicle, camper, boat or similar equipment be permitted outside of an enclosed building on any premises.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.”

**(15)** Section 303.2, Delete in its entirety and replace with “Enclosures for swimming pools, hot tubs and spas shall be regulated by the Kentucky Building Code, Kentucky Residential Code, the City of Dayton Zoning Ordinance and any applicable codes adopted and enforced by the State of Kentucky.”

**(16)** Section 304.14. Insert: “April 1 to October 31”

**(17)** Section 401.3, Replace “International Building Code” with “Kentucky Building Code, Kentucky Residential Code or any applicable code adopted and enforced by the State of Kentucky”

**(18)** Section 602.3, Insert: “October 1 to April 1”

**(19)** Section 602.4, Insert “October 1 to April 1”

**(20)** Section 702.1, Delete: “International Fire Code” and replace with “Kentucky Building Code, City of Dayton Code of Ordinances and the International Fire Code”

**(21)** Section 702.2, Delete: “International Fire Code” and replace with “Kentucky Building Code, City of Dayton Code of Ordinances and the International Fire Code”

**(22)** Section 702.3, Delete: “International Building Code” and replace with “Kentucky Building Code, City of Dayton Code of Ordinances and the International Fire Code”

**(23)** Section 704.1, Delete: “International Fire Code” and replace with “Kentucky Building Code, City of Dayton Code of Ordinances and the International Fire Code”

**(D) Severability.** That if any section, subsection, sentence, clause or phrase of this legislation is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council for the City of Dayton hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section II

That section 150.98 of the Code of Ordinances for the City of Dayton is amended as follows:

**§150.98. Civil Offense.**

**~~(A)~~** ~~Violation of any provision of Chapter 150, §§ 150.01, 150.02 or 150.03, is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred dollars ($200.00). Any person electing not to contest citation for said offense shall be fined two ($200.00). Each day of violation shall constitute a separate offense.~~

**~~(B)~~** ~~Violation of any provision of Chapter 150, §§ 150.15, 150.23, 150.33 or 150.50, is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred fifty dollars ($250.00). Any person electing not to contest citation for said offense shall be fined two hundred dollars ($200.00). Each day of violation shall constitute a separate offense.~~

**~~(C)~~** ~~Violation of any provision of Chapter 150, §§ 150.16, 150.17, 150.18, is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred fifty dollars ($250.00). Any person electing not to contest citation for said offense shall be fined [two] one hundred dollars ($[2]100.00). Each day of violation shall constitute a separate offense.~~

**~~(D)~~** ~~Violation of any provision of § 150.56 is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred dollars ($200.00). Any person electing not to contest citation for the offense shall be fined two hundred dollars ($200.00). Each day of violation shall constitute a separate offense.~~

**(A)** Any person, firm, or corporation who violates any provision of this Chapter shall be subject to a civil fine of not less than $50 per day per violation but not more than $500 per day per violation, and the cost to the city to abate the public nuisance, or both. Each date that a violation of this Chapter continues may be deemed a separate offense to a maximum of $10,000 per citation. If the civil fine is uncontested, the amount shall be $250 per violation per day.

**(B)** The city shall possess a lien on property for all fines, penalties, charges, attorney’s fees, and other reasonable costs associated with enforcing this code and placing of a lien on a parcel of real property pursuant to this code. The lien shall be superior to and have priority over all other liens filed subsequently, except state, county, school board, and city taxes.

Section IV

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

First Reading:

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2016-#2**

**AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTS TO THE CODE OF ORDINANCES OF THE CITY OF DAYTON, KENTUCKY.**

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

Section I

That the City of Dayton, being authorized by KRS 83A.060(5) that the S-1, S-2, S-3, S-4, S-5, S-6, S-7, S-8, S-9, S-10, S-11, S-12, S-13, S-14, S-15, S-16, S-17, S-18, S-19, S-20, S-21, S-22, S-23, S-24, S-25, S-26 and S-27 Supplements to the Code of Ordinances of the City of Dayton, Kentucky, as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same are hereby adopted by reference as if set out in its entirety. Said Code and Supplements contain all ordinances of a general nature enacted since the adoption of the Code of Ordinances of the City of Dayton, Kentucky as well as revisions or additions of certain sections of the Code of Ordinances which are based upon or make references to section of Kentucky Revised Statute.

Section II

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, Campbell County, Kentucky assembled in regular session.

First Reading: April 5, 2016

Second Reading:

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MAYOR VIRGIL L. BORUSKE

ATTEST:

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DONNA LEGER

CITY CLERK/TREASURER

First Reading:

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2016- #3**

**AN ORDINANCE RESCINDING ORDINANCE 2013-02, 2013-03 AND 2013-06 AND ADDING A NEW CHAPTER TO THE CITY OF DAYTON CODE OF ORDINANCES TO ADDRESS NUISANCES WITH A PENALTY FOR VIOLATIONS AND REVISING VARIOUS SECTIONS OF THE DAYTON CODE OF ORDINANCES TO CONFORM WITH THE NEW ORDINANCE.**

**WHEREAS,** nuisances present grave health, safety and welfare concerns, where the persons responsible for such nuisances have failed to take corrective action to abate the nuisance condition. Nuisances have a tremendous negative impact upon the quality of life, safety, and health of the neighborhoods where they are located. This ordinance is enacted to remedy nuisance activities that are particularly disruptive to the quality of life;

**WHEREAS,** it is the intent of KRS 65.8801 to 65.8839 to protect, promote, and improve the health, safety, and welfare of the citizens residing within the City by authorizing the creation of an administrative board with the authority to issue remedial orders and impose fines in order to provide an equitable, expeditious, effective, and inexpensive method of ensuring compliance with the ordinances in force within the City;

**WHEREAS,** it is the intent of KRS 82.705 to 82.725 to allow cities to elect, by ordinance, to enforce violations of a nuisance code with civil penalties pursuant to the procedures set forth in KRS 82.710, 82.720, and 82.725; and

**WHEREAS,** it is the desire of the City Council of the City of Dayton, Kentucky to utilize the authority granted in KRS 65.8801 to 65.8839 and KRS 82.705 to 82.725 by creating a City of Dayton Code Enforcement and Nuisance Board.

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

Section I

That Ordinance 2012-02, 2012-03, and 2012-06 or Chapter 99 in its entirety, as codified by City of Dayton Code of Ordinances, is rescinded.

Furthermore, That Ordinance 1996-14, and 1997-06 or Chapter 41 in its entirety, as codified by City of Dayton Code of Ordinances, is rescinded and deleted.

Section II

That the following sections shall be added to the Code of Ordinances for the City of Dayton:

**§99.01 Generally.** This chapter of the code of ordinances shall be known as the Dayton Nuisance Code, hereinafter referred to as "the code" or "this code".

**§99.02 Scope, Intent, Conflict with Other Ordinances.**

**(A) Purpose.** This code is designed to protect the public health, safety, and welfare by:

(1) Establishing what constitutes a nuisance on residential and non-residential properties and properties without existing structures;

(2) Prohibiting public nuisances that substantially annoy, injure, or endanger the public or unlawfully or substantially interfere with the use and enjoyment of private or public property.

(3) Fixing the responsibilities of owners, operators, and occupants of all occupied residential and non-residential structures, and vacant structures and premises; and

(4) Providing for administration, enforcement, and civil penalties.

**(B) Intent.** This code shall be construed liberally and justly to insure public health, safety, and welfare insofar as they are affected by the continued use and maintenance of structures and premises.

**(C) Other Regulations.** The provisions of this code shall not be construed to prevent the enforcement of other ordinances or regulations.

**(D) Application of other codes.** Any repairs, alterations, or changes to a structure, which are caused directly or indirectly by the enforcement of this code, shall be done in accordance with the procedures and provisions of any other existing codes used and enforced by the city, including but not limited to the city's Property Maintenance Code and the state Building Code, Fire Code, and Electrical Code.

**(E) Remedies.** The provisions of this code shall not be construed to abolish or impair existing or other remedies of the city or its officers or agencies relating to the removal or demolition of any buildings that are dangerous, unsafe, or unsanitary.

**(F) Workmanship.** All repairs, maintenance, work, alterations, or installations that are required for compliance with this code shall be executed and installed in a workmanlike and acceptable manner.

**(G) Conflict with Other Ordinances or Regulations.** In any case where a provision of this code is found to be in conflict with any existing code, ordinance, or regulation of the city, the provision that establishes the highest standard shall apply, so long as the penalty for violation of that provision is civil in nature. If the penalty of the provision establishing the highest standard is not civil in nature, then this code shall be the prevailing authority, with the exception of the state Building Code, Fire Code, and Electrical Code, which shall control over conflicting city ordinances.

**§99.03 Definitions.** The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Abate” shall mean to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this Chapter by such means and in such a manner and to such an extent as the applicable Code Enforcement Officer determines is necessary in the interest of the general health, safety and welfare of the community.

“Board” shall mean the Code Enforcement and Nuisance Board.

“Code Enforcement and Nuisance Board” shall mean an administrative body created and acting under the authority of the Local Government Code Enforcement Board Act, KRS 65.8801 to KRS 65.8839, and the Local Government Nuisance Code Enforcement Act, KRS 82.700 to 82.725.

“Code Enforcement Officer” shall mean a city police officer, safety officer, citation officer, or other public law enforcement officer with the authority to issue a citation as authorized and appointed by the Mayor.

“Control” shall mean the ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property.

“Chronic Nuisance Property” shall mean any real property on which three or more nuisance activities exist or have occurred during any 365 day period.

“Drug-Related Activity” shall mean any unlawful activity at a property which consists of the manufacturing, delivery, sale, storage, possession, or giving away of any

“Ordinance” shall mean an official action of a local government body, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by the city legislative body which embodies all or part of an ordinance.

**§99.10 Public Nuisances Prohibited**

No person shall act, fail to act, behave, erect, contrive, cause, continue, maintain in any manner, or permit to exist any public nuisance within the city.

**§99.12 Actions Constituting Public Nuisances**

The following acts, actions, inaction, omissions, behavior, or conditions constitute a public nuisance:

**(A) Criminal Activity.** No owner of residential, commercial or vacant property located in the City shall allow his or her property to be used as the site for any criminal activity. For purposes of this section, criminal activity shall be defined as a criminal citation, arrest, or court-issued search warrant for crime involving:

(1) Prostitution;

(2) Controlled Substances or Drug Related Activity;

(3) Alcohol intoxication;

(4) Menacing;

(5) Assault;

(6) Terroristic threatening;

(7) Resisting arrest;

(8) Disorderly conduct;

(9) Outdoor gambling; or

(10) Violation of Chapter 527 of Kentucky Revised Statute (Offenses relating to Firearms and Weapons)

Any other provision of this section notwithstanding, it shall not be a public nuisance if the person cited is the victim of the criminal activity that occurred or is an incident of domestic violence perpetrated against a resident, licensee, or invitee of the premises.

**(B) Graffiti.** No person shall spray, draw, etch, carve or otherwise create graffiti on any building or structure in the city and any person doing the same shall be subject to a civil fine for the cost of removal.

**(C) Environmental Nuisance.** No person shall use, cause, permit, or omit in the use of property in a manner which causes an annoyance, hazard or injury which may be detrimental to the property or well-being of others. These actions shall include but are not limited to the following:

(1) Injures or endangers the welfare, health, or safety of others;

(2) Offends decency;

(3) Creates offensive odors;

(4) Interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;

(5) Interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others;

(6) Permits the presence, existence, or accumulation of waste, rubbish, trash, or other non-operable appliance or vehicles or vehicles in a state of major disassembly, disrepair, or in the process of being stripped or dismantled;

(7) Permitting any yard grass, other plant or weed growth exceeding six (6) inches in height other than crops, trees, bushes, flowers, or other ornamental plants.

(8) Disposing or accumulating of any foul, decaying or putrescent substance, stagnant water, animal waste or other offensive material in or on any lot, tract of land, street, highway, or any sidewalk or alley abutting any of these which shall be the reasons for such offensive odors.

**(D) Litter, Garbage, and Trash.** No person shall drop, deposit, permit, or acquiesce to such activity in any manner on any public or private property any trash, litter, garbage, rubbish, debris, refuse, or waste of any kind, or other obnoxious materials whether solid or liquid.

**(E) Dilapidated Housing.** No person shall cause, allow, or permit any structure to be unfit for human habitation, occupancy, or use. Conditions that warrant a finding of unfit for human habitation include conditions that exist which are dangerous or injurious to the health, safety, or morals of the occupants of such structure, neighboring structures or other residents of the city. Examples of such conditions include but are not limited to: defects increasing the hazard of fire, accidents or other calamities, lack of adequate ventilation, light or sanitary facilities, violations of any other laws of the Commonwealth of Kentucky, Kentucky Building Code or other Ordinance of the City of Dayton.

**(F) Violation of Ordinances.** No person shall violate any state law or local ordinance occurring on, around or near a property including, but not limited to, violations of the following laws and regulations:

(1) Abandoned Vehicles, as codified in Chapter 90 of the Dayton Code of Ordinances;

(2) Animals, as codified in Chapter 91 of the Dayton Code of Ordinances;

(3) Excessive Noise, as codified in Chapter 92 of the Dayton Code of Ordinances;

(4) Fireworks; Fire Prevention, as codified in Chapter 93 of the Dayton Code of Ordinances;

(5) Littering, as codified in Chapter 94 of the Dayton Code of Ordinances;

(6) Building Regulations or the International Property Maintenance Code, as codified in Chapter 150 of the Dayton Code of Ordinances;

(7) Fences, as codified in Chapter 151 of the Dayton Code of Ordinances; and

(8) Zoning Code, as codified in Chapter 154 of the Dayton Code of Ordinances.

**§99.14 Chronic Nuisances Prohibited**

**(A)** Any property within the City which is a Chronic Nuisance Property is also declared a public nuisance and in violation of this Ordinance and subject to the remedies provided herein.

**(B)** Any person responsible for or controls property who permits property to be a Chronic Nuisance Property shall be in violation of this Ordinance.

**§99.30 Administration**

Any Code Enforcement Officer may issue a Notice of Violation or Citation if a Code Enforcement Officer reasonably believes, based on his personal observation or investigation, that a person has violated this Chapter.

**§99.32 Code Enforcement Officer Orders.**

**(A) Destroying orders or notices.** No person or owner shall destroy, remove, or deface any order or notice posted by a code enforcement officer.

**(B) Disobeying orders.** No person or owner shall disobey any order issued by a code enforcement officer, or use or occupy or permit any other person to use or occupy any premises ordered closed by the Community Services Manager.

**§99.40 Abatement Procedure**

Prior to issuing a Citation pursuant to 99.55 the Code Enforcement Officer shall issue a Notice of Violation to the offender allowing the offender a specified period of time to remedy the violation without fine. If the offender fails or refuses to remedy the violation within the specified time period, the Code Enforcement Officer is authorized to issue a citation.

**§99.50 Code Enforcement and Nuisance Board; Establishment and Members**

There is hereby created pursuant to KRS 65.8801 to KRS 65.8839 and KRS 82.700 to 82.725 within the city, a Code Enforcement and Nuisance Board which shall be composed of three members, all of whom shall be residents of the city for a period of at least one (1) year prior to the creation of the board and shall reside there throughout the term in office.

The executive authority may appoint, subject to the approval of the legislative body, two (2) alternate members to serve on the Board in the absence of regular members. Alternate members shall meet all of the qualifications and shall be subject to all of the requirements that apply to regular members of the Board.

**§99.51 Powers**

(A) The Code Enforcement and Nuisance Board shall have the power to issue remedial orders and impose civil fines as a method of enforcing city ordinances when a violation of the ordinance has been classified as a civil offense.

(B) The Code Enforcement and Nuisance Board shall not have the authority to enforce any ordinance the violation of which constitutes a criminal offense under any provision of the Kentucky Revised Statutes, including specifically, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

**§99.52 Appointment of Members; Term of Office; Vacancies; Removal from Office; Oath; Training**

**(A) Appointment.** Members of the Code Enforcement and Nuisance Board shall be appointed by the executive authority of the city, subject to the approval of the legislative body.

**(B) Term of Office.**

(1) Initial Appointments. The initial appointment to the Board shall be as follows:

(a) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of one (1) year;

(b) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of two (2) years; and

(c) One-third (1/3) of the membership or one-third (1/3) of the membership and

one (1) member of the board shall be appointed for a term of three (3) years.

(2) All subsequent appointments shall be for a term of three (3) years. A member may be reappointed, subject to the approval of the legislative body.

**(C) Vacancies.** Any vacancy on the board shall be filled by the executive authority, subject to approval of the legislative body within sixty (60) days of the vacancy. If the vacancy is not filled within that time period, the remaining board members shall fill the vacancy.

**(D) Removal from Office.** A board member may be removed from office by the executive authority for misconduct, inefficiency, or willful neglect of duty. The executive authority must submit a written statement to the member and the legislative body setting forth the reasons for removal.

**(E) Oath.** All members of the board must, before entering upon the duties of their office, take

the oath of office prescribed by Section 228 of the Kentucky Constitution.

**(F) Members disallowed to hold other positions with City.** No member of the board shall hold any elected or nonelected office, paid or unpaid, or any position of employment with the city.

**(G) Training.** All hearing officers, including members of the board who serve as hearing officers, must obtain 1 hour per year of training related to the conduct of administrative hearings in accordance with the procedures established in KRS 13B.080.

**§99.53 Organization of Board; Meetings; Quorum; and Alternate Board Members.**

**(A) Chairman.** The board shall annually elect a chair from among its members. The chairman shall be the presiding officer and a full voting member of the board. If the chairman is not present, the board shall select one of its members to preside in place of and exercise the powers of the chairman.

**(B) Meetings.** Meetings of the Board shall be held as necessary to enforce all civil offenses established by the Dayton Code of Ordinances.

**(C) Open Meetings.** All meetings and hearings of the board shall be held in accordance with the requirements of KRS 65.8815(5) and the Kentucky Open Meetings Act.

**(D) Majority Vote.** The affirmative vote of a majority of a quorum of the board shall be necessary for any official action to be taken.

**(E) Minutes.** Minutes shall be kept for all proceedings of the board and the vote of each member on any issue decided by the board shall be recorded in the minutes.

**(F) Clerical and Administrative Assistance.** The City shall provide clerical and administrative personnel as reasonably required by its code enforcement board for the proper conduct of its duties.

**§99.54 Conflict of Interest.** Any member of the board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest and shall disqualify himself from voting on the matter in which he has an interest and shall not be counted for purposes of establishing a quorum.

**§99.55 Jurisdiction.** The board shall have jurisdiction to enforce and shall enforce those city ordinances and code provisions which specifically provide for Code Enforcement and Nuisance Board enforcement.

**§99.55 Additional Powers of the Board.**

The Code Enforcement and Nuisance Board shall have the following powers and duties:

**(A)** To adopt rules and regulations to govern its operations and the conduct of its hearings.

**(B)** To conduct hearings, or assign a hearing officer to conduct a hearing, to determine if there has been a violation of an ordinance over which it has jurisdiction. Any board member, including the chairman, may also be assigned to conduct hearings on behalf of the board.

**(C)** To subpoena alleged violators, witnesses and evidence to its hearings. Subpoenas issued by the board may be served by any Code Enforcement Officer.

**(D)** To take testimony under oath. The chairman, or an assigned hearing officer, shall have the authority to administer oaths for the purpose of taking testimony.

**(E)** To make findings of fact and issue orders necessary to remedy any violation of a city ordinance or code provision which the board is authorized to enforce.

**(F)** To impose civil fines, as authorized, on any person found to have violated an ordinance over which the board has jurisdiction.

**§99.55 Enforcement Proceedings.**

The following requirements shall govern all enforcement proceedings before the Board:

**(A)** Enforcement proceedings before the Code Enforcement and Nuisance Board shall only be initiated by the issuance of a citation by a Code Enforcement Officer.

**(B)** Except as provided in subsection (c) below, if a Code Enforcement Officer reasonably believes, based on his personal observation or investigation, that a person has violated a city ordinance, he shall issue a Notice of Violation to the offender allowing the offender a specified period of time to remedy or abate the violation without fine. If the offender fails or refuses to remedy the violation within the time specified, the Code Enforcement Officer is authorized to issue a citation.

**(C)** Nothing in this Ordinance shall prohibit the city from taking immediate action to remedy a violation of its ordinances when there is reason to believe that the violation presents a serious threat to the public health, safety, and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible.

**(D)** The citation issued by the Code Enforcement Officer shall contain the following information:

(1) The date and time of issuance;

(2) The name and address of the person to whom the citation is issued;

(3) The date and time the offense was committed;

(4) The facts constituting the offense;

(5) The section of the code or the number of the ordinance violated;

(6) The name of the Code Enforcement Officer;

(7) The civil fine that will be imposed for the violation if the person does not contest the citation;

(8) The maximum civil fine that may be imposed if the person elects to contest the citation;

(9) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and

(10) A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the person shall be deemed to have waived the right to a hearing before the Code Enforcement and Nuisance Board to contest the citation and that the determination that the violation was committed shall be final.

**(E)** The Code Enforcement Officer may issue the citation by:

(1) Personal service to the alleged violator;

(2) Leaving a copy of the citation with any person eighteen (18) years of age or older, who is on the premises, if the alleged violator is not on the premises at the time the citation is issued; or

(4) Posting a copy of the citation in a conspicuous place on the premises and mailing a copy of the citation by regular, first class mail to the owner of record of the property, if no one is on the premises at the time the citation is issued.

**(F)** After issuing a citation to an alleged violator, the Code Enforcement Officer shall notify the board by delivering the citation to City Clerk/Treasurer.

**(G)** The person to whom the citation is issued shall respond to the citation within seven (7) days of the date of issuance by either paying the civil fine or requesting, in writing, a hearing before the board to contest the citation. If the person fails to respond to the citation within seven (7) days, the person shall be deemed to have waived the right to a hearing and the determination that a violation was committed shall be considered final.

**(H)** If the alleged violator does not contest the citation within the time prescribed, the board shall enter a final order determining that the violation was committed and impose the civil fine set forth in the citation. A copy of the final order shall be served on the person guilty of the violation.

**§99.56 Hearing; Notice; and Final Order.**

**(A) Scheduling of Hearings.** When a hearing has been requested, the Code Enforcement and Nuisance Board shall schedule a hearing. The board may conduct the hearing, or may assign a hearing officer to conduct the hearing. In addition, any board member, including the chairman, may be assigned to conduct the hearing on behalf of the board.

**(B) Notice.** Not less than seven (7) days before the date of the hearing, the board shall notify the requester of the date, time, and place of the hearing. The notice may be given by certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person’s usual place of residence with any individual residing therein who is eighteen years (18) of age or older and who is informed of the contents of the notice.

**(C) Failure to Appear at Hearing.** Any person requesting a hearing before the board who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. The board shall enter a final order determining the violation was committed and shall impose the civil fine set forth in the citation. A copy of the final order shall be served upon the person guilty of the violation in accordance with subsection (f) below.

**(D) Testimony.** All testimony shall be taken under oath and recorded. The board or assigned hearing officer shall take testimony from the Code Enforcement Officer, the alleged violator, and any witnesses to the violation offered by the Code Enforcement Officer or alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

**(E) Findings of Fact and Final Determination.** If a hearing officer is assigned to conduct the hearing, the hearing officer shall make written findings of fact, conclusions of law, and a recommended order for consideration by the board. After the board conducts the hearing, or upon receipt of recommendations of a hearing officer assigned to conduct the hearing, the board shall, based on the evidence, determine whether a violation was committed. If the board determines that no violation was committed, an order dismissing the citation shall be entered. If the board determines that a violation was committed, the board shall issue an order upholding the citation and either imposing a fine up to the maximum authorized by this or another ordinance, or requiring the offender to remedy a continuing violation within a specified time, or both

**(F) Final Orders to be Written.**

(1) Every final order of the board shall be reduced to writing, which shall include the findings and conclusions of the board and the date the order was issued. A copy shall be furnished to the person named in the citation. If the person named in the citation is not present when the final order is issued, the order shall be delivered to that person by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at the person’s usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order.

(2) The final order shall also be served on any lien holder of record within fourteen (14) days of the final determination, whether after hearing or upon waiver of hearing. If there is a lien holder of record, that lien holder may, within forty-five (45) days from the receipt of that notice, correct the violations cited or elect to pay all fines, penalty charges, and costs incurred in remedying the situation as permitted.

**§99.57 Appeals; Final Judgment.**

**(A) Appeal.** An appeal from any final order of the Code Enforcement and Nuisance Board may be made to the Campbell County District Court within thirty (30) days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the board’s order in the same manner as any civil action under the Kentucky Rules of Civil Procedure. The appeal shall be tried de novo. A judgment of the district court may be appealed to the Campbell Circuit Court in accordance with the Kentucky Rules of Civil Procedure.

**(B) Final Judgment.** If no appeal from a final order of the board is filed within the time period set in subsection (a) above, the board’s order shall be deemed final for all purposes.

**§99.70 Demolition**

**(A) Demolition Orders Generally.** A Code Enforcement Officer shall order the owner of a premises to demolish and remove a structure located thereon, or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner’s option, when, in the opinion of the Code Enforcement Officer:

(1) Imminent danger exists on the subject property that necessitates immediate action, or there is reason to believe that the existence of a violation of this Chapter with respect to the structure presents a serious threat to the public health, safety, and welfare; or

(2) The structure is so old, dilapidated, or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, or demolition is otherwise reasonably necessary to protect the public interest.

**(B) Order.** The order shall specify necessary repairs, if any, and a time in which the owner shall comply therewith, which shall be no less than 30 days unless an emergency exists pursuant to section (A)(1). It shall be served on the owner of record in accordance with this Chapter.

**(C) Hearing prior to demolition by city.**

(1) Except when an imminent danger exists that will not permit delay, whenever the owner of a property fails to comply with a demolition order within the time prescribed, the Mayor shall act as a hearing officer and shall conduct a hearing prior to the city undertaking demolition of the structure.

(2) The hearing officer shall issue a notice of hearing informing the property owner of the date, time, and location of the hearing. The hearing shall be held not less than seven days from the date the notice of hearing is issued. The notice of hearing shall be served on the owner of record in accordance with §99.56.

(3) The property owner shall have the opportunity to file a written answer with the City Clerk and/or appear in person to present testimony or other evidence of why the structure should not be demolished. The Code Enforcement Officer shall present testimony or other evidence demonstrating why the structure should be demolished. The burden of proof shall be upon the Code Enforcement Officer to demonstrate by substantial evidence that demolition is authorized by section (A).

(4) The property owner may waive his or her right to a hearing and authorize the city to undertake demolition of the structure. The owner’s failure to appear at the hearing after proper notice shall constitute a waiver, unless good cause is shown.

(5) Upon a showing by substantial evidence that demolition of the structure is authorized by division (A), or upon waiver of hearing by the property owner, the hearing officer shall enter an order to that effect and order demolition of the structure by the city.

(6) The order shall be served on the owner of record and any lien holder of record within fourteen (14) days of the final determination, whether after hearing or upon waiver of hearing. If there is a lien holder of record, that lien holder may, within forty-five (45) days from the receipt of that notice, correct the violations cited or elect to pay all fines, penalty charges, and costs incurred in remedying the situation as permitted.

(7) Anyone affected by an order issued pursuant to section (C)(5) may, after service of such order, apply to Campbell Circuit Court for an order restraining the Code Enforcement Officer from razing such structure.

**(D) Demolition by City.** Upon final determination that the structure shall be demolished by the city, or when an imminent danger exists that will not permit the delay associated with a hearing, the Code Enforcement Officer shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal, together with related expenses, costs, fees, and attorney fees to the extent provided by law, shall be charged against the owner of the real estate upon which the structure is located. Upon failure of the owner to effect payment of such costs, a lien shall be placed by the city against the real estate upon which the razed or removed structure was located pursuant to § 99.99.

**(E) Appeals.** Any person directly affected by an order under this section shall have the right to appeal to the Code Enforcement and Nuisance Board within thirty days of the demolition order in accordance with the provisions of this chapter.

**(F) Remedies not exclusive.** Nothing in the section shall prohibit the City or any of its officers from proceeding under any other applicable section of this chapter or any other applicable chapter, including, but not limited to, issuing a citation and/or bringing a separate action before the Code Enforcement and Nuisance Board, in order to abate any condition described by this section. The Code Enforcement Officer shall not be precluded from pursuing other available remedies against a nuisance property by virtue of any failure to proceed under this section.

**§99.99 Penalty.**

**(A)** Any person, firm, or corporation who violates any provision of this Chapter with the exception of 99.14 shall be subject to a civil fine of not less than $50 per day per violation but not more than $500 per day per violation, or the cost to the city to abate the public nuisance, or both. Each date that a violation of this code continues after due notice has been served in accordance with the terms of this code may be deemed a separate offense to a maximum of $10,000 per citation. If the civil fine is uncontested, the amount per day per violation shall be $250 plus the cost to the city to abate the public nuisance.

**(B)** Any person who violates §99.14 of this code shall be subject to a civil fine of not less than $500 per day per violation but not more than $1,000 per day per violation, or the costs to the City to abate the public nuisance, or both. If the civil fine is uncontested, the amount per day per violation shall be $500 plus the cost to the city to abate the public nuisance.

**(C)** The city shall possess a lien on property for all fines, penalties, charges, attorney’s fees, and other reasonable costs associated with enforcing this code and placing of a lien on a parcel of real property pursuant to this code. The lien shall be superior to and have priority over all other liens filed subsequently, except state, county, school board, and city taxes.

**(D)** Any person(s) who violates the provisions of this Chapter and fails to pay any fine or costs to the City in abating the nuisance within one (1) year of the final imposition of the penalty shall be guilty of a Class B misdemeanor.

Section III

That the following sub-sections shall be amended in the Code of Ordinances for the City of Dayton as follows:

**§34.100 Establishment.** For provisions concerning the Code Enforcement Board, see **§§** 99.50 – 99.57 [~~41.01 – 41.03~~]

Section IV

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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

MAYOR VIRGIL L. BORUSKE

ATTEST:

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

DONNA LEGER

CITY CLERK/TREASURER

First Reading:

# **CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2016-#4**

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

**WHEREAS**, the Dayton Planning Commission held a public hearing on February 24, 2016 to consider amending the for the Architectural Guidelines for residential construction for Section D of the Manhattan Harbour Pattern Book for a Mixed Land Use Zone;

**WHEREAS**, said public hearing was held pursuant to KRS 100.207, 100.211, 100.212 and 100.213 with all conditions prerequisite thereto being met;

**WHEREAS**, the Dayton Planning Commission decided to recommend to the City Council to amend the text of the Architectural Guidelines for residential construction for Section D of the Manhattan Harbour Pattern Book for a Mixed Land Use Zone; and

**WHEREAS**, the Dayton City Council has decided to amend the Zoning Ordinance pursuant to the recommend text amendments of Architectural Guidelines for residential construction for Section D of the Manhattan Harbour Pattern Book for a Mixed Land Use Zone, after having reviewed the reports submitted by the staff and the minutes of the February 24, 2016 Planning Commission public hearing.

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

Section I

That the City of Dayton, Kentucky having considered the findings of the Planning Commission as reflected in its minutes and the reports adopted by the Planning Commission pursuant to those findings from the city staff and its actions and recommendations, as well as reviewing the minutes of said public hearing and the report from city staff does hereby concur and adopt the reasons, recommendations and findings of the Planning Commission as set forth at is February 24, 2016 meeting, including, but not limited to the finding that the application for zone change is in agreement with the City’s current comprehensive plan.

Section II

That the Dayton City Council adopts the recommendations of the Planning Commission of the City of Dayton with regards to the proposed text changes for the Architectural Guidelines for residential construction for Section D of the Manhattan Harbour Pattern Book, as attached and incorporated herein.

Section III

That the official zoning map of Dayton, Kentucky is hereby amended as it pertains to the Mixed Land Use Zone, as designated by Ordinance 07-7, containing approximately 82.273 acres located along the Ohio River between O’Fallon Avenue and Clark Street to reflect to the changes to the Architectural Guidelines for residential construction for Section D of the Manhattan Harbour Pattern Book.

Section III

That the Architectural Guidelines for residential construction for Section D of the Manhattan Harbour Development Pattern Book as amended by the applicant at the February 24, 2016 Planning Commission is made part of this Ordinance and is hereby approved so long as it complies with any amendments or conditions imposed or approved by the Planning Commission at any public hearings or planning commission meetings.

Section IV

That all ordinances or parts of ordinances in conflict herewith are to the extent of such conflict, hereby repealed.

Section V

That this ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer and recorded. Same shall be in effect at the earliest time provided by law.

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

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

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

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

MAYOR VIRGIL L. BORUSKE

ATTEST:

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

DONNA LEGER

CITY CLERK/TREASURER

CITY ADMINISTRATOR’S REPORT:

Special events application from The Catalytic Fund, Beyond the Curb. This event will be held on Sunday, April 24, 10:00 a.m. until 4:00 p.m. Registration will be at Manhattan Harbour. This is an urban walking tour in Dayton and Bellevue. The City and the Main Street Board have been working hard to promote the event. Motion by Member Neary, seconded by Member Burns to approve the special events application. Motion carried—so ordered.

Handicap parking request from Ruby Boshears, 1227 Fifth Avenue. Ms. Boshears meets all the requirements. Motion by Member Gifford, seconded by Member Lynn to approve the handicap parking request for Ms. Boshears at 1227 Fifth Avenue. Motion carried—so ordered.

Handicap parking request from Henry Leo Schulkers, 943 O’Fallon Avenue. Mr. Schulkers meets all the requirements. Motion by Member Baker, seconded by Member Gifford to approve the handicap parking request for Mr. Schulkers at 943 O’Fallon Avenue. Motion carried—so ordered.

Handicap parking request from Sidney Cranfill, 1028 Fifth Avenue. Mr. Cranfill meets all the requirements. Motion by Member Lynn, seconded by Member Gifford to approve the handicap parking request for Mr. Cranfill at 1028 Fifth Avenue. Motion carried—so ordered.

The Fire Department has a budget of $957,239 this fiscal year. Internally we break this down in our financial software. It is broken down as $36,000 sinking fund, $24,000 bathroom remodeling, $36,000 for defibrillators and $861,239 general expenses. City Adm. Giffen is asking for clarification so the city can release a check internally. Listed in the budget is $24,000 for bathroom remodeling and the actual cost was $30,000. We budgeted $36,000 for the defibulators and the actual cost was $30,000. There is no change in the bottom line. The total is still $60,000. I wanted to bring this to your attention for clarification and I’m asking for a motion. Motion by Member Gifford, seconded by Member Lynn to approve the change. Comments: Member Neary noted the check has already been written. It appears on the check register. Mayor Boruske noted the check was written but has not been released. Was the Fire Board aware of this change? Member Gifford replied, not at this time but I don’t see a problem with this. The Fire Board did not have a meeting last month. Member Tucker did not have a problem but said they should hold to the exact number given. If changes are needed they bring this up ahead of time not after the fact. City Att. Edge said this does not even need a motion from council. It’s a line item budget and an internal way of how it was tracked. City Adm. Giffen was just giving notice of the change but you can do a motion. Member Lynn said mold problems caused the cost to go up on the bathroom remodeling. Council approved $60,000 for the bathroom remodel and defibrillators, together the cost was $60,000.

Roll Call:

Member Burns Aye Member Gifford Aye

Member Tucker Aye Member Lynn Aye

Member Baker Aye Member Neary Aye

Motion carried—so ordered.

Phil Wiseman, Wiseman Construction, is doing curb work in the city and Bluegrass Paving should be in the city in a few weeks to start street repaving. We’ll start another round of paving late summer or fall.

Beyond the Curb is asking the City to participate as a city level sponsor. We do have funds in the summer event line item. They are requesting $1,000.00. City Adm. Giffen asked for a motion to allow $1,000 for this event from the Spring & Summer event line item. $500 to help the Catalytic Fund and Beyond the Curb to put on the event, and $500 in kind work such as Public Work’s and the Code Director doing whatever they can to help beautify the street. Law Enforcement will be available if there are any additional needs for a safe event. Motion by Member Neary to be a $1,000.00 sponsor for Beyond the Curb with $500.00 of that as in-kind services, seconded by Member Tucker. Motion carried-so ordered. If anyone is interested in volunteering contact the Main Street Manager, Tina Neyer. A free t-shirt, lunch and ticket will be available to all volunteers.

City Adm. Giffen introduced the new Main Street Manager, Tina Neyer. Tina has been heavily invested in the community for years and has roots in Dayton. Tina said she is anxious to get started on the work that needs to be done to keep the city moving forward. Dayton is my hometown and I walk this city all the time. Tina will be working closely with the Main Street Board.

Member Neary asked about the grant the city received for flags. Can this be done in time for Beyond the Curb? City Adm. Giffen said this grant has not been executed but he will look into the grant. What is the city going to do as far as clean up? City Adm. Giffen reported a dumpster is located at the Public Work’s garage and all residents can take a pickup load to the dumpster once a year.

The city’s waste contract is up at the end of June. The city will advertise for Waste Contract bids this Thursday in the Campbell County Recorder. The city will advertise with Bellevue, Southgate, Fort Mitchell and Woodlawn this year. Each community has a few special items they have requested. We hope to get an even better deal than last time. Bids will be sent to the Bellevue City Building.

Only one bid was received for the Homeland Security Grant (Cameras). If this looks familiar it is, we had to rebid as a unit with the City of Bellevue. This was a request from Homeland Security. This bid was from Monitor Closely for $99,463.00. The grant is for $100,000 between both communities, Dayton & Bellevue. Motion by Member Neary, seconded by Member Baker to accept the bid from Monitor Closely for $99,463.00. Comments: Member Baker asked Chief Halfhill if something like these camera would have helped out last week with the vandalism. Chief Halfhill explained this grant is to protect the infrastructure of the city. Chief Halfhill reported that charges should be filed on the vandalism suspect by the end of next week. The video of residents is what helped the Police Department with the case.

ROLL CALL:

Member Tucker Aye Member Lynn Aye

Member Baker Aye Member Neary Aye

Member Gifford Aye Member Burns Aye

Motion carried—so ordered.

CITY ATTORNEY’S REPORT:

Attorney Edge reported the city has filed criminal charges on 14 cases of unpaid occupational licenses and rental fees. Most have been resolved at this time. There are 7 additional cases that have been submitted to the County Attorney’s Office for review.

DEPARTMENT HEAD’S REPORT:

Donna Leger, Clerk/Treas., submitted a copy of her report and the monthly budget/financials. The Dayton Housing Authority paid $7,945.25 in lieu of taxes. The audit should be delivered tomorrow.

Jim Richmond, FDBD, reported Chief Auteri is on vacation and he submitted his reports to council before leaving.

Rich McAllister, Code Enforcement, submitted his March violation report.

Dave Halfhill, Police Chief, again congratulated Sergeant Baldwin on completion of the CJED program. He was one out of 20 in the State of Kentucky selected to attend. Officer Marksberry and our K-9 did training this weekend. There was also a training competition. Our K-9 ranked second place out of 20 dogs. This is good for a dog that has only been here for six months. The Citizens Academy is postponed until fall. Officers are going though safe training and active shooter training. The Officers continue to work with the school and students. Tina Neyer, Main Street Manager, will be working on the City’s web page to add a link for the Police Department.

STANDING COMMITTEE REPORTS:

Personnel, Law & Printing (Member Neary):

Thanks to Rich McAllister for putting together the zoning changes which are much needed. I would like to have a Planning & Zoning Committee meeting next Tuesday night, 6:00 p.m. at City Hall. I’m fully aware of KRS that the City is a home rule or strong Mayor Class. Referring to Kentucky State law the Mayor has all the responsibility of administration. All the responsibility of hiring and firing and almost all of the board appointments are up to the Mayor. We are following State Law as far as hiring or appointments. I just wanted to make that clear.

Economic Development (Member Baker):

Looking forward to working with Tina Neyer, Main Street Manager, on the extremely important role of Main Street and Economic Development.

Finance (Member Lynn):

The next meeting is April 14th at 10:30 a.m.

Public Safety (Member Gifford):

City Adm. Giffen is working on flags for wheel chairs.

Public Works (Member Burns):

Rich McAllister will have a report on the signage throughout the City at the next meeting. On Clay Street between Fifth and Sixth Avenue the blacktop is gone.

Parks & Real Estate (Member Tucker):

Softball and baseball have started at Gil Lynn Park. The concession open. The Park Board is still looking for bids to remodel the concession and bathrooms.

NEW BUSINESS:

Member Neary reported the Campbell County PVA has done reassessments in Newport, Bellevue and Dayton. Council sets the budget by July but does not get the PVA tax roll until after the budget is set. You can search on the Campbell County PVA’s website to see your property assessment. On Saturday April 23 the Saint Francis Cemetery group will have a cleanup. The sixth house is under construction at Manhattan Harbour. The blight reporting form on the city’s web site is not working. Mayor Boruske reported the city is working on this issue. City Adm. Giffen advised that Ultra Tech is doing a new report on the Dayton Pike Park Project. Member Neary submitted a spreadsheet titled “NKY City/County Tax Rate Comparison 2016”. This compares various tax rates and taxes for cities in Northern Kentucky. It also list the median home value in each community. When you take all into consideration you get more for your money in Dayton.

Member Baker thanked Duke Energy for donating light poles for the Community Garden. Duke will also install the poles. Tammy Cornett, Chair of the Civic Activities Board, asked Member Baker to thank everyone who volunteered with the Easter Egg Hunt at Gil Lynn Park.

Motion by Member Baker, seconded by Member Gifford to hold the annual City Wide Yard Sale on May 14, 2016 with a rain out date of June 4, 2016. Motion carried—so ordered.

EXECUTIVE SESSION:

Mayor Boruske entertained a motion to go into executive session to discuss KRS 61.810 © discussions of proposed or pending litigation against or on behalf of the public agency. Motion by Member Burns, seconded by Member Neary to go into executive session. Motion carried—so ordered.

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

Motion by Member Burns, seconded by Member Lynn to accept 15C-1015.

ROLL CALL:

Member Gifford Aye Member Burns Aye

Member Lynn Aye Member Tucker Abstained

Member Neary Aye Member Baker Aye

Motion carried—so ordered.

Respectfully submitted,

Donna Leger

Clerk/Treas.

ATTEST:

Virgil L. Boruske

Mayor