CITY OF DAYTON

COUNCIL MEETING

October 4, 2016

A regular meeting of Dayton City Council was held on Tuesday, October 4, 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:

Bob Slusher, East Dayton Baptist Church, asked for permission to hold Trunk or Treat on Halloween, Oct. 31, from 6:00 p.m. – 8:00 p.m. in the city parking lot, 600 block of Sixth Avenue. Motion by Member Baker, seconded by Member Gifford to allow Trunk or Treat. Motion carried—so ordered. Everyone is invited.

Alex Kraemer, 941 O’Fallon Avenue, suggested fixing the existing road each year instead of paving. Paving raises the road.

Jim Mitchel, 611 Berry Avenue, protested making one section of Berry Avenue, between Sixth & Seventh Avenue, a two way street. Taking parking away reduces the value of our property. City Adm. Giffen explained that parking on Berry Avenue will not be taken away in front of any homes. This is only along the Berry side of Kate’s Catering.

Mayor’s Report:

Motion by Member Burns, seconded by Member Neary to approve the minutes from the Sept. 6, 2016 meeting as received. Motion carried—so ordered.

Motion by Member Gifford, seconded by Member Lynn to approve the minutes from the Sept. 20, 2016 meeting as received. Member Neary abstained. Motion carried—so ordered.

First Reading:

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2016-#17**

**AN ORDINANCE CLOSING AND ABANDONING THE UNIMPROVED PUBLIC RIGHT-OF-WAYS LOCATED WITHIN THE BLOCK BORDERED BY O-FALLON AVENUE, 10TH AVENUE AND WALNUT STREET.**

**WHEREAS,** the City Council finds that it has identified all of the property owners in or abutting the unimproved portion of Belmont Road as described by this ordinance to be closed;

**WHEREAS,** those property owners are: **(a)** Linda Eddy, 104 10th Avenue, PIDN 999-99-08-898.00 (Deed Book 458/Page 29); **(b)** Melany D. Schmidtgesling, 112 10th Avenue, PIDN 999-99-08-471.00 (Deed Book 714/Page 368); and **(c)** Carol Hollingsworth, 114 19th Avenue, PIDN 999-99-09-230.00 (Deed Book 710/Page 773); **(d)** Joseph and Catherine Herreghan, 1010 Walnut Street, PIDN 999-99-09-679.00 (Deed Book 754/Page 340); **(e)** Eric Kilpatrick, 1012 Walnut Street, PIDN 999-99-08-878.00 (Deed Book 766/Page 668); **(f)** David and Lucille Russell, 1016 Walnut Street, PIDN 999-99-09-105.00 & 999-99-104.00 (Deed Book 610/Page 438); **(g)** Phil and Mary Hagner, 10 Observatory Avenue, PIDN 999-99-09-908.00 (Deed Book 656/Page 175); **(h)** Eric Mosbaugh (Formerly Fifth Third Bank), 1018 Walnut Street, PIDN 999-99-09-955.00 and PIDN 999-99-09-956 (Deed Book 777/Page 324); and **(i)** Redknot Realty LLC, 1008 Walnut Street, PIDN 999-99-09-789.00 (Deed Book 758/Page 410), 1002 Thornton Street, PIDN 999-99-08-490.00 (Deed Book 758/Page 405), 1006 Thornton Street, PIDN 999-99-09-504.00 (Deed Book 758/Page 405), 1001 O’Fallon Avenue, PIDN 999-99-09-509.00 (Deed Book 758/Page 405), 1015 O’Fallon Avenue, PIDN 999-99-09-505.00 (Deed Book 758/Page 405), and 1005 O’Fallon Avenue, PIDN 999-99-09-501.00 (Deed Book 758/Page 405).

**WHEREAS,** the City Council finds that written notice was given to the property owners prior to institution of action to close the unimproved public right-of-ways located within the block bordered by O-Fallon Avenue, 10th Avenue, and Walnut Street; and

**WHEREAS,** the City Council finds that those abutting property owners have given their written notarized consent to the closing and copies of the consents are attached hereto as Exhibit A.

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

Section I. That unimproved public right-of-ways located within the block bordered by O-Fallon Avenue, 10th Avenue, and Walnut Street (a map depicting such is attached hereto as Exhibit B and made part hereof by reference pursuant to KRS 83A.060(9)) is hereby ordered closed and abandoned without further action. That said right-of-ways are described in Exhibit C which is attached hereto and incorporated herein.

Section II. Having made the findings above, same as the City of Dayton Planning Commission at its meeting on April 6, 2016 (Meeting Minutes Attached hereto as Exhibit D), said right-of-way is deemed closed and abandoned without further action pursuant to KRS 82.405(2). Also, pursuant to KRS 82.405(2), the City Attorney is directed and authorized to record a copy of this ordinance with all its attachments including the plat and waivers/consents with the Campbell County Clerk’s office.

Section III. Once this ordinance closing the said right-of-way is recorded, the City shall convey one-half (1/2) of the right of way to each abutting property owner as determined by law.

Section IV. Once this ordinance closing the said right-of-way is recorded, all plats and maps of the City of Dayton, Kentucky, including the official zoning map and all maps of the comprehensive plan of the City shall be considered amended to reflect said closing.

Section V. 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.

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

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

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MAYOR VIRGIL L. BORUSKE

ATTEST:

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

DONNA LEGER

CITY CLERK/TREASURER

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2016-#18**

**AN ORDINANCE AMENDING THE OCCUPATIONAL LICENSE TAX RATES FOR BUSINESSES WITHIN THE CITY OF DAYTON.**

**WHEREAS,** the City is authorized under Section 181 of the Kentucky Constitution and KRS 92.280 et. seq. to set occupational taxes on persons engaged in the business within the City of Dayton;

**WHEREAS,** the City desires to use the proceeds of such taxes to raise general revenues of the City.

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

Section I

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

**§110.13 Amount of Tax.**

The license tax shall be computed as follows:

**(A)** Every person having coin-operated amusement and vending machines, as defined in this section, on his or her premises shall pay an annual license tax to the city in the amount of ten dollars ($10.00) per machine.

**(B)** Every person engaged in the business of leasing or renting real property or portions thereof shall pay an annual license tax to the city in the amount of .01 times his or her gross receipts, [~~or fifty dollars ($50.00), whichever is greater~~] but not less than the amount of one hundred dollars ($100.00) per year.

**(C)** Every person engaged as a vendor of fruit, ice cream, sherbet, peanuts, popcorn, candy and other articles upon the street, shall pay a license tax as described in (E) below, but not less than the amount of fifty dollars ($50.00) per year or ten dollars ($10.00) per day.

**(D)** Every person engaged in the business of selling fireworks shall pay a license tax to the city in the amount of one thousand dollars ($1,000.00).

**(E)** For all other persons, the tax is computed as follows:

|  |  |
| --- | --- |
| **GROSS RECEIPTS (Dollars)** | **AMOUNT OF TAX (Dollars)** |
| 0-500 | 25.00 |
| 501 - 5,000 | [~~50.00~~] 70.00 |
| 5,001 - 10,000 | [~~75.00]~~ 100.00 |
| 10,001 - 25,000 | [~~100.00~~] 140.00 |
| 25,001 - 50,000 | [~~125.00~~] 170.00 |
| 50,001 -100,000 | [~~150.00~~] 200.00 |
| 100,001 - 200,000 | [~~200.00~~] 270.00 |
| 200,001 – 300,000 | [~~300.00~~] 400.00 |
| 300,001 – 400,000 | [~~400.00~~] 540.00 |
| 400,001 – 500,000 | [~~500.00~~] 680.00 |
| 500,001 – 600,000 | [~~600.00~~] 810.00 |
| 600,001 – 700,000 | [~~700.00~~] 945.00 |
| 700,001 – 800,000 | [~~800.00~~] 1,080.00 |
| 800,001 – 900,000 | [~~900.00~~] 1,220.00 |
| 900,001 – 1,000,000 | [~~1,000.00~~] 1,350.00 |
| 1,000,001 – 2,000,000 | [~~1,100.00~~] 1,490.00 |
| 2,000,001 – 3,000,000 | [~~1,200.00~~] 1,620.00 |
| 3,000,001 – 4,000,000 | [~~1,300.00~~] 1,750.00 |
| 4,000,001 – 5,000,000 | [~~1,400.00~~] 1,890.00 |
| 5,000,001 – and over | [~~1,500.00~~] 2,030.00 |

Section II

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: Oct. 4, 2016

Second Reading:

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MAYOR VIRGIL L. BORUSKE

ATTEST:

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

DONNA LEGER

CITY CLERK/TREASURER

Second Reading:

**CITY OF DAYTON, KENTUCKY**

**2016-#16**

**AN ORDINANCE AMENDING THE AUTHORIZED NUMBER OF MEMBERS TO THE CIVIC ACTIVITIES BOARD.**

This ordinance creates a Civic Activities Board amends the authorized number of members to the Civic Activities Board from five members to either either five (5), seven (7), nine (9), or eleven (11) members.

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.

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

**TOM EDGE**

Motion by Member Neary, seconded by Member Gifford to approve 2016#16 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.

City Administrator’s Report:

Request for proposals from professional landscape architect and or engineering design consultants, firms and individuals to perform the task of incorporating concepts from the Dayton Riverfront Master Plan into a Phase I & II design plan and construction ready design document for “Riverfront Commons/Dayton Riverfront”, Phase I located at/around the northwestern lot of 297 Manhattan Blvd and continuing eastward along the Ohio River to the future Berry Street connection road side (just east of 697 Manhattan Blvd.). Only one bid was received. The bid was from KZF Design. The State Department worded the RFP then recommended all selection members. City Adm. Giffen will have a score sheet that will be sent to the State. The State may want all of council to submit a score sheet. City Adm. Giffen requested a motion that council approve his recommendation and allow Mayor Boruske to go into contract with KZF Design after clarification from the State. City Adm. Giffen and Mayor Boruske will discuss pricing with KZF. The pricing is not part of the bid. If the State agrees the Mayor will have approval to go into a contract with KZF. City Adm. Giffen will fill out his score sheet and then send to council for approval, then back to City Att. Edge. KZF submitted an excellent bid and is a qualified company. City Att. Edge said the motion should be contingent upon State approval, so you can accept the bid tonight. City Adm. Giffen said the price is not requested at this time. Price cannot factor into the bid. Fifteen percent of the grant is usually the cost. The limit is set at $100,000, this is based on the amount we have so far for the grant. This is a very structured process. A motion is requested so this is not delayed another month. The full specs were sent to five other companies including KZF. The city was hoping for another bid but only received one. If accepted there will be pre meetings with KZF and the city will be committed to KZF doing the design. Motion by Member Neary, seconded by Member Burns to accept the KZF bid as presented to council, authorize the administration to enter into a contract for the bid up to the amount of $100,000 based on State approval and if need be council can do the score card. Keeping council fully apprised of the progress.

ROLL CALL:

Member Burns Aye Member Gifford Nay

Member Tucker Aye Member Lynn Aye

Member Baker Aye Member Neary Aye

Motion carried-so ordered.

Request for a handicap parking space from Carolyn L. Riddle, 941 Maple Avenue. Ms. Riddle meets all the requirements. Motion by Member Baker, seconded by Member Lynn to approve the handicap parking space for Ms. Riddle. Motion carried—so ordered.

Special event application from Restoration 104 to reschedule their event. They would like to hold a 24 hour prayer vigil on Friday October 28 thru Saturday at noon on October 29th at the Town Center, 6th & Berry. Motion by Member Burns, seconded by Member Lynn to approve the special events application from Restoration 104. Motion carried—so ordered.

Update regarding the Ervin Terrace underpass. Last month up to $6,000 was approved for new catch basins. Ten thousand dollars is in the General Fund for this expense. The bid came in higher than expected. The first bid was $17,000 and the city would be responsible for half. Another bid should be here by the end of the week. City Adm. Giffen recommended a motion to approve up to $10,000. Council could use money from the Municipal Aid Fund and have another Public Hearing. Sanitation District #1 will pay half of the cost. Motion by Member Tucker, seconded by Member Gifford to approve up to $10,000 for this project. Motion carried—so ordered.

Motion by Member Gifford, seconded by Member Neary to hold Trick or Treat on Oct. 31, 2016 from 6:00 p.m. until 8:00 p.m. Motion carried—so ordered.

Department Head’s Report:

Donna Leger, Clerk/Treas., passed out a copy of the financials and check register. The tax bills have been mailed and are due on Nov. 8, 2016. Fifty thousand dollars of code fines and nineteen thousand dollars of grass cutting liens have been added to the tax bills.

Rich McAllister, Code Director, reported the code board meetings will be held the second and fourth Monday of each month. Currently there are about 15 painting crews and roofing crews working in the city. Member Baker commended Mr. McAllister for a great job.

David Halfhill, Police Chief, submitted a copy of his report. K9 Officer Marksberry recently attended the Campbell County Animal Shelter Fund Raiser, Hero’s Day and attended an event at Dixie High School to show support for an Officer’s family. Member Burns commended Chief Halfhill for the fantastic job done by him and his department. Chief Halfhill noted the Police Department has two bike patrols and this is a great community tool.

Captain Hall, FDBD, was in attendance. Everyone received a copy of Chief Auteri’s report. The new fire truck should be here after the first of the year. Changes were made to the axel. The truck will then need to be lettered and striped. Drivers must be certified and training will be held in South Dakota. The new truck should be in service by the end of February. Truck #210 was sold to a company in West Virginia for $50,000. The truck was sold through a broker and they will receive 10%. Member Burns thanked Captain Hall and the others for a great job. The new roof has been installed and the fire house looks great. Captain Hall also report the fire department will be applying for a regional grant for the new radio’s that are required in 2018. They will have a chance to apply for two grant cycles before 2018.

Standing Committee Reports:

Parks & Real Estate (Member Tucker):

The bathroom renovation at Gil Lynn Park should start by the end of this week. The concrete blocks at the park are to be used for new dugouts.

Personnel, Law & Printing (Member Neary):

A committee meeting will be held on Oct. 18, 6:00 p.m. at city hall to review the occupational license qualifications.

Economic Development (Member Baker).

Thanks to Tina Neyer, Main Street Manager, for sponsoring a business meeting at the Purple Poulet.

Unfinished Business:

Member Neary asked for an update on the sidewalk grants City Adm. Giffen reported the RFP will be published this Thursday. Construction could start next spring or early summer. Belmont down to Ervin Terrace, Northside, is in the approved grant and will most likely be in phase 3. The RFP will come back to council for approval. Member Neary would like to see Dayton Pike sidewalk as a top priority. City Adm. Giffen will have more information, at a later date, on the Traffic study for Route 8. The round-about study has been delayed a year. City Adm. Giffen is working with SD1 to repair/replace several of the sewer grates. There has been some discussion with SD1 about the flooding on Fourth Avenue but right now the issue on Ervin Terrace takes precedence.

New Business:

Donna Leger, Clerk/Treas., thanked everyone who attended, donated or volunteered at the Kite Festival on October 1. The turnout was great. Five hundred and fifty kites were given away. Special thanks to Tammy Cornett, President of the Civic Club and organizer of the Kite Festival. Tammy did a great job!

Member Burns reported a down cable wire on Ninth Avenue between Walnut St and Maple.

Mr. Ted Klosterman passed away on Friday. He will be truly missed.

The school district should be commended for their recent improvement in grades. This is huge for the city.

Adjournment:

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