CITY OF DAYTON

COUNCIL MEETING

September 4, 2018

A regular meeting of Dayton City Council held on Tuesday, September 4, 2018, 7:00 p.m. in the board meeting room of the Dayton Independent School Administration Building, Third & Clay Street, Dayton, KY.

Roll Call:

Mayor Boruske Present Member Haas Absent

Member Volter Present Member Lynn Present

Member Burns Present City Adm. Giffen Present

Member Neary Present City Att. Edge Present

Member Baker Present

Mayor Boruske opened the meeting with a silent prayer and led the Pledge of Allegiance.

**Audience:**

Tammy Cornett, 225 3rd Ave., thanked everyone for the donations received and the volunteers that helped with this year’s music fest. Member Burns thanked Tammy & Craig Cornett for putting on music fest.

Dave Culp, 326 6th Ave., thanked city officials for getting the cat issue on his block resolved quickly. Mr. Culp mentioned he talked to the county on getting the language changed because of the high number of cats being returned to Dayton by animal control. Mr. Culp did two open record requests to see where the cats are being returned to, but the county does not have any records. Mr. Culp stated the street lights that were installed in the city look good.

Laura Sandburg, 213 Lindsey St. Apt B., thanked council for getting the light in the alley installed quickly.

**Mayor's Report:**

Motion by Member Volter, seconded by Member Burns to approve the August 7, 2018, minutes and the Public Hearing minutes as received. Motion carried- so ordered.

**Ordinances:**

First Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2018-#11**

**AN ORDINANCE AMENDING CHAPTER 111 OF THE CITY OF DAYTON CODE OF ORDINANCES FOR ALCOHOLIC BEVERAGE LICENSES.**

**WHEREAS**, Kentucky Revised Statutes regarding alcoholic beverage administration, regulation, licenses and fees have been substantially revised by the Kentucky General Assembly; and

**WHEREAS**, the City of Dayton desires to stay consistent with current state law and therefore desires to update this ordinance for the health, safety and welfare of its citizens.

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

## **Section I**

## That Chapter 111 of the City of Dayton Code of Ordinances is hereby repealed in whole and replaced as follows:

**§111.01 DEFINITIONS.**

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Administrator – Shall mean the office of city alcoholic beverage control administrator as required by Kentucky Revised Statute 241.160 and assigned to the Chief of Police.

Person – Shall mean any natural person, corporation, partnership, joint venture, or unincorporated association of persons or any combination thereof, and the shareholders, officers, agents, servants, and employees thereof.

Many additional words and phrases used in this ordinance are also used and defined in Kentucky Revised Statute chapters 241, 242, 243, and 244. The meanings of these words and phrases as defined by Kentucky Revised Statute have the same meaning in this ordinance.

**§111.02 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.**

Pursuant to Kentucky Revised Statute 241.160, the office of city alcoholic beverage control administrator is hereby created and assigned to the office of the Chief of Police. The Alcoholic Beverage Control Administrator shall have all the powers and duties as authorized under Kentucky Revised Statute Chapter 241.

**§111.03 CITY ALCOHOLIC BEVERAGE LICENSE.**

1. For the privilege of causing, permitting, and engaging in the actions, business and transactions regarding alcoholic beverages in the City of Dayton and pursuant to Kentucky Revised Statute 243.070, all of the alcoholic beverage licenses authorized for cities are hereby established and required by the City of Dayton. The business authorized by each license shall be the same as the business authorized by the corresponding state license.
2. No Person shall by either act or omission, cause, permit, allow, aid, assist, encourage, or engage in any business authorized by such license in the City of Dayton without a valid license to engage in such business.
3. No license provided for herein shall be issued for the sale of alcoholic beverages at retail in any dwelling house or apartment house, unless the business is conducted on the ground floor facing a thoroughfare.

**§111.04 QUALIFICATIONS FOR CITY ALCOHOLIC BEVERAGE LICENSE(S).**

The qualifications and disqualifications of persons and places for a City of Dayton alcoholic beverage license(s) shall be the same as those for the corresponding alcoholic beverage licenses issued by the Commonwealth of Kentucky.

**§111.05 APPLICATIONS FOR CITY ALCOHOLIC BEVERAGE LICENSE(S).**

Applications for city of Dayton alcoholic beverage license(s) required by this ordinance shall be on a form provided by the Administrator, which shall include all of the information required in the application for a corresponding alcoholic beverage license issued by the state. In addition, applications shall include any other information required or requested by the Administrator, in the Administrator’s sole discretion. The application shall be signed by the applicant on a line immediately following a declaration that false statements in the application shall constitute the crime and penalty of perjury.

The application shall be submitted to the Administrator along with the fee established in Ordinance Section 111.10 for the alcoholic beverage license that is requested in the application. The fee shall be paid to the City by cash, cashier check or credit card.

**§111.06 DENIAL OF LICENSE APPLICATION.**

The application for an alcoholic beverage license shall be denied for any of reasons authorized for refusing a state license under Kentucky Revised Statute 243.450. In addition, a license may be denied for any non-arbitrary reasons which the Administrator deems sufficient in the exercise of sound discretion.

**§111.07 LICENSE SUSPENSION OR REVOCATION.**

**(A)** Any alcoholic beverage license that has been issued by the Administrator may be suspended or revoked by the Administrator for any reason for which the corresponding state license may be suspended or revoked by the state under KRS 243.490 or KRS 243.500, or any other violation of Kentucky Revised Statute, or for permitting a nuisance to exist upon the premises wherein the business is conducted.

**(B)** The Administrator may, in its sole discretion, provide the licensee of a suspended license with the alternative of paying in lieu of part or all of the days of any suspension the same sums that may be provided to a state licensee in lieu of the suspension of a corresponding state license in accordance with KRS 243.480.

**§111.08 SUBMISSION OF APPLICATION AND PAYMENT OF LICENSE FEES.**

An application for an alcoholic beverage license and fee shall be paid prior to the Administrator issuing a license. Moreover, all license fees shall be paid in full prior to the date the license fee is renewable as established by the Department of Alcoholic Beverage Control for the expiration of state licenses issued for premises located in the City of Dayton in compliance with KRS 243.090. No license shall be in effect unless all such fees are paid by such date.

**§111.09 DISPOSITION OF LICENSE FEE BY FEE.**

All alcoholic beverage license fees collected by the City of Dayton shall be deposited into the general fund of the city and used for the payment of normal business expenditures of the city.

**§111.10 AMOUNT OF ALCOHOLIC BEVERAGE LICENSE FEES.**

1. An annual fee is hereby imposed for each of the alcoholic beverage licenses hereby established and required. The amount of the fee for each license(s) is listed in the table below:

|  |  |  |
| --- | --- | --- |
| LICENSE TYPE | FEE AMOUNT | MAXIMUM FEE ALLOWED BY KRS |
| Distiller’s License | $250 | $500 |
| Rectifier’s License – Class A | $1,500 | $3,000 |
| Rectifier’s License – Class B | $430 | $960 |
| Wholesaler’s distilled spirits & wine license | $420 | $3,000 |
| Quota Retail Package License (Liquor Stores) | $630 | $1,000 |
| Quota Retail Drink License (Bars/Taverns) | $708.75 | $1,000 |
| Special Temporary License (per event) | $166.66 | $166.66 |
| NQ1 Retail Drink License (includes distilled spirits, wine and malt beverages) | $708.75 | $2,000 |
| NQ2 Retail Drink License (includes distilled spirits, wine and malt beverages) | $866.25 | $1,000 |
| NQ3 Retail Drink License (includes distilled spirits, wine and malt beverages) | $708.75 | $300 |
| Special Temporary Auction License (distilled spirits and wine) | $26.25 | $100 |
| Special Sunday Retail Drink License | $262.50 | $300 |
| Extended Hours Supplemental License | $105 | $2,000 |
| Caterer’s License | $400 | $800 |
| Bottling House or Bottling House Storage License | $500 | $1,000 |
| Brewer’s License | $250 | $500 |
| Microbrewery License | $250 | $500 |
| Malt Beverage Distributor’s License | $400 | $400 |
| NQ Retail Malt Beverage Drink License\* | $200 | $200 |
| NQ4 Retail Malt Beverage Drink License\* | $200 | $200 |
| Limited Restaurant License (includes distilled spirits, wine and malt beverages) | $866.25 | $1,200 |
| Authorized Public Consumption License | $125 | $250 |
| Qualified Historic Site License | $515 | $1,030 |
| *\* Pursuant to KRS 243.070(18), the holder of a Non-Quota Retail Malt Beverage Package License may obtain a Non-Quota Type 4 Malt Beverage Drink License for a fee of fifty dollars ($50). The holder of a Non-Quota Type 4 Malt Beverage Drink License may obtain a Non-Quota Retail Malt Beverage Package License for a fee of fifty dollars ($50).* | | |

**(B)** The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

**(C)** The amount of the fee shall not exceed the maximum allowed by KRS 243.070, unless the application for license is within six months of the licenses expiration date. In the event this occurs, the amount of the fee shall be one-half of the maximum allowed by state law.

**§111.11 AMOUNT OF ALCOHOLIC BEVERAGE LICENSE FEES.**

No license issued hereunder shall be transferred from one person, firm, or corporation to another, without filing of an application with the information required under Section Three of this ordinance. Such application shall be submitted to the Alcoholic Beverage Control Administrator and, if approved, shall be filed with the Administrator who shall issue a license to the transferee upon payment of a fee of $25. No transfer shall be made or application for transfer acted upon after either the applicant or the license holder has been charged with a violation of this chapter or of a statute relating to alcohol consumption, or of a felony until such time as said charge shall have finally been disposed of.

**§111.12 TIMES WHEN RETAIL SALES OF ALCOHOLIC BEVERAGES ARE PROHIBITED.**

No person, with or without an alcoholic beverage license shall by act or omission cause, permit, allow, aid, assist, encourage or engage in the retail sale of any distilled spirits, wine or malt beverages in the City of Dayton during the period of time:

**(A)** On any Sunday after 12:00 A.M. and before 11:00 A.M. only if in possession of a Special Sunday Retail Drink License.; or

**(B)** On any other day after 12:00 A.M. and before 6:00 A.M. unless in possession of an Extended hours supplemental license which shall allow the holder of said license to remain open until 2:00 A.M.

**§111.13 LICENSE TO BE POSTED.**

All licenses granted herein shall be posted in a prominent place on the premises where the business is conducted.

**§111.14 PAYMENT OF DELINQUENCIES REQUIRED BEFORE LICENSE ISSUED.**

The Administrator shall not issue or renew city licenses or sign the state renewal form for any license provided for herein to any person who is delinquent in the payment of state, county and city personal property taxes or state, county or city; ad valorem real property taxes which are levied and assessed against the property used or contemplated to be used as the licensed premises; or who is delinquent in the payment of any assessments for waste or other assessments levied against the property used or contemplated to be used as the licensed premises; or who is delinquent in the payment of any city or county business or occupational license tax or payroll tax levied against the licensed business; or any other remaining city taxes or other debts to the city, until the delinquencies shall have been eliminated.

**§111.15 DISORDERLY CONDUCT OR BEHAVIOR.**

All alcohol beverage license holders shall not permit any disorderly conduct or any loud, disorderly, riotous, or indecent behavior on part of any customer;

**§111.16 REGISTRATION; PHOTOGRAPHING AND FINGERPRINTING OF EMPLOYEES.**

**(A)** Any person employed or working in any capacity, whether it be as an employee, as volunteer help or as a working proprietor, in any establishment or place of business, except as hereinafter provided, where distilled spirits, wine, or malt beverages are sold or dispensed by the drink as defined in both the Kentucky Revised Statutes and/or the City ordinances, shall register in a book of registration to be kept by the Dayton Police Department, and is required to be registered, fingerprinted and photographed by the Police Department of the City prior to the date of commencing his or her employment with the establishment or place of business. No person shall fail to register or be fingerprinted and photographed prior to commencing the employment.

**(B)** No employer, whether a person, firm or corporation, shall allow any person to be employed unless the employee shall have registered and shall have been fingerprinted and photographed within the time period and as prescribed in division (A) above.

**(C)** The registrants under this section are required to have the identification cards issued by the Dayton Police Department in their immediate possession during their hours of employment. The identification card shall contain the registrant’s picture, name, age, hair color, eye color, weight and place of employment.

**(D)** The City shall require a payment of $20.00 of each person registered, which charge shall be applied to cover the cost involved in the registration, including the cost of the identification card furnished to the registrants.

**(E)** Those businesses having a distilled spirits, wine, or malt beverages by the drink license as an accessory use with another business as the principal use at the same location, including, but not limited to restaurants and hotels/motel, shall register only those persons who are directly engaged in that portion of that business which sells distilled spirits, wine, or malt beverages by the drink.

**(F)** This registration procedure shall not apply to waiters and waitresses whose primary function is the service of food.

**(G)** Any employee, volunteer help or working proprietors at a festival or similar event which lasts less than 5 days, for which a Special Temporary liquor license has been secured, shall not be required to register under this section.

**(H)** The employees, volunteer help or working proprietors of a holder of a Non-Quota 3 (NQ3) Retail Drink license shall be exempt from registration under this section if and only if the use of the Non-Quota 3 (NQ3) Retail Drink license is an accessory use to a principal permitted use.

**(I)** Any establishment having a distilled spirits, wine, or malt beverage by the drink license that employs a contract cleaning service or other maintenance service to work in their establishment after closing hours shall require those persons so employed by the contractor to wear an identification card while working in that portion of the establishment that is directly involved in the sale of distilled spirits, wine, or malt beverage by the drink.

**§111.17 TRANSFER OF LICENSE; FEE.**

No license issued herein shall be transferred from one person, firm, or corporation to another, without filing of an application submitted to the Administrator along with payment of a fee of $25.00. No transfer shall be made or application for transfer acted upon after either the applicant or the license holder has been charged with a violation of this chapter or of a statute relating to alcohol consumption, or of a felony until such time as said charge has been disposed of.

**§111.99 PENALTIES.**

Each and every violation of this ordinance shall be a misdemeanor for which a person convicted thereof in a court of competent jurisdiction shall be sentenced to pay a criminal fine not to exceed the maximum amount of $500.00 as set forth in Kentucky Revised Statute 534.050(2)(a) or a term of imprisonment not to exceed the maximum period of twelve (12) months as set forth in Kentucky Revised Statute 532.090(1), or both. The penalties provided in this section shall be in addition to any suspension or revocation of the offender’s license.

## **Section II**

## That City of Dayton Code of Ordinances 31.38 is deleted.

## **Section III**

## All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

## **Section IIV**

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

First reading on this \_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2018.

Second reading on this \_\_ day of \_\_\_\_\_\_\_\_\_\_, 2018.

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

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MAYOR VIRGIL L. BORUSKE

ATTEST:

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

DONNA LEGER

CITY CLERK/TREASURER

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2018#12**

**AN ORDINANCE PROVIDING FOR THE IMPOSITION, LEVY, COLLECTION AND APPORTIONMENT OF TAXES FOR THE CITY OF DAYTON, CAMPBELL COUNTY, KENTUCKY FOR THE FISCAL YEAR JULY 1, 2018 THROUGH JUNE 30, 2019.**

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

## Section I

There shall be imposed, levied and collected for the Fiscal Year July 1, 2018 through June 30, 2019, by the City of Dayton, Kentucky, the sum of .4950 under the General Chapter of said City, as amended, and also an Act concerning the assessment and valuation for taxation of the corporate franchise and intangible properties, as amended, on each $100.00 valuation of real and mixed property; .5009 on all automobile and watercraft personal property and .739 on all other personal property, chooses in action, evidence of debt, and corporate franchises within said City as certified by the Property Valuation Administrator to Council, as assessed and returned for taxation to said City by the State Railroad Commission, the State Board of Valuation and Assessments and the Revenue Cabinet and certified by the State Auditor to the Council; if for any reason property has not been listed for taxation, then by the Mayor and Council; further, upon such property within the corporate limits of said City subject to taxation, except the deposits of Banks and Trust Companies, hereinafter mentioned.

## Section II

Said levy and assessment of .4950 on real and mixed property; .5009 on all automobile and watercraft personal property and .739 on all other personal property on each $100.00 valuation as set out above, shall be imposed, collected, levied and apportioned to and for the following purposes, and in the following proportions:

**Real Property**:

For the current general and incidental expenses of said City the sum of .4450.

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

**Personal Property**:

For the current general and incidental expenses of said City the sum of .739.

**Automobiles and Watercraft:**

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

## Section III

There shall be imposed and collected for said City, as permitted under KRS Chapter 136 on the taxable fair cash value of bank deposits within the city as assessed, corrected, altered, certified and returned by the Revenue Cabinet or as assessed by the Mayor and Council, if for any reason said deposits have not been listed in any manner for taxation, sum equal to twenty-five thousandths of one percent (.025%) of those deposits. The levy called for in this Section shall be imposed, levied, collected and apportioned for payment of incidental expenses of the City. Those banks upon which the above tax is imposed may pay the sum due less 2% if paid by December 31, 2018 or the full amount by January 31, 2019. Thereafter the penalty and interest herein shall be imposed.

## Section IV

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

## Section V

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

## Section VI

The taxes hereby levied shall be due and payable on and after September 30, 2018 at the office of the City Clerk/Treasurer and shall be delinquent after November 12, 2018, or as otherwise provided by Council by order, and the City Clerk/Treasurer shall thereafter proceed to attach to each bill a penalty of 10%. The City Clerk/Treasurer shall proceed to collect the delinquent taxes as provided by law until such time as the Council shall instruct the City Clerk/ Treasurer to refer all delinquent bills to the City Attorney for collection by taking legal action, if necessary. Interest at the rate of 12% per annum shall be charged on the account of such tax from November 13, 2018, or as otherwise provided by Council by order, to the date of payment.

## Section VII

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

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

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MAYOR VIRGIL L. BORUSKE

ATTEST:

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

DONNA LEGER

CITY CLERK/TREASURER

**City Administrator’s Report:**

Handicap parking application received for Peter Huebner, 424 Eighth Ave. Mr. Huebner meets all requirements of the ordinance. Motion by Member Baker, seconded by Member Burns to approve the handicap sign for Mr. Huebner. Motion carried- so ordered.

Handicap parking application received for Steven Hatton, 211 Fifth Ave. Mr. Hatton meets all requirements of the ordinance. Motion by Member Lynn, seconded by Member Volter to approve the handicap sign for Mr. Hatton. Motion carried- so ordered.

Paving Bids were received, and out of four bidders, Bluegrass Paving was the best priced overall for asphalt and concrete. These prices include paving, curb work, and Jamestown Pike Park. The Asphalt price is $ 97, 289.38; this includes grating and stonework for Jamestown Pike Park. The concrete portion is for $26,497.93 for a total of $123,787.31. Motion by Member Burns, seconded by Member Lynn to accept the bid from Bluegrass Paving for $123,787.31.

Roll Call:

Member Neary Nay Member Lynn Aye

Member Baker Aye Member Volter Aye

Member Haas Absent Member Burns Aye

Motion carried- so ordered.

**Department Heads:**

Tiffany Myers, Assistant Clerk/Treas., submitted financials.

Bob Yoder, Economic Development Director, advised Beyond the Curb will be coming to Dayton, KY on September 30th from 9:00 am to 5:00 pm. Bob is working on drafting a contract for three CCAP Structural Improvement Grants for the Old Smitty’s and Sofa Burn Records. Bob Yoder and City Att. Edge are looking into updating the CCAP contract.

The ‘I 8 in Dayton’ promotion is winding down, and if you have your card stamped, you can stop by the City Building to pick up your ‘I 8 in Dayton’ t-shirt. Some new shops are opening in Dayton. Unataza Coffee will have a mobile coffee cart on the corner of Sixth & Berry on Fridays until the end of October, and Jay Banks opened a retail shop for his Native Brand Clothing. A ribbon cutting ceremony will be announced at a later date.

SRTS/TAP Grant status is on hold because we are waiting on approval from KYTC to move forward. There will be a Board of Architectural Review September 6th at 7:00 pm at the Dayton Independent Schools Administration Building, 200 Clay St., Dayton, KY. An Economic Development Committee will be meeting shortly to discuss potential new programs and update existing programs.

Chief Halfhill, Police Chief, submitted a copy of his report.

Chief Adkins, Fire Chief, submitted a copy of his report and on a personal note, he participated in a program called Samaritan’s Feet at Bellevue and Dayton elementary schools for Preschool- 5th grade. This program would wash all the kids’ feet and put new socks and shoes on the kids. Chief Adkins felt there was a sense of pride in the community, it had a lot of local volunteers, and even the senior class at Dayton High School volunteered.

**Unfinished Business:**

Member Volter asked if there was any news on Route 8. City Adm. Giffen spoke with Newport and Ft. Thomas and both cities are unaware of any information about Route 8. He was told by KYTC; they will keep him updated and will make an announcement. KYTC has not reached out to any of the cities nor have they had any public input. A report from KYTC in 2016, listed several options for Route 8, but the main focus for the long-term is to re-route traffic. The cities are currently waiting on an announcement from KYTC.

Member Baker mentioned he has been working with representatives Schroder and Keen about getting Fourth Avenue milled and repaved, but they need to know when the heavy trucks will stop coming up this road. City Adm. Giffen advised this is a State Highway, and you can’t stop the trucks from using the road.

Member Burns requested if the re-mulching of the sign at Sixth and O’Fallon can be done before Beyond the Curb. City Adm. Giffen said it will be done before Beyond the Curb.

**New Business:**

Member Neary asked what the minimum or hourly rate is when cutting the grass. City Att. Edge advised you can’t set a minimum because it’s an abatement cost or in other words, you can only charge for the work Public Works put into the job.

**Executive Session:**

Mayor entertained a motion to go into executive order into Executive Session based on KRS 61.810 (1) (B) for 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 Burns, seconded by Member Volter to go into Executive Session. Motion carried- so ordered.

Motion by Member Burns, seconded by member Volter to go back into regular session. Motion carried-so ordered.

Adjournment:

Motion by Member Burns, seconded by Member Volter to adjourn. Motion carried- so ordered.

Respectfully Submitted,

Tiffany Myers

Assistant Clerk/Treas.

Donna Leger

Clerk/Treas.

ATTEST:

Virgil L. Boruske

Mayor