CITY OF DAYTON

COUNCIL MEETING

Jan. 2, 2019

A regular meeting of Dayton City Council was held on Wednesday, Jan. 2, 2019 in the board meeting room of the Dayton Independent Schools Administration Building, Third & Clay Street. Dayton, KY.

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

ROLL CALL:

Mayor Baker Aye Member Burns Aye

Member Volter Aye Member Lynn Aye

Member Neary Aye City Adm. Giffen Aye

Member Beseler Absent City Att. Edge Aye

Member Cornett Aye

Audience:

Cathy Gordon, 314 Fourth Avenue, suggested the agenda be changed to allow the audience to speak at the end of the council meeting. The reason for this request is, we cannot comment on anything council talks about tonight until next month.

Mayor’s Report:

Motion by Member Lynn, seconded by Member Volter to approve the council minutes from the Dec. 4, 2018 meeting as received. Motion carried—so ordered.

**CITY OF DAYTON, KENTUCKY**

**MUNICIPAL ORDER NO. 2019-1R**

A MUNICIPAL ORDER DECLARING CITY-OWNED TANGIBLE PROPERTY AS SURPLUS AND AUTHORIZING THE CITY ADMINISTRATOR TO SELL OR DISPOSE OF SAID TANGIBLE PROPERTY.

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

Section I

That the City of Dayton, in accordance with the provisions of KRS 82.083, hereby makes the following findings:

(a) That it is in the public interest for the City to declare as surplus the following items: (i) Eight (8) Pole Decorations (2 Toy Soldiers, 4 Stockings, 2 Santa’s); (ii) 1997 Chevy ½ ton pickup truck; and (iii) a 1997 Chevy Camaro.

(b) That the intended purpose of the property described herein at the time of purchase was used to complete city business and beatification of the City.

(c) That it is in public interest to sell or dispose of the property because of the deteriorating condition of the tangible property and public interest to sell to private party.

(d) The method of disposition is to be sold by sealed bids pursuant to KRS 82.083(4)(e).

Section II

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

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MAYOR BEN BAKER

ATTEST:

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DONNA LEGER

CITY CLERK/TREASURER

Motion by Member Lynn, seconded by Member Volter to approve 2019#1R as read.

ROLL CALL:

Member Lynn Aye Member Beseler Absent

Member Volter Aye Member Cornett Aye

Member Neary Aye Member Burns Aye

Motion carried—so ordered.

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2019#1**

**AN ORDINANCE AMENDING CHAPTER 150 OF THE DAYTON CODE OF ORDINANCES TO ADOPT THE 2018 INTERNATIONAL PROPERTY MAINTENANCE CODE AND AMEND OTHER PROVISIONS TO CONFORM WITH THE CITY CODE OF ORDINANCES.**

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

Section I

That Chapter 150.03 of the City of Dayton code of ordinances is amended as follows:

**§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~~] 2018 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~~] 2018 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~~] 2018 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~~] 10 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

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: \_\_Jan. 2, 2019\_\_\_\_\_\_\_\_\_\_

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

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MAYOR BEN BAKER

ATTEST:

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DONNA LEGER

CITY CLERK/TREASURER

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2019#2**

**AN ORDINANCE AMENDING CHAPTER 38 OF THE CITY CODE OF ORDINANCES TO INCREASE THE PAYMENT AND APPEAL DEADLINES FOR CODE ENFORCEMENT CITATIONS FROM SEVEN (7) DAYS TO TEN (10) DAYS.**

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

Section I

That Chapter 38 of the City of Dayton Code of Ordinances is amended as follows:

**§38.08 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 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

(3) 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.

**(E)** 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: (i) the person shall be deemed to have waived the right to a hearing before the Code Enforcement Board to contest the citation; (ii) the determination that a violation committed shall be final; and (iii) deemed to have waived the right to appeal the final order to the District Court.

**(F)** After issuing a citation to an alleged violator, the Code Enforcement Officer shall notify the Code Enforcement 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)~~] ten (10) 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)~~] ten (10) days, the person shall be deemed to have waived the right to a hearing or appeal and the determination that a violation was committed shall be considered final. In this event, the citation as issued shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation, and the person shall be deemed to have waived the right to appeal the final order to District Court.

Notice of a final order shall be provided to the cited violator by regular first class mail: certified mail, return receipt requested; personal delivery; or by leaving the notice 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 notice.

**(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.

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: Jan. 2, 2019

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

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MAYOR BEN BAKER

ATTEST:

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DONNA LEGER

CITY CLERK/TREASURER

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2019#3**

**AN ORDINANCE CORRECTING A SCRIVENER’S ERROR IN ALCOHOLIC BEVERAGE LICENSES FEES.**

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

**Section I**

That Chapter 111.10 of the City of Dayton Code of Ordinances is amended as follows:

**§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]~~ 300.00 | $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.

**Section II**

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 3 day of Jan. 2019.

 Second reading on this \_\_ day of \_\_\_\_\_\_\_\_\_\_, 2019.

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

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MAYOR BEN BAKER

ATTEST:

DONNA LEGER

CITY CLERK/TREASURER

Comment: Member Cornett asked if the establishments were charged the correct amount. Yes, the establishments were charged the correct amount.

City Administrator’s Report:

Currently working on the contract with Prus Construction for Phase I on Riverfront Commons. Contracts for the Right of Way phase on the sidewalks improvements along Dayton Pike is also underway. On Manhattan Blvd. we have 344 units under construction on two separate projects, and one or two other project are currently under discussion. It will be an exciting 2019 on the Riverfront.

We plan to bid out for our banking services. BB&T is no longer located in Dayton and the service we are receiving is not meeting our standards.

Motion by Member Lynn, seconded by Member Neary to appoint Member Volter to the OKI Regional Board of Directors. Motion carried—so ordered.

The completion date for the O’Fallon Avenue Apartments should be late 2019.

Member Cornett would like to add an ATM Machine as a suggestion in our request for banking services.

City Attorney’s Report:

City Attorney Edge noted several properties in the city are up for sale on the Master Commission web site. These properties are sold at fair to market price.

Department Head’s Report:

Chris Adkins, Fire Chief, submitted a copy of his report. The amount of drug overdoses are down this year based on last year. This says a lot for both the Police Department and Fire Department. The FDBD continued our annual tradition of delivering food and presents to families in both cities during the holidays. This year we were able to assist 14 families. Member Burns thanked Chief Adkins and Chief Halfhill for the fantastic jobs they are doing.

David Halfhill, Police Chief, submitted a copy of his report. Again this year the Police Dept. participated in “Shop with a Cop” along with FOP Lodge #10. Well over 100 kids participated and seven of our officers were involved.

Phil Liles, Director of Codes, submitted a copy of his report. Thirty three total letters were issued in the month of December, 25 violations and 8 citations. Thirteen cases were closed in the month of December. In the fourth quarter 125 cases were closed, and 277 letters issued. In 2018, 847 letters were sent out and 332 cases closed.

Bob Yoder, Economic Development Director, submitted the quarterly CCAP Program report. The property at Sixth & Main Street has a new owner. Work on the following three properties is moving forward, 301 Sixth Avenue, 604 Sixth Avenue, and 620 Sixth Avenue.

Unfinished Business:

The parking lot on Dayton Pike will be paved in the spring. Member Volter asked in terms of right of way what pieces of property are we looking at? We are working with the homeowners along Dayton Pike. Everything south of the parking lot has right of way challenges. Bob Yoder, Economic Development Director, explained there is no easements on these property lines, the property lines go to the middle of the road. City Adm. Giffen noted we cannot proceed with any construction until the right of way is complete. The right of way should take about two to three more months. The sidewalk will go from Seventh Avenue and Dayton Pike to Chateau Drive.

Member Neary suggested resending all the information on the sidewalk bumps, Dayton Pike Sidewalk and the Riverwalk out to all of council since we have two new members. He also suggested putting the plans on the city web site. City Adm. Giffen noted the bump outs and Dayton Pike Sidewalk are all one project. No construction can start on either project until the right of way phase is completed.

Member Lynn asked about the plans for the new city building. City Adm. Giffen and Mayor Baker are reviewing other options, and this will be presented at the next council meeting. Then it will be presented to the public.

New Business:

Jim Vice, Campbell County Historical site, will have a presentation on Jan. 10, 7:00 p.m. Mr. Vice will be doing a presentation in reference to the St. Francis Cemetery.

With Route 8 through Bellevue and Dayton now being a business route, Member Neary would like administration to talk with the Transportation Cabinet about giving the city more control over intersections, signage, bump outs, etc. A Committee needs to be formed with Main Street, and some citizens to discuss pedestrian and traffic safety.

Member Cornett would like to know if the trucks hauling dirt could be routed behind the floodwall instead of down the Avenue. The Avenue looks bad, the dirt, and the amount of dust accumulating on the business windows is bad. There are only about six houses that would be affected behind the floodwall compared to all the businesses and houses on the Avenue.

Member Volter would like to set a date at the next meeting in reference to the KZF report on the new city building.

Mayor Baker reported he has been busy the last few weeks meeting with city staff. Mayor Baker is excited about what’s going on in Dayton, and is looking forward to working with council in the coming years.

Adjournment:

Motion by Member Neary, seconded by Member Cornett to adjourn. Motion carried—so ordered.

 Respectfully submitted,

 Donna Leger

 Clerk/Treas.

ATTEST:

Ben Baker

Mayor