CITY OF DAYTON

PUBLIC HEARING/COUNCIL MEETING

August 6, 2019

Public Hearing: The purpose of the public hearing is to discuss road improvements and obtain comments from the public regarding the spending of Municipal Road Aid Program Funds.

Mayor Baker opened the meeting. Michael Giffen, City Adm., asked if anyone had any questions or comments. There are two items on the fall paving list. Both will be done with utilities companies in the area. In the first project the city will be working with SD1. This project is at the top of Ervin Terrace/ Belmont Road. This will be a cost share program. The Sanitation District will install a new line, and the city will install three or four new catch basins, to help capture some of the storm water. The total cost of the job should be around $30,000. This will be a 50/50 split with SD1. The second project is with The Northern Kentucky Water District. They will replace the water main on Ervin Terrace. The sidewalks and curbs will also be replaced. An estimated cost is $35,000. “What I’m asking for tonight is $50,000 from the Municipal Road Aid Fund”. The water company will be doing most of the repaving. The City will be doing curbs and sidewalks.

Public Hearing closed at 7:07 p.m.

A regular meeting of Dayton City Council was held on Tuesday, August 6, 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 Aye City Att. Edge Aye

Member Cornett Absent

Mr. Parsons, Bond counsel, was in attendance for the reading of 2019#13R, a Bond Inducement Resolution. A memorandum of agreement between the City and Manhattan Development Group, LLC relating to the acquisition, construction, equipping, and installation of a multi-phased residential development project. Mr. Parsons explained, this will be a different mix of housing options. Overall 980 housing units will be added when all is completed. The bonds will provide some additional incentives to the project. The City will agree to undertake the issuance of Industrial Revenue Bonds, but this will not affect the City, and under the TIF the City will keep 20% of the revenue produced. This agreement is also in lieu of taxes and will need the approval of the Dayton Independent Board of Education. This will be very helpful to the school system. The bonds are not the debt of the city. The total amount of the development on the Riverfront will be $180-$190 million.

# CITY OF DAYTON, KENTUCKY

RESOLUTION NO. 2019#13R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY (THE “CITY”), AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT BETWEEN THE CITY AND MANHATTAN DEVELOPMENT GROUP, LLC (THE “COMPANY”) RELATING TO THE ACQUISITION, CONSTRUCTION, EQUIPPING AND INSTALLATION OF A MULTI-PHASED RESIDENTIAL DEVELOPMENT PROJECT TO BE LOCATED IN A DESIGNATED DOWNTOWN BUSI­NESS DISTRICT OF THE CITY (THE “PROJECT”); AGREEING TO UNDERTAKE THE ISSUANCE OF INDUSTRIAL BUILDING REVENUE BONDS AT THE APPROPRIATE TIME TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING, EQUIPPING AND INSTALLING SAID PROJECT AND FACILITIES; AND TAKING OTHER PRELIMINARY ACTION.

**WHEREAS,** Manhattan Development Group, LLC., or its assigns, to be authorized to business in the Commonwealth of Kentucky (the “Company”), proposes the acqui­si­tion, construction, equipping and installation of a multi-phased residential development project, including site amenities, to be located within the Manhattan Harbour development, and is within a designated downtown business district of the City, and Campbell County, Kentucky (the “Project”), as provided for in Section 103.200 of the Kentucky Revised Statutes, and in this respect, has been determined that the City may assist the Company by causing the acquisition, construction, equipping and installation of the Project and by entering into at the appropriate time a lease agreement with reference thereto pursuant to authority of Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes (collectively, the “Act”), all in furtherance of the purposes of the Act and the public benefit of the residents and inhabitants of the City; such lease agreement to be upon such terms and conditions as the Act may require and the City may deem advisable; and

**WHEREAS,** the acquisition, construction, equipping and installation of the Project by the Company will encourage the expansion of commerce in accordance with the public policy of the Commonwealth of Kentucky by promoting the economic development of the Commonwealth of Kentucky and the City, will relieve conditions of unemployment, will encourage the increase of commerce and will improve the economic welfare of the people of the City; and

**WHEREAS,** the City is further authorized by the Act to issue bonds, which term under the Act encompasses bonds, variable rate bonds, commercial paper bonds, bond anticipation notes or any other obligations for the payment of money issued by a city, county or other authority pursuant to the Act, for the purpose of defraying the cost of acquiring, constructing, equipping and installing an industrial building or buildings, as defined in the Act; discussions have occurred between representatives of the Company and the City incident to the issuance of industrial building revenue bonds by the City; the City has agreed with the Company to issue such bonds upon compliance by the Company with certain conditions, requirements and obligations, and subject to the approval of the City of the terms of all agreements, ordinances and other documents required incident to said bond issue; and the City has authorized the Company to proceed with the acquisition, construction, equipping and installation of the Project, subject to reimbursement of the costs of the Project from the proceeds of such bonds, when, as and if issued; and

**WHEREAS,** based upon an estimate of the costs of the Project, the City proposes to issue its industrial building revenue bonds in one or more series as determined by the Company and agreed to by the City in an amount not to exceed One Hundred and Twenty Million Dollars ($120,000,000) (the “Bonds”), such Bonds to be sold and delivered by the City to pay the costs of the Project, together with costs incident to the authorization, sale and issuance of such Bonds, but with such contributions from the Company as may be necessary; and

**WHEREAS,** the City proposes to enter into, at the appropriate time for each separate series of Bonds, a lease agreement with the Company with respect to the Project, whereby the Company will covenant and agree to pay amounts sufficient to provide for the payment of principal of and premium, if any, and interest on the Bonds, together with all trustee and paying agents' fees in connection with the Bonds as the same become due and payable; the liability of the Company under this instrument or any other instrument related to the issuance of the Bonds shall be limited to its interest in the Project to be financed thereby and no party shall have the right to obtain payment from the Company or from any assets of the Company other than such Project; and

**WHEREAS,** it is deemed necessary and advisable that a Memorandum of Agreement between the City and the Company be executed setting forth the preliminary agreements of the parties with respect to the acquisition, construction, equipping and installation of the Project, the issuance of the Bonds to defray the costs thereof and the payments to be made by the Company with respect to the Project; and

**NOW, THEREFORE, BE IT ORDERED AND RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY, AS FOLLOWS:**

**Section 1.** It is hereby found, determined and declared that (i) the recitals set forth in the preamble to this Resolution, which are incorporated in this Section by reference, are true and correct; (ii) the total amount of money necessary to be provided by the City for the acquisition, construction, equipping and installation of the Project to be financed by the Bonds will not exceed One Hundred and Twenty Million Dollars ($120,000,000); (iii) the Company has represented that it will have sufficient financial resources to acquire, construct, equip and install the Project and to place it in operation and to continue to operate, maintain and insure the Project throughout the term of the Bond issue, meeting when due the obligations of the proposed lease agreement; and (iv) sufficient safeguards will be provided by the lease agreement to insure that all money provided by the City from the proceeds of the sale of the Bonds will be expended by way of direct expenditure or reimbursement, solely and only for the purposes of the Project.

**Section 2.** It is hereby found, determined and declared that the cost of acquiring, constructing, equipping and installing the Project will be paid out of the proceeds of the Bonds and such contributions of the Company as may be necessary to complete the Project as defined in the lease agreement to be executed by and between the City and the Company at the appropriate time pursuant to the Act; **THAT NONE OF THE BONDS WILL BE GENERAL OBLIGATIONS OF THE CITY; THAT NEITHER THE BONDS NOR THE INTEREST THEREON SHALL CONSTITUTE OR GIVE RISE TO ANY INDEBTEDNESS OF THE CITY OR ANY CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER, BUT THAT THE BONDS AND THE PAYMENT OF INTEREST THEREON SHALL BE SECURED AND PAYABLE SOLELY AND ONLY BY A PLEDGE OF AMOUNTS TO BE PAID BY THE COMPANY UNDER SUCH LEASE AGREEMENT; AND THAT NO PART OF SAID COSTS WILL BE PAYABLE OUT OF ANY GENERAL FUNDS, REVENUES, ASSETS, PROPERTIES OR OTHER CONTRIBUTIONS OF THE CITY.**

**Section 3.** In order to induce the acquisition, construction, equipping and installation of the Project in the City with the resultant public benefits which will flow therefrom, it is deemed necessary and advisable that the Memorandum of Agreement hereinafter referred to be approved and executed for and on behalf of the City. Accordingly, the Memorandum of Agreement by and between the Company and the City substantially in the form and with the contents set forth in EXHIBIT A attached hereto and incorporated herein by reference is hereby approved and the Mayor is hereby authorized and directed to execute and deliver said Memorandum of Agreement.

**Section 4.** Inasmuch as the Project is to be acquired, constructed, equipped and installed in order to conform to the requirements of the Company, so that the Company may provide additional housing, economic development and employment to citizens and residents of the local community, and inasmuch as the Company is able to plan, acquire, construct, equip and install the Project and possesses more expertise in such matters, it is hereby found, determined and declared that acquisition, construction, equipping and installation of the Project should be undertaken or caused to be undertaken by the Company. Accordingly, the Company is hereby authorized to formulate and develop plans for the acquisition, construction, equipping and installation of the Project and to enter into such contracts and undertakings as may be required for the acquisition, construction, equipping and installation of the Project. Reimbursements made to the Company after the receipt of the proceeds of the sale of the proposed Bond issue by the City shall be subject to the certifications by qualified persons to be designated by the Company as specified in the lease agreement to be entered into by the City and the Company at the appropriate time pursuant to the Act.

**Section 5.** This Resolution and the Memorandum of Agreement approved hereby constitute the present official intent of the City to issue the Bonds in one or more series at a later date, with the understanding that issuance of the Bonds shall be contingent upon the execution of an Agreement In Lieu of Taxes satisfactory to the City, Company, and the Dayton Independent School District.

**Section 6.** Keating Muething & Klekamp PLL, Cincinnati, Ohio, is hereby approved as local Bond Counsel. Local Bond Counsel is authorized and directed to take any legal action necessary or appropriate in connection with the issuance of the Bonds. The City Attorney is authorized and directed to assist Local Bond Counsel in any appropriate manner.

**Section 7.** No City funds shall be expended on the Project, except such as are derived from Bond proceeds.

**Section 8.** To the extent any resolution, ordinance or part thereof is in conflict, the provisions of this Resolution shall prevail and be given effect.

**Section 9.** This Resolution shall be in full force and effect from and after its adoption as provided by law.

**INTRODUCED, SECONDED, READ AND ADOPTED AT A DULY CONVENED MEETING OF THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY,** held on the 6thday of August, 2019, on the same occasion signed in open session by the Mayor as evidence of his approval, attested under seal by the City Clerk, ordered to be filed and recorded as required by law, and declared to be in full force and effect according to law.

MAYOR BEN BAKER

ATTEST:

CITY CLERK

**CERTIFICATION**

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of Dayton, Kentucky, and as such City Clerk, I further certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by the City Council of said City at a duly convened meeting held on the \_\_\_\_ day of August, 2019, signed by the Mayor, duly filed and recorded in my office, all as appears from the official records of said City in my possession and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2019.

CITY CLERK

(SEAL)

**EXHIBIT A**

MEMORANDUM OF AGREEMENT REGARDING ISSUANCE

OF INDUSTRIAL BUILDING REVENUE BONDS

This MEMORANDUM OF AGREEMENT REGARDING ISSUANCE OF INDUSTRIAL BUILDING REVENUE BONDS, by and between the CITY OF DAYTON, KENTUCKY (the “City”) and Manhattan Development Group, LLC, or its assigns, to be authorized to do business in the Commonwealth of Kentucky (the “Company”).

W I T N E S E T H:

1. Preliminary Statement. Among the facts and circumstances which have resulted in the execution of this Memorandum of Agreement by and between the parties are the following:
   1. The Company is desirous of acquiring, constructing, equipping and installing a multi-family residential rental development project, including site amenities, within a designated downtown business district of the City of Dayton, Campbell County, Kentucky (the “Project”).
   2. The Project proposed to be acquired, constructed, equipped and installed for use by the Company will constitute an “industrial building” within the meaning of Section 103.200 of the Kentucky Revised Statutes.
   3. The Company is initiating the development of plans, specifications and designs for the Project and has entered into discussions with the City with respect to the financing thereof. The Company estimates that the aggregate cost of the Project will not exceed One Hundred and Twenty Million Dollars ($120,000,000), including financing costs, which will be issued one or more series of Bonds.
   4. The City is authorized and empowered by the provisions of Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes (collectively, the “Act”) to issue bonds, which term under the Act encompasses bonds, notes, variable rate bonds, commercial paper bonds, bond anticipation notes or any other obligations for the payment of money issued by a city, county or other authority pursuant to the Act, for the purpose of defraying the costs of acquiring, constructing, equipping and installing an industrial building or buildings, as defined in the Act, in order to promote the economic development of the Commonwealth and the establishment, retention or expansion of industry. The City is empowered, with respect to such industrial building facilities so acquired, constructed, equipped and installed, to enter into at the appropriate time a lease agreement with a concern such as the Company providing for such payments by the Company and such other terms and conditions as the City may deem advisable.
   5. The purposes of the Act, inter alia, are to promote the economic development of the Commonwealth of Kentucky, to relieve conditions of unemployment, to promote reconversion to a peacetime economy, to aid in the rehabilitation of returning veterans, to encourage the increase of industry in Kentucky, and to aid in the retention of existing industry by certain described means. In furtherance of such purposes the City, at the request of the Company, proposes to cause to be acquired, constructed, equipped and installed the Project for the Company's use in connection with the operations of the Company in the City. The City intends to finance the Project and to enter into at the appropriate time a lease agreement with the Company pursuant to the provisions of the Act with respect to the Project.
   6. The Company is ready, willing and able to cause initial acquisition, construction, equipping and installation of the Project to be undertaken, but has been advised by counsel that in order to warrant the issuance of industrial building revenue bonds by the City it is necessary that official action be taken by the City approving the Project and agreeing to issue at the appropriate time industrial building revenue bonds to finance the costs of acquisition, construction, equipping and installation of the Project.
   7. Representatives of the City have indicated the willingness of the City to proceed with and to carry out such industrial building revenue bond financing in order to effectuate the purposes of the Act and have advised the Company that, subject to due compliance with all requirements of law and the obtaining of all necessary consents and approvals required by law, and to the happening of all acts, conditions and things required precedent to such financing, including satisfaction of all requirements of the City, the City, by virtue of authority of the Act, will issue and sell its industrial building revenue bonds in one or more series as determined by the Company and agreed to by the City in an amount not to exceed One Hundred and Twenty Million Dollars ($120,000,000) (the “Bonds”).
   8. The City considers and determines that the acquisition, construction, equipping and installation of the Project, and the execution of a lease agreement with the Company at the appropriate time with reference to the Project, will promote and further the purposes of the Act.
   9. Pursuant to KRS 103.230(l), the Company has requested and hereby requests that the sale of the Bonds by the City be made upon a negotiated basis in a manner to be determined by the Company.

(j) The City represents that the location of the Project is within a designated downtown business district of the City as set forth in KRS103.200(1)(n).

(k) That the City and Company acknowledge that the commitment of the City shall be conditioned upon the execution of an Agreement in Lieu of Taxes attached as Exhibit A.

1. Representations and Undertakings on the Part of the Company. The Company represents, undertakes, covenants and agrees as follows:
   1. That the Company intends to utilize the Project, or cause the Project to be utilized, at all times during the term of the lease agreement to be entered into at the appropriate time by and between the City and the Company with reference to the Project for the purposes hereinbefore indicated;
   2. That the Project will tend to provide housing and relieve conditions of unemployment;
   3. That the Company will cause contracts to be entered into for, or will otherwise provide for, the acquisition, construction, equipping and installation of the Project;
   4. That prior to or contemporaneously with the delivery of the Bonds the Company will enter into a lease agreement with the City under the terms of which the Company will obligate itself to undertake and to complete the acquisition, construction, equipping and installation of the Project and to pay to the City sums sufficient in the aggregate to pay the principal of, interest on, and premium, if any, on the Bonds as and when the Bonds shall become due and payable, such lease agreement to contain such other provisions as shall be agreed upon by the City and the Company; and
   5. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it or the City may deem appropriate in pursuance thereof.
2. Undertaking on the Part of the City. Subject to the fulfillment of the several conditions herein stated, the City agrees as follows:
   1. That it will at the appropriate time authorize or cause to be authorized the issuance and sale of the Bonds pursuant to the terms of the Act as then in force in an aggregate principal amount not to exceed One Hundred and Twenty Million Dollars ($120,000,000), or such other aggregate principal amount as shall be sufficient to pay the costs of the Project and related costs when actually determined;
   2. That it will adopt or cause to be adopted such proceedings and authorize the execution of such documents as may be necessary or acceptable for (i) the authorization, issuance and sale of the Bonds, (ii) the acquisition, construction, equipping and installation of the Project, (iii) providing for the payment of principal of and interest on the Bonds by the lease agreement with the Company pursuant to the Act, all as shall be authorized by the Act and upon terms which shall be mutually satisfactory to the City and the Company;
   3. That the aggregate basic payments stipulated to be made by the Company under the lease agreement with the City with reference to the Project shall be at least sufficient (in addition to covenants of the Company to properly operate, maintain and insure the Project) to pay the principal of, interest on and redemption premium, if any, on all of the Bonds as and when the same become due and payable, whether at maturity or prior redemption or upon any acceleration of payment of principal as provided in the Bond proceedings; and
   4. That it will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings as it may deem appropriate.
3. General Provisions.
   1. The Company has requested that the sale of the Bonds be negotiated in the manner permitted by statute and that the terms of the sale be subject to approval by the Company.
   2. All commitments of the City and the Company pursuant to this Memorandum of Agreement are subject to the condition that on or before one year from the date hereof or such later date as shall be agreed upon by the City and the Company, the City and the Company shall have agreed to mutually acceptable terms and conditions with respect to the lease agreement referred to in this Memorandum of Agreement and the details of the industrial building revenue bond financing.
   3. If the event set forth in (b) of this paragraph does not take place within the time set forth therein, or any agreed extension thereof, and the Bonds are not issued within such time, the Company agrees that it will reimburse the City for all reasonable and necessary direct out-of-pocket expenses which the City may incur at the Company's request arising from the execution of this Agreement, and the performance by the City of its obligations hereunder shall thereupon terminate.
   4. This Memorandum of Agreement and the Resolution approving this Memorandum of Agreement constitute the present official intent of the City to issue the Bonds at a later date.
   5. **NONE OF THE BONDS WILL BE GENERAL OBLIGATIONS OF THE CITY AND NEITHER THE BONDS NOR THE INTEREST THEREON SHALL CONSTITUTE OR GIVE RISE TO ANY INDEBTEDNESS OF THE CITY OR ANY CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER. THE BONDS AND THE PAYMENT OF INTEREST THEREON SHALL BE SECURED AND PAYABLE SOLELY AND ONLY BY A PLEDGE OF AMOUNTS TO BE PAID BY THE COMPANY UNDER ANY LEASE AGREEMENT WITH THE CITY AS REQUIRED BY THE ACT. NO PART OF THE COSTS OF ACQUIRING, CONSTRUCTING, EQUIPPING AND INSTALLING THE PROJECT WILL BE PAYABLE OUT OF ANY GENERAL FUNDS, REVENUES, ASSETS, PROPERTIES OR OTHER CONTRIBUTIONS OF THE CITY.**

(THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY.)

IN WITNESS WHEREOF, the parties hereto have entered into this Memorandum of Agreement by their officers thereunto duly authorized as of the 6th day of August 2019.

CITY OF DAYTON, KENTUCKY

BY:

Mayor Ben Baker

MANHATTAN DEVELOPMENT GROUP, LLC

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TITLE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Motion by Member Volter, seconded by Member Lynn to approve 2019#13R as read. Comments: Member Neary confirmed the 980 units. Mr. Parsons said yes. The developer is Manhattan Development Group, LLC. They are the Master Developer. Mr. Parsons said there may be different investor groups once the projects are started.

ROLL CALL:

Member Neary Aye Member Burns Aye

Member Beseler Aye Member Lynn Aye

Member Cornett Absent Member Volter Aye

Motion carried—so ordered.

Audience:

Nathan Kroger & Jacoba Wells, 306 Fifth Ave., just moved to the City. They also purchased the property at 526 Sixth Avenue. They are looking for someone to lease the business front at 526 Sixth Avenue.

Pastor Keith Haithcock, St. John United Church in Bellevue and other members of the church were in attendance to show their support for ordinance 2019#14, an ordinance to prohibit certain discriminatory practices within the city. Pastor Haithcock thanked council for the brave stance that they are taking and know we stand behind you. Pastor Haithcock has the support of 21 Local United Church of Christ Ministers.

Sandy Crowland, Covington, was a member of the Human Rights Commission when Covington passed the Fair Rights ordinance 1999, and also a member of St. John United Church.

This was the best and most progressive things that Covington did. Sandy would like to offer her services as a free consultant if she can be of help in anyway. Thank you.

Ken Weidinger knows this to be a loving community. Thank you to council for consideration of this ordinance.

Tom Dilts, 1200 Ervin Terrace, built his home in 1997. He did many things to combat any water problems while his home was being built. In the summer of 2018 he met with Member Neary concerning water issues. He also spoke with City Adm. Giffen, and Mayor Baker concerning his water issues in 2018. He understands we’ve had record rains, but he feels in 2018 the paving on Fairview resulted in a lot of erosion issues. The problem is curbing on Fairview Avenue, and a garden hose that is buried. Two property owners on Fairview are dispersing water onto his property. He believes those two property owners are in violation of ordinance 51.42. It’s an easy fix, but the city needs to speak with the property owners. Member Burns agreed a problem does exist and would like the Storm Water Task Force to look into the matter. Member Neary said he has been up on Fairview and Ervin Terrace. This issue has not been ignored. Mr. Dilts said this has cost him thousands of dollars. The homeowners on Fairview may not even be aware of the problem. Mayor Baker will setup a meeting with Mr. Dilts and Mr. Liles, Code Enforcement. We respect you and your problem.

Terry Hatton, graduated from Dayton in 1978 and lived on Maple Ave. He presently lives in Bellevue, and has been a member of the Bellevue Vets for over 21 years. The Bellevue Vets received a 150th Anniversary Grant from the Cincinnati Reds for a field makeover. Mr. Hatton passed out paperwork to council. The Vets has a lot of different programs for children, from T-Ball to High School Ball. This will be a $1,200,000 makeover. This includes field lighting, dugouts, scoreboard, volleyball courts, playground, and the picnic shelter. The vets have invested $150,000. The donations have been amazing. Mr. Hatton would like to let Dayton know the Vets are here if they can help or connect in anyway with Dayton’s recreation department.

Mayor’s Report:

Mayor Baker asked Bob Yoder, Economic Development Director, to come forward. Mayor Baker presented Mr. Yoder with an award for his accomplishments in getting the city over $1,000,000.00 in grant money.

Motion by Member Volter, seconded by Member Beseler to approve the minutes from the July 2, 2019 meeting as received. Member Burns abstained. Motion carried—so ordered.

Second Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2019-14**

**AN ORDINANCE CREATING A NEW CHAPTER OF THE CITY OF DAYTON CODE OF ORDINANCES TO PROHIBIT CERTAIN DISCRIMINATORY PRACTICES WITHIN THE CITY.**

This ordinances creates a new chapter in the City of Dayton Code of Ordinances to prohibit certain discriminatory practices. It includes several specific definitions, makes it unlawful to treat a person differently based upon race, color, national origin, sex and/or gender identity, religion, age and/or sexual orientation with regards to public accommodations, housing, financial services, real estate and employment. There are several specific and general exceptions outlined in the ordinance. An enforcement procedure through either the Kentucky Commission on Human Rights or the City depending on the type of discrimination that occurs is also included. In addition, victims of violations of this ordinance can enforce their rights under this ordinance through a civil action in the local court of general jurisdiction. The ordinance further makes it unlawful for an offender to obstruct the process or retaliate. Penalty for violation of this ordinance shall be in accordance with the City’s civil fine penalty schedule.

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 Beseler, seconded by Member Lynn to approve 2019#14 as read. Comments: Member Burns said this is a great ordinance, but he would like to have clarification on the complaint procedure. Issues would be addressed by the City Administrator and then Council. If there is a tie vote the Mayor would break the tie vote. Member Volter also said it’s a great ordinance and well overdue. Member Volter would like to see other cities adopt such and ordinance. Member Neary said Dayton is the 12th City in the Commonwealth to adopt such an ordinance. He hopes it carries to the State level. Member Burns asked if the city has had problems in the past. Mayor Baker said if it’s not on the books people just don’t come forward.

ROLL CALL:

Member Beseler Aye Member Lynn Aye

Member Cornett Absent Member Volter Aye

Member Burns Aye Member Neary Aye

Motion carried—so ordered.

**CITY OF DAYTON, KENTUCKY**

**MUNICIPAL ORDER NO. 2019#10R**

A MUNICIPAL ORDER AUTHORIZING THE EXECUTION OF COST SHARE AGREEMENT.

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

Section I

That the City is hereby authorized to execute the attached and herein incorporated Cost Share Agreement.

Section II

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

Section III

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

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

MAYOR BEN BAKER

ATTEST:

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

DONNA LEGER

CITY CLERK/TREASURER

August 6, 2019

Motion by Member Neary, seconded by Member Volter to approve 2019-10R as read.

ROLL CALL:

Member Cornett Absent Member Volter Aye

Member Burns Aye Member Neary Aye

Member Lynn Aye Member Beseler Aye

Motion carried—so order

**CITY OF DAYTON, KENTUCKY**

**RESOLUTION NO.2019#11R**

A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AMENDMENT AGREEMENT WITH THE TRANSPORTATION CABINET FOR AN ADDITIONAL 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 was 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 Amendment to the 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.

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

MAYOR BEN BAKER

ATTEST:

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

DONNA LEGER

CITY CLERK/TREASURER

Motion by Member Volter, seconded by Member Lynn to approve 2019-11R as read. Comments: The bidding for Riverfront Commons Phase 1 went over the amount of grant money we had by $15,000. We were able to secure additional money from the Transportation Cabinet, but the city will have to pay between $2,000-$3,000.

Member Burns Aye Member Neary Aye

Member Lynn Aye Member Beseler Aye

Member Volter Aye Member Cornett Absent

Motion carried—so ordered.

**CITY OF DAYTON, KENTUCKY**

**MUNICIPAL ORDER NO. 2019-#12R**

A MUNICIPAL ORDER DECLARING CITY-OWNED REAL PROPERTY AS SURPLUS AND AUTHORIZING THE MAYOR TO DISPOSE OF REAL PROPERTY CONSISTING OF A VACANT LOT COMMONLY LOCATED AT 1019 MAPLE AND PROPERTY AT 916 SIXTH AVENUE.

**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 an unaddressed vacant lot of real property commonly located adjacent to 1019 Maple Avenue, identified with a PIDN of 999-99-08-556.00 and 916 Sixth Avenue, identified with a PIDN of 999-99-08-838.00.

(b) That the intended purpose of the property described herein at the time of purchase is unknown.

(c) That it is in public interest to sell or dispose of the property because the real property as it does not serve any current or future public interest.

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

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

August 6, 2019

Motion by Member Lynn, seconded by Member Neary to approve 2019-#12R as read.

ROLL CALL:

Member Lynn Aye Member Beseler Aye

Member Volter Aye Member Cornett Absent

Member Neary Aye Member Burns Aye

Motion carried—so ordered.

First Reading:

**CITY OF DAYTON**

**ORDINANCE NO. #2019-#15**

**AN ORDINANCE REQUIRING THAT THE DELIVERY OF UNSOLICITED WRITTEN MATERIALS TO A PREMISES BE PLACED ON THE FRONT PORCH, THROUGH A MAIL SLOT, SECURELY ATTACHED TO THE FRONT DOOR, BETWEEN THE EXTERIOR AND INTERIOR FRONT DOOR, IN A DISTRIBUTION BOX, OR PERSONALLY WITH THE OWNER/OCCUPANT AND FURTHER CLASSIFYING A VIOLATION OF THIS ORDINANCE AS A CIVIL OFFENSE.**

**WHEREAS,** the City of Dayton, Kentucky (“City”) is concerned about the proliferation of litter and visual blight within the community; and

**WHEREAS,** the City finds that deliveries of unsolicited written materials are being haphazardly made throughout the City, including by distributing such materials on sidewalks, yards, and driveways, with no means to ensure that such items do not add to the litter problem and/or visual blight; and

**WHEREAS,** the City finds that these unsolicited written materials have contributed to the litter and visual blight of private premises, public streets, sidewalks, and other public places, and that these materials, haphazardly delivered, are damaging to private property and/or interfere with private property; and

**WHEREAS,** the City desires to ensure that these unsolicited written materials do not litter the streets, sidewalks, or other public places, or yards or driveways of private premises; do not cause visual blight in our neighborhoods; do not damage private property; and do not interfere with private property; and

**WHEREAS,** this Ordinance is an effort to reduce unwanted litter and visual blight caused by unsolicited written materials on public property and the yards and driveways of private premises; to prevent damage to private property; and to further prevent interference with private property; and

**WHEREAS,** this Ordinance does not in any way deprive or diminish a private property owner’s right to protect his or her premises from unsolicited or unwanted written materials.

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

## Section I

## That a new section of the Code of Ordinances for the City of Dayton shall be created as follows:

**§ 94.10 – Unsolicited Written Materials**

(A) **Definitions.** For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. *Citation Officer.* A person authorized by state law or local Ordinance to issue a citation for a violation of this Ordinance.
2. *Front Door.* The street-facing entrance(s) to a principal structure. In the event no door faces the street, then any other door of a principal structure nearest the street shall be considered a front door for purposes of this Ordinance.
3. *Porch*. An exterior appendage to a principal structure leading to a doorway, including any stairway attached thereto.
4. *Premises*. A lot, plot, or parcel of land including any structures, driveways, or other impervious surfaces thereon.
5. *Principal Structure*. A structure, or combination of structures of primary importance on the premises, and that contains the primary use associated with the premises. The primary use is characterized by identifying the main activity taking place on the premises.
6. *Unsolicited written materials*. Any written materials delivered to any premises without the express invitation or permission, in writing or otherwise, by the owner, occupant, or lessee of such premises.

**(B) Placement of Unsolicited Written Materials.**Unsolicited written materials delivered to premises shall be placed:

1. On a porch, if one exists, nearest the front door; or
2. So that such materials are securely attached to the front door; or
3. Through a mail slot on the front door or principal structure, if one exists, as permitted by the United States Postal Service Domestic Mail Manual, Section 508 Recipient Services, Subsection 3.1.2; or
4. Between the exterior front door, if one exists and is unlocked, and the interior front door; or
5. Where permitted, in a distribution box located on or adjacent to the premises; or
6. Personally, with the owner, occupant, and/or lessee of the premises.

**(C)** Notwithstanding subsection (b) above, an owner, lessee, or occupant maintains the right to restrict entry to his or her premises.

**(D)** Unsolicited written materials placed at a premises create a rebuttable presumption that the materials were placed at the premises by the owner, agent, manager, and/or authorized distributor of the business, product, good, service, message, or idea, which is being advertised, promoted, endorsed, or conveyed in such materials.

**(E)** The provisions of this Ordinance do not apply to the United States Postal Service.

**(F)** Any placement of unsolicited written materials in areas on or adjacent to a premises other than as set forth in subsection (b) of this Ordinance shall be a violation of this Ordinance, classified as a civil offense, and may be enforced by issuance of a civil citation by a citation officer, consistent with Chapter 38 of City Ordinance or as it may be amended.

**(G) Civil Penalty.** The civil penalty for each violation of this Ordinance shall in accordance with the City Civil Fine Schedule as outlined in City Ordinance 38.15.

## 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: August 6, 2019

Second Reading: Sept. 3, 2019

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MAYOR BEN BAKER

ATTEST:

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DONNA LEGER

CITY CLERK/TREASURER

City Administrator’s Report:

City Adm. Giffen asked for a motion not to exceed $50,000.00 for the two projects discussed in the Public Hearing. This will come from the Municipal Aid Fund Account. Motion by Member Neary, seconded by Member Beseler to approve an amount not to exceed $50,000.00.

ROLL CALL:

Member Volter Aye Member Cornett Absent

Member Neary Aye Member Burns Aye

Member Beseler Aye Member Lynn Aye

Motion carried—so ordered.

Request from Norma Jean Collins, 430 Third Avenue, for a handicap parking sign. Ms. Collins has submitted paperwork and complies with the ordinance. Motion by Member Neary, seconded by Member Volter to approve. Motion carried—so ordered.

Request from Ronald Willis, 1005 Maple Avenue, for a handicap parking sign. Mr. Willis has submitted paperwork and complies with the ordinance. Motion by Member Beseler, seconded by Member Neary to approve. Comments: Member Neary would like to see more parking enforcement on Maple Avenue above Tenth Avenue. Especially the Ohio plates. Motion carried—so ordered.

Request from Linda Keller, 922 Maple Avenue, for a handicap parking sign. Ms. Keller has submitted paperwork but list she has off-street parking. City Adm. Giffen thinks this is just a mistake and she does not have off-street parking. Motion by Member Neary, seconded by Member Volter to approve, pending City Adm. Giffen checking the area to make sure she does not have off-street parking. Motion carried—so ordered.

Effective October 1, 2019 Dayton will have a change in their trash pickup with Republic. In October part of Dayton will have trash pickup on Wednesday, Thursday, or Friday. CSI will send out notices to homeowners in mid-September. City Adm. Giffen will post a link on the city web page tomorrow. The effective date is October 1, 2019.

Member Neary noted the city receives $96,000 per year in the Municipal Aid Road Funds. Some of the streets need fixed. We can’t always do what we want. City Adm. Giffen would like to build up the funds. Member Neary applauded City Adm. Giffen and Mr. Lucas for the cooperative arrangements made with SD1 and the Northern Kentucky Water District. This has saved the city a lot of money. City Adm. Giffen noted Mr. Lucas deserves a lot of credit. He works very closely with the utility companies and looks for every opportunity.

Department Head’s Report:

Chris B. Adkins, Fire Chief, submitted a copy of his report. The drug overdoses have been cut in half this month. Last week the crew was very busy. Thanks for all your hard work on the storm water problems. Member Burns commended the Chief and his staff for an outstanding job.

David Halfhill, Police Chief, submitted a copy of his report. Mayor Baker thanked the Chief and Officers for keeping everyone safe.

Robert Yoder, Economic Development Director, submitted a copy of his report. Currently working on three CCAP applications: - Facade and Structural for 301 Sixth Ave.

* Rental Abatement for 620 Sixth Ave. for Unataza Coffee
* Rental Abatement for a new occupant for the former Bucks BBQ location.

Main Street Meeting:

August meeting rescheduled for 7:00 PM, Wednesday, August 7 at Hometown Heroes.

Board of Architectural Review:

The Board of Architectural Review is working on new bylaws. Check out this month’s article by Bob Schrage on Spears Hospital in the Dayton Community News.

A grant for $260,720 was awarded to the city for the Dayton Pike sidewalk connector project.

GRW and Duke are working with KYTC on the lighting plan for 6th Ave.

Dedication Ribbon Cutting for Ahrens’ Way/Phase 1 - Riverfront Commons Trail. August 8 at 6PM. North end of O’Fallon east side of Queen City Riverboats Parking Lot. The next Dayton Flea Market is scheduled for Saturday, August 17 - 9 AM to 1 PM.

Phil Liles, Codes Director, submitted a copy of his report. One hundred and ten letters were sent out in July. Of those, 31 citations, 79 violations, and an additional 11 for grass cutting. Thanks to Public Works.

Unfinished Business:

Member Volter noted at the last council meeting a very brief discussion was held on branding. Member Volter did meet with City Adm. Giffen. Some of the items we discussed will need the input and direction of council. We need a new branding motto and new signage. We also need money in the budget to do some regional advertising. Mayor Baker reported he and Member Beseler also held a meeting and discussed the logo. We met with a firm downtown and we do have a new logo. City Adm. Giffen asked, beyond the updated seal, what is the next timeline. What are we trying to project? Before we do anything regionally we need to figure out what we want to project. Member Volter suggested bringing some of the developers into the project. Another meeting will be held.

City Adm. Giffen sent a salary survey to Mayor and Council. This shows how city employees fall wage wise compared to other employees in the same field. This was in relation to the region and cities of comparable size and comparable budgets. A meeting was held with the Finance Committee and their recommendation is to give the employees another 2% salary increase. In July everyone was given a 3% increase with the exception of 4 employees who were give more because they were the lowest paid in their field. The recommendation is to bump from 3% to 5% and keep the ones who received more the same. Member Neary would like to see property tax rates first before any decision on pay increases is made. The increase would cost an additional $24,000-$25,000 per year, including salary & CERS. Member Beseler agreed with Member Neary, he would like to see the property tax rates first. Member Lynn did not see any reason to wait. We have good employees and we want to keep them. Dayton is low on the pay scale in this area and we need to move on this. Member Volter agreed with Member Lynn. I say we can afford this. That’s why we had the Finance Committee look at it. Motion by Member Lynn, seconded by Member Volter to approve an additional 2% salary increase for a total of 5% this fiscal year.

ROLL CALL:

Member Neary Aye Member Burns Aye

Member Beseler Aye Member Lynn Aye

Member Cornett Absent Member Volter Aye

Motion carried—so ordered.

New Business:

The Railroad is not renewing the lease they have with the VFW on the parking lot. Phil Liles, Director of Codes, spoke with the property authority at CSX Railroad and the lease has not been active for several years. It won’t change anything. The railroad has not been maintaining this property the city has. The City received an agreement today from CSX that allows the Police Department and Code Director the authority to do enforcement on all Railroad Property. Mr. Liles has the contact information.

Member Neary commended the Administration for the letter that was sent to Dayton, Ohio in reference to their recent tragedy.

Mayor Baker said a lot of really good and important decisions were made tonight. Thanks to council for the hard work they’ve done. Thanks to the citizens for supporting us.

Adjournment:

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

Respectfully submitted,

Donna Leger

Clerk/Treas.

ATTEST:

Ben Baker

Mayor