

CITY OF DAYTON
Regular Council Meeting
January 3, 2023

Dayton City Council held a Regular Council meeting on Tuesday, January 3, 2023, at 7:00 pm at the Dayton Community Center, 625 Second Avenue.

Roll Call:

Mayor Baker	Present	Member Kelly	Present
Member Volter	Present	Member Lovins	Present
Member Neary	Present	Member Wirick	Present
Member Nyman	Present	City Admin. Fossett	Present
City Atty Edmondson	Present		

Mayor Baker opened the meeting with a prayer and the pledge of allegiance.

Mayor's Report:

Mayor Baker thanked the fire department for responding to the tragic event on the waterfront this past weekend that resulted in the loss of life. The mayor welcomed new Council Member Wirick and looks forward to working with him. Motion by Member Nyman, seconded by Member Lovins, to approve the December 6, 2022, minutes. Member Neary would like to request one minor correction to the minutes about Member Beseler serving two years; it needs to be corrected to 2 terms.

Roll Call:

Member Nyman	Aye	Member Wirick	Abstain
Member Kelly	Aye	Member Volter	Aye
Member Lovins	Aye	Member Neary	Aye

Motion carried- so ordered.

Speakers:

Stephanie Vogel from Northern Kentucky Agency for Substance Abuse presented an award to City Council for the actions on last year's non-smoking ordinance. City Admin. Jay Fossett thanked Northern Kentucky Agency for Substance Abuse for their help in getting the word out to citizens by mailing the flyers and working with the NKY Health Department.

Mayor Baker read his State of the City Address.

Superintendent Jay Brewer gave a presentation for the State of the Schools. Member Volter thanked Jay Brewer and the schools for providing opportunities and support for the students. Mayor Baker said he always gets asked why he moved to Dayton, and he tells people because of the schools.

Orders/Resolutions:

CITY OF DAYTON, KENTUCKY
ORDER-RESOLUTION NO. 2023-1R

AN ORDER RESOLUTION AUTHORIZING THE MAYOR TO
ENTER INTO AN AGREEMENT TO CONTINUE
PARTICIPATION IN THE KENTUCKY PUBLIC EMPLOYEES'
DEFERRED COMPENSATION AUTHORITY (KDC) PLAN.

WHEREAS, the General Assembly of the Commonwealth of Kentucky has enacted Sections 18A.230-18A.75 of the Kentucky Revised Statutes authorizing the creation of the Kentucky Public Employees' Deferred Compensation Authority Board of Trustees and the establishment of the Kentucky Public Employees' Deferred Compensation Authority (KDC); and

WHEREAS, the Commonwealth by KDC sponsors the Kentucky Employees' 457 Deferred Compensation Plan and the Kentucky Public Employees' 401(K) Deferred Compensation Plan, which includes KDC'S Deemed IRA Program (the Plans) for adoption by local governmental political subdivisions and units; and

WHEREAS, the City of Dayton wishes to adopt and enter that certain Joinder Agreement attached hereto, dated 3rd January 2023.

NOW, THEREFORE, BE IT:

RESOLVED that the City of Dayton, Commonwealth of Kentucky, hereby enters and adopts the Joinder Agreement with KDC for participation in the 457 Plan and the 401 (K) Plan for the benefit of its eligible employees; and,

FURTHER RESOLVED that Mayor Ben Baker be, and hereby is, authorized and

directed by the City of Dayton to execute the Joinder Agreement with KDC, which authorizes KDC to administrator the Plans on behalf of the City of Dayton and to do all further acts and things and to execute all further documents in writing, which the authorized signatory determines to be necessary or desirable in order to affect this Resolution.

SO ORDERED and approved by the City Council of the City of Dayton, Kentucky, on this 3rd day of January 2022.

MAYOR BEN BAKER

ATTEST:

TIFFANY MYERS
CITY CLERK/TREASURER

Motion by Member Neary, seconded by Member Volter, to approve Order/Resolution 2023-1R as read.

Roll Call:

Member Kelly	Aye	Member Volter	Aye
Member Lovins	Aye	Member Neary	Aye
Member Wirick	Aye	Member Nyman	Aye

Motion carried-so ordered.

**CITY OF DAYTON, KENTUCKY
ORDER/RESOLUTION NO. 2023-2R**

**AN ORDER/RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
DAYTON, KENTUCKY, APPOINTING AND REAPPOINTING INDIVIDUALS
TO VARIOUS CITY BOARDS AND COMMISSIONS.**

WHEREAS, the City of Dayton, Kentucky (“City”), has established various City boards, commissions, and foundations pursuant to state law and City ordinances and a trust agreement;

WHEREAS, under certain ordinances codified in the Dayton Code of City Ordinances, the Mayor of the City appoints members of the Commission, subject to the approval of City Council; and;

WHEREAS, the City wishes to make reappointments and new appointments of members to these boards, commissions, and foundations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY THAT:

The City hereby appoints or reappoints the following individuals to the city boards, commissions, and foundations identified below:

Planning and Zoning Commission

Jerry Huntley and Chuck Peters are reappointed to the Planning and Zoning Commission. Their terms shall end on December 31, 2026.

Board of Architectural Review

Kelly Barrett is reappointed to the Board of Architectural Review. Her term shall end on December 31, 2026.

Board of Adjustment

Don Lynn is reappointed to the Board of Adjustment. His term shall end on December 31, 2026.

Code Enforcement Board

Allen Smith is reappointed to the Code Enforcement Board. His term shall end on December 31, 2025.

Ethics Board

Jean Cole is reappointed to the Ethics Board. Her term shall end on December 31, 2026.

Parks Board

Tanner Yess and Patti Simpson are reappointed to the Parks Board. Their terms shall end on December 31, 2026.

Sargeant Park Foundation

City Clerk/Treasurer Tiffany Myers is appointed to the Sargeant Park Foundation to replace Donna Leger, pursuant to the terms of a Trust Agreement between the City of Dayton and the Sargeant Park Foundation dated August 5, 1986.

That this Order/Resolution shall become effective immediately upon approval by the City Council of the City of Dayton, Kentucky.

AND IT IS SO RESOLVED. Passed and approved by the City Council of the City of Dayton, Kentucky, on this 3rd day of January 2023.

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

MAYOR BENJAMIN BAKER

ATTEST:

TIFFANY MYERS

CITY CLERK/TREASURER

Motion by Member Neary, seconded by Member Nyman, to approve Order/Resolution 2022-2R as read.

Roll Call:

Member Lovins	Present but abstain	Member Volter	Aye
Member Wirick	Aye	Member Neary	Aye
Member Volter	Aye	Member Nyman	Aye

Motion carried-so ordered.

**CITY OF DAYTON, KENTUCKY
ORDER/RESOLUTION NO. 2023-3R**

**AN ORDER/RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
DAYTON, KENTUCKY, REAPPOINTING MANDY METZ TO THE DAYTON
HOUSING AUTHORITY.**

WHEREAS, the City of Dayton, Kentucky, has established a Housing Authority pursuant to KRS Chapter 80; and

WHEREAS, under KRS Section 80.040 and Section 34.16 of the Dayton Code of City Ordinances, the Mayor of the City appoints members of the Housing Authority, subject to the approval of City Council; and

WHEREAS, the City wishes to reappoint a member to the Housing Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF DAYTON, KENTUCKY THAT:

The City hereby reappoints Mandy Metz to the Dayton Housing Authority to a term that will expire on December 31, 2026.

That this Resolution shall become effective immediately upon approval by the City Council of the City of Dayton, Kentucky.

AND IT IS SO RESOLVED. Passed and approved by the City Council of the City of Dayton, Kentucky, on this 3rd day of January, 2023.

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

MAYOR BENJAMIN BAKER

ATTEST:

TIFFANY MYERS
CITY CLERK/TREASURER

Motion by Member Nyman, seconded by Member Kelly, to approve Order/Resolution 2023-3R as read.

Roll Call:

Member Wirick	Aye	Member Nyman	Aye
Member Volter	Aye	Member Kelly	Aye
Member Neary	Aye	Member Lovins	Present but abstain

Motion carried- so ordered.

**CITY OF DAYTON, KENTUCKY
ORDER/RESOLUTION NO. 2023-4R**

**AN ORDER/RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
DAYTON, KENTUCKY, REAPPOINTING JOE NEARY, JEFF VOLTER, AND
MIKE O'DAY TO THE BOARD OF THE FIRE DEPARTMENT OF
BELLEVUE-DAYTON, LLC.**

WHEREAS, the City of Dayton, Kentucky, has entered into an Operating Agreement with the City of Bellevue, Kentucky, to establish and operate the Fire Department of Bellevue-Dayton, LLC (“Operating Agreement”), which provides for fire and emergency medical services in both cities; and

WHEREAS, under the terms of the Operating Agreement, the Mayor of the City appoints two elected officials from the Dayton City Council and one citizen volunteer to the Board of the Fire Department of Bellevue-Dayton, LLC.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY THAT:

The City hereby reappoints Joe Neary, Jeff Volter, and Mike O'Day to the Board of the Fire Department of Bellevue-Dayton, LLC. These Board members shall each serve a one-year term until December 31, 2023.

That this Resolution shall become effective immediately upon approval by the City Council of the City of Dayton, Kentucky.

AND IT IS SO RESOLVED. Passed and approved by the City Council of the City of Dayton, Kentucky, on this 3rd day of January, 2023.

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

MAYOR BENJAMIN BAKER

ATTEST:

TIFFANY MYERS

CITY CLERK/TREASURER

Motion by Member Kelly, seconded by Member Lovins, to approve Order/Resolution 2023-4R as read.

Roll Call:

Member Volter	Present but abstain	Member Kelly	Aye
Member Neary	Present but abstain	Member Lovins	Aye
Member Nyman	Aye	Member Wirick	Aye

Motion carried- so ordered.

**CITY OF DAYTON, KENTUCKY
ORDER-RESOLUTION NO. 2023#5R**

AN ORDER-RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A RELEASE OF RESTRICTIONS IN A DEVELOPMENT AGREEMENT AND WARRANTY DEED AS IT RELATES TO REAL PROPERTY BEING DEVELOPED BY VELO RIVERSIDE, LLC, AT NORTHEAST CORNER OF THE INTERSECTION OF MANHATTAN BOULEVARD AND MARY INGLES HIGHWAY IN DAYTON, KY.

WHEREAS, the City of Dayton (“City of Dayton”) entered into a Development Agreement with DCI-Properties-DKY (“DCI”), an Ohio limited liability company, in connection with the Manhattan Harbour TIF Development Area (“Development Agreement”) which Development Agreement was later amended to include Manhattan Harbour Project LLC, a Kentucky limited liability company, as a co-developer.

WHEREAS, the Development Agreement encumbered certain real property, which is more fully described in Exhibit “A;” this real estate is now being developed by Velo Riverside, LLC, as multi-family residential property (“the Subject Property”).

WHEREAS, the City executed a Warranty Deed to Manhattan Harbour Yacht Club, LLC, on November 17, 2014, encumbering the Subject Property.

WHEREAS, the Velo Riverside, LLC and the City wish to terminate and release rights, duties, privileges, and obligations in both the Development Agreement and Warranty Deed as it relates to the Subject Property.

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

The City authorizes the Mayor to enter into a Release of Restrictions in the Development Agreement and a Release of Restrictions in the Warranty Deed as it relates to the Subject Property being developed by Velo Riverside, LLC, at the northeast corner of the intersection of Manhattan Boulevard and Mary Ingles Highway in Dayton, Ky.

SO ORDERED and approved by the City Council of the City of Dayton, Kentucky, on this 3rd day of January 2023.

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

MAYOR BEN BAKER

ATTEST:

TIFFANY MYERS

CITY CLERK/TREASURER

Motion by Member Neary, seconded by Member Volter, to approve Order/Resolution 2023-5R as read.

Roll Call:

Member Neary	Aye	Member Lovins	Aye
Member Nyman	Aye	Member Wirick	Aye
Member Kelly	Aye	Member Volter	Aye

Motion carried- so ordered.

CITY OF DAYTON, KENTUCKY
ORDER/RESOLUTION NO. 2022#6R

AN ORDER/RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO LICENSE AGREEMENT WITH J NOBLE REAL ESTATE, LLC TO ALLOW LICENSEE TO CONSTRUCT A STAIRWAY ADJACENT TO ITS PROPERTY IN THE UNIMPROVED ALLEY BETWEEN 7TH AND 8TH AVENUES IMMEDIATELY WEST OF 213 8TH AVENUE.

WHEREAS, the City is the owner an unimproved alley between 7th and 8th Avenues immediately west of 213 8th Avenue, which has a substantial elevation change from one street to the other and is generally not utilized by the public (“City Property”); and

WHEREAS, J Noble Real Estate, LLC (“Licensee”) is spending substantial money to rehabilitate a residential property located at 213 8th Avenue and Licensee wishes to construct a stairway on the City Property immediately adjacent to the Licensee’s property, which will allow residents to access this property from a garage facing on 7th Avenue (“Stairway Project”); and

WHEREAS, the City and the Licensee wish to enter into a License Agreement to allow for the construction of the Stairway Project, which the public will be permitted to use.

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

The Mayor is hereby authorized to execute the above-referenced License Agreement with Licensee, which is attached hereto as Exhibit A and made by reference a part hereof.

SO ORDERED and approved by the City Council of the City of Dayton, Kentucky, on this 3rd day of January 2023.

This Order/Resolution shall be signed by the Mayor, attested to by the City Clerk/Treasurer, recorded and be effective upon adoption.

ADOPTED: January 3, 2022

By: _____
Ben Baker
Mayor

Attest:

By: _____
Tiffany Myers
City Clerk/Treasurer

City Admin. Fossett stated that this Order allows the homeowner to install steps from the paper alley between 7th and 8th Avenue for him to access his house. With this agreement, the homeowner is responsible for maintenance and insurance with an understanding that the stairs are public access. Member Neary questioned if the maintenance and insurance are included in the Deed. City Admin. Fossett stated this is an agreement; if a new owner were to purchase the home, they must come to the city for a new agreement. Motion by Member Neary, seconded by Member Nyman, to approve Order/Resolution 2023-6R as read.

Roll Call:

Member Nyman	Aye	Member Wirick	Aye
Member Kelly	Aye	Member Volter	Aye
Member Lovins	Aye	Member Neary	Aye

Motion carried- so ordered.

CITY OF DAYTON, KENTUCKY
ORDER/RESOLUTION NO. 2022#7R

AN ORDER/RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN EASEMENT WITH DUKE ENERGY KENTUCKY, INC. TO INSTALL AND MAINTAIN OF UTILITIES AT MULTI-FAMILY DEVELOPMENT BEING CONSTRUCTED BY VELO RIVERSIDE, LLC AT NORTHEAST CORNER OF THE INTERSECTION OF MANHATTAN BOULEVARD AND MARY INGLES HIGHWAY IN DAYTON, KY.

WHEREAS, the City ~~Grantor~~ is the owner of property in the City of Dayton conveyed by General Warranty Deed recorded in Deed Book D838, Page 509, in the Campbell County Clerk's

Office of Newport, Kentucky, which is being developed by Velo Riverside, LLC as a multi-family development (“Property”).

WHEREAS, Duke Energy Kentucky, Inc. (“Duke”) seeks an easement on the Property to reconstruct, operate, patrol, maintain, repair, replace, relocate, add to, modify, and remove electric and communication lines including, but not limited to, all necessary supporting structures, and all other appurtenant apparatus and equipment for the transmission and distribution of electrical energy, and for technological purposes related to the operation of the electric facilities and for the communication purposes.

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

The Mayor is hereby authorized to execute the above-referenced easement agreement, which is attached hereto as Exhibit A and made by reference a part hereof.

SO ORDERED and approved by the City Council of the City of Dayton, Kentucky, on this 3rd day of January 2023.

That this Order/Resolution shall be signed by the Mayor, attested to by the City Clerk/Treasurer, recorded and be effective upon adoption.

ADOPTED: January 3, 2022

By: _____
Ben Baker
Mayor

Attest:

By: _____
Tiffany Myers
City Clerk/Treasurer

Motion by Member Volter, seconded by Member Kelly, to approve Order/Resolution 2023-7R

Roll Call:

Member Kelly	Aye	Member Volter	Aye
Member Lovins	Aye	Member Neary	Aye
Member Wirick	Aye	Member Nyman	Aye

Motion carried- so ordered.

AN ORDER/RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY, AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER AN OPEN-END LEASEHOLD MORTGAGE AND SECURITY AGREEMENT (WITH LESSOR JOINDER) BY THE CITY OF DAYTON IN FAVOR OF GERMAN AMERICAN BANK, AN INDIANA CORPORATION, AND FURTHER AUTHORIZING ANY OTHER RELATED DOCUMENTS OR ACTIONS AS MAY BE REASONABLY REQUIRED BY THE LENDER TO EFFECTUATE THE LOAN.

WHEREAS, the City of Dayton, Kentucky (the “Issuer” and the “City”), by virtue of the laws of the Commonwealth of Kentucky, including Chapter 103 of the Kentucky Revised Statutes, issued its maximum aggregate principal amount \$10,000,000 City of Dayton, Kentucky, Taxable Industrial Building Revenue Bonds, Series 2021A (the “Series 2021A ,Bonds”), and its maximum aggregate principal amount \$2,000,000 City of Dayton, Kentucky, Taxable Industrial Building Revenue Bonds Series 2021B (the “Series 2021B Bonds”) (with the Series 2021A Bonds and the Series 2021B Bonds collectively being referred to herein as the “Bonds”), to provide financing for the acquisition, development, and construction of residential condominium units, together with the development of facilities ancillary thereto to be located within the City of Dayton, Kentucky (the “Project”); and

WHEREAS, the Project was initially leased to River Commons at Manhattan Harbour LLC, a Florida limited liability company (the “Company”), and the Bonds were initially purchased by River Commons at Manhattan Harbour LLC, a Florida limited liability company; and

WHEREAS, since the closing of the transaction on December 29, 2021, the Company has secured additional financing for the Project through a loan (the “Loan”) made available to the Company by German American Bank (the “Lender”); and

WHEREAS, to secure repayment of the Loan and the Bonds, the Lender has requested that the City execute a Joinder, in the form currently on file with the City Clerk with such changes as may be approved by the City, to grant the Lender an interest in the real property upon which the Project is located (the “Project Site”); and

WHEREAS, the City has agreed to execute the Joinder provided that Lender’s interest is limited to the City’s interest in the Project Site, and consistent with Section 103.230 of the Kentucky Revised Statutes, the Bonds and Loan are payable solely from the revenue derived from the Project and will not constitute an indebtedness of the City within the meaning of the Kentucky Constitution.

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

Section 1. The Mayor is authorized to execute the Joinder to Open-End Leasehold Mortgage and Security Agreement (with Lessor Joinder) in favor of the Lender, in the form

currently on file with the City Clerk, with such changes as may be approved by the City, and any related documents or instruments that may be reasonably required by the Lender in furtherance of financing the Project.

Section 2. That except as modified herein, the Bonds will remain in full force and effect.

Section 3. It is hereby found and determined that all formal actions of the City Council concerning and relating to the passage of this Order/Resolution were taken in an open meeting of the City Council, and that all deliberations of this City Council and of any of its committees, if any, that resulted in such formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements of the Kentucky Revised Statutes.

Section 4. That this Order/Resolution will be signed by the Mayor, attested to by the City Clerk/Treasurer, recorded, and be effective upon adoption.

ADOPTED: January 3, 2023.

BEN BAKER, MAYOR

ATTEST: _____
TIFFANY MYERS, CITY CLERK

City Admin. Fossett said this order is for the development of Brenda Sullivan; this property is in an IRB. Since the city owns the property and the developer is trying to refinance, the city needs to agree on the refinancing so the developer can secure the loan. Motion by Member Neary, seconded by Member Volter, to approve Order/Resolution 2023-8R as read.

Roll Call:

Member Lovins	Aye	Member Neary	Aye
Member Wirick	Aye	Member Nyman	Aye
Member Volter	Aye	Member Kelly	Aye

Motion carried- so ordered.

Department Head's Report:

Police Chief Halfhill submitted his report and stated that his yearly report would be available next month.

Public Works Superintendent Rick Lucas said the public works department was ready for the winter snowstorm that hit during the holidays. Also, public works will start taking down the holiday decorations in the city.

Code Officer Cassie Patterson stated she would have a yearly report at the next council meeting.

Fire Chief Adkins submitted his report. The fire department responded to an incident that happened over the weekend. He thanked his crew for working flawlessly since they were short-staffed. City Admin. Fossett thanked the fire department for their hard work.

New Business:

Member Neary asked if the council would have a strategic planning session soon. City Admin. Fossett said it would probably be in March or April.

Adjournment:

Motion by Member Neary, seconded by Member Kelly, to adjourn the meeting. Motion carried- so ordered.

Tiffany Myers
City Clerk/Treasurer

ATTEST:

Ben Baker
Mayor