

On Wednesday, June 12, 2019, at 8:33 a.m., the Dayton City Commission met in regular session in the Commission Chambers of City Hall.

CALL TO ORDER

Mayor Whaley called the meeting to order.

INVOCATION

Commissioner Shaw gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Whaley led the public in the Pledge of Allegiance.

ROLL CALL

Roll call was taken and Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild were present. The Clerk of Commission, Ms. Rashella Lavender, and the City Manager, Ms. Shelley Dickstein, were also present.

APPROVAL OF MINUTES

Commissioner Mims made a motion to approve the minutes from the June 5, 2019, meeting.

Commissioner Fairchild seconded the motion. The previous meeting minutes were unanimously approved.

SPECIAL AWARDS/PRESENTATIONS

Mayor Whaley invited Mr. Matt Tepper, President of the Old North Dayton Neighborhood, Association and Mr. Brian Golden, Vice President of Field Operations, Cincinnati Bell, to the podium to provide a community update on the Tornado Clean-up efforts in Old North Dayton.

Mr. Tepper said Cincinnati Bell has worked tirelessly in the community to restore services. He said they have worked non-stop since the tornado, and are now ahead of the game in Old North Dayton. He said they have been dispatched to the Deweese Park neighborhood.

Mr. Golden said Cincinnati Bell has a program where every employee does 40 hours of volunteer work every year. He said he had over 130 employees to volunteer in this area.

Mayor Whaley thanked Mr. Tepper and Mr. Golden for their on-going work in this effort.

COMMUNICATIONS AND PETITIONS

Communication #21408

State of Ohio, Department of Liquor Control – Permit Application D2, Permit #34238750005 – GTC Coffee Co. LLC, DBA Winans Chocolates & Coffee, 221 N. Patterson Blvd, Dayton, OH 45402.

The Clerk of Commission reported receipt of Permit Application Permit D2 #34238750005 – GTC Coffee Co. LLC, DBA Winans Chocolates & Coffee, 221 N. Patterson Blvd, Dayton, OH 45402. The application was referred through the City for investigation.

ADDITIONS OR DELETIONS TO THE CALENDAR

The Clerk of Commission, Ms. Rashella Lavender, said “I would like to request the addition of Emergency Ordinance Number 31742-19 regarding Establishing the Northwest Dayton Redevelopment Fund. It will receive first and second reading.

I would like to pull Calendar Item Number 5 and replace it with Calendar Item Number 7A, regarding the settlement agreement with Waste Management of Ohio, Inc., in the amount of Ten Million Five Hundred Thousand Dollars. The replacement, Calendar Item Number 7A, contains updated account codes that will be created by the requested addition of Emergency Ordinance Number 31742-19. This Emergency Ordinance will create the restricted fund.”

The City Manager, Ms. Shelley Dickstein, had no additions or deletions to the calendar.

REPORTS:

A. Purchase Orders, Price Agreements and Contracts:

(All contracts are valid until delivery is complete or through December 31st of the current year).

1. **Purchase Orders:**

PUBLIC WORKS

- A1. Wayne Overhead Door Sales of Dayton, Inc.** (Overhead door repair services as needed through 03-31-23) **\$10,000.00**
A2. Aramark Uniform & Career Apparel Group (work uniform rentals and related services as needed through 12-31-20) **10,100.00**

1.

WATER

- B1. Hach Company** (19 turbidity meters and one photocell detector through 02-28-22) **76,694.76**
B2. John A Becker Company dba Becker Electric (electrical parts, supplies and related items through 12/31/19) **100,000.00**
B3. Mississippi Lime Company (Quick lime through 12-31-20) **200,000.00**
B4. M & R Electric Motor Service (20 motors and pumps, maintenance and repair services through 09-30-19) **25,000.00**
-Depts. of Public Works and Water. **Total: \$421,794.76**

2. **Fifth Third Bank – Service Agreement** – for professional banking services – Dept. of Finance/Tax & Acct. **\$786,000.00**
(Thru 06/30/24)
3. **National Conference of Community & Justice of Greater Dayton – Service Agreement** – for community development services through the production of 2019 Police and Youth Together day camp – Dept. of Police. **\$12,500.00**
(Thru 12/01/20)

B. Construction Contracts:

4. **Outdoor Enterprise LLC – Award of Contract** – for the Park Shelter Installation at Belmont Park (20% SBE Participation Goal/20% SBE Participation Achieved) – Dept. of Planning & Community Development. **\$100,000.00**
(Thru 08/31/21)

C. Revenue to the City:

(Pulled and Replaced with Calendar Item 7A.)

5. ~~**Waste Management of Ohio, Inc. – Other**~~ – for legal settlement – Dept. of Law/Civil. **\$10,500,000.00**

E. Other – Contributions, Etc.:

6. **Vandalia-Butler City Schools – Other** – for Community Reinvestment Area Income Tax Sharing Payments – Dept. of Economic Development. **\$216,292.31**
(Thru 12/31/19)
7. **Various – Other** – for the Dayton Economic Attraction Program (DEAP) Annual Payments:
- | | |
|---------------------------------|--|
| Acadia Lead Mgmt. | Big Brothers, Big Sister/Gtr. Miami Valley, Inc. |
| Bricker & Eckler, LLP | CareSource Mgmt. Group. Co. |
| Mile Two, LLC | Residential Hydrogen Power, LLC |
| RSM US, LLP | Shops by Todd |
| Westminster Financial Co., Inc. | |
| -Dept. of Economic Development. | Total: \$227,928.45 |
- (Thru 12/31/19)**

THIS ITEM WAS ADDED (Replaced Calendar Item No. 5)

7A. Waste Management of Ohio, Inc. – Other – for legal settlement – Dept. of
—Law/Civil.

\$10,500,000.00

DISCUSSION OF CALENDAR ITEM

Calendar Item No. 7A. – Waste Management of Ohio, Inc. – Legal Settlement

The City Manager, Ms. Shelley Dickstein, gave an overview of the terms for the Waste Management settlement agreement. She said Stony Hollow Waste Management will pay \$10.5 million to the City of Dayton. She said \$5.25 million will be paid within two weeks of the settlement agreement being signed. She said the other \$5.25 million will be paid to the City of Dayton after the Ohio Environmental Protection Agency (EPA) approves Stony Hollow pre-treatment facility and construction of a sanitary sewer line from Stony Hollow to the City's treatment plant.

Emergency Ordinance No. 31742-19-Establishing the Northwest Dayton Redevelopment Fund.

The City Manager, Ms. Shelley Dickstein, said pursuant to the consent decree, half of the settlement amount will be paid into the West Dayton Development Trust fund. The other half will be put into a special fund dedicating funds to the North Central Priority Land Use Area.

Ms. Dickstein said funds are important, it helps to advance asset development strategy and advance many projects.

Calendar Item No. 8.-Emergency Ordinance Number 31740-19-Living Wages

The City Manager, Ms. Shelley Dickstein, said in conjunction with the living wage ordinance there is also a prevailing wage.

Ms. Dickstein said the vast majority of the City of Dayton contracted projects are governed by either Ohio Prevailing Wage Law or the Federal Davis-Bacon Act. She said the City of Dayton has a prevailing wage coordinator in the Public Works Department to do on-site inspections on these projects and they also interview employees to ensure appropriate wages are being paid. She said in addition, the City of Dayton requires weekly certified payroll reports listing all the names of employees and a breakdown of the wages paid to employees by both the general contractor and subcontractors on these projects. Ms. Dickstein said failure to provide this documentation or failure to properly pay the required wages, will result in the general contractor's progress payments from the City of Dayton being stopped. She said in addition failure to provide all the necessary documentation including all lien releases and waivers from all subcontractors and suppliers on these projects, results in the City of Dayton not paying the final retainage on these projects and can result in disbarment from public contracts.

Ms. Dickstein said the Ohio State Prevailing Wage is also overseen and enforced by the Division of Commerce's Bureau of Wage and Hour Administration. She said the Federal Davis-Bacon Act is overseen and enforced by the U.S. Department of Labor and the same process is followed on the limited number of remaining contracts the City of Dayton has, that are subject to the City's Living Wage Ordinance.

Ms. Dickstein said the City of Dayton will have an employee perform on-site inspections of the job sites and also require extensive payroll reports listing all names of employees working on the contract, as well as names of employees of subcontractors. She said no payments will be made until the appropriate documentation has been provided showing all employees are paid a living wage. Ms. Dickstein said not only are companies that violate the City's Living Wage Ordinance not paid under the contracts, but contracts may be terminated and the contractor barred indefinitely from being awarded future contracts. She said outside of these stringent controls on contracts the City of Dayton has a party too, there is also strict regulation and enforcement of wage laws by the federal and state governments.

Ms. Dickstein said the Department of Labor conducts extensive investigation and provides enforcement of the Fair Labor Standards Act which provides a private cause of action for employees to bring against employers for violations these claims. She said they allow employees to recover back wages, interest penalties and attorney's fees. She said the Division of Commerce's Bureau of Wage and Hour Administration enforces minimum wage laws in Ohio.

Ms. Dickstein said the Finance Department has a compliance function that is going out to job sites reviewing payroll making sure income tax is being collected appropriately.

Calendar Item No. 6. Vandalia-Butler City Schools- Other

The City Manager, Ms. Shelley Dickstein, invited Mr. Ford Weber, Director of Economic Development, to the podium to provide clarification of the calendar item.

Mr. Weber said this calendar item has been generated by job growth and payroll created by Spectrum Brands Facility at the Dayton International airport. He said under Ohio Law, when a business gets Community Reinvestment Area (CRA) tax abatement, and they create more than one million dollars in new payroll, the excess payroll has to be shared 50/50 with regard to the income tax withholding.

Calendar Item No. 7. Various-Other

Mr. Weber said this calendar item is related to job creation and payroll growth in the Dayton Economic Attraction Program (DEAP) from nine companies that created 274 jobs totaling \$227,928.00 in payments to the City of Dayton.

CITIZENS' COMMENTS ON CALENDAR ITEMS

Citizens' comments were received from the following:

1. **Mr. Keith Lander, 429 S. Kilmer Street** - spoke about the addition of Calendar Item No. 7A. Waste Management of Ohio legal settlement. He asked for a presentation on the West Dayton Development Fund.

Mayor Whaley Comments

Mayor Whaley said in consideration of the requested additions, the order of the agenda schedule will be modified by considering legislation first and then the City Manager's recommendations.

LEGISLATION

EMERGENCY ORDINANCES – FIRST AND SECOND READING

Emergency Ordinance No. 31740-19- Renewing Sections 35.70 to 35.74 of the Revised Code of General Ordinances Relating to the Payment of Living Wages; Enacting Section 35.75 of the Revised Code of General Ordinances, and Declaring an Emergency.

Commissioner Joseph moved that this being an emergency measure for the immediate consideration of the Ordinance. Commissioner Shaw seconded the motion. The motion was passed with a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild. The question being shall Emergency Ordinance No. 31740-19 be passed. A roll call vote was taken resulting in a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild. The Emergency Ordinance was passed.

Emergency Ordinance No. 31741-19- Authorizing the Submission, Acceptance, Acquisition and Purchase of Sixty (60) Properties from Montgomery County, Ohio, and the Subsequent Disposition of those Properties in Connection with the Real Estate Acquisition Program ("REAP"), and Declaring an Emergency.

Commissioner Mims moved that this being an emergency measure for the immediate consideration of the Ordinance. Commissioner Fairchild seconded the motion. The motion was passed with a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild. The question being shall Emergency Ordinance No. 31741-19 be passed. A roll call vote was taken resulting in a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild. The Emergency Ordinance was passed.

EMERGENCY RESOLUTION – FIRST AND SECOND READING

Emergency Resolution No. 6420-19- Approving the Montgomery County Board of Commissioners' Appointment of a Member to the Board of Directors of the Dayton-Montgomery County Port Authority, and Declaring an Emergency.

Commissioner Shaw moved that this being an emergency measure for the immediate consideration of the Resolution. Commissioner Joseph seconded the motion. The motion was passed with a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild. The question being shall Emergency Resolution No. 6420-19 be adopted. A roll call vote was taken resulting in a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild. The Emergency Resolution was adopted.

RESOLUTION – FIRST READING

Resolution No. 6421-19- Approving the Submission of a Grant Application and Authorizing the Acceptance of Grant Award from the Montgomery County Solid Waste District in the Amount of Twenty-Two Thousand Seven Hundred Fifty Dollars and Zero Cents (\$22,750.00) on Behalf of the City of Dayton.

ORDINANCE – SECOND READING

Ordinance No. 31739-19- To Vacate the Alley West of Hopeland Street from Albany Street to the South Property Line of City Lot #9672.

The question being shall Ordinance No. 31739-19 be passed. A roll call vote was taken resulting in a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild. The Ordinance was passed.

THIS ITEM WAS ADDED

EMERGENCY ORDINANCE – FIRST AND SECOND READING

Emergency Ordinance No. 31742-19- Establishing the Northwest Dayton Redevelopment Fund and Declaring an Emergency.

Commissioner Joseph moved that this being an emergency measure for the immediate consideration of the Ordinance. Commissioner Shaw seconded the motion. The motion was passed with a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild. The question being shall Emergency Ordinance No. 31742-19 be passed. A roll call vote was taken resulting in a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild. The Emergency Ordinance was passed.

APPROVAL OF CITY MANAGER’S REPORTS

Commissioner Fairchild made the motion to approve the City Manager’s Reports. Commissioner Mims seconded the motion. The City Manager’s Reports were approved with a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Joseph, Mims, Shaw and Fairchild.

BOARD APPOINTMENTS

Commissioner Joseph made a motion to appoint Lola Smith to the Greater Dayton Premier Management Board for a term ending June 30, 2024. Commissioner Shaw seconded the motion. The motion was unanimously approved.

Commissioner Mims made a motion to reappoint Greg Scott, Beverly Pendergast, Richard Wright, and Geraldine Pegues to the City Plan Board for a term ending June 30, 2022. Commissioner Fairchild seconded the motion. The motion was unanimously approved.

Commissioner Shaw made a motion to appoint S. Michael Murphy II to the Welcome Dayton Committee for a term ending December 31, 2021. Commissioner Joseph seconded the motion. The motion was unanimously approved.

Commissioner Fairchild made a motion to appoint Stephen Behnke to the Southeast Priority Land Use Board for a term ending December 31, 2020. Commissioner Mims seconded the motion. The motion was unanimously approved.

CITIZENS’ COMMENTS

Citizens’ comments were received from the following:

1. **Mary Beth Young, 116 Wolf Ave.** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.
2. **Valerie Lee, 5000 Sycamore Woods Blvd.** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.
3. **Gail Downie, 600 Watervliet Ave.** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.
4. **Linda Lewis, 1690 Little York Rd** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.

5. **Christina Lewis, 1133 Holly Ave.** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.
6. **Tenola Oliver, 348 W. First St.** - asked for the resignation of the City Manager, Ms. Shelley Dickstein.

COMMENTS BY THE CITY MANAGER

The City Manager, Ms. Shelley Dickstein, invited Mr. Tom Ritchie, Deputy Director of Public Works, to the podium to provide a community update on the Tornado clean-up efforts.

Mr. Ritchie said by the close of business on Sunday, June 9, 2019, much has been accomplished. He said 1, 919 truckloads of debris which represents 30,000 cubic yards of trees were hauled away. He said in addition, 260 tons of trash was hauled to the south transfer station, compared to last year, which is double the amount.

COMMENTS BY THE CLERK OF COMMISSION

The Clerk of Commission, Ms. Rashella Lavender, had no closing comments.

COMMENTS BY THE CITY COMMISSION

Mayor Whaley

Mayor Whaley said she believes in the leadership of the City Manager, Ms. Shelley Dickstein. She said she has done an outstanding job managing various catastrophes that has happened in the City of Dayton.

Mayor Whaley invited Mr. Todd Kinsky, Director of Planning and Community Development, to the podium to provide an update on condemning of buildings.

Mr. Kinsky said the Red Cross contacted the City of Dayton regarding people living in a unsafe building on Kelly Avenue. He said city inspectors were sent to assess the situation and found that citizens were indeed living in an unsafe building without utilities. He said the Red Cross was on site with caseworkers to provide assistance to citizens. He said the inspectors would be back there today to assure residents have all resources and information they need to find a safe place to stay.

Mayor Whaley asked how many building were being condemned.

Mr. Kinsky said he was aware of one building but he would find out if there were any additional buildings.

Commissioner Joseph asked Mr. Kinsky to clarify the communication to residents.

Mr. Kinsky said he would.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:30 a.m.

Nan Whaley
Mayor

Attest: _____
Clerk of Commission