

On Wednesday, August 21, 2019, at 6:02 p.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 Joseph said, “My dad, Emmet Joseph passed away Monday morning. He was a good man, and taught my brothers and I, by example, the importance and necessity of working to make the world a better place. I’m here serving Dayton because of he and my mom, and I will continue to work hard, doing so in his memory and honor. Before the prayer today, I’d like to ask for a moment of silence for him. Thank you for remembering him today, and thank you to everyone who has reached out to me and our family this week. We really appreciate it.”

Commissioner Joseph 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 Acting City Manager, Mr. Joe Parlette, were also present.

**APPROVAL OF MINUTES**

Commissioner Mims made a motion to approve the minutes from the August 14, 2019, meeting. Commissioner Fairchild seconded the motion. The previous meeting minutes were unanimously approved.

**COMMUNICATIONS AND PETITIONS**

There were no communications or petitions.

**SPECIAL AWARDS/PRESENTATIONS**

There were no awards or presentations.

**ADDITIONS OR DELETIONS TO THE CALENDAR**

The Clerk of Commission, Ms. Rashella Lavender, requested the addition of Calendar Item No. 4A. – Contract Modification with Dayton Area Chamber of Commerce Education and Public Improvement Foundation in the amount of \$34,649.55 for off-duty police officer services-Department of Police. Ms. Lavender also requested the addition of the legislation regarding the public hearings at the desire of the City Commission.

**REPORTS:**

**A. Purchase Orders, Price Agreements and Contracts:**

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

**1. Purchase Orders:**

**POLICE**

**A1. Action Target, Inc.** (repair to the flat trap at the firing range) **\$73,308.33**

**1.**

**PUBLIC WORKS**

**B1. Oscar W. Larson Co.** (fuel systems upgrade with installation and related services)  
**177,553.88**

**WATER**

**C1. Prime Time Party Rental, Inc.** (rental of inflatables, tents and related items)  
**4,800.00**

**C2. Aramark Uniform & Career Apparel Group** (uniform rental and related services  
as needed through 12-31-20) **15,000.00**

**C3. Trame Mechanical, Inc.** (two Desert Aire dehumidifier units) **77,087.00**

-Depts. of Police, Public Works and Water. **Total: \$347,749.21**

2. **David Lyttle – Service Agreement** – for providing services in the capacity of Construction Specialist for the Minority Business Assistance Center – The Human Relations Council.  

**\$164,392.60**  
**(Thru 06/30/21)**
3. **Montgomery County Land Reutilization Corporation – Contract Modification** – second amendment for the Neighborhood Initiative Program Community Agreement – Dept. of Planning & Community Development.  

**\$1,000,000.00**  
**(Thru 12/31/20)**
4. **Synagro Central, LLC – Contract Modification** – first amendment for Biosolids Land Application and Disposal Program for the Water Reclamation Facility – Dept. of Water/Water Reclamation.  

**\$800,000.00**  
**(Thru 12/31/21)**

**THIS ITEM WAS ADDED**

- 4A. **Dayton Area Chamber Commerce Education and Public Improvement Foundation – Contract Modification** – for off-duty police officer services – Dept. of Police.  

**\$34,649.55**

**CITIZENS’ COMMENTS ON CALENDAR ITEMS**

There were no citizens’ comments on calendar items.

**DISCUSSION OF CALENDAR ITEM**

There were no discussion of calendar items.

**APPROVAL OF CITY MANAGER’S REPORTS**

Commissioner Mims made the motion to approve the City Manager’s Reports. Commissioner Fairchild 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.

**LEGISLATION**

**ORDINANCES – SECOND READING**

**Ordinance No. 31746-19**-Amending Section 44.01 of the Revised Code of General Ordinances Relating to the Department of Planning and Community Development.

**The question being shall Ordinance No. 31746-19 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.**

**Ordinance No. 31747-19**-Amending Section 50.40 of the Revised Code of General Ordinances Relating to the Department of Water.

**The question being shall Ordinance No. 31747-19 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.**

**RESOLUTION – SECOND READING**

**Resolution No. 6435-19**-Declaring the Intention of the commission to Vacate the Second Alley East of Corwin Street from Xenia Avenue to Noel Court.

**The question being shall Resolution No. 6435-19 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 Resolution was adopted.**

**PUBLIC HEARING**

Mayor Whaley opened the Public Hearing on Plan Board Case PLN2019-00169 regarding the Historic Designation of 148 Squirrel Road. She asked Ms. Ann Schenking, Plan Board Secretary, to the podium to present.

Ms. Schenking said this is Plan Board Case No. PLN 2019-00169, which will rezone 148 Squirrel Road from HD-1 overlay, which is one of the least restrictive historic district designations to HD-2 overlay, which is one of the most restrictive designations and requires a Certificate of Appropriateness (COA) for any exterior work. In addition, the Landmark Commission would have to approve the demolition of the home. She said the home will remain part of the Squirrel-Forest Historic District.

Ms. Schenking said during the Plan Board public hearing there was unanimous support for this case with a 7-0 vote. She said this request is consistent with the City's comprehensive plan and the intent and purpose of the zoning code.

Ms. Schenking said the City Commission has three decision options, approve the Plan Board recommendation to establish the HD-2 designation, deny the request by taking no action, or remand the case back to the Plan Board.

Ms. Schenking invited Mr. Steven Solomon, property owner of 148 Squirrel Road, to the podium for comments.

Mr. Solomon said he and his wife moved to Dayton, Ohio from Scottsdale, Arizona three years ago. He said they are applying for the historic designation because they feel honored to live in the house and would like to do their best to preserve it for future generations.

#### **CITIZENS' COMMENTS ON THE PUBLIC HEARING**

There were no citizens' comments on the public hearing.

Mayor Whaley closed the hearing.

The pleasure of the City Commission is to move forward.

#### **THIS ITEM WAS ADDED**

#### **EMERGENCY ORDINANCE – FIRST AND SECOND READING**

**Emergency Ordinance No. 31748-19-** Amending the Official Zoning Map to Establish a HD-2 Historic Overlay District for 148 Squirrel Road, 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. 31748-19 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.**

#### **PUBLIC HEARING**

Mayor Whaley opened the Public Hearing on Plan Board Case PLN2019-00065- regarding the rezoning of 37+/- Acres at 2340 West Riverview Avenue from Park/Open Space (OS) to General Industrial (I-2). She asked Ms. Ann Schenking, Plan Board Secretary, to the podium to present.

Ms. Schenking said this is Plan Board Case No. PLN 2019-00065, which would rezone 37+/- Acres at 2340 West Riverview Avenue from Park/Open Space (OS) to General Industrial (I-2). She said the owner of the Dayton Tire site, Tax Redevelopment, LLC is asking the City Commission to overturn the Plan Board Recommendation to deny their request to rezone the area. Ms. Schenking said because this is an appeal of a Plan Board recommendation to deny the rezoning, four of the five members of the Dayton City Commission needs to approve the rezoning.

Ms. Schenking said during the Plan Board public hearing there was unanimous support to deny the request with a vote of 5-0 vote.

Ms. Schenking said the City Commission has three decision options, disagree with the Plan Board recommendation to deny and approve the rezoning request by passing an ordinance implementing it, agree with the Plan Board and deny the request by taking no action, or remand the case back to the Plan Board, which will require three votes.

Mr. Tony Kroeger, Division Manager, Planning and Community Development, said the potential uses for Open Space (OS) are churches, community centers, cemetery, cultural institution, library, community gardens, harvesting, nature preserve and recreation facilities.

Mr. Kroeger said with the I-2 designation the potential uses are auto service stations, motor vehicle body shops, motor vehicle repair, outdoor storage of general materials, trucking freight terminals, heavy manufacturing, recycling facilities, solid waste composting facilities, offices, and intuitions. He said conditional uses are junkyards, vehicle fueling stations, construction and demolition waste facilities, crematoriums, incinerators, sanitary waste facilities, sewage treatment facilities, adult entertainment

Mr. Kroeger said the Dayton Tire plant closed in 1980 and was demolished by the City in 1992 as a public nuisance. Portions of the site are heavily contaminated due to past industrial uses. The City's Comprehensive Plan, CitiPlan 20/20, adopted in 1999, called for the creation of an Open Space zoning district. The site has been zoned Park/Open Space (OS) since 2006 when the current zoning map was established. Tax Redevelopment, LLC acquired the property in 2017. Mr. Kroeger said prior to 2006, the zoning was I-3 (Heavy Industrial). He said the Site is adjacent to Wolf Creek and residential zoning/neighborhoods and I-2 is the city's most land use intensive zoning district. Currently, there are 2,912 acres of I-2 zoning in the City of Dayton which can accommodate the permitted uses of this district. Mr. Kroeger said the application for I-2 zoning does not state a specific proposed use for the site, and a proposed site plan was not submitted with the application. The application states the reason for the request is "to allow the creation of jobs and business on this site" but it is impossible to know the impact of an undetermined or undisclosed use.

Mr. Kroeger said the Riverfront Master Plan states this location is an opportune site for a trail link that provides unique, new recreation opportunities like walking trails and mountain biking tracks amid a natural meadow. The plan says to "transform the former Dayton Tire and Rubber site into Rosedale Meadow, a scenic natural park and area that incorporates an important missing trail link." He said the City of Dayton purchased an easement from Tax Redevelopment for \$42,595 to construct a bike trail along the southern portion of the Dayton Tire site. Construction of the trail should be completed by the end of next month.

Mr. Kroeger said considerations for zoning map amendment are: the change in classification would be consistent with the Comprehensive Plan of the City or other plans and policies, the change in classification would be consistent with the intent and purpose of this Zoning Code, the proposed amendment is made necessary because of changed or changing conditions in the area affected, and if so, the nature of such changed or changing conditions, the uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity. He said the uses that would be permitted on the property if it were reclassified would have an adverse environmental or health impact on the immediate surrounding area in terms of acceptable air, noise, light, or water quality standards, adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified. Mr. Kroeger said the amount of vacant land with the same zoning classification as proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, if any, make a substantial part of such vacant land unavailable for development and the proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property.

Ms. Schenking invited Mr. Paul Saba, legal counsel and Mr. Michael Heitz, owner, to the podium for comments.

Mr. Saba said this property is contaminated and Tax Redevelopment wants to make sure the property is cleaned up. He said it would be accomplished with both private money and state funds. Mr. Saba said in order for it to be an economically viable project, there is a need to change the use of the property.

Mr. Heitz said he came to Dayton, Ohio nine years ago. He said his first project was the Howard Paper Company, which was one of the worst eyesores around. He said they couldn't do anything with the property until it was cleaned up. He said this is why he is seeking to have the property rezoned in order to seek funding for the clean-up and repurpose the land.

#### **CITIZENS' COMMENTS ON THE PUBLIC HEARING**

Citizens' comments on the public hearing were received from the following:

1. **Charlie White Jr.** 1241 Windsor Ave. – spoke in opposition of the rezoning of the closed Dayton Tire Plant.
2. **Eric Sauer, Five Rivers Metro Parks** – spoke in opposition of the rezoning of the closed Dayton Tire Plant.
3. **Steve Saucer, 904 Vernon Drive** – spoke in opposition of the rezoning of the closed Dayton Tire Plant.

Mayor Whaley said “I share the concern of Plan Board and Planning staff about rezoning the site to the most intensive zoning district in the city which is I-2. I agree with the Plan Board that the majority of the considerations outlined in Section 150.125.7 of the Zoning Code cannot be met and so I support the denial of this rezoning request.”

Mayor Whaley asked each commissioner their pleasure. The City Commissioners said they wanted to deny the request and did not want to move forward.

Mayor Whaley closed the hearing.

The pleasure of the City Commission is to not move forward.

### **CITIZENS' COMMENTS**

Citizens' comments were received from the following:

1. **Brian Urquhart, 6615 Hedington Square** - spoke about the outstanding job of the Mayor and Police Department.
2. **Ryan Vallo, 1119 Birchton Place** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.
3. **Laurie Cothran, 2706 Walnut Ridge Drive** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.
4. **Jane Henry, 1272 Wild Goose Way** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.
5. **Vivienne Himmell, 111 Harries St.** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.
6. **Kathleen Pepiot, 1901 Mave Drive** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.
7. **Roger Bailey, 1269 Furnas** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.
8. **Jenna Jones, 137 McCraw Drive** - spoke in opposition of the Dayton International Airport Development/Paul Knoop Prairie.

### **COMMENTS BY THE CITY MANAGER**

The Acting City Manager, Mr. Joe Parlette, had no closing comments.

### **COMMENTS BY THE CLERK OF COMMISSION**

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

### **COMMENTS BY THE CITY COMMISSION**

#### **Commissioner Fairchild**

Commissioner Fairchild highlighted the Porch Tour in St. Anne's Hill on Saturday, August 24, 2019.

Commissioner Fairchild highlighted the *Love Goes Further event* by acknowledging its founder Reverend Adam Boles whom he met earlier today.

#### **Commissioner Shaw**

Commissioner Shaw highlighted *students against gun violence event* at courthouse square. He said he will continue to push legislation on gun violence.

#### **Commissioner Mims**

Commissioner Mims highlighted *students against gun violence event* at courthouse square.

Commissioner Mims extended his condolences to Rev. Raleigh Trammel's family and thanked him for his service to the community.

Commissioner Mims thanked Marlon Shackelford and Tommie Owens for their work on the African-American Festival.

Commissioner Mims extended his condolences to Commissioner Joseph and family on the passing of their father.

**Commissioner Joseph**

Commissioner Joseph thanked the Dayton City Commission for their condolences on the passing of his father.

Commissioner Joseph thanked Spaghetti Warehouse for the event and fundraiser for the families of the Oregon District mass shootings.

**Mayor Whaley**

Mayor Whaley extended condolences to Commissioner Joseph and Family on the passing of their father.

Mayor Whaley said she was highly offended by Mr. Bailey's comments to equate the issue with Knoop Prairie to the mass shooter in the Oregon District.

Mayor Whaley said from time to time there is a necessity for zoning changes and they are always read as emergencies which when passed takes effect immediately otherwise it would be 30 days after passing the legislation.

Mayor Whaley said the Gem City Shine event hosted by Mr. Dave Chappell will take place on Saturday, August 24, 2019.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 7:34 p.m.

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**Nan Whaley**  
**Mayor**

**Attest:** \_\_\_\_\_  
**Clerk of Commission**