

On Wednesday, March 24, 2021, at 8:33 a.m., the Dayton City Commission met in regular session, remotely through electronic means, at City Hall.

CALL TO ORDER

Mayor Whaley called the meeting to order. She said due to the current COVID-19 order, we are conducting the meeting remotely through electronic means. To protect the safety of the community, during the state of emergency related to COVID-19, in-person citizen comments will be suspended for City Commission Meetings.

Citizens interested in making public comment related to calendar items, are asked to do so in writing. Items related to a calendar item will be included in the meeting records under Communications and Petitions.

Citizens who wish to make the City Commission aware of an issue not related to the Commission Meeting Calendar, may also do so. These items will be distributed to the Dayton City Commission for reference.

For complete information on how to submit a comment, please visit daytonohio.gov/CoronaResources or call 937-333-3636.

INVOCATION

Commissioner Fairchild gave the invocation and asked for a moment of silence to commemorate the victim of violence in Colorado and Atlanta.

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 Acting Clerk of Commission, Ms. Ariel Walker, and The City Manager, Ms. Shelley Dickstein, Deputy City Manager, Joe Parlette and Deputy City Manager LaShea Lofton were also present through electronic means.

APPROVAL OF MINUTES

Commissioner Mims made a motion to approve the minutes from the March 17, 2021, meeting. Commissioner Fairchild seconded the motion. The previous meeting minutes were unanimously approved.

COMMUNICATIONS AND PETITIONS

Communication #21535

State of Ohio, Department of Liquor Control – Permit Application TREX, Permit #7397197 – Silver Slipper, Inc., 1105 Wayne Avenue, Dayton, OH 45410.

The Clerk of Commission reported receipt of Permit Application TREX, Permit #7397197 – Silver Slipper, Inc., 1105 Wayne Avenue, Dayton, OH 45410. The application was referred through the City for investigation.

Communication #21536

State of Ohio, Department of Liquor Control – Permit Application D5, D6 STCK, Permit #3698983 – HDBJ Inc., dba Right Corner, 1st Floor & Patio, 105 E. Third Street, Dayton, OH 45402.

The Clerk of Commission reported receipt of Permit Application D5, D6 STCK, Permit #3698983 – HDBJ Inc., dba Right Corner, 1st Floor & Patio, 105 E. Third Street, Dayton, OH 45402. The application was referred through the City for investigation.

Communication #21537

Letters received regarding Ordinance No. 31875-21- Related to Tenant's Defense to Eviction Within the City of Dayton, Ohio.

SPECIAL AWARDS/PRESENTATIONS

Small Cell Installations

Mayor Whaley invited the City Manager, Ms. Shelley Dickstein to proceed with today's presentation. Ms. Dickstein introduced David Escobar from the Civil Engineering Division in Public Works to provide a brief presentation on activity coming into our city with regard to Small Cell installations. He discussed how we have managed through the various legislative actions that limit the ability to address what we are doing as these requests come forward and how we are working with the community.

Mr. Escobar thanked the Manager, Mayor, Ms. Walker and Commission for the opportunity to present on this topic. He stated that when the topic of the small cell towers and 5G came around it created him a lot of heartburn, but he welcomes the opportunity to be able to help gain a better understanding of the telecommunications and infrastructure that is coming our way and some of the benefits that come along with it and some of the ascetic hardships that some people will have with it.

Mr. Escobar presented a brief history of the Small Cell Installation. He stated that in May 2016, the city received the first small cell request for an 80 foot pole to be placed at the corner of Main and Apple. He reached out to the Department of Planning and assembled a small group to address the issue and to be proactive on how to deal with this type of infrastructure. In October 2016, city staff developed policy for Small Cell Installation. In December 2016, the State Senate passed Senate Bill 331 which limited municipalities on how they could managed the right of way and work with the telecommunications group as far as installations of these facilities. Out of the passage of the Senate Bill, city staff updated the Small Cell Policy Installation to align with the State Bill. Between 2016-2018, Mayors and Managers of cities got together with the statehouse and telecommunications groups wanting to work together to make this right for all as much as possible. In May 2018, State House Bill 478 passed. In July 2018, City staff made final revision to Small Cell Policy Installation. In November 2019, Verizon approached the City about 5G build out and in February 2020, Verizon began submitting sites.

Mr. Escobar explained the difference between 5G and Small Cell. Small Cell complements large macro towers, adds capacity to high traffic areas and extends coverage to hard to reach locations. 5G is the newest generation of wireless communications that improves existing communication and supports innovative applications. He explained the anatomy of a 5G/Small Cell pole, specifically a pole located on Patterson Blvd near the UD Marriott and how community partners such as Miami Valley Lighting and RTA work together to co-locate on their facilities.

Mr. Escobar shared a map showing all small cell and 5G sites proposed by the carrier, which is carrier driven and not city driven; this is not a city initiative, but based on their data and their needs. Most of the 5G build out is mostly downtown. Mr. Escobar also shared the benefits of 5G/Small Cell which includes smart city initiatives, enhanced connectivity, added ISP's and economic development.

Concerns of citizens regarding 5G/Small Cell include aesthetics, increased digital divide, environmental, equipment saturation and health and safety issues.

Mr. Escobar explained that the city has developed guidelines, holds regular meetings with providers to discuss each individual site and engages community partners and affected property owners for feedback and awareness.

Mr. Escobar shared photos of various poles around the city. Mr. Escobar completed his presentation answering questions from Mayor and Commissioners.

Commissioner Joseph appreciated that Civil Engineering is working with other local entities to minimize having to put up new poles for every one of these. There is a need for data and to try to break down barriers to be able to provide data to everyone in our community and anything we can do to increase pressure on the providers we're glad to do it.

Commissioner Shaw is glad that the city is being intentional in talking with neighborhoods and hopefully talking with the neighborhood presidents making sure there is continuous feedback about the activities.

Mayor Whaley stated the city has limited ability because of the infiltration on Home Rule by the state legislature on these networks, she would like the city staff to really push on the equity of where the poles are placed and to make sure that West Dayton is included and if the providers are not providing the service she wants the Commission to know about it and wants public documents to be put out and that we have the ability to shame for equity in our community

Ms. Dickstein stated that since the providers came to the city several years ago for meetings, city management was very disappointed and very directive with Verizon and their team to say this is unacceptable and have continued that conversation not only with Verizon but anyone who comes to the city with why they are not putting and it is disappointing the kinds of answers that are given with regards to why. She has been working on this issue for years.

Mayor Whaley wants the city to report that the telecom providers are not being equitable with their service for the good of our community. She ask that Ms. Dickstein provide this information in the next two weeks.

Commissioner Fairchild asked if there were other tools the city could consider such as litigation. Mayor Whaley said this has been a 15-year fight that the city continues to lose.

Commissioner Fairchild asked about citizens filing a class-action lawsuit in part because they have had to rely on hotspots for education for the last year. Mayor Whaley suggested that Commissioner Fairchild look into that possibility.

Mayor Whaley thanked David Escobar for the update.

ADDITIONS OR DELETIONS TO THE CALENDAR

There were no additions or deletions to the calendar.

REPORTS

1. Purchase Orders, Agreements and Contracts: (All contracts are valid until delivery is complete or through December 31st of the current year).

AVIATION

A1. NACHURS Alpine Solutions Corporation NACHURS Alpine Solutions Industrial (runway deicing fluid as needed through 12/31/21) **\$40,000.00**

POLICE

B1. Key Chrysler Jeep & Dodge, Inc. (twenty 2021 Dodge Durango Pursuits) **745,960.00**

B2. Kiesler Police Supply (Survival Armor Paragon 6 Level IIIA vest with shock shields) **94,909.00**

PUBLIC WORKS

C1. White Allen Chevrolet, Inc. (one 2021 cargo van) **35,600.00**

C2. Truck Country of Indiana, Inc. dba Stoops Freightliner (two truck chassis) **349,063.00**

WATER

D1. A T R Distributing Company (General Electric brand parts, supplies and related items as needed through 12/31/21) **108,000.00**

D2. CHWR, INC. dba CHW Mechanical Services (heating, ventilation and air conditioning (HVAC) preventative maintenance and repairs) **8,761.00**

D3. Johnson Controls US Holdings LLC dba Johnson Controls Fire Protection LP (replace Simplex fire alarm panel) **10,000.00**

D4. The Safety Company LLC dba M Tech Company (one Ford Cutaway Mounted Mainline TV Inspection Summit System) **379,614.37**

-Depts. of Aviation, Police, Public Works, and Water.

Total: \$1,771,907.37

2. Occupational Health Ctrs of Ohio, PA – Medical Agreement – one year extension for drug, alcohol and cotinine testing services through 03/31/2022 – Department of Human Resources. **\$35,000.00**

(Thru 03/31/2022)

C. Revenue to the City:

3. Montgomery County Convention Facilities Authority -Other- Ground Lease Agreement – Department of Finance. **\$692,350.50**

(Thru 03/31/2061)

E. Other – Contributions, Enterprise Zone Agreements, Etc.:

4. Montgomery County Convention Facilities Authority – Cooperative Agreement – for payment of Hotel Excise Tax to the Montgomery County Convention Facilities Authority through 12/31/2060 – Department of Finance. **\$45,000,000.00**

5. **Ohio Municipal League -Other-** renewal of membership dues through December 31, 2021 – Department of Procurement Management & Budget. **\$11,090.00**

COMMENTS ON CALENDAR ITEMS

Commission Joseph highlighted the Commissions endorsement of an Amtrak effort to bring rail back to Dayton thanking his colleagues for their support. It's not a done deal yet, but wanted to be on record that the Commission supports the effort.

Mayor Whaley made comments regarding item # 7, the Pay to Stay Ordinance. In 2019-2020 there was an Eviction Task Force that contained representation from landlords groups, tenant advocates and courts personnel to see what could be done about evictions in the city of Dayton. She requested Commission support for this Ordinance. She thanked the city of Toledo who led the effort and have already passed a similar ordinance. The Ordinance gives a Judge the discretion to allow tenants to avoid an eviction if all back rent, all late fees and court cost have been paid. The city of Dayton has been considering an ordinance of this type for nearly a year and has had many discussions with advocates for landlords and tenants about the final version. The Mayor said she was grateful that many landlords have been willing to work with tenants to create payment plans or to help them apply for rental assistance dollars through the COVID 19 crisis. Landlords have benefited from rental assistance from both CARES funding and the latest ARP funding. We know that eviction is last resort for landlords and is a burdensome process which is why the Ordinance limits the tenant's ability to use this defense once per calendar year. The ordinance is critical to prevent unnecessary evictions and to maintain neighborhood stability. The Commission sees this Ordinance as an important step in stemming the eviction crisis particularly for black Daytonians.

CITIZENS' COMMENTS ON CALENDAR ITEMS

Citizens' comments were suspended for the meeting.

APPROVAL OF CITY MANAGER'S REPORTS

Commissioner Joseph made the motion to approve the City Manager's Reports.

Commissioner Shaw 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

EMERGENCY ORDINANCES –FIRST AND SECOND READING

Emergency Ordinance No. 31874-21-Authorizing the Sale of the Dayton Convention Center, the Personal Property Within, and the Pedestrian Walkway Over Fifth Street, to the Montgomery County Convention Facilities Authority, 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. 31874-21 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. 31875-21-Enacting Sections 93.71, 93.72, 93.73, and 93.74 of the Revised Code of General Ordinances Related to Tenant’s Defense to Eviction Within the City of Dayton, Ohio, and Declaring an Emergency.

Commissioner Shaw moved that this being an emergency measure for the immediate consideration of the Ordinance. 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 Ordinance No. 31875-21 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.

RESOLUTION – FIRST READING:

Resolution No. 6568-21-In Support of Amtrak’s Proposed Expansion of Passenger Rail Services in Ohio and for the Congressional Actions Needed to Authorize and Appropriate Funds to the Expansion.

INFORMAL RESOLUTION

Informal Resolution No. 986-21 Accepting the 2021 Recommendation of the Tax Incentive Review Council.

Commissioner Joseph made a motion to adopt Informal Resolution No. 986-21. Commissioner Shaw seconded the motion. A roll call vote was taken resulting in a 5-0 vote. Voting in the affirmative were Mayor Whaley, Commissioners Williams, Joseph, Mims, and Shaw. This item was added.

CITIZENS’ COMMENTS

Citizens’ comments were suspended for the meeting.

COMMENTS BY THE CITY MANAGER

The City Manager, Ms. Shelley Dickstein, thanked Commission Shaw, on his leadership on convention center task force. She also thanked Deputy City Manager Joe Parlette and Deputy City Manager LaShea Lofton for their work on transfer of the Convention Center.

COMMENTS BY THE CLERK OF COMMISSION

The Clerk of Commission, Ms. Ariel Walker, had no closing comments.

COMMENTS BY THE CITY COMMISSION

Commissioner Fairchild

Commissioner Fairchild encouraged everyone to get the COVID shot. Announced that Dayton Children’s is a public site where citizens can receive the vaccine. His police reform group completed its meetings around recommendations and wanted to thank everyone who was a part of the group. Thanked Stacey Benson-Taylor for being the co-chair, Cheryl Alderman from the Mediation Center and Laura Zeck for the great work behind the scene. Also recognized Will Smith and his father Will Smith, who passed away while working with the group.

Commissioner Shaw

Commissioner Shaw recognized the father of Will Smith saying he was a champion for civil rights in the community. He thanked Joe Parlette and LaShea Lofton for their work on the transfer of the convention center. He also thanked Phil Parker for his work on the task force.

Commissioner Mims

As a follow-up to the passing of the father of Will Smith, mentioned how challenging it must be for a person to lose both parents in a two month time period, stating that his father was a strong community servant.

Recognized Dayton Children’s for the successful surgery for his granddaughter Chase. Mentioned that he, Commissioner Fairchild, Stacey Benson Taylor were able to observe a virtual set of circumstances for how we can better train our police and safety forces in shooting events.

Commissioner Joseph

Commissioner Joseph made announced that his working group that he co-chaired with Recorder Brandon McClain submitted their final recommendations for the Police Oversight Group. He thanked everyone for their hard work.

Mayor Whaley

Mayor Whaley made comments regarding her last meeting with her reform group. Thanked her co-chair, Judge Parker and everyone involved in making sure that the priority of the Commission was carried out. Encouraged the Senate and House about any potential override of the veto by Governor DeWine on Senate Bill 22. Citizens should contact their state legislator about the bill. Congratulated the Commission on being fully vaccinated. Mayor Whaley made comments regarding the Ordinance 31875-21 that was passed today.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:19 a.m.

Nan Whaley
Mayor

Attest: _____
Clerk of Commission