

# MINUTES } CITY OF PIKEVILLE

At a regular meeting of the Board of Commissioners of the City of Pikeville, Kentucky, held in the Starlite Bowling Center on September 10, 1965 at 7:30, P.M. the following members were present.

Mayor: W. C. Hambley, M. D.  
Commissioners: F. W. Baker  
Kermit Sexton

Also present were City Manager W. E. Butcher and City Attorney O. T. Hinton.

The following resolution was presented to the Commission.

## RESOLUTION

It appearing that Hubert Maynard, a member of the Police Force of this City, was suspended by W. E. Butcher, City Manager, on January 27, 1965, for alleged insubordination and the said Hubert Maynard was cited to appear and show cause why he should not be discharged for insubordination and other conduct unbecoming a peace officer and it further appearing that the said Hubert Maynard, through his attorney, Ervin Sanders, requested the City Attorney not to hold the hearing pursuant to the citation and upon assurance by the said Ervin Sanders that if and when the hearing was cancelled, a written resignation signed by Hubert Maynard which was in the possession of the said Ervin Sanders would be delivered to the City Attorney on the morning after the hearing was scheduled to be held on February 8, 1965, and that based upon the recommendation of the City Attorney, the hearing scheduled for February 8, 1965, was called off and not held and it appearing further that said attorney subsequently advised the City Attorney that he had been discharged and could not deliver the resignation and it further appearing from the affidavits of W. E. Butcher, Billy J. Clark and Richard Picklesimer that the said Hubert Maynard on the occasion mentioned in the affidavit was guilty of improper conduct on the morning of January 27, 1965, and that for these and other reasons, the said Hubert Maynard is not at this time capable of performing the duties of a peace officer in an acceptable and effective manner.

It further appearing that on February 19, 1965, Hubert Maynard instituted suit in the Pike Circuit Court against W. C. Hambley and other officials which is styled Hubert Maynard vs: W. C. Hambley, et al, and is Action No. 7989 on the Civil Docket of Division No. 2 of that Court and it further appearing that judgment has been entered in that case a copy of which is hereto attached and made a part of this resolution.

It further appearing that this resolution was offered at a regular meeting of this Board on February 12, 1965, but action was deferred upon the assurance of one of the Commissioners that Hubert Maynard would resign and no further action on the resolution has since been taken.

NOW THEREFORE, in order to comply with and conform to the provisions of said Judgment:

BE IT THEREFORE RESOLVED that in consideration of the premises, the suspension of the said Hubert Maynard by W. E. Butcher, City Manager, on January 27, 1965, is now approved and confirmed and the said Hubert Maynard is discharged as a member of the Police Force of the City and the Clerk is directed to so notify the said Hubert Maynard by delivering to him a copy of this resolution.

Motion to adopt the Resolution was made by F. W. Baker, Commissioner, and seconded by Kermit Sexton, Commissioner.

The vote was as follows:

Mayor:	W. C. Hambley, M. D.	Yes
Commissioners:	F. W. Baker	Yes
	Harry Hobson	Absent
	Kermit Sexton	Yes
	Uhlan Taylor	Absent

The Mayor declared the Resolution adopted.

The Mayor appointed Sally Dotson to serve as a member of the Library Board to replace Walter P. Walters who had resigned.

There being no further business to come before the Board, the meeting was properly adjourned.

APPROVED

MAYOR

ATTEST

CITY CLERK

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PIKE CIRCUIT COURT

HUBERT MAYNARD

PLAINTIFF

VS: JUDGMENT

CITY OF PINEVILLE

DEFENDANT

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This cause coming on to be heard upon the defendant's motion for summary judgment and the court having considered the motion together with the affidavits and exhibits therein mentioned, and the response to the motion for summary judgment filed by the defendant together with affidavits thereto attached, and the plaintiff, under oath, having stated that he has been unable to perform the duties of policeman since February 9th, 1963, the court now makes the following findings:

FINDINGS OF FACT

(1) That the plaintiff was relieved of the performance of his duties as a policeman by the suspension effected on the night of January 26th, 1963 by W. E. Datcher, City Manager, but was entitled to compensation as a Police Officer until February 9th, 1963, amounting to the

sum of \$165.00 less deductions for withholding tax, Social Security, and other lawful deductions customarily made.

(2) And that from and after February 9th, 1965 the plaintiff is not entitled to any compensation by way of salary because of physical injuries and inability of the plaintiff in being able to perform his duties.

(3) The court finds as a Finding of Fact that the plaintiff did appear before the defendant, (City Council), upon a citation for suspension, and that possibly there was a discussion of resignation to be tendered by the plaintiff, but that said resignation was never delivered to the defendant and the court feels that since that resignation was not delivered that the City Council should have issued another citation for a hearing unless the alleged charges were to be finally dropped by the City Manager.

#### CONCLUSION OF LAW

(1) That the City of Pikeville, Kentucky, is a City of Fourth Class and controlled by the statute and laws as set out in K.R.S. 95.700, et seq.

(2) That the plaintiff cannot be legally discharged without the defendant first preferring charges against him entitling the plaintiff to a hearing and trial upon any charges to terminate his employment, except as set out in 95.700 (2) and the court finds as a conclusion of law that the said statute has not been complied with.

~~JUDGE~~

It is therefore ordered and adjudged by the court that the plaintiff is entitled to all pay and emoluments and allowances and benefits from January 29th, 1963 until February 9th, 1963 when the plaintiff became totally disabled to perform his duties and shall recover of and from the defendant the sum of \$145.00 for said period less withholding taxes, Social Security, and other lawful deductions customarily made; that the defendant has no right, power, or authority to discharge the plaintiff without good cause and proper notice to the plaintiff of a time and place of hearing and any alleged charges against him for suspension pursuant to E.R.S. 93.700 et seq., to all of which the plaintiff and defendant objects and excepts.

This 10th day of August, 1963.

~~JUDGE~~