

MINUTES } CITY OF PIKEVILLE

MINUTES - APRIL 9, 1973

At a regular meeting of the Board of Commissioners of the City of Pikeville, Kentucky, held in City Hall on April 9, 1973, at 7:30 P.M., the following members were present:

COMMISSIONERS: Robert Amos, Jr.
Kermit Sexton
W. E. Butcher
Thomas Howell
MAYOR: W. C. Hambley

The meeting was called to order at 7:35 P.M.

Mayor Hambley presented the Assistant City Clerk with a **Revenue Sharing Check** in the amount of **\$38,205.00**, and asked that it be deposited in the Revenue Sharing Trust Account.

Earl Fife came before the Commission in regard to tickets he and his son received for parking on the sidewalk. He said he paid the tickets, but felt he did not deserve them. The Commission instructed the City Manager to check into the situation and have Earl Fife get together with the Policeman and see what can be worked out.

Bob Holcomb with Roberts & Holcomb came before the Commission in regard to the gas increase from \$.25 per T.C.F. to \$.54 per T.C.F. After a lengthy discussion on the matter, Commissioner Kermit Sexton made the motion for Roberts & Holcomb to negotiate with the City Manager and City Attorney on rates and to approve all present bills as presented, subject to refund of any difference. After negotiations are complete, the same should be brought back before the Commission for their approval. Commissioner W. E. Butcher seconded the motion. Upon roll call, the vote was as follows:

COMMISSIONERS:	Robert Amos, Jr.	Yes
	Kermit Sexton	Yes
	W. E. Butcher	Yes
	Thomas Howell	Yes
MAYOR:	W. C. Hambley	Yes

* The Mayor instructed the City Attorney to review all contracts and find out what needs to be renegotiated and change the rates in May.

Commissioner W. E. Butcher asked that the alley between 7th and 8th Street be cleaned up. OEO had this building torn down and it was never clean up. This property is owned by Homer Robinson. Commissioner W. E. Butcher then made the motion to clean up the property and send the bill to the property owner. Commissioner Kermit Sexton seconded the motion. Upon roll call, the vote was as follows:

COMMISSIONERS:	Robert Amos, Jr.	Yes
	Kermit Sexton	Yes
	W. E. Butcher	Yes
	Thomas Howell	Yes
MAYOR:	W. C. Hambley	Yes

* The Commission directed that the avenue be named Robinson Avenue. This is the alley between 7th & 8th Street or between Scott Avenue & Cline Street. The City Attorney was instructed to prepare the necessary ordinance.

Commissioner W. E. Butcher had pictures of the Coal Dock across from John McCown's store. The Commission said it needed to be cleaned up. Mr. Shortt said this is railroad property and not the City's.

Bids were opened on equipment to be used in the **Sanitary Landfill**. The following bids were presented:

1. Barb Construction, Inc.	\$17,300.00
2. Clifford Reynolds c/o Reynolds Produce	\$22,500.00

Mayor Hambley acknowledged the bids and said the Commission would compare the bids and inspect the equipment before a decision could be made.

Bids were also opened for a pickup truck for use in the Gas, Water and Street Departments:

1. Johnson Motors	\$ 2,817.05
2. Bruce Walters Ford	\$ 2,895.00

Only one bid was received on tires for the **JD-600 Backhoe**:

1. Williamson Oil Company	\$ 409.41
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Only one bid was received for the steel pipe to be used in the landfill. This bid was from:

1. Consolidated Pipe & Supply Company.	Their bid for 300 LN. Ft. was \$8.85 P.F.
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The following bids were received on the materials to be used in the Middle Bowles Addition:

1. C. I. Thornburg Co., Inc.	\$8,498.30
2. Water Works Supplies, Inc.	\$8,198.98
3. Southern Meter & Supply Co., Inc.	\$8,173.72
4. Banks Miller Supply Company	\$10,131.93
5. Bluefield Supply Company	\$9,218.05

The Mayor acknowledged all bids and said they would be held for further study.

Resolution R-73-12 was presented and read entitled:

RESOLUTION AUTHORIZING INTERIM FINANCING FOR WATER AND SEWER EXTENSION PROJECT

WHEREAS, the City of Pikeville has contracted for and is presently in the extension and improvement of the water and sewer system of the City of Pikeville, and

WHEREAS, long term financing arrangements have been made therefore, and

WHEREAS, it is necessary; however, to acquire interim financing.

NOW THEREFORE, be it resolved that the Mayor and City Clerk of the City of Pikeville, Kentucky be and they are hereby authorized to arrange for interim financing in connection with the Water and Sewer Extension and Improvement Project of the City of Pikeville now underway in the amount of \$250,000.00 and they hereby are authorized to secure a loan in the amount thereof for a period not to exceed sixty (60) days and to execute any necessary assurances in connection therewith including the signing of a note or any other pledges or assurances necessary to secure the same.

An emergency is declared to exist in regard to this Resolution, and the same shall be in full force and effect immediately upon subscription and approval by this Commission.

At Pikeville, Pike County, Kentucky, this 9th day of April, 1973.

ATTEST:

/s/ W. C. Hambley, M. D.
W. C. Hambley, M. D., Mayor

/s/ Charles L. Huffman, Jr.
CHARLES L. HUFFMAN, JR., CITY CLERK

Commissioner Robert Amos, Jr., moved the adoption of the foregoing Resolution. Commissioner Kermit Sexton seconded the motion. Upon roll call, the vote was as follows:

COMMISSIONERS:	Robert Amos, Jr.	Yes
	Kermit Sexton	Yes
	W. E. Butcher	Yes
	Thomas Howell	Yes
MAYOR:	W. C. Hambley	Yes

73-9-0 was presented and read:

AN ORDINANCE RELATING TO A SALARY SUPPLEMENT FOR POLICE OFFICERS

* Ordinance on file in Ordinance Book # 2 in City Clerk's Office.

Commissioner Kermit Sexton moved the adoption of the foregoing Ordinance. Commissioner Robert Amos, Jr., seconded the motion. Upon roll call, the vote was as follows:

COMMISSIONERS:	Robert Amos, Jr.	Yes
	Kermit Sexton	Yes
	W. E. Butcher	Yes
	Thomas Howell	Yes
MAYOR:	W. C. Hambley	Yes

Model City Bills were presented in the amount of \$476.49. The following invoices were submitted:

Mr. J. E. Hellier	Rent to May 15, 1973	\$ 13.75
Mr. Ed Hellier	Rent to May 15, 1973	13.75
Estate of Mrs. Lida Moore	Rent to May 15, 1973	272.50
Kentucky Power Company	Service for the Month of March	37.97
City Utilities Dept.	Service for the Month of March	28.67
Pikeville Clean Towel Ser.	Service for the month of March	4.10
G. C. Murphy's	Film for Evaluation Purposes	2.86
C & R Office Supply	Invoice No. 16139 and 17165	102.89
		\$ 476.49

Commissioner Kermit Sexton made the motion to pay these bills. Commissioner Robert Amos, Jr., seconded the motion. Upon roll call, the vote was as follows:

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COMMISSIONERS: Robert Amos, Jr. Yes
 Kermit Sexton Yes
 W. E. Butcher Yes
 Thomas Howell Yes
 MAYOR: W. C. Hambley Yes

73-10-0 was presented and read:

AN ORDINANCE PROVIDING FOR ANNEXATION OF THAT
 CERTAIN AREA CONTIGUOUS WITH THE CITY LIMITS
 OF PIKEVILLE, KENTUCKY, WHICH IS INCLUDED IN
 THE PIKEVILLE CITY INDEPENDENT SCHOOL DISTRICT
 LYING SOUTH OF PIKEVILLE AND ADJACENT TO U. S.
 HIGHWAY DEPARTMENT

* Ordinance on file in Ordinance Book # 2 City Clerk's Office.

Commissioner Kermit Sexton made the motion to adopt the ordinance, and to accept this area into the corporation. Commissioner Thomas Howell seconded the motion. Upon roll call, the vote was as follows:

COMMISSIONERS: Robert Amos, Jr. Yes
 Kermit Sexton Yes
 W. E. Butcher Yes
 Thomas Howell Yes
 MAYOR: W. C. Hambley Yes

The following letter from Hinton, Hall and Todd was read:

Honorable W. C. Hambley, Mayor
 Commissioners of the City of Pikeville
 Pikeville, Kentucky 41501

Re: W. R. Walters, et al
 vs. City of Pikeville

Gentlemen:

The above action was instituted March 2, 1972 by W. R. Walters as owner of three different places of business in the shopping center and the Medical Center seeking to recover: (1) The sewage charges which had been paid since January 1, 1966 by each of the plaintiffs, and (2) The differences in the insurance premiums which they paid under existing rates and what they would have been charged if fire hydrant protection had been afforded.

These figures at present are as follows:

<u>Pikeville Medical Building</u>	
Sewage charges paid to December 31, 1972	\$3,381.87
Difference in insurance premiums paid to date	4,950.90
Total	\$8,332.77
<u>W. R. Walters</u>	
Sewage charges paid to December 31, 1972	\$ 712.71
Difference in insurance premiums paid to date	5,993.11
Total	\$6,705.82

When the territory was annexed in 1965 fire protection and sewage disposal was contemplated. On October 9, 1965 at the direction of the Mayor and Commissioners, as then City Attorney, I addressed a letter to the Pikeville Medical Building, Inc., explaining the situation as it existed at that time with respect to water and sewer facilities. These plaintiffs are relying upon this letter to a large extent in the present action. A copy of the letter is enclosed for your information.

There is ample authority for the proposition that a municipality cannot charge for sewage disposal that was not actually provided: (See City of Maysville vs. Coughlin, et al 399 S.W. 2nd 297 and City of Hazard vs. Payne, et al 439 S.W. 2nd 774) In defending this case and in various arguments before the Court and in briefing, we have contended that where the City was prevented from installing these facilities by circumstances beyond its control and where the City had taken the necessary steps to provide the financing for installing these facilities, the City had the right to charge and collect for the sewage disposition for a reasonable time, even though the installation had not been completed. The case of City of Covington vs. Sanitation District 301 S.W. 2nd 885 affords some support for this contention.

We have been unable to find any cases directly in point on the question of increased cost of insurance caused by failure to provide fire hydrant protection.

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However, we feel confident that if this case is tried out, the City would not be able to successfully defend the claims made in this case to any substantial extent.

After numerous conferences with the attorneys for the plaintiffs, we have been able to obtain an offer of settlement which we think should be accepted.

The plaintiffs' attorneys have agreed to recommend the following amounts in full settlement of all claims up to January 1, 1973, with the understanding that no further sewage charges will be made until the sewer disposal system has been completed and put in operation, and that the plaintiffs' claims for insurance credits be dismissed with prejudice:

Pikeville Medical Building, Inc.	\$3,083.93
W. R. Walters	\$ 686.92

These amounts are to be credited on future utility bills.

We consider it advisable to accept these offers and so recommend.

Will you please advise us if we have authority to dispose of these cases in this manner.

Yours truly,

HINTON, HALL & TODD

By /s/ O. T. Hinton
(O.T. Hinton)

Commissioner Robert Amos, Jr., made the motion to pay Pikeville Medical Building, Inc., in the amount of **\$3,083.93** and W.R. Walters in the amount of **\$686.92** by crediting them on their Utility Bills. After no second, Commissioner Amos' motion died.

Mayor W. C. Hambley signed a form from the Kentucky Law Enforcement Council Registration and Information to allow Bob L. May, Police Chief, to attend school at Cumberland Lake State Resort Park at Jamestown, Kentucky, from 4-23-73 to 4-27-73.

The following information from Police Chief Bob May was read:

On this date 4-3-73 I received a telephone call from Mike Sanghez of the Kentucky Crime Commission. He informed me that the Crime Commission was going to install two Point to Point Base Stations at the Police Department.

One of these will be inter City for City Police Departments. One of these will be inter Region for Sheriffs & Departments.

Mr. Sanghez informed me the City could buy the following equipment on the following basis. Crime Commission share 75% City 25%. He said portable radios would cost approximately \$250.00 each. Base station approximately \$300.00 and Mobile Unit approximately \$200.00.

The Point to Point Stations are funded by Crime Commission 100%.

I told Mr. Sanghez I would inform the City Manager and Mayor and the Commissioners of this matter.

/s/ Bob May
Bob May
Chief of Police

Commissioner Kermit Sexton made the motion to get two of each. Commissioner W. E. Butcher seconded the motion. Upon roll call, the vote was as follows:

COMMISSIONERS:	Robert Amos, Jr.	Yes
	Kermit Sexton	Yes
	W. E. Butcher	Yes
	Thomas Howell	Yes
MAYOR:	W. C. Hambley	Yes

Mayor Hambley said he had two deeds on the Island Creek Property that is being considered for a Sanitary Land Fill and asked the City Attorney to check the title.

Commissioner W.E. Butcher made the motion to adjourn the meeting. Commissioner Kermit Sexton seconded the motion. Upon roll call, the vote was as follows:

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COMMISSIONERS: Robert Amos, Jr. Yes
 Kermit Sexton Yes
 W. E. Butcher Yes
 Thomas Howell Yes
 MAYOR: W. C. Hambley Yes
 MEETING ADJOURNED.

ATTEST:

APPROVED:

CHARLES L. HUFFMAN, JR.
 CITY CLERK

W. C. Hambley
 W. C. HAMBLEY, M. D.
 MAYOR

MEETING - APRIL 12, 1973

At a special meeting of the Board of Commissioners of the City of Pikeville held in City Hall on April 12, 1973, at 1:00 P.M., the following members were present:

COMMISSIONERS: Robert Amos, Jr.
 Kermit Sexton
 W. E. Butcher
 Thomas Howell
 MAYOR: W. C. Hambley

The following notice was issued:

NOTICE OF SPECIAL MEETING

TO: MAYOR W. C. HAMBLEY, M. D.
 COMMISSIONERS: ROBERT AMOS, JR.
 KERMIT SEXTON
 W. E. BUTCHER
 THOMAS HOWELL

You are hereby notified that the Board of Commissioners of the City of Pikeville, Kentucky, is called to meet in special session at 1:00 P.M., Thursday, April 12, 1973, at City Hall, in the City of Pikeville, Kentucky, for the following purposes:

1. Accept bid for pickup truck.
2. Accept bid for materials to be used in the Middle Bowles Addition Water Project
3. Accept bid for Steel Pipe to be used in Sanitary Landfill
4. Accept bid on tires for JD-600 Backhoe
5. Accept bid for equipment to be used in Sanitary Landfill

/s/ W. C. Hambley, M. D.
 W. C. Hambley, M. D. Mayor
 Commissioner
 Commissioner

I, Bob May, Chief of Police of the City of Pikeville, Kentucky, do hereby certify that on 10th day of April, 1973, I served in the manner provided by law upon each of the members of said Board of Commissioners named in the foregoing Notice of Special Meeting a true and correct copy of the foregoing notice.

This 10th day of April, 1973.

/s/ Bob May
 CHIEF OF POLICE

By /s/ John P. Huffman

I hereby acknowledge receipt of copy of the foregoing Notice of Special Meeting of the Board of Commissioners of the City of Pikeville, Ky., to be held April 12, 1973, at 1:00 P.M. at City Hall in Pikeville, Kentucky.

/s/ Thomas Howell
/s/ W. E. Butcher
/s/ Robert Amos, Jr.
/s/ Kermit Sexton

The meeting was called to order at 1:10 P.M.