

## MINUTES } CITY OF PIKEVILLE

## SPECIAL MEETING - NOVEMBER 5, 1990

The City of Pikeville Board of Commissioners met in Special Session on Monday, November 5, 1990. The meeting was conducted in the City Hall Public Meeting Room at 260 Hambley Boulevard.

Pursuant to the laws of Special Meeting, a notice was delivered to each Commission Member and members of the news media. The meeting was called for the following purposes:

1. To examine the relationship between the City of Pikeville and the Model City Day Care Center.
2. To take any appropriate action with regard to the above matter.

There being a quorum present, Mayor Walter E. May called the meeting to order at 7:00 p.m. Commission Members present upon call of the roll were:

MAYOR:	WALTER E. MAY
COMMISSIONER:	EUGENE DAVIS
	FRANK MORRIS
	JOHNNY MOUNTS

Commissioner Walter Blankenship was absent.

Mayor May recognized the Board Members of the Model City Day Care Center - Vice Chairman, Jerry Waddell; Kaye Baird; Chester Bailey and Model City Day Care Center Executive Director, Delphia Lockhart. Also recognized were Mayor-Emeritus W. C. Hambley and former City Commissioners, Thomas Huffman and Steven Combs, and a number of parents with children enrolled in the Model City Day Care Center.

Mayor May read a letter submitted by the Day Care Center attorney, Steven Combs as follows:

COMBS & COMBS, P.S.C.  
ATTORNEYS AT LAW  
COMBS BUILDING  
411 MAIN STREET P.O. DRAWER 31  
PIKEVILLE, KENTUCKY 41502-0031

November 5, 1990

Mayor Walter May  
Pikeville City Hall  
Pikeville, Kentucky 41502

RE: MODEL CITY DAYCARE CENTER, INC.

Dear Mr. May:

On April of 1990, the Model City Daycare Center, Inc. ["DAYCARE"] Board of Directors voted to raise rates for Child care services in order to meet climbing costs of labor, food, and services. This rate increase met with opposition from parents who patronize the Center.

Mr. Walter May, Mayor of the City of Pikeville, appeared at a DAYCARE Board Meeting and requested that the rate increase not be put into effect. The DAYCARE Board acceded to the wishes of Mr. May. During the following months there was a great deal of negotiations by and between the DAYCARE Board and the Pikeville City Commission, which resulted in an operational agreement which is currently ready for the signature of both the City of Pikeville and the DAYCARE.

Mr. May requested that the DAYCARE employ a Certified Public Accountant to conduct an audit of its finances. Again the DAYCARE acceded to the wishes of Mr. May.

The DAYCARE Board received the results of that audit and recommendations of the Auditor on October 29, 1990. Each of the City Commissioner's and Mr. May have been provided with copies of said audit.

Due to the shortage of funds during the interim from April until October [which arose, in whole or in part, from the lack of a rate increase], the DAYCARE was not able to meet all of its financial obligations. The Auditor recommended the following: (i) that the DAYCARE secure a line of credit from a local bank in order to satisfy all



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of its financial obligations in a timely fashion prior to the end of October, and in order to satisfy all such obligations during the interim period while a rate increase was being implemented; and, (ii) initiate the procedure which the City of Pikeville and Mayor May outlined in order to request a rate increase.

The DAYCARE has complied with both of the above recommendations of the Auditor. All financial obligations of the DAYCARE have been satisfied in full and are current. The DAYCARE has scheduled a meeting with all parents of children using the Center, in order to discuss and receive feedback on the rate increase issue. An application for a rate increase will be forwarded to the City prior to its next regularly scheduled meeting. Any rate increase request will be both substantiated and recommended by the Certified Public Accounting Firm and Auditor employed by the DAYCARE.

The DAYCARE intends to advertise for the services of a Public Accounting firm to conduct monthly bookkeeping and reconciliation services with regard to the DAYCARE'S finances.

The DAYCARE Board is presently in the process of nominating Two (2) persons to serve on the nominating panel to replace Two (2) members of the DAYCARE Board who would like to retire therefrom. The City must now nominate Two (2) members from its Commission to serve on said nominating panel.

The DAYCARE intends to submit annual audit reports and recommendations to the City of Pikeville.

A good faith effort has been made to comply with every requirement the City of Pikeville has placed upon the DAYCARE. The simple fact is that costs for services and labor have increased dramatically over the last Eight (8) years. In spite of this fact, the DAYCARE Board, in an effort to help young parents in a declining economy, did not raise rates for child care services. This meant that employees have not received raises in Four (4) years, or more. The majority of those employees are paid minimum wage or very little more.

We trust this is satisfactory; however, please do not hesitate to contact us should you have any questions or comments.

Very truly yours,

/s/ Steven D. Combs

Steven D. Combs

Mayor May announced that the reason he went to the Model City Day Center Board Meeting was the City of Pikeville was making an effort to collect payroll and occupational taxes from all of its citizens and making sure that everyone was paying a fair share. It was reported that Model City Day Care Center was not paying their payroll taxes to the City. The taxes have now been paid. Mayor-Emeritus W. C. Hambley was asked to give a history of the Day Care Center. In Mayor Hambley's description, he inferred that the City of Pikeville did not own the Day Care Center Building. City Attorney Russell Davis, Jr., explained that the City of Pikeville obtained a grant to build the Day Care Center Building. The property on which the building is built is owned by the City of Pikeville. Steven D. Combs, Model City Day Care Center Attorney, agreed that the City owns the property and naturally, would own any improvements and appurtenances on the property. As requested by the City, an audit was done on the Model City Day Care Center accounts to determine if a rate increase was justified. The audit was completed in October, 1990. The letter submitted by Combs & Combs indicates that all financial obligations of the DAYCARE have been satisfied as of this date. Board Attorney Combs clarified that as of this date, there are no bills past due. Mayor May asked the DAYCARE Board where the funds were obtained to satisfy the outstanding bills. Vice Chairman, Jerry Waddell, advised the Commission that a line-of-credit was obtained. Mrs. Lockhart advised that the line-of-credit was obtained in the amount of \$45,000.00 and the playground property adjacent to the Day Care Center Building was collateral. Board Attorney Combs explained that the property has not been mortgaged at this time. Mr. Combs advised that the DAYCARE owns certain personal property which could be used as collateral. Don Wallen, representing the firm of Wallen & Cornett, CPA's, gave his opinion that \$45,000.00 would not have brought all financial obligations current. The audit report goes through the period of June 30, 1990. Financial obligations at that time were approximately \$51,000.00. Mr. Wallen projected that an additional \$28,000.00 in payroll fees were due by October 31, 1990. Mayor May referred to a paragraph in the Combs & Combs



letter as follows: "Due to the shortage of funds during the interim from April until October [which arose, in whole or in part, from the lack of a rate increase], the DAYCARE was not able to meet all of its financial obligations." Mayor May asked the auditor if he agreed with the statement. Mr. Wallen answered that the financial shortfall was a build up over several years. A rate increase, according to Mr. Wallen, may have reduced the shortfall, but would not have cured the problem. Addressing Mr. Wallen, Mayor May asked if any references had been made with regard to the ability of the Day Care Center to operate on a continued basis. Mr. Wallen reported that under the current conditions, the financial condition could only deteriorate. Without a rate increase, without borrowing or securing cash, the Day Care Center could not operate. Mayor May referred to a paragraph in the management letter of the audit and was read as follows: "The audit report raises the question of the Center's ability to continue as a going concern due to an inability to pay payroll taxes and other bills timely and losses for three consecutive years." Mayor May asked the Board to give an indication of the Day Care Center's Board ability to keep the center in operation. Board Attorney Combs addressed Mr. Wallen and asked him to relay how the Model Cities Day Care Center Board received the information and the action that was taken to follow his recommendations. Mr. Wallen explained that he had a reaction of great concern and what he deemed as surprise from the Board Members. Mr. Wallen advised that the Board is trying to take the action that was recommended in the audit report. Mr. Wallen indicated that the element which surprised the Board most was the fact that the center was so far in debt with payroll taxes, the fact that the liability could be passed on through directors and the fact that business could not be continued without more money. Mr. Wallen advised that there could be as much as a 100% penalty for failure to remit payroll taxes. Mayor May addressed the Board Members and asked if they were aware of the payroll penalties. They answered they were not. Mayor May said he had gotten the impression that the Day Care Center Board was an inactive Board. Chester Bailey, Board Member, reported that the Board meets on a fairly regular basis. Mr. Bailey addressed the parents and the Commission. He stated that he and the other members of the Board are concerned for the children. The Board conceded to the Commission's request to have an audit in order to see what funds are needed to operate the facility and to make prudent decisions.

Mayor May asked the auditor if there was anything in the audit report which would reflect good management or financial responsibility. Mr. Wallen indicated the audit report indicates that management was not good.

Chuck Huffman, present as a parent, asked Mr. Wallen what procedures were employed to affirm that the assets which were claimed belonged to the Day Care Center, specifically, the real estate deeded by the Urban Renewal Agency. Mr. Wallen reported that the deed was traced from Urban Renewal. Mr. Huffman inquired if he had employed legal counsel to determine the legality of the title. Mr. Wallen reported he had not. Mr. Huffman also inquired the percentage of revenues derived from fees paid by parents. Mr. Wallen estimated 50%. Other operating funds are received from Head Start and Lunchroom.

The Commission heard comments from several parents (Judy Vance, Sandy Johnson, Terry Bishop, Susan Huffman, Jackie Simmons, Kim Robinson, and Debbie Williams) in opposition to the proposed rate increase and the parents' inability to receive any information from the Model City Day Care Board.

Steve Combs announced that the Day Care Center Board has scheduled a meeting for November 8, 1990, to discuss the proposed rate increase with the parents. Mr. Combs advised that Mrs. Lockhart and Mr. Wallen have worked together to try to soften the rate increase, if it's needed, or come up with some way to raise revenue without increasing rates. Mr. Wallen reported the purpose of the meeting was to get input. Mr. Wallen further explained that the rate is proposed to be increased to pay the bills, not to produce excess funds. It may be possible to revise the rate structure. The City Commission also learned that the Day Care Center had not raised rates since 1984. Mrs. Lockhart explained that the rate for 1 child is \$55.00 per week. If there are two or more children from the same family, the remaining children are admitted for 1/2 or \$27.50 per week each. After checking with other Day Care facilities, it was found that most centers charge \$10.00 less for each additional child. Mr. Combs reported that the Board is not in opposition to any subsidies. Mayor May reported that he had indication that the Board may be in opposition. The City had offered to give \$10,000.00 to the Model City Day Care Center and it was refused. Mr. Combs reported that there was apparently a misunderstanding between the Board and the City Commission due to a lack of communication. Mr. Combs stated that the Board and



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Commission met in the summer and the Board indicated they would be glad to accept any help the City wanted to give. Mayor May explained that the Commission was told that the children were not able to utilize the playground because it had been cited as a safety standard due to the area not being fenced in. The City Commission was told that the Day Care Center did not have the funds to build the fence. The City Commission voted to give the Day Care Center a fence. Delphia Lockhart explained the Day Care Center has receipts from the sale of books and felt the money should have been spent on the fence. Mr. Wallen advised that \$10,000.00 was taken from the W. C. Hambley Book Fund and deposited in the general operating fund.

In other discussion, it was learned that the Day Care Center has approximately \$30,000 in unpaid care bills from parents. The Day Care Center has expenditures of approximately \$50,000.00 per month which would increase some \$35,000.00 per year if the auditor's recommendations are followed by employing a bookkeeper or soliciting a CPA firm to produce monthly financial statements; legal assistance; and malpractice and building insurance. The Commission was told by Mrs. Lockhart that it had been approximately three years since the payroll taxes were paid in a timely fashion. Commissioner Davis asked Mr. Wallen if reports were required to be filed. Mr. Wallen answered that reports are required to be filed regardless of whether payment is made. Commissioner Davis inquired if all reports had been filed. Mr. Wallen answered that some of the reports were filed.

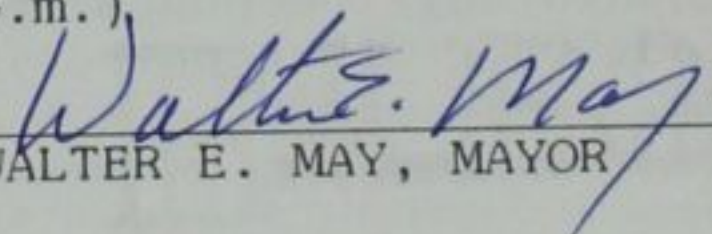
The lease agreement between the City and Model City Day Care Center, Inc. was addressed. In preparation of the Day Care Center budget, Mrs. Lockhart commented that additional funds were budgeted in the column of Accounting and Legal Fees other than what the term implied. Per the proposed lease agreement, the Day Care Center will be asked to obtain malpractice insurance and obtain insurance for the building. Mayor May pointed out that the Day Care Center will not be asked to pay a monthly fee for the use of the building, however the lease agreement will provide for certain reports to be filed with the City of Pikeville.

Commissioner Mounts stated that he had seen the same situations with other city agencies in not having audits or having good financial management, however he feels that the Model City Day Care Board is trying to remedy the problems and indicated he is willing to give the Board that opportunity.

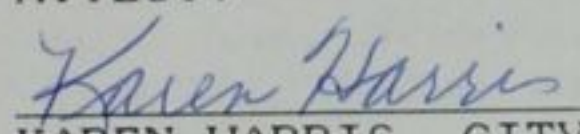
In closing, the Commission delayed reviewing the proposed lease agreement until a later date.

There being no further business to come before the Commission, Commissioner Morris made the motion to adjourn. Commissioner Davis seconded the motion. Upon call of the roll, the motion carried by a 4 - 0 vote. (Adjournment time: 9:20 p.m.)

APPROVED

  
WALTER E. MAY, MAYOR

ATTEST:

  
KAREN HARRIS, CITY CLERK