

## REGULAR MEETING - FEBRUARY 25, 1991

The City of Pikeville Board of Commissioners met in regular session on Monday, February 25, 1991. The meeting was held in the City Commission's designated meeting place in the City Hall Public Meeting Room at 260 Hambley Boulevard.

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 as follows:

MAYOR:	WALTER E. MAY
COMMISSIONER:	WALTER BLANKENSHIP
	FRANK MORRIS
	JOHNNY MOUNTS

Commissioner Eugene Davis was absent.

## AGENDA ITEM II. CALL OF THE AGENDA

Deleted was agenda item VII. D, with regard to acceptance of Pike County Housing Authority section eight vouchers.

## AGENDA ITEM III. MINUTES

The minutes of the previous regular meeting of January 14, 1991 and special meetings of January 14, 1991 and February 14, 1991 were included in each Commission Member's agenda package. There being no additions or corrections, Commissioner Blankenship made the motion to approve the minutes as submitted. Commissioner Mounts seconded the motion. Upon call of the roll, the motion carried 4 - 0.

## AGENDA ITEM IV. BUSINESS FROM THE FLOOR

Bill Owens, President of the Pike County Chamber of Commerce, addressed the Commission seeking permission to hold a carnival in the riverfill during the Hillbilly Days Festival from April 18-20, 1991 and to use the Huffman Avenue parking area for booth space. Commissioner Blankenship made the motion to allow the Chamber of Commerce to conduct a carnival in the riverfill in the same manner as was the previous year. Commissioner Mounts seconded the motion. Upon call of the roll, the motion carried 3 - 1 (Commissioner Morris cast a "NO" vote). Mr. Owens explained to the Commission that in an effort to remove all trailer booths from the City Park, extra space is needed. The Commission was concerned about designating additional space for booths originally used for parking spaces. In prior discussions with the owners of the property behind the Huffman Avenue parking lot, Commissioner Morris indicated he did not think the property owners would have any objection with the City using the lot for parking, however the City may have to place gravel on the lot. Discussion was also had with regard to professional vendors setting up booth spaces. Commissioner Morris added that he objected to this practice as the original concept of Hillbilly Days was to allow for non-profit organizations to raise funds. Mayor May explained that a festival committee was formed this year to manage Hillbilly Days and there have been some changes. The Mayor reported there had been some discussion relative to professional vendors. Mayor May invited Commissioner Morris to attend the next meeting to address the committee relative to his concerns. Mayor May added that there had been more requests for booth space this year, which add to the festivities. Mr. Owens told the Commission that the Chamber would be willing to work with the City to gravel the aforementioned lot for parking. Commissioner Mounts voiced that the City should get some revenue from the Hillbilly Days Festival due to the expense incurred during cleanup and the extra cost for law enforcement personnel. The City Manager reported the cost incurred during last year's Hillbilly Days ranged from \$5,500 to \$5,800. Mayor May reported that this matter had also been discussed, but did not seem practical to approach at this time. Commissioner Mounts made the motion to allow the Huffman Avenue parking lot to be used for booth space during Hillbilly Days 1991. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried 4 - 0.

Amil Mayer of Kentucky Power Company requested the Commission to authorize the publication of a Notice of Sale for the electrical franchise. Commissioner Morris made the motion to authorize the City Clerk to publish the Notice of Sale for the utility franchise. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried 4 - 0.

Warren Vaughn addressed the Commission in the capacity of coordinator for the Certified Cities Program. Mr. Vaughn reported the State Chamber of



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Commerce sent a group to Pikeville last year to evaluate Pikeville for recertification as a certified city. Recommendations were made as a result of the inspection. One of the recommendations has to do with updating the Comprehensive Plan. City Engineer, Jack Sykes, reported the City's Comprehensive Plan was amended in 1977. Since that time a Capital Improvement Plan has been prepared for water, sewer and other road and street improvements. These items along with 5 or 6 other areas need to be brought together to update the plan. Mayor May reported he had discussed this item with Roger Rectenwald of the Big Sandy Area Development District about offering some assistance and staff to aid the City in putting the plan together. Mr. Sykes and Mr. Vaughn will work together to relay the information to the State Chamber of Commerce.

## AGENDA ITEM V.

## PAYMENT OF CITY BILLS

City Bills totaling \$388,797.77 were presented to the Commission for approval of payment. Commissioner Mounts questioned the payment request for Baird & Baird. City Attorney Rusty Davis explained the billing was for collection of occupational fees. Also questioned was the payment request from Leron Industries. The City Manager reported that the fee has increased due to having to haul to a Floyd County landfill. Upon the City Manager's recommendation the bills be approved, Commissioner Blankenship made the motion, seconded by Commissioner Morris to approve payment of the City Bills totaling \$388,797.77. Upon call of the roll, the motion carried 4 - 0.

## AGENDA ITEM VI.

## OLD BUSINESS

A. CITY ENGINEER'S REPORTS: Jack Sykes, representing Summit Engineering, City Engineers, gave a verbal report of ongoing City Projects:

1. Wastewater Treatment Plant: Mr. Sykes presented a change order for approval. The plans for the wastewater plant provided for a pigmented block to be used in the construction of the blower building. Those blocks were not available locally. Purchased were chipped face block and the contractor was instructed to put a sealant on the blocks. Mr. Sykes advised there was no additional cost. Commissioner Blankenship made the motion, seconded by Commissioner Mounts to approve the change order as requested. Upon call of the roll, the motion carried 4 - 0.

2. Rock Quarry: Mr. Sykes advised he had correspondence with Mr. Goff and Mr. Johnson requesting this item be tabled. Commissioner Morris advised that action needs to be taken with regard to the transfer station.

3. Health Department Access: Mr. Sykes reported that his office has proceeded with defining easements and the City Attorney has prepared the necessary deeds to be attached to those easements to get access to the Health Department.

B. CITY ATTORNEY'S REPORTS: First Reading was given to an Ordinance entitled:

AN AMENDED ORDINANCE OF THE CITY OF PIKEVILLE, KENTUCKY, ADJUSTING WATER SERVICE RATES FOR CERTAIN WHOLESALE USERS AND AMENDING IN PART A CERTAIN ORDINANCE ADOPTED ON JANUARY 27, 1987 MAY 22, 1989

The City Attorney explained the proposed rates were recommended by H. J. Umbaugh and Associates based upon the City's audited costs for providing water services.

Mr. Davis presented and gave first reading to an Ordinance entitled:

AN AMENDED ORDINANCE OF THE CITY OF PIKEVILLE, KENTUCKY REVISING WATER RATES AND CHARGES FOR WATER SERVICES PROVIDED BY THE CITY'S MUNICIPAL WATER SYSTEM

Mr. Davis explained this Ordinance will affect all retail users outside the City Limits of Pikeville.

First Reading was given to an Ordinance entitled:

ORDINANCE DESIGNATING LOADING ZONE ON CAROLINE AVENUE

Copies of the above read ordinances will be on file in the office of the City Clerk for a period of at least ten days for public inspection.

Mr. Davis requested an executive session for the purpose of discussing a pending law suit.



Leon Huffman, Chairman of Mountain Water District, requested no action be taken with regard to the ordinance increasing the wholesale water rates until he could meet with the Commission in work session. The Commission agreed to discuss this matter in work session.

C. CITY MANAGER'S REPORTS: John Johnson, City Manager, spoke with regard to a request for water service to the Marions Branch area. Mr. Johnson reported the city could not afford the extension at this time and requested the extension be delayed until the new budget year in July, 1991. The Commission concurred.

## AGENDA ITEM VII.

## NEW BUSINESS

A. DAY CARE CENTER: Mayor May nominated Walter Blankenship and Frank Morris to serve on the Model City Day Care Center nominating committee. Commissioner Mounts made the motion to accept the Mayor's nominations. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried 4 - 0.

B. TOURISM COMMISSION: It was reported to the Commission that the Tourism Commission has a vacancy created by the resignation of Sophia Hayes. Ms. Hayes was the Chamber of Commerce's representative. Recommended by the Chamber of Commerce to fill the vacancy was Ron Damron. Commissioner Morris made the motion to approve the recommendation of Ron Damron to serve on the Tourism Commission. Commissioner Mounts seconded the motion. Upon call of the roll, the motion carried 4 - 0.

C. ROOM TAX: Ann Charles, Executive Director of the Pikeville/Pike County Tourism Commission, approached the Commission with regard to the disbursement of room tax fees collected. Ms. Charles requested that the fees be remitted to the Tourism Commission within 15 days after the fees are due. The City Attorney advised there would be no problem in honoring this request as long as the Tourism Commission's budget had been approved for the year. Commissioner Blankenship made the motion to release the room fees collected to the Tourism Commission within 15 days after the fees are due as long as the Tourism Commission is operating under an approved budget. Commissioner Mounts seconded the motion. Upon call of the roll, the motion carried 4 - 0. Ms. Charles reported that there are two motels operating within the city limits who have not remitted their fourth quarter room fees. Ms. Charles was directed to work with the Tax Administrator and City Attorney with regard to this matter. Ms. Charles also informed the Commission that Ebon Henson will be in town on February 26th to do a feasibility study on the possibility of locating an amphitheater in the area.

E. HOUSING AUTHORITY TERMS: Presented to the Commission was a recommendation to amend two director's terms who serve on the Pikeville Housing Authority due to conflicts with term expirations. Upon motion by Commissioner Morris and seconded by Commissioner Blankenship, the term of Anita Johnson was amended to expire on September 16, 1992 and the term of Velma Childers was amended to expire on September 16, 1991. Upon call of the roll, the motion carried unanimously.

## AGENDA ITEM VIII.

## PERSONNEL ACTIONS

None.

At 7:52 p.m., Commissioner Blankenship made the motion to adjourn to an executive session for the purpose of discussing pending legal matters. Commissioner Morris seconded the motion. Upon call of the roll, the motion carried 4 - 0.

At 9:00 p.m., Commissioner Morris made the motion to reconvene to regular session. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried 4 - 0.

City Attorney, Rusty Davis, reported the Commission discussed certain legal problems with regard to the Pikeville Methodist Hospital's by-laws. Mr. Davis presented and read the following resolution:

WHEREAS, the City of Pikeville, Kentucky created Pikeville, Kentucky Public Hospital Corporation, a non-profit corporation of the City of Pikeville, Kentucky to hold title to all real estate improvements located on the By-Pass Road in Pikeville pursuant to the issuance of Revenue Bonds in 1969, upon which real estate is located a hospital facility; and,

WHEREAS, the City of Pikeville, Kentucky and its creation, Pikeville, Kentucky Public Hospital Corporation, own the hospital



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facility; and,

WHEREAS, the City of Pikeville, Kentucky, the Pikeville Kentucky Hospital Corporation and the Methodist Hospital of Kentucky, Inc., a non-profit corporation, entered into a Sublease Agreement dated January 1, 1969, which specifically requires in Paragraph 10 that the Methodist Hospital of Kentucky, Inc. shall comply with all the covenants undertaken by the City of Pikeville to the Pikeville, Public Hospital Corporation in a certain Contract, Lease and Option Agreement entered into between the City of Pikeville and Pikeville, Kentucky, Public Hospital Corporation dated July 1, 1969.

WHEREAS, in said Contract, Lease and Option Agreement between the City of Pikeville and Pikeville, Kentucky, Public Hospital Corporation, pursuant to Section 17, the City in the operation of the Hospital Project is required to comply with all Federal and State laws and regulations, including those applicable to the Hill-Burton Act, and including all laws and regulations applicable to DHUD and EDA Loan Agreement with the City and specifically including the requirement of non-discrimination as to members of the hospital staff;

WHEREAS, certain provisions of the Hill-Burton Act, the DHUD and EDA agreements, and the Civil Rights Act of 1964 prohibit discrimination against the individual with respect to his employment because of such individual's religion;

WHEREAS, the First Amendment to the Federal and State Constitution prohibits the establishment of any religion or prohibiting the free exercise thereof;

WHEREAS, the Articles of Incorporation and By-Laws of the Pikeville Methodist Hospital contains discriminatory language which requires that the hospital administrator be a member of the Methodist Church and three-fourths (3/4) of the members of the Board of Directors to be members of the Methodist Church; and further require the promotion and facilitation of religious activities;

WHEREAS, the Pikeville City Commission has determined that the articles and by-laws of the Pikeville Methodist Hospital, Inc. are in violation of State and Federal Law, the terms and conditions of the grant agreements for funds received by the City of Pikeville to construct the Hospital project and further in breach of the sublease agreement between the City of Pikeville and the Methodist Hospital of Kentucky, Inc. dated June 1, 1969;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF PIKEVILLE AS FOLLOWS:

1. That the Methodist Hospital is hereby notified that its Articles of Incorporation and By-Laws are in violation of the aforementioned State and Federal laws, the terms and conditions of certain Public Grant Agreements, and the contract provisions between the City of Pikeville and the Methodist Hospital of Kentucky, Inc.

2. That the City of Pikeville request that said problem be cured by an amendment to the Articles of Incorporation and By-Laws of the Pikeville Methodist Hospital so to delete the following references:

A. Article II, Section 1 - purpose to maintain a Christian hospital.

B. Article III, Section 2 - requirement that at least 18 members of the Board of Directors be members of the Methodist Church and requiring the pastors of the Methodist Church, the First Methodist Church of Paintsville, the Prestonsburg Methodist Church and First Methodist Church of Ashland, the district superintendent of the Ashland Division and the supervising bishop of the Kentucky Conference to be members of the Board.

C. Article III, Section 3 - requirement that the property be used in accordance to the usage and discipline of said church how it is now or as it from time to time shall be established, made or declared the lawful authority of said church and further that it be sold, encumbered or disposed of according to the provisions of the laws of the church relating to church property.

D. Article VIII, Section 4, Paragraph F - requirement that there be a religious emphasis committee to general supervision of the religious activities of the hospital and the school of training.

E. Article IX - requirement that the administrator be a member of the Methodist Church.



3. That the Methodist Hospital of Kentucky, Inc. shall notify the City of Pikeville in writing when it has cured the aforementioned problems and shall provide the City of Pikeville in said notice a copy of the Amended Article of Incorporation and By-Laws of the Methodist Hospital of Kentucky, Inc.

Passed this 25th day of February, 1991.

Commissioner Frank Morris moved the adoption of the foregoing resolution. Commissioner Walter Blankenship seconded the motion.

Upon roll call, the votes were as follows:

	<u>YES</u>	<u>NO</u>
WALTER E. MAY, MAYOR	X	
GENE DAVIS, COMMISSIONER		ABSENT
FRANK MORRIS, COMMISSIONER	X	
JOHNNY MOUNTS, COMMISSIONER		DID NOT VOTE
WALTER BLANKENSHIP, COMMISSIONER	X	

The Mayor declared the within resolution adopted.

/s/ Walter E. May  
WALTER E. MAY, MAYOR

ATTEST:

/s/ Karen Harris  
KAREN HARRIS, CITY CLERK

In discussion, Commissioner Blankenship asked the City Attorney if the City Commission had to adopt the resolution in order to be free of liability as individuals and as a Commission. The City Attorney advised Commissioner Blankenship this was correct. Mr. Davis further advised that he had understood this to be the recommendation of several people including the hospital's attorney. An opinion by the Attorney General's office also supports the recommendation.

AGENDA ITEM IX.

#### ANNOUNCEMENTS

The Commission scheduled a work session for March 20, 1991 at 4:00 p.m. to set the agenda for the March 25, 1991 meeting.

There being no further business to come before the Commission, Commissioner Blankenship made the motion, seconded by Commissioner Mounts to adjourn. Upon call of the roll, the motion carried 4 - 0. (Adjournment Time: 9:10 p.m.)

The City Commission's next scheduled meeting is March 25, 1991 at 7:00 p.m. in the City Hall Public Meeting Room at 260 Hambley Boulevard.

APPROVED: Walter E. May  
WALTER E. MAY, MAYOR

ATTEST:

Karen Harris  
KAREN HARRIS, CITY CLERK