

MINUTES } CITY OF PIKEVILLE

REGULAR MEETING - MARCH 25, 1991

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

There being a quorum present, Mayor Walter E. May called the meeting to order at 7:09 p.m. Commission Members present upon call of the roll were as follows:

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

AGENDA ITEM II.

CALL OF THE AGENDA

The City Engineer requested to add two items to his report. One relative to providing that certain sections of Third Street be opened to two-way traffic and the other with regard to the sidewalks on the Bypass and the proposal from the State to reconstruct those sidewalks with curb and guttering.

AGENDA ITEM III.

MINUTES

The minutes from the previous regular meeting of February 25, 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 (Commissioner Davis abstained from voting due to not being present at the previous meeting).

AGENDA ITEM IV.

BUSINESS FROM THE FLOOR

Stewart Adams addressed the Commission relative to a long-term dispute between Bob Billips and himself over access across the ramp on Bishop Lane in the Coal Run area. Mr. Adams displayed a map to the Commission which shows a street extending through Mr. Billips' property and a ramp which was built by Mr. Billips' on city property which is closed to public use. Mr. Adams requested the Commission take action to close the ramp to Mr. Billips' bridge. City Attorney, Russell Davis, Jr., advised the Commission that he is representing Mr. Billips' in the lawsuit between Mr. Adams and Mr. Billips. Mr. Davis explained that the Court has ruled that Mr. Adams had the right to construct some streets that aren't built, but the court did not say that he could use the private roadway constructed by Mr. Billips. Mr. Davis confirmed that the street on the other side of the bridge is constructed on city property. Some years ago, the City Commission dedicated a street easement across city property to the bridge. Mr. Davis reported he had never been able to find out why this was done, however, shortly thereafter he was involved with a lawsuit where Charlie VanHoose sued the City of Pikeville. Mr. VanHoose owned some property on the other side of the bridge and when the city purchased this property from Mr. VanHoose, it was agreed to allow him access across. When Mr. Billips was given permission to construct the roadway, Mr. VanHoose's access was cut off because Mr. Billips refused to allow Mr. VanHoose to cross the bridge. Mr. Billips constructed and funded the bridge and acquired the right from the C & O Railroad to construct the bridge over their right-of-way. The City Clerk was directed to copy the minutes with reference to the dispute for the Commission's review and study.

AGENDA ITEM V.

PAYMENT OF CITY BILLS

A list of City Bills totaling \$352,376.30 were presented to the Commission for approval of payment. Commissioner Blankenship made the motion, seconded by Commissioner Morris to approve payment of the bills as requested. Upon call of the roll, the motion carried unanimously.

AGENDA ITEM VI.

OLD BUSINESS

A. SENIOR CITIZENS CENTER: The City Attorney presented a resolution as follows:

RESOLUTION AUTHORIZING THE CITY OF PIKEVILLE TO ENTER AN AGREEMENT WITH THE COMMONWEALTH OF KENTUCKY WHEREBY THE CITY OF PIKEVILLE WOULD CONVEY CERTAIN RIVERFILL PROPERTY TO THE COMMONWEALTH OF KENTUCKY FOR THE CONSTRUCTION AND OPERATION OF A SENIOR CITIZENS DAY CARE CENTER

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WHEREAS, the Commission for the City of Pikeville has determined that there is a need for a Senior Citizens Day Care Center within the City of Pikeville,

WHEREAS, the City of Pikeville has been advised by the Commonwealth of Kentucky that funding is available through the Commonwealth for the construction and operation of a Senior Citizens day Care Center if the City of Pikeville would be willing to provide suitable property for the construction of the facility,

WHEREFORE, BE IT RESOLVED BY THE CITY OF PIKEVILLE that the Mayor of the City of Pikeville is hereby authorized to negotiate and enter into an agreement with the Commonwealth of Kentucky for the conveyance of a certain tract of property currently owned by the City of Pikeville and the Model City Day Care, Inc. located adjacent to Bank Street in the City of Pikeville, Pike County, Kentucky, to the Commonwealth of Kentucky for the purpose of constructing and operating a Senior Citizens Day Care Center.

Passed this 25th day of March, 1991.

Commissioner Walter Blankenship moved the adoption of the foregoing resolution. Commissioner Johnny Mounts 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	X	
FRANK MORRIS, COMMISSIONER	X	
JOHNNY MOUNTS, COMMISSIONER	X	
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

B. CITY ENGINEER'S REPORTS: Jack Sykes, representing Summit Engineering, City Engineers, gave a verbal update of ongoing city projects

1. Subdivision Road Construction and Acceptance Policy: Mr. Sykes advised the Commission that a policy was drafted in the early 1980's for subdivision regulations for the City of Pikeville. Those regulations were never adopted. The regulations, generally, depict guidelines for development of a subdivision, design criteria for roadways, drainage facilities, sidewalks, fire protection, and a penalty clause for failure to follow the regulations. Mr. Sykes presented each Commission Member with a draft copy of the regulations as proposed. Mr. Sykes advised there would be some required changes before the Commission adopts the policy due to the draft being completed prior to the current zoning ordinance. Mr. Sykes requested the Commission to review the draft to allow discussion at the next work session.

2. Third Street: At the work session on March 21, 1991, the Commission requested that Mr. Sykes look at the possibility of converting a section of Third Street, which is now one way, to two-way traffic. Mr. Sykes reported he can foresee no problem designating the section two-way, however, requested that a restriction be placed to allow no left turn from the Pike Street Ramp. The Commission had also been concerned with the sight distance from the Pike Street Ramp exiting to Hambley Boulevard. Mr. Sykes reported he had looked and determined there is adequate sight distance to the right in the direction of the lower end of town, however to the left in the direction of the traffic signal, there is a restricted sight distance, particularly if the vehicle stops where the stop sign is located. Mr. Sykes reported there are about 5 parking spaces between the ramp and the traffic signal and to have complete sight distance, all the parking spaces would have to be removed. Any deletion would improve the sight. Mr. Sykes further commented that if the vehicle

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pulls up even with the intersection, the motorist can see. Mr. Sykes added that he did not see any major concern and visibility is adequate if the motorist pulls up even with the intersection. No further action was taken.

3. Sidewalk Replacement: Mr. Sykes addressed the Commission with regard to a two mile segment of sidewalk along the Bypass. Mr. Sykes reported the Mayor had scheduled a meeting with Secretary of Transportation, Milo Bryant, requesting state participation in replacing and/or constructing new sidewalk and curb and guttering along the Bypass. The total estimate is \$346,000.00. The state has agreed to participate in the project at approximately \$200,000.00 (at the rate of \$17.68 per foot). The remaining cost of \$146,000.00 would be funded by the City. Mr. Sykes reported he had talked with one contractor who would reduce the cost by \$38,000.00 if city crews would remove the existing sidewalk, curb and gutter prior to initiating construction. Bill Harless of PSG advised the Commission that city crews could remove the sidewalk within thirty days if not under a time restraint. Mr. Sykes explained the project would require a small amount of design work before going to bid in order for drains to be located. The City Manager was directed to study the budget to see if the City can afford this project. As a result of the meeting with Secretary Bryant, the State has indicated to Mr. Sykes that they would be willing to accept partial maintenance of the Boulevard and Huffman Avenue which would include striping and maintenance of the traffic signals. They are also preparing a draft of a cooperative agreement whereby they would provide the city with a right-of-way mower if the city would agree to mow the right-of-way for state maintained roads within the city limits.

4. Kentucky Infrastructure Authority: Mr. Sykes advised the Commission of a meeting to discuss the funding of the wastewater treatment plant project on April 9, 1991 in Frankfort. The meeting was scheduled by KIA to work out the plan as to how the funds will be released and how the city will repay the loan.

C. CITY ATTORNEY'S REPORTS: City Attorney, Russell Davis, Jr., gave a report of the following items:

1. Mr. Davis gave second reading to an ordinance increasing water rates for retail customers outside the City Limits. The Ordinance was read 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 O-91-005

Commissioner Davis made the motion, seconded by Commissioner Blankenship to adopt Ordinance O-91-005. Upon call of the roll, the motion carried by the following votes:

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

2. Second reading was given to an Ordinance captioned as follows:

ORDINANCE DESIGNATING LOADING ZONE ON CAROLINE AVENUE O-91-006

Commissioner Mounts made the motion to adopt Ordinance O-91-006. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried by the following votes:

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

3. Zoning: Presented and given first reading was an ordinance to amend the zoning map for the City of Pikeville. The City has received a letter from Joint Zoning & Planning Commission secretary, Leon Huffman, asking that the City Commission adopt their recommendations to make the zoning change. The change concerns the property on the left side of the mouth of Chloe and extends to Dr. Coleman's property across from the Pikeville Elementary School. The zoning request is from R-1 (single family residential) to C-2 (commercial use). The Ordinance was read entitled:

ORDINANCE AMENDING ZONING MAP FOR THE CITY OF PIKEVILLE

The Ordinance will be on file in the office of the City Clerk for a period of at least ten days for public inspection.

Mayor May asked the reason the City of Pikeville is involved in a joint planning commission with Pike County and Elkhorn City and why Pikeville could not form their own planning commission. The City Attorney reported that the current Kentucky Statute provides that if the county wants to have a joint planning commission, then the city has to participate. If the county chooses to no longer be a part of the joint planning commission, then the city would be free to dissolve the current ordinance establishing the joint planning commission and establish their own planning commission. According to Leon Huffman, the county is required to participate in the planning commission to meet certain federal guidelines.

4. "Silly String": Mr. Davis presented and gave reading to the Commission, at the request of the Mayor's Office, an Ordinance captioned as follows:

ORDINANCE PROHIBITING THE SALE, POSSESSION AND USE OF AEROSOL SPRAYED CONFETTI

Mayor May reported that more complaints had been received during last year's Hillbilly Days over Silly String than any thing else. Complaints were heard from the maintenance personnel with regard to the difficulty of removing the debris from the streets. Richard Ray, proprietor of Premiere Video, explained that he sold silly string at the previous Hillbilly Days as did other vendors coming to town for the festival. Mr. Ray contended that the confetti is biodegradable, and is gone after the first rain, and is not harmful to the ozone. PSG Manager, Bill Harless, told the Commission that majority of man hours spent on clean up was in cleaning and picking up the silly string. Mr. Harless told the Commission that it is impractical to wait for a rainfall to dissolve or biodegrade the silly string as it was sprayed on bricks, windows, vehicles, and plants. Mr. Ray remarked that silly string had been sold for a number of years in the past, but the previous year was the first year he had sold the confetti. Mr. Ray perceived the Commission's proposed action was directed toward him. Commission Members stressed they were unaware that Mr. Ray was involved with the sale of the material in question. Discussion continued some forty-five minutes, with comments being heard from the police chief and other members of the audience in objection to the confetti.

The City Attorney added the following language to the ordinance to declare an emergency for immediate adoption: An emergency is declared to exist requiring the immediate adoption of the foregoing ordinance in that the use of aerosol spray confetti is most prominent during the City of Pikeville Hillbilly Days Festival in April. This ordinance needs to be adopted immediately so that merchants and vendors can be advised of the prohibition prior to their purchase of an inventory of contraband prohibited herein.

Commissioner Morris questioned whose responsibility it would be to inform vendors and distributors that the sale and use of aerosol spray confetti is illegal. The City Attorney explained that the Hillbilly Days Committee can enclose a copy of the ordinance in the mail-out packets. The Tax Administrator could also distribute a copy of the ordinance when issuing permits to the itinerant vendor. It would then be left to the Police Department to check the vending places and if they are selling the material, the police can cite the vendor and confiscate the confetti.

Commissioner Blankenship made the motion to adopt the Ordinance banning the use, sale, and possession of aerosol spray confetti, with the emergency clause as cited by the City Attorney. Commissioner Morris seconded the motion. Upon call of the roll, the motion carried by the following votes:

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

4. Mr. Davis gave first reading to a summary ordinance amending the occupational license fee ordinance by increasing the rate from 1 1/2% to 2%. The City Attorney explained that the increase will provide for a means of financing the current debt owed for the construction of the wastewater treatment plant facilities. Mayor May added that when the wastewater treatment plant expansion was first contracted by the previous

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administration to be built, it was anticipated that it would be paid off from revenues from the construction of the proposed mall. Low interest loans (2.8%) have been approved through the State, however the funds will not be released until the City can demonstrate how the loan will be repaid. Should the mall developers receive financing and the project proceeds, the Mayor commented he was committed as were the other Commission Members to roll back the fee. Mayor May further added that the fee could be rolled back if a concentrated effort is made in the collection of back occupational taxes.

5. First reading was given to an Ordinance changing the traffic flow from one-way to two-way on Third Street.

D. CITY MANAGER'S REPORTS: John Johnson, City Manager, reported the City is now in the process of renewing the 20 year electrical franchise, which currently expires on May 1, 1991. Bids were sought, with the low and only bid being from Kentucky Power Company. Kentucky Power Company will offer a 25% rebate to the City of Pikeville on the street lighting purchased. The City of Pikeville pays approximately \$85,000.00 per year in street lighting expenses. The rebate would amount to about \$19,000.00 per year. In looking at other cities' franchise agreements, it was learned that a 3% franchise fee is charged to electrical customers inside the city limits. Mr. Johnson reported, based on figures received from Amil Mayer of Kentucky Power Company, Pikeville would have received about \$161,000.00 in 1990. Mr. Mayer of Kentucky Power Company voiced his objection in enacting the 3% franchise fee on the basis that it puts a burden on their customers. Mayor May expressed that the Commission should have further conversation with cities who do have the franchise fee and find out what type of opposition was encountered from their citizenry. The City Attorney suggested having first reading of an ordinance to accept Kentucky Power Company's bid and grant the franchise in order to give second reading at the next regular meeting and have the agreement in place at the time of expiration should the Commission decide to award the bid. The Commission consented and the City Attorney gave first reading to the Ordinance.

The City Manager informed the Commission that Wallen & Cornett, CPA's are ready to deliver the City's 1989-90 audit report and requested a work session to review the city's audit with the Commission along with the hospital and urban renewal audit. A work session was scheduled for Wednesday, March 27, 1991 at 4:00 p.m. to review the audit reports.

Mr. Johnson requested an executive session with the Commission to discuss a personnel matter in the police department.

D. PSG REPORTS: Bill Harless of PSG presented the Commission with a water loss/leak report. In an approximate one year time span, water production has been decreased by 27%. Water loss is down to 12% versus 40% one year ago. Mr. Harless advised the Commission that he is hoping to be within a 10% loss range, consistently, by June. The water loss/leakage detection program is estimated to save the city about \$400.00 per day. The natural gas loss is down to approximately 8%.

Mr. Harless presented the Commission with a cost breakdown of repairs needed at the Raw Water Intake. Mr. Harless explained there are three vertical turbine pumps at the intake that require repair. Several quotes were received and PSG recommends awarding the project to Layne Company, the lowest and best bid. According to Mr. Harless, one of the pumps is pumping at 100% capacity, one at 50%, and the third a 0%. At this time, there is only a 30% reserve capacity, which is not enough, particularly after the addition of Dorton line that Mountain Water District has installed. Mr. Harless informed the Commission that the two pumps which are operating at 50% and 0% are the pumps scheduled for repair. The price quoted to repair the pumps is \$11,883.00. This expenditure is a capital improvement expense which requires the consent of the City Commission. Any improvement in excess of \$10,000.00 is required to be bid, unless there is an emergency. The City Manager told the Commission he perceived this to be an emergency situation, in that if a pump were to cease functioning, there would be a critical water shortage. Commissioner Morris made the motion to adopt a resolution to authorize the City Manager to accept Layne Company's bid for the repair of two pumps totaling \$11,883.00, and further noting an emergency to exist because of the City Manager's report that the city has currently one pump operating to supply the water plant with water and should that pump cease to function during the time it would take to competitively advertise for bids, the City of Pikeville would be in serious condition in not being able to supply its citizens with water. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

At 8:55 p.m., Commissioner Davis made the motion, seconded by Commissioner Blankenship to adjourn to an executive session for the purpose of discussing a personnel matter and pending legal matters. Upon call of the roll, the motion carried 5 - 0.

At 9:50 p.m., Commissioner Blankenship made the motion to reconvene to regular session. Commissioner Morris seconded the motion. Upon call of the roll, the motion carried unanimously.

Mayor May announced the Commission received a report in executive session from the Chief of Police with regard to personnel recommendations. The report has been referred to the City Manager for further study.

Chief Edmonds recommended the Commission approve the hiring of Charlotte Coleman as full-time dispatcher and Kenny Blackburn as a part-time dispatcher. Commissioner Mounts made the motion, seconded by Commissioner Blankenship to approve the police chief's recommendation to hire Charlotte Coleman and Kenny Blackburn as dispatchers. Upon call of the roll, the motion carried unanimously.

City Attorney, Rusty Davis, made a report to the Commission in executive session relative to the lawsuit with R. D. Zande & Associates, Ltd. with regard to the Water Treatment Plant facility. Mr. Davis reported that representatives from R. D. Zande have requested the City to agree to binding arbitration as opposed to having a jury trial. Mr. Davis recommended the Commission adopt a resolution agreeing to enter into binding arbitration in regard to the dispute against R. D. Zande & Associates, Ltd. concerning the design flaws at the Water Treatment Plant facility subject to the conditions that the arbitration be binding and enforceable, that the arbitration hearing be held in Pikeville, Kentucky, and there will be no architects or engineers on the arbitration panel. Commissioner Morris made the motion to adopt the resolution as specified by the City Attorney. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

Mr. Davis reported the time limit is approaching with regard to its lease agreement with Grouse Point Development for development of Poor Farm Hollow. Mr. Davis explained that May 19, 1991 is the three year anniversary of the lease. Mr. Davis requested the Commission adopt a resolution authorizing him to look at the Grouse Point Development lease and see if the developer has complied with all terms and conditions and also see if the City of Pikeville has any options that it can exercise in regard to that lease before accepting the yearly rental on the lease. Commissioner Blankenship made the motion to accept the City Attorney's recommendation. Commissioner Davis seconded the motion. Upon call of the roll, the motion carried unanimously.

The Commission opted to schedule the work session to set the agenda for the next regular meeting during the work session on March 27, 1991.

There being no further business to come before the Commission, Commissioner Davis made the motion to adjourn. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously. (Adjournment Time: 9:55 p.m.)

The City Commission's next scheduled meeting is April 22, 1991, and will be held 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