

MINUTES } CITY OF PIKEVILLE

179

REGULAR MEETING - APRIL 27, 1992

The Board of Commissioners of the City of Pikeville met in regular session on Monday, April 27, 1992. The meeting was held in the City Hall Public Meeting Room at 260 Hambley Boulevard, Pikeville, Kentucky.

Mayor Walter E. May presided and called the meeting to order at 7:00 p.m. Commission Members present and forming a quorum were as follows:

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

Commissioner Eugene Davis arrived at 7:05 p.m. and Commissioner Frank Morris arrived at 7:09 p.m.

AGENDA ITEM II.

CALL OF THE AGENDA

Item 1 under City Manager's reports - Surplus Property - was moved to be considered as Business from the Floor. Mayor May advised he had a resolution for the Commission's consideration and scheduled the matter to be heard under the City Manager's reports.

AGENDA ITEM III.

MINUTES

The minutes for the previous regular meeting of March 23, 1992 were included in each Commission Member's agenda package. There being no additions or corrections, Commissioner Blankenship made the motion, seconded by Commissioner Davis to approve the minutes as submitted. Upon call of the roll, the motion carried 4 - 0 (Commissioner Morris not present at the time of the vote).

AGENDA ITEM IV.

BUSINESS FROM THE FLOOR

A. PAULEY BRIDGE: John Paul Runyon came before the Commission to give an updated report on the efforts to reopen the Pauley Bridge to vehicular traffic. Mr. Runyon advised that David Smith of the Transportation Cabinet indicated the inspection could be done for about \$1,000.00 instead of the \$15,000.00 amount initially quoted. City Engineer, Jack Sykes reported that he has received two quotes for the necessary repairs to the bridge. Paul Thacker Construction has given a quote of \$40,000.00; Bush & Burchett gave a quote of \$36,000.00. Sue Smallwood, Administrative Assistant, advised that notification has been received that the Pauley Bridge has been placed on the National Register of Historic Places. This action prohibits the bridge from being removed and that all repairs must be approved by the Historic Preservation Council. Mr. Runyon questioned the possibility of removing the sidewalk attached to the bridge. He commented the sidewalk was not a part of the original construction, but was added at a later time. Commissioner Blankenship made the motion to agree to pay half the cost, (not to exceed a \$40,000.00 total cost), for the repair of the Pauley Bridge; authorize the City Manager to negotiate with the county to pay half the expense and advertise for bids. Commissioner Morris seconded the motion. Mayor May suggested waiting until after a new county judge has been elected before beginning negotiations with the county. The Commission agreed with the suggestion but directed the City Manager to proceed with advertising for bids. The City Engineer was directed to study the feasibility of removing the sidewalk. Upon call of the roll, the motion carried unanimously.

B. DOG KENNELS: Jesse Salyers, Sr. addressed the Commission relative to the definition of a dog kennel and the conditions under which a kennel would be permissible within the city limits. City Attorney Russell Davis, Jr. explained the zoning ordinance defines a kennel as the keeping of 5 or more dogs. Mr. Davis continued by commenting that a kennel is probably not permissible, however the zoning ordinance does not specifically state this fact. Mr. Davis suggested the zoning ordinance be amended should this be the desire of the City Commission.

C. DISPOSAL OF PROPERTY: One bid was received in answer to an advertisement for the sale of a parcel of property on Scott Avenue adjacent to Combs Avenue. John Bill & Justine Trivette submitted a bid in the amount of \$500.00 for the 1200 sq. ft. tract. Commissioner Blankenship made the motion, seconded by Commissioner Davis to accept the bid from the Trivettes' and authorized the Mayor to sign the deed of conveyance. Upon call of the roll, the motion carried unanimously.

D. ZONING: Kenny Schmidt, a property owner from Walters Road of Chloe Creek, addressed the Commission relative to an unfavorable decision rendered by the Pikeville/Pike County/Elkhorn City Joint Planning Commission. In a letter submitted to the Commission from Combs & Combs, PSC., on behalf of Mr. & Mrs. Schmidt, the Commission was advised that Mr. Schmidt has been financially harmed by the decision and advised a suit will be filed against the City for discriminatory zoning. Mr. Schmidt contended that mobile homes had been permitted in other R-1 Residential areas within the city limits. The City Attorney reported that during the Public Hearing held by the Joint Planning Commission, the majority of the residents from Walters Road voiced their

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opposition to the proposed change in zoning from a R-1 to a R-2.

AGENDA ITEM V.

PAYMENT OF BILLS

A. CITY BILLS: A list of City Bills totaling \$355,571.40 were presented to the Commission for approval of payment. The City Manager confirmed he had reviewed the requests for payment and that funds were available for payment. Commissioner Morris made the motion, seconded by Commissioner Blankenship to approve payment of the City Bills as requested. Upon call of the roll, the motion carried unanimously.

B. PERRY CLINE EMERGENCY SHELTER: The City Engineer presented a payment request from the contractor, Paul Thacker Construction in the amount of \$18,829.80 which includes total monies due the contractor less a 10% retainage (\$4,692.20). Mr. Sykes projected that the project will be ready to turn over to the city in approximately 1 week. The retainage can be paid upon completion of the punch list items. Administrative Assistant, Sue Smallwood, requested the Commission approve total monies due the contractor including the 10% retainage since it takes approximately 30 days to draw-down the grant funds. Total payment will not be made until the punch list is satisfied. Commissioner Mounts made the motion to approve payment of the invoice and the payment of the retainage to Paul Thacker upon successful completion of the project. Commissioner Davis seconded the motion. Upon call of the roll, the motion carried unanimously.

Summit Engineering presented their bill for inspection services to date for the emergency shelter project. Commissioner Blankenship made the motion to approve payment of the invoice totaling \$775.65. Commissioner Morris seconded the motion. Upon call of the roll, the motion carried 5 - 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. Perry Cline Emergency Shelter: Mr. Sykes advised that the renovation is nearing completion on the Perry Cline Center. Currently, Danl Hall of Summit Engineering and Sue Smallwood, Administrative Assistant, are working on furnishing the apartments. Mr. Sykes reported that the City was unsuccessful in the application for operating funds FY 1992.

2. Wastewater Treatment Plant: Mr. Sykes gave each Commission Member an updated punch list of items needing attention at the Wastewater Treatment facility. Mr. Sykes advised that PSG has estimated 99% of the items will be completed within two weeks.

3. Huffman Avenue Culvert: Mr. Sykes advised a contract has been executed with a contractor to install the retaining wall. Work is expected to begin on May 1st.

4. Park Street Extension: Bill Harless of PSG reported this project should be completed by May 11th.

5. Surplus Property: Mayor May presented a letter to the Commission from John Rasnick of Summit Engineering. Mr. Rasnick stated that Chloe Properties entered into an agreement on January 19, 1987 with the Urban Renewal Agency for a parking easement in exchange for the construction of the roadway and parking facilities below the Summit Building. Due to the growth of the business, Chloe Properties (a subsidiary of Summit Engineering) has decided to expand the office and parking facilities. Chloe Properties proposes to culvert and fill Chloe Creek in exchange for a deed to the property for a nominal cost. The Commission was assured that the culvert will be designed and constructed to adequately handle any runoff from Chloe Creek. When the fill is completed, the parking area will be made available to the city for special events. Commissioner Blankenship made the motion to authorize the City Manager to advertise for sale approximately 1/2 acre of surplus property at the mouth of Chloe Creek and the banks with the provision that the purchaser be required to construct a culvert for the flow of Chloe Creek and fill over the culvert to the level matching the existing property level owned by the city of Pikeville for the purpose of providing shared parking with the city of Pikeville. Commissioner Morris seconded the motion. Upon call of the roll, the motion carried unanimously.

B. CITY ATTORNEY'S REPORTS: City Attorney, Russell H. Davis, Jr. presented the following items before the Commission:

1. Pikeville Public Hospital Corporation: The City Attorney gave reading to a resolution as follows:

RESOLUTION APPROVING AND AUTHORIZING THE PIKEVILLE PUBLIC HOSPITAL CORPORATION TO INCUR A DEBT TO THE PIKEVILLE NATIONAL BANK AND TRUST COMPANY IN THE AMOUNT OF \$159,847.48

WHEREAS, the Pikeville, Kentucky, Public Hospital Corporation desires to purchase a certain tract of property on which an office building is located and being on the South Mayo Trail and currently owned by Della Elliott with a total sum of \$159,847.48 with interest accruing at a daily rate of \$51.33 from March 23, 1979 until the time of purchase said sum of which shall be borrowed from the Pikeville National Bank and Trust Company.

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WHEREAS, the Public Hospital Corporation shall then enter into a Lease Agreement with the Pikeville Methodist Hospital for the rental of the property for a sum which equals the loan payment which will be required to be made by the Public Hospital Corporation to Pikeville National Bank and Trust Company for repayment of the loan for the purchase price.

WHEREAS, the Article of Incorporation of Pikeville, Kentucky, Public Hospital Corporation, require that said corporation incur no indebtedness of liability without the approval of the Commission of the City of Pikeville and a majority vote of the members of the Board of Directors of said corporation.

WHEREAS, a majority of the Board of Directors of said corporation did at a meeting held on April 1, 1992 approve the purchase of the property for the herein stated purchase price and authorized the chairman to borrow the purchase price from the Pikeville National Bank and Trust Company upon such terms and conditions which shall in the discretion of the chairman be advisable subject, however, to the final approval of the transaction by the Commission of the City of Pikeville.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City of Pikeville that the Commission of the City of Pikeville does hereby approve and authorize the Pikeville, Kentucky, Public Hospital Corporation to incur indebtedness or liability to the Pikeville National Bank and Trust Company for the purchase of the herein described property for the sum of \$159,847.48 with interest accrued at a daily rate of \$51.33 from March 23, 1992 until the closing.

Passed this 27th day of April, 1992.

Commissioner Walter Blankenship moved the adoption of the foregoing resolution. Commissioner Frank Morris 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		ABSTAIN
FRANK MORRIS, COMMISSIONER	X	
JOHNNY MOUNTS, COMMISSIONER		ABSTAIN
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

2. Helping Hand: Mr. Davis reported he has prepared a draft agreement with the United Helping Hand for the operation of the Perry Cline Emergency Shelter. The Commission authorized the City Attorney to negotiate the points of the agreement with the representatives of United Helping Hand for the operation of the emergency shelter and submit the agreement at the next meeting for their approval.

3. Zoning Map Amendment: Presented and given second reading was an ordinance entitled:

ORDINANCE AMENDING THE ZONING MAP FOR THE CITY OF PIKEVILLE SO TO CHANGE A TRACT OF PROPERTY LOCATED AT THE END OF SECOND STREET FROM C-3 TO R-1A.

Commissioner Morris made the motion, seconded by Commissioner Blankenship to adopt the Ordinance as presented. 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. Flood Damage Prevention: Second Reading was given to a summary of an Ordinance which amends the existing Flood Damage Prevention Ordinance. The Ordinance was captioned as follows:

AMENDED ORDINANCE ADOPTING RULES AND REGULATIONS FOR THE PREVENTION AND MINIMIZATION OF FLOOD DAMAGE, ADOPTING AS AREAS OF SPECIAL FLOOD HAZARD MAPS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCIES, REQUIRING DEVELOPMENT PERMITS WITHIN SPECIAL FLOOD HAZARD AREAS AND PROVIDING FOR PENALTIES FOR VIOLATION

Commissioner Morris made the motion, seconded by Commissioner Blankenship to adopt the Ordinance as read. Upon call of the roll, the motion carried by the following votes:

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

5. HOTEL/MOTEL ROOM TAX FEE: Presented and given first reading was an Ordinance amending the existing Transient Room Tax Ordinance with regard to collection of the fees within the City Limits. The proposed amendment provides for the city to revoke or suspend liquor licenses issued by the ABC Administrator to any hotel or motel which is delinquent in the payment of the tax. The merits of imposing such measures was debated by the Commission. Commissioner Mounts expressed his reservations in voting to place the proposed restrictions upon those establishments located within the city limits when the same restrictions would not apply to those establishments in the county. The Tax Administrator advised that Tourism Director, Ann Charles, had reported that she was not having a collection problem from the establishments located in the county. The City Attorney gave first reading to the ordinance entitled as follows:

AMENDMENT TO ORDINANCE ADOPTING THREE (3%) PERCENT ROOM TAX FOR FUNDING OF TOURISM AND RECREATION COMMISSION
 The ordinance is scheduled for second reading at the next City Commission meeting.

C. CITY MANAGER'S REPORTS: City Manager, John Johnson reported the city's projected start-up date for the emergency ambulance service is July 1, 1992.

Mayor May presented a resolution as follows:

RESOLUTION AUTHORIZING AND APPROVING THE EXECUTION OF MARRIAGE VOWS BETWEEN
 WALTER "SMOKEY" BLANKENSHIP AND GRACE HEDLAND

WHEREAS, Commissioner Walter "Smokey" Blankenship has expressed his desire to spend his life in wedded bliss with the lovely Grace Hedland, and

WHEREAS, it has been deemed advisable by the Board of Commissioners of the City of Pikeville to approve any and all such acts by Commission Members, especially those whose first name is WALTER.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Commissioners of the City of Pikeville that Walter "Smokey" Blankenship and Grace Hedland have the approval and best wishes of the Pikeville City Commission for a long and happy life together.

At Pikeville, Kentucky, this 27th day of April, 1992.

Commissioner Frank Morris moved the adoption of the foregoing Resolution.

Commissioner Gene Davis seconded the motion.

Upon call of the roll, the votes were as follows:

	YES	NO
WALTER E. MAY, MAYOR	X	
WALTER BLANKENSHIP, COMMISSIONER		ABSTAIN
EUGENE DAVIS, COMMISSIONER	X	
FRANK MORRIS, COMMISSIONER	X	
JOHNNY MOUNTS, 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

At 8:40 p.m., Commissioner Blankenship made the motion, seconded by Commissioner Mounts to adjourn to an executive session for the purpose of discussing a legal matter. Upon call of the roll, the motion carried 5 - 0.

At 9:40 p.m., Commissioner Blankenship made the motion, seconded by Commissioner Morris to reconvene to regular session. Upon call of the roll, the motion carried unanimously.

City Attorney Russell Davis reported that he had explained an offer to settle the lawsuit of the City of Pikeville vs. R. D. Zande & Associates, Ltd. with regard to the alleged damages incurred at the Water Treatment Plant facility. Mr. Davis advised that Professional Services Group, Inc. has concurred with the proposed settlement offer. Presented was the following resolution:

RESOLUTION ACCEPTING AND APPROVING SETTLEMENT AGREEMENT BETWEEN THE CITY OF PIKEVILLE AND R.D. ZANDE AND ASSOCIATES, LTD. FULLY AND COMPLETELY RESOLVING PENDING LITIGATION CONCERNING THE CITY OF PIKEVILLE'S WATER TREATMENT PLANT

WHEREAS, the City of Pikeville did file a lawsuit against R. D. Zande and Associates, Ltd. alleging that R. D. Zande and Associates, Ltd. failed to exercise reasonable care which would be required of a reasonable prudent engineer in the design of the Pikeville Water Treatment Plant and further alleged the breach on the part of R. D. Zande and Associates, Ltd. in a Engineering Design and Inspection Agreement entered into between the City of Pikeville and R. D. Zande and Associates, Ltd., all for which the City of Pikeville alleged that it had incurred damages.

WHEREAS, R. D. Zande and Associates, Ltd. filed an Answer to the City's lawsuit specifically denying each and every allegation alleged by the City of Pikeville.

WHEREAS, R. D. Zande and Associates, Ltd. has offered to enter into a settlement agreement with the City of Pikeville whereby all disputes between two parties would be fully and finally resolved and settled and in making such offer specifically denies any wrong doing on its part but rather states that their offer of settlement is made in the spirit of compromise and further because of the uncertainty in the outcome of decisions by either jurors or arbitrators.

WHEREAS, the city attorney, city engineer, and water plant operator have expressed their opinion to the Commission that the proposed settlement agreement by R. D. Zande and Associates, Ltd. is a reasonable and fair settlement offer considering the uncertainty which exists in determinations which are made by either jurors or arbitrators.

WHEREFORE, IT IS HEREBY RESOLVED by the City of Pikeville as follows:

1. That the City of Pikeville does hereby agree to accept the terms of a settlement agreement proposed by R. D. Zande and Associates, Ltd. whereby R. D. Zande and Associates, Ltd. in exchange for a full release of all liability on its behalf in connection with the design and inspection of the Pikeville Water Treatment Plant for the total sum of \$182,700.00.
2. That the City of Pikeville will pay to R. D. Zande and Associates, Ltd. the remaining contract price owed by the City of Pikeville to R. D. Zande and Associates, Ltd. for work performed under the terms of its design and inspection contract without interest.
3. That the City Attorney is authorized to execute any and all documents necessary to finalize the party's Settlement Agreement to effect the dismissal of the pending litigation, including but not limited to, a full release of liability, Settlement Agreement and Agreed Order dismissing as settled the pending litigation.

Passed this 27th day of April, 1992.

Commissioner Blankenship moved the adoption of the foregoing resolution. Commissioner Morris 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

Mr. Davis reported it had been learned that other agencies offering public water service are investigating the possibility of extending lines to service areas within the city limits. An Ordinance was presented and read captioned as follows:

ORDINANCE REQUIRING THE APPROVAL OF THE CITY OF PIKEVILLE PRIOR TO THE CONSTRUCTION OF ANY PLANT, EQUIPMENT, PROPERTY OR FACILITIES FOR THE FURNISHING TO THE PUBLIC OF WATER OR GAS UTILITIES OR SANITARY SEWAGE DISPOSAL SYSTEM WITHIN THE CORPORATE LIMITS OF THE CITY OF PIKEVILLE AND REQUIRING

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CONSTRUCTION IN ACCORDANCE WITH ESTABLISHED UTILITY REGULATIONS

Commissioner Mounts made the motion to declare an emergency and adopt the Ordinance. 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

Mayor May presented a letter of request from Lt. Governor Paul Patton asking the City of Pikeville to be a sponsor for a dinner with the proceeds to benefit the 1992 Summer Olympics. Commissioner Morris made the motion to approve the purchase of \$3,000.00 in dinner tickets. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

Commissioner Mounts made the motion to reschedule the next regular meeting from May 25, 1992 to May 27, 1992 due to the Memorial Day Holiday. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried 4 - 1 (Commissioner Davis cast a "NO" vote)

Bill Harless, Manager of PSG, gave a brief report of the efforts to repair the Poor Farm pumping station.

There being no further business to come before the Commission, Commissioner Blankenship made the motion, seconded by Commissioner Morris to adjourn the meeting. Upon call of the roll, the motion carried unanimously. (Adjournment Time: 10:00 p.m.)

APPROVED

Walter E. May
WALTER E. MAY, MAYOR

ATTEST:

Karen Harris
KAREN HARRIS, CITY CLERK

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