

## REGULAR MEETING MINUTES - MAY 23, 1994

The Board of Commissioners of the City of Pikeville conducted their regular monthly meeting on Monday, May 23, 1994. The meeting was held in the City Hall Public Meeting Room located at 260 Hambley Boulevard.

There being a quorum present, Mayor Steven D. Combs called the meeting to order at 7:05 p.m. Commission Members present upon call of the roll were as follows:

MAYOR:	STEVEN D. COMBS
COMMISSIONER:	KENNY BLACKBURN
	WALTER BLANKENSHIP
	SHARON C. CLARK
	EUGENE W. DAVIS

## AGENDA ITEM II.

## CALL OF THE AGENDA

There were no additions or deletions to the prepared agenda.

## AGENDA ITEM III.

## MINUTES

The minutes for the previous regular meetings held on March 28 and April 25, 1994, and the special meeting held on April 11, 1994, were included in each Commission Member's agenda package. There being no additions or corrections, Commissioner Davis made the motion, seconded by Commissioner Clark to approve the minutes as presented. Upon call of the roll, the motion carried unanimously.

## AGENDA ITEM IV.

## BUSINESS FROM THE FLOOR

1. Cable T.V.: Local Tele-Media representative, Carol Adkins, appeared and gave each Commission Member a copy of a written report detailing Tele-Media's progress toward improving the Cable T.V. service within the City of Pikeville. Ms. Adkins reported the progress made since the previous meeting as follows:

- (1) 100 Ft. Tower has been completely assembled. Off Air antennas are mounted and positioned. Two of the three satellite dishes are assembled.
- (2) All exterior work on the headend building has been completed. Interior work of the headend is continuing. The central heat/cooling system has been installed.
- (3) Electrical power has been hooked up.
- (4) Strand construction has been started.

In addition to the construction, Ms. Adkins reported that the borrowed antenna equipment from WVAH is in operation. Mayor Combs advised that Channel 12's reception is much improved. Commissioner Blankenship reported that he had visited the construction site on this date and found the project to be progressing satisfactorily.

2. Historic Preservation Board: Betsy Venters, Chairman of the Pikeville Historic Preservation Board, advised the Commission of \$14 million available in state grant funds for



historic preservation projects. Ms. Venters requested the Commission to grant permission to the Pikeville Historic Preservation Board to negotiate with Pikeville College representatives for a lease to the Academy Building in an effort to obtain grant funds for the renovation of the Academy Building. Commissioner Clark made the motion, seconded by Commissioner Blankenship to authorize the Pikeville Historic Preservation Board to negotiate a lease with Pikeville College for the Academy Building. Upon call of the roll, the motion carried unanimously.

3. Batting Cage Lease: Bob Roberts appeared before the Commission to ask that his lease of a tract of property in Bob Amos Park be renewed for an additional two years. Mr. Roberts advised that his lease's current term does not expire until October 31, 1994, however, he is requesting a decision at this time so he will have time to locate another site should the Commission not extend his lease term. Parks & Recreation Director, Doug Justice, commented that no immediate plans for use of the site have been formulated. Commissioner Blankenship made the motion, seconded by Commissioner Blackburn to renew Mr. Roberts' lease agreement for a two year period under the existing terms. Commissioner Davis questioned leasing the tract for a two year period. Commissioner Blankenship reported that the lease agreement provides that should the City have need of the property before the lease expires, the City can terminate the lease and refund all monthly rental payments paid by the Lessee. Mayor Combs commented that every effort will be made to relocate the batting cages to other available City property should it become necessary to terminate the lease on this particular site. Upon call of the roll, the motion carried unanimously.

4. Lover's Leap Utility Extension: Jack Sykes, on behalf of the property owners of the Lover's Leap tract, said tract being located on the ridgeline between Chloe Creek and Harolds Branch, requested permission to tie onto the City's water and sewage lines to provide water and sewage service to 17 residential lots. Mr. Sykes explained to the Commission that the subdivision development plan along with the utility line extension plans have been approved by the Joint Planning Commission. In addition, the Division of Water has approved the utility plans. Mayor Combs asked if the additional service connections would provide an added hardship on the main sewer trunk line. Mr. Sykes reported that the 17 residences would not provide a significant impact on the line. He further commented that the Division of Water had approved the utility concept with no comments. Commissioner Blankenship said that the proposed development would not become part of the City's system for at least a year and added that it is anticipated that the trunk line will be renovated prior to the completion of the development. Mr. Sykes added that the development is only a proposal at this time and will not be initiated until the lots are sold. Commissioner Blankenship made the motion to approve the request of the Lover's Leap property owners to tie onto the City's water and sewage lines. Commissioner Blackburn seconded the motion. Upon call of the roll, the motion



carried 5 - 0.

5. Keyser Heights Utility Extension: The Commission heard a request from Stuart Adams, developer of the Keyser Heights Phase II Project, that the conflict of interest be waived to allow City Engineer Jack Sykes to design the water and sewage line extension for 10 lots in Keyser Heights and to submit those plans to the Division of Water for approval. Additionally, Mr. Adams proposed that City crews install the utility lines and he would reimburse the cost. It was the consensus of the Commission to waive any conflict of interest and allow City Engineer Sykes to prepare and submit the utility line plans on behalf of Mr. Adams. Mr. Adams will be responsible for paying Mr. Sykes for this work. No action was taken with regard to Mr. Adams' proposal that City crews install the utilities with him reimbursing the cost.

Mr. Adams introduced Mr. Cantrell and Ms. Damron, adjacent property owners to the Keyser Heights Phase II subdivision. The Commission was advised by both property owners that they had no problems with the development, however, Mr. Cantrell asked if he would have to post a bond when having concrete delivered to his residence. City Attorney Davis told the Commission that an agreement was negotiated with Mr. Adams which stipulated a weight limit of 15 tons on the roadway. The City Attorney reported that when the agreement was negotiated, he had only considered the likelihood of Mr. Adams tramping his equipment on the roadway and had not taken into consideration the fact that concrete trucks would be using the roadway to deliver concrete. Mayor Combs commented that it would be difficult to enforce the weight limit in this instance. City Attorney Davis told the Commission that Mr. Adams has posted a \$10,000.00 bond and recommended the bond amount be left as is. The city attorney further advised that should the roadway be damaged through a negligent action by Mr. Adams, a suit could be filed to recover the costs for repair. Discussion continued with the Commission discussing the possible enactment of an Ordinance to establish weight limits on City streets, however it was voiced that enforcement would be difficult. No further action was taken.

6. Fourth of July: A representative of the Pikeville Jaycees appeared before the Commission to request approval for the City to purchase \$5,000.00 in fireworks for the Fourth of July fireworks display. City Manager Johnson advised the Commission that for the past several years, the City has paid for \$5,000.00 worth of fireworks and reported that the item had been budgeted in this year's operating budget. Mayor Combs asked the Jaycees to obtain written approval from the Fire Chief prior to shooting the fireworks. Upon Commissioner Blackburn's request, the Jaycees agreed to list the City as an additional insured on their liability insurance policy. Commissioner Davis asked if the County had contributed any monies toward the fireworks demonstration. It was reported that the County had been contacted, however, they were told that the County's budget would not be finalized until mid July. Mayor Combs suggested that City Manager Johnson write a letter to ask the County to contribute to the fireworks display. There being no further



discussion, Commissioner Blankenship made the motion, seconded by Commissioner Blackburn to approve a \$5,000.00 expenditure for the purchase of fireworks. Upon call of the roll, the motion carried unanimously.

6. Introduced to the Commission was newly hired Tourism Director, Mary K. Back.

7. Meeting Time Change: Commissioner Clark requested the Commission consider changing the City Commission's meeting time from 7:00 p.m. to either 5:30 p.m. or 6:00 p.m. After discussion, the City Attorney was asked to prepare an ordinance to change the meeting time to 6:00 p.m. First reading of the ordinance was deferred to be heard toward the end of the meeting.

#### AGENDA ITEM V.

#### PAYMENT OF BILLS

A. CITY BILLS: A list of City Bills totaling \$376,860.41 was presented to the Commission for approval of payment. Commissioner Davis made the motion, seconded by Commissioner Blankenship to approve payment of the bills as requested. Upon call of the roll, the motion carried unanimously.

#### AGENDA ITEM VI.

#### OLD BUSINESS

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

1. Thompson Road Sanitary Sewer: City Engineer Sykes reported that Thompson Road/Lake Joann Sanitary Sewer contractor, Environmental Construction Company, has submitted a final payment request in the amount of \$87,852.01. Mr. Sykes recommended that the Commission approve payment of \$67,000.00 due to two items being found deficient upon the engineer's inspection. Mayor Combs questioned if it was legal to alter the contract to withhold less retainage than what was specified in the contract. City Attorney Davis advised the Commission that they could opt to withhold a lesser amount than specified in the contract. Commissioner Blankenship made the motion, seconded by Commissioner Blackburn to approve payment of \$67,000.00 to Environmental Construction Company. Upon call of the roll, the motion carried unanimously.

2. Sidewalk Project: Presented to the Commission was a pay request from the sidewalk contractor, Patriot Construction in the amount of \$55,729.55. City Engineer Sykes advised the Commission that the project is about 60% complete with the only remaining item to be completed is the pouring of the 4 ft. wide sidewalk. Mayor Combs asked if anything else had been done to provide additional protection for pedestrians while walking in the curve at WLSI. Mr. Sykes advised that the curb had been raised an additional two inches but did not think anything else could be done unless a ramp is constructed. Commissioner Blankenship made the motion, seconded by Commissioner Clark to approve payment of the Patriot Construction's pay request in the amount of



\$55,729.55. Upon call of the roll, the motion carried unanimously.

City Engineer Sykes requested the Commission's approval of a change order to the sidewalk contract which would provide for the installation of an additional 160 feet of 24 inch pipe and a drop box for storm drainage. Mr. Sykes told the Commission there are some areas where the edge of the slope to the ditch is almost vertical and the installation of the storm drain will provide a better base for the sidewalk to sit on. Total change order price is \$8,470.00. Mayor Combs made the motion to authorize the change order. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried 5 - 0.

3. Heilig Myers: The City Engineer advised the Commission of a request from Heilig Myers presented to the Joint Planning Commission during their last meeting. According to Mr. Sykes, the Joint Planning Commission approved a subdivision plat for a portion of property owned by SEI & Development Corporation, (shopping center developers) of which about one acre of said tract is being sold to Heilig Myers. Heilig Myers intends to construct a furniture store on the site. City Engineer Sykes recommended to the Commission that approval be granted to allow the construction of an entrance onto Cassady Boulevard to the Heilig Myers property with a provision to restrict development over the sewer easement. The City Engineer reported that the developer had granted a sewage easement to the City, however the utility line had been damaged during ongoing construction. SEI & Development Corporation paid PSG to repair the damages. Commissioner Blackburn made the motion to approve the issuance of a road permit subject to the execution of a corrected easement which restricts building on the sewer easement. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried 4 - 0 - 1 (Mayor Combs abstained from the vote).

4. Subdivision Regulations Committee: City Engineer Sykes reported that the Joint Planning Commission had asked him to bring to the Commission's attention the need for subdivision regulations. Adoption of said regulations would provide better control for the construction of streets and utilities. Mr. Sykes advised the Commission that he had submitted a proposed set of regulations to the Commission in 1989 and recommended that a committee be formed to review the draft and make any necessary corrections. Mr. Sykes recommended that the committee be made up of a City Commission representative (Gene Davis); a City appointed representative of the Joint Planning Commission (Richard Elswick) two developers (Bob Billips and David Adams); the City Engineer, Jack Sykes; and PSG Manager, Tom Bacon. Commissioner Clark made the motion to appoint Gene Davis, Richard Elswick, Bob Billips, David Adams, Jack Sykes and Tom Bacon to serve on the Subdivision Regulations Review Committee. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried 4 - 0 - 1 (Commissioner Davis abstained from the vote). Discussion was had relative to the issuance of a 90 day moratorium on



approval of subdivision plats until the new subdivision regulations are prepared and adopted. Commissioner Blackburn suggested that instead of issuing a 90 day moratorium, that no building permits be issued until the utilities plan is approved by the Division of Water and the Joint Planning Commission, a procedure which could take about 60 days. Bob Billips countered that this alternative would defeat the purpose, since once the Planning Commission approves a subdivision plat, their decision becomes final and the subdivision regulations, when approved, could not be enforced retroactively. Commissioner Blankenship made the motion to institute a 90 day moratorium for the approval of subdivision plats to allow for the preparation and approval of subdivision regulations. Commissioner Clark seconded the motion. Upon call of the roll, the motion carried 3 - 2 (Commissioners Blackburn and Davis voted no).

Joint Planning Commission secretary, Leon Huffman, brought to the Commission's attention the need for street lights at Thompson Road where the road narrows from a 4 lane to a 2 lane. City Manager Johnson advised the Commission that visibility should increase substantially when the shopping center developer installs lighting in the parking areas. The Commission asked the City Manager to look into the cost of installing street lights in this area.

5. Street Maintenance: The Commission reviewed a letter from Denton Biliter, Chief District Engineer with the Department of Transportation, requesting that the City accept maintenance responsibility for the section of roadway in front of the Colley Motel, Dotson Yamaha Cycle Sales and several residences. Mr. Sykes advised that he had inspected the street and found no major structural problems, however he recommended that should the City accept maintenance responsibility, the Department of Transportation should be asked to stripe the street and cut the weeds. Mayor Combs voiced his opinion that the City shouldn't do anything for the Department of Transportation as they did not provide any assistance with the sidewalk project in getting the guardrail relocated. Commissioner Davis expressed his concern that the Department of Transportation will abandon the street should the City not accept responsibility. Commissioner Blankenship and Mayor Combs commented that the City would, at the time the street is declared abandoned, bring the street into the City's maintenance system. Mayor Combs made the motion, seconded by Commissioner Blankenship to not adopt the Department of Transportation's request. Upon call of the roll, the motion carried unanimously.

6. South Mayo Trail Street: City Engineer Sykes advised the Commission of construction activity on Sanders Street (located near Mayo, Inc.) where Rogers Petroleum is raising the street and manhole. The developer will pay the cost of inspection once the project is completed. The Commission directed the City Engineer and City Manager to ensure the satisfactory restoration of the street.

7. Sewer Line Extension: The Commission was advised that a site visit for the proposed sewer extension to Harolds



Branch and Chloe Creek has been scheduled for Wednesday, May 25, 1994 at 2:00 p.m. in Frankfort. Those requested to attend were the Mayor, City Engineer, and City Manager.

7. Tater Hollow Water Line: The Tater Hollow Water Line extension was completed approximately 1 1/2 years ago. Mr. Sykes explained that the previous Commission had authorized the funding of the portion of the water line extension to the development's property line, which was to be paid at the time the water line was completed and in operation. Mr. Sykes explained he had thought when the reimbursement was approved that the City had accepted maintenance responsibility for the water line, however the minutes do not reflect that action. According to the City Engineer, the water line was constructed pursuant to the utility regulations and was approved by the Division of Water. Commissioner Blankenship made the motion, seconded by Commissioner Clark to accept the water line at Tater Hollow into the City's maintenance system. Mayor Combs asked City Engineer Sykes to furnish a letter to the City which states that the water line was constructed properly. Upon call of the roll, the motion carried 4 - 0 - 1 with Commissioner Davis abstaining from the vote.

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

1. Dilapidated Housing/Nuisance Ordinance: Second reading was given to a summary Ordinance entitled as follows:

**AMENDED ORDINANCE PROVIDING FOR THE REGULATION AND ABATEMENT OF UNSAFE OR UNFIT HOUSING AND RENTAL DWELLINGS, DILAPIDATED HOUSING, PUBLIC AND ENVIRONMENTAL AND NOISE NUISANCES INJURIOUS TO THE PUBLIC AND ABATEMENT THEREOF; PROVIDING FOR THE REGULATION AND LICENSING OF LANDLORDS, INSPECTION OF RENTAL UNIT; SETTING PENALTIES AND FINES FOR VIOLATION OF THIS ORDINANCE AND PROVIDING FOR HEARING TO CONTEST VIOLATIONS**

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

MAYOR:	STEVEN D. COMBS	YES
COMMISSIONER:	KENNY BLACKBURN	YES
	WALTER BLANKENSHIP	YES
	SHARON CLARK	YES
	EUGENE DAVIS	YES

2. ABC Ordinance: Presented with each Commission Member's agenda package was a memorandum from City Attorney Davis with regard to the regulation for sale of malt beverages. According to City Attorney Davis, he had received complaints with regard to package liquor stores selling beer by the cup during Hillbilly Days. The City Attorney advised the Commission that provisions to prohibit the sale of liquor by the drink to establishments other than bona fide restaurants have been included in the existing ABC Ordinance.



## MINUTES } CITY OF PIKEVILLE

Police Chief Edmonds reported that he had conferred with ABC Administrator, Richard Elswick, who had offered the opinion that the package stores could sell malt beverages by the drink. City Attorney Davis advised that he would work with the ABC Administrator to clarify the language of the Ordinance which would expressly prohibit the sale of alcoholic beverages by the drink for any establishment that is not a bona fide restaurant.

3. Street Renaming: The City Attorney reported that he had been requested to prepare an Ordinance to change the name of Tater Hollow Street to Yorkwood Forest Drive. First reading was given to an Ordinance entitled:

AN ORDINANCE RENAMING TATER HOLLOW STREET WITHIN THE CITY OF PIKEVILLE, YORKWOOD FOREST DRIVE

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

4. Street Naming: City Manager Johnson reported that a request had been made by Joann Johnson that the alley beside the York house on Main Street which runs from Main Street to Second Street, be named York Alley. The City Manager reported that he is unsure if the alley has ever been named and recommended that the City Engineer determine this matter prior to the preparation of an Ordinance.

5. Zoning Change: City Attorney Davis told the Commission that he had received documentation from the Joint Planning Commission relative to their approval of a zoning change for the property owned by Marj Cline in Coal Hollow. The amendment will provide for the zoning to be changed from a R-2 designation to a C-2, which is consistent with the zoning change approved for the property located at the mouth of Coal Hollow. The city attorney will present an Ordinance to approve the amendment to the zoning map at the next meeting.

6. Ethics Ordinance: The City Attorney reported that he had prepared a draft copy of an Ethics Ordinance which have been sent to each member of the Code of Ethics Panel. The City Attorney advised that he will schedule a public meeting with the panel in about two weeks.

C. CITY MANAGER'S REPORTS: City Manager, John B. Johnson, presented the following items for the Commission's consideration:

1. Asphalt/Concrete/Stone Bids: City Manager Johnson opened and presented two bids for the City's supply of concrete through December 31, 1994. The bids were from Adams at \$58.00 (4000 psi) and \$56.00 (3500 psi); and from Wells at \$59.55 (4000 psi) and \$58.25 (3000 psi). Commissioner Blankenship made the motion, seconded by Commissioner Blackburn to award the bid to the low bidder, Adams Construction. Upon call of the roll, the motion carried unanimously.



One bid each was received for the City's supply for asphalt and stone/dense grade. The bids were received from Mountain Enterprise and Elkhorn Stone, respectively. Commissioner Blackburn made the motion to award the bids to Mountain Enterprise for the purchase of asphalt and to Elkhorn Stone for the purchase of stone and dense grade. Upon call of the roll, the motion carried 4 - 0 - 1 with Mayor Combs abstaining from the vote.

City Manager Johnson requested an executive session to discuss a contractual negotiation.

At 9:22 p.m., Mayor Combs made the motion to adjourn to a closed session for the purpose of discussing contractual negotiations and ongoing litigation involving Stuart Adams. Commissioner Davis seconded the motion. Upon call of the roll, the motion carried unanimously.

At 10:02 p.m., Mayor Combs made the motion, seconded by Commissioner Blankenship to reconvene to regular session. Upon call of the roll, the motion carried unanimously.

City Attorney Davis reported that while in executive session, the Commission discussed the potential acquisition of real estate which will not be disclosed until negotiations are final.

River Fill Lot #5: It was reported that the previous action to sell River Fill Lot #5 to Tommy Goodman for \$62,000.00 did not materialize. Presented to the Commission was an offer from Bart Francis to purchase the lot in the amount of \$65,000.00 which was what the lot was originally appraised. The purchaser plans to construct multi family dwellings on the lot, however it will be necessary to obtain a conditional use permit from the Board of Zoning Adjustments. City Attorney Davis recommended approval of the sale of the lot contingent upon the necessary zoning change being obtained prior to the closing date. Commissioner Blankenship made the motion to approve the sale of River Fill Lot #5 as recommended by the City Attorney. Commissioner Blackburn seconded the motion. Upon call of the roll, the motion carried unanimously.

Coal Run Sewage Treatment Package Plant: Mayor Combs advised that it had become apparent that neither the IDEA Board nor Mountain Water District was interested in purchasing the sewage package plant at Coal Run. Mayor Combs made the motion, seconded by Commissioner Blankenship to authorize the City Manager to offer and sell the plant to the City of Coal Run Village. Upon call of the roll, the motion carried unanimously.

Use Agreement with Pikeville Independent School District: Mayor Combs asked the status of the negotiations of a Joint Use Agreement with the Pikeville Independent School District for the use of Hambley Complex. City Attorney Davis reported that he and City Manager Johnson had met with Superintendent Waddell and School Board Attorney Phil Stalnaker and had satisfactorily worked through all points of the agreement.



with the exception of establishing the fee for use of the complex. It was reported that Mr. Waddell had asked for additional time to review their records to see what they had paid in electric bills for use of the lights.

IDEA: Mayor Combs advised that he had been unable to attend the work sessions held to review the proposed 1994-95 operating budget. The Mayor suggested that the Commission consider a reduction in the funding allotted to the Industrial Development Economic Authority.

Board of Zoning Adjustments: Mayor Combs nominated Chris Ratliff and Walter Preston Walters, Jr., to serve as members on the Board of Zoning Adjustments. Mr. Ratliff will replace Judy Walters, whose term has expired. Walter Preston Walters is reappointed to serve a consecutive term. Commissioner Blankenship made the motion, seconded by Commissioner Blackburn to accept the Mayor's nominations. Upon call of the roll, the motion carried unanimously.

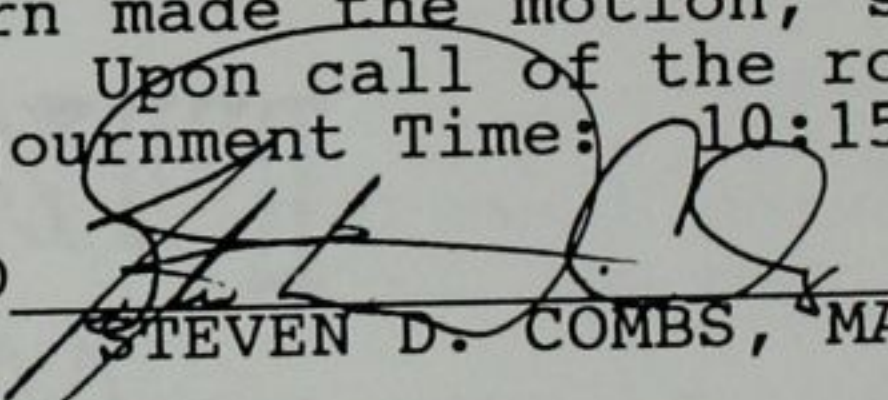
Meeting Time Change: City Attorney Davis gave first reading to an Ordinance to change the City Commission's meeting time from 7:00 p.m. to 6:00 p.m. The Ordinance was read entitled:

**AMENDED ORDINANCE FIXING TIME AND PLACE OF REGULAR MEETINGS OF THE BOARD OF COMMISSIONERS OF THE CITY OF PIKEVILLE, KENTUCKY**

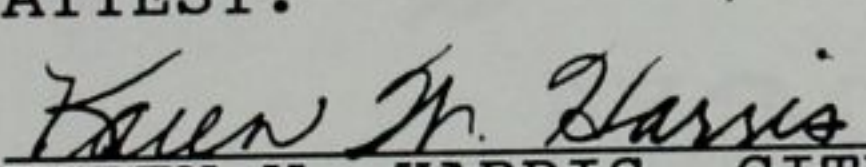
The Ordinance will be on file in the office of the City Clerk for a period of at least ten days for public inspection.

There being no further business to come before the Commission, Commissioner Blackburn made the motion, seconded by Commissioner Clark to adjourn. Upon call of the roll, the motion carried unanimously. (Adjournment Time: 10:15 p.m.)

APPROVED

  
STEVEN D. COMBS, MAYOR

ATTEST:

  
KAREN W. HARRIS, CITY CLERK