

MINUTES } CITY OF PIKEVILLE

REGULAR MEETING MINUTES - AUGUST 22, 1994

The Board of Commissioners of the City of Pikeville met in regular session on Monday, August 22, 1994. The meeting was held in the City Hall Public Meeting Room at 260 Hambley Boulevard.

There being a quorum present, Mayor Steven D. Combs called the meeting to order at 6:00 p.m. Commission Members present upon roll call were as follows:

MAYOR:	STEVEN D. COMBS
COMMISSIONER:	KENNY BLACKBURN
	SHARON CLARK

Commissioner Eugene Davis arrived at the meeting at 6:25 p.m. Commissioner Walter Blankenship was absent.

The minutes for the previous regular meeting of July 25, 1994 were included in each Commission Member's agenda package. One correction was made to the minutes to reflect that Commissioner Blankenship had left prior to the conclusion of the meeting rather than Commissioner Blackburn. Commissioner Blackburn made the motion, seconded by Commissioner Clark to approve the minutes as corrected. Upon call of the roll, the motion carried 3 - 0 (Commissioner Davis not present at the time of the vote).

AGENDA ITEM IV.

BUSINESS FROM THE FLOOR

A. TELE-MEDIA REPORT: Representatives from the Tele-Media Corporation were not present to deliver their monthly progress report, however City Attorney Davis advised the Commission that Tele-Media is in the process of installing the fiber optic cable. He reported that a problem was had earlier in the month with the reception of Channel 7.

B. ANIMALS CONTROL: City Manager Johnson advised that a resident from the Myra Barnes area had requested to appear before the Commission to discuss dogs not confined to leashes. Commissioner Clark reported that she had received two calls at her office on this date concerning this issue. Mayor Combs announced that he had received correspondence from Pike County Judge/Executive, Donna Damron, indicating that the Pike County Fiscal Court would be willing to assist the City with animal control in exchange for fire protection service in the Island Creek area. Mayor Combs suggested that this would not be an equitable exchange because the cost for fire protection service would far exceed any cost for animal control within the City. City Manager Johnson reported that Parks Department employee, Bob Burgess, has agreed to assume the duties of animal control officer. Mr. Johnson told the Commission that Mr. Burgess will respond to animal nuisances during the hours of 8:00 a.m. to 5:00 p.m. The City Manager advised that Mr. Burgess will not work evening hours due to there being no access to the animal shelter facility after 5:00 p.m. Equipment is estimated to cost between \$2,000.00 and \$2,500.00. City Manager Johnson told the Commission that he plans to purchase another vehicle for the Parks Department

and he will assign an older vehicle to Mr. Burgess.

Rita Deskins, a resident of the Myra Barnes neighborhood reported that most of the problem stems from dogs who are owned by other residents in the neighborhood and are allowed to run loose. The City Manager reported that it is the Police Department's responsibility to issue citations when the owner of the animal has been determined.

Commissioner Blackburn made the motion to authorize the City Manager to expend up to \$2,500.00 to purchase the necessary equipment for animal control; to enforce the ordinance with regard to animal control; and to advertise in the newspaper the City's intention to begin an animal control program. Commissioner Clark seconded the motion. Upon call of the roll, the motion carried 3 - 0 (Commissioner Davis not present at the time of the vote).

C: CEDAR CREEK DRAINAGE: Dr. Baretta Casey, resident of 97 Cedar Creek Road, approached the Commission relative to a drainage problem. Dr. Casey reported that during occasions of heavy rainfall, water pools in her yard and driveway. In addition, she advised that the water backs up to the foundation of the house and seeps under the floor. Dr. Casey reported that she had contacted Denton Billiter at the State Highway Department. She told the Commission that Mr. Billiter recommended the placement of a catch basin in the corner of the yard which would keep the water from pooling in her yard and then backing up into her neighbor's yard. City Engineer Sykes prepared an estimate totaling \$8,105.00 for the installation of a catch basin and, additionally, the installation of a drainage culvert to be placed under the roadway. Dr. Casey requested that the City Commission approve the expenditure of funds necessary for the installation of the catch basin and the drainage culvert prior to any more heavy rains and before she incurs further damage to her home.

City Engineer Sykes explained to the Commission that part of the problem with the drainage is that the roadway is elevated and, in addition, the owners of adjacent property have filled in their property. Mayor Combs asked if the State will participate in the cost of alleviating the problem. Mr. Sykes reported that the State has offered no financial assistance but has agreed to allow the open cut in the roadway. The appurtenances will be located on the State right-of-way. Mr. Sykes told the Commission that another reason the State will not participate is due to the City realizing a financial gain in the sell of the property in the Cedar Creek area.

Commissioner Clark asked if there were any other drainage problems in the neighborhood. Mr. Sykes reported that a few years ago there were some drainage problems, however measures had been taken to alleviate some of the drainage. Mr. Sykes advised the Commission that no other property owner has brought a drainage problem to his attention.

The Commission heard from the owner of 95 Cedar Creek Road

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who indicated that the drainage problem has been in existence for the five years that he has lived on Cedar Creek. Mr. Sykes told the Commission that the installation of the culvert and catch basin would benefit both property owners.

Mayor Combs asked if any of the owners who had filled in their property were in violation of any Codes regulations. Mr. Sykes reported that the only violations he had detected were that some property owners had constructed mailboxes and flower beds on the State right-of-way.

Mayor Combs expressed his concern that by approving this project that it would open the door for more claims. Mr. Sykes told the Commission that the estimate could probably be reduced by 20% if the project was done in-house. He also suggested a method of funding would be for the City to pay half and let the property owner pay half. The Mayor indicated that his concern was not for the expense, rather that every property owner in Cedar Creek would present a request for drainage control. The Commission asked Mr. Sykes to see if there was any way that he could determine if there were any other drainage problems in the Cedar Creek neighborhood. Commissioner Clark indicated that she would like to look at the situation before making a decision.

Mayor Combs made the motion to authorize the City Engineer to prepare an abbreviated set of plans for the installation of a catch basin and culvert and to submit them to the Department of Transportation for approval. Mayor Combs further moved that quotes be solicited from local contractors and PSG with the costs to be presented to the Commission at the next meeting. Commissioner Blackburn seconded the motion. Upon call of the roll, the motion carried 4 - 0.

AGENDA ITEM V.

PAYMENT OF BILLS

A. CITY BILLS: A list of City Bills totaling \$374,074.97 was presented to the Commission for approval of payment. City Manager Johnson presented an additional bill for approval from Mountain Enterprises in the amount of \$88,926.25. City Manager Johnson told the Commission that this bill reflects approximately 2/3rds of the paving to be done this year. Mayor Combs pointed out that Pikeville National Bank will be reimbursing the City \$2,286.87 for the portion of blacktop placed at the ball field. Commissioner Clark made the motion, seconded by Commissioner Blackburn to approve payment of the bill listing and the bill from Mountain Enterprises as submitted. Upon call of the roll, the motion carried 4 - 0.

Commissioner Blackburn requested that the Finance Director prepare a monthly revenue/expenditure statement to be presented at each regular meeting.

B. THOMPSON ROAD/LAKE JOANN SANITARY SEWER: A final payment request was presented to the Commission from Environmental Construction Corporation in the amount of \$20,000.00 for the Thompson Road/Lake Joann Sanitary Sewer Project. City Engineer Sykes advised the Commission that the dollar amount

represents the retainage for the project. He added that he has received an affidavit that all the vendors and subcontractors associated with the project have been paid. The performance bond remains in place for a one year period after final payment is made to guarantee the workmanship of the project. City Engineer Sykes recommended payment of the retainage to Environmental Construction Corporation as requested. Mayor Combs asked if there had been any change orders to the contract. Mr. Sykes reported that two change orders had been presented, however those change orders resulted in a net decrease to the contract. Commissioner Blackburn made the motion, seconded by Commissioner Clark to approve the final payment of \$20,000.00 to Environmental Construction Corporation as recommended by the City Engineer. Upon call of the roll, the motion carried 4 - 0.

AGENDA VI.

OLD BUSINESS

A. CITY ENGINEERS REPORTS: Jack Sykes representing Summit Engineering, City Engineers, gave a verbal progress report on the following projects:

1. Harolds Branch/Chloe Creek Sewage Extension: Mr. Sykes reported that he is working on the design of the sewage extension to serve the Harolds Branch/Chloe Creek/Layne Hollow/Ferguson Creek areas. Approximately 80% of the survey work has also been accomplished. Mr. Sykes indicated that an estimated 20% of the office work for the design has been completed. The City Engineer reported that he and City Manager Johnson had attended a meeting at the Division of Water office in Frankfort. A concern is had by that office relative to the Pond Cleanup portion of the project. There is about \$330,000.00 in the funding package obligated toward the pond cleanup. Approximately \$30,000.00 of that amount was designated to clean up around the pond's perimeter and the remainder was for pond aeration. Division of Water officials have had a difficult time in justifying the funding of the pond clean up as a sewer project. Mr. Sykes reported that when he left the meeting he felt comfortable that the Division of Water would allow the financing of the aerators either through Fund A (1/2% interest rate) or through Fund C (7% interest rate). Division of Water officials will be reviewing additional criteria to evaluate the project. Another meeting to discuss the matter further with the Division of Water officials has been scheduled for next week.

During the previous regular meeting, the Commission had asked the City Engineer to find out if the Division of Water would allow the City to proceed with the replacement of the main sewer trunkline. Mr. Sykes reported that officials have issued negative comments stating that no money could be expended on any part of the project until an environmental clearance is received which will take about 45 to 60 days. Additionally, the project was approved as a total concept. The Division of Water won't execute the necessary agreements until the City has a bid and a fixed contract amount for the entire project. Mr. Sykes assured the Commission that the project could be divided and bid by portions. He expects to advertise for bids sometime in February or around the first

of March.

2. Water Tank Painting: The City Engineer advised that \$45,000.00 had been included in this year's budget for the painting of two water storage tanks. Mr. Sykes requested permission to advertise for bids for the painting of the Toler Gap Water Tank and the Smith Hill #1 Water Tank. According to the City Engineer, the Toler Gap Water Tank was constructed in 1985 and has never been painted. The Smith Hill #1 Tank was last painted in 1986. Commissioner Blackburn questioned why the Mud Creek Water District wasn't funding the maintenance for the Toler Gap tank since that tank benefits them. Commissioner Clark asked if Mud Creek's water purchase rate reflects any costs for maintenance. Mr. Sykes explained that the rates were recommended by H.J. Umbaugh & Associates and all expenses were taken into account when the rate was computed. It was questioned if Mud Creek Water District's account is now current. City Manager Johnson reported that Mud Creek is paying their current bill. City Attorney Davis advised the Commission that a judgement was rendered against the City with regard to the arrears. According to Davis, the water purchase contracts prior to 1987 were verbal. When the new contract was executed, nothing was included in that contract with regard to the arrears, so the court concluded that Mud Creek wasn't liable for that debt. The City Attorney also reported that further rate increases to the various water districts will fall under the jurisdiction of the PSC. Commissioner Blackburn made the motion, seconded by Commissioner Davis to authorize the City Engineer to advertise for bids for the painting of the Toler Gap and Smith Hill #1 water storage tanks. Upon call of the roll, the motion carried 4 - 0.

3. Subdivision Regulations: The committee that was appointed to prepare proposed subdivision regulations completed the draft and submitted it to the Joint Planning Commission about a month ago. The Joint Planning Commission conducted a public hearing to discuss the proposed regulations on August 18, 1994. The Joint Planning Commission chose to take into account the comments that they received at the public hearing. According to Mr. Sykes, the Joint Planning Commission announced that they would again consider adoption of those regulations at their next meeting - tentatively scheduled for early September. Mr. Sykes advised the Commission that the 90 day moratorium, delaying the approval of proposed subdivisions until a set of subdivision regulations had been adopted, will expire on August 23, 1994. He advised the Commission that they would need to decide whether or not to extend that moratorium. Local developer, Stuart Adams, advised the Commission that he plans to submit a plat to the Joint Planning Commission at their next meeting asking their approval of a subdivision in Dark Hollow under the existing subdivision regulation guidelines. He requested that the City Commission either not extend the moratorium or grant permission to the Joint Planning Commission to consider his subdivision plat. City Attorney Davis advised the Commission that they may want to extend the moratorium until the next City Commission meeting to give the Joint Planning Commission opportunity to review

the proposed regulations once again. He explained that if the moratorium is not extended, then the Joint Planning Commission could approve any requests for subdivisions. City Engineer Sykes advised the Commission that the current regulations do not require a developer to identify their water and sewer design; does not provide for silt control or storm drainage; nor does it require that a plat be submitted for a roadway design. He added that the proposed regulations have provisions for the submission of this information to the Joint Planning Commission.

The Commission heard comments from Bob Billips and Steve Ratliff who expressed their concern for the manner in which Mr. Adams' subdivision may be constructed should the Joint Planning Commission grant approval of the subdivision under the existing subdivision regulations. Mr. Billips alleged that the sewage package plant, that Mr. Adams installed at the mouth of Dark Hollow, was illegally installed as no permit was issued. In addition, Mr. Billips also displayed photographs of Mr. Adams' property located at Coal Run Hill and on Lykins Creek. He stated that he was afraid that the same type of construction would happen in Dark Hollow and Keyser Heights if those subdivisions were approved under the existing regulations.

Commissioner Clark stated that the moratorium was declared to allow time to adopt a satisfactory set of regulations and added that the Commission should follow through with this idea. Commissioner Clark made the motion to extend the moratorium until the subdivision regulations are adopted. Stuart Adams asked the Commission to allow the Joint Planning Commission to act on his request for approval of a subdivision plat in Dark Hollow which provides for the construction of five houses. He told the Commission that he thought it would take between 3 and 6 months for a set of subdivision regulations to be approved. City Attorney Davis advised the Commission that he thought the regulations could be ready for their next meeting. Commissioner Clark amended her motion to provide for the extension of the moratorium for a 30 day period. Commissioner Davis seconded the motion. Upon call of the roll, the motion carried 4 - 0.

Bob Billips asked the Commission to withdraw the Certificate of Occupancy for the house at the mouth of Dark Hollow due to an unpermitted sewage treatment system. City Attorney Davis advised the Commission that the City does not issue Certificates of Occupancy, however, he advised Mr. Billips to file a formal complaint with the Building Inspector.

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

1. Blasting Permit Ordinance: The City Attorney reported that the Department of Mines and Minerals did not approve the proposed Blasting Ordinance due to the section mandating bonds or liability insurance not being compatible with either the Uniform Municipal Code or other local ordinances within the State. It was the consensus of the

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Commission to allow blasting to be monitored by the Department of Mines and Minerals since the City does not have a qualified individual on staff to regulate those activities.

2. Amphitheater Committee: The City Attorney advised the Commission that he and Roger Recktenwald, Executive Director of the Big Sandy Area Development District, had met to discuss the establishment of a board to oversee the development of an amphitheater. It was decided to create the board as an agency of the City of Pikeville. By doing so, the board would be covered under the City's present insurance policies. During the last meeting, Mary K. Back presented a list of 15 people to serve as directors of the Amphitheater Committee. The City Attorney advised, that after reviewing that list, that he did not think it appropriate language to provide a Pike County Courthouse representative on this board. The number of board members has been reduced to 14 persons. City Attorney Davis gave first reading to an Ordinance as follows:

ORDINANCE RELATING TO THE ESTABLISHMENT, CREATION, ORGANIZATION AND REGULATION OF THE CITY OF PIKEVILLE AMPHITHEATER BOARD, AN AGENCY OF THE CITY OF PIKEVILLE

The Ordinance will be on file in the office of the City Clerk for public inspection. Second reading was scheduled for the next regular meeting.

Mrs. Back advised the Commission that two of the individuals appointed to serve on the Amphitheater Committee have declined the nomination. Those individuals were Agnes Hefner and Terry Kinzer. It was requested that the Commission appoint Sara George to serve on this board (no other nomination was necessary due to the reduction in the number of members to serve on the board). Commissioner Clark made the motion, seconded by Commissioner Blackburn to appoint Sara George to serve as a member on the Board of Directors of the Amphitheater Committee. Upon call of the roll, the motion carried 4 - 0.

3. Code of Ethics: Copies of a proposed Code of Ethics for the City of Pikeville was given to each Commission Member for review. The Commission scheduled a work session to review the code for September 6, 1994 at 5:00 p.m.

4. Use Agreement: It was reported that the City Commission had met in work session with board members of the Pikeville Independent School District with reference to the use of the Hambley Athletic Complex. City Attorney Davis reported that the School Board has agreed to pay \$12,000.00 per year for use of the facility. In addition, some other minor changes were made to the Use Agreement. The City Attorney requested that the Commission authorize the Mayor to execute the amended Use Agreement. Mayor Combs reported that the School Board members indicated that after they get finished with their present project, they would make a commitment to assist the City to rebuild the facility. Commissioner Blackburn made the motion to authorize the Mayor to execute the amended Use Agreement. Commissioner Clark

seconded the motion. Upon call of the roll, the motion carried 3 - 0 - 1 (Commissioner Davis abstained from the vote).

5. Street Name: The City Attorney presented and gave second reading to an Ordinance entitled as follows:

ORDINANCE NAMING PREVIOUSLY UNNAMED STREET, HABITAT STREET

Commissioner Blackburn made the motion to adopt the Ordinance as presented. Commissioner Clark 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	ABSENT
	SHARON CLARK	YES
	EUGENE DAVIS	YES

6. Speed Limit: First reading was given to an Ordinance to establish the speed limit for Walters Road at 25 m.p.h. The ordinance was scheduled for second reading at the next regular meeting.

C. CITY MANAGER'S REPORTS: John B. Johnson, City Manager, gave a verbal report on the following items:

1. 911 Service: The City Attorney advised the Commission that two agreements had been forwarded to the City by South Central Bell concerning the 911 service. It was requested by telephone company representatives that the City immediately sign the Letter of Intent, which outlines the City's agreement that 911 service will be provided separately from Pike County. The other agreement will allow the phone company to withhold the subscriber fees.

Mayor Combs explained that after he, the City Manager, City Attorney and Police Chief extensively reviewed the 911 issue, they saw no benefit to the citizens of Pikeville by entering into a joint agreement with Pike County. According to City Attorney Davis, whether there is a joint system or not, the City's residents will still be assessed a \$.93 per month subscriber fee. By operating the service separately from that of that County, the City will be able to operate its own dispatch center.

Commissioner Davis made the motion, seconded by Commissioner Blackburn to authorize the Mayor to execute the Letter of Intent and the Agreement. Upon call of the roll, the motion carried 4 - 0.

2. Environmental Codes Officer: City Manager Johnson recommended the employment of Jeffrey D. Wood as Environmental Codes Officer. Commissioner Clark made the motion, seconded by Commissioner Blackburn to employ Jeffrey D. Wood. Upon call of the roll, the motion carried 4 - 0.

Mayor Combs commended the City for advertising for this position.

3. City Manager Johnson requested an executive session for the purpose of discussing negotiations concerning real estate. At 8:04 p.m., Commissioner Davis made the motion, seconded by Commissioner to adjourn to executive session (pursuant to KRS 61.810) to discuss negotiations concerning real estate. Upon call of the roll, the motion carried 4-0.

At 8:30 p.m., Mayor Combs made the motion, seconded by Commissioner Clark to reconvene to regular session. Upon call of the roll, the motion carried 4 - 0.

City Attorney Davis reported that while in executive session, he and City Manager Johnson reported on development inquiries concerning the property located at the mouth of Poor Farm Hollow and Poor Farm Hollow. The City Attorney advised that the Commission is still not at liberty to discuss the matter. In conjunction with this matter, City Attorney Davis reported that the State has offered to sell excess right of way totaling 1.70 acres that they own at Poor Farm which fronts the City's property. The purchase price is \$135,000.00. According to the City Attorney and City Manager, the City can request to finance the purchase of the property over a 5 to 10 year period, interest free. Commissioner Clark made the motion to authorize the purchase of the State's property at the mouth of Poor Farm. Commissioner Davis seconded the motion. Upon call of the roll, the motion carried 3 - 0 (Commissioner Blackburn abstained from the vote).

AGENDA ITEM VII.

NEW BUSINESS

A. FIRE DEPARTMENT: Mayor Combs reported that he was approached by Fire Department personnel concerning the equipping of the ambulances for advanced life support services. The detailed cost list, totaling some \$38,000.00, was given to the City Manager for review. The Commission asked that the City Manager present a recommendation at the next meeting.

B. DILAPIDATED HOUSING: Commissioner Clark asked the progress of the dilapidated housing case on Peach Orchard. City Attorney Davis reported the matter has been heard by Richard Elswick, Hearing Officer, who has given the landowner 30 days to submit an evaluation from his (the landowner's) appraiser. Mayor Combs asked the progress in the removal of the Kentucky Avenue house that is slipping off its foundation. The City Manager advised the Commission that a contract is to be signed on August 23, 1994 for the removal of the house. Young's Salvage & Wrecking will be removing the structure.

Concerning the paving on Kentucky Avenue, the City Manager reported that the street could be paved during this season if it is determined that the storm drains are salvagable.

C. WINTERIZING: Commissioner Blackburn asked if any maintenance work had been scheduled for Hambley Boulevard before winter. PSG Manager Bacon advised that crack sealing will be done before winter.

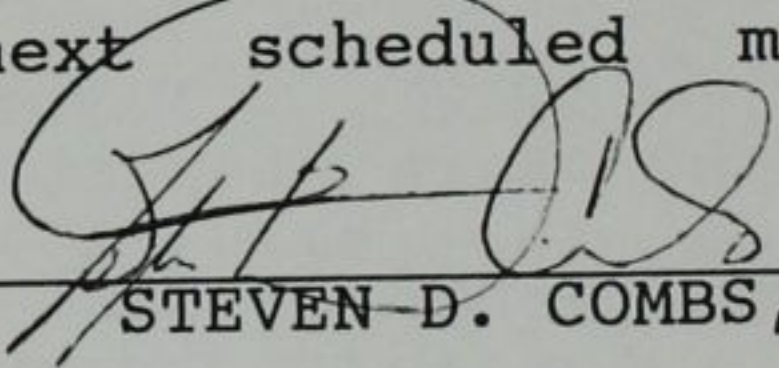
D. GARBAGE: Commissioner Blackburn asked if a decision had been made with regard to contracting for garbage pick up service with an independent contractor. City Manager Johnson advised that he expects to be receiving a proposal later this week. Extensive discussion was had with regard to the tipping fees charged by Pike County at the Ford's Branch Landfill and the amount of tax dollars paid to the County for property within the City Limits. Mayor Combs made the motion to authorize the City Attorney and City Manager to provide a list of future projects to the Pike County Fiscal Court and request their written response advising of what projects they'll undertake and their long term plan for how they plan to expend the tax dollars that have been collected from within the City. Commissioner Blackburn seconded the motion. Upon call of the roll, the motion carried 4 - 0.

It was announced that a work session had been scheduled with the Pikeville Public Library Board at 4:00 p.m. on August 25, 1994 to discuss the Telecommunications Project. In addition, a work session had been scheduled with Helen Powell at 5:00 p.m. on August 25, 1994 to discuss the downtown park revitalization.

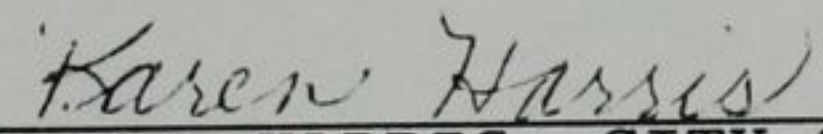
There being no further business to come before the Commission, Mayor Combs made the motion, seconded by Commissioner Clark to adjourn the meeting. Upon call of the roll, the motion carried 4 - 0. (Adjournment Time: 8:45 p.m.)

The City Commission's next scheduled meeting is September 26, 1994 at 6:00 p.m.

APPROVED


STEVEN D. COMBS, MAYOR

ATTEST:


KAREN HARRIS, CITY CLERK