

CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
APRIL 24, 1995

The Board of Commissioners of the City of Pikeville met in regular meeting on Monday, April 24, 1995. The meeting was conducted in the City Hall Public Meeting Room at 260 Hambley Boulevard, Pikeville, KY.

There being a quorum present, Mayor Steven D. Combs called the meeting to order at 6:07 p.m. Commission Members present upon call of the roll were as follows:

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

Commissioner Eugene Davis arrived at the meeting at 6:15 p.m.

AGENDA ITEM II. MINUTES

The minutes for the previous regular meeting of March 27, 1995 and special meeting of April 11, 1995 were included in each Commission Member's agenda package. There being no additions or corrections, Commissioner Blankenship made the motion, seconded by Commissioner Clark to approve the minutes as presented. Upon call of the roll, the motion carried 4 - 0 (Commissioner Davis not present at the time of the vote).

AGENDA ITEM III. BUSINESS FROM THE FLOOR

A. MAIN STREET PROGRAM: Pikeville Main Street Program Director, Paula Thompson, asked the Commission to consider allotting \$15,000.00 in the City's 1995-96 operating budget for the Main Street Program. Ms. Thompson explained that \$10,000.00 of the requested funds is used to match grant funds received from the Appalachian Regional Commission. The remaining \$5,000.00 is remitted to the Main Street Program upon proof of matching dollars from Main Street members and through fundraisers. City Manager Johnson reported that \$15,000.00 has been placed in previous budgets for Main Street Program's use. Mayor Combs told Ms. Thompson that he saw no reason for not including the requested amount in the city's operating budget unless there happened to be a revenue shortfall.

Ms. Thompson also presented the Commission with a written activities report.

B. HILLBILLY DAYS: Commissioner Blankenship offered a word of appreciation to the Public Works and Park Crews as well as the Police and Fire Departments for outstanding service during the Hillbilly Days Festival.

AGENDA ITEM IV. PAYMENT OF BILLS

A. CITY BILLS/FINANCE REPORT: A list of City Bills totaling \$379,375.58 were presented to the Commission for approval of payment. Upon the City Manager's confirmation that sufficient funds were available with which to make payment, Commissioner Blankenship made the motion, seconded by Commissioner Davis to approve payment of the bills as submitted. The motion carried unanimously.

Finance Reports through the month of March were presented to the Commission. Finance Director Jan Hunt advised that the city is not experiencing any monetary shortfall at this time, due largely to the receipt of Occupational License Fees and Kentucky Power Franchise Fees. No action was taken.

B. SEWER EXTENSION PROJECT: Presented to the Commission for approval of payment was a bill from Frank Nall in the amount of \$5,300.00 for title searches for easements obtained for the sewer extension project. Also presented for approval was a bill from John Pinson, II in the amount of \$640.00 for easement acquisition. Commissioner Blackburn made the motion to approve both bills as submitted. Commissioner Blankenship seconded the motion. Upon call of the roll the motion carried unanimously.

AGENDA ITEM V. OLD BUSINESS

A. CITY ENGINEER'S REPORTS: Jack Sykes representing Summit Engineering, City Engineer, presented a verbal status report for ongoing projects:

1. Sewer Extension Project: The City Engineer reported that he had received the Division of Water's first review of the plans for the sewer extension project. Three deficiencies were noted as follows:

1. Right-of-Way Certifications must be submitted prior to bidding the project. Mr. Sykes reported that City Attorney Davis has prepared the necessary certification naming four easements yet to be obtained and advising that acquisition will be pursued through legal channels.

2. Documentation has been requested pursuant to the deletion of Lift Station #7 from the project. Mr. Sykes reported that City Manager Johnson had signed the necessary documentation advising of the lift station's capability to provide the required volume for an additional seven to eight years. The lift station will be replaced after that time.

3. An interest-bearing escrow account must be opened on behalf of the contractor in which retainage funds must be placed.

Mr. Sykes reported that the plans will be submitted back to the Division of Water for final review no later than May 5th. He expects that Division of Water will notify of approval of the plans by June 1st. Mr. Sykes advised that once approval is given, he can advertise for bids. Mr. Sykes projected that bids can be opened around July 1st. The City Engineer advised the Commission that it could take as long as another 60 days after bids are opened for the project to be released for construction.

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2. Perry Cline Community Center: Mr. Sykes reported that the renovations to the Perry Cline Emergency Shelter are approximately 95% complete. An estimated \$15,000 remains in the contract.

3. Daycare/Senior Citizen Center Parking: Pursuant to a request from the Mayor's office, the City Engineer presented an exhibit and cost estimate for the construction of 43 parking spaces to benefit the Day Care and Senior Citizen Centers. The plan provides for the construction of the parking spaces immediately on the other side of the paved ditch, along with the installation of a culvert in the ditch. To construct a 3 inch stone base, install a culvert, and to perform a small amount of earthwork will cost approximately \$7,000.00. The cost estimate would increase to \$18,375.00 with the addition of 3 inches of asphalt. While the City owns the property on which the parking will be constructed, the Mayor reported that County officials have proposed to pay half the cost for the additional parking since they operate the Senior Citizen's Center. Mayor Combs made the motion, seconded by Commissioner Blankenship to authorize the City Manager to contact County Officials and advise the City will pay half of the cheaper estimate to provide additional parking for the Day Care Center and Senior Citizen's Center if the County will pay the other half of the cost. Upon call of the roll, the motion carried 3 - 2 with Commissioners Blackburn and Davis voting no.

4. Hambley Blvd./Fourth St. Intersection: Mayor Combs advised the Commission that he had requested the City Engineer to investigate the potential need for safety precautions at the Hambley Blvd./Fourth St. Intersection after he had received approximately 25 citizen complaints with regard to said intersection. According to data supplied by the Pikeville Police Department, 6 vehicular accidents occurred in this intersection since June, 1990. The accidents were attributed to left turns onto Hambley Boulevard. City Engineer Sykes identified 5 alternatives:

1. Do nothing

2. Reverse the traffic flow on High Street. Mr. Sykes advised that this alternative is fairly economical as all would be required is the installation of proper signage. Mr. Sykes cautioned that the reverse flow may cause traffic hazards during winter months.

3. Prohibit left turns from High Street to the Boulevard. Again, Mr. Sykes advised that proper signage would be all that is necessary. According to Mr. Sykes, this alternative would eliminate the traffic conflicts, however advised that enforcement may pose a problem.

4. Eliminate the intersection by constructing an approach road adjacent to the Boulevard. Cost estimate is \$64,000.00.

5. Signalize the intersection (High Street/Auxier Avenue/Fourth St./Hambley Blvd). Depending upon the type of pole used, the estimate ranges from \$81,000.00 to \$112,000.00.

Mr. Sykes advised the Commission that according to the Manual of Uniform Traffic Control, an intersection is determined to pose traffic hazards if more than 5 accidents occur per year. There have only been six accidents reported since June, 1990.

It was the City Engineer's recommendation to follow alternative 1 as there were not enough accidents reported to warrant any action, however pedestrian movement could not be evaluated. Mr. Sykes advised the Commission to continue monitoring the intersection. If it is determined that a significant problem exists, the best alternative would be to install a signaling device. Mayor Combs asked if visibility could be improved economically. Mr. Sykes reported that utilities are located in the affected area and would have to be relocated which represents a significant amount of the cost estimated in Alternate #4. The Commission agreed it would be best to continue monitoring the activity of the intersection before taking any action.

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

1. Subdivision Regulations: Marrs Allen May was present on behalf of Bob Billips to advise the Commission of alleged violations of the Subdivision Regulations by Stuart Adams and to request the enforcement of said regulations. Photographs were shown to the Commission by Mr. May in an effort to substantiate Mr. Billips' complaint. Mr. May advised the Commission that Mr. Adams has begun construction activity in Keyser Heights beyond the approved subdivision plat. According to the Subdivision Regulations, Mr. May alleges violations due to Mr. Adams' failure to follow the three step procedure required for subdivision approval. Mr. May told the Commission that the Building Inspector had confronted Mr. Adams and was told by Mr. Adams that he has not begun any development activities. Mr. Adams had reported that he was involved in logging activities. Mr. May contended that the area has no merchantable timber and what timber is located on the site has been bulldozed over and fill material has been placed upon it. City Attorney Davis explained that when the City first began regulating subdivisions, he and City Engineer Sykes had discussed the fact that not only did the City have a problem with the manner in which subdivisions are developed, but also had a problem with persons who wanted to perform excavation activities on their property (filling, bulldozing, etc.) which could cause erosion activities upon adjacent properties. According to the City Attorney, provisions were deleted from the subdivision regulations which provided guidelines for those persons performing excavation activities but who are not developing subdivisions. It was Mr. May's suggestion that a stop work order be issued and to seek an injunction to prohibit Mr. Adams from developing the subdivision, thus placing the burden of proof upon Mr. Adams to substantiate his claim that he is performing logging activities. It was the consensus of the Commission that no action was necessary from them since enforcement guidelines are in place for which the Codes Enforcement Officer, City Engineer, City Attorney or others could use to determine if a violation has occurred. City Attorney Davis advised that he may have a potential conflict in that he has provided legal service to Mr. Billips on other matters. Mayor Combs stated that the City Attorney should make the determination if he has a conflict in this matter and advise the Commission as to whether they needed to retain independent legal counsel. The City Attorney explained that he has not provided any legal assistance to Mr. Billips with regard to this matter. Codes Enforcement Officer, Mike Honaker, questioned which provision of the subdivision regulations should be cited as grounds to issue the stop work order to Mr. Adams. The City Attorney advised that Mr. Adams was in violation of Article 3, Section 346.11.

2. UDAG Agreements: City Attorney Davis presented the Commission with Amendment #3 from the Housing and Urban Development relative to the U.D.A.G. funds. The agreements provide for U.D.A.G. funding for the Y.M.C.A. project and the Keyser Heights Phase II project. Grant funds to be approved total \$841,000.00. The agreement does not preclude the City from submitting applications for utilization of remaining U.D.A.G. funds (about \$3.6 million). The City Attorney advised the Commission that the documents are in order and recommended their approval. Commissioner Blankenship made the motion, seconded by Commissioner Blackburn to approve the U.D.A.G. agreements for the Y.M.C.A. and Keyser Heights Phase II projects and authorized the Mayor to execute the Housing & Urban Development U.D.A.G. agreement and the grant agreements between the City of Pikeville and the recipients of the grant funds. Upon call of the roll, the motion carried unanimously.

3. Occupational Tax: Mark V. Bartley, an employee of MSHA (offices located on Ratliff's Creek), appeared before the Commission to discuss the enforcement and appeals process with regard to the Occupational License Fees Ordinance. Mr. Bartley told the Commission that the City has no formal appeals process other than through the City Attorney and asked that one be established in the same type format as the appeals process for the IRS and Kentucky Revenue Cabinet. Tax Administrator, Grace Ratliff, utilizes information data from employee's time sheets to determine the amount of Occupational License Fees due the City of Pikeville. Mr. Bartley contends that the City is not entitled to those records. Mr. Bartley presented a 1983 letter to the Commission from U.S. Department of Labor stating "...MSHA has obligations under the Federal Privacy Act of 1974, 5 U.S.C. 552a, to protect personnel record systems from broad disclosures". City Attorney Davis explained to the Commission that collection of Occupational License Fees is somewhat unique in that the Federal Government will not withhold the fees from their employees' wages. Time sheets or other records must be utilized to determine the amount of time that an employee works within the City Limits. Approximately 5 years ago, the Tax Administrator audited MSHA office and under the City's Ordinance, wages are taxed on the percentage of time worked inside the City Limits. Until the time that MSHA records were audited, a large number of the employees claimed they worked the majority of the time outside the City Limits. The City's Ordinance provides that the Tax Administrator may request such records to determine the amount of time worked by an employee in the City Limits. The audit conducted on several MSHA employees netted just over \$50,000.00 in unreported Occupational License Fees. While Mr. Bartley contended that the City is not entitled to MSHA employees' time sheets, City Attorney Davis advised that the Ordinance provides that 100% of the wages are taxable if proof can not be provided to show otherwise. Mr. Bartley advised the Commission that MSHA employee's time sheets will be electronically processed in the very near future. Commissioner Blackburn suggested that Mr. Bartley draft a time sheet that would be acceptable by the tax office as proof of time worked in the City Limits and present it to the City Attorney for consideration. Commission Members stated that they would not be opposed to establishing an in-house appeals process. Mayor Combs made the motion to authorize the City Manager, Tax Administrator, Finance Director, and the City Attorney to review the Occupational License Fee Ordinance and to present a report of recommended changes at the next meeting. Commissioner Blackburn seconded the motion. Upon call of the roll, the motion carried 4 - 0 (Commissioner Davis not present at the time of the vote).

The City Attorney requested an executive session to discuss a personnel matter.

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

1. Solid Waste Removal: Pursuant to City Commission directive during the Special Meeting held on April 17, 1995, City Manager Johnson and Public Works Manager Bacon presented the Commission with a cost analysis for the City to retain solid waste removal services with contractor, PSG. The current dumpster rate charged is \$2.50/cubic yard. With this fee, the City saw a \$22,000.00 overall deficit in the Sanitation Department after the Department was subsidized \$42,000.00 through other City funds. Should the City continue to operate solid waste removal services, the dumpster rate will have to be increased to a minimum of \$3.75/cubic yard. According to City Manager Johnson, the increased rates will generate approximately \$94,000.00 per year, based upon existing customers. Replacement equipment will be necessary for the City's continued operation of the solid waste removal service. The City Manager advised the Commission that \$168,000.00 in equipment will be needed. In the City's current operating budget, \$141,800.00 has been set aside for equipment purchases/repairs which included repairs to the transfer station and the purchase of two new trucks. The City Manager advised that the Sanitation Department is currently leasing a truck which can be purchased for \$67,000.00. In addition, he stated that the City should purchase a high compaction truck/packer estimated at \$86,000.00. The public works department proposes to use the existing Mack truck as a backup and purchase a rebuilt packer for an estimated \$14,500.00. With the addition of the equipment, Mr. Johnson told the Commission that no further equipment would be necessary for about 5 years. He recommended the Commission abandon the transfer station and allow the trucks to haul directly to the landfill. The City Manager advised that the equipment could be obtained through a lease/purchase over a 5 year period. Annual payback is estimated at \$30,000.00 with a 5.9% rate of interest. Commissioner Blackburn voiced his opposition to borrowing monies. He stated that he would like to leave the dumpster rate as is and continue to subsidize the Sanitation Department utilizing other City funds.

Ron Henke, present on behalf of Rumpke of KY, advised the Commission that average dumpster rates are between \$4.00 and \$6.00/cubic yard. Mayor Combs asked the amount Rumpke charges as a tipping fee at their Mt. Sterling landfill. Mr. Henke advised that the tipping fee is \$25.00/ton and is expected to increase substantially in July. Rumpke is in the process of constructing a transfer station in Floyd County. Mr. Henke projected a \$40.00/ton rate for separated refuse but advised that a lower rate could probably be negotiated. Mr. Henke told the Commission that he thought the City would continue to see the best price at the Pike County Landfill.

According to Paul Hall of PSG, the City pays a \$22.50/ton tipping fee to dump at the Pike County Landfill, pursuant to a letter of agreement from Pike County. Mr. Hall told the Commission that he thinks the letter of agreement does not expire until June, 1996. He advised that he had talked with County Landfill representative, Dan Hall, who advised that no rate increase has been proposed for the budget year, and added that when a rate increase is had it should be minimum - about 10%.

Commissioner Clark asked if the cost of recycling would balance out with the money saved in tipping fees. Mr. Bacon advised the Commission that he had spoken with a vendor who is offering recycling equipment but did not follow up due to the uncertainty of whether PSG would retain the service contract. He commented that he thought a recycling program could be initiated on a voluntary basis with the installation of recycling bins at various city locations. Commissioners Blankenship and Clark asked Mr. Bacon to investigate recycling and determine costs. Mr. Henke advised that, if the regional recycling center is begun, Rumpke could accept the recycled items.

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Mr. Bacon advised the Commission that action is necessary to acquire a truck, as current equipment is beyond repair. As was previously reported, the city is currently renting a truck. The City Manager advised that the truck can be purchased for about \$67,000.00. The city will be given credit for rental payments made. Paul Hall told the Commission that the truck gives satisfactory service. Mr. Johnson proposed to declare an emergency and purchase the rental truck since it is readily available and to solicit quotes for a 25 yard, high compaction packer. City Attorney Davis advised the Commission that an emergency could be declared since the city's needs are immediate. According to the Finance Director, funds are available for the purchase of the rental vehicle. City Manager Johnson told the Commission that funds will be available for the purchase of the 25 yard packer unit since delivery is not expected until August or September. Mr. Bacon also proposed purchasing a rebuilt packer unit from Vaught Brothers in the amount of \$14,500.00 to be mounted on the existing Mack truck. This unit is immediately available.

City Manager Johnson recommended the purchase of the rental truck at an estimated \$67,000.00 (Municipal Equipment), to purchase the rebuilt packer from Vaught Brothers in the amount of \$14,500.00 and to adjust the dumpster rates from \$2.50/cubic yard to \$4.00/cubic yard. By increasing the dumpster rate to this amount, Mr. Johnson expected the rate would not have to be adjusted for another 4 years. He added that increasing the dumpster rate to \$3.75/cubic yard would meet the needs for about 2 years, however no monies could be set aside for recycling or new equipment. Discussion was had relative to postponing any rate increases until the new equipment had been in operation for a few months to determine if the increase is necessary. The annual deficit of the Sanitation Fund is estimated at \$65,000.00, however about 1/3rd of the deficit is attributed to equipment maintenance. Bearing the deficit in mind, the Commission asked the City Attorney to prepare an Ordinance for first reading to raise the dumpster rates to \$3.75/cubic yard. First reading of the Ordinance was deferred to later in the meeting.

Commissioner Blackburn made the motion, seconded by Commissioner Blankenship to authorize the purchase of the rental vehicle and packer unit and to authorize the City Manager to solicit bids for the 25 yard, high compaction vehicle with the authority to award the lowest, best bid. Upon call of the roll, the motion carried unanimously.

D. HELPING HAND/EMERGENCY SHELTER: Mayor Combs requested an executive session to discuss a problem with management, concerning a particular individual, at the emergency shelter.

E. UDAG: Mayor Combs reported that he and City Attorney Davis had conducted a conference call with David Sowell of the Housing and Urban Development concerning the U.D.A.G. funds and S.E.I. & Development Corporation's application for funding. According to the Mayor, Mr. Sowell has recommended that the Commission set a deadline for S.E.I. & Development Corporation to submit necessary documentation. Mr. Sowell further informed the Mayor that correspondence will be forthcoming, as early as the next two weeks, giving the City the opportunity to receive funds through the Retention and Recapture Agreement. The Mayor reasoned the best course of action would be to not establish a deadline for the submission of documentation by S.E.I. & Development as by establishing such a deadline would be extending a commitment. He proposed that a special meeting be called when the letter is received from H.U.D. advising that Retention and Recapture Funds are available for withdrawal by the City. Mayor Combs made the motion to direct the City Attorney to send a letter to the Hospital and S.E.I. advising that each will be invited to a special meeting and advising each to have as much of the required documentation which needs to be submitted with their U.D.A.G. applications available for Mr. Sowell's review during that special meeting. Each of the prospective applicants are to be advised that should the City not be satisfied with their application progress, the Commission may elect to recapture the funds. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

AGENDA ITEM VI.

NEW BUSINESS

A. FIREFIGHTING ASSISTANCE AGREEMENT: This matter was postponed at the request of Fire Chief Hall.

B. HISTORIC PRESERVATION BOARD: Mayor Combs made the motion to reappoint Betsy Venters and Susie McGhee to serve as members of the Historic Preservation Board. Commissioner Blackburn seconded the motion. Upon call of the roll, the motion carried 4 - 0 (Commissioner Clark left the meeting at 8:20 p.m.).

C. ADMINISTRATIVE HEARING OFFICER/ABC OFFICER: The Commission was advised of the resignation of Richard Elswick as Administrative Hearing Officer and as ABC Officer effective May 1, 1995. Appointment of an individual to fill the vacancies was delayed until the next regular meeting.

City Manager Johnson called the Commission's attention to a letter in the agenda package from the Coal Run Volunteer Fire Department. The Coal Run Volunteer Fire Department is requesting to purchase the 1957 International Fire Truck (surplus) for \$325.00. The City Manager advised that Chief Hall recommends acceptance of the offer. Commissioner Blackburn made the motion, seconded by Commissioner Blankenship to sell the 1957 model fire truck to the Coal Run Volunteer Fire Department. Upon call of the roll, the motion carried 4 - 0.

At 8:24 p.m., Mayor Combs made the motion to adjourn to executive session to discuss a personnel matter as requested by the City Attorney and a personnel matter concerning management at the emergency shelter. Upon call of the roll, the motion carried 4 - 0.

At 8:59 p.m., Mayor Combs made the motion, seconded by Commissioner Blankenship to reconvene to regular session. The motion carried 4 - 0.

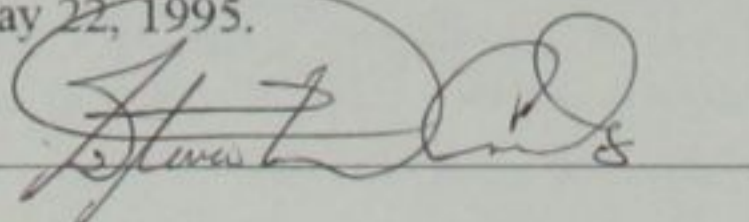
Mayor Combs announced that two personnel matters were discussed in executive session.

City Attorney Davis gave first reading to a summary ordinance changing the dumpster rates from \$2.50/cubic yard to \$3.75/cubic yard. Second reading is scheduled for the next regular meeting.

There being no further business to come before the Commission, Mayor Combs made the motion, seconded by Commissioner Blankenship to adjourn the meeting. The motion carried 4 - 0. (Adjournment Time: 9:02 p.m.)

The City Commission's next scheduled meeting is May 22, 1995.

APPROVED:



STEVEN D. COMBS, MAYOR

ATTEST:

Karen Harris
KAREN HARRIS, CITY CLERK

