

CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
REGULAR MEETING
AUGUST 28, 1995

The Board of Commissioners of the City of Pikeville met in regular session on Monday, August 28, 1995. The meeting was held in the City Hall Public Meeting Room at 260 Hambley Boulevard, Pikeville, Kentucky.

There being a quorum present, Mayor Steven D. Combs called the meeting to order at 6:06 p.m. Commission Members present at call of the roll were as follows:

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

AGENDA ITEM II. MINUTES

The minutes for the previous regular meeting of July 24, 1995 and special meeting held on August 21, 1995 were included in each Commission Member's agenda package. There being no additions or corrections, Commissioner Blankenship made the motion, seconded by Commissioner Blackburn to approve the minutes as submitted. Upon call of the roll, the motion carried unanimously.

AGENDA ITEM III. BUSINESS FROM THE FLOOR

A. U.D.A.G.: City Attorney Davis reported that he and Mayor Combs had spoken with HUD representative, David Sowell, with regard to the Urban Development Action Grant (U.D.A.G.) program. According to City Attorney Davis, Mr. Sowell advised that he thinks the U.D.A.G. funds will be secure until November, 1996. Until such time as the funds are recaptured, the City may continue to accept applications for the \$4.1 in remaining U.D.A.G. funds.

1. Stuart Adams, representing Adams, Adams & Adams Limited Partnership, asked the Commission to reconsider their decision to withdraw his \$450,000.00 funding application for the Dark Hollow/Keyser Heights housing project. According to City Attorney Davis, Mr. Adams is complying with the remedial measures recommended by the City's special engineer hired for the project, Rick Keene. The Commission heard a progress report with regard to Mr. Adams' efforts to correct the violations from Mark Westfall of Summit Engineering. According to Mr. Adams, the City will see a very fast pay back on the loan proceeds. It was explained that the City is repaid \$15,000.00 for each home that is sold. Mr. Adams agreed to pay engineer, Rick Keene, for compliance inspections of the project throughout the development period.

2. SEI & Development Corporation: Chris Penn advised the Commission that he is still interested in filing an application to utilize \$1.6 million of the U.D.A.G. funds for the second phase of the shopping center project at the old airport site. Mr. Penn reported that his project has been delayed due to the Flood Plain location issue. City Attorney Davis reported that verbal correspondence had been received from the Department of Transportation which approved the offer made for floodway improvements. Mr. Penn advised the Commission that he has a letter of intent from the anchor tenant, but is unable to make the name of the tenant known at this time. The department store will provide employment for between 200-300 people. It was explained that SEI & Development Corporation will be selling the property to the proposed tenant. While SEI & Development Corporation will be making application for use of the U.D.A.G. funds, the tenant will actually be making repayment of the loan. It is anticipated the U.D.A.G. proceeds will be paid back over a 20 year period. It will be necessary for HUD to approve to whom the debt is assigned. It was noted that SEI & Development Corporation has not submitted the required financial documentation for the funding application.

3. Methodist Hospital of KY, Inc.: Martha Chill, Hospital Administrator, told the Commission that HUD has given preliminary approval of a draft application to construct a patient tower. According to Ms. Chill the project, which is the first of four phases, will cost between \$20-\$30 million. The remaining phases has been estimated to cost another \$30 million, total. Ms. Chill reminded the Commission that she had, a few months ago, appeared before them to discuss the project. She recapped the economic impact the project would have upon the City's budget. It was estimated that 200 temporary jobs would be provided during construction and that 300 full-time jobs would be created. The Hospital has completed the funding application which requests the full \$4.1 million in U.D.A.G. funds, and now has the full financial commitments. Ms. Chill stressed the importance of receiving the funds for this project as the remaining phases will not be possible without this financial assistance. City Attorney Davis reported that while he and Mayor Combs were talking with David Sowell, the hospital's cash flow was discussed. It was stated that Mr. Sowell reported that the Hospital could construct the proposed project with \$1 million less than requested. The Commission heard a number of comments from Doctors and Board Members in support of the Hospital's application.

After consideration of the statements from the potential developers, Commissioner Blankenship made the motion, seconded by Commissioner Davis to allow the Methodist Hospital of KY, Inc. to submit an application in the amount of \$3,650,000 and to allow Adams, Adams, & Adams Limited Partnership to submit an application in the amount of \$450,000.00. During discussion, Commissioner Clark stated that she felt the matter warranted additional time for further consideration and requested to delay the decision until tomorrow at Noon. She asked the Hospital Administrator to supply the Commission with the economic impact study and other relevant

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documentation. Commissioner Clark made the motion, seconded by Mayor Combs to continue the meeting until August 29, 1995 at Noon for the purpose of holding further discussion pursuant to the U.D.A.G. funds. Upon call of the roll, the motion carried unanimously.

Hospital Board Member, Judy Walters, asked if the Commission would be considering any other funding applications. The Commission advised they would not.

B. PARKING: Joe Dawahare, along with Frank Dawahare, Tom Anderson and Steve Newsome appeared before the Commission to discuss their need to acquire additional parking for their building located on Second Street. According to Mr. Dawahare, a tenant has signed an agreement to lease one half of the old Dawahare's Clothing Store building on Second Street and plans to open a Sports Bar. He advised the Commission that the approval of the City Attorney, since he is the City's ABC Administrator, is necessary before an ABC License is issued. It was reported that the City Attorney rejected the application due to a provision in the Zoning Code which provides that off-street parking be provided. The size of the half of the building that Mr. Newsome is leasing requires that he provide 18 off-street parking places. The provisions of the Zoning Code now become applicable since the building has been vacant for over one year. According to City Attorney Davis, the Zoning Code provides that an existing structure will be allowed to be occupied without complying with the parking requirements if the structure is not substantially altered or if the use is changed. He told the Commission that he felt the Zoning Code provisions applied since Mr. Newsome will be constructing a fire wall. Mr. Newsome's attorney, Tom Anderson, disagreed with the City Attorney's interpretation as well as stating that none of the existing buildings within the downtown area could comply with the Zoning Code's parking requirements. Mr. Newsome told the Commission that his business would be open during the hours of 4 p.m. until midnight. He added that his business would only be competing for on-street parking for a minimal amount of time. Additionally, Mr. Newsome told the Commission that he has worked through the differences with adjacent business owner, Call Funeral Home. It was the consensus of the Commission to allow the City Attorney to make a less stringent interpretation of the Zoning Code with regard to the structural alterations. Commission Members voiced their opinions that the parking provision was not enforceable with regard to existing structures in the downtown area and directed the City Attorney to prepare an amendment to the Zoning Code which would allow for variances from the parking requirements.

C: E-911: Commissioner Blankenship commended Chief Dispatcher, Wally Justice, on his efforts in getting E-911 into operation.

D: ENVIRONMENTAL VIOLATION NOTICES: Local business owner, Judy Keene, appeared before the Commission to discuss a letter from City Attorney Davis which she stated advised her that suit had been filed for failure to remit payment for fines assessed in conjunction with three environmental violation notices issued to Keene's Mobile Home Sales. Ms. Keene told the Commission that she felt the letter unjustified and reported that she had experienced family emergencies which prevented immediate action with regard to the environmental nuisance notices. Copies of the violations and the letter from the City Attorney were given to each Commission Member for their review. Mayor Combs advised Ms. Keene that the Commission would take the matter under advisement and would have further discussion at the next regular City Commission Meeting.

E. LICENSE AGREEMENT: Lonnie Osborne, Vice President of WZLK, Inc., presented a License Agreement to the Commission for consideration. The Agreement provides for the City of Pikeville to lease a parcel of property in Poor Farm Hollow to WZLK, Inc., for the purpose of constructing, maintaining and operating certain communication equipment. The license fee is \$250.00 per year, however may be suspended if the City chooses to utilize any of the equipment. The license term period is for five years, with the right of automatic renewal for three additional five year terms. The City has the right to terminate the agreement with a 30 day notice. Commissioner Blackburn made the motion, seconded by Commissioner Blankenship to approve the License Agreement and to authorize the Mayor to execute said agreement. Upon call of the roll, the motion carried 4 - 0 - 1 with Mayor Combs abstaining from the vote.

F. PARKING LOT: Pikeville College President, Bill Owens, asked the Commission to consider closing the alley in the Hatcher Court area to allow the College to expand their parking lot. According to Mr. Owens, the Trimble Heirs have agreed to provide an easement to allow the City to extend the street from the alley coming off Elm Street all the way through onto Huffman Avenue. Since an Ordinance will be required to close the alley, Mayor Combs suggested that Attorney Davis place a provision in the Ordinance to allow for a rededication of the easement should the College discontinue use of Hatcher Court as a parking lot or if they should sell the property. Mr. Owens advised the Commission that he has repaving of the parking lot scheduled for the immediate future. Mayor Combs made the motion to authorize Pikeville College to take up the avenue in the middle of Hatcher Court, perpendicular to Hambley Boulevard, for repaving of their parking lot. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

AGENDA ITEM IV.

PAYMENT OF BILLS

City Bills totaling \$555,314.41 were presented to the Commission for approval of payment. Discussed was the invoice from Wallen & Cornett in the amount of \$1994.00 which represents the cost of the audit of the PSG Repair & Replacement Account. Due to the audit report not yet being received, Commissioner Blankenship made the motion, seconded by Commissioner Clark to approve payment of the bills with the exception of the Wallen & Cornett bill in the amount of \$1,994.00. Upon call of the roll, the motion carried unanimously.

AGENDA ITEM V.

OLD BUSINESS

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A. CITY ENGINEER'S REPORTS: Mark Westfall, representing Summit Engineering, Inc., City Engineers, presented a verbal progress report as follows:

1. Sewer Extension Project: The contractors for the sewer line extension and for the lake cleanup have executed their contracts. Mr. Westfall advised the Commission that the Lake Cleanup Contractor, McPeck Construction Company, will be issued a Notice to Proceed on September 5th. The Sewer Extension Contractor, M & D General Contracting, Inc., will be issued their Notice to Proceed on September 6th.

Mayor Combs announced that Kentucky Infrastructure Authority (KIA) gave notice that additional funds have become available and recommended the City apply for additional funds needed to finance the cost overruns of the project. Due to the KIA having a Board Meeting scheduled for August 30th, Mayor Combs reported that he had signed a letter to request additional funds for a total loan amount of \$2,310,594. The interest rate is 1.2%.

It was reported that an analysis of the debt service has determined a sewage rate increase to be in order. Mr. Westfall advised the Commission that the average customer would see about a 10% increase in their bill. The sewage rate will be assessed at a flat fee per 1,000 gallons of water used which will eliminate price breaks for the large volume customer.

Mayor Combs made the motion to authorize the increase in the loan amount from Kentucky Infrastructure Authority for the Sewage Extension Project. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

2. Lover's Leap Development: Presented to the Commission for approval was a request from the Lover's Leap Subdivision developers that the City accept the water, sewage and streets into the City's system. The Commission advised there is a policy in place which provides for snow removal only on hillside streets for a period of five years so that structural integrity of the roadway can be defined. PSG Manager Bacon advised that his crew has found the utilities to be in order. Commissioner Blackburn asked how many houses were located in the subdivision. It was reported that one house has been constructed to date. Discussed was the feasibility of providing snow removal services for one residence. Commissioner Blankenship made the motion to accept the utilities. After further discussion, the Commission opted to delay acceptance of the utilities and the roadway until Jack Sykes could be present to explain the matter.

3. Pike County Health Department/Mountain Comprehensive Care: Mr. Westfall advised the Commission that the Pike County Health Department and Mountain Comprehensive Care Center have made a 40 ft. property dedication to the City to allow a connector street to be built between their two parcels. City Attorney Davis advised the Commission that he would meet with the City Engineer to prepare a dedication statement and an Ordinance. Further action was delayed until the next regular meeting.

4. Mountain Water District: During the previous City Commission Meeting, discussed was Mountain Water District's request to construct a water storage tank inside the City Limits. Also discussed was the size and proposed material of the line. According to Mr. Westfall, City Engineer Sykes has recommended that the Commission allow Mountain Water District to install the new type PVC, however recommended that the Commission request the upgrading of the 6" line to 8" as required by Ordinance and to provide fire protection. It was estimated that the difference in the cost between a 6" line and an 8" line would be \$15,000.00. Mayor Combs made the motion to allow Mountain Water District to construct the water storage tank on the Bowles property located within the City Limits of Pikeville subject to the following conditions:

- a. That Mountain Water District meet the specifications from the City's engineer and PSG concerning the elevation of the tank;
- b. That the size of the line be upgraded from 6 inches to 8 inches at the expense of Mountain Water District;
- c. That the City will not accept the maintenance of the tank or the line unless the City elects to utilize either the tank and/or the line.
- d. That Mountain Water District pay for the meter to be installed at the City Limits

It was further moved that the Mayor be authorized to execute the agreement. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried 5 - 0.

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

1. Annexation: Presented and given second reading was an Ordinance entitled as follows:

ORDINANCE FINALLY ANNEXING TO THE CITY OF PIKEVILLE THE TERRITORY ADJACENT TO THE PRESENT CITY CORPORATE LIMITS AND COMPRISING OF APPROXIMATELY ONE HUNDRED ACRES WHICH WOULD EXTEND THE CITY CORPORATE LIMITS NORTHWEST ALONG EITHER SIDE OF U.S. HIGHWAY 23 TO THE CORPORATE LIMITS OF COAL RUN CITY

Commissioner Blackburn 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 ABSTAIN

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COMMISSIONER: KENNY BLACKBURN YES
 WALTER BLANKENSHIP YES
 SHARON CLARK YES
 EUGENE DAVIS YES

2. Sewer User Ordinance: Presented and given first reading was an Ordinance entitled:

AN AMENDED ORDINANCE OF THE CITY OF PIKEVILLE PROVIDING FOR THE COLLECTION OF SEWER SERVICE CHARGES FROM MUNICIPAL SANITARY SEWER SYSTEM

The Ordinance will be on file in the office of the City Clerk for public inspection. Second reading was scheduled for September 25, 1995.

Street Sweeping Schedule: Discussed with the PSG Manager, Tom Bacon, was the need to develop a street sweeping schedule to provide the service to the entire city on a routine basis. Commissioner Clark stated there should be signs placed on the streets to notify the public of the schedule, and to provide the towing of the vehicles if they remain on the street during the time of the scheduled sweeping. Mr. Bacon assured the Commission that he would refine his street sweeping schedule, would post the schedule in the newspaper, and would work with the Police Department to ensure that the entire street in each neighborhood is swept.

Sewer Jetter Bid: Included in the agenda package was a memorandum from City Manager, John Johnson, recommending the award of the bid for the purchase of a sewer jetter to Municipal Equipment in the amount of \$21,313.00. Commissioner Blackburn made the motion, seconded by Commissioner Blankenship to award the bid for the purchase of a sewer jetter to Municipal Equipment in the amount of \$21,313.00 as recommended by the City Manager. Upon call of the roll, the motion carried 4 - 0 (Commissioner Davis not present at the time of the vote).

At 8:35 p.m., Mayor Combs made the motion to adjourn to an executive session to discuss a property matter and a legal matter as requested by the City Attorney and to consider discussion with Reverend Sword concerning the Emergency Shelter. Commissioner Blackburn seconded the motion. Upon call of the roll, the motion carried unanimously.

At 9:45 p.m., Mayor Combs made the motion, seconded by Commissioner Davis to reconvene to regular session. Upon call of the roll, the motion carried unanimously.

City Attorney Davis advised that the Commission discussed a legal claim by the Transportation Cabinet on invoice #G-163 which is an old claim involving a contract that dates back to the Cut-Thru Project. The claim is in excess of \$100,000.00. The City Attorney advised that a settlement has been negotiated whereby the City will pay to the Transportation Cabinet a sum of \$50,000.00 in settlement of the whole claim. Said amount will be paid over a 5 year period with no interest assessed. Commissioner Blackburn made the motion, seconded by Mayor Combs to authorize the City Attorney to settle the claim for a total amount of \$50,000.00 to be paid over a five year period at no interest. Upon call of the roll, the motion carried unanimously.

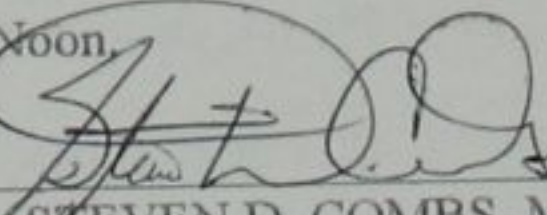
Three tracts of property were identified as being surplus property located within the City of Pikeville. The tracts were named as follows: Lorraine Plaza Tract, Old Water Plant Property on Julius Avenue, and the Industrial Tract at Coal Run. After a review of the appraisals, which will remain confidential until after the sale of the property, the Commission will sell at public auction the Old Water Plant tract and the Lorraine Plaza tract without reserves and to sell the Industrial Tract property at public auction with reserves. Said reserve amount will not be made public. Commissioner Blackburn made the motion to offer the three tracts of property, as identified above, for sale at public auction under the guidelines stated by the City Attorney. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

Commissioner Blackburn made the motion to authorize the City Manager to retain the services of an auctioneer. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

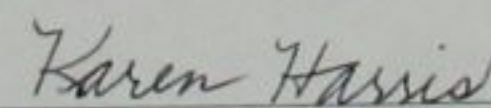
The Commission was advised that two vacancies exist on the Library Board. Mayor Combs made the motion to appoint Virginia Justice to the seat previously held by Joe Justice. Commissioner Blackburn seconded the motion. Upon call of the roll, the motion carried 4 - 0 - 1 with Commissioner Davis abstaining from the vote. The remaining vacancy will be filled at the next meeting.

The meeting was recessed until August 29, 1995 at Noon.

APPROVED


 STEVEN D. COMBS, MAYOR

ATTEST:


 KAREN HARRIS, CITY CLERK