

MINUTES } CITY OF PIKEVILLE

CITY OF PIKEVILLE BOARD OF COMMISSIONERS REGULAR MEETING MINUTES JUNE 24, 1996

The Board of Commissioners of the City of Pikeville met in regular meeting on Monday, June 24, 1996. 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 call of the roll were as follows:

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

Due to all parties not being present, Business from the Floor was delayed until later in the meeting.

AGENDA ITEM III. PAYMENT OF BILLS

A. CITY BILLS: A list of City Bills totaling \$485,854.92 was presented to the Commission for approval of payment. Commissioner Blankenship made the motion, seconded by Commissioner Davis to approve payment of the bills as requested. Upon call of the roll, the motion carried unanimously.

B. SEWER PROJECT BILLS: Presented to the Commission for approval of payment, were invoices from M & D General Contracting for the sewer extension to Harolds Branch, Chloe Creek, and the North Interceptor. The invoices were as follows:

Contract #1	Chloe Creek	\$128,635.20
Contract #2	Harolds Branch	51,921.00
Contract #3	North Interceptor	27,007.20
Retainage	All contracts	23,062.60

City Engineer Sykes recommended approval of the bills as presented. Mayor Combs advised that he had received a number of complaints with regard to the reclamation. City Engineer Sykes reported that approximately 75% of the reclamation has been done on Harold's Branch. Paving is scheduled for July 22nd. On the Chloe Project, the contractor has not been as responsive in timely reclamation. The majority of Walters' Road has been cleaned up and the contractor began work on Main Chloe, in the vicinity of the Mines and Minerals Building, on this date. Very little clean up activity has been done on Fife Fork. The contractor currently has two crews working on Chloe. He advised the engineer that he will allocate one crew totally to clean up activities. The Chloe Project is complete except for the installation of three manholes and 700-800 feet of line. Mr. Sykes estimated that the work could be completed in two days. Engineer Sykes told the Commission that he would be placing an advertisement in the newspaper, in mid July, advising all property owners who have uncorrected problems associated with the sewer line extension, to contact Summit Engineering. With regard to the North Interceptor Project, Mr. Sykes reported that the project will not be complete until some time after the first week of July, due to high water conditions. The engineers have sent a letter to the contractor regarding the impending contract deadline and advising that any repercussions will be discussed at the July City Commission Meeting.

Commissioner Blackburn made the motion, seconded by Commissioner Blankenship to approve payment of the invoices as submitted. Upon call of the roll, the motion carried unanimously.

C. ACADEMY BUILDING: Presented to the Commission for approval of payment was a request in the amount of \$1,130.00 from Rickie Akers for asbestos analysis for the Academy Building. Commissioner Davis made the motion, seconded by Commissioner Clark to authorize payment of the bill contingent upon the architect's approval. Upon call of the roll, the motion carried unanimously.

AGENDA ITEM II. BUSINESS FROM THE FLOOR

A. POND ACCESS: Katie Deskins appeared before the Commission to continue her discussion concerning the portion of river fill property granted in a license agreement to Walters & Associates. Mrs. Deskins reminded the Commission of her request that a committee be established to revitalize issues concerning the Pikeville Pond. Proposed was a group of 12 persons who would represent the ByPass and Town side of the pond and concerned citizens. Mrs. Deskins reported she had ascertained that the following persons are interested in serving on the committee: Gene Layne, Stafford Layne, Johnny Shepherd, Steve Hogg, Mike & Becky Castle, Justine Trivette, Katie Deskins, Beverly Williams, David Hefner, Doug Justice and Marilyn May.

Mrs. Deskins displayed a myriad of documents concerning the pond which consisted of maps, pictures, encroachment permits, minutes of City Commission Meetings, along with a resolution regarding the policy for disposal of surplus property. Referring to the resolution, Mrs. Deskins told the Commission that the granting of the property in a license agreement should have been publicized. She commented that she found it amazing that one individual could ask for and receive control of a tract of property which severely limited any future for recreational development of the pond. Mrs. Deskins told the Commission that Mrs. Walters had indicated she would be willing to return the license agreement to the City in exchange for the City purchasing the river fill lots

5, 6, & 7. Mrs. Deskins made it clear to the Commission that she was not asking that they vote to repurchase the river fill lots, but asking they take action to rescind the license agreement. Mrs. Deskins voiced her concern that Mrs. Walters could sell the property, and in the event that she did, the license agreement would be attached. Mrs. Deskins contended that the City had legal avenues to rescind the license agreement - such as, failure to follow the policy for disposal of surplus property, and Mrs. Walters' failure to begin development within 18 months of the property purchase.

Calling the Commission's attention to the January 22, 1996 and February 26, 1996 City Commission Meeting Minutes, Mrs. Deskins read "...Mrs Walters told the Commission that she plans to construct a brick fence around the development and would like to extend the fence to the top of the slope on both sides. Ms. Walters told the Commission that she would have no objections to placing a gate to allow pedestrian traffic to access the pond. The extension of the fence would not limit the use of the roadway". Mrs. Deskins explained that it was learned that the roadway indicated on the map is not the designated roadway, but an intended roadway that was allegedly owned by Justine Trivette. It has been learned that Mrs. Trivette does not own that property. Mrs. Deskins admitted that she realized how a misunderstanding occurred with the information and the map that was provided to the City Commission. Mrs. Deskins read from the February 26, 1996 City Commission minutes, "...The existing street is about 25 feet in width, but would not provide sufficient space for parking for those who wish to access the river for fishing. Mrs. Walters pointed out that sufficient access to the pond is provided at the other end of the pond area." Mrs. Deskins advised the Commission that she had met with Mrs. Walters and pointed out there is no access to the pond from the other end. She said that Mrs. Walters had thought there was another road and apologized for the error. With these facts in mind, Mrs. Deskins asked the Commission to vote to rescind the license agreement. Mrs. Deskins informed the Commission that she had also been told, that while Mrs. Walters had proposed building patio homes, that Mrs. Walters intends to construct governmentally subsidized housing.

Kirby Walters was present on Judy Walters' behalf. She pointed out that Mrs. Walters did not file any objections when the residents of Third Street had asked that their street be blocked to through traffic. She said she was unable to comment any further on Mrs. Walters' development plans.

Mayor Combs reminded those present that a number of the documents in Mrs. Deskins' possession stem from meetings held by a Lake Committee that was established in 1989. He pointed out that no action had been taken with regard to that committee's recommendations. When the present City Commission applied for funding for the sewer extensions to Harolds Branch, Chloe, and Layne Hollow, it was required for the pond to undergo extensive clean up, which the City paid for 100%. The Mayor explained that he did not think it prudent to subject the citizens to a tax increase to fund dredging the pond, which he feels will be necessary in order to use the pond for recreational purposes. Mrs. Deskins said that she understood that the pond is not ready for swimming, and probably wouldn't be for a few years.

At 6:40 p.m., Commissioner Clark made the motion to adjourn to executive session for the purpose of obtaining legal advice from the City Attorney concerning Mrs. Deskins' request that the license agreement be rescinded. Commissioner Davis seconded the motion. Upon call of the roll, the motion carried unanimously.

At 6:55 p.m., Mayor Combs made the motion, seconded by Commissioner Blackburn to reconvene to regular session. Upon call of the roll, the motion carried 5 - 0.

City Attorney Davis reported that during executive session, he had discussed with the Commission different options the City had with regard to regaining the license agreement granted to Walters & Associates. Mr. Davis reported that it was his understanding that the Commission wants to make an offer to the developer to repurchase the property (river fill lots 5, 6 & 7) at the amount that the City originally sold it for, and to refund the developer any permit fees that has been collected by the City for the project. Commissioner Blackburn made the motion. Commissioner Clark seconded the motion.

Mayor Combs explained that it is necessary to have a negotiation phase. He stated that the Commission would authorize the City Manager to talk with Mrs. Walters to see what can be worked out. At the next meeting, the matter will be brought back before the Commission to determine if there is an "avenue". If not, then the Commission will have to consider other options.

Mrs. Deskins asked what is to prevent Mrs. Walters from selling her property prior to the City negotiating a repurchase agreement. The Mayor said that Mrs. Walters could have already sold her property. Mrs. Deskins again asked the Commission to rescind the license agreement.

City Attorney Davis said that Mrs. Walters had made an offer to sell the property for an amount very close to the original purchase price. He stated that the City had never had any problem in working with the Walters Family. Mrs. Deskins commented that she had experienced some difficulty in working with the Walters. Mayor Combs said that the Walters had always worked closely with the City and it was not proper to begin negotiations by rescinding a prior agreement.

Mrs. Deskins said the voters, some of whom were not in attendance at the meeting, were wanting the Commission to vote again on the matter, with the knowledge they now possess, prior to the next election, and again, requested the Commission to vote to rescind the license agreement.

The Mayor stated there was a motion and second and called for the vote. The motion carried unanimously. Commissioner Davis said he wanted to explain his vote. He stated the purpose of the negotiations for repurchase of the river fill lots was to regain the license agreement, and for that reason he voted yes.

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Mrs. Deskins said she was not concerned about the City repurchasing the property, however she was concerned about Mrs. Walters selling the property and the fact that the license agreement would be attached. Mayor Combs pointed out that Mrs. Walters was not present, therefore it was appropriate that the City Manager be authorized to negotiate with her. He stated that the procedure would be as follows: The City Attorney will propose a deed; the matter will come back before the Commission in public meeting, when the City Manager and the City Attorney will explain the terms and price; the Commission will then take a vote. Mrs. Deskins continued to ask for action to rescind the license agreement and then to negotiate with Mrs. Walters for the repurchase of lots 5, 6 & 7. Commissioner Clark said she would like to vote to take that course of action, however advised there was not a sufficient vote of the Commission.

The Mayor pointed out that the river fill property is subject to a floodway easement, meaning there can be no building permit obtained or construction begun.

Mayor Combs made the motion to appoint the suggested members to the Pond Committee. Commissioner Blackburn seconded the motion. During discussion, Mayor Combs advised that the Pond Committee will make recommendations for improvements to the pond. Upon call of the roll, the motion carried unanimously.

B. YMCA: David Stratton and Dennis Rohrer were present to ask the Commission to extend a lease agreement with the YMCA for the property, where the batting cages are located, in the same manner as the City has leased the property where the new YMCA facility is being built. Mr. Stratton advised that the YMCA's current lease with the City is for a term of 75 years at \$1.00 per year. The City Attorney reported that the City currently has a year-to-year lease agreement for the property with Robert Roberts. Mr. Stratton told the Commission that Mr. Roberts has sold the batting cage equipment to individuals who have donated it to the YMCA. The Mayor reported that Mr. Roberts had told him that he was getting out of the batting cage business. Commissioner Blankenship said there is some possibility of an open air theater being located on that site. Dennis Rohrer told the Commission that the YMCA will continue to operate batting cages on the site, until a long term use can be determined. The City Attorney suggested keeping the term of the lease on a year to year basis until the YMCA proposes a development plan. Commissioner Blackburn made the motion to enter into a year-to-year lease with the Pikeville YMCA for the property, formerly leased by Robert Roberts, at a lease fee of \$1.00 per year, and the same terms and conditions as the Roberts' lease. Commissioner Clark seconded the motion. Upon call of the roll, the motion carried unanimously.

Mr. Stratton requested permission to erect a sign to advertise Bob Amos Park and the Pikeville YMCA. He reported that the cost of the sign would be donated if another business could receive permission to advertise on a connecting sign. City Attorney Davis advised it would be improper for the business to place an advertisement on City property. Commissioner Blackburn suggested that the City advertise the walking track and basketball courts in an effort to help the YMCA offset the cost of the sign. Mr. Stratton indicated this suggestion would be acceptable to the YMCA. Commissioner Blackburn made the motion, seconded by Commissioner Blankenship, to authorize the City Manager to negotiate with the YMCA on the placement of a shared sign. Upon call of the roll, the motion carried unanimously.

C. KEYSER HEIGHTS: Consulting Engineer, Rick Keene, reported that the Technical Advisory Committee had not been able to meet with the Planning Commission concerning the drainage control plan for Adams' Development in Keyser III, however, he advised that Summit Engineering, Inc., has prepared a plan and has submitted it to the Technical Advisory Committee for approval. The plan has incorporated all of the concerns that were addressed by the three members of the Technical Advisory Committee. Since the City Commission Meeting of May 30, 1996, approximately 85% of the drainage has been diverted away from the existing subdivision and will come out above the Keyser III Addition. Additionally, a 12" drain pipe, located under the street, has been replaced by a 36" drain pipe. A berm has been placed to prevent an overflow of the water coming into the Keyser area. Regarding the concerns that have been expressed about the area on the right side of the roadway accessing the Keyser III area, the area has been graded and hydroseeded. Vegetation is expected within the next 10 days. The majority of the rocks which were located on the bench behind the Ratliff house are going to be placed in a core filter drain in the hollow fill. The hollow fill was being graded as of last Friday. The rocks should be placed within the next three weeks. Any of the rocks which are not used in the filter core will be removed and placed back on the solid bench behind Keyser III. The remaining 15% of the water has been diverted from the slip area and the ditch has been "shot-treated". Mr. Keene reported that Mr. Adams has approximately 90% of the remedial measures completed. He stated that he was pleased with the progress of the work to date.

Residents of Keyser Heights were present and questioned if the entrance to Keyser Heights will be repaired. Mayor Combs explained that Mr. Adams is replacing the 4" siphon sewer line with an 8" gravity fed line, which will benefit his subdivision as well as the existing Keyser Heights subdivision. Mr. Adams was present and assured the Commission that he would replace the landscaping. The City Engineer said he would have to review Mr. Adams' contract to determine responsibility for the entrance replacement, but assured the residents that the entrance would be repaired.

Mr. Keene advised that a meeting of the Technical Advisory Committee will be held in the near future. The meeting will be advertised and will be open to the public. He told those present that the Committee would answer any questions the residents may have.

PSG will be cleaning out the drains and drop boxes when the weather permits.

City Attorney Davis reported there have been violations of the development agreement between the City and Mr. Adams with regard to the UDAG funds. The violations include working in an area outside the approved area

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covered by erosion control plans and coal mining activities. Even though violations have occurred a number of times, the infringements have not resulted any damage. With regard to working outside an approved area, Mr. Adams has cured the violations by asking the Technical Advisory Committee to consider the new area in the erosion control plan. Additionally, Mr. Adams has assured the Department of Natural Resources there will be no further mining activities. The City's agreement with Mr. Adams for use of the UDAG funds provides for a letter of default for violation of any provision and gives Mr. Adams 30 days to cure the default. With regard to the mining, Mr. Davis told the Commission it would take Mr. Adams more than 6 months to cure that default and advised this may jeopardize his ability to complete the project on time. Mr. Davis recommended that he be authorized to send Mr. Adams a notice of default and to include in the notice that he will not be given any further notices for the repeated practice of working outside the area where an approved erosion control plan exists. Commissioner Clark made the motion, seconded by Commissioner to authorize the City Attorney to send the notice of default to Mr. Adams.

Mayor Combs reported that he has received a letter from the Pikeville Methodist Hospital advising of their interest in acquiring any additional UDAG Funds, if they become available. The Mayor commented that he had spoken with the City Attorney on this date, who reminded him that the City has a written development agreement with Mr. Adams which has been approved by the Department of Housing and Urban Development. In an effort to explain the Commission's action to authorize the City Attorney to send Mr. Adams a notice of default, the Mayor explained that the development agreement has a clause which requires the City to send a letter of default and to give him an established amount of time in which to cure the default. If the default is not cured, other action can be taken to rescind the agreement.

Martha O'Regan Chill, Hospital Administrator, told the Commission that she wanted to advise them of the Hospital's interest in acquiring the portion of the UDAG Funds dedicated to Mr. Adams, should those funds become available. The Mayor explained that it would be improper at this time for the Commission to dedicate the money to the hospital since it still belongs to Mr. Adams. The Mayor assured Ms. Chill that the hospital would be considered to receive the additional funds if they become available since the hospital is the only other UDAG recipient.

The City Attorney reported that he had sent the hospital's attorney a development agreement some time ago for the \$3.7 million in UDAG Funds and has not received a response. Project Coordinator, Sue Smallwood, advised that a request has been made to HUD for a time extension.

Referring to the bore encasement at the mouth of Keyser Heights, Mr. Adams advised the Commission that his contractor has encountered solid rock. The Mayor directed that Mr. Adams take measures to ensure that the residents are inconvenienced as little as possible. City Engineer Sykes reported that he had asked Mr. Adams to give him a schedule as to when the sewer line will be completed. Mr. Adams said he would give a schedule once the bore is complete.

AGENDA ITEM IV.

OLD BUSINESS

A. CITY ENGINEER'S REPORTS: Jack Sykes, representing Summit Engineering, Inc., City Engineers, presented a verbal report for the City's various projects as follows:

1. Records Storage Building/Thompson Road Fire Station: Mr. Sykes reported that the storage building, located on the Chloe Fire Station property, is nearing completion. With regard to the Thompson Road Fire Station construction, the City Engineer advised that several minor changes had been discussed with the Fire Chief and City Manager. The changes are as follows: 1. Add the exhaust-o-vent, delete the exhaust fan and power louver from the fire station. 2. Add 3 circuits for the overhead doors in the storage building. 3. Add a washer and dryer hookup in the Fire Station. 4. Add a hose bib to the front of the fire station. 5. Replace the fiberglass sink proposed in the Fire Station apparatus room with a stainless steel sink. 6. Replace stainless steel showers in the fire station with fiberglass showers. Total additional cost to the contract is \$1,934.26. The City Engineer recommended approval of the changes. Commissioner Blackburn made the motion, seconded by Commissioner Clark to approve the change order to the Thompson Road Fire Station contract. Upon call of the roll, the motion carried 5 - 0.

Mr. Sykes advised that he had made the City Manager and Public Works Manager aware of the fact there is no water service to the Fire Station site. He reported that they will probably ask Sandy Valley Water District to make a temporary tie-in. Mr. Sykes anticipates hooking onto the City's main when the Wal Mart development is completed.

2. Raw Water Intake: Mr. Sykes reported that he had asked Will Linder to investigate the possibility of obtaining funding for the raw water intake upgrade which was estimated to cost \$420,000.00. He reported that he had been recently asked to add telemetry and an additional filter gallery to the project which would bring the total cost to \$825,000.00. Mr. Sykes advised that Mr. Linder had told him that the City is not eligible to receive CDBG funding, due to the City not meeting the requirement of having 50% or more of the population falling into the low or moderate income category. Mr. Sykes told the Commission that he was hoping to be able to integrate the County's population with the City's statistics since the City furnishes water to the Mountain Water District. Mr. Linder advised that the City will not be able to utilize those figures. With the effective date of new legislation, there will be a new state program which will finance water projects, however no further information will be available until late July or August. Mr. Sykes anticipates the interest rate will be between 1 and 2% or the same as KIA. In the meantime, Mr. Linder will be looking at other avenues for funding. Mr. Sykes asked the Commission whether they would want to wait until spring to bid the project as one contract or to bid two separate contracts. He explained his concerns for the intake's ability to produce sufficient water during the late summer

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and fall months. He asked if the City could afford to finance the \$420,000.00 he estimates will be required to upgrade the intake. Mayor Combs stated that he would like to see the project bid as one contract. Mr. Sykes told the Commission that the filter gallery equipment could not be received within the time frame needed. He explained that equipment to provide a temporary water supply will have to be brought in when the filter gallery is installed. He suggested making arrangements to have the equipment brought in early in an attempt to alleviate any water production problems, until the whole project can be advertised. Commissioner Blackburn stated his opinion that something needed to be done on the intake this fall, whether temporary or not. The Mayor asked if the water transmission lines could withstand the added pressure an additional filter gallery would impose. The Public Works Manager advised that he did not think there would be any major problems. Some discussion was had concerning the financing of the project. Questioned was the feasibility of bond refinancing. The Finance Director reported that the bond advisor has suggested waiting until January. Mr. Sykes commented that he thought KIA to be a better source since the interest rates are very low. In an effort to ensure that a potential water shortfall can be avoided, Commissioner Blackburn made the motion to authorize the City Engineer to bid all or part of the project. Commissioner Clark seconded the motion. Upon call of the roll, the motion carried 5 - 0.

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

1. Budget Ordinance: Presented for second reading was an Ordinance adopting the City's 1996-97 operating budget. The Ordinance was read entitled:

AN ORDINANCE ADOPTING THE CITY OF PIKEVILLE, KENTUCKY ANNUAL BUDGET FOR THE FISCAL YEAR JULY 1, 1996 THROUGH JUNE 30, 1997, BY ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS FOR THE OPERATION OF CITY GOVERNMENT

Commissioner Blankenship made the motion to adopt the Ordinance. 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	YES
	SHARON CLARK	YES
	EUGENE DAVIS	YES

2. Southeast Cable: David Stratton, on behalf of Southeast Telephone Company, asked the Commission to consider approval of a waiver to allow Southeast Telephone Company, owner of Southeast Cablevision, to operate, both a cable and telephone company. City Attorney Davis explained that FCC rules and regulations provide for certain restrictions about cable companies competing against telephone companies and vice-versa. In order for the cable company to keep the telephone business, it must obtain a waiver approval from the franchising authority. By approving the waiver, the City will be stating that it has no objections to the cable company also operating a telephone company. Commissioner Blankenship made the motion, seconded by Commissioner Clark to grant the waiver to Southeast Telephone Company. Upon call of the roll, the motion carried unanimously.

3. Wrecker Service: During the May, 1996 City Commission Meeting, the Commission considered a request from the Chief of Police that the City advertise for bids for a designated towing service. The City Attorney reviewed the specifications and assured the Commission that an individual retains the right to ask for the towing service of his choice. Mr. Davis asked for permission to advertise for bids. Commissioner Blankenship made the motion, seconded by Commissioner Clark to authorize the advertisement for bids for a single towing service. Upon call of the roll, the motion carried 5 - 0.

There being no further business from the floor, Commissioner Clark made the motion to adjourn to an executive session for the purpose of discussing a legal matter concerning the Pikeville Public Library and an additional pending legal matter. Commissioner Blankenship seconded the motion. During discussion, Commissioner Davis stated that the Library issue is a controversial issue and voiced his objection to discussing the matter since it was not mentioned on the agenda. Commissioner Clark apologized, however stated that the agenda had been distributed prior to her decision to discuss the matter. Upon call of the roll, the motion carried 4 - 0 - 1 with Commissioner Davis abstaining from the vote.

At 8:53 p.m., Mayor Combs made the motion to reconvene to regular session. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

It was reported there was no action necessary as a result of the executive session.

Discussed with the Public Works Manager was scheduled cleaning of the trash screens in the pond.

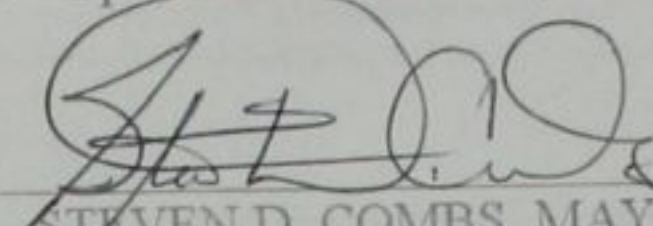
Upon motion by Mayor Combs and seconded by Commissioner Blankenship, City Hall offices were authorized to close from 11:00 a.m. until 2:00 p.m. on June 25th to attend the funeral services of the City Manager's father. It was further moved that a resolution be prepared and sent to the City Manager in memory and to commemorate the years of service his father gave to the community as a police chief, police judge, and tax collector. Upon call of the roll, the motion carried unanimously.

It was also directed that a special official escort be arranged.

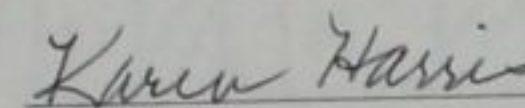
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There being no further business to come before the Commission, Mayor Combs made the motion to adjourn. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously. (Adjournment Time: 8:55 p.m.)

APPROVED


STEVEN D. COMBS, MAYOR

ATTEST:


KAREN HARRIS, CITY CLERK