

CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
AUGUST 26, 1996

The Board of Commissioners of the City of Pikeville met in regular session on Monday, August 26, 1996. The meeting was conducted 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 at roll call 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 held on July 22, 1996 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 submitted. Upon call of the roll, the motion carried unanimously.

AGENDA ITEM III. BUSINESS FROM THE FLOOR

A. YMCA: Representing Pikeville Area Family Y.M.C.A., Dennis Rohrer presented for display, a site map depicting the location of a proposed skate park on the batting cage property in Bob Amos Park. Utilizing the entire flat area, Y.M.C.A. proposes the installation of a 140 X 140 concrete slab with moveable ramps. Encompassing the rink, is a 1000 X 10 novice skating track. Approximately \$30,000.00 has been pledged for the construction of the skate park. Mr. Rohrer asked for approval to proceed with the project. Mayor Combs asked who would be responsible for maintenance, clean up and supervision. Mr. Rohrer assured the Commission that the Y.M.C.A. would be responsible for all facets of operating the skate park. Commissioner Blankenship made the motion to allow the Y.M.C.A. to proceed with the project and authorized the City Attorney to prepare the necessary amendments to the lease agreement. Commissioner Clark seconded the motion. During discussion, Mayor Combs advised there may be a future need for the property. He suggested extending the lease agreement for a period of five years with the right to renew annually thereafter, and additionally, to reimburse the Y.M.C.A. for any out-of-pocket expenses should the City have need to cancel the agreement. Commissioners Blankenship and Clark agreed to the amendment. Upon call of the roll, the motion carried unanimously. Katie Deskins asked why it would be necessary to relocate the Y.M.C.A. project instead of finding an alternate location for a future project. The Mayor assured Ms. Deskins that a suitable location would be found within the park for the skate rink.

B. KEYSER HEIGHTS: A group of citizens from the Keyser Heights Subdivision appeared before the Commission to discuss the construction activity by Stuart Adams, d/b/a Adams, Adams, & Adams Limited Partnership. Resident Linda Ratliff, referring to a letter written by City Attorney Davis to Mr. Adams which demanded the repair of the street between the Keyser I and Keyser II subdivisions, asked if Mr. Adams intends to comply with the letter.

Mayor Combs stated that it was his opinion that Mr. Adams does not intend to comply with the letter. The Mayor asked PSG Manager, Greg May, if his crew could replace the concrete in the area in question. Mr. May assured the Commission that his crew could perform the necessary repairs. Mrs. Ratliff pointed out that the culvert beside her home has not been cleared of debris. Mr. May apologized for the inconvenience and explained that his crew did not have the proper equipment to clean the culvert. Mr. May advised that he had contacted a contractor to perform the necessary work, however the contractor had suffered an illness. Mr. May reported that the equipment will be rented and expects this work to begin later this week. Mrs. Ratliff wanted to know if Mr. Adams would be held accountable. The Mayor assured that Mr. Adams would be sent a bill for the work performed by city crews.

Discussing the hole at the bottom of the hill and adjacent to U.S. 23, the City Manager said that it would be at least two months before a bore contractor could be on site to complete the bore under the highway. The residents complained of sewage odor emitting from the hole. Mr. Johnson reported that the odor is from stagnant water, not sewage. The Mayor asked if the bore could be completed on an emergency basis and bill Mr. Adams to recover the cost. Mr. Johnson told the Commission that the 2 month estimate given earlier was from an independent contractor. Mayor Combs stated the hole should be filled for safety purposes.

Steve Ratliff urged the Commission to visit the site to get first hand knowledge of the amount of area disturbed. He reported that the silt from the project is going into the river and is resulting in an "environmental nightmare". Mr. Ratliff asked if the EPA or Division of Water had been asked to inspect the project.

City Attorney Davis and Mayor Combs reported they had been advised by independent engineer, Rick Keene, and by Summit Engineering that the project was environmentally and structurally safe.

Mayor Combs made the motion to authorize the City Manager to take whatever steps necessary to have PSG to fill in the hole and to repair the street, and if necessary, to solicit bids for a bore contractor. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

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Resident Bennie Bartley told the Commission that Keyser residents had no need to appear at City Commission meetings for the 13 years prior to the Adams development. Since the project began, they have been to about every meeting to complain about the construction activity. Mr. Bartley expressed his annoyance with the City rewarding Mr. Adams with \$500,000.00 in U.D.A.G. funds. The Mayor told Mr. Bartley that Mr. Adams has not received any funds from U.D.A.G. He continued by saying that the City is not able to regulate much more of the construction activities, since its adoption of subdivision regulations, the hiring of an independent engineer to oversee the project, and to compensate PSG to perform clean up work. Mayor Combs told Steve Ratliff that he would send a letter to EPA, the Department of Natural Resources, and the Division of Water, to request their inspection of the Adams project. City Attorney Davis pointed out that the residents must understand there is just so much the City can regulate with regard to what property owners can do with their own property. He stated the City could file suit for public damage but not for private property damage.

City Attorney Davis reported that he had sent a letter of default to Mr. Adams concerning the U.D.A.G. funds. Commissioner Clark stated she would like to withdraw the funding commitment based on Mr. Adams' alleged illegal mining activities. The City Attorney advised that Mr. Adams has until December, 1996 to file a permit with the Department of Natural Resources. Mr. Adams is not in non-compliance at this time. City Attorney Davis reported that engineer Rick Keene says that Mr. Adams is complying with the subdivision and erosion control plan. Before the U.D.A.G. agreement is canceled, there has to be a substantial breach of the agreement which would allow termination. City Engineer, Mark Westfall, told the Commission that he thinks Mr. Adams' development is safe. He reported that all the water has been diverted from the residences onto Mr. Adams' property.

Project Director, Sue Smallwood, explained that U.D.A.G. funds are payable to the City. It is the City's decision to which project the funds are applied. Ms. Smallwood reported that Mr. Adams' project is currently in default with the City because he has not filed the required evidentiary materials which were due in October, 1995, nor has he obtained all the necessary governmental permits. Commissioner Blankenship made the motion to withdraw the U.D.A.G. funding from the Adams, Adams, & Adams Limited Partnership project. Commissioner Clark seconded the motion. During discussion, Commissioner Davis suggested that before the agreement is terminated, the City Attorney and Project Director review the project to determine if Mr. Adams is in default, and report back to the Commission. Commissioner Clark asked if it is true that if the U.D.A.G. agreement is terminated, the City will have no further control over the development activities. Mayor Combs stated this was the point he was trying to make - if the U.D.A.G. funds are withdrawn, the City will, most probably, have no control. The City Attorney confirmed this statement by advising that property owners can only be regulated by the City with regard to zoning. Commissioners Blankenship and Clark agreed to withdraw their motion to allow the City Attorney and Project Director to review Mr. Adams' project.

C. STREET PAVING: Walters Road resident, Melissa Lester, appeared before the Commission with a petition requesting the paving of a roadway located within the City Limits and branching off main Walters Road. Ms. Lester told the Commission that 4 residents currently use the roadway. City Manager Johnson explained that since the roadway had not been dedicated to the City, it would be necessary for the property owners to make the dedication and for the City to accept said dedication. The property owners would then be billed a pro-rated amount for the paving of the roadway. Since the street is determined to be hillside, the paved road would have to be a part of the City's maintenance system for 5 years before it would be accepted as a city street. City Engineer Westfall was directed to survey the street and prepare the necessary description for the City Attorney. Ms. Lester was asked to return to the next meeting with the dedication agreement.

AGENDA ITEM IV.

PAYMENT OF BILLS

A. CITY BILLS: A list of City Bills totaling \$419,749.15 was presented to the Commission for approval of payment. Upon the City Manager's confirmation that sufficient funds were available to make payment, Commissioner Blankenship made the motion, seconded by Commissioner Davis to approve payment of the bills as submitted. Upon call of the roll, the motion carried unanimously.

B. SEWAGE EXTENSION PROJECT: Presented to the Commission on behalf of M & D General Contracting were invoices for the sewage extension project on Harolds Branch, Chloe Creek and the North Interceptor. The invoices were submitted as follows:

Contract #1	Chloe Creek	\$115,994.84
Contract #2	Harolds Branch	110,232.38
Contract #3	North Interceptor	61,031.86

Mark Westfall, representing Summit Engineering, Inc., City Engineers, advised the Commission that retainage dollars being held in escrow have been reduced to 5%. He assured the Commission that the remaining funds would be sufficient to finish the punch lists should the contractor fail to complete the project.

Commissioner Blackburn made the motion, seconded by Commissioner Clark to approve payment of the sewage extension project bills as requested. Upon call of the roll, the motion carried 5 - 0.

C. ACADEMY BUILDING STABILIZATION PROJECT:

1. Award of bids: In the absence of a Richardson Associates Architects' representative, Project Coordinator, Sue Smallwood, presented the recommendation of the Historic Preservation Board that the Commission award the bid for asbestos abatement to the firm of Environmental Recovery Systems in the amount of \$17,300.00. Ms. Smallwood advised the Commission that this portion of the stabilization

project requires 100% City funding and is not eligible to be reimbursed with ISTE A grant funds. City Manager Johnson called the Commission's attention to the Historic Preservation Board's request that the City approve the submission of a funding application for Phase III which would complete the building and allow for habitation. If the funding application is successful, the City could be responsible for 25% match or \$135,000.00. Ms. Smallwood was asked if the City had the option to return the funding, if the application proves to be successful, if it is determined that the matching funds can not be appropriated in the 1997 budget. Ms. Smallwood advised the Commission would have the opportunity to either vote to accept or to reject the grant funds. She stated it may be possible for the Historic Preservation Board to launch a fund raiser to assist in the required matching funds. The Mayor explained that various agencies hope to locate their offices in the completed structure. It is hoped that the rental income will pay for maintenance and general upkeep of the Academy Building. Mayor Combs pointed out to the Commission that the City's proposed investment is small compared to the \$1.3 which may be received in ISTE A funds.

Commissioner Blackburn made the motion, seconded by Commissioner Clark to award the bid for asbestos abatement to Environmental Recovery System in the amount of \$17,300.00. Upon call of the roll, the motion carried unanimously.

Presented for consideration was the recommendation of the Historic Preservation Board to award the bid for building stabilization and for alternate 2 (replacing floor system in rooms 102, 104, and 106) to Commonwealth Building and Construction in the amounts of \$372,000.00 and \$15,000.00, respectively. Commissioner Blackburn made the motion to award the bid as recommended. Commissioner Blankenship seconded the motion. Upon call of the roll, the motion carried unanimously.

Commissioner Blackburn made the motion, seconded by Commissioner Blankenship to authorize the submission of an ISTE A funding application for Phase III of the Academy Building Stabilization Project, with acceptance of the grant funds contingent upon the City being able to budget matching funds in the 1997 operating budget. Upon call of the roll, the motion carried unanimously.

Submitted for approval from the Historic Preservation Board was a bill from James A. Ellis for the preparation of the ISTE A grant application and supporting documentation for Phase I and Phase II. The Mayor asked if there was any understanding that Mr. Ellis would be compensated for the work. The City Attorney replied there was not. No action taken.

D. U.D.A.G.: Presented for approval was a request for reimbursement from Pikeville Area Family Y.M.C.A. in the amount of \$36,325.60. Ms. Smallwood advised this is a final reimbursement payment to Y.M.C.A. Commissioner Blankenship made the motion, seconded by Commissioner Clark to approve reimbursement as requested. Upon call of the roll, the motion carried unanimously.

V. AGENDA ITEM V.

OLD BUSINESS

A. CITY ENGINEER'S REPORTS: Mark Westfall, representing Summit Engineering, City Engineers, gave a verbal progress report of ongoing City Projects as follows:

1. Sewage Extension Project: All three sewer extension projects are complete. Mr. Westfall requested an executive session to discuss approval of a change order to extend the contract time until August 30 and to discuss engineering inspection fees for this period. Mr. Westfall advised that customers will be billed for sewage service beginning with the September 1st billing.

2. Scott Street/May Avenue Intersection Improvements: City Manager Johnson reported that it had been discussed in the past the possibility of making a more direct traffic route from Main Street to the river fill to improve the access. The request was renewed at the request of Mr. Flannery of Unisign. It is expected with the intersection being better defined, the property fronting Scott Avenue will become available for potential development. Mr. Johnson advised this property could be auctioned along with the property repurchased from Judy Walters to fund the street improvements. Engineer's estimate is \$41,798.00. Commissioner Blackburn made the motion, seconded by Commissioner Clark to authorize the engineer to advertise for bids. Upon call of the roll, the motion carried 4 - 0*.

*Commissioner Blankenship left the meeting at 7:40 p.m. due to illness.

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

1. Towing Service: After review of the bids, City Attorney Davis recommended the award of the bid for towing service to Village Wrecker, subject to receiving the proper insurance documentation. Commissioner Blackburn made the motion, seconded by Commissioner Clark to approve the City Attorney's recommendation. During discussion, it was noted that Chief Dispatcher Justice will keep track of the response time. Upon call of the roll, the motion carried 3 - 0 - 1 with Mayor Combs abstaining from the vote.

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

AN ORDINANCE REPEALING SECTION 130.01 OF THE CITY OF PIKEVILLE CODE OF ORDINANCES AND CREATING A NEW ORDINANCE ESTABLISHING A CURFEW FOR MINORS; CREATING OFFENSES FOR MINORS, PARENTS, AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; AND IMPOSING A PENALTY FOR THE VIOLATION THEREOF.

Curfew time was established at 11 p.m. on weeknights and midnight on weekends. The Commission pointed out the reason for consideration of a curfew is to prevent crime by minors and crimes perpetrated against minors. If adopted, the Ordinance will become effective on October 1, 1996.

The Ordinance will be on file in the office of the City Clerk for public inspection. Second reading was scheduled for September 23, 1996.

Commissioner Blackburn suggested sending a letter to the Pikeville Independent School District and to the Pike County School Board advising of the intended action to approve a curfew ordinance.

The Clerk was asked to record in the minutes a visit from J.R. Hambley, M.D., son of the late William C. Hambley, M.D. Dr. Hambley told those present that his father would have been pleased with the service and thanked the City for their involvement.

3. Bank Deposit Tax: City Attorney Davis reported that while the Legislature was in session, they voted to rescind the Bank Shares Tax and replace it with a Bank Deposit Tax. The Bank Deposit Tax will place a maximum fee of .025% on each deposit made with banking institutions within the city limits. Presented and given first reading was an Ordinance entitled:

AN ORDINANCE IMPOSING A BANK FRANCHISE AND LOCAL DEPOSIT TAX; SETTING FORTH TIMETABLES FOR THE COLLECTION OF SUCH TAX FOR THE YEAR 1996 AND ALL SUBSEQUENT YEARS; AND SETTING FORTH ENFORCEMENT PROCEDURES, INCLUDING PENALTIES, FOR THE COLLECTION OF DELINQUENT TAXES

The Ordinance will be on file in the office of the City Clerk for public inspection. Second reading was scheduled for September 23, 1996.

4. Pikeville Housing Authority: Pikeville Housing Authority Executive Director, Sean Gilbert, came before the Commission to request that his personnel be granted the authority to issue parking tickets on Housing Authority property. It was explained that the public takes up the parking at Meyers Tower, leaving the residents and their visitors with no place to park. The City Attorney was directed to prepare an Ordinance establishing resident and visitor parking and authorizing Housing Authority personnel to issue parking tickets for violation. Mr. Gilbert advised that no tickets would be issued until the proper signage was in place.

Mr. Gilbert also advised the Commission that the Housing Authority has become a member of the Kentucky League of Cities for the purpose of purchasing Worker's Compensation Coverage. The Mayor suggested the Commission take a vote to authorize the Housing Authority to join the Kentucky League of Cities. Commissioner Blackburn made the motion, seconded by Commissioner Clark to grant approval for the Housing Authority to become a member of the Kentucky League of Cities. Upon call of the roll, the motion carried 3 - 0 - 1 with Mayor Combs abstaining from the vote.

At 8:16 p.m., Mayor Combs made the motion, seconded by Commissioner Davis to adjourn to an executive session for the purpose of discussing a contract negotiation matter and matters concerning the sewage extension project. Upon call of the roll, the motion carried 4 - 0.

The meeting reconvened to regular session at 9:05 p.m., with Commissioners Blackburn, Clark and Davis, along with Mayor Combs being present. Commissioner Blankenship was absent.

It was reported that the Commission discussed a contract negotiation while in executive session. The City Manager announced he would report on the matter at the next meeting.

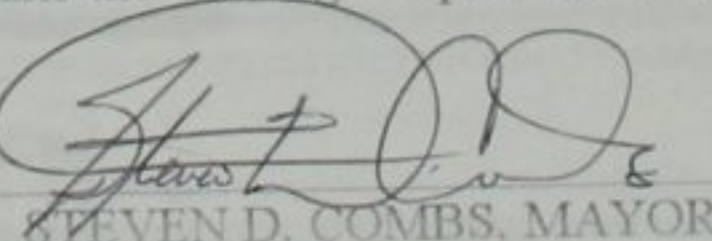
Commissioner Blackburn made the motion to approve the City Manager's travel to San Antonio to attend the National League of Cities Meeting in November. Commissioner Clark seconded the motion. Upon call of the roll, the motion carried 4 - 0.

PSG Manager Greg May asked for and received permission to involve city personnel in a joint picnic with the employees of PSG.

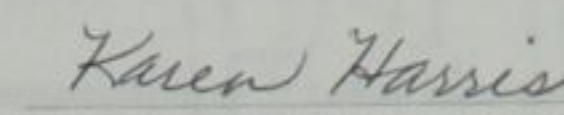
First reading was given to an Ordinance to establish resident and visitor parking at Meyers Tower and to authorize Housing Authority personnel to issue parking violations. Second reading of the ordinance was scheduled for September 23, 1996.

There being no further business to come before the Commission, Commissioner Blackburn made the motion, seconded by Commissioner Clark to adjourn the meeting. Upon call of the roll, the motion carried 4 - 0. (Adjournment Time: 9:10 p.m.)

APPROVED


STEVEN D. COMBS, MAYOR

ATTEST:


KAREN HARRIS, CITY CLERK

