

# MINUTES } CITY OF PIKEVILLE

## PIKEVILLE CITY COMMISSION REGULAR MEETING MINUTES OCTOBER 27, 1997

The Board of Commissioners of the City of Pikeville met in regular meeting on Monday, October 27, 1997. The meeting was held in the City Hall Public Meeting Room at 260 Hambley Boulevard.

There being a quorum present, Mayor Pro Tem, Eugene Davis called the meeting to order at 6:00 p.m. Commission Members present at roll call were as follows:

COMMISSIONER: BILL BLACKBURN  
EUGENE DAVIS  
JOHNNY MOUNTS  
SHARON CLARK

Mayor Combs arrived at the meeting at 6:10 p.m.

### AGENDA ITEM II. MINUTES

The minutes for the previous regular meeting held on September 22, 1997 and special meeting held on October 9, 1997 were included in each Commission Member's agenda package. There being no additions or corrections, Commissioner Mounts made the motion, seconded by Commissioner Clark to approve the minutes as submitted. The motion carried 4 - 0 (Mayor Combs not present at the time of the vote).

### AGENDA ITEM III. BUSINESS FROM THE FLOOR

A. NORTHMONTE SUBDIVISION: Bob Billips, owner/developer of the Northmonte Subdivision, came before the Commission to discuss the Subdivision Regulations and the enforcement of said regulations. Mr. Billips interpreted the Subdivision Regulations to provide for a 150 ft. buffer zone between adjacent properties. He reported that Dark Hollow property owner and developer, Stuart Adams, had taken a bulldozer down the property line, leaving a number of trees down and disfiguring the area, on property mostly owned by Mr. Adams. Mr. Billips added that the work is being done without an approved subdivision plat. City Engineer Sykes told the Commission that a 150 ft. buffer zone is required only when there are conflicting land uses. Mr. Adams was present and explained to the Commission that he is not developing a subdivision. He stated that he only made a ditch to keep the recreation vehicles off his property. Mr. Billips contended that Mr. Adams made a slash about 200 feet vertically down the hill and displayed a number of pictures to support his position. The City Attorney reported that the Technical Advisory Board had conveyed they were unsure as to whose responsibility it is to enforce the regulations. The Mayor expressed his view that it would be up to the Building Inspector and the City Manager to determine if a violation exists and address the matter accordingly with the City Attorney. City Attorney Davis advised that Technical Advisory Board Chair, Rick Keene, had inspected the site and had instructed Mr. Adams to dispose of all the trees that were cut and to seed the area. Mr. Billips asked the Commission to request that the Joint Planning Commission consider an amendment to the subdivision regulations which would prohibit these types of earth moving activities. Mayor Combs commented the regulations should be amended to clearly state the enforcement procedures. It was suggested that provisions should be made to require permits for excavating or for other work not requiring subdivision approval. The City Attorney was asked to prepare an Ordinance to establish enforcement procedures for the subdivision regulations and to present the Ordinance to the Commission at their next regular meeting. In the meantime, the Building Inspector was directed to inspect the site in question.

B. ELLIS MORRELL LANE: Douglas Starghill addressed the Commission concerning his plight in relocating a mobile home to property he owns on Ellis Morrell Lane. Mr. Starghill advised the Commission that he had made a request and had received permission from the Zoning Board of Adjustments to place a mobile home on the aforementioned site. Two adjacent property owners have fences along their property line which encumbers the transport of the trailer to Mr. Starghill's property. According to the property deeds, there is a dedicated 8 ft. right-of-way for the road. The Starghill trailer is 12 feet wide. Mr. Starghill advised the Commission that he has asked the property owners for permission to remove the fence to allow him to get the trailer moved, with assurances to them that the fences will be restored to their original condition. The property owners have refused the request. Mr. Starghill called attention to letters from the Pikeville Fire Department and from Professional Services Group advising of the difficulty in accessing the properties in Ellis Morrell Lane because of the limited roadway width. The Fire Chief advised there are 5 other homes in the hollow. Commissioner Mounts suggested condemning the needed property to widen the roadway to allow for fire protection. City Engineer Sykes reported the standard roadway width is 30 ft. according to the current subdivision regulations. The area in question was developed some time before the adoption of those regulations. Two other property owners were present and advised the Commission of a 1993 court order which mandates the removal of the fences to allow proper ingress/egress. City Attorney Davis reported that he had reviewed the court document. He gave his opinion that the roadway is dedicated at 8 feet and that the fences do not have to be removed. The property owners can not place any barricades which would diminish the 8 ft. roadway easement. Mr. Davis added that the Judge determined the fences are not encroaching on the right-of-way. He told the Commission the only alternative would be to condemn a wider easement. The condemnation process was estimated to take at least 90 days. The procedure would involve an inspection of the property to determine which side would be condemned; an appraisal of the property; an offer of fair value to the owner; and if the property owner refuses the offer, file suit. If the City must file suit, it will take at least 60 days from the date of filing to get possession. Commissioner Mounts made the motion to authorize the City Attorney to begin condemnation proceedings to obtain a



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wider easement for the purpose of providing fire protection. Commissioner Davis seconded the motion. The motion carried unanimously. The City Engineer was directed to look at the area and make a recommendation as to how much property can reasonably be condemned.

C. GAS WELLS: City Manager Blackburn reported that John Elliott has informed him that his company has the need to shut in a well and is requesting to reroute the line to feed into the City's system. It was explained that the gas well is located behind Pikeville Elementary School. Mr. Elliott's company donates the gas to Pikeville Methodist Hospital, who in turn, donates the proceeds to the Pikeville College Nursing Program. The City Manager and Public Works Director are reviewing the request and will make a recommendation at the next meeting.

D. HAMBLEY BOULEVARD DEVELOPMENT: Architect, Chris Chrisman, explained to the Commission that he is working with Frank Bailey on the development of a strip retail center. Mr. Bailey owns the triangular shaped property fronting Hambley Boulevard and situated between the library facility and the City Hall offices. The development will consist of approximately 15 specialty shops, with the facade in some type of historical or period style character. The proposed retail center is located in a C-1 zoning district, and according to Mr. Chrisman, there are no requirements for off-street parking. Mr. Chrisman is proposing to eliminate the parallel parking immediately in front of Mr. Bailey's property and use the excess right-of-way for diagonal parking. Mr. Chrisman told the Commission there will be less of a traffic hazard with this type of angular parking because the operator will be backing into the spaces currently used for parallel parking. He added that with the 45 degree parking spaces, the number of parking spaces will be doubled. The sidewalk will be moved back and the area will be landscaped. City Attorney Davis disagreed with Mr. Chrisman's statement that no off-street parking is required in a C-1 district. He added that public parking spaces do not contribute to the parking space requirements. Mr. Chrisman asked the Commission to approve the conceptual plan, and after the City Attorney reviews the parking requirements, adopt an Ordinance at the time the development warrants it. Mr. Chrisman was asked to return to the next meeting for a decision. It was explained the delay in a decision will give the City Attorney the time to research the zoning ordinance and will afford the Commission an opportunity to look at the site.

E. TOURISM: Vickie Pinson, acting as spokesperson for the Tourism Board, asked for the Commission's decision with regard to the proposed removal of the train car that currently houses the Tourism Board's offices. Mrs. Pinson stated that an article in the *News-Express* reported the City Commission would be making a decision with regard to the disposition of the train car at this evening's meeting. While the petition was not submitted to the Commission, Mrs. Pinson told the Commission that over 1000 signatures of individuals opposing the removal of the train car had been collected. Mayor Combs explained that the lease for the office space between the City and Tourism expires on December 31, 1997. Because of the provision in the agreement that stipulates that a 60 day notice prior to the end of the lease period be given if the lease will not be renewed, City Attorney Davis sent notice to the Tourism Board that the lease would be changed to a month to month lease effective January 1, 1998. Mayor Combs made the motion to ratify the notice to the Tourism Commission placing them on a month to month lease. Commissioner Mounts seconded the motion. During discussion, Commissioner Davis expressed his reservations for the removal of the train car due to the historical significance and the impact the railroad has had on the City. He further added that he felt that restrooms would pose a maintenance problem. The motion carried 4 - 1 with Commissioner Davis voting no. Mrs. Pinson told the Commission that the Tourism Board does not want to relocate their offices to the Academy Building. She added that their office is easily accessible and recognized by the public. Mayor Combs explained that the City has spent a considerable amount of money for the renovation of the Academy Building in anticipation of Tourism and a number of other public service agencies moving into the facility. Another of Tourism's board members, Debbie Huffman, advised the Commission that the Tourism Board had not been made aware of the proposed relocation of their office until about 2 months ago. Mayor Combs told the group that someone from Tourism had been aware of the proposal because their office space requirements were submitted to the Academy Building's architect. Mrs. Huffman continued that she did not feel that the Tourism Commission could financially afford to move in to the Academy Building. Mayor Combs explained that the analysis completed by Judy Walters was done as a favor to the City in an effort to determine what it would cost to maintain the building, as the City is only interested in maintaining the facility, not in increasing revenues. He added that he felt comfortable that a suitable fee could be negotiated. Commissioner Mounts explained that by moving the train, the restroom facility could be built closer to the road, where he feels it would be less susceptible to vandalism. A number of individuals in the audience expressed their opposition to the construction of restrooms at the expense of the train car. Commission members indicated that a Park Revitalization Plan was approved about 6 years ago whereby the train car was to be removed. Commissioner Davis stated that he did not recall approving a plan that provided for the removal of the train car. Commissioner Clark said she was under the impression that the Tourism Commission wanted to relocate to the Academy Building. She added that the City Commission may want to reconsider the removal of the train car if it is not what the public wants. Mrs. Huffman asked if the Park Plan could be amended. Mayor Combs reported that the plan was subject to a number of public hearings with no objections. He suggested that the Tourism Board meet with the Park Revitalization Committee to discuss a possible amendment to the Park Plan.

## AGENDA ITEM IV.

## PAYMENT OF BILLS

A. CITY BILLS: A list of City Bills totaling \$354,173.45 was presented to the Commission for approval of payment. Commissioner Mounts made the motion, seconded by Commissioner Clark to approve payment of the City Bills as requested. The motion carried unanimously.



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Financial Statements for the month ending September 30, 1997 were distributed to the Commission for review.

B. ACADEMY BUILDING STABILIZATION: Presented for approval of payment was an invoice in the amount of \$70,713.30 from Commonwealth Building & Construction for the Academy Building Stabilization Project. City Engineer Sykes advised the Commission that the Historic Preservation Board reviewed the bill and recommended approval as submitted. Mr. Sykes explained that the City is withholding a 10% retainage on the project. After payment of this invoice, \$5,000.00 remains (excluding the retainage) for contract completion which involves the installation of handrails. Commissioner Davis made the motion to authorize payment of the invoice totaling \$70,713.30 to Commonwealth Building & Construction. Commissioner Mounts seconded the motion. The motion carried unanimously.

C. DAY CARE CENTER: Presented for approval was a bill in the amount of \$13,708.89 from Meade Construction for painting and repair activities at the Model City Day Care Center facility. The City Engineer advised that the project is currently 65% complete. A 10% retainage is being withheld from the total contract amount. Mayor Combs made the motion to approve payment as requested. Commissioner Mounts seconded the motion. The motion carried unanimously. Commissioner Mounts questioned if the contractor is still painting the exterior of the building, and if any consideration is being given with regard to the appropriate weather conditions for painting outdoors. He added that the contractor is wasting his time painting if the temperature is not around 60 degrees. Commissioner Mounts continued by saying that defects in the painting caused by the temperature would not surface until about a year had passed. City Engineer Sykes advised that the specifications in the contract had included appropriate weather conditions for painting activities. He told the Commission that he did not think the contract had been violated, but he would check to make sure.

D. ACADEMY BUILDING LEASE AGREEMENTS: In his capacity as Chairman of the Historic Preservation Board, Jack Sykes, reported to the Commission that the Board had recommended a \$4.00/sq. ft. lease fee for office space in the Academy Building. This fee is half that suggested by Judy Walter's analysis. Mr. Sykes told the Commission that the reduction in the sq. footage fee would still generate about \$24,000.00/yr, however utilities and maintenance will be paid from the income. Mr. Sykes added that if the Commission concurs with the recommendation, action needs to be taken to authorize the City Attorney to prepare tenant lease agreements. No action was taken.

## AGENDA ITEM V.

## OLD BUSINESS

A. CITY ENGINEER'S REPORTS: Jack Sykes, representing Summit Engineering, City Engineers, presented a verbal report of ongoing City projects as follows:

1. Raw Water Intake Improvement Project: City Engineer Sykes requested a closed session for the purpose of discussing a potential contractual negotiation with regard to the Raw Water Intake Improvement Project.

At 7:20 p.m., Mayor Combs made the motion to adjourn to a closed session for the purpose of discussing a legal matter concerning the Raw Water Intake Improvement Project; a legal matter concerning proposed retirement benefits for certain city employees; and a letter from Wal-Mart concerning the change in their driveway which may lead to litigation. Commissioner Mounts seconded the motion. The motion carried unanimously.

At 9:05 p.m., Mayor Combs made the motion to reconvene to regular session. Commissioner Davis seconded the motion. The motion carried unanimously.

Sewer Rates: One of the requirements, in preparation of the grant application for the Raw Water Intake Project, is to do an analysis of the water and sewer rates. It was learned that the sewer budget operated at a net deficit to the tune of approximately \$157,000. In order to obtain funding, both the water and sewer funds must operate in a positive cash flow situation. Comparing the City's rate structure for wastewater treatment to other Eastern Kentucky communities, it was determined that Pikeville has the cheapest rate. Because of this fact, Mr. Sykes told the Commission that he feels comfortable in recommending that the sewer rate be increased from the current \$3.21/1000 gal. to \$4.28/1000 gal. He asked the Commission to consider adoption of a resolution to direct that the grant application be completed with this concept and that if the grant is funded, the sewer rate will be adjusted at that point in time. Mayor Combs made the motion to approve the City Engineer's recommendation. Commissioner Clark seconded the motion. During discussion, Mayor Combs explained the rate increase would be considered at the time that the funding package is approved and increase of the sewer rates would ensure the sewer fund is self-sustaining rather than being supplemented by the general budget. The motion carried 4 - 0 (Commissioner Davis not present at the time of the vote).

With regard to the letter submitted to the Commission from Wal-Mart concerning the intersection, the Mayor advised that no response is necessary at this time.

Retirement: Mayor Combs advised the requests for retirement benefits from Glenn Snodgrass, Ballard Adkins, and for the estate of James Tucker had been carefully considered during the closed session. The Mayor asked Attorney Larry Webster to explain the criteria for an employee to qualify for retirement benefits. Mr. Webster advised the Ordinance provides that an employee must have been employed as of August, 1975 and have at least 25 years of service at the time of retirement. He added that Mr. Snodgrass and Mr. Adkins have 26 and 28 years of employment, respectively. Mr. Webster told the Commission that his clients would also agree to have any retirement benefits they are now receiving



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deducted from the \$500.00/mo. stipend. The Mayor pointed out there are no survivor benefits. Attorney Mike Lucas was present on behalf of the estate of James Tucker. Mr. Lucas advised the Commission that he is requesting benefits for Mr. Tucker's estate only from the time he retired to the date of his death. Mr. Lucas disclosed that he only has documentation to support that Mr. Tucker was employed for 19.7 years, however advised the Commission that benefits had been paid to employees with as little as 14 years of verified employment. He asked the Commission to make a decision as to whether they would consider benefits for Mr. Tucker's estate so he can proceed with his client's wishes. Commissioner Mounts expressed his view that the City should not be funding retirement benefits from the general fund and added that he would not be in favor of approving any further benefits until it is defined how many more employees could qualify for those benefits. Commissioner Davis stated that previous awards of retirement benefits were granted merely out of compassion for the employees. Commissioner Mounts commented that he did not think it proper to grant the current requests, but if the Commission did so, it would also be out of compassion. City Manager Blackburn advised that it had been determined there would be 6 other employees who could qualify for benefits. The Mayor said he could support the claim under the parameters cited by Mr. Webster, however added that he would only agree to do so in the form of an Ordinance. Attorney Webster offered to assist City Attorney Davis with the language of an Ordinance. The Mayor advised that the Commission is planning a Special Meeting for early November and said the Ordinance could be considered at that time. Mr. Webster was directed to submit the pension benefits currently being paid to Gene Snodgrass and Ballard Adkins to the City Manager.

2. Harolds Branch Road Improvement Project: City Engineer Sykes explained this improvement project is being done at the request of the hospital with the funds being appropriated directly from the State of Kentucky. Mr. Sykes reported that the project has been bid twice. The first bidding cycle was rejected because the bids were substantially over the Engineer's estimate. The project was again bid with the same contractor, C & W Equipment, coming in as the low bidder. Mr. Sykes said the bid was about \$130,000 less than the original bid. C & W Equipment's bid was \$1,049,491.51. Mountain Enterprises was the only other bidder at \$1,303,041.50. It was reported that the City Manager is in receipt of a letter from the Department of Transportation agreeing to fund all but \$106,000 of the project. The \$106,000 difference consists of \$52,000 for contract contingencies and the remainder is the projected cost for sealing and plugging the gas well in the waste area and construction inspection. Mr. Sykes told the Commission that he thinks that the Department of Transportation will fund the remainder, but if not, the hospital has submitted a letter agreeing to fund the shortfall. He added that he has been advised by the State that \$510,000 of the funding will not be available until July, 1998. The hospital has agreed to fund any interim financing required because of the delay. The City Engineer reported that he has checked the references on the contractor. On the two references he checked, he found that the contractor exceeded his contract time on both projects, and further, the clients were not totally pleased with the contractor. Mr. Sykes explained that the project has been funded based upon the low bid. Mr. Sykes recommended the Commission award the bid conditioned upon the City Manager and City Engineer meeting with the contractor to address the time frame and to discern the contractor's ability to complete the project. Additionally, the bonding company designated by the contractor, Acceptance Insurance of Omaha Nebraska, is not on the approved list. Mr. Sykes told the Commission he would ask for additional information about the bonding company when they meet with the contractor. Mayor Combs made the motion to award the bid to C & W Equipment, contingent upon the coordination meeting between the contractor, the City Engineer, and the City Manager, and satisfying the City Engineer's reservations concerning the company's bid, bond and abilities. Commissioner Davis seconded the motion. The motion carried unanimously.

Mr. Sykes advised the Commission of one other outstanding issue concerning the project. The engineer advised that he has met with Willard Kinzer concerning the gas well in the designated waste area. Mr. Sykes told the Commission that the hospital is willing to participate in funding the plugging and sealing of the gas well, however they feel the City should take the lead in negotiating with Mr. Kinzer because the lease is between he and the City. City Attorney Davis reported that Mr. Kinzer is willing to allow the sealing of the Poor Farm Well in exchange for the lease on the Childers Well, which he would agree to seal, and a reduction in royalty rates from 25% to 12.5% for the gas lease on the lower Poor Farm property. It was explained that the Urban Renewal Agency gave 25% of the royalty from the Poor Farm Well to five semi-public agencies. 12.5% is the standard royalty rate. Someone will have to be appointed to negotiate with the five agencies. The City Attorney reminded the Commission that in bids for the sale of the Childers Well, the City was offered \$10,000.00 plus they would get the well sealed and plugged. He told the Commission that he thought the City would be getting far more than \$10,000.00 in equity the fill would bring to the property in Poor Farm. Commissioner Mounts made the motion to make the exchange of gas wells with Mr. Kinzer as summarized by the City Attorney. Commissioner Davis seconded the motion. During discussion, the hospital was designated as the agent to negotiate with the 5 agencies who are currently receiving royalties from the Poor Farm Gas Well. The motion carried unanimously. When discussing the method of filling, it was agreed to allow the contractor to fill Poor Farm on a slope, because this method would provide more useable land.

3. Water Tank Painting: Mr. Sykes presented bids for the painting and repairs to the water storage tanks located at Northmonte and Quail Ridge. According to Mr. Sykes, these tanks are the smallest of the storage tanks in the City's system at 30,000 gallons each. The engineer advised that all the water tanks are on a five year maintenance schedule. Because Northmonte is developing so quickly and the development by Stuart Adams is also progressing, there appears to be a need for a larger tank to provide proper fire protection. The Fire Chief has expressed concern for inadequate water pressure in Northmonte. Mr. Sykes told the Commission that he has spoken with Bob Billips about participating in the cost of a water tank. He advised that Mr. Billips has made no commitment, but is considering the matter. There is a chance that the tank could be paid for with UDAG funds when Mr. Adams makes a draw down. Mr. Sykes recommended that the painting and repairs to the Northmonte tank be delayed, at



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least until next year. The apparent low bidder for the tank repair work was Aaron Contracting, however when the bids were reviewed it was found they were charging \$25.00 per pit and \$10.00 per linear ft. for the seams. In addition, Aaron Contracting had less than desirable references. Further, they are not interested in separating the Northmonte and Quail Ridge tanks. W & O Contracting was the second bidder at a total of \$29,000 for both tanks. Mr. Sykes commented that they were probably the lowest bidder. W & O Contracting has agreed to accept the award of the bid for the Quail Ridge Tank only and will do so for half of the bid amount. Mr. Sykes recommended awarding the bid for painting and repairs to the Quail Ridge tank only, to W & O Contracting in the amount of \$14,500.00. Mayor Combs made the motion to award the bid as recommended by the City Engineer. Commissioner Davis seconded the motion. The motion carried unanimously.

4. Lift Station #7: This sewage lift station is located behind Fletcher & Hall. Reconstruction of the lift station was proposed at the time the Harolds Branch and Chloe Sewer extension projects were being done. The work was deleted from the current contract because the City did not get enough funding. The cost for reconstruction of the lift station at that time was \$277,000.00. Taking into account inflation, Mr. Sykes estimated the cost to be at least \$300,000.00. Public Works is now having problems with the lift station in that the line going into the station is larger than the original line and it is causing the waste to back up in the line. Greg May advised the Commission that he will have an immediate expenditure of \$25,000.00 to replace one of the pumps and estimates another \$25,000.00 to \$30,000.00 will have to be spent within the next 18 months. The Commission questioned why the new line was constructed in such a manner to be incompatible with the lift station. Mr. Sykes explained that the elevation wouldn't allow for the line to go into the station at the same juncture as the smaller line. The line size was increased per the contract, but the work on the lift station was not deleted until after the line was installed. Mr. May told the Commission that he thinks Public Works can continue to make repairs for about three to four months, but he wanted to bring the matter to the Commission's attention, so they could decide whether to look for funding to reconstruct the station or whether to continue to make repairs. City Engineer Sykes told the Commission that he has asked his hydraulic engineer to look at the station and recommend a solution. The matter will be brought back to the Commission at the next meeting.

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

1. Wrecker Service Contract: During a previous City Commission Meeting, discussed were problems that had developed with the contract for vehicle towing services with Village Wrecker Service. The Commission directed that a list be compiled detailing the problems experienced. Chief Dispatcher, Wally Justice, compiled the list and identified some of the violations as follows: not cleaning the accident scene; charging in excess of the contract rate; not responding to calls for service; refusing to allow the City to copy the log book; and also complaints from the police officers. The City Attorney advised the Commission there is currently a suit pending with regard to the higher rate charged by Mr. Justice than what the contract provides. Abner Justice and his son were present and advised the Commission they interpret the contract to provide for the charging of a fee of \$25.00 until the vehicle is loaded for transportation and then an additional \$25.00 for time after that. City Attorney Davis disagreed with the Justices' interpretation stating that \$25.00 was the bid for the unit rate per tow. Commissioner Mounts said that he had been told that Mr. Justice has been going to accident scenes where the parties involved have chosen another wrecker service. He said that he had been told they are harassing those people. Mr. Justice denied this statement. The operator told the Commission that their attorney had advised them to take pictures at an accident scene when they had not been called to provide service. He said they do not interfere with the police and do not harass those involved in the accident. Discussion was had with regard to an allegation made by Mr. Justice to the family of a fatality victim in that the officer working the accident had taken the victim's wallet and alleged the wallet had a large amount of cash. The matter was turned over to the Kentucky State Police for investigation. KSP found no evidence to substantiate the allegation. The Justices denied telling the victim's family that the police officer took money from the wallet. They said they advised that the police officer had retrieved the wallet from the vehicle. Abner Justice told the Commission he thought there was a conspiracy. Commissioner Mounts expressed his opinion that the City has proper grounds to cancel the contract. The following resolution was presented and read:

### RESOLUTION TERMINATING TOWING AND STORAGE VEHICLES CONTRACT BETWEEN THE CITY OF PIKEVILLE AND VILLAGE WRECKER

WHEREAS, the Commission has received reports and complaints from the Pikeville Police Department and citizens concerning breaches and violations of the towing and storage of vehicles contract by Village Wrecker Service.

WHEREAS, the Commission has found that Village Wrecker Service has breached its contract with the City of Pikeville as a result of the following events:

(1) Violation of Paragraph 2.2 for failing to provide or allow copies of certain operation records concerning the contract on June 13, 1997 as required by Paragraph 2.2.

(2) Violation of Paragraph 1.7.3 by refusing to take an in-state for rendering towing service to Dennis Ousley.

(3) Violation of Paragraph 1.2, Paragraph 1.9 and Paragraph 2.1 requiring services to be available 24 hours per day, seven days per week when on November 26, 1996, when the Pikeville Police Department dispatch contacted Village Wrecker Service at 07:15 and was advised no wrecker was



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available for a traffic accident and then subsequently at 07:54 Mr. Justice called the Pikeville Police Department Dispatch Center and requested to know why he was not called to provide towing services. A subsequent violation occurred on September 12, 1997 when Village Wrecker Service failed to respond to tow a vehicle involved in an accident at the Pauley Bridge.

(4) As repeated violated Paragraph 3.2.1 by charging a fee for towing vehicles requiring less than one hour which exceeds the contract allowance of \$25.00. Fees charged by Village Wrecker have ranged from \$37.50 to \$50.00 for tows requiring less than one hour.

(5) Violation of Paragraph 1.3 when on October 11, 1996 Village Wrecker Service failed to clean up the debris left from a traffic accident as required by the contract.

(6) Violation of Paragraph 1.8.3 when on July 22, 1997 he interfered with police operations and investigation when he told friends or family members of a traffic fatality victim that he observed a city patrolman remove a large sum of money from the victim's wallet. The Kentucky State Police investigated the allegation and concluded that there was no evidence to support Abner Justice's allegations.

(7) Violation of Paragraph 1.6 by failing to provide for proper security of vehicles towed and valuables contained in there when on October 12, 1997 while towing a vehicle from Dog Fork of Hurricane Creek Abner Justice of Village Wrecker called the dispatch centers and requested a supervisor to meet him at Kentucky State Police Lt. Paul Maynard's residence on Cedar Creek. On arrival of City Police Officer Harris, Abner Justice advised Officer Harris that he did not have a place to secure a purse and two rings which he had found in the vehicle and wanted the City Police to take possession and secure the same.

(8) Violation of Paragraph 1.8.3 and Paragraph 1.8.6 by disrupting police services by continually calling the Police Department Dispatch Center and questioning dispatchers about citizens' request for the dispatch to contact other private towing services on their behalf rather than Village Wrecker Service when the contract clearly provides that citizens have the right to request a wrecker service of their own choosing. Village Wrecker personnel have appeared on the scene of accidents where a citizen requested another towing service and began taking pictures of the wrecker service and has approached the wrecker service's customers on the accident scene and questioned them about their decision and choice concerning the selection of another wrecker service. On May 11, 1997 it became necessary for Office Keith Justice to issue Abner Justice with a citation for parking on the roadway during one of these incidents.

(9) Violation of Paragraph 1.4.4 by failing to have all roll back wreckers equipped with an air supply for tire inflation.

WHEREAS, Village Wrecker Service's failure to comply with the terms and conditions of the contract and his disruptive behavior on accident scenes is seriously interfering with Police Department functions;

WHEREAS, the Commission believes that Village Wrecker Service's contractual breaches and violations are substantial and an essential part of the contract and therefore believe that it would be in the public's best interest to terminate the contract.

THEREFORE, BE IT RESOLVED by the City of Pikeville that the contract between the City of Pikeville and Village Wrecker Service for towing and storage of vehicles is hereby terminated pursuant to Paragraph 1.8.5 to be effective immediately upon mailing of notice of termination by the City of Pikeville to Village Wrecker Service.

Passed this 27th day of October, 1997.

Commissioner Mounts moved for the adoption of the foregoing resolution.

Commissioner Clark seconded the motion.

Upon roll call, the votes were as follows:

STEVEN D. COMBS, MAYOR	ABSTAIN
GENE DAVIS, COMMISSIONER	YES
SHARON CLARK, COMMISSIONER	YES
JOHNNY MOUNTS, COMMISSIONER	YES
BILL BLACKBURN, COMMISSIONER	YES

The Mayor declared the within resolution adopted.

/s/ Steven D. Combs  
STEVEN D. COMBS, MAYOR

ATTESTED:

/s/ Karen Harris  
KAREN HARRIS, CITY CLERK



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Commissioner Mounts suggested drafting a form for the accident victims to sign which would designate a wrecker service. The Commission directed Chief Dispatcher Justice to call the various wrecker operators within the city to see if they would like to provide wrecker service. It was also asked if the City could legally establish a maximum rate for towing service. The City Attorney advised the City could set a maximum rate. The Commission directed that a notice be published in the newspaper asking for towing operators interested in providing wrecker services to contact the City.

2. Auxier Avenue/Wolford Street: Second reading was given to an Ordinance captioned as follows:

## ORDINANCE ESTABLISHING TWO WAY TRAFFIC ON AUXIER AVENUE BETWEEN THIRD STREET AND WOLFORD ALLEY AND PROHIBITING PARKING THEREON (O-97-008)

Mayor Combs made the motion to adopt the Ordinance as presented. Commissioner Davis seconded the motion. The motion carried by the following votes:

COMMISSIONER:	BILL BLACKBURN	YES
	EUGENE DAVIS	YES
	JOHNNY MOUNTS	YES
	SHARON CLARK	YES
MAYOR:	STEVEN D. COMBS	YES

3. Street Name: Presented and given second reading was an Ordinance entitled as follows:

## ORDINANCE RENAMING STATE STREET, WILLIAMS DRIVE (O-97-009)

Mayor Combs made the motion, seconded by Commissioner Mounts to adopt the Ordinance as presented. The motion carried with the following votes:

COMMISSIONER:	BILL BLACKBURN	YES
	EUGENE DAVIS	YES
	JOHNNY MOUNTS	YES
	SHARON CLARK	YES
MAYOR:	STEVEN D. COMBS	YES

4. Street Name: It was brought to the Commission's attention that a street in the river fill area, fronting the property recently purchased by the Pike County Extension Office, is currently unnamed. Action to name the street was deferred until the next meeting.

5. Speed Limit: Presented and given first reading was an ordinance entitled:

## ORDINANCE ADOPTING A SPEED LIMIT FOR CASSADY BOULEVARD AT 25 M.P.H.

The Ordinance will be on file in the Office of the City Clerk for public inspection. The Ordinance was scheduled for second reading at the next meeting of the Commission.

6. Budget Amendments: Presented were proposed budget amendments to the City's 1997-98 Operating Budget. City Manager Blackburn explained the amendments include expenditures for the Cedar Creek Water Tank and for Christmas Lights.

An Ordinance to amend the budget was presented and given first reading as entitled:

## ORDINANCE AMENDING THE FISCAL BUDGET FOR THE 1997-1998 FISCAL YEAR

The Ordinance will be on file in the Office of the City Clerk for public inspection. The Ordinance was scheduled for second reading during the City Commission's next meeting.

C. CITY MANAGER'S REPORTS: R. Kenneth Blackburn, City Manager, presented the following items for the Commission's consideration:

1. Handicapped Parking: The City Manager advised the Commission that he had been approached by a person who is disabled, but is still working, asking to be allowed to park all day in a handicapped parking space. Pursuant to the City's Ordinances, a person can only park 4 hours in a handicapped parking space. Under the Americans with Disabilities Act, the City Attorney believes the City is obligated to provide a parking space for anyone working with a disability. Mr. Blackburn told the Commission that he advised the Police Department of the make and model of the person's car and directed that no parking ticket be issued. The City Manager asked the Commission if they wanted to amend the parking ordinance to make exceptions for handicapped parking. It was the consensus of the Commission to allow the City Manager to continue to use his discretion on a case by case basis. Commissioner Davis mentioned that Garnet Bracy, owner/operator of Garnet's Beauty Shop has discussed her need for a parking space. He will check with her to see if she has a handicapped parking permit.

2. City Hall Design: Mr. Blackburn advised the Commission that Chris Chrisman of Summit Engineering is presently working on a design concept for a proposed City Hall facility. The Commission agreed to schedule a work session to review the design with the architect.



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3. Surplus Property Auction: The City Manager informed the Commission that the City is in possession of a number of articles of unused office equipment, furniture, and vehicles, and asked that he be allowed to dispose of the property through auction. Commissioner Mounts made the motion, seconded by Commissioner Davis to authorize the City Manager to arrange a surplus property auction. The motion carried unanimously.

4. Police Cars: City Manager Blackburn reminded the Commission that funds to purchase 4 police cars had been placed in the current budget. He asked for permission to advertise for bids. Commissioner Davis made the motion, seconded by Commissioner Mounts to authorize the City Manager to advertise for bids for four police cars. The motion carried 5 - 0.

5. Video Equipment: The City Manager presented the Commission with a quote from Jefferson Audio Video Systems, Inc. for the acquisition of audio/video recording equipment for the City Hall Public Meeting Room. For a system with 6 cameras, the cost is \$26,615.00. The cost would be reduced to \$21,475.00 by choosing a system with 4 cameras. Jefferson Audio Video Systems, Inc. is the designated vendor under the State Price Contract. Mr. Blackburn reported that he had been advised that either system could be upgraded if a new City Hall is built. The Commission were given copies of the proposal for review. Action with regard to the matter was deferred.

6. Water Rate Study: Several months ago, the City Commission directed that a new water rate study be conducted concerning the City's wholesale and retail water rates. The City Attorney explained that the attorney who represented the City in the PSC hearing against Mountain Water District, advised a new water rate study because of the PSC ruling that Pikeville's current study is flawed. The City Manager presented a proposal from the Prime Group who propose to prepare a study in three steps. Part A provides for the Wholesale Rate Study, estimated to cost between \$15,000 and \$20,000; Part B provides for the Retail Rate Study, costing between \$3,000 and \$5,000; and Part C provides for Wholesale Rate Filing, which could be submitted to the PSC. Mr. Blackburn told the Commission that the Prime Group prepared a rate study for the Prestonsburg Utility Commission. Officials, there, gave the Prime Group an excellent reference. Action regarding this matter was delayed until the end of the meeting.

7. Ambulance/Utility Collections: City Manager Blackburn advised the Commission that the City has a number of past due accounts for utilities and for ambulance service. He estimated the City has more than \$70,000. in past due ambulance service bills. Mr. Blackburn advised that he had contacted Roger Copley with Pikeville Credit Bureau. They will send a collection letter, in compliance with the Fair Consumer Credit Act, for \$2.25 per letter. Fire Chief Hall asked the Commission to delay action to afford the new Fire Department secretary the opportunity to review the bills and determine which bills could be collected prior to contracting with Pikeville Credit Bureau. The Commission agreed to delay action until the delinquent list can be reviewed and the appropriate billings are purged.

## AGENDA ITEM VI.

## NEW BUSINESS

A. FIRE TRUCK ACQUISITION: Fire Chief Hall advised the Commission that he had been researching the possible acquisition of a new aerial multipurpose fire truck. After a survey of the existing buildings, the Fire Chief recommended soliciting bids for a 65 ft. truck. He reported that to earn the maximum number of points from ISO, the truck would have to reach the roof of the highest building or be 100 ft. The Fire Chief added that he did not think this an issue because the City currently has a Class 4 Fire Rating. Fire Chief Hall told the Commission there would be about 8 structures that could not be reached with the 65 ft. truck, but feels that anything larger would not be maneuverable. Estimated cost is \$350,000.00, equipped. Mayor Combs made the motion to authorize the Fire Chief to solicit bids with the understanding that the City is not committed to purchasing the vehicle. Commissioner Mounts seconded the motion. The motion carried unanimously. The Finance Office was directed to look at possible funding scenarios for the acquisition of the fire truck and a street sweeper.

B. AMBULANCE SERVICE FEES: The Commission heard a presentation from fire fighter/EMT, Danny Hamilton, concerning the need to revise the rate structure for the ambulance service fees and to purchase additional equipment to upgrade the service to provide for extended EMT services which would include the purchase of automatic external defibrillators. Mr. Hamilton advised that he is checking on any changes that would be made in liability coverage for the service. He reported that the insurance company has verbally stated there will be no increase in cost. The quote on the equipment is effective until November 30th. By that time, the Fire Department should have written confirmation from the insurance company with regard to the liability insurance coverage. Commissioner Mounts made the motion to grant permission to the Fire Department to begin their paperwork to upgrade the service. Commissioner Blackburn seconded the motion. The motion carried unanimously. The Commission was advised the matter would be presented at the next meeting to receive formal approval before submittal of the application. Action with regard to the rate increase was delayed until the next meeting.

C. STREET SWEEPER: Public Works Manager, Greg May, presented quotes from two vendors for a street sweeper. Mr. May recommended the purchase of the Elgin street sweeper and assured the Commission that the vehicle will meet all environmental noise standards. He added that the current street sweeper could be refurbished to use as a back up. The Commission advised they had asked the Finance Office to prepare possible funding schemes for the proposed acquisition of a fire truck and the street sweeper.

Mayor Combs made the motion to adjourn to a closed session for the purpose of discussing a personnel matter. Commissioner Clark seconded the motion. The motion carried unanimously.



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At 11:40 p.m., Mayor Combs made the motion to reconvene to regular session. Commissioner Mounts seconded the motion. The motion carried unanimously.

Commissioner Davis made the motion to approve the employment of Patrick A. Bently as Fire Fighter; John F. Hunt as Police Officer; and Jim Hamilton as a part-time employee for the Parks Department. Commissioner Mounts seconded the motion. The motion carried unanimously.

Water Rate: Mayor Combs made the motion to authorize the City Manager to enter into an agreement with the Prime Group, provided that Option C will not be entered into unless warranted by the first two options. Commissioner Mounts seconded the motion. During discussion, the City Manager advised that he would not enter into option C without bringing the matter back before the Commission. Mr. Blackburn added that he would be checking the company's references with the attorney. The motion carried unanimously.

There being no further business to come before the Commission, Commissioner Mounts made the motion, seconded by Mayor Combs to adjourn the meeting. The motion carried unanimously. (Adjournment Time: 11:44 p.m.)

APPROVED

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STEVEN D. COMBS, MAYOR

ATTEST:

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KAREN HARRIS, CITY CLERK