

MINUTES } CITY OF PIKEVILLE

CITY OF PIKEVILLE BOARD OF COMMISSIONERS REGULAR MEETING MINUTES SEPTEMBER 23, 2002

The Board of Commissioners of the City of Pikeville met in regular session on Monday, September 23, 2002. The meeting was held in the City Hall Public Meeting Room located at 118 College Street, Pikeville, Kentucky.

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

COMMISSIONER:	STEVEN D. COMBS
	EUGENE W. DAVIS
	FRANK JUSTICE, II
	DALLAS LAYNE

Mayor Frank M. Morris was absent.

AGENDA ITEM II. MINUTES

The minutes for the previous regular meeting of September 9, 2002 were included in each Commission Member's agenda package. There being no additions or corrections, Commissioner Justice made the motion, seconded by Commissioner Layne to approve the minutes as submitted. The motion carried 4 - 0.

AGENDA ITEM III. BUSINESS FROM THE FLOOR

A. TRAFFIC LIGHT REQUEST: Peach Orchard resident, Elster Elswick, appeared before the Commission on behalf of residents of Peach Orchard, Julius Avenue, South College Street, Hibbard Street, and Bank Street, renewing their request for the installation of a traffic control device at the intersection of Julius Avenue/Hambley Boulevard/College Street. As explained during a previous meeting, Mr. Elswick pointed out that visibility is limited due to plant growth and parking. Poor visibility, according to Mr. Elswick, has led to a number of serious traffic accidents in this area. The Commission advised that purchase and installation of a traffic control device has been allocated in the current year's budget. The City Manager explained the device had not been ordered due to Coal Severance Funds not being received from the state. He advised the allocation of Coal Severance Funds was received this past week. He assured the Commission and those present that he would place the order for the traffic control device this week. Transportation directors from the city school and college were present and supported the installation of the traffic control device. Steve Payson, resident of Peach Orchard Drive, asked if signs could be placed at the Hambley Blvd./Huffman Ave. intersection, as well as the Hambley Blvd./Julius Ave. intersection, permitting no right turns while the signal is red. Mr. Payson explained this measure would provide additional safety for individuals using the crosswalks in these locations. The city attorney advised that "No Right Turn on Red" signs could be placed in these locations subject to adoption of an ordinance.

B. HAROLD'S BRANCH ROAD REPAIRS: Sharon Coleman, resident of Johnson Hollow of Harold's Branch, had requested the opportunity to address the Commission with regard to proposed improvements to Harold's Branch Road. Ms. Coleman was not present for discussion.

AGENDA ITEM IV. PAYMENT OF BILLS

A. CITY BILLS: A list of City Bills totaling \$410,169.35 was presented for approval of payment. Commissioner Justice made the motion, seconded by Commissioner Layne to approve payment as requested. The motion carried 4 - 0.

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B. PIKEVILLE REDEVELOPMENT PROJECT: Will Linder, grant consultant, and Sue Smallwood, Project Director, were present to discuss the following items:

1. Summit Engineering, Inc. : Presented for approval of payment were two invoices from Summit Engineering, Inc. in the amounts of \$253.12 and \$177.65 for demolition inspection for Phases III and IV and Phase V engineering services, respectively. Commissioner Layne made the motion, seconded by Commissioner Combs to approve payment of the two invoices as requested. The motion carried 4 - 0.

2. J & M Monitoring: Three invoices were presented for approval of payment on behalf of J & M Monitoring for asbestos inspection/removal. The invoices were as follows: Asbestos inspection for Phase IV - \$2,035.00; Asbestos abatement for 182 High Street and 161 Kentucky Avenue - \$9,522.00; and Asbestos abatement for 175 High Street - \$2,000. Commissioner Layne made the motion to authorize payment of the invoices as requested. Commissioner Davis seconded the motion. The motion carried 4 - 0.

3. Will Linder & Associates: Invoice #4 totaling \$20,000 was presented for approval of payment on behalf of Will Linder & Associates. Project Director Smallwood advised the invoice is for administrative services for Phase V - High Street, and is recommended for payment in accordance with his contract. Commissioner Davis made the motion, seconded by Commissioner Layne to approve payment to Will Linder & Associates as requested. The motion carried 4 - 0.

4. Patriot Construction: Presented for approval of payment was an invoice totaling \$100,440.00 for demolition of structures in Phases III and IV. Total contract amount is \$134,000. Commissioner Justice made the motion to approve payment to Patriot Construction in the amount of \$100,440.00. Commissioner Davis seconded the motion. The motion carried 4 - 0.

5. Kentucky Avenue Roadway and Utility Improvement: Submitted on behalf of Patriot Construction was pay estimate #9 in the amount of \$117,134.76 for Contract 1A in the first phase of the Kentucky Avenue Roadway and Utility Improvement project. Also presented for consideration and approval was Change Order #4, reducing the overall contract by \$81,071.44 (paving and sidewalk). Commissioner Layne made the motion to approve payment of estimate #9 and approve Change Order #4 as presented. The motion carried 4 - 0.

6. Kentucky Avenue Contract 1B: Presented for approval of payment was an invoice in the amount of \$17,493.49 from Patriot Construction for the retaining wall construction in the first phase of the Kentucky Avenue Roadway and Utility Improvement Project. Commissioner Justice made the motion to approve payment of \$17,493.49 to Patriot Construction as requested. Commissioner Davis seconded the motion. The motion carried 4 - 0.

7. J & M Monitoring: Presented for approval was the following resolution amending J & M Monitoring's contract for asbestos abatement/removal in the Phase V area:

AMENDMENT #5 TO AGREEMENT FOR ASBESTOS TESTING/ABATEMENT SERVICES - PIKEVILLE, KENTUCKY

This amendment is an attachment to the agreement entered into on the 22nd day of July, 2002, and amended August 12, 2002, August 26, 2002, and September 9, 2002 by and between the City of Pikeville and J & M Monitoring for asbestos abatement services for the Pikeville Redevelopment Project.

WHEREAS, the agreement entered into on the 22nd day of July, 2002, specified a maximum contract amount of \$8,929; and

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WHEREAS, amendment #1 dated August 12, 2002 increased the contract by an additional \$740 to test 4 units for asbestos.

WHEREAS, amendment #2 dated August 26, 2002 increased the contract by an additional \$675 to abate 2 units of asbestos.

WHEREAS, amendment #3 dated August 26, 2002 increased the contract by an additional \$2,035 to test 6 buildings, containing 11 apartments located on High Street. These buildings are identified as building #11, #12, #13, #15, #16, and #21.

WHEREAS, amendment #4 dated September 9, 2002 increased the contract by an additional \$9,522 for asbestos abatement services for buildings located at 183 High Street units 1 and 2, 195 High Street, 161 Kentucky Avenue and building #2 results were not available on the Kentucky Avenue unit previously as tenants were in the units and they could not be tested.

WHEREAS, the city of Pikeville requires asbestos to be removed from (building #7) 175 High Street and (building #9) 179 High Street which requires the use of a long-reach manlift truck. In addition, asbestos results require removal of asbestos at 181 and 183R High Street.

WHEREAS, the city of Pikeville requires asbestos testing for buildings #9, 10, 14, 17 and 20 containing 19 units.

NOW, THEREFORE, the City of Pikeville and J & M Monitoring amend the original agreement as follows:

1. The City of Pikeville will amend the contract for asbestos abatement services to include abatement of asbestos in units 175, 179, 181 and 183R High Street.
2. The cost for this additional asbestos abatement service shall be \$15,886.
3. The City of Pikeville will amend the contract for asbestos testing service to include testing of buildings #9, 10, 14, 17 and 20 containing 18 units.
4. The cost for this additional asbestos testing service shall be \$185 per unit or \$3,330.
5. The maximum contract amount shall increase by \$19,216.
6. The time of performance for asbestos abatement will extend through September 30, 2002.
7. The time of performance for asbestos testing will extend through five days of receiving notice to proceed on the final unit.
8. The maximum contract shall not exceed \$41,117.

IN WITNESS WHEREOF, the City of Pikeville and J & M Monitoring Services, Inc. have executed this Amendment to the original July 22nd, 2002 Agreement, and the amendment dated August 12, 2002, the amendment dated August 26, 2002, and the amendment dated September 9, 2002. This amendment is effective as of the date of the original agreement.

Commissioner Justice made the motion to adopt the resolution as presented. Commissioner Davis seconded the motion. The motion carried 4 - 0.

8. Patriot Construction: Presented for adoption was a resolution amending the contract with Patriot Construction for demolition services. The resolution was presented as follows:

AMENDMENT #1 TO AGREEMENT FOR DEMOLITION SERVICES - PIKEVILLE, KENTUCKY

This amendment is an attachment to the agreement entered into on the 26th day of August, 2002 between the City of Pikeville and Patriot Construction for demolition services for the Pikeville Redevelopment Project.

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WHEREAS, the agreement entered into on the 26th day of August, 2002, specified a maximum contract amount of \$134,000; and

WHEREAS, the City of Pikeville requires demolition services for an additional 11 structures located in the Phase V target area on High Street and an additional building on Kentucky Avenue for the roadway and utility project.

NOW, THEREFORE, the City of Pikeville and Patriot Construction amend the original agreement as follows:

1. The City of Pikeville will amend the contract for demolition services to include demolition/clearance of 11 buildings located on High Street identified as buildings #9, 10, 11, 12, 13, 14, 15, 16, 17, 20, and 21 and a structure located on an additional building located on Kentucky Avenue.
2. The cost for this additional asbestos abatement services shall be \$73,229.
3. The maximum contract amount shall increase by \$73,229.
4. The time of performance will remain in place for the original contract scope of services.
5. The time of performance for this contract will be one week after receiving notice to proceed for each building. In other words, if the contractor receives a notice to proceed on five buildings, the contractor will have one week to complete the scope of work. If the contractor receives a notice to proceed on more than five buildings, the time of performance for demolition of those units will be extended to two weeks.
6. The contractor will follow the scope of work as outlined in the original contract document particularly pertaining to finishing the site.
7. The City of Pikeville retains the right to assess liquidated damages as outlined in the original contract document, if necessary.
8. The maximum contract shall not exceed \$207,229.

IN WITNESS WHEREOF, the City of Pikeville and Patriot Construction have executed this Amendment to the original August 26, 2002 Agreement. This amendment is effective as of the date of the original agreement.

Commissioner Combs made the motion, seconded by Commissioner Layne to adopt the resolution as presented. The motion carried 4 - 0.

Regarding the amendment to Patriot Construction's contract for demolition of Phases III, IV and V, Commissioner Justice asked if the houses are ready to be torn down. Ms. Smallwood explained there are four tenants remaining in two buildings in Phase V. Nine of the eleven buildings can be torn down immediately. Ms. Smallwood advised that she is working diligently to find replacement housing for the tenants. Mr. Linder advised that 90 day notices to vacate have not been sent to the tenants due to lack of comparable housing units. Until such time as the notices are sent to the remaining tenants and the 90 day notice expires, the city can not evict the tenants.

9. Home Funds: Presented for adoption was the following resolution:

RESOLUTION AUTHORIZING THE USE OF HOME FUNDS

WHEREAS, the City of Pikeville in the public interest of the community, has made application for, and received approval of, financial assistance provided by Title II of the National Affordable Housing Act, 1990, HOME Investment Partnership Act Program; and,

WHEREAS, it is recognized that the Federal/State contract for such financial assistance pursuant to said Title II will impose certain obligations and responsibilities upon the City of Pikeville and will require among other things:

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- (1) approval of a satisfactory application transmitted to the Kentucky Housing Corporation;
- (2) certification by the City of Pikeville relating to activities such as civil rights, citizen participation, relocation payments, acquisition of properties, national environmental policies, and accounting practices; and,
- (3) other local obligations and responsibilities in connection with the undertaking and carrying out of the HOME Investment Partnership Act Program; and,

NOW, THEREFORE, be it RESOLVED by the City of Pikeville:

- (1) that the United States of America and the Commonwealth of Kentucky be, and hereby are, assured of full compliance by the City of Pikeville with certification relating to all regulations and administration of Civil Rights Act, citizen participation, relocation payments, acquisition processes, accounting procedures, the Hatch Act, minimum wage and minimum hour provisions of the Fair Labor Standards Act, and all requirements of the National Environmental Policy Act of 1968.
- (2) that the CEO is authorized and directed to prepare such certification and to assure full compliance with all certifications as outlined in (1) above, and all other pertinent regulations.
- (3) that the use of up to \$1,800,000 of said Title II funds is hereby approved by the City of Pikeville and that the CEO is hereby authorized to execute any necessary documentation with the Kentucky Housing Corporation, to provide such additional information, to furnish such documentation as may be required, and to act as the authorized correspondent of the City of Pikeville relating to the HOME Investment Partnership Act Program.

Commissioner Davis made the motion, seconded by Commissioner Combs to adopt the resolution as presented. The motion carried 4 - 0.

10. Status Report through Phase V: Grant consultant Will Linder presented a written status report for Phases I - 5 of the Pikeville Redevelopment Project. Highlights of the report included:

Phase I: Ready to closeout.

Phase II: Tax Credit Closing is complete; release of the City of Pikeville from the construction loan is pending; Pikeville Affordable Housing Corporation has repaid the line-of credit; Construction of the townhouses is in progress. Chris Chrisman, architect, advised the townhouse project is not on schedule. The contractor, Goggans Construction, is working toward having 13 apartments completed by October 30th, another 13 by November 30th, and the remaining apartments by the first of the year. Every month of delay means a loss of one month's tax credits. If all the units are not rented and occupied by November 30th, \$14,695 in tax credits could be lost; by December 31st, two months credits totaling \$29,390; January 31st, three months credits totaling \$42,616; and February 28th, four months credits totaling \$55,842.

Phase III: All property has been acquired. All tenants have been relocated. Asbestos testing and abatement have been completed and demolition is underway.

Phase IV: All property has been acquired and tenants relocated. Asbestos testing and abatement is complete. A demolition contract has been let and is scheduled to be completed by September 30th; the city has received notification from Kentucky Housing Corporation that they intend to fund a low income housing tax credit application for this phase; bids for construction of the remaining 20 units

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of housing is expected to be advertised in October, 2002.

Phase V. All property has been acquired. 25 of 29 tenants have been relocated; asbestos testing and abatement is in progress.

11. Budget Amendments: Ms. Smallwood requested approval to submit applications for budget amendments for Phases I and V. She reported there are excess funds in both phases. It is proposed to use the excess funds in Phase I toward the installation of the retaining wall at Sycamore Street. The excess funds in Phase V can be used to purchase the next two properties. Commissioner Combs made the motion, seconded by Commissioner Layne to authorize the submission of applications for budget amendments for Phases I and V as discussed. The motion carried 4 - 0.

Discussion was had concerning the need for storm drainage for the Sycamore Street slope. Mr. Byers and Commissioner Justice discussed the feasibility of tying in the storm drainage from the hill into the parking lot area, then when funds become available, tie into the boulevard's storm drainage system.

12. Phase VI: Executive Director of the Big Sandy Area Development District, Sandy Runyon, reported a public hearing has been scheduled for September 26, 2002 at 10 a.m. to receive public comments concerning the CDBG application for Phase VI of the Redevelopment Project. Ms. Runyon explained, pending the public hearing comments, the pre-application can be sent to the Department of Local Government for review. She anticipates DLG approval of the pre-application within two weeks. Big Sandy Area Development District can then submit the full application by October 21st.

C. PARKING STRUCTURE PROJECT: Architect Chris Chrisman reported that all pylons for the parking garage have been installed. The project is currently 10 days ahead of schedule.

Presented for approval of payment on behalf of Summit Engineering was an invoice totaling \$5,962.50 for engineering services associated with the parking structure project. Commissioner Combs made the motion, seconded by Commissioner Davis to approve payment of the invoice as submitted. The motion carried 4 - 0.

D. UTILITY RELOCATION PROJECT:

1. Phase I: Presented for approval of payment was an invoice totaling \$990.24 on behalf of Summit Engineering for engineering services for the first phase of the utility relocation project. Commissioner Combs made the motion, seconded by Commissioner Layne to approve payment as requested. The motion carried 4 - 0.

2. Phase II: Presented on behalf of Mountain Enterprises was an invoice in the amount of \$35,652.29 and an invoice on behalf of Summit Engineering totaling \$9,800 for Phase II of the utility relocation project. Commissioner Combs made the motion, seconded by Commissioner Justice to approve payment as presented. The motion carried 4 - 0. Submitted for the Commission's review was a construction schedule. Mr. Byers advised the project is proceeding as scheduled.

Main Street Board member, Sara George, advised the city is holding a check for retainage in Phase I for Mountain Enterprises. Payment was approved at the previous Commission meeting for the retainage less \$10,000. Commissioner Combs reported the Commission conducted a walkthrough of the Phase I project area at the conclusion of the previous meeting. A sink in the paving (about 65 feet in length) near B B & T Bank was detected. It was noted that water is pooling in the intersections at Grace and Division Streets. The city engineer explained it was his intention for the repairs to be conducted through the performance bond. City Attorney Davis advised it would be more appropriate to withhold the retainage since the Commission deems the work unsatisfactory. Commissioner Combs made the motion, seconded by Commissioner Justice to rescind the previous

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resolution authorizing payment of the retainage (less \$10,000) to Mountain Enterprises and to adopt a resolution authorizing the City Manager, City Engineer and the Main Street agency to negotiate with Mountain Enterprises for the repairs based upon advice from the city attorney regarding the performance bond, and to further authorize the City Manager to use his discretion in paying Mountain Enterprises after the negotiations. The motion carried 4 - 0.

AGENDA ITEM V.

OLD BUSINESS

A. CITY ENGINEER'S REPORTS:

1. Kentucky Avenue Townhouses: Architect Chris Chrisman reported there was a concern raised several weeks ago concerning the size of the bedroom windows in the townhouse project. While the windows were determined to be too small according to the Kentucky Building Code, further study has shown the windows meet the intent of the building code. The Building Inspector and State Inspector have agreed to accept the windows based upon the field tests conducted. Mr. Chrisman advised the manufacturer had guaranteed the windows to meet the building code. The City Attorney advised that no further exceptions will be made with regard to the building code requirements, as professional engineers are hired to ensure the code is met.

2. Kentucky Avenue Fill: The contractor has requested to take the trees removed from the Kentucky Avenue project to Poor Farm Hollow to hold them until the burn ban has been lifted. Commissioner Justice made the motion, seconded by Commissioner Layne to allow the contractor to store the trees in the Poor Farm Hollow area until the burn ban is lifted. The motion carried 4 - 0.

Patriot Contracting has requested to remove fill from Poor Farm Hollow to fill in an area on Kentucky Avenue. The engineer will oversee the placement of the material. Commissioner Combs made the motion, seconded by Commissioner Justice to approve fill removal from Poor Farm Hollow to Kentucky Avenue. The motion carried 4 - 0

3. Main Street Drainage: Mr. Byers proposes to install 4 drop boxes, drain tile and tying into the civic center drains to rectify the drainage problem on Main Street. The plan will be presented to the civic center board for approval.

4. South Mayo Trail Drainage: A work session was conducted on September 17th with property owners and state officials concerning the drainage problem along South Mayo Trail. Two alternates were discussed. Alternate 1 provides for the installation of curb, drainboxes and drain tile out to the river at a cost of \$552,000. Alternate 2 is the same as Alternate 1, but provides for the widening of the road from 2 lanes to 3 lanes from Speedway to the underpass. Cost of Alternate 2 is \$709,000. Property owners present at the work session opted for Alternate 1. Commissioner Combs made the motion to authorize a letter be sent to the Department of Transportation advising of the selection of Alternate 1 as recommended by the city engineer and approved by the property owners. Commissioner Davis seconded the motion. The motion carried 3 - 0 - 1 with Commissioner Justice abstaining from the vote.

5. Marion's Branch Bridge: City Manager Blackburn reported that Bush and Burchett Bridge Contractors are considering the installation of concrete box beams for repairs to the Marion's Branch Bridge. The amount of time required to conduct the repairs with use of the box beams is reduced from 1 month down to 2 weeks. The City Manager advised a special meeting may be needed later in the week when the cost estimates are submitted. Lodestar Coal has requested the repairs be conducted in mid-October. Funding for the repairs is expected to be shared equally by the state, the city, and Lodestar.

6. Sewer Rehabilitation - Middle Bowles: The contractor, BOCA contracting, submitted an estimate for rehabilitating the remaining sewer line located in the Middle Bowles Addition in the amount of \$63,600. The project will be placed in the 2003/2004 budget.

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B. CITY ATTORNEY'S REPORTS: Russell H. Davis, Jr., City Attorney, presented a contract with Buffalo Development, Inc. and U.S. Filter for approval. The city attorney explained the city is now hauling solids from the wastewater treatment plant to the county's landfill. While the city does not pay the county for dumping the material at the landfill, the city does take the leachate from landfill and chemically treats it. Buffalo Development, Inc. will allow U.S. Filter to place solids on their property subject to U.S. Filter agreeing to comply with all regulatory requirements. While the state has requested the city be a co-signator of the agreement, the agreement does not obligate the city in any way. Buffalo Development Inc. will be charging U.S. Filter no fee for dumping, however the city will be able to charge for treating leachate at the wastewater plant. It was disclosed that Commissioner Combs is the Vice-President of Buffalo Development, Inc. Commissioner Justice made the motion, seconded by Commissioner Layne to authorize the execution of the agreement with Buffalo Development, Inc. The motion carried 3 - 0 - 1 with Commissioner Combs abstaining from the vote.

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

1. Parking Structure Project: The City Manager advised that Frank Bailey owns property and a house on an adjacent tract to the Parking Structure. To facilitate construction of the parking structure and to conduct a bore of the site, Mr. Bailey has agreed to allow the city to demolish the house. Patriot Construction submitted a quote of \$4,500 to remove the house. Commissioner Combs made the motion, seconded by Commissioner Layne to enter into an agreement with Frank Bailey for the removal of the house and to authorize Patriot Construction to demolish the house. The motion carried 4 - 0.

2. Halloween Trick-or-Treat: City Manager Blackburn reported that the Pike County Fiscal Court has scheduled the observance of Trick-or-Treat in the county for October 31, 2002 from 6 - 8 p.m. Mr. Blackburn recommended the same date and time be approved for observance of Trick-or-Treat in the city. Commissioner Davis made the motion to schedule the observance of Halloween Trick-or-Treat for October 31, 2002, from 6 - 8 p.m. Commissioner Combs seconded the motion. The motion carried 4 - 0.

D. MAIN STREET PROGRAM: Vice-Chair of the Pikeville Main Street Program, Sara George, advised the Commission of a meeting on September 25th to discuss the city's application for 319 federal funds for improvements/sedimentation abatement to Pikeville Pond. Ms. George advised the cleanup efforts accomplished thus far can be used as in-kind match for the 319 grant.

Glendia Sawyers and Pike County Senior Citizens Program Coordinator, Diana Thacker, successfully arranged for Pikeville to be host to the Kentucky Senior Games during 2003 and 2004.

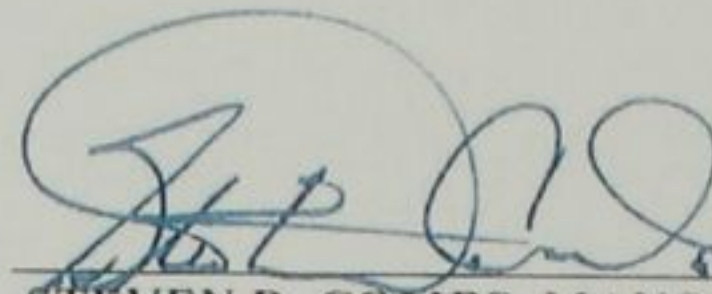
During the Main Street Board's previous meeting, a request from Marvin Hensley to eliminate a parking space on Grace Avenue, was considered. The board recommended the request not be approved at this time because of the scarcity of parking spaces at this time. Ms. George reported she has since looked at the site and determined the space Mr. Hensley is requesting is not a parking space, but a yellow line. The Main Street Board will reconsider the matter at their next meeting.

Commissioner Combs made the motion to cancel the regular meeting scheduled for October 14, 2002, and to schedule a special meeting on October 9, 2002 at Noon. Commissioner Justice seconded the motion. The motion carried 4 - 0.

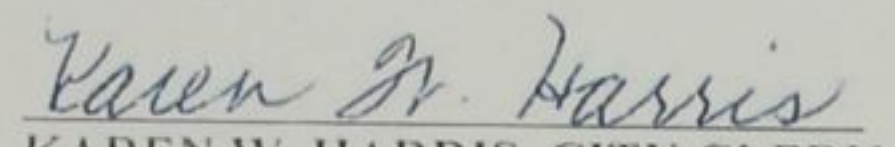
There being no further business to come before the Commission, Commissioner Davis made the motion, seconded by Commissioner Layne to adjourn. The motion carried 4 - 0. (Adjournment Time: 7:55 p.m.)

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APPROVED:


STEVEN D. COMBS, MAYOR PRO TEM

ATTEST:


KAREN W. HARRIS, CITY CLERK