

MINUTES } CITY OF PIKEVILLE

CITY OF PIKEVILLE BOARD OF COMMISSIONERS REGULAR MEETING MINUTES OCTOBER 28, 2002

The Board of Commissioners for the City of Pikeville met in a regularly scheduled meeting on Monday, October 28, 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 6:10 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 special meetings held on October 1st and 9th, 2002, were included in each Commission Member's agenda package. There being no additions or corrections, Commissioner Layne made the motion, seconded by Commissioner Justice to approve the minutes as presented. The motion carried 4 - 0.

AGENDA ITEM III.

BUSINESS FROM THE FLOOR

A. YORKWOOD FOREST DRIVE: Kentucky Department of Highways representative, Jon Michael Johnson, appeared before the Commission to discuss the installation of a turning lane from U.S. 23 South which was requested for Yorkwood Forest. Mr. Johnson explained that prior to any construction in the area, the only turning lane was a mountable median. Now there is a flush median with a yellow stripe on each side. In essence, both sides have a 16 ft. lane allowing turns for one side to the other. According to Mr. Johnson, the turning lane can't be dedicated to one side or the other because it will block access to businesses or other residences. Commissioner Davis, disclosing that he has a personal interest in Yorkwood Forest, stated there are 9 families living in Yorkwood Forest. He stated his opinion that the mountable median was safer than the flush median. With the flush median, there is nothing to separate turning traffic from highway traffic. Commissioner Davis advised the only safe way to turn is to go to Foxcroft, turn around, and go back to Yorkwood Forest. Mr. Johnson told the Commission he would take their concerns back to the Highway Department. He stated that he was unsure as to whether the design could be changed at this time. He suggested the residents file a petition with the Highway Department requesting a mountable median.

B. HILLBILLY DAYS, 2003: Chamber of Commerce Executive Director, Kitty White, presented a proposal for vendor space during Hillbilly Days 2003 (April 10 - 12). Because of the parking garage construction on the College Street lot, and the impending construction of the civic center, Ms. White requested use of Hambley Boulevard from Huffman Avenue to Thacker Funeral Home to use as vending space. Ms. White presented a map of the area depicting 36 booth spaces along both sides of Hambley Boulevard in the parking lanes and tent space in the center lane. Ms. White advised the plan had been reviewed by the Fire Chief, Police Chief and other members of the Hillbilly Days Committee. Sufficient space remains on Hambley Boulevard for emergency vehicles to travel, but no through traffic. Second Street and College Street were considered, however it was determined the streets were not wide enough and they did not want to put booth space next to residences. Ms. White advised she was asking for permission for 2003 only, but it may turn out this may be the best place for the booths and she may be back before the Commission to request use of Hambley Boulevard for

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2004. The Commission decided it would be best to close Hambley Boulevard at the intersections. Commissioner Justice made the motion, seconded by Commissioner Layne to authorize the use of Hambley Boulevard, from Huffman Street to Division Street, as vending space during Hillbilly Days 2003, based upon approval of the fire and police chiefs. The motion carried 4 - 0. Commissioner Justice asked that the Chamber of Commerce look for a carnival location that is away from the residences.

C. PERSONNEL HEARING: Park Department employee, Walter Tucker, requested a personnel hearing before the Commission. Mr. Tucker consented to postpone his hearing until the end of the agenda.

AGENDA ITEM IV.

PAYMENT OF BILLS

A. CITY BILLS: A list of City Bills totaling \$412,622.36 was presented for approval of payment. The invoice submitted on behalf of Summit Engineering in the amount of \$17,500. was questioned. It was explained the payment is for architectural fees for the turf and bleachers at Hambley Athletic Field. Mr. Sykes advised that Mr. Chrisman anticipates advertising for bids for the turf within two weeks and for the bleachers in the first week of December. The City Manager and Finance Director are working with Hilliard/Lyons for the financing of bonds for the proposed improvements to Hambley Athletic Complex. Commissioner Justice made the motion to authorize payment of the City Bills as submitted. Commissioner Davis seconded the motion. The motion carried 4 - 0.

B. PIKEVILLE REDEVELOPMENT PROJECT: Presented were the following invoices in conjunction with the Kentucky Avenue/High Street/Sycamore Street Redevelopment Project:

1. J & M Monitoring: Presented for approval of payment were two invoices in the amounts of \$15,167.00 and \$17,401.00 for asbestos testing and abatement in structures located within the Phase IV and V project areas. Project Director, Sue Smallwood, advised the services, pursuant to contract, have been completed. Commissioner Layne made the motion, seconded by Commissioner Davis to approve payment of the two invoices to J & M Monitoring as requested. The motion carried 4 - 0.

2. Larry Disney: Presented on behalf of Larry Disney d/b/a Appraisal Associates of Kentucky, was a request for payment in the amount of \$250.00 for review appraisal services of a permanent and temporary easement on the A. Clark Akers property. Commissioner Layne made the motion to authorize payment as submitted. Commissioner Justice seconded the motion. The motion carried 4 - 0.

3. Frank Nall: An invoice totaling \$150.00 was presented for approval of payment on behalf of Frank Nall for closing and preparation of deed in the acquisition of the Perry Estoll property located in the Phase IV project area. Commissioner Layne made the motion, seconded by Commissioner Justice to approve payment of the invoice as requested. The motion carried 4 - 0.

4. Patriot Construction: Submitted on behalf of Patriot Construction was an invoice in the amount of \$37,751.86 for demolition of buildings in the Phase III, IV and V project areas. City Engineer Sykes advised the project is about 90% complete. A 10% retainage is being withheld from the total contract amount. Commissioner Justice made the motion to approve payment to Patriot Construction in the amount of \$37,751.86. Commissioner Layne seconded the motion. The motion carried 4 - 0.

5. Will Linder & Associates: Invoice #4 in the amount of \$20,000 for Phase IV counseling services and invoice #5 in the amount of \$7,000 for Phase III project administration were submitted to the Commission for approval of payment on behalf of Will Linder & Associates. Project Director Smallwood advised the payment requests are in accordance with contract. Commissioner Justice made the motion to authorize payment to Will Linder & Associates for two invoices totaling \$27,000.

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Commissioner Layne seconded the motion. The motion carried 4 - 0.

6. Kentucky Avenue Roadway & Utility Improvement Project: Presented for approval of payment was an invoice in the amount of \$3,000 on behalf of Summit Engineering for Phase IV administration and inspection of the Kentucky Avenue Roadway and Utility Improvement Project. Commissioner Justice made the motion to approve payment to Summit Engineering in the amount of \$3,000. Commissioner Layne seconded the motion. The motion carried 4 - 0.

7. Kentucky Avenue/High Street Demolition: An invoice in the amount of \$2,054.73 on behalf of Summit Engineering was presented for approval of payment for engineering services in conjunction with the demolition activities on Kentucky Avenue and High Street. Commissioner Justice made the motion, seconded by Commissioner Layne to approve payment as requested. The motion carried 4 - 0.

8. Phase VI Community Development Block Grant (CDBG): Executive Director for the Big Sandy Area Development District, Sandy Runyon, appeared before the Commission to report their efforts in obtaining funding for Phase VI of the redevelopment project. Ms. Runyon reported the applications are proceeding on schedule. Runyon advised that the Department for Local Government (DLG) reviewed the CDBG pre-application and have asked for a couple of issues to be addressed and corrected. She advised the issues have been corrected. Ms. Runyon will prepare a letter to DLG addressing the corrections for Commissioner Combs' signature. Upon DLG's approval of the pre-application, the full CDBG application will be sent to them. The committee meets on November 27th to review the full funding applications. A decision will be made by DLG of whether to fund the application on December 18th. The next funding cycle is February 3rd. Should the city be awarded CDBG funds for Phase VI, 60% of those funds are required to be expended before submitting another application. Ms. Runyon anticipates the city could apply for CDBG funding for Phase VII during next fiscal year's funding cycle, however that date has not been announced.

C. PARKING STRUCTURE PROJECT: Presented for approval of payment were the following invoices associated with the Parking Structure Project:

1. Summit Engineering: Presented was an invoice from Summit Engineering in the amount of \$14,287.50 for project management and construction inspection. Commissioner Combs made the motion to approve payment of the invoice as requested. Commissioner Justice seconded the motion. The motion carried 4 - 0.

Commissioner Combs pointed out that the holes where the caissons are located are not being protected as was directed during the previous meeting. Mr. Sykes advised that Elliott Contracting has been advised by the inspector and through e-mails to barricade the construction area. The Commission directed that a letter from the City Manager be sent to the contractor ordering the construction area be barricaded. Mr. Sykes advised he would prepare the letter for the City Manager's signature.

2. Demolition: Presented for approval of payment was an invoice in the amount of \$4,500. on behalf of Patriot Construction for the demolition of the Bailey house that was located adjacent to the Parking Structure project. Commissioner Justice made the motion, seconded by Commissioner Layne to approve payment as presented. The motion carried 4 - 0.

AGENDA ITEM V.

OLD BUSINESS

A. CITY ENGINEER'S REPORTS: Jack Sykes and Charles Byers, representing Summit Engineering, city engineers, presented a verbal status report for the following projects:

1. Utility Relocation Project - Phase II: Presented for approval of payment on behalf of

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Mountain Enterprises was an invoice in the amount of \$324,926.26 for work to date on the second phase of the utility relocation project. Mr. Byers advised the bill is in order. The contractor is in the process of installing the last manhole on Second Street and they have begun installing the conduit on Second Street. Mr. Byers will be meeting with the contractor on October 30th to schedule paying for Hambley Boulevard and Second Street.

In order to have the project completed prior to Hillbilly Days 2003, Mr. Byers requested the Commission to grant a waiver to Mountain Enterprises to permit them to work on this project during the period of Thanksgiving through New Years. The City of Pikeville has an ordinance that prohibits street work in the downtown area during Thanksgiving through New Years Day. Commissioner Combs made the motion to adopt a resolution to permit Mountain Enterprises to work during the period of Thanksgiving through New Years on the Utility Relocation Project - Phase II. Commissioner Davis seconded the motion. The motion carried 4 - 0.

2. Marion's Branch Bridge Repairs: Mr. Byers reported the contractor, Bush & Burchett, has installed the new bridge deck. He anticipates re-opening the bridge to traffic by October 30th or 31st.

3. Myers Tower Slope Remediation: Mr. Byers reported there is additional funds left over from the Kentucky Avenue Project. During the previous meeting, a change order was approved to Patriot Construction to install storm drainage from Sycamore Street to the Myers Tower parking lot. Mr. Byers requested approval of an additional change order in the amount of \$11,500.00 to tie in three drop boxes into the drop box on Hambley Boulevard. Commissioner Justice made the motion, seconded by Commissioner Davis to authorize a change order in the amount of \$11,500.00 to Patriot Construction as proposed. The motion carried 4 - 0.

4. Kentucky Avenue Final Grading: Mr. Sykes advised that meetings had been conducted with city and Pikeville College officials to discuss a proposal to change the final grading plan on the upper end of Kentucky Avenue to try to create more usable property for the college. It was decided to proceed as originally designed.

5. Kentucky Avenue Change Order: Mr. Sykes explained that a deduct change order in the amount of \$81,000 was approved a few months ago which deducted the paving and sidewalk from Patriot Construction's contract for Phase I - contract a. Recommended for approval was change order #1 in the amount of \$82,754.25 to Mountain Enterprises' contract for paving and sidewalk. Mr. Sykes explained there is about \$1,000 differential which is due to the change in the retaining wall around the Akers property and minor drainage adjustments. Commissioner Combs made the motion, seconded by Commissioner Davis to approve change order #1 to Mountain Enterprises' contract in the amount of \$82,754.25. The motion carried 4 - 0.

6. Poor Farm Hollow Fill: Several contractors and developers have requested permission to remove fill material from the Poor Farm Hollow property. At Commissioner Justice's request, Mr. Sykes prepared a plan for fill removal that would provide the needed material and provide additional developable property. The plan is to create a safety bench on the left side of the hollow about 30 feet in elevation above the bottom of the fill and cut out about 1/4 acre of property. This will provide about 14,000 yards of material. Mountain Enterprises will be removing at least 3570 yards of fill. Ramsey Enterprises has requested 3,000 yards of fill and Patriot Construction will require about 1,500 yards of fill. Two quotes were submitted to clear the site, bench, and blast. Both quotes were in the amount of \$24,000. There is \$71,000 in the contingency fund for Phase IV - Kentucky Avenue. Mountain Enterprises has already informed the engineers they will require more fill material than provided for in the contract, which will reduce the amount left in the contingency fund. Mr. Sykes advised he is not aware of any other changes that may be required. He explained that he prefers to go into the paving contract with some contingency funds due to weights and measures differential. Mr. Sykes stated the Commission will have to consider if an additional 1/4 acre of property along Hambley Boulevard is worth \$24,000. While the money for the work can come from the contingency

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fund at this point, Mr. Sykes cautioned that the city may have to come up with money at the end of the contract, should any additional work or changes need to be made to the Phase IV contract. The Commission decided that \$24,000 would be a good investment in consideration as to the amount the property located across the road was sold. Commissioner Justice made the motion, seconded by Commissioner Combs to approve a contract with Mountain Enterprises in the amount of \$24,000 to clear, bench and blast the defined area in Poor Farm Hollow. The motion carried 4 - 0.

7. Kentucky Avenue Townhouses: Goggans Construction estimates completion of the first phase of the townhouse project by February 15, 2003. Mr. Sykes clarified that the liquidated damages in the construction contract is specified at \$200.00/day instead of \$500.00/day. Paving has been scheduled for Smith Street and about 100 feet up Kentucky Avenue for October 31st and November 1st.

Mr. Sykes estimated that it will be at least a week into November before the first four units of the townhouse project can be occupied.

B. MAIN STREET PROGRAM: Glendia Sawyers, Director for the Pikeville Main Street Program, presented the following items for the Commission's consideration:

1. Phase I Utility Relocation Project: Presented for approval of payment were three invoices for engineering/inspection on behalf of Summit Engineering in the amounts of \$1,482.28 for June; \$185.38 for July; and \$3,178.31 for September. Ms. Sawyers advised the pay requests were approved by the Main Street Board on October 15th. Commissioner Justice made the motion, seconded by Commissioner Davis to approve payment of the invoices as requested. The motion carried 4 - 0.

2. Phase II Utility Relocation Project: Presented for approval of payment on behalf of Summit Engineering was an invoice for September's engineering services in conjunction with Phase II of the Utility Relocation Project in the amount of \$11,725.00. Ms. Sawyers reported the Main Street Board approved the invoice on October 15th. Commissioner Layne made the motion, seconded by Commissioner Combs to approve payment to Summit Engineering in the amount of \$11,725.00. The motion carried 4 - 0.

Ms. Sawyers reported the Main Street Board approved Marvin Hensley's request for removal of a parking space on Second Street.

The Christmas Parade is scheduled for December 7th at 1:00 p.m.

C. CITY ATTORNEY'S REPORTS: Russell H. Davis, Jr., City Attorney, presented and gave reading to the following ordinance:

EMERGENCY ORDINANCE AMENDING SECTION 53.03(B) OF THE CODE OF ORDINANCES OF THE CITY OF PIKEVILLE SETTING A WATER SERVICE RATE AND CHARGES FOR WHOLESALE USER MOUNTAIN WATER DISTRICT

The City Attorney explained the Public Service Commission approved a rate increase to \$1.44/1000 gallons. In order for the rates to become effective on November 1st, it is necessary to adopt the ordinance on an emergency basis.

Commissioner Combs made the motion to declare an emergency, said emergency being the necessity to adopt the ordinance immediately because the Public Service Commission has directed that the City file with the Public Service Commission a rate increase for the approved rate within 30 days of October 18, 2002. Commissioner Justice seconded the motion. The motion carried by the following votes:

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COMMISSIONER:	STEVEN D. COMBS	YES
	EUGENE W. DAVIS	YES
	FRANK JUSTICE, II	YES
	DALLAS LAYNE	YES
MAYOR:	FRANK M. MORRIS	ABSENT

Commissioner Combs suggested submitting a petition to the PSC for an additional rate increase. City Manager Blackburn advised that he, the city attorney, and Lindsay Ingram, special counsel in the water rate hearings, would be discussing the matter later in the week. Mr. Blackburn recommended the Commission should consider authorizing a new rate study be conducted in the near future.

City Attorney Davis requested a closed session for the purpose of discussing two personnel matters.

Commissioner Combs made the motion, seconded by Commissioner Layne to adjourn to closed session for the purpose of discussing two personnel matters with the City Attorney. The motion carried 4 - 0.

Commissioner Combs made the motion to reconvene to regular session. Commissioner Justice seconded the motion. The motion carried 4 - 0.

The City Attorney reported that no action is required as a result of the closed session.

WLSI Lease: The City Attorney asked for the Commission's consideration of Lonnie Osborne's request for an extension on his time to remove his equipment from the city's property (former WLSI building) until March 1, 2003. Commissioner Layne made the motion, seconded by Commissioner Justice to approve Mr. Osborne's request. The motion carried 4 - 0.

Tower Site: Mr. Osborne has requested to purchase the tower site he currently leases from the city located at the top of Bob Amos Park. City Attorney Davis advised the city previously sold tower sites at \$200/acre. The City Attorney recommended conveyance of the tower site in the amount of \$200, under the conditions that the property be used for a tower site only and if it ceases to be used for a tower site, the property reverts to the city. The city will have the right to hang equipment on the tower as long as it doesn't interfere with Mr. Osborne's broadcasting equipment. Should the city exercise its right to hang equipment on the tower, it will do so as its own cost. Commissioner Layne made the motion to authorize the conveyance of the tower site to Lonnie Osborne, pursuant to the terms cited by the City Attorney. Commissioner Justice seconded the motion. The motion carried 4 - 0.

D. CITY MANAGER'S REPORTS: Kenny Blackburn, City Manager, presented two employee applications for consideration as candidates for dispatchers. The applicants are Jarred Damron and Johnny Cole, Jr. Both applicants were recommended for employment by the 911 communications supervisor and police chief. Commissioner Combs made the motion, seconded by Commissioner Justice to authorize the employment of Jarred Damron and Johnny Cole, Jr. in the positions of dispatcher, pending satisfactory physical exams. The motion carried 4 - 0.

Personnel Hearing: Appearing before the Commission and requesting an open personnel hearing was Walter Tucker, an employee of the Parks Department since 1989. Mr. Tucker was accompanied by his legal counsel, Sid Trivette.

Mr. Tucker was served Notice of Suspension on October 8, 2002, due to his violation of the City of Pikeville's "Personnel Policies and Procedures", Section III 4 (A) (2) "Drinking alcoholic beverages while on the job". Mr. Tucker was also served with a Notice of Intent to Dismiss on October 8, 2002. On October 15, 2002, Mr. Tucker requested a pre-termination hearing before the City Manager. A pre-termination hearing was held before the City Manager on October 18, 2002. On October 21,

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2002, Mr. Tucker was served with a letter from the City Manager advising of his decision to recommend dismissal to the City Commission. Mr. Tucker was further advised that he had the right to appeal the City Manager's decision to the City Commission. On October 24, 2002, the city clerk was served with a letter from Mr. Tucker, requesting a hearing before the City Commission at their October 28, 2002 regular meeting. Mr. Trivette acknowledged the procedures.

Mr. Trivette addressed the Commission on behalf of Mr. Tucker, requesting that Mr. Tucker be given some other type of disciplinary action rather than job termination. Mr. Trivette spoke to Mr. Tucker's longevity in city employment and his character, as well as that of Mr. Tucker's father, James Tucker's, employment and dedicated service to the City of Pikeville. Mr. Trivette advised the Commission that Mr. Tucker wants to keep his job. He doesn't drive, so there will be no liability problems. Mr. Trivette suggested that Mr. Tucker be retained on a probationary basis.

Mr. Trivette agreed to allow the Commission to ask questions of Mr. Tucker.

Commissioner Combs asked if this was the only time that Mr. Tucker consumed alcoholic beverages while on duty. Mr. Tucker said this was the only time he had consumed alcoholic beverages while on duty. He stated he drank two beers while working at the Pikeville College game at Hambley Complex.

Doug Justice, Park Director and Mr. Tucker's supervisor, reported he had issued written warnings to Mr. Tucker for violation of city policy. Mostly the violations were leaving the job site or leaving early without notifying his supervisor or absence from work.

Mr. Tucker told the Commission that he knows employees who have been issued 15 or 20 warnings, but there has been no punishment. City Attorney Davis advised that Mr. Tucker is not being disciplined due to the written warnings, but for violation of city policy for drinking on the job, a violation that he has admitted.

The Park Director advised the Commission that he did not want Mr. Tucker placed back in his Department. Commissioner Justice suggested that Mr. Tucker could be placed under the Fire Chief's supervision and could work in the pond clean up.

Commissioner Combs suggested that the city help Mr. Tucker with counseling services.

Mr. Trivette recommended Mr. Tucker's mandatory evaluation for alcohol abuse.

Commissioner Combs made the motion to adjourn to closed session for deliberation of the personnel matter involving Walter Tucker. Commissioner Layne seconded the motion. The motion carried 4 - 0.

Commissioner Layne made the motion, seconded by Commissioner Davis to reconvene to regular session. The motion carried 4 - 0.

Commissioner Combs made the motion to continue Mr. Tucker's suspension through November 7th, and to allow him to come back to work on November 8th in another department contingent upon the following parameters: Mr. Tucker will undergo alcohol assessment at the city's expense and if it is determined that he is in need of further counseling, the city will pay for these services; Mr. Tucker will be subject to random substance abuse testing for a period to be determined by his supervisor; Mr. Tucker will have periodic evaluations of his job performance which will be reported to the City Commission; and Mr. Tucker will not be permitted to operate city vehicles. Commissioner Justice seconded the motion. The motion carried 4 - 0. The Commission advised Mr. Tucker that violation of any of the parameters will be cause for immediate dismissal.

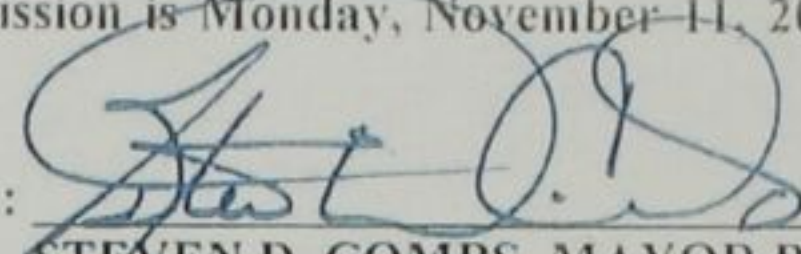
There being no further business to come before the Commission, Commissioner Combs made the

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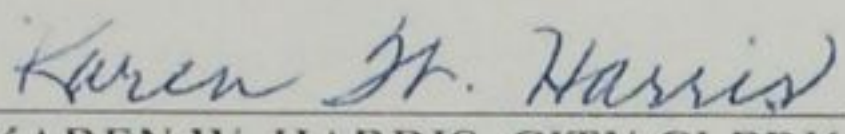
motion, seconded by Commissioner Justice to adjourn the meeting. The motion carried 4 - 0.

The next regular meeting of the Pikeville City Commission is Monday, November 11, 2002 at 6:00 p.m.

APPROVED:


STEVEN D. COMBS, MAYOR PRO TEM

ATTEST:


KAREN W. HARRIS, CITY CLERK