

MINUTES } CITY OF PIKEVILLE

CITY OF PIKEVILLE BOARD OF COMMISSIONERS REGULAR MEETING MINUTES JANUARY 13, 2003

The Board of Commissioners for the City of Pikeville met in regular session on Monday, January 13, 2003. The meeting was held in the City Hall Public Meeting Room located at 118 College Street, Pikeville, Kentucky.

There being a quorum present, Mayor Franklin D. Justice, II, called the meeting to order at 6:00 p.m. Commission Members present at roll call were as follows:

COMMISSIONER:	DALLAS LAYNE EUGENE W. DAVIS STEVEN D. COMBS SHAWN A. AMOS
MAYOR:	FRANKLIN D. JUSTICE, II

AGENDA ITEM II. MINUTES

The minutes for the special meeting held on December 19, 2002 were included in each Commission Member's agenda package. There being no additions or corrections, Commissioner Combs made the motion, seconded by Commissioner Layne to approve the minutes as submitted. The motion carried unanimously.

Commissioner Davis made the motion to appoint Commissioner Steven D. Combs to serve as Mayor Pro-Tem. Commissioner Layne seconded the motion. The motion carried unanimously.

AGENDA ITEM III. BUSINESS FROM THE FLOOR

A. SANDY VALLEY TRANSPORTATION: Director of Sandy Valley Transportation, Greg Hamlin, presented a proposal to the Commission to provide transportation service in the downtown area. Mr. Hamlin reported the transit system was operated during December 16 - 31, 2002. Sandy Valley Transportation provided 277 one-way rides. The city of Pikeville compensated Sandy Valley Transportation at a rate of \$1.00 per ride. Sandy Valley Transportation proposes to continue operating the transit service and asked the Commission to approve entering into an agreement to pay Sandy Valley Transportation \$500.00/mo. to offset costs. The service will be operated Monday thru Friday from 7 a.m. to 5 p.m. The patrons will be asked to pay \$1.00 per ride. Mr. Hamlin is preparing an established route schedule, however he advised that most of the patrons are picked up in the river fill or at Myers Tower. Mayor Justice asked the plans for providing parking once the civic center construction begins. The City Manager advised the Commission has the option of entering into lease agreements with various property owners, such as the Baptist Church, or to provide parking on the property located behind the Chloe Fire Station. Commissioner Amos and Combs expressed their opinions that the \$1.00 cost to ride from the river fill area to the downtown may be too expensive. Mr. Hamlin was agreeable to looking at the feasibility of reducing the fee to 50 cents or to allow the patron to ride free-of-charge. Commissioner Davis asked what the city's cost would be if all patrons were to be permitted to ride free-of-charge. Mr. Hamlin stated that Sandy Valley Transportation would require at least \$1,000.00/mo from the city. Commissioner Combs made the motion to approve the proposal on a 30 day trial basis, with the city compensating Sandy Valley Transportation \$500.00/mo., and with Mr. Hamlin attending the February 10th City Commission Meeting to report on the utilization. Commissioner Davis seconded the motion. The motion carried unanimously.

B. CEDAR CREEK DRAINAGE DITCH: Bob Ford, property owner at 540 Cedar Creek, appeared before the Commission to request permission to fill in the ditchline and build a two car detached

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garage (24' X 26') over the city's ditch line easement. There is a 3" gas line in this location that is owned by Kinzer Drilling. Mr. Kinzer's foreman visited the site and advised that Kinzer Drilling has no problem with Mr. Ford building over the gas line. He stated that should the gas line develop a leak, Kinzer Drilling will relocate the line. City Engineer Sykes advised that the easement in which the ditchline is located is a public easement and therefore regulated by the city. Building Inspector Richard Huffman reported that State Building Regulations prohibit the construction of a building over a gas line of any size unless the line is encased in steel, capped at both ends, and vented. As far as filling in the ditchline is concerned, the City Engineer stated if the drainage line is properly sized and installed it will probably never become an issue, however the easement would give the city the authority to cross the easement and repair the line. Mr. Ford was advised the city crews would work within the easement, however, at a last resort, it may become necessary to remove the building. Mr. Ford was advised that he would be responsible to replace anything constructed over the easement. Commissioner Combs made the motion to authorize the City Manager to execute an agreement to allow Mr. Ford to build the garage, subject to the City Attorney preparing an agreement and addressing the gas line issue in whatever form is proper. Commissioner Layne seconded the motion. During discussion, the City Attorney explained the agreement will grant Mr. Ford the authority to build the garage subject to getting the gas line sleeved or relocated, and install the drain according to the proper size and design standards, and contingent upon Mr. Ford agreeing to reconstruct the structure, if it becomes necessary to remove the building to unclog the drains. The motion carried unanimously.

C. AUDIT REPORT: J. Donald Wallen of Wallen & Cornett, CPAs, presented the audit report for fiscal year ending June 30, 2002. The auditing firm issued a clean, unqualified opinion. The City of Pikeville finished the year with a surplus of \$1,444,578. The fiscal year began with a surplus of \$1,733,331. The surplus was reduced by \$288,000. Mr. Wallen advised this is the second year in which the surplus was reduced. The previous year's surplus was reduced by \$347,000. Average monthly expenditures were \$510,000/mo. Both years, the city spent more than was received. While the city purchased property, Mr. Wallen stressed the importance of retaining an operating reserve. At one point, the city had six months in reserve. This year, the reserve was reduced to three months. Mr. Wallen advised the Commission of the need to change the trend of losses to protect bonding capability. The Enterprise Funds (utilities) increased their cash position by over \$380,000. Because depreciation had to be figured in, these funds showed a deficit. Specific items noted were: Occupational Tax collections increased by \$227,000; property tax collections increased by \$15,000; Tax penalty and interest collections increased to \$54,000; and earned \$38,000 in interest on idle money. Spending was kept down, as \$327,000 less was spent than was budgeted. In closing, Mr. Wallen advised that he does not anticipate any problem with floating a bond issue to pay for the Hambley Athletic Field Improvements.

Mayor Justice introduced the 94th District's State Representative, Howard Cornett. The Mayor reported that he and Representative Cornett toured Pikeville and reviewed the city's various projects. Mayor Justice and the Commission thanked Representative Cornett for taking the time to visit Pikeville and discuss its projects and proposed projects.

D. STEVE OWENS: Mr. Owens did not appear before the Commission.

AGENDA ITEM IV

PAYMENT OF BILLS

A. PIKEVILLE REDEVELOPMENT PROJECT: Presented for approval of payment was an invoice from Summit Engineering, Inc. in the amount of \$3,000 for administration and inspection services for Phase IV, Kentucky Avenue Project. Commissioner Combs made the motion, seconded by Commissioner Davis to approve payment of the invoice as presented. The motion carried unanimously.

B. PARKING GARAGE PROJECT: Pay Estimate #6 totaling \$501,615.00 was presented for approval on behalf of Elliott Contracting for construction of the parking garage. City Engineer

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Sykes reviewed the invoice and recommended the Commission approve payment of the invoice. The city engineer advised the project is approximately 30% complete. Commissioner Combs made the motion to approve payment in the amount of \$501,615.00 to Elliott Contracting as recommended. Commissioner Layne seconded the motion. The motion carried unanimously. The city engineer reported that a total of nine pile caps had to be removed and replaced due to the concrete not meeting the required psi specifications.

Change Order #3 was presented to the Commission for consideration. As discussed during the previous meeting, the contractor, Elliott Contracting, advises the soil removed during caisson construction is unsuitable to place back on site, and because of unknown foundations and other materials that were removed from the site, there is insufficient fill materials available. The contractor suggested sharing in the cost with the city to purchase stone to fill in the site, which was estimated at \$40,000 each. Conversation concluded with the Mayor, City Engineer, and contractor agreeing to meet at the Poor Farm site to determine if the rock from a recent excavation is suitable to use as fill. The City Engineer negotiated diligently with the contractor to reduce the cost. To allow the parking garage contract to proceed on schedule, the City Engineer recommended the Commission approve the change order and to fund it with the parking garage contingency budget. The contractor submitted a change order request in the amount of \$25,300.00 to break the stone to an acceptable size for fill material, transport the stone to the construction site, and place the stone in a fashion that creates an acceptable fill. The change order also includes a 19 day time extension to reflect delays due to removal of concrete foundations located on site and weather related delays that are considered beyond the control of the contractor. Mayor Justice expressed his opinion that the contractor should share equally in the cost. He stated he would be willing to participate equally with the contractor at \$32,200 estimate with the city and contractor paying \$16,100 each. The contractor explained that due to the extra work involved in breaking the stone and trucking to the site, \$25,300 is as low as they can charge for the work. Mr. Brehm advised the equipment to crush the stone rents at \$8,000 to \$10,000. The city engineer advised there currently is \$291,000 in the parking garage contingency fund, and recommended the Commission proceed on this basis. Commissioner Davis made the motion, seconded by Commissioner Layne to approve the change order as presented. The motion carried 3 - 2 with Commissioner Combs and Mayor Justice casting nay votes.

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. Project Coordination: City Engineer Sykes advised there are a number of projects currently in construction phase. With the retirement of Sue Smallwood, the city is without a project coordinator. Mayor Justice and Mr. Sykes met with Big Sandy Area Development District's (BSADD) executive director, Sandy Runyon to discuss some unfinished activities in the redevelopment project's phases 1 - 5, parking garage, Hambley Complex, Keyser Heights Housing (UDAG), Sunset Lane sewer, and the Emergency Shelter. Ms. Runyon has agreed to provide coordination efforts. BSADD will work on Phases 1 - 5 of the redevelopment project over the next couple of weeks. The first three hours a week will be at no charge, thereafter, time will be billed at \$35.00/hr. Ms. Runyon thinks the work can be done in 5 to 6 hours per week. Ms. Runyon will attend the next Commission Meeting with a proposal for coordinating other efforts. The city engineer recommended the Commission accept the proposal. Commissioner Combs made the motion, seconded by Commissioner Layne to work with BSADD under the scenario explained by the city engineer. The motion carried unanimously.

2. Sunset Lane Sewer Project: Presented for approval was a contract with Summit Engineering for design and inspection services of the PRIDE funded sewer extension for Sunset Lane. Mr. Sykes advised the fees are pursuant to the grant terms - \$6,200 for design fees and \$5,800 for inspection services. Mayor Justice made the motion to accept the contract with Summit Engineering. Commissioner Davis seconded the motion. The motion carried unanimously.

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3. **Kentucky Avenue Project:** The Pikeville Affordable Housing Corporation (non-profit agency) has executed a contract with Patriot Construction for Phase IV of the townhouse construction (20 units). It is expected the notice to proceed will be issued in early March. The Phase II townhouse contractor, Goggans Construction, is working fairly diligently and worked during most of the holiday season. The first 13 units have been completed and are now occupied.

4. **Main Street Drainage:** Charles Byers reminded the Commission that a change order had been issued last meeting to Mountain Enterprises to tie-in the drainage at Caroline Avenue. The engineers are now working with the civic center personnel to see if the city can install drains on the right side of Main Street and tie into their drainage system. Since the prior meeting, some settlement was detected in the left parking lane between Division Street and Pike Street. There is evident ponding in this area. The engineers have contacted Mountain Enterprises regarding this settlement. Mr. Byers advised Mountain Enterprises will mill the driving lane and the parking lane in the spring.

5. **Utility Relocation Project - Phase II:** Mountain Enterprises has two crews working on Pike Street. They have sent a work schedule to the Main Street Office so they can inform the public (through radio, newspaper, and fax announcements). Dust control was discussed. Duane Hamilton of U.S. Filter advised the small sidewalk sweeper is ran at night. The large street sweeper is ran when temperature permits (the street sweeper can't operate in temperatures below 32 degrees).

6. **Hambley Athletic Complex:** The contractor, Commonwealth Building & Construction, has begun the necessary demolition work on site.

7. **Sycamore Street:** Patriot Construction has been given a notice to proceed with the drainage construction on the slope and through the Myers Tower lower parking lot.

B. MAIN STREET PROGRAM: Sara George, Vice-Chair of the Pikeville Main Street Program, was present to discuss the Main Street Program's activities.

1. **Main Street Director:** Main Street Board Chair, Jeff Hatfield, introduced the new program director for the Main Street Program, Melissa Staggs. Ms. Staggs will begin work on January 14th. She will be attending Renaissance and CDBG training.

2. **Facade Agreement:** Ms. George advised the Commission that \$21,000 remains in the Facade account. She asked the Commission to adopt the following resolution requesting a time extension to March 31, 2002 to spend the funds:

MODIFICATION TO FACADE AGREEMENT

THIS MODIFICATION AGREEMENT ("Agreement") is entered into this 13th day of January, 2003, by and between KENTUCKY HOUSING CORPORATION ("KHC") and CITY OF PIKEVILLE.

WHEREAS, on December 1, 2000, City of Pikeville executed a Modification to the Renaissance Kentucky Grant Agreement ("Agreement") with a termination date of December 1, 2002;

WHEREAS, KHC and City of Pikeville now desire to modify the agreement in certain respects.

NOW, THEREFORE, in consideration of the promises and mutual rights and obligations of the parties, KHC and City of Pikeville agree that the Agreement is modified as follows:

4. **Termination.** This Agreement terminates March 31, 2003, provided that Grantee is not then in default under the provision of this Agreement, its Application or the Renaissance Kentucky

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program guidelines. In the event Grantee is in default on said date, this Agreement will not terminate until such default is cured or KHC has exercised its available remedies upon default.

Except as specifically modified above, the Agreement will remain unchanged and, as modified herein, will continue to full force and effect.

Commissioner Davis made the motion, seconded by Commissioner Combs to adopt the resolution. The motion carried unanimously.

3. Phase III Engineering Services: Presented for approval was an engineering contract with Summit Engineering to provide engineering services for Phase III of the Utility Relocation Project. Ms. George advised that Summit Engineering was the only firm to present a proposal. The city attorney has reviewed the contract. It was reported the contracts are standard agreements. Summit Engineering's fee for the services is \$253,500 which is provided in the Phase III budget. The contract has been approved by the Main Street Board. Commissioner Combs made the motion, seconded by Commissioner Davis to approve the engineering agreement with Summit Engineering for the Utility Relocation Project - Phase III. The motion carried unanimously.

4. Phase III Funding: Ms. George reported all the funds with the exception of \$500,000 have been approved for Phase III. The funding is as follows: Appalachian Regional Commission (ARC) \$500,000; Community Development Block Grant (CDBG) \$1 million; \$500,000 from the Governor's contingency fund; \$1 million from Transportation Enhancement Act (federal - TEA-21); and a match of \$115,113 from the City of Pikeville. Since ARC does not release any funds until they have written confirmation from the other funding agencies, Ms. George asked the Commission to authorize the Mayor to send a letter to Department of Local Government Commissioner, Jody Lassiter, advising of the City's funding commitment. A TEA-21 application will be submitted in February, 2003 for the remaining \$500,000. These funds will not be released until October, however Ms. George will ask for a letter of commitment to be sent to ARC. Commissioner Combs made the motion, seconded by Commissioner Layne to authorize the Mayor to send a letter to Commissioner Jody Lassiter advising of the City's funding commitment to the Phase III Utility Relocation Project for the amount of \$115,113. The motion carried unanimously.

5. Pauley Bridge Repairs: Ms. George advised the Main Street Program is completing a funding application for non-rennaissance TEA-21 funds to rehabilitate the Pauley Bridge and pedestrian walkway. Ms. George told the Commission the application is reviewed by the Kentucky Heritage Council.

6. Pikeville Pond: The Main Street Program will be submitting a 319 Grant on behalf of the City of Pikeville to the State Natural Resources and Environmental Cabinet's Division of Water. The funds will be used for installation of a sedimentation system, dredging the pond of sediment, and transforming it into a functional recreation area.

C. CITY ATTORNEY'S REPORTS: Russell H. Davis, Jr., City Attorney, reported he had written a letter to Green Valley Environmental responding to their collection of an additional \$1.75/ton fee (pursuant to House Bill 174) for each ton of solid waste disposed in their landfill. The City Attorney advised the city's agreement with Green Valley Environmental makes them responsible for any fees associated with disposal, including any fees that were not in place at the time of the contract signing.

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

1. Disaster Emergency Services: Mayor Justice made the motion, seconded by Commissioner Combs to designate City Manager Blackburn as the city's DES agent. The motion carried unanimously.

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2. Fire Response Policy: Discussion was had concerning the need for a policy designating procedures to follow prior to the Fire Department responding to calls for assistance outside the city limits. Commissioner Combs made the motion to institute a written policy whereby the Mayor would be contacted for permission to respond to calls outside the city limits. If the Mayor is not available, contacts are to be as follows: Mayor Pro-Tem, two commissioners. Commissioner Layne seconded the motion. The motion carried unanimously.

3. Order of Succession: Presented for adoption was a resolution to designate the Mayor Pro-Tem to assume the duties of the Mayor in his absence or disability. The resolution was presented as follows:

CONTINUITY OF GOVERNMENT

WHEREAS, the City of Pikeville deems it necessary to provide for the orderly succession of the Mayor of the City of Pikeville in the event of the absence or disability of the Mayor as defined in KRS 67.725 when involving a national, State or local emergency; and

WHEREAS, under Kentucky Law KRS 63.190 any vacancy in the Office of the Mayor is filled by the Governor. When a vacancy occurs, the City Clerk is responsible for notifying the Governor of the vacancy under KRS 63.210. A Mayor appointed in this manner serves in accordance with Section 152 of the Kentucky State Constitution; and

WHEREAS, the line of succession contained in this Resolution is to insure that a city governmental official is available to serve in the absence or disability of the Mayor, or any successor.

It is therefore RESOLVED that when the absence or disability of Pikeville Mayor, Frank Justice II, prevent his serving in the office during a national State or local emergency, the duties and responsibilities of the Mayor shall be administered temporarily by Steven D. Combs, Mayor Pro Tem, as set forth in KRS 67.730 and 67.735.

It is also RESOLVED that if neither the Mayor nor Mayor Pro Tem is able to serve in the Office of Mayor by reason of absence or disability, then the duties of the Office of Mayor shall be assumed temporarily by a member of the Pikeville City Commission as set forth in KRS 67.740 and 67.745.

Mayor Justice made the motion to adopt the resolution. Commissioner Layne seconded the motion. The motion carried unanimously.

3. Pike County Emergency Response Plan: City Attorney Davis explained that state law requires the city to participate in a county-wide emergency disaster plan. The county is in the process of updating the plan. Fire Chief Hall gave his opinion that it is better to participate in the county's plan rather than trying to develop a plan for the city. Prior to adoption of a resolution to participate in the county's plan, the Fire Chief will prepare copies of the portion of the plan that pertains to the city for the Commission's review.

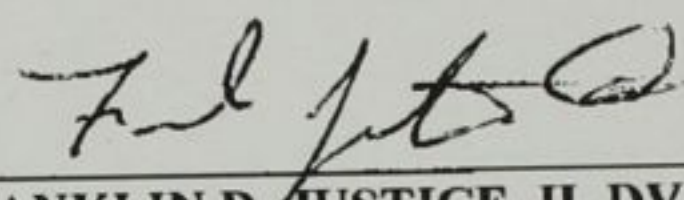
Commissioner Combs made the motion to adjourn to executive session for the purpose of discussing a personnel matter with the Building Inspector and discussing a legal matter with the Tax Administrator. Commissioner Davis seconded the motion. The motion carried unanimously.

Commissioner Amos made the motion to reconvene to regular session. Commissioner Layne seconded the motion. The motion carried unanimously.

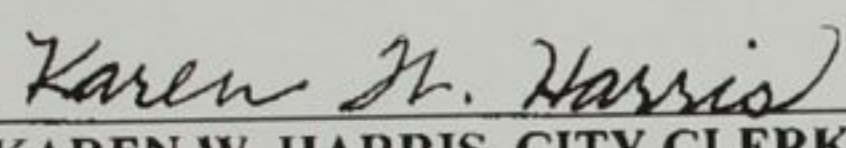
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There being no further business to come before the Commission, Commissioner Davis made the motion, seconded by Commissioner Layne to adjourn. The motion carried unanimously.

The next meeting of the Pikeville City Commission is scheduled for January 27, 2003 at 6:00 p.m.

APPROVED: 
FRANKLIN D. JUSTICE, II, DVM, MAYOR

ATTEST:


KAREN W. HARRIS, CITY CLERK