

**CITY OF PIKEVILLE  
BOARD OF COMMISSIONERS  
SPECIAL MEETING MINUTES  
March 8, 2010 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a special called session on Monday, March 8, 2010. The meeting was held in the City Hall Conference Meeting Room located at 118 College Street, Pikeville, Kentucky.

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

**COMMISSIONER:            GENE DAVIS  
                                     BARRY CHANEY  
                                     DALLAS LAYNE  
                                     JIMMY CARTER**

**MAYOR:                     FRANKLIN D. JUSTICE, II**

**MINUTES**

The minutes for the previous regular meeting held on February 22, 2010 were in each Commission Member's agenda package. There being no additions or corrections, Commissioner Chaney made the motion to approve the minutes as prepared. Commissioner Carter seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously. 5-0.

**BUSINESS FROM FLOOR**

Mayor Justice called for business from the floor. Mayor Justice opens the discussion to discuss petition the Department of Highways for a caution light at the Johnson Memorial Cemetery. Sergeant Chris Edmonds was present from the Pikeville Police Department and addressed the issue. Sergeant Edmonds stated the department had requested the light and the highway department advised the traffic count was not high volume to be eligible. Mayor Justice stated he had recently attended a funeral and everyone was left to exit the memorial park on their own. Sgt. Edmonds stated the department had two cars, but when they received a call they had to respond. The units could not wait for everyone to leave the area, due to responding to a call. City Manager Donovan Blackburn stated he had addressed the issue with the highway department 3 or 4 years ago and they had informed him the area was not eligible for a caution light. Tommy McClanahan is currently in the project manager position and he will contact Gene Layne to see what alternatives the city may have to address the issue. Mayor Justice asked if the Police

Department could draft a letter to the local funeral homes to ask for our services weather it be police or fire department. Sgt. Edmonds stated “we try to stay, but do not always have the man power.” Mayor Justice asked if the police could be uniform. Sgt. Edmonds asked if he meant with the speed. Mayor Justice answered yes, maybe get with the funeral director and have both cars in line with the same speed. Sgt. Edmonds stated over the years he had received complaints of either too fast or too slow, but stated he would address the issue. Mayor Justice asked about the KLAC certified program for administrative officers. Sgt. Edmonds replied it is a 10 week coarse and would be a great help to the community. The program deals with people skills. Mayor Justice open the floor to discuss the issue of the US 23 highway and near Wal Mart being a mess. City Manager stated he would add to his list of items to check on. Mayor Justice called for comments, there being none, the Mayor called for the next item on the agenda.

#### **PAYMENT OF CITY BILLS**

The City Manager Donovan Blackburn requested the approval to pay city bills in the amount of \$522,482.88. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for further discussion, Commissioner Davis asked if the City had funds to pay. City Manager responded yes. Mayor called for further comments. Commissioner Layne asked what the CIM bill was for. City Manager asked City Clerk to respond. City Clerk Rebecca Hamilton, stated that was the invoice for the government channel 99 equipment in reference to the contact with Suddenlink and Intermountain cable agreement. Mayor called for further comments, there being none the motion passed unanimously. 5-0.

#### **BIG SANDY AREA DEVELOPMENT DISTRICT**

Libby Radcliff was present for the Big Sandy Area Development. Mayor Justice asked Mrs. Radcliff for an update. Mrs. Radcliff answered, the Marion’s Branch Block Grant funding was released in January and the filing for the RD requirements has been met and a spread sheet has been sent to city manager and city clerk. Total expenditure is 3.97% at this time. Mayor Justice stated good job, thank you.

#### **CITY ENGINEER’S REPORT**

Jack Sykes was present for Summit Engineering. Mayor Justice asked Mr. Sykes if he had any updates for the Commission. Mr. Sykes stated that Mrs. Radcliff had covered the Marion’s Branch Project and no additions at this time.

## FIRE DEPARTMENT REPORT

**Lt. Robbie Lindsey was present for the Pikeville Fire Department and reported KY Fire Rescue training being held Monday, March 15, 2010 and the smoke trailer will be located at fire station #1. The department is also currently training at the Scott Ave property for rapid intervention.**

## CITY ATTORNEY

### **ORDINANCE 0 2010 04 GAS REGULATIONS:**

**City Attorney Rusty Davis was present. Mr. Davis read into record the 2nd reading of Ordinance RATES AND CHARGES 51.15 Gas Fees. 1<sup>st</sup> reading of the Ordinance was on February 22, 2010. Commissioner Layne made the motion to adopt. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none he called for Roll Call. Ordinance adopted. 5-0.**

**AN ORDINANCE AMENDING CHAPTER 51  
"GAS REGULATIONS"  
AMENDING THE FORMULA FOR CALCULATING  
CUSTOMER GAS RATE**

**ORDINANCE NO#:0-2010-04**

**WHEREAS**, the City of Pikeville City Commission is amending Chapter 51 Gas Regulations setting a standard formula on calculating gas rates.

**WHEREAS**, this ordinance will take effect immediately upon passage and publication as required by state statute.

**NOW, THEREFORE, BE IT ORDAINED** Chapter 51 "GAS REGULATIONS" is amended to read as follows:  
**RATES AND CHARGES**  
**§ 51.15 GAS FEES.**

(A) Gas fees shall be set forth as follows:

(1) The customer rate shall be calculated by taking the fix rate as outlined under Section (B) and adding the cost as outlined under Section (C) in order for the City to recover all incurred cost dollar-for-dollar. This calculation shall be conducted by the City's Utility and Finance Department or by a qualified agency contracted by the City.

(2) The following minimums are set for a billing cycle. Customers will be billed using the formula set forth herein unless their total falls below the minimum billing amount at which time the customer account will be bill the minimum payment as set below in that billing cycle.

#### INSIDE CITY LIMITS

First 2 MCF	\$19.415 (minimum bill)
Over 2 MCF	\$9.22 per MCF

#### OUTSIDE CITY LIMITS

First 2 MCF	\$20.165 (minimum bill)
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March 8, 2010 Regular Meeting

Over 2 MCF \$9.97 per MCF

(B) Included in the ~~above~~ natural gas distribution rates is ~~an the initial amount city adder, for the inside and Outside City Limits,~~ which ~~of six dollars and fifty cents (\$6.50) per MCF that~~ represents the expected cost to be incurred by the city in the procurement of natural gas to be sold to the city's distribution list. The city adders, listed below in Section (B1), are calculated by the City of Pikeville Finance and Utility Department or a qualified agency contracted by the City. Any changes to the adder must be approved by the City Commission. The city intends that any and all costs incurred by the city for natural gas shall be recovered on a dollar-for-dollar basis from the city's natural gas distribution customers. The total distribution rate shall be calculated by taking the city adder and the gas cost, as calculated under Section (C). The updated distribution rates will be effective to customers on the 1<sup>st</sup> day of the month, quarterly, starting January 1<sup>st</sup> 2010.

(1) City Adders:

#### INSIDE CITY LIMITS

<u>First 2 MCF/Month</u>	<u>\$12.00</u>
<u>Over 2 MCF/Month</u>	<u>\$2.715</u>

#### OUTSIDE CITY LIMITS

<u>First 2 MCF/Month</u>	<u>\$12.750</u>
<u>Over 2 MCF/Month</u>	<u>\$3.465</u>

(C) The gas cost component of the natural gas distribution rates shall hereafter be referred to as the Gas Cost Recovery (GCR) rate. The GCR rate shall be calculated on a quarterly basis commencing ~~January 1<sup>st</sup> 2010~~ ~~July 1, 2004~~ and is composed of the ~~following specific components:~~ Expected Gas Cost (EGC), which is explained below in Section (C1), Actual Adjustment (AA); and Balancing Adjustment (BA).

(1) The EGC represents the projected cost of natural gas per MCF for the applicable quarterly period. The projected costs are to be inclusive of any and all natural gas procurement costs to be incurred by the city including commodity, transportation, ~~storage~~ and any other ancillary costs.

~~(2) The AA represents a dollar for dollar true up of the difference between the actual amount of natural gas costs incurred by the city for a specific quarterly period versus the actual amount billed by the city as a result of charging the applicable EGC rate for the same quarterly period. This adjustment is to be billed or returned to customers over an estimated twelve month period.~~

~~(3) The BA represents a dollar for dollar true up of previously calculated true up mechanisms. The amount represents the difference between the actual dollar amounts calculated in the AA and prior period BA mechanisms and the actual amount of dollar billed or returned to customers resulting from the city charging or crediting the applicable AA or BA rates included in the total GCR rate. This adjustment is to be billed or returned to customers over an estimated three (3) month period.~~

(42) The most currently effective GCR rate shall be calculated thirty (30) days prior to the effective date of the proposed rate. The total distribution rates shall be automatically adjusted, either positively or negatively, by the change in the currently effective GCR rate ~~and the most currently calculated GCR rate.~~

The ordinance shall be in full force and effect after it is passed and published as required by law. The above ordinance was given first reading this 22nd day of February, 2010, the ordinance was given a second reading on the 8<sup>th</sup> day of March, 2010.

Passed this 8th day of March, 2010.

Commissioner Layne moved for the adoption of the forgoing ordinance.

Commissioner Chaney seconded the motion.

Upon roll call, the votes were as follows:

March 8, 2010 Regular Meeting

	Yes	No
FRANK JUSTICE, MAYOR	__X__	_____
GENE DAVIS, COMMISSIONER	__X__	_____
DALLAS LAYNE, COMMISSIONER	__X__	_____
JIMMY CARTER, COMMISSIONER	__X__	_____
BARRY CHANEY, COMMISSIONER	__X__	_____

The Mayor declared the within ordinance adopted.

/s/Frank Justice  
FRANK JUSTICE, II, MAYOR

ATTESTED:

/s/ Rebecca Hamilton  
REBECCA HAMILTON, CITY CLERK

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**ORDINANCE 0 2010 03 MORATORIUM:**

**City Attorney Rusty Davis read into record ordinance declaring a moratorium. Commissioner Davis made the motion to adopt. Commissioner Chaney seconded the motion. Mayor Justice called for comments. Jack Sykes, city engineer stated this would basically require a permit before anyone could dig or fill. Mayor Justice called for further comments, there being none the Mayor called for a ROLL CALL vote, the ordinance was adopted. 5-0**

**ORDINANCE DECLARING A MORATORIUM FOR A PERIOD OF SIX MONTHS FROM THE EFFECTIVE DATE OF THIS ORDINANCE FROM THE ISSUANCE OF ANY BUILDING PERMITS, CONSTRUCTION PERMITS, FILL PERMITS OR BUSINESS LICENSE PERMITS FOR THE CREATION OF, CONSTRUCTION OF OR LOCATION OF ANY LANDFILLS WITHIN 1,000 FEET OF THE CENTER OF THE PIKEVILLE POND AND PROVIDING PENALTIES AND FINES FOR VIOLATIONS OF THIS ORDINANCE**

**ORDINANCE NO. 0 2010 03**

WHEREAS, it is known to the Commission for the City of Pikeville that landfills near or adjacent to the Pikeville Pond can have a detrimental effect to the environmental well being, wildlife and ecosystem of the Pikeville Pond because of silt, mud, dirt and other containments which may leech or wash from fill materials placed in landfills adjacent to the Pikeville Pond;

WHEREAS, the City of Pikeville has spent hundreds of thousands of dollars in preserving and improving the water quality within the Pikeville Pond and the wildlife and ecosystem that thrives therein and desires to adopt regulations for the preservation, protection and enhancements of the City's efforts;

WHEREAS, the Commission has learned that building materials from the demolition of buildings for the construction of the New Pike County Judicial Center is being used as fill material immediately adjacent to the Pikeville Pond. The Commission believes that the possibility exist that the materials created from the demolition of these very old buildings may contain environmental contaminants such as lead based paint, asbestos, petroleum products, dry cleaning fluids, mercury and PCB, all of which has the potential of washing or leeching into the Pikeville Pond from the fill material.

NOW, THEREFORE, be it ordained by the City of Pikeville that for a period of 6 months from the effective date of this ordinance, no person shall attempt to construct, create, build, fill into, expand or dump into or provide materials to be dumped into any landfill within 1,000 ft. of the Pikeville Pond. Further, the City of Pikeville shall not issue any building permits, construction permits, fill permits or occupational license permits which would allow or be used to allow the building or expansion of any landfill prohibited herein and shall immediately revoke any currently issued building permits, construction permits, fill permits or occupational licenses which might be used to add to or expand any landfill prohibited herein.

Any person that violates any provision of this ordinance or assists anyone else in violating this ordinance shall be fined \$500.00 for each violation. Every separate act shall be deemed a separate violation of this ordinance and subject the violator to additional fines and penalties. Further, the violator will be assessed the costs of removing any fill material placed in violation of this ordinance and said expense and cost shall become a lien upon the real property where the fill is located.

The City Engineer, Summit Engineering shall study and report to the Commission within 6 months from the date of this ordinance its recommendation for proposals for the regulation of landfills so to protect and preserve the water quality, wildlife and ecosystem within the Pikeville Pond.

An emergency is declared to exist which necessitates the immediate adoption of this ordinance to prevent damage to the water quality, wildlife and/or ecosystem within the Pikeville Pond before regulations can be prepared and considered by the Commission to prevent such damage.

The above ordinance was read this 8th day of March, 2010.  
Passed this 8th day of March, 2010.

Commissioner Davis moved for the adoption of the foregoing ordinance.

Commissioner Chaney seconded the motion.

Upon roll call, the votes were as follows:

	<u>YES</u>	<u>NO</u>
FRANK JUSTICE, II, MAYOR	<u>X</u>	_____
GENE DAVIS, COMMISSIONER	<u>X</u>	_____
DALLAS LAYNE, COMMISSIONER	<u>X</u>	_____
BARRY CHANEY, COMMISSIONER	<u>X</u>	_____
JIMMY CARTER, COMMISSIONER	<u>X</u>	_____

The Mayor declared the within ordinance adopted.

/s/Frank Justice \_\_\_\_\_  
FRANK JUSTICE, II, MAYOR

ATTESTED:

/s/ Rebecca Hamilton \_\_\_\_\_  
REBECCA HAMILTON, CITY CLERK

**ORDINANCE 0 2010 05 AMENDING WATER/SEWER:**

**Rusty Davis read into record the first reading of an ordinance amending sections 52.03 52.04 and 52.05 so to prohibit city water customers that have public sanitary sewer service available within 100 feet of their property line from maintaining septic tank or other disposal system for wastewater treatment and providing for failure to comply with requirement to the use of public sanitary sewer service. Second reading will be March 22, 2010.**

**ORDINANCE 0 2010 06 AMENDING THE FISCAL BUDGET 2009-2010 FISCAL YEAR:**

**Rusty Davis read into record the first reading of an ordinance amending fiscal budget for the 2009-2010 fiscal year to reflect an increase and decrease of revenues and or expenditures. Second reading will be March 22, 2010.**

**CITY MANAGER**

**City Manager Donovan Blackburn presented the commission with the following items for approval:**

**City Manager requested item not on agenda to be approved. To award bid to Corbin Mining, Inc. in the amount of \$12,385.00 to demolition two building on Scott Ave recently purchased by the City of Pikeville. The buildings are distressed and need to be removed. Mayor asked if this included re-seeding. City Manger replied yes. City Manager also stated project was under \$20,000.00 and did not require bid process. Three bids where received and this was the low bid. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice abstained. Mayor called for further comments, there being one the motion passed. 4-0.**

- 1. Consider request to adopt a Proclamation for the Pikeville High School Cheerleaders for their recent accomplishment and authorize the mayor to sign the proclamation. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.**
- 2. City Manager requested to adopt a resolution for the application of a \$50,000.00 Land and Water grant to purchase play ground equipment at the Bob Amos Park location and to authorize the mayor to sign said resolution along with paperwork necessary to complete the grant process. Commissioner Chaney made the motion to approve agreements. Commissioner Davis seconded the motion. Mayor called for comments. City Manager Donovan Blackburn added that this was on behalf of the Christmas in July which operates as a 501c-3 status, which will not qualify under the guidelines. The 50% match will be met by the Christmas in July program. Mayor Justice called for comments, there being none the motion was passed unanimously. 5-0.**
- 3. Consider request to adopt a proclamation naming April 2010 as PRIDE Clean up Month and authorize the mayor to sign the proclamation. Commissioner Chaney made the motion to adopt. Commissioner Carter seconded the motion. Mayor called for comments, there being none the motion passed unanimously. 5-0.**
- 4. Consider request to reclassify Minta Chaney as the Economic Development/Main Street Director and approve the job description as submitted. City Manager mention there would not be a pay increase for the additional responsibilities. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously.5-0.**

5. Consider request to approve the job description and pay chart as submitted for the assistant finance clerk and administrative desk clerk position. Commissioner Davis made the motion to approve. Commissioner Layne seconded the motion. Mayor called for comments, there being none the motion passed unanimously. 5-0.
6. Consider request to hire Christy Billiter for the position of assistant finance clerk at the starting rate per city pay chart. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice abstained from the vote. Mayor Justice called for comments, there being none the motion passed unanimously. 4-0.
7. Request to award the bid on a 2010 SUV from Bruce Walters Ford in the amount of \$30,466.92 and authorize the City Manager to sign all required paperwork for the purchase of said vehicle. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments. Commissioner Carter abstained. Commissioner Davis abstained. Mayor Justice called for comments, there being none the motion passed unanimously. 3-0.
8. Consider a request to post the position for two administrative desk clerks. One for the Garfield Admin Building and one for the Tax Office. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none motion passed unanimously. 5-0.
9. Consider request for closed session for discussion of economic development, legal and personnel issues. Commissioner Davis made the motion to adjourn. Commissioner Layne seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously. 5-0.
10. Commissioner Carter made the motion to re convene. Commissioner Chaney seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously. 5-0. Mayor called the session back into order.

There being no further business to come before the Commission, Commissioner Carter has made the motion to adjourn the meeting. Commissioner Layne seconded the motion. Mayor Justice called for discussion, there being none the meeting was adjourned. 5-0

The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is March 22, 2010 at 6:00 p.m.

**APPROVED:**

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**FRANKLIN D. JUSTICE, II, MAYOR**

March 8, 2010 Regular Meeting



**ATTESTED:**

**REBECCA HAMILTON, CITY CLERK**