

**CITY OF PIKEVILLE  
BOARD OF COMMISSIONERS  
REGULAR MEETING MINUTES  
May 11, 2009 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, May 11, 2009. The meeting was held in the City Hall Conference Meeting Room located at 118 College Street, Pikeville, Kentucky.

There being a quorum present, Mayor Franklin D. 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 April 27, 2009 were in each Commission Member's agenda package. There being no additions or corrections, Commissioner Layne 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.

**PAYMENT OF CITY BILLS**

A list of City Bills totaling \$442,154.26 was presented to the Commission for approval of payment. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously.

**OLD BUSINESS**

- A. Melanie Stevens was present with the Big Sandy Area Development District. Mrs. Stevens announced she was working with Paul Maynard on submitting an application to the KY Office of Homeland Security for a new tower for the Pikeville 911 office. Mrs. Stevens gave a brief update on Marion's Branch funding status. Mayor Justice asked if CDBG funds had been secured. Mrs. Stevens no not at this time. Mayor Justice asked what funds where included

- for this project. Mrs. Stevens; EDA for \$1 million, CDBG, RD and ARC has invited Pikeville to submit a full application. Mayor Justice asked what the status was on the project. City Manager Donovan Blackburn replied only engineering services could be expended at this time until the announcements of the funding sources have been awarded. Mayor Justice commented; this would put the project out 2 to 3 years. City Manager replied 2 years.
- B. Main Street Update was given by City Manager Donovan Blackburn. Mr. Blackburn announced that Mrs. Sawyers and Mrs. Chaney had traveled to Summerset, Kentucky to discuss the paint the town grant and they would be having a Movie Night in the City Park on May 15, 2009.
- C. City Engineer's Report: Jack Sykes was present and submitted Change Order #1 for an increase of \$3,742.00 on the Bill Lykins Creek Water Line (WX21195115) and approval to pay Estimate No. 3 to H2O Construction, Inc. in the amount of \$76,392.00. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for additional comments, there being none the motion passed unanimously.
- D. Jack Sykes submitted a contract agreement between City of Pikeville and Mountain Enterprises, Inc. the Contractor for the Thompson Road Widening Project Phase I. The project for which the work under the contract documents may be the whole or only a part as described in the contract. The motion also includes authorization to issue the "notice to proceed" upon execution of the contract. Commissioner Carter made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously.
- E. Jack Sykes submitted Addendum #3 incorporating conditions of award and design changes made after the bid opening, and during right of way acquisition for the Thompson Road Widening Project Phase I. Conditions of Award the owner has awarded the project subject to several conditions acknowledged by the Contractor in the attached correspondence provided to the City Clerk. The addendum consists of Plan Revisions, Right of Way Status, Conditions of Award and Winter Shut In. Mountain Enterprises, Inc. is the Contractor. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously.
- F. Jack Sykes submitted a request to process the easements for the Marion Branch Project. There are a total of 56 easements and the total cost would be \$6800.00 for the engineering services. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously.
- G. Fire Department Update: Chief Ronald Conn was present and stated that the fire department had been working on the RV Park, shelter and that he would be sending two workers to Columbus Ohio for 3 days to class to be certified to service the tower truck. Finished interviews for firefighters today with 5 applicants scheduled to take the physical agility test. Pikeville Pond was checked for carp fish. The fish and wildlife had removed 11 last month

for the pond. The biologist said they would be back in June if the City would provide a boat and the man power and they would shock the carp and take to the other side of the big sandy river. Mayor Justice asked if the City could shock them and Mr. Conn stated no, that Fish and Wildlife would not allow that. Mayor Justice commented that there had been several water samples from the pond and the pond water showed to be clean. Mayor Justice asked where the car seat program was at. Mr. Conn stated that they install about 10 to 15 car seats a week. The Pike County Health Department provides the car seats to the fire and police department. Mayor Justice commented very well.

H. Russell H. Davis, Jr., City Attorney, presented the following matters for the Commission’s consideration:

1. **2nd reading of an Ordinance 0 2009 10 amending chapter 114 “General Business Regulation” Amending section 114.01 Section B to set the operation hours for temporary vendors during the Hillbilly Days Annual Event. Commissioner Carter made the motion to adopt. Commissioner Davis seconded the motion. Mayor Justice called for further discussion, there being none the Mayor called for a roll call vote. The ordinance was adopted 5-0.**

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**AN ORDINACE AMENDING CHAPTER 114  
“GENERAL BUSINESS REGULATIONS”  
AMENDING SECTION 114.01 SECTION B**

**ORDINANCE NO. 0-2009-10**

*WHEREAS, the City of Pikeville City Commission is amending Chapter 114 General Business Regulations to set the operation hours for temporary vendors during the Hillbilly Days event.*

*NOW, THEREFORE, BE IT ORDAINED Chapter 114 “GENERAL BUSINESS REGULATIONS” is amended to read as follows:*

**CHAPTER 114: GENERAL BUSINESS REGULATIONS**

**§ 114.01 CONDUCT OF CERTAIN BUSINESSES DURING HILLBILLY DAYS PROHIBITED.**

*(A) During Hillbilly Days each year it shall be unlawful for any business or commercial activity to be conducted by entities, organizations, or associations not serving any one or more of the following purposes: charitable; benevolent; eleemosynary; educational; civic; patriotic; political; governmental; religious; social; recreational; fraternal; literary; cultural; athletic; scientific; agricultural; horticultural; animal husbandry; professional, commercial, industrial, or trade associations; or labor unions.*

*(B) All other entities shall not be permitted to do business on the public ways of the city. However, entities holding occupational licenses from the city are not prohibited by this section from taking such business outdoors, the purpose of this section being to prohibit transient or temporary businesses not for the above purposes.*

*Penalty, see § 114.99*

**§ 114.02 RESTRICTED BUSINESS HOURS FOR TEMPORARY VENDORS/LICENSEES DURING HILLBILLY DAYS FESTIVAL.**

All vendors and/or merchants issued a temporary vendor’s license or permit by the City of Pikeville or otherwise operating temporarily for Saturday during the Annual Hillbilly Days Festival shall close and cease their business operations Saturday evening at 9:00 p.m. and shall remain closed for the remainder of Saturday evening until 7:00 a.m. Sunday morning, if they have a license/permit to operate on Sunday, with the exception of entertainers, performers or carnival attractions in the city park or river fill area. These named participants may operate in the mentioned areas until 11:30 p.m.

Penalty, see § 114.99

**§ 114.99 PENALTY.**

(A) Violations of § 114.01 shall be penalized by the same fines or forfeitures applicable to businesses operating in the city without an occupational license; each day of illegal operation shall constitute a separate offense.

(B) A fine of two hundred fifty dollars (\$250.00) shall be assessed for violation of § 114.02. An additional fine of two hundred fifty dollars (\$250.00) may be assessed for each additional hour of violation of § 114.02 for a vendor/merchant after the first hour of violation.

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 27<sup>th</sup> day of April, 2009; the ordinance was given a second reading on the 11th day of May, 2009.

Passed this 11th day of May, 2009.

Commissioner Jimmy Carter moved for the adoption of the foregoing resolution.

Commissioner Gene Davis 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>	_____
JIMMY CARTER, COMMISSIONER	<u>X</u>	_____
BARRY CHANEY, COMMISSIONER	<u>X</u>	_____

The Mayor declared the within resolution adopted.

/S/ Frank Justice, II  
FRANK JUSTICE, II, MAYOR

ATTESTED:

/S/ Rebecca Hamilton  
REBECCA HAMILTON, CITY CLERK

2. 1<sup>st</sup> reading was given by Russell Davis of an Ordinance 0 2009 11 Adopting the City of Pikeville 2009-2010 Annual Budget.
  3. 1<sup>st</sup> reading was given by Russell Davis of an Ordinance 0 2009 12 Amending Chapter 93 creating a no trespassing area and fine fees for the Bob Amos Park.
  4. 1<sup>st</sup> reading was given by Russell Davis of an Ordinance 0 2009 13 Amending the 2008-2009 Fiscal Year City of Pikeville Budget.
  5. 1<sup>st</sup> reading was given by Russell Davis of an Ordinance 0 2009 14 Annexing property owned by First Baptist Church of Pikeville Property located on Island Creek. This is consensual request by the property owner and the City of Pikeville. Next reading is scheduled on June 8, 2009.
- I. **City Manager Report: City Manager Donovan Blackburn asked the commission to consider the following requests.**
1. Consider a request to cancel the regular scheduled City Commissioner Meeting for May 25, 2009 due to Memorial Holiday. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously.
  2. Consider request to advertise and accept bids for a new dump truck and a new pick up truck for the parks department. The two items are capitol budget items for 2008-2009 fiscal year. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously.
  3. Consider a request to re appoint Layne Tackett, Ed Smith and Teresa Combs to the Vacant Property Review Board. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously.
  4. Consider a request to re appoint Joe D. Anderson and Marvin Hensley to the Board of Zoning Adjustments. Commissioner Davis made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously.
  5. Consider request to adopt resolution amending Sandy Valley Water agreement on providing sewer service into Floyd County. City Manager Donovan Blackburn read the resolution into record. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor called for

**discussion, there being none the resolution was adopted into record unanimously.**

**CITY OF PIKEVILLE  
RESOLUTION**

WHEREAS, Southern Water and Sewer District, Floyd County Fiscal Court and the City of Pikeville and Sandy Valley Water District did enter into an Inter Local Cooperative Agreement executed in January 2006 related to the dissolution of the Sandy Valley Water District and the development of sewer services along US 23 in Floyd and Pike Counties known as the "Pride on the River" project.

WHEREAS, Southern Water and Sewer District and the Floyd Fiscal Court believe that it is in the best interest of Floyd County residences that they partner with the Prestonsburg City Utility for the planning, development and funding for this new sewer plant and collection system in the southern end of Floyd County and now desires that all of the parties agree to release the City of Pikeville from any obligation it may have by virtue of the January 2006 Inter Local Cooperative Agreement in exchange for the City of Pikeville likewise agreeing to release any rights and privileges that it may have obtained under said Agreement in connection with the project.

WHEREAS, all the parties have agreed to adopt a resolution whereby they agree to each release the other from any obligation related to the City of Pikeville's responsibility and obligation for the developing and funding of a new sewer service in Floyd County.

NOW, in consideration of the foregoing premises, be it resolved by the City of Pikeville that in exchange for a mutual release by resolution on the part of Southern Water and Sewer District and the Floyd County Fiscal Court, the City of Pikeville does

hereby resolve that it releases the Floyd Fiscal Court and Southern Water and Sewer District of and from any rights, privileges and obligations that the City of Pikeville may have related to the provisions contained in the January 2006 Inter Local Cooperative Agreement between Southern Water and Sewer District, Floyd County Fiscal Court, City of Pikeville and Sandy Valley Water District for the development of sewer service along US 23 in Floyd County known as the "Pride on the River" project.

It is understood however that the City of Pikeville makes no releases in regard to the development of sewer services in Pike County.

Adopted this 11<sup>th</sup> day of May, 2009.

Commissioner Barry Chaney moved for the adoption of the foregoing resolution.

Commissioner Jimmy Carter 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>	_____
JIMMY CARTER, COMMISSIONER	<u>X</u>	_____
BARRY CHANEY, COMMISSIONER	<u>X</u>	_____

The Mayor declared the within resolution adopted.

/S/ Frank Justice, II  
FRANK JUSTICE, II, MAYOR

ATTESTED:

/S/ Rebecca Hamilton  
REBECCA HAMILTON, CITY CLERK

- 6. Consider a request to adopt a resolution and submit an application to the KY Office of Homeland Security for a new tower for the 911 Office and to have the mayor sign any documents needed. Commissioner Chaney made the motion to adopt the resolution and approve for the mayor to sign. Commissioner Carter seconded the motion. Mayor called for comments, there being none the motion passed.**

Resolution for application for and administration of  
Kentucky Office of Homeland Security Project(s)

RESOLUTION

City of Pikeville

A RESOLUTION OF THE CITY OF PIKEVILLE, KENTUCKY AUTHORIZING THE MAYOR TO MAKE APPLICATION FOR AND, UPON APPROVAL, TO ENTER INTO AN AGREEMENT WITH THE KENTUCKY OFFICE OF HOMELAND SECURITY (KOHS), TO EXECUTE ANY DOCUMENTS WHICH ARE DEEMED NECESSARY BY KOHS TO FACILITATE AND ADMINISTER THE PROJECT AND TO ACT AS THE AUTHORIZED CORRESPONDENT FOR THIS PROJECT.

WHEREAS, the City of Pikeville, Kentucky desires to make an application for United States Department of Homeland Security funds for a project to be administered by Kentucky Office of Homeland Security:

WHEREAS, it is recognized that an application for and approval of Kentucky Office of Homeland Security funds impose certain obligations and responsibilities upon the city:

NOW, THEREFORE, be it resolved this 11th day of May 2009, by the Commission of the City of Pikeville, Kentucky,

The Mayor is hereby authorized to execute and furnish all required documentation, including a memorandum of agreement, as may be required by KOHS for the furtherance of the above-referenced project and to act as the authorized correspondent for said project.

Done this 11th day of May, 2009 on a Motion made by Barry Chaney

And seconded by Jimmy Carter.

Members present voting in Favor: 5

Members Present voting against: 0

BY:

Franklin D. Justice II, Mayor

ATTEST:

Rebecca Hamilton, Clerk



7. Consider request to authorize the City Manager to sign the usage agreement and to agree with all the terms set forth therein for the Hambley Athletic Field with Community Trust Bank for the Pike County Bowl to be held on August 29, 2009. Commissioner Davis made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously.
8. Consider request to authorize and accept the Memorandums of Agreement which will enable the Department of Local government to initiate the process for the accounting procedures through the state accounting system for House Bill 410 (LGEDF) Coal Severance Line Item Projects number: #554 Bob Amos Debt Service, #557 City Street Improvements, #558 Hambley Field Debt, #463 Police Vehicles and #564 Thompson Road Sewer (pending KIA). Commissioner Chaney made the motion to approve and have the mayor sign and execute the MOA's. Commissioner Layne seconded the motion. Mayor Justice called for comments. City Manager stated that the #564 was being processed and would be here next week. Mayor called for further comments, there being none the motion passed unanimously.
9. Consider request to apply for AFG grant the grant is required to have a 5% match of the total cost of the project. Request mayor to sign all required paperwork, pass resolution and grant application. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor called for comments there being none the motion passed unanimously.
10. Consider a request to approve the Reserve America Contract and the terms set forth therein for the purpose of reserving sites at the Bob Amos RV park. This is a 1 year contract with The Active Network Inc., a Delaware Corporation, 10182 Telesis Court, San Diego, California 92121. Commissioner Carter made the motion to approve and have the Mayor sign the agreement. Commissioner Chaney seconded the motion. Mayor called for comments, there being none the motion passed unanimously.
11. Consider request to adopt Emergency Disaster Resolution and authorize the Mayor to sign. Commissioner Chaney made the motion. Commissioner Davis seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously.

DECLARATION OF A LOCAL STATE OF EMERGENCY

May 9, 2009

WHEREAS, on May 9, 2009 Extensive Flash Flooding occurred in City of Pikeville, Kentucky; and

May 11, 2009 Regular Meeting

WHEREAS, **Extensive damage to roads bridges, many people have been stranded by high water, and can not be reached by responders. Electrical service in many areas has been interrupted; many citizens are with out needed services.** ; And

WHEREAS, this situation creates a considerable hardship for the citizens of **City of Pikeville** and

WHEREAS, local government has the responsibility to protect the public health, safety and welfare, and to mitigate the effects of such events.

NOW, THEREFORE, I **Frank Justice**, by the authority vested in me by KRS 39A.100(2), do hereby declare that a State of Emergency exists in **City of Pikeville** until further notice, and direct that:

1. The local Emergency Operations Plan shall be fully executed;
2. The **Emergency Management Director** shall direct the **Pike County Office of Emergency Management** to provide such assistance as can be delivered from available local resources and shall coordinate all agencies of local government to provide assistance to **City of Pikeville**
3. All agencies of **City of Pikeville** shall cooperate to the fullest extent with the Pike County Office of Emergency Management and shall provide such assistance as may be required for response to this emergency.
4. Under this State of Emergency, as provided in KRS 39A.100 (2) and 45A.380 (1) (7) **Mayor of City of Pikeville** can waive procedures and formalities otherwise required by the law pertaining to: a) performance of public work, b) entering into contracts, c) incurring obligations, d) employment of permanent and temporary workers, e) utilization of volunteer workers, f) rental of equipment, g) appropriation and expenditure of public funds.

(S) Frank Justice  
**Mayor of City of Pikeville**

Rebecca Hamilton  
**City Clerk**

12. **Consider request for closed session for discussion of personnel, legal and economic development issues. Commissioner Carter made the motion to adjourn. Commissioner Chaney seconded the motion to adjourn. Mayor called for adjournment.**
13. **Commissioner Chaney made the motion to re convene. Commissioner Carter seconded the motion. Mayor called the session into order.**

14. Mayor Justice made the motion to approve City Manager Donovan Blackburn to spend up to \$200,000.00 with Summit Engineering for the purpose of the design of the sewer for the following areas: Broad Bottom, Kinninnick, Lykins Branch and Mullins Addition. The funds are City Sewer Fund 310 and Mossy Bottom Sewer Fund 330. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor called for discussion, there being none the motion passed unanimously.

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

The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is June 8, 2009 at 6:00 p.m.

**APPROVED:**

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

**ATTESTED:**

\_\_\_\_\_  
**REBECCA HAMILTON, CITY CLERK**