

**CITY OF PIKEVILLE  
BOARD OF COMMISSIONERS  
REGULAR MEETING MINUTES  
February 27, 2012 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, February 27, 2012. The meeting was held in the City Hall Conference Meeting Room located at 118 College Street, Pikeville, Kentucky.

There being a quorum present, Mayor Pro-tem Jimmy Carter called the meeting to order at 6:00 p.m. Commission Members present at roll call were as follows:

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

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

**MINUTES**

The minutes for the previous regular meeting held on February 13, 2012 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 Chaney seconded the motion. Mayor Pro-tem Carter called for discussion, there being none, the motion carried unanimously. 4-0.

**BUSINESS FROM THE FLOOR**

Consider a request to adopt a proclamation honoring the Pikeville 6<sup>th</sup> Grade Basketball Team and authorize the Mayor to sign and execute said proclamation. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Pro-tem called for discussion. Commissioner Chaney congratulated the team and shared his story of his love for basketball. Then, Commissioner Davis, Mayor Pro-tem Carter and Commissioner Layne, all talk about what a good job the team has done. They congratulate the team and tell them to keep it up. Mayor Pro-tem called for further discussion, there being none, the motion passed unanimously. 4-0.

Consider a request to adopt a proclamation honoring the 2011-2012 Pikeville Jr. High Cheerleading Program and authorize the Mayor to sign and execute said proclamation. Commissioner Layne made a motion to approve. Commissioner

**Chaney seconded the motion. Mayor Pro-tem called for comments. Each Commissioner offered a word of advise and congratulated the cheerleaders. Mayor Pro-tem called for further comments, there being none, the motion passed unanimously. 4-0.**

**Consider a request to adopt a proclamation honoring the 2011-2012 Pikeville Varsity Cheerleading Program as submitted and authorize the Mayor to sign and execute said proclamation. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Pro-tem called for comments, there being none, the motion passed unanimously. 4-0.**

**Check Presentation on Horse Trail by Melanie Stevens & Commissioner Barry Chaney. Commissioner Chaney stood in as Ambassador for the City of Pikeville and went down to Frankfort on behalf of the city to accept a check for \$100,000 for the Recreational Trails Program. Pikeville was one of five cities to receive this money.**

**Mr. Jim Wright was present to represent the Citizens of Veterans Healthcare. He attended the last meeting and talked to the commission about other organizations soliciting at locations such as Wal-Mart, etc. He was back to bring a copy of a law suit that was going on in another town to keep non local solicitors out of their areas. City Manager Donovan Blackburn also shared with Mr. Wright and the Commission that he contacted Tim Burke, the manager of Wal-Mart, and made him aware of the situation. Now to solicit at Wal-Mart, your headquarters has to be within a fifty mile radius of the store.**

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

**The City Manager Donovan Blackburn requested the approval to pay city bills in the amount of \$507,880.47. Commissioner Layne made the motion to approve. Commissioner Davis seconded the motion. Mayor Pro-tem called for further discussion, there being none, motion passed unanimously. 4-0.**

**Consider a request to authorize payment of SMG payroll up to \$30,000 with the City Finance Directors sign-off and City Managers approval for their next pay period. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem called for comments. City Manager comments that the purpose of this is that we are cancelling next meeting. This is nothing out of the ordinary. Mayor Pro-tem Carter called for further discussion, there being none, the motion passed unanimously. 4-0.**

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

**Brandon Montgomery was present for the Big Sandy Area Development. Mr. Montgomery had no updates for the commission.**

### **CITY ENGINEER**

**Jody Hunt was present with Summit Engineering, Inc. and submitted several requests to the commission for approval.**

- 1. Consider request to approve and authorize pay request # 19 to H2O Construction Co. Inc. for \$179,493.22 as submitted for the Marion Branch Sewer Project and authorize the Mayor or Mayor Pro-tem to sign and execute said pay request. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Pro-tem called for comments. Commissioner Layne asked how much does it like to be completed. Jody Hunt, an engineer with Summit, replies they are scheduled to have a run through next week. City Manager Blackburn says that everything seems to be where it needs to be. Mayor Pro-tem called for additional comments, there being none, the motion passed unanimously. 4-0.**
- 2. Consider request to approve and authorize pay request #5 to H2O Construction Co. Inc. for \$90,990.00 as submitted for the US23 Corridor Sanitary Sewer, Phase II Sewer Project and authorize the Mayor or Mayor Pro-tem to sign and execute said pay request. Commissioner Chaney made the motion to approve. Commissioner Layne seconded. Mayor Pro-tem called for comments, there being none, the motion passed unanimously. 4-0.**
- 3. Consider request to authorize and approve a contract with Summit Engineering to complete the City of Pikeville's 201 facility Plan for the amount of up to \$42,500 and to authorize the Mayor or Mayor Pro-tem to sign and execute said contract. Start of plan will be at City Manager's description based upon available funding and criteria of funding. Commissioner Chaney made the motion to approve. Commissioner Davis seconded. Mayor Pro-tem called for comments, there being none, the motion passed unanimously. 4-0.**

### **CITY ATTORNEY**

**Russell Davis was present and had several items to read into record.**

- 1. Consider a 2nd reading and adoption of ordinance #0-2012-001 relating to the establishment of a horse park and authorize the Mayor or Mayor Pro-tem to sign and execute said ordinance. Commissioner Layne made the motion to approve. Commissioner Davis seconded the motion. Mayor Pro-tem called for comments. Mayor Pro-tem Carter comments to**

Melanie Stevens, our grant writer, is everything kosher to you. She nods yes. Mayor Pro-tem calls for additional comments, there being none, Mayor Pro-tem called roll call. Motion passed unanimously. 4-0.

**ORDINANCE CREATING A CITY PARK FOR THE ESTABLISHMENT OF HORSEBACK RIDING AND OTHER RELATED FACILITIES LOCATED AT BOB AMOS PARK**

**Ordinance #:0-2012-001**

WHEREAS, the City of Pikeville desires to create a City Park pursuant to KRS 97.010 for the purpose of establishing horseback riding and related facilities for the public use and benefit on property owned by the City of Pikeville on Inland Creek;

NOW, THEREFORE, be it ordained by the City of Pikeville that there is created pursuant to K.R.S. 97.010 a Park for the establishment of horseback riding and related facilities for the public use and benefit on property owned by the City of Pikeville on Bob Amos Park across from the Smokey Blankenship trail Entrance traveling towards the overlook area as the same is more specifically designated and located on the attached Map entitled "City of Pikeville – Proposed Equine and Pedestrian Trail dated 01/30/12". The specific area designated as the actual "Horse Park" boundaries pursuant to KRS 91.010 are outlined in Yellow on the exhibit and listed as "Handicap Accessible Horseback Riding Area & Stables". The above ordinance was given first reading this \_\_\_ day of \_\_\_\_\_, 2012, the ordinance was given a second reading on the \_\_\_ day of \_\_\_\_\_, 2012.

Passed this \_\_\_ day of \_\_\_\_\_, 2012.

Commissioner \_\_\_\_\_ moved for the adoption of the foregoing ordinance.

Commissioner \_\_\_\_\_ seconded the motion.

Upon roll call, the votes were as follows:

	<u>YES</u>	<u>NO</u>	
FRANK JUSTICE, II, MAYOR	_____	_____	Absent
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.

\_\_\_\_\_  
FRANK JUSTICE, II, MAYOR

ATTESTED:

\_\_\_\_\_

CITY CLERK

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- 2. Consider a 2nd reading and adoption of ordinance #0-2012-002 relating to alcohol sales and authorize the Mayor or Mayor Pro-tem to sign and execute said ordinance. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Pro-tem called for comments. City Manager says this is a request from the Artisan Alliance. They passed a resolution in regards to this matter asking the city to consider and approve the ordinance. City Attorney Davis says that this allows them to have a temporary non-profit event and serve alcohol. Mayor Pro-tem called for further comments, there being none, Mayor Pro-tem called roll call. Commissioner Davis abstained. Motion passed unanimously. 4-0.

**AN ORDINANCE RELATED TO THE  
 AMENDMENT OF CHAPTER 111.15 DECLARING  
 THE TYPES OF ALCOHOLIC BEVERAGE  
 LICENSES AND FEES SO TO AUTHORISE THE  
 ISSUANCE OF SPECIAL TEMPORARY WINE AND  
 BEER LICENSES**

**Ordinance# 0-2012-002**

WHEREAS, the Commission for the City of Pikeville has determined that the issuance of special temporary licenses for wine and beer sales as permitted in KRS 243:260 and KRS 243.290 to regularly organized fair, exposition, racing association or nonprofit organization, political campaign function or any for-profit individual, corporation, or organization when used in conjunction with an organized charitable, civic, or community sponsored event would be beneficial to the community already served by statutory alcoholic beverage sales.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PIKEVILLE THAT SECTION 111.15 IS AMMENDED AS FOLLOWS:

111.15 TYPES OF LICENSES: FEES

The following kinds of distilled spirits and malt beverage licenses may be issued by the city and the annual fees for each license shall be as indicated:

	Type of License	Fee
(A)	Wholesaler (Distilled Spirits and Wine)	\$3,000.00

(B)	Retail Distilled Spirits and Wine (Package)	\$600.00
(C)	Distributor (Malt Beverage)	\$400.00
(D)	Retail (Malt Beverage)	
	(1) New Applicants	\$200.00
	(2) Renewals	\$150.00
(E)	Restaurant wine	
	(1) New applicants	\$600.00
	(2) Renewals	\$400.00
(F)	Restaurant and hotel distilled spirits and wine drink	\$600.00
(G)	<u>Special Temporary Wine and/or Beer</u>	<u>\$50.00</u>
	<u>(KRS 243.260 &amp; KRS 243.290)</u>	

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 \_\_\_\_ day of \_\_\_\_\_, 2012, the ordinance was given a second reading on the \_\_\_\_ day of \_\_\_\_\_, 2012.

Passed this \_\_\_\_ day of \_\_\_\_\_ 2012.

Commissioner \_\_\_\_\_ moved for the adoption of the forgoing ordinance.

Commissioner \_\_\_\_\_ seconded the motion.

Upon roll call, the votes were as follows:

	Yes	No
FRANK JUSTICE, MAYOR	_____	_____ Absent
GENE DAVIS, COMMISSIONER	_____	_____ Abstained
DALLAS LAYNE, COMMISSIONER	_____ <u>X</u>	_____
JIMMY CARTER, COMMISSIONER	_____ <u>X</u>	_____

BARRY CHANEY, COMMISSIONER

X

The Mayor declared the within ordinance adopted.

FRANKLIN D. JUSTICE, II MAYOR

ATTEST:

CHRISTY BILLITER, CITY CLERK

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- 3. Consider a 2nd reading and adoption of ordinance #0-2012-003 relating to return check fees and authorize the Mayor or Mayor Pro-tem to sign and execute said ordinance. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Pro-tem called for comments, there being none, Mayor Pro-tem called roll call. Motion passed unanimously. 4-0.

AN ORDINANCE AMENDING CHAPTERS  
 35.99 OF THE RESTAURANT TAX ORDINANCE AND  
 115.12 OF THE OCCUPATIONAL LICENSE  
 FEES ORDINANCE RELATING TO FEES FOR  
 RETURNED CHECKS, DISHONOR PAYMENTS AND  
 CHARGE BACKS.

**ORDINANCE NO. #0-2012-003**

**WHEREAS**, the Commission desires to access a fee for tax payments dishonored, returned for NSF or otherwise charged back to the City of Pikeville's accounts to offset expense incurred by the City as the result of payment made to the City for tax payments dishonored, returned for NSF or otherwise charged back to the City of Pikeville's accounts ;

**NOW, THEREFORE, BE IT ORDAINED THAT** Chapter 35.99 "PENALTY" and Chapter 115.12 "PENALTY" are amended to read as follows:

**§ 35.99 - Penalties**

(A) Any person who fails to file any return required within the afore stated time due to who fails to pay such restaurant tax when same shall become due, shall be charged a penalty of ten percent (10%) of the amount of the unpaid restaurant tax for each month such return remains un-filed or tax unpaid, not exceeding a penalty of twenty-five percent (25%) in the aggregate.

(B) All restaurant taxes imposed by §§ 35.45 et seq. which remain unpaid after they become due shall bear interest at the rate of one and one-half of one percent (1.5%) per month (or part thereof).

(C) Any person who shall fail, neglect or refuse to make any return or pay any tax due required by §§ 35.45 et seq., or to pay the city those so withheld under the terms of §§ 35.45 et seq., or any person who shall refuse to permit

the City Finance Director or any agent or employee designated by him in writing, to examine books, records, and papers pertaining to information required under §§ 35.45 et seq., or who shall knowingly make any incomplete, false, or fraudulent return, or who shall attempt to do anything whatsoever to avoid the full disclosure of the amount of gross receipts in order to avoid the payment of the whole or any part of the restaurant license tax, shall become liable to the city for such tax as well as the interest and penalty thereon, and shall in addition, be subject to a fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) or imprisonment for not less than thirty (30) days, each day of non filing constituting a separate offense. Such criminal penalties shall be in addition to the penalties imposed above.

(D) Any person presenting for payment a credit card, check or draft for payment of the taxes set forth in this section and said payment is dishonored, returned for non-sufficient funds (NSF) or charged back to the City of Pikeville account for any reason shall be charged a fee of fifty dollars (\$50.00) in addition to any other penalties, fees or interest provided for herein. Any payment to the City of Pikeville which is dishonored, returned for non-sufficient funds (NSF) or charged back to the City of Pikeville account for any reason shall be treated as if payment had not been received and penalties and interest for non-payment provided for herein shall be charged.

### § 115.12 - Penalties

(1) A business entity subject to tax on net profits may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:

- (a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the city; or
- (b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment or fails to pay 75% or greater of the tax due on the return as a estimated tax pursuant to § 115.07(A). For underestimated taxes paid for an Extension, the penalty will be accessed upon the difference of the estimated tax paid and the tax computed on the return. .

(c) The total penalty levied pursuant to this subsection shall not exceed twenty- five percent (25%) of the total tax due; however, the penalty shall not be less than twenty five dollars (\$25).

(2) Every employer who fails to file a return or pay the tax on or before the time prescribed under Section (5) of this ordinance may be subject to a penalty in amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).

(3) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the city. A fraction of a month is counted as an entire month.

(4) Every tax imposed by this ordinance, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the city.

(5) The city may enforce the collection of the occupational tax due under section (3) of this ordinance and any fees, penalties, and interest as provided in subsections (1), (2), (3), and (4) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the city shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this ordinance.

(6) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(7) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this ordinance of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(8) A return for the purpose of this section shall mean and include any return, declaration, or



form prescribed by the city and required to be filed with the city by the provisions of this ordinance, or by the rules of the city or by written request for information to the business entity by the city.

(9) Any person violating the provisions of section (11) of this ordinance by intentionally inspecting confidential taxpayer information without authorization, shall be fined not more than five hundred dollars (\$500) or imprisoned for not longer than six (6) months, or both.

(10) Any person violating the provisions of section (11) of this ordinance by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1000) or imprisoned for not more than one (1) year, or both. This ordinance shall be effective for the 2010 tax year for those taxpayer filing requests for extensions for the 2010 tax year and thereafter.

(11) Any person presenting for payment a credit card, check or draft for payment of the taxes set forth in this section and said payment is dishonored, returned for non-sufficient funds (NSF) or charged back to the City of Pikeville account for any reason shall be charged a fee of fifty dollars (\$50.00) in addition to any other penalties, fees or interest provided for herein. Any payment to the City of Pikeville which is dishonored, returned for non-sufficient funds (NSF) or charged back to the City of Pikeville account for any reason shall be treated as if payment had not been received and penalties and interest for non-payment provided for herein shall be charged.

The ordinance shall be in full force and effect after it is passed and published as required by law. The above ordinance was given a first reading this \_\_\_ day of \_\_\_\_\_, 2012. A second reading was given this \_\_\_ day of \_\_\_\_\_, 2012.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Commissioner \_\_\_\_\_ moved for the adoption of the forgoing ordinance.

Commissioner \_\_\_\_\_ seconded the motion.

Upon roll call, the votes were as follows:

	Yes	No
FRANK JUSTICE, MAYOR	___	___ Absent
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 ordinance adopted.

FRANKLIN D. JUSTICE, II MAYOR

February 27, 2012 Regular Meeting

ATTEST:

CHRISTY BILLITER, CITY CLERK

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- 4. Consider a 2nd reading of ordinance #0-2012-004 relating to the implementation of a city bond and authorize the Mayor or Mayor Pro-tem to sign and execute said ordinance. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem called for comments. Mr. Blackburn says that we covered this at the last meeting. City Attorney Davis introduced Greg Phillips with Hilliard Lyons. He says we are at historically low interest rates; and that Moody's was thoroughly impressed. City Manager says we are at an A1 rating. City Attorney says that he is very pleased with Hilliard Lyons and with Bill Davis at Stoll-Keenon-and Ogden. Mayor-Pro-tem called for further, there being none, Mayor Pro-tem called roll call. Motion passed unanimously. 4-0.

SUMMARY OF BOND ORDINANCE  
CITY OF PIKEVILLE, KENTUCKY

There follows a summary of an Ordinance of the City of Pikeville, Kentucky, adopted on February 27, 2012, identified by its title or caption as follows:

**ORDINANCE NO. 0-2012-004**

AN ORDINANCE OF THE CITY OF PIKEVILLE, KENTUCKY, PROVIDING FOR THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BONDS, SERIES 2012, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY A PORTION OF THE COSTS OF THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF AN INDOOR PERFORMING ARTS THEATRE IN DOWNTOWN PIKEVILLE; SETTING FORTH THE TERMS AND CONDITIONS UPON WHICH THE BONDS ARE TO BE ISSUED AND OUTSTANDING; ORDERING AND PROVIDING FOR THE LEVY OF AN ANNUAL TAX, TO THE EXTENT NECESSARY, SUFFICIENT TO PAY THE INTEREST ON AND PRINCIPAL OF THE BONDS; AND PROVIDING FOR A PUBLIC SALE OF THE BONDS AND THE APPLICATION OF THE PROCEEDS THEREOF

The full text of this Ordinance is available for public inspection during the normal City of Pikeville business hours in the office of the City Clerk, City Hall, Pikeville, Kentucky.

(1) For the purposes of (i) providing a portion of the funds necessary to acquire, construct and install a new indoor performing arts theatre with an approximate 300 to 400 person seating capacity on the City's real property located at the intersection of Second Street, Hambley Boulevard and Division Street, and (ii) paying related costs, the City authorizes the sale and issuance of its General Obligation Bonds, Series 2012 (the "Bonds"), in a principal amount of \$3,025,000 (subject to adjustment upon public sale), under authority of the Kentucky Constitution and KRS Chapter 66. The Bonds will be payable from the tax revenues of the City and secured by an irrevocable

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pledge of the full faith, credit and taxing power of the City. The Bonds will be issued in fully registered form, scheduled to mature on April 1, 2013 - 2032, and to bear interest semiannually at rates established by competitive bidding. Redemption provisions, together with the form of the Bonds, provisions with respect to registration, authentication, transfer and exchange of Bonds, and provisions relating to the appointment and duties of a Paying Agent and Bond Registrar are set out in detail in the Ordinance. The Bonds will be issued in book-entry form.

(2) As mandatorily required by Section 159 of the Kentucky Constitution, the Ordinance levies annually such special tax, separate and apart from all other taxes, as may be necessary to provide for the payment of the Bonds and the interest thereon when due and payable, such tax to be applicable to all property which is subject to taxation for City purposes from time to time and being unlimited as to rate or amount. In accord with KRS 83A.060(9)(c), the following text of Section 12 of the Ordinance is set out in full:

"Section 12. Tax Levy and Pledge; Bond Fund. For the purpose of providing funds required to pay the interest on the Bonds as and when the interest becomes due and in order to create a sinking fund to pay and discharge the principal thereof as the Bonds become due, there shall be and there is hereby levied upon all of the taxable property within the City, beginning in 2012 and continuing in each year as long as any of the Bonds are outstanding, a direct annual tax sufficient, to the extent other lawfully available moneys of the City are not provided, for that purpose as mandatorily required by Section 159 of the Constitution of Kentucky, and such tax shall be unlimited as to rate or amount. The proceeds derived from said special annual tax levied from time to time, together with other lawfully available moneys of the City provided for the purpose, shall be deposited and carried in the Bond Fund. The proceeds of said special annual tax and the balances accumulated from time to time in the Bond Fund are hereby irrevocably pledged for the purpose of paying the interest on and principal of the Bonds and shall never be used for any other purpose. The City hereby covenants with the holders of the Bonds that it will levy said special annual tax in each year at whatever rates may be necessary from time to time in order to produce the amounts required in each year, to the extent funds are not otherwise provided, to pay the Bonds and interest when and as they mature or become due.

"If principal or interest should fall due in any year at a time when there are insufficient funds on hand, collected by reason of the foregoing special tax levy, such principal and interest shall be paid from other available funds of the City and reimbursement therefor shall be made out of the special tax hereby provided, when the same shall have been collected.

"All moneys held in the Bond Fund, which shall be depleted as of April 2 of each year except for a carryover amount not exceeding the greater of the earnings on the Bond Fund or one-twelfth of the principal and interest payments on the Bonds for the preceding year ending April 1, to the extent not invested as hereinafter provided, shall be deposited in a bank or banks designated by the Mayor or the City Finance Director which are members of the Federal Deposit Insurance Corporation ("FDIC"), and all such deposits which cause the aggregate deposits of the City in any one bank to be in excess of the amount insured by FDIC or one of its agencies shall be continuously secured by a valid pledge of Investment Obligations of the types described in items (a), (b) and (c) of Section 13 hereof having an equivalent market value. All or any part of the Bond Fund may be invested in Investment Obligations, as hereinafter defined in Section 13, maturing or being subject to retirement at the option of the holder on such dates as the same may be needed for meeting interest and/or principal payments, and all such investments shall be carried to the credit of the Bond Fund."

(3) The competitive sale of the Bonds is authorized, and certain documents incident to such sale and the delivery of the Bonds are authorized and approved.

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The foregoing provisions, including the above caption of the Ordinance, are intended to be a Summary of the Ordinance, and reference is hereby made to the full text of the Ordinance for a full and complete statement of its contents.

Certification

I, the undersigned City Clerk of the City of Pikeville, Kentucky, hereby certify that the foregoing Summary of Bond Ordinance of the City of Pikeville, Kentucky, was approved by the Board of Commissioners for first reading on February 13, 2012, and for second reading on February 27, 2012, and was further approved for publication following adoption according to law. I further certify that the foregoing Summary was prepared for the City by Mark S. Franklin, Stoll Keenon Ogden PLLC, 2000 PNC Plaza, Louisville, Kentucky 40202.

WITNESS my hand this February 27, 2012.

/s/ Christy Billiter  
City Clerk  
City of Pikeville, Kentucky

Preparation Certificate

The undersigned Attorney at Law, licensed to practice in Kentucky, hereby certifies that the foregoing Summary of Bond Ordinance of the City of Pikeville, Kentucky, was prepared by the undersigned and constitutes a general summary of certain essential provisions of the described Ordinance, reference to the full text of which Ordinance is hereby made for a complete statement of its provisions and terms.

/s/ Mark S. Franklin  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
Louisville, Kentucky 40202

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- 5. Consider a 1<sup>st</sup> reading of an ordinance #0-2012-005 relating to the adoption of the 2012 Supplement Code of Ordinance. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.
- 6. Consider a 1<sup>st</sup> reading of an ordinance #0-2012-006 relating to the amendment of Chapter 115.15 occupational license fee, minimum liability. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.
- 7. Consider a 1<sup>st</sup> reading of an ordinance #0-2012-007 relating to the amendment of Chapter 93 Parks and Recreation. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.
- 8. Consider a 1<sup>st</sup> reading of an ordinance #0-2012-008 relating to the amendment of the 2011-2012 City Operating Budget. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.

**CITY MANAGER**

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

- 1. Consider a request to advertise a job posting for the positions for (2) Dispatcher & a Temporary Part Time General labor for the City's River-Trails Program. Commissioner Chaney made the motion to adopt. Commissioner Davis seconded the motion. Mayor Pro-tem called for further comments, there being none, motion passed unanimously. 4-0.**
- 2. Consider a request to approve and adopt the Affiliate Program Annual Letter of Commitment for the City Main Street program as submitted and authorize the Mayor or Mayor Pro-tem to sign and execute said agreement on behalf of the City of Pikeville. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem called for further comments, there being none the motion passed. 4-0.**
- 3. Consider a request to adopt the amended city personnel policy 3.3 Vacation as submitted. Commissioner Chaney made the motion. Commissioner Davis seconded the motion. Mayor Pro-tem called for comments. Mayor Pro-tem Carter asked what is this. City Manager Blackburn says that this is fixed for the fire department vacation overtime pay issue. Mayor Pro-tem called for further comments, there being none the motion passed unanimously. 4-0.**
- 4. Consider a request to approve and adopt an agreement between the City of Pikeville and Billy Johnson Law Office as submitted for the naming rights of the Main Street Plaza stage as submitted and authorize the Mayor or Mayor Pro-tem to sign and execute. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem called for comments, there being none the motion passed unanimously. 4-0.**
- 5. Consider a request to approve and adopt and Engagement Agreement, as submitted, between the City of Pikeville and Dinsmore & Shohl and authorize the City Manager to sign and execute on behalf of the City of Pikeville. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Pro-tem called for comments. City Manager Blackburn comments that this is for legal counseling regarding the sewer endeavor. It gives us guidance for the agreed order. Mayor Pro-tem called for further comments, there being none the motion passed unanimously. 4-0.**
- 6. Consider a request to authorize the Mayor to sign and submit a grant application to the National Endowment for the Arts Our Town program for \$100,000 with \$100,000 match for Phase II of the Jenny Wiley Theater Project. Project includes design and public art. Also authorize Mayor or Mayor Pro-tem to sign and submit a letter of endorsement outlining that this is the only project that will be submitted to the program on behalf of the City of Pikeville. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem called for**

- comments. Mayor Pro-tem asked if this was a new project and City Manager Blackburn responded that this is something that Melanie has been working on for a couple of months for the new Theater project. Mayor Pro-tem called for additional comments, there being none the motion passed unanimously. 4-0.
7. Consider a request to authorize the Mayor, Mayor Pro-tem or City Manager to sign and submit a grant application to the 2012 Playful Cities USA. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem called for comments. Commissioner Davis comments that he likes the title of Playful Cities. Mayor Pro-tem Carter wonders if we have to apply for the title each year. City Manager explains that we already have the title now we apply for the grant. Mayor Pro-tem called for further questions or comments, there being none, the motion passed unanimously. 4-0.
  8. Consider a request to authorize the Mayor or Mayor Pro-tem to sign and submit a grant application to the Economic Development Administration in the amount of \$25,000 with a match of \$25,000 for the city's comprehensive plan update. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Pro-tem called for comments, there being none, the motion passed unanimously. 4-0.
  9. Consider a request to authorize the Mayor or Mayor Pro-tem to sign and submit a grant application for State Flood Control Matching Grant in the amount of \$130,000. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem called for comments, there being none, the motion passed unanimously. 4-0.
  10. Consider a request to cancel the April 9<sup>th</sup> 2012 commission meeting. A special called meeting may be called the week before on an emergency need. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Pro-tem called for comments. City Manager Blackburn says the reason being that he will be attending a Drug Summit and therefore unavailable for this meeting. Mayor Pro-tem called for additional comments, there being none, motion passed unanimously. 4-0.
  11. Consider a request to submit a proposal under the 2011 settlement agreement between the Environmental Protection Agency and the Tennessee Valley Authority (TVA) for energy efficient blowers and/or energy efficient raw water intake pumps, or a combination and authorize the Mayor, Mayor Pro-tem or City Manager to sign said submittal on behalf of the City of Pikeville. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem called for comments. Mayor Pro-tem Carter asked if that was the grant that I sent you; if so, I thought you had to be in the sludge area to get it. Mayor Pro-tem called for further comments, there being none, the motion passed unanimously. 4-0.
  12. Consider a request to approve and adopt a renewal agreement between 911 Billing Company and the City of Pikeville as submitted for Ambulance Billing Services and authorize the Mayor or Mayor Pro-tem to sign and

- execute said contract. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Pro-tem called for comments, there being none, the motion passed unanimously. 4-0.
13. Consider a request to approve the use agreement between the City of Pikeville and Community Trust Bank as submitted for the purpose of authorizing the use of Hambley Complex for the Pike County Bowl to be held on August 25<sup>th</sup> 2012 and authorize the City Manager to sign the use agreement on behalf of the City of Pikeville. Commissioner Davis made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem called for comments, there being none, the motion passed unanimously. 4-0.
14. Consider a request to call a special called work session for Friday March 2, 2012 at 9 a.m. at the city annex building for the purpose of commission participating in the discussion of the new Pikeville Theater Project with the Theater Building Committee. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Pro-tem called for comments, there being none, the motion passed unanimously. 4-0.
15. Consider a request to call a special commission meeting for Monday March 5<sup>th</sup> 2012 at 4 p.m. for the purpose of addressing the city sewer system along with other miscellaneous items that shall be added to the agenda. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem Carter called for comments, there being none, the motion passed unanimously. 4-0.
16. Consider a request to adopt a proclamation honoring Frank D. Justice I and authorize the Mayor or Mayor Pro-tem to sign and execute. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Pro-tem called for discussion. Each Commissioner shared a memory of Mr. Justice to show their respect. Mayor Pro-tem called for additional comments, there being none, the motion passed unanimously. 4-0.
- \*\*City Manager announced the Consent Items for the Commission to hear\*\***
17. Pursuant to KRS 61.810, consider request for closed session for discussion of economic development, legal and personnel issues. Commissioner Davis made the motion. Commissioner Layne seconded the motion. Mayor Pro-tem called for discussion, there being none the motion passed unanimously. 4-0.
18. Commissioner Layne made the motion to re convene. Commissioner Chaney seconded the motion. Mayor Pro-tem called for discussion, there being none the motion passed unanimously. 4-0. Mayor Pro-tem called the session back into order.
19. Consider a request to temporarily close Elm Street for the purpose of construction of the new Hilton Garden Inn Hotel. Elm Street is the main area where construction shall take place and the closure is necessary for

- construction and safety of the public. Said street shall be reopened at the end of construction. Commissioner Chaney made a motion to approve. Commissioner Davis seconded the motion. Mayor Pro-tem called for comments, there being none, the motion passed unanimously. 4-0.
20. Consider a request to authorize a sewer extension project at FoxCroft and to execute a contract with Summit Engineering for services to design, bid and inspect a sewer extension project at Foxcroft within the boundaries as depicted on the submitted exhibit and to authorize the Mayor to sign and execute said contract. To also authorize the city to request RD to move the remaining funds from the Marion Branch project and to redeploy them to the FoxCroft project and to authorize the Mayor to sign any necessary paperwork for RD to execute said request.
21. Consider a request to grant an easement to the Pike County Fiscal Court within only the boundaries depicted on the submitted exhibit, for the sole purpose of the county placing an emergency generator to service the Pike County Court House and to authorize the Mayor to sign and execute said easement on behalf of the City of Pikeville.
22. There being no further business to come before the Commission, Commissioner has made the motion to adjourn the meeting. Commissioner seconded the motion. Mayor Pro-tem called for discussion, there being none the meeting was adjourned. 4-0.

#### CONSENT & ANNOUNCEMENT ITEMS:

- \* March 12<sup>th</sup> 2012 Commission Meeting has been cancelled
- \* Grant Announcements:
  - Pride/Army Corp. Grant: \$1,000,000 Sewer Plant Design
  - KLC \$6,000 Playground Surfacing
  - 2011-2012 Achieved 4.2 million in grants

\*Scholar House Announcement Letter from Kentucky Housing Corp.

\* Pikeville Theater Building Committee member meeting March 2<sup>nd</sup> 2012 at 9 am at City Annex

The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is March 26, 2012 at 6:00 p.m.

APPROVED:



FRANKLIN D. JUSTICE, II, MAYOR



**ATTESTED:**

  
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**CHRISTY BILLITER, CITY CLERK**

