

**CITY OF PIKEVILLE  
BOARD OF COMMISSIONERS  
REGULAR MEETING MINUTES  
August 22, 2011 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, August 22, 2011. 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 August 8, 2011 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 Davis seconded the motion. Mayor Pro-Tem Jimmy Carter called for discussion, there being none, the motion carried unanimously. 4-0.

**BUSINESS FROM THE FLOOR**

Mayor Pro-Tem Carter recognized Mr. Jim Slusher from the floor. Mr. Slusher asked the commission for assistance to prevent West Care from being able to operate a half-way-house in the Justice Court area located on South Mayo Trail. Mr. Slusher agrees there is a need for these type of facilities but does not agree they need to be in neighborhoods where there are families and children. Mr. Slusher's issue was he purchased several homes that were in blight condition and made them into attractive properties that are now being rented out. By the West Care facility being located in this neighborhood, he feels has devalued his property and has prevented him from being able to rent these homes successfully. Mr. Slusher stated a Doctor that looked at one of his homes turned it down once he found there was a half-way-house next to the property. Sergeant Edmonds was present and stated though the facility is new, there has been no complaints on the facility. He also stated that they patrol the area frequently. Every time a new resident checks in, the Police Department comes to the facility to run a criminal history on the person.

Mayor Pro-Tem Carter request that even more police patrols be placed on the property. Commissioner Chaney stated that these facilities are important and needed. People staying in half-way-houses want their lives back. He stated that West Care is a great provider and normally when people have made it this far there is few relapse. He stated these folks are required to work and are contributing back to their community. City Attorney Davis was asked by City Manager Blackburn what was the legal position. Mr. Davis stated the only thing that could be done is the city could rezone these areas creating a blanket classification that would include half-way-homes; however, since this facility is already located here it would be grandfathered in. Mr. Davis stated however if the police department receives several complaints from the location, the city could declare the area a nuisance area and withdraw its license from the city. Mr. Davis stated it is impossible and unfair to take action against a business that has no complaints or issues at this time. Mr. Slusher stated that there are already problems that he sees. He says that he thought the residents were required to have a curfew but he sees them roaming around and again is concerned with the children in the neighborhood. He also notices vehicles pulling up with out of state tags and only staying for a brief moment. Mr. Slusher also lives in the area and his driveway has been blocked several times by residents of this facility. He is concerned that the smaller issues will continue to escalate into much larger issues. Mr. Davis stated that again we are required to follow the legal requirement and encouraged Mr. Slusher and all residents that if there are legitimate complaints the need to be called in so the city can log and determine if action in the future needs to be taken. Mr. Slusher stated he understood and thanked the commission for listening to his concerns and stated he would watch the situation and encourage others to call if there are issues in the future; and if there were, he would come back before the commission to ask for assistance.

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

1. The City Manager Donovan Blackburn requested the approval to pay city bills in the amount of \$183,560.84. Commissioner Layne made the motion to approve. Commissioner Davis seconded the motion. Mayor Pro-Tem Carter called for further discussion, there being none, motion passed unanimously. 4-0.

2. Consider a request to approve and authorize payment for Invoice #36852 for \$28,427 to Eastern Telephone & Technology for the City Hall Generator Project. This is half the cost which the city is required to pay to order and the other half will be paid upon completion of installation. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Pro-Tem Carter called for further discussion, there being none, 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**

- 1.** Consider a request to approve and authorize payment for Pay Request #5 as submitted for \$187,569.01 the Texas Roadhouse Site Work and authorize the mayor to sign and execute said pay request. Commissioner Chaney made the motion to approve. Commissioner Layne seconded. Mayor Pro-Tem Carter called for comments, there being none, the motion passed unanimously. 4-0.
- 2.** Consider a request to approve and authorize payment for Pay Request 11 to H2O Construction Inc. for \$39,347.10 as submitted for the US23 Sewer Project and authorize the mayor to sign and execute said pay request. Commissioner Davis made the motion to approve. Commissioner Chaney seconded. Mayor Pro-Tem Carter called for comments, there being none, the motion passed unanimously.4-0.
- 3.** Consider a request to approve and authorize payment for Invoice #58541 for \$6,789.25 to Summit Engineer for the Billips Sewer Project. Commissioner Chaney made the motion to approve. Commissioner Davis seconded. Mayor Pro-Tem Carter called for comments. Mayor Pro-Tem Carter asked where the project currently stood. Representative from Summit Engineering Jody Hunt stated that the main sewer line is in. The tie-ins are currently being completed and the pressure connectors will be starting this week. Mayor Pro-Tem Carter thanked Mr. Hunt for the information. Mayor Pro-Tem Carter asked if there were any other comments, there being none, the motion passed unanimously.4-0.
- 4.** Consider a request to approve and authorize payment for \$1,365.84 to Summit Engineer for the Buckley's Creek Sewer Project. Commissioner Chaney made the motion to approve. Commissioner Layne seconded. Mayor Pro-Tem Carter called for comments, there being none, the motion passed unanimously.4-0.
- 5.** Consider a request to approve and authorize payment for Pay Request 1 to H2O Construction Inc. for \$57,323.70 as submitted for the US23 Sewer Phase II (Billips Sewer) Project and authorize the mayor to sign and execute said pay request. Commissioner Layne made the motion to approve. Commissioner Chaney seconded. Mayor Pro-Tem Carter called for comments, there being none, the motion passed unanimously.4-0.
- 6.** Consider a request to approve and authorize payment for the final pay request to H2O Construction Inc as submitted for the North Mayo Trial Fire Station Project and authorize the mayor to sign and execute said pay request. Commissioner Davis made the motion to approve. Commissioner Chaney seconded. Mayor Pro-Tem Carter called for comments. Mayor Pro-Tem asked

City Manager Blackburn if these funds came from single county coal severance as its funding source. Mr. Blackburn stated yes. Mayor Pro-Tem asked if there were any other comments, there being none, the motion passed unanimously.4-0.

7. Consider a request to approve and authorize payment for Change Order #1 for \$7,000 for the North Mayo Trail Fire Station Project for the removal of additional trees and to authorize the mayor to sign and execute said pay request. Commissioner Layne made the motion to approve. Commissioner Chaney seconded. Mayor Pro-Tem Carter called for comments, there being none, the motion passed unanimously.4-0.

8. Consider a request approve the final acceptance report for the North Mayo Trail Fire Station Project as submitted and to authorize the Mayor to sign and execute said document on behalf of the City of Pikeville. Commissioner Davis made the motion to approve. Commissioner Chaney seconded. Mayor Pro-Tem Carter called for comments, there being none, the motion passed unanimously.4-0.

### **CITY ATTORNEY**

**Russell Davis was present and read the following into record:**

1. A 1<sup>st</sup> reading was read aloud by City Attorney Russell Davis of an ordinance #0-2011-026 amending Chapter 115 “Occupational License Fees” amending section 115.15 “Minimum Liability”. The 2<sup>nd</sup> reading and consideration for passage will be held during the next regular scheduled meeting on September 12<sup>th</sup> 2011. City Attorney Davis stated this was to fix an issue involving the fees paid by a car lot. The numbers when the original ordinance was adopted was imposed and this revision corrects the mistake.

2. A 1<sup>st</sup> reading was read aloud by City Attorney Russell Davis of an ordinance #0-2011-027 amending Chapter 32 “Departments, Commission and Boards” amending section 32.01 “Term Restrictions”. The 2<sup>nd</sup> reading and consideration for passage will be held during the next regular scheduled meeting on September 12<sup>th</sup> 2011.

3. A 1<sup>st</sup> reading was read aloud by City Attorney Russell Davis of an ordinance #0-2011-028 amending Chapter 50 “Solid Waste Management” amending section 50.18 “Charges for Services”. The 2<sup>nd</sup> reading and consideration for passage will be held during the next regular scheduled meeting on September 12<sup>th</sup> 2011. City Manager Blackburn stated this was a clarification of the language in the ordinance and there was no actually rate increase.

4. A 1<sup>st</sup> reading was read aloud by City Attorney Russell Davis of an ordinance #0-2011-029 amending Chapter 156 “Zoning Code” amending section 156.147

“General Sign Regulation”. The 2<sup>nd</sup> reading and consideration for passage will be held during the next regular scheduled meeting on September 12<sup>th</sup> 2011. City Manager Blackburn stated the ordinance places language that makes the ordinance much easier to interpret. Mr. Blackburn also stated the issue that came up during the last commission worksession involving a billboard company violating the city ordinance has been resolved. The sign company agreed to come and take down the non-conforming billboards on the by-pass. Mr. Blackburn also stated that during the discussions it was determined that the property owner of where the billboards were located were believed to belong to a private owner but after an investigation it was determined that the city is the property owner however the city has not been receiving revenue from the billboard company. Mr. Blackburn stated at his request the City Attorney has sent a letter to the billboard company demanding payment for the time the city gained ownership of the property for as long as the billboard has been located on this property. The Commission commented that this was a good job.

5. A 1<sup>st</sup> reading was read aloud by City Attorney Russell Davis of an ordinance #0-2011-030 adopting the 2011 supplement to the City of Pikeville code of ordinance. The 2<sup>nd</sup> reading and consideration for passage will be held during the next regular scheduled meeting on September 12<sup>th</sup> 2011.

#### **CITY MANAGER**

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

1. Consider a request for the City of Pikeville’s participation and submittal of an community air service grant in the amount of \$800,000 (there will be no match requirements) to create commercial air service at the Pikeville/Pike County Airport and to authorize the Mayor to sign any and all documentation required for the submittal of said grant. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-Tem Carter called for discussion, there being none, the motion passed unanimously. 4-0
2. Consider a request to post in-house and outside for position of Director of City Attractions & Events and to approve the Job Description and City Pay Scale for said position as submitted. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Pro-Tem Carter called for discussion, there being none, the motion passed unanimously. 4-0
3. Consider a request to implement and adopt an addition to the City Personnel Policy Manual 4.19 “Cash and Revenue Policy Procedure” and amended 2.10 “Overtime Compensation” policy as submitted. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Pro-Tem Carter called for discussion. City Manager Blackburn stated that 4.19 was a new personnel policy. The purpose was with all the new donations, events and attractions the city now has going on, the need to develop a procedure for

handling these type of cash transactions was needed in order to create controlled process for auditing. Blackburn stated that chapter 2.10 was a revision which allows the option of a non-exempt employee (salary) if they work an unscheduled day off to be able to be paid for the full extra day worked. The issue is there are so many events that goes on during the weekends that it is becoming extremely hard to have coverage during the week with the limited staff. The intent is to allow an employee to either take another day off to compensate within 180 days, use it as Comp Time or now to request to be paid at their normal rate for working a full 8 hour day. If an employee works more than 8 hours, they will still be only paid for the 8 hours at their normal rate. This will not be an overtime rate. Mayor Pro-Tem Carter asked if there are any other comments, there being none, the motion passed unanimously. 4-0

4. Consider a request to adopt a resolution, as read into record by City Manager Blackburn, supporting the Marion Branch Development project, the master plan, submitted letter and all supporting documents within the attached packet and requesting the various mining departments in Frankfort to release the bonds with CAM so the development may be able to move forward. Commissioner Davis made the motion to adopt. Commissioner Chaney seconded the motion. Mayor Pro-Tem Carter called for discussion, there being none, the motion passed unanimously. 4-0

### **RESOLUTION** **City of Pikeville**

**WHEREAS**, the City of Pikeville in 2005 did adopt a new Comprehensive Plan;  
and

**WHEREAS**, the City of Pikeville comprehensive plan did show that the city is in dire need for the development of affordable middle-income housing along with some light industrial development in order to support the regions needs and growth; and

**WHEREAS**, the City of Pikeville since 2005 has been discussing with the Pikeville/Pike County Airport Board (property owner) and Central Appalachian Mining (CAM) the possibilities and opportunities for the Marion Branch mining property to become a development that would meet this need of the region; and

**WHEREAS**, after a long negotiation process the city did annex and purchase for \$1,150,000 the Marion Branch property of over 1,000 acres in order to work towards its development. The city has also invested over \$4,500,000 in order to provide wastewater services to this site. This project is currently under construction; and

**WHEREAS**, the Pikeville City Commission has created the Marion Branch Development Advisory Board in order to move the project forward. The Board consist of

the Mayor of the City, the City Manager, the City Engineer, a City Commissioner, the County Judge Executive and a City Citizen at Large; and

**WHEREAS**, the Pikeville City Commission did authorize the city engineering firm of Summit Engineering to develop a master plan and supporting documentation in order to show the commitment and need for this development; and

**WHEREAS**, because of the importance of this project the Pikeville City Commission adopts and fully supports the master plan, letter and all supporting documentation within attached packet in order to support the development of Marion Branch;

**Now therefore be it also resolved**, that the City of Pikeville through the adoption of this resolution, fully supports and is commitment to the development of the Marion Branch housing, industrial and golf course development project. The City Commission respectfully asks that the mining bonds be released once the mining reclamation is completed and CAM meets the requirement of the various departments that govern mining in the State of Kentucky.

Passed this \_\_\_\_ day of \_\_\_\_\_, 2011

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

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

Upon roll call:

	Yes	No
Frank Justice, Mayor	_____	_____
Gene Davis, Commissioner	_____	_____
Dallas Layne, Commissioner	_____	_____
Jimmy Carter, Commissioner	_____	_____
Barry Chaney, Commissioner	_____	_____

The Mayor declared the within resolution adopted this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
James Carter  
Mayor Pro-Tem, City of Pikeville

\_\_\_\_\_  
Date

ATTEST:

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Christy Billiter, City Clerk

5. Pursuant to KRS 61.810, consider request for closed session for discussion of economic development, legal and personnel issues. Commissioner Chaney made the motion. Commissioner Layne seconded the motion. Mayor Pro-Tem Carter called for discussion, there being none, the motion passed unanimously. 4-0.
6. Commissioner Chaney made the motion to re convene. Commissioner Layne seconded the motion. Mayor Pro-Tem Carter called for discussion, there being none the motion passed unanimously. 4-0. Mayor Pro-Tem Carter called the session back into order.
7. Consider a request by the City Attorney Davis to adopt an ESTOPPEL Agreement between the City of Pikeville and Central Appalachian Mining (CAM) which reassigns CAM's lease to the City of Pikeville from the Airport Board. Through speaking with the Airport Engineer Rick Keene there are no current or outstanding issue involving the current lease, there are no defaults and therefore the City Attorney recommends that the Mayor Pro-Tem Carter be giving approval by the adoption of this requested motion. Commissioner Chaney made the motion. Commissioner Layne seconded the motion. Mayor Pro-Tem Carter called for discussion. Mr. Davis stated by the execution of this agreement will allow CAM to submit a check to the city in the amount of \$25,000. Under the current lease if there are no coal royalties paid, then there is a minimum payment requirement in that year of \$25,000. By the city assuming the terms of the lease, would allow CAM to make payment to the City. Mayor Pro-Tem Carter asked if there were any further comments, there being none, the motion passed unanimously. 4-0.
8. City Manager Blackburn request that the commission consider the approval to allow a property swap between property owned by the City of Pikeville and Marvin Hensley with Hensley Development. The city owns the blacktopped parking lot area located at the corner of Hambley and Huffman located between the Chamber of Commerce Office, Tourism Train and Museum and the Appalachian News Express. Mr. Hensley with Hensley Development owns a comparable piece of property that is also currently being used as a parking lot located on the corner of 2<sup>nd</sup> and Pike Street beside the old Dawahare building. The city currently owns the adjacent parking lot behind Mr. Hensley's parking lot. The swap would serve several purposes. Mr. Hensley is in the process of purchasing a blighted building on the corner of 2<sup>nd</sup> and Caroline Ave formally known as the Hardware Charlie building. Mr. Hensley will be remodeling this blighted property for much needed rental apartments and the parking that he would be granted by the city is next door to this building and would serve his new building. The city owns the parking lot behind Mr. Hensley's parking lot on the corner of Pike and Hambley Blvd which would give the city a large tract of



- property for development. The intent is to look at building a new community theater on the property. Since the property is comparable and has economic advantages to the city, Mr. Blackburn request that the commission considers a request for a property swap be granted. No money would be considered, the city and Mr. Hensley would simply be swapping one piece of property as submitted for the other. Mr. Blackburn request that the Mayor also be giving authority to sign any and all paperwork necessary in order to make such transaction complete. Commissioner Chaney made the motion. Commissioner Layne seconded the motion. Mayor Pro-Tem Carter called for discussion, there being none, the motion passed unanimously. 4-0.
9. Manager Blackburn submitted a Contract/Lease Agreement between the City of Pikeville and Jenney Wiley Drama Association and ask the commission to approve and adopt said contract/lease, authorizing the City Manager to make any necessary changes contingent upon the City Attorney's review and to authorize the Mayor the sign and execute said contract/lease agreement on behalf of the City of Pikeville. Commissioner Chaney made the motion. Commissioner Layne seconded the motion. Mayor Pro-Tem Carter called for discussion, there being none, the motion passed unanimously. 4-0.
  10. There being no further business to come before the Commission, Commissioner Davis has made the motion to adjourn the meeting. Commissioner Layne seconded the motion. Mayor Pro-Tem Carter called for discussion, there being none, the meeting was adjourned. 4-0

**CONSENT ITEMS:**

**There was no consent items listed**

**The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is September 12, 2011 at 6:00 p.m.**

**APPROVED:**

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

**ATTESTED:**

\_\_\_\_\_  
**CHRISTY BILLITER, CITY CLERK**