

**CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
September 12, 2011 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, September 12, 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 Frank Justice 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

MINUTES

The minutes for the previous regular meeting held on August 22, 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 Frank Justice called for discussion, there being none the motion carried unanimously. 5-0.

BUSINESS FROM THE FLOOR

Consider a request to adopt a Proclamation acknowledging Texas Roadhouse's "Grand Opening" and a new business within the City of Pikeville. Commissioner Carter made a motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.

Playful City USA 2011 Communities announcement by Melanie Stevens. Ms. Stevens read an article from the USA today that made mention our city, Pikeville. Also, City Manager Donovan Blackburn presented an article from the "Kentucky City" magazine which features the growth of Pikeville.

Mayor Justice was concerned about an area where there was water coming out into the road around a video game store and Pauley Bridge state service road. The water is draining off the fore lane and there are holes in the wall to drain the water out and it goes into a grassy area. It runs across the road because it has no other place to go. Mayor requested that the City manager contact the highway department asking for their assistant to correct the matter would be the best solution for this problem.

PAYMENT OF CITY BILLS

The City Manager Donovan Blackburn requested the approval to pay city bills in the amount of \$567,998.31. Commissioner Layne made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for further discussion, there being none, motion passed unanimously. 5-0.

Consider a request to approve and authorize payment of invoice #5091 to S&L Services Inc. for \$1,398.25. Commissioner Carter made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously.5-0.

CITY ENGINEER

Jack Sykes and Jody Hunt were present with Summit Engineering, Inc. and submitted several requests to the commission for approval.

1. Consider request to approve and authorize payment for Pay Request #15 to H2O Construction Inc. for \$293,924.30 as submitted for the Marion Branch Sewer Project and authorize the Mayor to sign and execute said pay request. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor called for comments. Jody Hunt with Summit Engineering presented an addendum where there is an increasing need for additional engineering work. The amount of the addendum is \$29,555.00. Commissioner Carter asked if UMG employees would be doing the work. Mr. Hunt replied, "Yes, they will be rebuilding pumps and such and there would be a small building for them to do so." Commissioner Carter made the motion to include the addendum along with the approval of the pay request. Mayor Justice called for additional comments, there being none, the motion passed unanimously. 5-0.

2. Consider request to approve and authorize payment for Change Order #4 with H2O Construction Inc for \$9,225.00 as submitted for the Marion Branch Sewer Project and to authorize the Mayor to sign and execute said change order.

Commissioner Davis made the motion to approve. Commissioner Chaney seconded. Mayor Justice called for comments there being none the motion passed unanimously. 5-0.

3. Consider request to approve and authorize payment for pay request #18 to Mountain Enterprises, Inc. for \$223,753.07 as submitted for the Thompson Road Widening Project and authorize the Mayor to sign and execute said pay request. Commissioner Layne made the motion to approve. Commissioner Chaney seconded. Mayor called for comments. Mayor says, "I guess you recommend that we pay this one." Jody Hunt recognized this as the final pay request and points out that the project is 1% under budget. Mayor Justice asked Mr. Hunt, "What are you going to do with the 1%?" Mr. Hunt responded that it was earmarked for use. Mayor called for additional comments, there being none the motion passed unanimously. 5-0.

4. Consider a request to approve and authorize payment for Change Order #11 with Mountain Enterprises for \$475.00 as submitted for the Thompson Road Widening Project and to authorize the Mayor to sign and execute said change order. Commissioner Chaney made a motion to approve. Commissioner Davis seconded the motion. Mayor called for comments, there being none the motion passed unanimously. 5-0.

5. Consider a request to approve and authorize payment for change order #3 with H2O Construction Co. Inc. for \$9,325.00 as submitted for the US23 Sanitary Sewer Project Phase I and to authorize the mayor to sign and execute said change order. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor called for comments. Mayor asked, "How are we doing down there?" Mr. Hunt answers that we are doing fine. Mayor Justice called for additional comments, there being none, the motion passed unanimously. 5-0.

6. Consider a request to approve and authorize payment for change order #5 for a deduct of -\$1,277.19 as submitted for the Justice Way, Texas Roadhouse Development Project and to authorize the Mayor to sign and execute said change order. 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.

7. Consider a request to approve and authorize payment for Pay Request #6 as submitted for the Justice Way, Texas Roadhouse Development Project and authorize the Mayor to sign and execute said pay request. Commissioner Carter made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments. Mayor Justice asked Jody Hunt what the amount for the pay request is. Mr. Hunt comments that the total on this pay request is

\$132,696.54. Mayor Justice called for further comments, there being none, the motion passed unanimously. 5-0.

CITY ATTORNEY

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

- 1. Consider a 2nd reading and passage of an ordinance #0-2011-026 amending Chapter 115 “Occupational License Fees” amending section 115.15 “Minimum Liability.” Commissioner Carter made a motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none, Mayor called roll call. Motion passed unanimously. 5-0.**

**AN ORDINANCE RELATED TO THE AMENDMENT OF
CHAPTER 115 “OCCUPATIONAL LICENSE FEE” OF
SECTION 115.15 “MINIMUM LIABILITY” OF THE CITY
OF PIKEVILLE CODE OF ORDINANCE**

ORDINANCE NO. 0-2011-026

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that **§115.15 OF THE CODE OF ORDINANCES RELATED TO SECTION 115.15 “MINIMUM LIABILITY” SHALL BE AMENDED AS FOLLOWS:**

WHEREAS, the existing ordinance will be in full force and take effect upon passage and publication.

Now, therefore, be it ordained by the board of commissioners of the City of Pikeville, Kentucky as follows:

§ 115.15 – Minimum Liability

In the event the tax payment required under section (3) is less than an amount sufficient to yield an annual license tax calculated at two percent (2%) of net income, equal to or in excess of the minimum license taxes set forth below, then the tax provided by said occupational license tax ordinance applicable to the licensee’s trade, occupation or profession shall apply and be charged as a minimum license tax hereunder.

The minimum license taxes provided by the occupational license tax ordinance are listed:

A.	1. Advertising			
	a. Bill Boards		\$	100.00
	b. Solicitors		\$	100.00
	c. Distributors (2 Per day)		\$	50.00
	2. Agents, representatives or solicitor not otherwise specifically provided for, taking or soliciting orders or making sales.	Per day	\$	25.00
		per year	\$	100.00
	3. Antique Dealer		\$	50.00
	4. Auctioneer	per day	\$	25.00
		per year	\$	100.00
	5. Automobile Dealers		\$	
	a. Automobile Dealer, selling automobiles and trucks, or conducting an automobile sales agency for new or used cars or trucks at a regular fixed place of business in the city, including the privilege of operating in connection therewith a repair shop and the sales of accessories and parts for the kind of cars for which	Per year	\$	100.00

	he is a dealer.			
	b. Automobile dealers selling automobiles and trucks or conducting, an automobile sales agency for new and used cars and trucks without a regular fixed place of business in the City.		\$	100.00
	c. Automobile Dealers without permanent place of business		\$	100.00
			\$	1000.00
	d. Automobile Dealer, selling used trucks or automobiles not in connection with any regular garage, with permanent location.	Per year	\$	1000.00
			\$	100.00
	e. Automobile Repair Garage, including all branches of the business, except the privilege of selling automobiles new or used, or gasoline or oils, or operating an automobile storage garage.		\$	50.00
	f. Automobile Storage Garage or Parking Lot commercial whether or not operated in connection with any other business	per year	\$	50.00
			\$	
	g. Automobile Laundry where automobiles are washed, cleaned or polished, not in connection with automobiles garage or dealership.		\$	50.00
	h. Automobile Parts and Accessories Awnings—Repair or Installation		\$	50.00
			\$	
	6. Awnings – Repair or Installation	2 per day	\$	50.00
			\$	
B.	1. Bakery		\$	100.00
	2. Bakery Products—Agent or dealer selling or distributing except retail merchants licensed as such.		\$	50.00
	3. Barber Shop		\$	
	a. one chair		\$	50.00
	4. Beauty Shop		\$	
	a. one operator		\$	50.00
	5. Billiard or Pool Room		\$	
	a. one table		\$	50.00
	b. each additional table		\$	25.00
	6. Bowling Alley	per alley	\$	25.00
	7. Book or Magazine canvassing ---	per day	\$	25.00
		per year	\$	100.00
C.	1. Carbonated etc., -- Carbonated beverages, bottlers, manufacturers, wholesalers, resident or nonresident, operating within the City.		\$	100.00
	2. Candy etc., --- Candy, potato chips, chewing gum and peanuts delivered and sold from trucks.		\$	100.00
	3. Carnivals or Circuses	per day	\$	100.00
		per week	\$	700.00
	4. Cigarettes- Cigarettes, selling at retail in addition to any other license.		\$	100.00
	5. Cleaning and dyeing plant or laundry operating in the City		\$	50.00
	6. Cleaning etc.—Cleaning, dyeing and laundry agents, soliciting the business of cleaning, dyeing and laundry, either of clothes or of any other materials, without the operation of a plant within the city limits		\$	100.00
	7. Coal Industries:		\$	
	a. Coal ramp or dock owner, for each 50-ton railroad carload capacity each day.	Per year	\$	50.00
	b. Coal haulers: Truck with single axle, each truck.	Per year	\$	50.00
	c. Tandems, each truck, per year		\$	50.00
	8. Cobbler or Shoe Repair Shop		\$	50.00
	9. Cold Storage Locker Plant		\$	50.00
	10. Contractors, builders, construction company, etc. plus ¼ of 1% of all contract prices (see section 16)		\$	50.00
D.	1. Dairy (50 gallons or over) operating a plant in or out of the city in connection with milk products		\$	100.00
	a. 50 gallons or under a day, delivering		\$	25.00
	b. Selling or delivering ice cream to wholesale or retail customers in the city, in		\$	50.00

		addition to. Dairy products			
E.	1.	Exterminator, or pest control,	per year	\$	100.00
	2.	Exhibitions, given on the streets or in any building in the City, to which admission is charged.	Per day	\$	25.00
F.	1.	Finance or Loan Company. To conduct or engage in loan agency business other than banks, or to engage in or conduct the business of lending money on the, deferred payment or installment plan other than banks.		\$	300.00
	2.	Florist Shop		\$	50.00
	3.	Florist Agent, where shop is not located in the City		\$	50.00
	4.	Fruit Stands. Sale of fruits, melons, and vegetables where not operating under another license.		\$	25.00
	5.	Furniture Repair Shop		\$	50.00
G.	1.	Gasoline dealers, wholesale, selling and delivering to customers in the City whether by truck or otherwise.		\$	100.00
	2.	Gasoline filling stations, whether operated separately or in connection with a garage or other business. 2 pumps., each additional pump, (Does not include soft drinks, cigarettes, or confections.)	per year per year	\$ \$	50.00 25.00
	3.	Gift and Novelty Shop		\$	50.00
H.	1.	Hotels		\$	100.00
		Each additional room over 25		\$	15.00
	2.	Herb Houses		\$	50.00
I.	1.	Ice cream, selling at retail		\$	50.00
	2.	Ice Cream dealer, wholesale, selling or distributing ice cream for resale, at retail		\$	50.00
L.	1.	Laundry		\$	100.00
	2.	Livestock Dealer		\$	100.00
	3.	Lumber and Building Supply companies, selling or delivering within the City		\$	100.00
	4.	Lumber Yard or Mill for sawing lumber		\$	100.00
	5.	Lunch Counters, Custard Stands, or wagons, no tables		\$	50.00
				\$	
M.	1.	Medicine Vendor, selling medicines or nostrums on the streets or house to house		\$	500.00
	2.	Mercantile Establishments. All retail mercantile establishments not specifically covered under license elsewhere in this ordinance shall be assessed in accordance to the volume of business, said assessment to be arrived at from the amount of business done the preceding calendar year, or if said establishment has not been in business for the full calendar year, previous to this date, to be arrived at from the proportionate part of the year, said establishment has been in said business, within the City and to be assessed according to the following scale, with no deductions allowable from gross sales receipts except for Federal excise Taxes:			
		All establishments having gross sales receipts of:			
		\$ 50,000.00 or less		\$	50.00
		\$ 50,000.01 to \$100,000.00		\$	60.00
		\$100,000.01 to \$150,000.00		\$	80.00
		\$150,000.01 to \$200,000.00		\$	90.00
		\$200,000.01 to \$250,000.00		\$	100.00
		All such establishments having gross sales receipts in excess of \$250,000.00 shall be taxed per \$1,000.00 or fractional part thereof an additional \$0.50 (fifty			

	cents) for each \$1,000.00 or fractional part thereof.		
	3. Monument. Dealers in monuments or tombstones and each agent soliciting same	\$	50.00
	4. Motion Picture House, each such house	\$	100.00
	5. Motels	\$	10.000
	Each additional unit over 10	\$	10.00
N.	1. Newspaper, publishing: weekly, semi-weekly or tri-weekly	\$	100.00
	2. News Stand, selling newspapers, books, magazines only.	\$	50.00
	3. Nursery. To engage in the sale of, or disposition of nursery products, trees, evergreens, shrubbery, etc., whether raised or produced in the City or not	\$	50.00
P.	1. Packing House, or company, delivering or unloading meats within the City	\$	100.00
	2. Packing Houses, or company, delivering or unloading meats within the City, together with other provisions delivered on a wholesale basis	\$	100.00
	3. Peddlers	2 per day	\$ 50.00
	4. Photographer, itinerant	\$	50.00
	5. Photograph gallery or studio, or photographer maintaining or operating such within the City	\$	50.00
	6. Popcorn, peanut and candy stand, or either	\$	50.00
	7. Printing Shop, job, not connected with newspaper	\$	50.00
	8. Produce dealers wholesale or retail, maintaining a place of business in the City or buying or selling poultry, eggs, butter, hides and wool, or any of these	\$	50.00
	9. Professions:		
	a. Architects, Attorneys, Accountants	\$	100.00
	b. Civil Mining and Electrical Engineers	\$	100.00
	c. Nurses, RN	\$	50.00
	d. Chiropodists, Chiropractors, Osteopaths	\$	100.00
	e. Dentists, DM D. & D. D. 'S	\$	100.00
	f. Electricians, Plumbers, Painters, Masons, etc., not connected with a licensed business	\$	50.00
	g. Oculists, Opticians, Optometrists	\$	100.00
	h. Physicians, MD	\$	100.00
	i. Surveyors, Veterinarians	\$	50.00
	j. Dental Technicians	\$	50.00
R.	1. Radio broadcasting station, or studio, soliciting advertising	\$	100.00
	2. Real Estate Agents, to engage in the business of real estate agent, or agency	\$	50.00
	3. Repair Shops, not connected with other licensed business.	\$	50.00
	4. Restaurant	\$	50.00
	5. Rooming House	\$	50.00
	6. Rental Real Estate, residential and commercial	\$	50.00
S.	1. Sewing Machine Agent. For each agent or office in the City	\$	50.00
	2. Shoe Shine Parlor	\$	50.00
	3. Skating Rinks	\$	100.00
	4. Sound cars or trucks used for commercial advertising, when not operated in connection with another business.	2 per day	\$ 50.00
	5. Soft Drinks	\$	50.00
T.	1. Taxicab, each operated	\$	100.00
	2. Tire recapping establishments or shod	\$	50.00
U.	1. Undertakers to conduct or engage in the business of undertaking by embalming, selling or furnishing burial outfits, caskets for the dead, etc.	\$	100.00
	2. Unloading, or loading, all commercial trucks using the streets of Pikeville for parking while loading or unloading and not operating under another license	\$	50.00

W.	1. Wrestling (2) per match or exhibition	\$	50.00
	All Others	\$	50.00

NOTE: For any business or activity not listed above, the minimum license tax is \$50.00. If the tax shown on a taxpayer's return for any tax period exceeds the minimum license tax paid the taxpayer shall be credited with the amount of minimum license tax paid. Only minimum license taxes paid during and for the tax year for which the return is being filed can be claimed as a credit.

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 _____, 2011, the ordinance was given a second reading on the ____ day of _____ 2011.

Passed this ____ day of _____, 2011.

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	_____	_____
GENE DAVIS, COMMISSIONER	_____	_____
DALLAS LAYNE, COMMISSIONER	_____	_____
JIMMY CARTER, COMMISSIONER	_____	_____
BARRY CHANEY, COMMISSIONER	_____	_____

The Mayor declared the within ordinance adopted.

FRANKLIN D. JUSTICE, II MAYOR

ATTEST:

CHRISTY BILLITER, CITY CLERK

2. Consider a 2nd reading and passage of an ordinance #0-2011-027 amending Chapter 32 “Departments, Commission and Boards” amending section 32.01 “Term Restrictions.” Commissioner Carter made a motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none, Mayor called roll call. Motion passed unanimously. 5-0.

AN ORDINANCE RELATED TO THE AMENDMENT OF
CHAPTER 32 “DEPARTMENTS, BOARDS, AND
COMMISSIONS” OF SECTION 32.01
“TERM RESTRICTIONS” OF THE CITY
OF PIKEVILLE CODE OF ORDINANCE

ORDINANCE NO. 0-2011-027

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that CHAPTER 32 OF THE CODE OF ORDINANCES RELATED TO SECTION 32.01 “TERM RESTRICTIONS” SHALL BE AMENDED AS FOLLOWS:

WHEREAS, the existing ordinance will be in full force and take effect upon passage and publication.

Now, therefore, be it ordained by the board of commissioners of the City of Pikeville, Kentucky as follows:

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

§ 32.01 TERM RESTRICTIONS.

(A) No person shall be permitted to serve as a member, director, board member, or commissioner of any of the several public agencies, public corporations, public districts, commissions, or other subdivisions or bodies of the city which operate within the city and in the interest of the public unless the individual is at least twenty-one (21) years of age and a resident of the City of Pikeville. An appointed member, director, board member or commissioner is however exempt from having to reside in the city if they are a paid employee of the city. If they do not reside in the city and their employment is terminated for any reason they shall vacate their appointment effective on their employment termination date.

(B) No individual shall concurrently serve as a member, director, board member, commissioner, and the like on more than three (3) public agencies, public corporations, public districts, commissions, or other subdivisions or bodies of the city, which operate in the interest of the public. An appointed member, director, board member or commissioner is however exempt from serving on no more than three (3) public agencies, public orporatioins, public districs, commission or other subdivisions or bodies of the city if they are a paid employee of the city.

(C) No person shall appoint, elect, nominate, or otherwise submit for approval the name of any individual as a member, director, board member, or commissioner of any of the agencies, public corporations, public districts, or commissions if that individual is prohibited from serving in such capacity by virtue of this section.

(D) This section shall apply retroactively. Any person who has currently served the allowed time shall serve the remainder of his or her terms or one (1) year, whichever is less. A partial term resulting by an appointment to fill an unexpired term shall not count toward the allowable terms but will be counted toward the allowable time left for that term.

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 _____, 2011, the ordinance was given a second reading on the ____ day of _____ 2011.

Passed this ___ day of _____, 2011.

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	___	___
GENE DAVIS, COMMISSIONER	___	___
DALLAS LAYNE, COMMISSIONER	___	___
JIMMY CARTER, COMMISSIONER	___	___
BARRY CHANEY, COMMISSIONER	___	___

The Mayor declared the within ordinance adopted.

FRANKLIN D. JUSTICE, II MAYOR

ATTEST:

CHRISTY BILLITER, CITY CLERK

- 3. Consider a 2nd reading and passage of an ordinance #0-2011-028 amending Chapter 50 “Solid Waste Management” amending section 50.18 “Charges for Services.” Commissioner Layne made a motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments, there being none, Mayor called roll call. Motion passed unanimously. 5-0.**

AN ORDINANCE RELATED TO THE AMENDMENT OF
CHAPTER 50 “SOLID WASTE MANAGEMENT” OF
SECTION 50.18(E) “CHARGES FOR SERVICES” OF
THE CITYOFPIKEVILLE CODE OF ORDINANCE

ORDINANCE NO. 0-2011-028

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that **CHAPTER 50 OF THE CODE OF ORDINANCES RELATED TO SECTION 50.18 “CHARGES FOR SERVICES” SHALL BE AMENDED AS FOLLOWS:**

CHAPTER 50: SOLID WASTE MANAGEMENT

§ 50.18 CHARGES FOR SERVICES.

(E) The rate for dumpster rental will be as follows:

2 yard	\$25.00 per month
3 to 4 yard	\$50.00 per month
6 to 8 yard	\$75.00 per month

(1) Anyone requesting a dumpster for a period of more than three (3) consecutive or nonconsecutive days within a sixty (60) day period will be required to pay the full month's rental fee.

(2) Anyone renting a dumpster less than three (3) consecutive or nonconsecutive days within a sixty (60) day period will not be required to pay a rental fee.

(F) The rate for roll off pull will be as follows:

20 yard open top container	\$150.00 each pull (plus landfill tipping fee of \$30.00 per ton)
30 yard open top container	\$175.00 each pull (plus landfill tipping fee of \$30.00 per ton)
40 yard open top container	\$200.00 each pull (plus landfill tipping fee of \$30.00 per ton)

(G) The rate for compactor pull will be as follows:

\$225.00 for each pull (plus landfill tipping fee of \$30.00 per ton)

(H) The rate for compactor and roll off rental will be as follows:

16, 20 or 40 yard compactor	\$200.00 per month
20, 30 or 40 yard roll off	\$200.00 per month

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 _____, 2011, the ordinance was given a second reading on the ___ day of _____ 2011.

Passed this ___ day of _____, 2011.

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	___	___
GENE DAVIS, COMMISSIONER	___	___

DALLAS LAYNE, COMMISSIONER _____ _____

JIMMY CARTER, COMMISSIONER _____ _____

BARRY CHANEY, COMMISSIONER _____ _____

The Mayor declared the within ordinance adopted.

FRANKLIN D. JUSTICE, II MAYOR

ATTEST:

CHRISTY BILLITER, CITY CLERK

- 4. Consider a 2nd reading and passage of an ordinance #0-2011-029 amending Chapter 156 “Zoning Code” amending section 156.147 “General Sign Regulation.” Commissioner Carter made a motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments. Mayor Justice asked about the Jerry’s Restaurant sign; he was wondering what could be said about it. Rusty Davis responded that it is a non-conforming sign and it is on private property and therefore did comply with the ordinance. Mayor Justice called for further comments, there being none, Mayor called roll call. Motion passed unanimously. 5-0.

AN ORDINANCE RELATED TO THE AMENDMENT OF
 CHAPTER 156 “ZONING CODE” OF
 SECTION 156.147 “GENERAL SIGN REGULATIONS”
 OF THE CITY OF PIKEVILLE CODE OF ORDINANCE

ORDINANCE NO. 0-2011-029

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that **CHAPTER 156 OF THE CODE OF ORDINANCES RELATED TO SECTION 156.147 “GENERAL SIGN REGULATIONS” SHALL BE AMENDED AS FOLLOWS:**

CHAPTER 156: ZONING CODE

§ 156.147 GENERAL SIGN REGULATIONS.

Sign and outdoor advertising displays shall be permitted in districts subject to the provisions and regulations contained herein.

- (A) The following signs shall be allowed in all districts and shall not require a permit:
 - (1) (a) Temporary signs (not to exceed thirty-two (32) square feet) or banners.
 - 1. Advertising sale, lease, or rental of the premises.
 - 2. Denoting information at construction site.

3. Announcing civic, philanthropic, educational, cultural, or religious event.

a. Signs or banners may be located displayed only on property where event is to take held.

b. With a City Permit signs or banners may be placed on Public easement located only at the overpass at Cedar or at both ends of Baird Ave. Signs may go up no earlier than 7 days prior to the event and must be down 24 hours after.

c. No signage is permitted on city easement other than the areas listed in paragraph (b) above.

d. Events in which the City or its agencies are a sponsor or participant is exempt and signs or banners may place temporary signs or banner on city property or public easement.

4. Relating to a political campaign.

a. May be placed on private property but many not be placed on city property or public easement except in certain areas designated by the City for the temporary erection of political signs on public property or easements with a permit.

(b) Temporary signs and banners must be removed not more than ~~fifteen (15) days~~ 24 hours after the completion of the purpose advertised.

(2) Professional nameplates (not to exceed four (4) square feet in area).

(3) Identification of the occupant (not to exceed two (2) square feet in area).

(B) Residential districts. No sign or outdoor advertising shall be erected or placed in a residential zone, unless provided for conditional use permit for home occupation, or for permanent identification for multi-family dwellings for permanent identification of a subdivision. There shall be one permitted sign for each aforementioned use not exceeding twelve (12) feet in area. Such signs can be illuminated, but non-flashing. A free-standing sign shall not exceed a height of six (6) feet above the ground. Each conditional use for a sign shall be determined on a case-by-case basis depending on the compatibility to surrounding neighborhoods.

(C) Commercial and industrial districts.

(1) Outdoor advertising shall be classified as a business use and shall be permitted only in the following zoning districts (subject to the regulations, exceptions and restrictions contained hereinafter):

(a) All commercial districts.

(b) Central business district.

(c) All manufacturing (I) districts.

(2) **ADVERTISING DEVICE** as used herein means any billboard, sign, notice, poster, display or other device intended to attract the attention of operators of motor vehicles or pedestrians on the streets, roadways and highways and shall include a structure erected or used in connection with the display of any advertising device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state, county, city or other public agency having jurisdiction.

(3) No advertising device shall be erected, placed, ~~painted, repainted,~~ or hung in that portion of the City of Pikeville which is designated on the map attached to Ord. ~~04-0-~~ 0-2004-021, passed 11-22-04, which area is generally described as being bounded on the west of the City of Pikeville by the Levisa Fork of the Big Sandy River and bounded around the downtown of the city by the top of the ridgelines overlooking the former stream bed of the Levisa Fork of the Big Sandy River. This area does include but not limited to as depicted on the map Town Mountain Road to the City Limits, Chloe Road to the City Limits, the downtown horseshoe area from Baird Ave, following Hambley Blvd to Bob Amos Park and the entire By-pass area both sides of the road.

(a) The following advertising devices shall be exempt from the prohibition contained in division (C)(3) above:

1. The signs allowed in divisions (A) and (B) hereinabove.

2. Advertising devices advertising the primary nature of the business or industry conducted on the property on which they are located which may be placed not closer than twenty (20) feet to the street right-of-way line, but shall in no case be permitted to obstruct the view of traffic nor exceed an area ten (10) square feet. The height of all such signs shall not exceed twenty-five (25) feet.

3. In the central business district where building may be built up to the street and/or sidewalk right-of-way line, a sign allowed in division (C)(3)(a)2. above may be placed upon the face of the structure facing the right-of-way line which does not exceed ten (10) square feet. In the central business district where building may be built up to the sidewalk right-of-way line, overhanging and projecting signs shall be permitted provided they comply with the other provisions of this chapter, with the regulations contained in the state building code as now or hereafter amended, shall project not more than twenty-four (24) inches over any sidewalk or right-of-way line, shall not exceed four (4) square feet in area, and the bottom of such sign shall not be less than twelve (12) feet above the finish grade of the sidewalk.

(4) Advertising devices in all commercial districts, central business districts and all manufacturing (I) districts outside of the area described in division (C)(3) above shall not be erected, placed, painted, repainted, or hung near to the street right-of-way line upon which the display faces than the building (set back) line provided in the district where the use is permitted but in no case be permitted to obstruct the view of traffic nor exceed an area of twelve (12) square feet. The height of all advertising devices permitted under this division (C)(4) shall not exceed seventy-five (75) feet in total height. The Building Inspector shall be permitted to allow a variance to this height limitation if the location of an advertising device (at the maximum seventy-five (75) feet height) advertising the primary nature of the business conducted on the property on which it is located or within two thousand (2,000) feet of the business advertised (if the advertising device is not located on the property where the business advertised on the sign is located), cannot be seen by motorists in both directions of the highway or street in which the property fronts at a distance up to three hundred (300) feet from an entrance to the property but only to the extent necessary to be viewed by motorists at a distance of three hundred (300) feet and in no case exceeding one hundred fifty (150) feet in height.

(5) The area of all permanent advertising signs for any single enterprise shall not exceed three hundred (300) square feet.

(6) Advertising devices will not be illuminated by other than white lights. An advertising device which used lighting in any way shall be effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a street or road or unless it is of a low intensity or a low brilliance so as not to cause glow or not to impede the vision of the driver of any motor vehicle or otherwise interfere with the driver's operation of a motor vehicle or resemble traffic or directional signals, warnings or other similar signals which are normally associated with highway safety. Additionally, it shall be effectively shielded as to prevent beams or rays of light of such intensity of illumination as to unduly disturb the use of residential property. All advertising devices will fully comply with all state and federal requirements and limitations.

(7) For manufacturing districts (I) only: one (1) free standing identification sign displaying only the name and address of the industry may be erected for each separate street frontage, not to exceed one hundred (100) square feet in size and shall have a maximum height of twenty-five (25) feet.

(8) Planned unit developments and river fill districts advertising devices will be determined by the Board of Zoning Adjustment as a normal portion of the review process prior to issuing approval of a final plat, subject however to limitation that such signs within the boundary described in division (C)(3) above shall fully conform with the restrictions contained in division (C)(3).

(9) Nonconforming advertising devices may exist only so long as it is:

- (a) Not destroyed, abandoned, blighted or discontinued;
- (b) Subject to only routine maintenance;
- (c) In conformance with the Kentucky Building Code.

(d) Performance of other than routine maintenance (painting, changing advertisements, changing light bulbs, etc.) on a nonconforming advertising device shall cause it to lose its non-conforming status and to be classified as illegal. No part of the sign board or its structure shall be permitted to be added upon, replaced or repaired upon a non-conforming sign it being the intent of these provision related to non-conforming signs that they not be allowed to remain non-conforming signs indefinitely and that all non-conforming be phased out of the restricted areas in which they are prohibited.

(e) **ABANDONED** or **DISCONTINUED** means that for a period of one (1) year or more that the device:

- (1) Has not displayed any advertising matter;
- (2) Has ~~not~~ displayed obsolete advertising matter; or
- (3) Has needed substantial repairs or is deemed unsafe.

(f) Nonconforming advertising devices which have been wholly or partially destroyed or damaged by act of God, calamity, fire or vandalism shall lose its nonconforming status and be classified as illegal.

(g) All nonconforming advertising devices shall become illegal seven (7) years from the passage of ~~this amendment~~ amended Ordinance #0-2004-021, passed.

(h). All nonconforming signs because of the need for additional inspection, monitoring for compliance with this section and for the insurance that the nonconforming sign remains in safe condition, shall be subject to the following additional requirements:

(1) Pay a nonconforming sign fee in the yearly sum of \$500.00;

(2). Provide to the City on a yearly basis a certification by a certified engineer that the sign are in compliance with the Kentucky Building Code, all other regulations related to safety and that all structural components are structurally sound and do not pose a risk of failure or otherwise in an unsafe condition to the public, private or public property or individuals needing to work on or around the sign. The codes inspector shall review the certification and if necessary request that the City Engineer verify the accuracy of the certification

(i) All illegal, abandoned, discontinued or blighted advertising devices or illegal signs or banners may be removed by the city and shall therefore become the property of the City of Pikeville. Abandoned, discontinued or blighted devices, sign or banners may be granted by the city back to the original owner or at the cities sole discretion may be destroyed or discarded by the city.

(10) With the exception to the authority granted to the Building Inspector to grant size limitation variances in division (C)(4) above, the Board of Zoning Adjustments shall have the power to hear and decide on applications for size variances for permitted signs herein whereby reason of the size or unusual nature of the business sought to be advertised thereon or some other extraordinary situation or condition of the site, the literal enforcement of the size requirements for signs would deprive the applicant of the reasonable capacity to advertise on the site in a manner equivalent to the ability of other land owners in the same zone. The Board may impose any reasonable condition or restriction on any variances it decides to grant.

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 _____, 2011, the ordinance was given a second reading on the ____ day of _____ 2011.

Passed this ____ day of _____, 2011.

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	_____	_____
GENE DAVIS, COMMISSIONER	_____	_____
DALLAS LAYNE, COMMISSIONER	_____	_____
JIMMY CARTER, COMMISSIONER	_____	_____
BARRY CHANEY, COMMISSIONER	_____	_____

The Mayor declared the within ordinance adopted.

FRANKLIN D. JUSTICE, II MAYOR

ATTEST:

CHRISTY BILLITER, CITY CLERK

- 5. Consider 2nd reading and passage of ordinance #0-2011-030 adopting the 2011 supplement to the City of Pikeville code of ordinance. Commissioner Chaney made a motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments, there being none, Mayor called roll call. Motion passed unanimously. 5-0.

**ORDINANCE ADOPTING THE 2011 SUPPLEMENT
TO THE CITY OF PIKEVILLE CODE OF ORDINANCES**

Ordinance #: 0-2011-030

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the S-22 supplement to the Code of Ordinances of the City of Pikeville, which supplement contains all ordinances of a general nature enacted since the prior supplement to said Code; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of sections of the Code of Ordinances based upon duly enacted or amended ordinances by the City of Pikeville or section of the Kentucky Revised Statutes; and

WHEREAS, it is the intent of the Commission to accept these updated and revised section in accordance with the changes of the ordinances by the City of Pikeville or section of the Kentucky Revised Statutes;

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville as follows:

SECTION 1: That the S-22 supplement of the Code of Ordinances of the City of Pikeville, KY as submitted by American Legal Publishing Corporation of Cincinnati, Ohio and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2: 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 _____, 2011, the ordinance was given a second reading on the ____ day of _____, 2011.

Passed this ____ day of _____, 2011.

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	_____	_____
GENE DAVIS, COMMISSIONER	_____	_____
DALLAS LAYNE, COMMISSIONER	_____	_____
JIMMY CARTER, COMMISSIONER	_____	_____
BARRY CHANEY, COMMISSIONER	_____	_____

The Mayor declared the within ordinance adopted.

FRANKLIN D. JUSTICE. II MAYOR

ATTEST:

CHRISTY BILLITER, CITY CLERK

CITY MANAGER

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

- 1. Consider request to adopt and approve a Right of Way easement agreement #745322 between the City of Pikeville and EQT on the Marion Branch property as submitted and to authorize the Mayor to sign and execute said easement agreement as submitted. Commissioner Chaney made the motion to adopt. Commissioner Davis seconded the motion. Mayor Justice called for comments. Mayor asked, "What is this?" City Manager Donovan Blackburn explains that there is a gas well on the property that was too far down and it had to be relocated. Because the city now owns the property, the easement agreement had to go through the city. It doesn't impact any of the development. The agreement was made prior to the city acquiring the property but doesn't have any impact upon the property but allows CAM to meet their requirements that they need. By doing so, CAM issued a \$25,000 check to the city. Mayor then ask if the Right of Way was a line leading from the well, so we cannot build over top or around. City Manager says we**

- cannot. Mayor called for further comments, there being none, motion passed unanimously. 5-0.
2. Consider a request to extend a job offer to Eric Sean Cochran for the position of Director of City Attracts and Events at the 2-yaear rate contingent upon passing all require pre-employment testing as required by the city personnel policy. Commissioner Davis made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for further comments, there being none the motion passed. 5-0.
 3. Consider a request to appoint or reappoint the following city board members to the following city boards and commissions:
 - Pikeville Housing Authority**
Reappoint Mary Jane Younce whose new term to expire on 9-16-2015
 - Tree Board**
Reappoint Jennifer Brown whose new term is set to expire on 7-1-2015
Reappoint Mike Thompson whose new term is set to expire on 7-1-2015
 - East Kentucky Expo Board**
Appoint Donovan Blackburn whose term is set to expire on 11-1-2015
Appoint J.R. Blackburn whose term is set to expire on 11-1-2015
 - Hillbilly Days Board**
Reappoint Jessie Bowling whose new term is set to expire on 1-1-2013
Appoint Sean Cochran whose term is set will start on 1-1-2012 and is set to expire on 1-1-2013
 - Jenny Wiley Theater Building Committees**
Mayor to name two members along with the City Manager per contract
Mayor appointed Commissioner Barry Chaney and Commissioner Jimmy Carter
Mayor Justice made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.
 4. Consider request to advertise for bid, 2 pick-up trucks for public works as detailed in the attached spec and bid sheet. 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 a request to award the bid for the purchase of an early warning siren system as advertised to Federal Signal as submitted for \$179,960.80 and to authorize the Mayor to sign any paperwork necessary to award and purchase said bid. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor called for comments. Donovan Blackburn comments that they were not the low bidders but they did meet all the specs that were required. The reason the low bidder was rejected was for the following; 1) The siren lacks the capability to operate on AC power as specified, 2) Failure to address bond requirement & 3) Failure to address Buy American requirement. Commissioner Carter asked if we are paying for this or if we are getting a grant for this. City Manager said yes to a grant. Commissioner Layne asked if there were more than one location.

Melanie Stevens speaks up and says eight. Mayor Justice called for additional comments, there being none, the motion passed unanimously. 5-0.

6. Consider a request for authorization for the Mayor to sign and execute an application for a submittal to the FEMA Assistance to Firefighters Grant with a grant request of \$49,875 with a match of \$2,625. Project includes the purchase of 30 sets of pants and coats. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.

City Manager announces the calendar of events. He also makes mention that effective this week, there will be two people managing the front desk at the Expo Center.

7. 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 Carter seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously. 5-0.
8. Commissioner Layne made the motion to re convene. Commissioner Davis seconded the motion. Mayor Pro-tem Carter called for discussion, there being none the motion passed unanimously. 4-0. Mayor Pro-tem called the session back into order.
9. Consider a request to adopt a resolution directing the City Manager to present an ordinance for first reading during the next regularly scheduled commission meeting to be held on September 26th 2011 increasing the city restaurant tax from 1.5% to 2%. The purpose of the small incremental increase is to create additional funding to support the arts program in Pikeville by the development of the new Jenny Wiley Theater. The intent is to use these funds in order to finance the debt for construction of the new theater facility. The intent is to not only support the arts program but to create an economic engine that will generate millions of dollars into the community with direct economic impact. Commissioner Chaney made a motion to approve. Commissioner Layne seconded the motion. Mayor Pro-tem called for comments, there being none, the motion passed unanimously. 4-0.

**RESOLUTION BY THE PIKEVILLE
CITY COMMISSION FOR PURPOSE OF
JENNY WILEY THEATER
FINANCIAL SUPPORT**

WHEREAS, the Jenny Wiley Theater has been in operation and serving the entire region for over 47 years with quality professional theatrical performances; and

WHEREAS, the Pikeville City Commission has signed an agreement that allows the theatre to expand by offering year round theater and theatrical services by construction a theatre in downtown Pikeville. A new designated indoor theatre space will provide Jenny Wiley Theatre with a permanent indoor theatre location while enabling the expansion of cultural arts offerings within the City of Pikeville and outlining region; and

WHEREAS, the intent is to begin construction by January of 2012 of a new facility to be located on the cities property located on the corner of Division Street and 2nd Street next to the old Dawahare Department Store. Under the terms of the contract the City of Pikeville has agreed to provide a minimum of \$1.2 million dollars to construct said facility and will also guarantee a minimum of \$50,000 a year to the Jenny Wiley Theatre program; and

WHEREAS, with over 200 million dollars in new project within the City of Pikeville including the new judicial center, a new hotel, the creation of Café on main Plaza, Pikeville Medical Center Expansion, University of Pikeville medical school the natural progression is to promote the arts year around, and offer an economic opportunity for the entire region; and

WHEREAS, with the City of Pikeville taking an aggressive regional approach to tourism by working with many other tourism destinations throughout our area such as Jenny Wiley State Park, Breaks Interstate Park, Stone Crest, Raven Rock, Hatfield and McCoy Trails just to name a few in order to promote regional tourism for our area is a great economic opportunity. Along with the recent City attractions created such as Bob Amos Park and Trials, Pikeville Water Trails program, Café on Main, East Kentucky Expo, Paintball just to name a few. The addition of the downtown Jenny Wiley Theater will enhance the regions opportunities to promote tourism all while providing quality entertainment in the arts; and

WHEREAS, on September the 12th 2011 the Pikeville City Commission did direct the City Manager to draft a revision to the City Code of Ordinance amending Chapter 35 “Taxation” section 35.27 Restaurant Tax by taking the current tax rate from 1.5% to the new rate of 2% in order to create a funding mechanism to construct the new Theater in Downtown Pikeville. By the construction of this facility shall crate a direct economic impact to the community of millions of dollars. It is understood that those who shall attend theatrical performances will stay in the community hotels, shop at our stores, by gas form our gas stations, eat in our restaurants and return for repeat visits. The benefit to the businesses shall be great all while improving the overall quality of life for those who live, work and visit our community.

NOW, THEREFORE, BE IT RESOLVED the Pikeville City Commission, by the passage of this resolution, directs the Pikeville City Manager to amend the city Code of Ordinance Chapter 35 as discussed herein and to have ready to present for a first reading on the commission meeting scheduled for September 26th 2011. The Commission further agrees to take the additional funds created by the 1/2 % increase and direct them for the design, construction, debt and future financial support of the new Jenny Wiley Theater to be located in Downtown Pikeville.

Passed this _____ day of _____, 2011.

Commissioner _____ moved for the adoption of the foregoing resolution.

Commissioner _____ seconded the motion.

Upon roll call, the votes were as follows:

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

The Pikeville City Mayor declared the within resolution adopted.

FRANK JUSTICE,
MAYOR

ATTESTED:

CHRISTY BILLITER
CITY CLERK

- 10. Consider a request to authorize a single pay period raise for City Manager Donovan Blackburn in the amount of \$12,000.00 contingent upon the City Attorney approval that it is within the City Commission authority to do so. 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.**
- 11. 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:

City Manager is scheduled for vacation the week of September 19th 2011

KLC Annual Conference the week of October 3rd

See September 2011 Events Calendar attached

The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is September 26, 2011 at 6:00 p.m.

APPROVED:

FRANKLIN D. JUSTICE, II, MAYOR

ATTESTED:

CHRISTY BILLITER, CITY CLERK