

**CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
February 9, 2009 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, February 9, 2009. The meeting was held in the City Hall Conference Meeting Room located at 118 College Street, Pikeville, Kentucky.

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

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

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

MINUTES

The minutes for the previous regular meeting held on January 26, 2009 were in each Commission Member's agenda package. There being no additions or corrections, Commissioner Layne made the motion to approve the minutes as prepared. Commissioner Chaney seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously.

BUSINESS FROM FLOOR

Mayor Justice announced the City Commission public hearing regarding the proceedings that was begun in 2005 was now opened, pursuant to 47 USC 546, the hearing is to and will afford the public in the City of Pikeville appropriate notice and participation for the purpose of (A) identifying the future cable related community needs and interest, and (B) reviewing the performance of Inter Mountain Cable and Sudden Link Communications (previously known as Cebridge Connections) under their franchises during the franchise term. Mayor Justice opened the floor. Mayor Justice; Mrs. Elliott, are you here to address this issue? Mrs. Elliott; yes, I am. I have been having problems with Sudden Link for some time. I currently received notice they are raising my rate from \$48.61 to \$55.23 a month. I called and asked the company questions and was put off time and time again. Mrs. Elliott; They were trying to wear me out and they were not polite. I tried for 7 or 8 weeks. Mrs. Elliott; I could get my mail by mule from the US Postal Service quicker than that. Mrs. Elliott; never received anything. Mayor Justice; Mrs. Elliott, have you met Mike Kellerman with SuddenLink? Mrs. Elliott; No. Mike Kellerman; Mrs. Elliott; I understand our concerns as to why you feel you did

not receive better customer service. Did you call the local office? Mrs. Elliott; I called the number on the bill, they keep putting me off. I felt like I stayed on the phone for a month. I was transferred from one to another. Mr. Kellerman; Mrs. Elliott, can you describe your problem with the picture quality? Mrs. Elliott; snowy and not all the channels are there. Mr. Kellerman; Can we stop by your home and you allow us to take a look at your quality of service? Mrs. Elliott; Not tonight, my house is messy. I am doing my taxes. Mr. Kellerman; when the time is good for you. Mrs. Elliott; call me. Mr. Kellerman; Yes, we will call and make an appointment to come by and take a look. Mr. Peter Brown/ Suddenlink; Mrs. Elliott, we will also take a look at your account and get back with you on the problems of the bill. Mayor Justice; Linda Ains is there anything you want to add or discuss? Ms. Ains, Yes I am an Attorney helping the City of Pikeville with the cable provider hearing process. Donovan Blackburn; I just want it to be noted that these proceedings are not to discuss the rates, but to continue the proceedings and the problems with the service. Linda Ains; Yes, the Federal Government took away the right to regulate the rate that service providers could charge. Mr. Brown; I would be happy to explain the rate adjustments with anyone on their accounts. Linda Ains; The City will continue the proceedings and the status of the quality of service has improved, but still has a long way to go. The City and Suddenlink and InterMountain Cable will continue to work with any issues and will test the system to ensure the systems have been truly upgraded. Mayor Justice; Commissioner Layne had something to address. Commissioner Layne; should the basic rate provide the local news channel or like FOX TV? Mr. Mike with SuddenLink addressed the question from Mr. Layne. No basic does not. Mr. Kellerman; We are finding a lot of the problem is homes that have old wiring and amplifiers and upgrading is needed. Mr. Layne; So this allows for a 14% increase? Mr. Brown; I would have to look into your account and let you know, some of the taxes are accountable for the changes. Mayor Justice; Does anyone have questions for Mountain Cable? Mr. Layne; Do you offer news on your basic service? Mt. Cable; No. Linda Ains; I recommend that the City of Pikeville keep the proceedings open at this time. Commissioner Chaney made the motion to keep proceeding open. Commissioner Carter seconded the motion. Mayor Justice called for additional comments. Mayor Justice, I have a motion and a second, all in favor. Motion passed unanimously. Mayor Justice; The mater will be continued and a date will be announced.

PAYMENT OF CITY BILLS

A list of City Bills totaling \$438,373.58 was presented to the Commission for approval of payment. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously.

OLD BUSINESS

- A. **Jimmy Adkins, Police Chief** reported that he saw the newspaper and wanted to commit on the record file ordinance and advise that the police department had already been charging for records that he had seen the article gave a thumbs down but wanted to set the record straight that this where not out of the ordinary.
- B. **Russell H. Davis, Jr., City Attorney**, presented the following matters for the Commission's consideration:

1. The second reading of an ordinance 0 2009 03 amending the City of Pikeville Chapter 37 "Public Records" setting fees for public record requests. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for further discussion. City Manager Donovan Blackburn; I just want to make a commit. The City has always done this. By updating and making information accessible and on line allows access will elimtate about 90% of people making these types of requests. Mayor called for Roll Call and the ordinance was passed unanimously.

ODINANCE AMENDING CHAPTER 37 "PUBLIC RECORDS" SETTING FEES FOR PUBLIC RECORD REQUESTS

ORDINANCE NO. 0-2009-03

BE IT ORDAINED BY THE CITY OF PIKEVILLE AS FOLLOWS:

Chapter 37 "PUBLIC RECORDS" is amended as follows:

CHAPTER 37: PUBLIC RECORDS

GENERAL

§ 37.01 DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

CITY. The city government of this city.

COMMERCIAL PURPOSE.

(1) The direct or indirect use of any public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee.

(2) **COMMERCIAL PURPOSE** shall not include:

- (a) Publication or related use of a public record by a newspaper or periodical;
- (b) Use of a public record by a radio or television station in its news or other informational programs; or

(c) Use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties.

(KRS 61.870(4))

CUSTODIAN.

(1) The official custodian or any authorized person having personal custody and control of public records. (KRS 61.870(6))

(2) The ***CUSTODIAN*** having personal custody of most of the public records of this city is the Finance Director/City Clerk/Tax Administrator.

OFFICIAL CUSTODIAN.

(1) The chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care, and keeping of public records, regardless of whether the records are in his or her actual personal custody and control.

(KRS 61.870(5))

(2) The ***OFFICIAL CUSTODIAN*** of this city shall be the City Clerk.

MECHANICAL PROCESSING. Any operation or other procedure which is transacted on a machine, and which may include, but is not limited to a copier, computer, recorder or tape processor, or other automated device.

(KRS 61.870(8))

MEDIA. The physical material in or on which records may be stored or represented, and which may include, but is not limited to paper, microform, disks, diskettes, optical disks, magnetic tapes, and cards.

(KRS 61.870(7))

PERSON. A human being who makes a request for inspection of public records.

PUBLIC AGENCY.

- (1) Every state or local government officer;
- (2) Every state or local government department, division, bureau, board, commission, and authority;
- (3) Every state or local legislative board, commission, committee, and officer;
- (4) Every county and city governing body, council, school district board, special district board, and municipal corporation;
- (5) Every state or local court or judicial agency;
- (6) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;
- (7) Any body created by state or local authority in any branch of government;
- (8) Any body which derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds;
- (9) Any entity where the majority of its governing body is appointed by a public agency as defined in division (1) through (8) or (10) or (11) of this definition; and
- (10) Any interagency body of two (2) or more public agencies where each public agency is defined in divisions (1) through (9) of this definition.

(KRS 61.870(1))

PUBLIC RECORDS. All books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, or retained by a

public agency. **PUBLIC RECORDS** shall not include any records owned or maintained by or for a body referred to in KRS 61.870(1)(h) that are not related to functions, activities, programs, or operations funded by state or local authority nor any records that may be excluded by § 37.12.

(KRS 61.870(2))

REQUEST. An oral or written application by any person to inspect public records of the city.

SOFTWARE.

(1) The program code which makes a computer system function, but does not include that portion of the program code which contains public records exempted from inspection as provided by KRS 61.878 or specific addresses of files, passwords, access codes, user identifications, or any other mechanism for controlling the security or restricting access to public records in the public agency's computer system.

(2) **SOFTWARE** consists of the operating system, application programs, procedures, routines, and subroutines such as translators and utility programs, but does not include that material which is prohibited from disclosure or copying by a license agreement between a public agency and an outside entity which supplied the material to the agency. (KRS 61.870(3))

REASONABLE FEES FOR PUBLIC RECORDS

§ 37.02 REASONABLE FEE or FEE. The fair payment required by a public agency for making copies of non exempt public records requested for noncommercial purposes which shall not exceed the actual cost of reproduction, including the costs of the media and any mechanical processing cost incurred by the public agency, but not including the cost of staff. If a public agency is asked to produce a record in a non-standardized format, or to tailor the format to meet the request of an individual or a group, the public agency may at its discretion provide the requested format and recover staff costs as well as any actual costs incurred.

The following fees will be applied by the City of Pikeville:

- (1) Twenty five cents (.25) per page for any copy on standard paper 8 ½" x 11"
- (2) Thirty cents (.30) per page for any copy on legal paper 8 ½" x 14"
- (3) Five dollars (\$5.00) per police department collision report
- (4) Two dollars (\$2.00) per police department case report
- (5) Ten dollars (\$10.00) per police department criminal history report
- (6) Fifteen dollars (\$15.00) per police department fingerprinting CDL or pre-employment report
- (7) Twenty dollar (\$20.00) minimum for recordings produced on CD or Cassette tape.

Fees DO NOT include postage. If requestor lives in county items must be picked up from City Location. If requestor is from outside of county request may be mailed. There will be a flat additional handling fee of \$5.00 plus the cost of postage per request.

The above ordinance was given first reading this 26th day of January, 2009.

The ordinance was given a second reading on the 9th day of February, 2009.

Passed this 9th day of February, 2009.

Commissioner Layne_____ moved for the adoption of the foregoing ordinance.

Commissioner Chaney_____ seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

/s/Frank Justice
FRANK JUSTICE, II, MAYOR

ATTESTED:

/s/Rebecca Hamilton
REBECCA HAMILTON, CITY CLERK

2. Consider second reading of an ordinance 0 2009 04 amending the City of Pikeville Chapter 98 "Alarm System" setting rules and fines for false alarms. Commissioner Carter made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for further discussion, there being none the mayor called for Roll Call and the ordinance was passed unanimously.

**ODINANCE AMENDING CHAPTER 98 "ALARM SYSTEM"
SETTING RULES AND FINES FOR FALSE ALARMS**

ORDINANCE NO. 0-2009-04

BE IT ORDAINED BY THE CITY OF PIKEVILLE AS FOLLOWS:

Chapter 98 "ALARM SYSTEMS" is amended as follows:

CHAPTER 98: ALARM SYSTEMS

§ 98.03 FINE FOR FALSE ALARM AFTER NOTICE; RIGHT OF APPEAL.

(A) (1) Any alarm user whose alarm system generates false alarm dispatches in a one year period from the date of the first notice letter sent regarding a false alarm dispatch shall be assessed a civil penalty as determined by the following schedule:

(2) Any alarm user whose alarm system dispatches a call and the responder to the alarm fails to respond within 30 minutes will be considered a false alarm and the party will be access an additional \$50.00 fine on top of the assessed civil penalties as outlined below. This fee will apply for each occurrence.

<u>Number of False Alarm Dispatches</u>	<u>Civil Penalty if Appealed to Pikeville City Commission</u>	<u>Civil Penalty (10% discount if paid within seven days)</u>
<u>1 - 2</u>	<u>Notice letter</u>	<u>Notice letter</u>
<u>3 - 7</u>	<u>\$100 each</u>	<u>\$90 each</u>
<u>8 - 12</u>	<u>\$200 each</u>	<u>\$180 each</u>
<u>Over 12</u>	<u>\$300 each</u>	<u>\$270 each</u>

(2) Any person assessed a civil penalty may pay the civil penalty within seven days from the date of issuance and receive a 10% discount or request a hearing, in writing, regarding such penalty to the City Clerk. If the person fails to respond to the citation within seven days as referenced above, the person shall be deemed to have waived the right to a hearing. In this event, the Police or Fire Chief shall enter a final order determining that the violation was committed and impose the civil penalty. This section shall apply to all false alarm dispatches except for those that are in response to a hold-up alarm.

(B) (1) Any hold-up alarm user whose hold-up alarm generates more than one unintentional false alarm dispatch within a one year period, shall be assessed a civil penalty as determined by the following schedule:

<u>Number of False Hold-Ups</u>	<u>Civil Penalty if Appealed to Code Enforcement Board</u>	<u>Civil Penalty (10% discount if paid within seven days)</u>
<u>1</u>	<u>Notice letter</u>	<u>Notice letter</u>

<u>2 - 4</u>	<u>\$250 each</u>	<u>\$225 each</u>
<u>5 - 9</u>	<u>\$500 each</u>	<u>\$450 each</u>
<u>10 and above</u>	<u>\$1,000 each</u>	<u>\$900 each</u>

(2) Any person assessed a civil penalty may pay the civil penalty within seven days from the date of issuance and receive a 10% discount or request a hearing, in writing, regarding such penalty to the City Clerk.. If the person fails to respond to the citation within seven days as referenced above, the person shall be deemed to have waived the right to a hearing. In this event, the Police Chief shall enter a final order determining that the violation was committed and impose the civil penalty.

(C) If an alarm user is assessed a civil penalty hereunder and the alarm user does not have the current alarm user registration (key holder) information on file with the Alarm Company or City Police, then the Hearing Officer shall double the civil penalty as set out herein.

The above ordinance was given first reading this 26th day of January, 2009.

The ordinance was given a second reading on the 9th day of February, 2009.

Passed this 9th day of February, 2009.

Commissioner Carter moved for the adoption of the foregoing ordinance.

Commissioner Layne seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

/s/ Frank Justice
FRANK JUSTICE, II, MAYOR

ATTESTED:

/s/Rebecca Hamilton
REBECCA HAMILTON, CITY CLERK

3. Consider second reading for an ordinance 0 2009 02 amending the City of Pikeville Chapter 34 "Personnel and Employment Policies. Commissioner Layne made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for further discussion, there being none the Mayor called for Roll Call. The ordinance was passed unanimously.

**ODINANCE AMENDING CHAPTER 34 "PERSONNEL
AND EMPLOYMENT POLICIES" DELETING VARIOUS
SECTIONS NO LONGER APPLICABLE AND REFERING
ORDINANCE TO PERSONNEL POLICY MANUEL ADOPTED
9-12-05**

ORDINANCE NO. 0-2009-02

BE IT ORDAINED BY THE CITY OF PIKEVILLE AS FOLLOWS:

Chapter 34 "Personnel and Employment Policies" is amended as follows: Is this applicable to

**CHAPTER 34: PERSONNEL AND EMPLOYMENT
POLICIES**

GENERAL PROVISIONS

§ 34.01 PIKEVILLE PERSONNEL GUIDELINES MANUAL ADOPTED.

The Personnel Guidelines Manual attached to Ord. No. 0-2005-019 is hereby adopted as the Personnel and Policy Manual for the City of Pikeville. Copies are available for public inspection during normal business hours at the office of the City Clerk. Any amendments to said policy manual must be dated made via motion and a majority vote by city commission.

(Ord. 0-2005-019, passed 9-12-05)

BENEFITS

§ 34.15 POLICY

The Personnel Guidelines Manual attached to Ord. No. 0-2005-019 is hereby adopted as the Personnel and Policy Manual for the City of Pikeville. Said manual will contain the complete benefits package for all personnel employed directly by the City of Pikeville. Copies are available for public inspection at the office of the City Clerk. Any amendments to said policy manual must be dated made via motion and a majority vote by city commission.

34.23 PARTICIPATION IN COUNTY EMPLOYEES RETIREMENT SYSTEM.

(A) The city is hereby authorized to participate in the County Employees Retirement System effective July 1, 1989 and all eligible regular full-time officers and employees of the city are hereby authorized and directed to comply with the statutory requirements of this retirement system.

(B) All the employees of the city (either employed under nonhazardous job positions or hazardous positions) whose duties require an average of one hundred (100) hours during each working month shall be considered as "regular full-time" employees for county retirement purposes except those employees of agencies excluded as shown below which may participate in the system as a separate agency and those other employees who are employed as "temporary", "part-time" and "seasonal" workers, as defined in KRS 78.510 (21) of the County Employees Retirement Laws. The agencies expressly excluded as authorized by KRS 78.530 are the City of Pikeville Urban Renewal Agency and all other Boards or Commissions authorized by the city should they be determined to be an agency of the city.

(C) The city will comply with all the statutory requirements to make the County Employees Retirement System Hazardous Duty Coverage available for all eligible employees who are working under approved positions within the police and fire departments .(Ord. 0-89-004, passed 4-10-89)

§ 34.23 RETIREMENT.

(A) The retirement system created will be available to retired city employees who meet the following criteria:

- (1) Who were employed by the city on August 25, 1975; and
- (2) Who have completed at least twenty five (25) years of employment with the city; and
- (3) Who retire from employment for the city.

(B) The pension shall be five hundred dollars (\$500.00) per month payable from the general funds, but there shall be a dollar for dollar offset for any other pension or retirement benefits received from any other source other than social security or SSI by the employee. With regard to the city's funded pensions, this offset shall apply to only that portion of any city funded pension benefits that are attributed to city contributions to the pension. The portion of the benefit attributed to the city employee's contribution shall not be offset. The offset provided for herein shall apply retroactively to all other pension or retirement benefits heretofore granted as described in the preamble hereto.

(C) The pension shall be payable only to the employee for and during his or her natural life and no payment will be due or payable to either the dependents of, heirs of, spouse of or other relatives of the employee following his or her demise.

(D) No disability plan or fund is established.

(E) This section shall not create any property rights and shall be subject to amendment or cancellation at any time.

(F) No policemen or firemen are eligible to participate in this retirement plan. The above ordinance was given first reading this 26th day of January, 2009.

The ordinance was given a second reading on the 9th day of February, 2009.

Passed this 9th day of February, 2009.

Commissioner Layne moved for the adoption of the foregoing ordinance.

Commissioner Carter seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

/s/Frank Justice _____
FRANK JUSTICE, II, MAYOR

ATTESTED:

/r/ Rebecca Hamilton _____
REBECCA HAMILTON, CITY CLERK

4. Consider second reading of an ordinance 0 2009 05 amending the City of Pikeville Chapter 150 "Building Regulations" amending various fees for demolition and foundations. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for further discussion and asked why we wanted to pass this; City Attorney Rusty Davis answered; this is basically a safety issue for the community. City Manager Donovan Blackburn; There could be potential harm and this would allow the City to be aware of any damages that may occur for anyone doing demolition work. Mayor Justice called for roll call. The ordinance was passed unanimously.

ODINANCE AMENDING CHAPTER 150 "BUILDING REGULATIONS" AMENDING VARIOUS FEES FOR DEMOLITION AND FOUNDATIONS

ORDINANCE NO. 0-2009-05

BE IT ORDAINED BY THE CITY OF PIKEVILLE AS FOLLOWS:

Chapter 150 "Building Regulations" is amended as follows:

CHAPTER 150: BUILDING REGULATIONS
BUILDING PERMITS, DEMOLITION & MISCELLANEOUS FEES
§ 150.15 SCHEDULE OF PERMIT FEES.

(A) Pursuant to Section 116.0 (Fees) of the Kentucky Building Code; the following schedule of fees shall be the approved rates and fees for functions performed pursuant to the Kentucky Building Code.

It shall be unlawful to commence the excavation for or the construction of any building or structure, including accessory buildings, or to commence the moving, alteration or demolition of any building or structure, including accessory buildings, until a permit has been issued for the work.

(1) Schedule of permit fees.

Total Valuation	Fee
\$1,000.00 and less	No fee, unless inspection required, in which case a \$24.00 fee shall be charged.
\$1,001.00 to \$6,000.00	\$24.00 minimum fee
\$6,001.00 to \$25,000.00	.4% of valuation
\$25,001.00 to \$50,000.00	\$100.00 plus .4% over \$25,000.00
\$50,001.00 to \$100,000.00	\$200.00 plus .33% over \$50,000.00
\$100,001.00 to \$500,000.00	\$365.00 plus .25% over \$100,000.00
\$500,001.00 and up	\$1,365.00 plus .15% over \$500,000.00

(2) All fees are based on the nearest thousand dollars.

(3) A twenty-five dollars (\$25.00) one (1) time fee for the moving of any mobile home or mobile structure into the city limits.

(4) A fifty dollar (\$50.00) fee for the moving of any building or structure.

(5) A fifty dollar (\$50.00) fee for state inspected projects.

(6) A twenty five (\$25.00) fee for foundation or footer inspections.

(7) All Demolition Projects fee will be \$10.00 per \$1,000 cost

(B) (1) In the event that construction is begun before the valid issuance of building/job permit as required herein or by the Kentucky Building Code, the schedule of building/job permit fees shall be double the amount set forth in division (A) above and in no case less than one hundred dollars (\$100.00) to cover the increased cost associated with determining the identity of the contractor, notifying the contractor or his or her obligation to obtain a building permit, to assess the job site for building code violations and to take emergency action if necessary.

(2) Any person or company that has been assessed the double building/job permit fee provided for herein three (3) times shall be deemed a habitual violator and thereafter shall be required to pay in addition to the fees provided for in divisions (A) or (B) (1) above a habitual violator fee of five hundred dollars (\$500.00) to offset the increased cost to monitor and inspect the construction activities of the habitual violator. The habitual violator fee shall be assessed to a habitual violator regardless of whether a valid building permit is obtained before construction begins on a specific job. The habitual violator status will terminate if the habitual violator is issued timely (before commencement of construction) five (5) building/job permits without the intervention of an untimely permit.

(3) All building/job permit fees provided for in divisions (A) and/or (B)(1) and/or (B)(2) above shall after thirty (30) days of being due and payable become a lien upon the real estate, and improvements thereon, for which the building/job permit was or was required to be issued upon.

(4) No job/building permit shall be issued to an applicant if the applicant owes the City of Pikeville any building or job permit fees.

(C) In cases where the state Building Inspector has assumed the responsibility to do codes enforcement inspections or where the state by law is required to perform the codes inspection, the permit fee shall be fifty dollars (\$50.00).

(D) In cases where the Building Inspector has reason to believe that because of the nature of the type of construction to be done in connection with all building permits that damage may occur to any public sidewalk, street or roadway, the Inspector shall defer issuing a building permit until such time as the City Engineer has been given an opportunity to review the plans and specifications for construction. In the event that the City Engineer determines that because of the nature or extent of the construction to be undertaken by the applicant, that damage may result in any public sidewalk, street or roadway because of the construction undertaken or which may result from vehicles or materials accessing the building site of such a weight so as to cause damage to a public roadway or sidewalk, the City Engineer shall immediately advise the Building Inspector of this fact and shall estimate in a dollar amount the potential damages that may occur to public sidewalks, streets or roadways. Upon receipt by the Building Inspector of such notification, the Building Inspector shall not issue a building permit until such time as the applicant shall file with the city a bond in the amount set forth by the City Engineer, with surety to be approved by the Inspector. Said bond shall be conditioned to indemnify the city for any loss or damage resulting from the work undertaken or the manner in doing the same to public sidewalks, streets or roadways. The bond shall further be conditioned that the city will be paid by the surety thereupon in the event that the principal fails to pay. Any damage to public sidewalks, streets or roadways shall be restored by the applicant under the direction and satisfaction of the Building Inspector and Codes

Enforcement Officer. Upon failure or refusal of the applicant to restore the same, the city may proceed without notice to make restoration and shall forfeit the bond required to be posted herein. In no case shall the bond be determined to be the limit on the amount of damages which can be sought against the applicant. In the event that the cost of restoration performed by the city should exceed the amount of the bond, the city shall proceed to collect the remainder due from the applicant.

§ 150.20 DAMAGE TO ADJACENT PROPERTY.

(A) In all cases where there is a possibility of damage to city or private properties such as sidewalks, streets, adjacent buildings or utilities as a result of the proposed construction, moving, or demolition, security in an amount deemed sufficient by the Building Inspector may be required. The security may be furnished in the form of cash, negotiable securities, or surety bond.

The above ordinance was given first reading this 26th day of January, 2009.

The ordinance was given a second reading on the 9th day of February, 2009.

Passed this 9th day of February, 2009.

Commissioner Davis moved for the adoption of the foregoing ordinance.

Commissioner Chaney seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

/s/ Frank Justice _____
FRANK JUSTICE, II, MAYOR

ATTESTED:

/s/ Rebecca Hamilton _____
REBECCA HAMILTON, CITY CLERK

5. Consider second reading of an ordinance 0 2009 01 enacting and adopting a supplement to the Code of Ordinances for the City of Pikeville 12-2008. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for further discussion and asked why we wanted to pass this; City Attorney Rusty Davis answered; this is basically a safety issue for the community. City Manager Donovan Blackburn; There could be potential harm and this would allow the City to be aware of any damages that may occur for anyone doing demolition work. Mayor Justice called for roll call. The ordinance was passed unanimously.

**ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO
THE
CODE OF ORDINANCES
OF THE CITY OF PIKEVILLE, KENTUCKY**

ORDINANCE NO. 0-2009-01

BE IT ORDAINED BY THE CITY OF PIKEVILLE AS FOLLOWS:

The following ordinance is adopted as follows:

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 2008-S-15 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 the Code of Ordinances of this municipality; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Kentucky Revised Statutes;

WHEREAS, IT IS THE INTENT OF Council to accept these updated sections in accordance with the Changes of the law of the Commonwealth of Kentucky;

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville;

SECTION 1. That the 2008-s-15 supplement to the Code of Ordinances of the City of Pikeville, Kentucky, as submitted by American Legal Publishing Corporation of

Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage, approval and publication as required by law.

The above ordinance was given first reading this 26 day of January, 2009.

The ordinance was given a second reading on the 9th day of February, 2009.

Passed this 9th day of February, 2009.

Commissioner Layne moved for the adoption of the foregoing ordinance.

Commissioner Chaney seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

/s/Frank Justice _____
FRANK JUSTICE, II, MAYOR

2/9/09 _____
Date Signed

ATTESTED:

/s/Rebecca Hamilton _____
REBECCA HAMILTON, CITY CLERK

6. Consider first reading of an ordinance declaring the intention to annex certain unincorporated territory comprising of approximately 350.21 acres onto Lykins Branch, Pike County, Kentucky. Second reading will be at the next regular scheduled meeting on February 23, 2009 at 6:00 pm. At Pikeville City Hall, 118 College Street, Pikeville, KY 41501.

D. City Manager Report: City Manager Donovan Blackburn asked the commission to consider the following requests.

1. Consider request to re appoint Judi Patton as the City of Pikeville's representative to the Pikeville/ Pike County Tourism Board for another term. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Justice called for further discussion, there being none the motion carried unanimously.
2. Consider request to submit a scholarship application to the Kentucky Municipal Clerks Association Education Foundation on behalf of the City Clerk. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Frank Justice called for discussion. City Manager stated this was to help cover costs for certification if award for the training of the city clerk. Mayor Justice called for the vote to approve as submitted and the motion carried unanimously.
3. Consider request to adopt a resolution supporting the application for a Land and Water conservation grant in the amount of \$75,000.00. Mayor Justice; is there a match? City Manager; yes 50% and this is the second grant application that Minta Chaney has been working on since she is consuming her duties in grant writing for the City. Mayor Justice; What projects will this support? City Manager; The Pikeville Pond Area. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for discussion, there being no further discussion the motion carried unanimously.
4. Consider the request to extend a job offer to Betty Long for the position of City 911 Dispatcher at the city position pay rate contingent upon passing all required pre employment tests. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for discussion, there being no further discussion motion passed unanimously.
5. Consider the request to extend a job offer to Kim Ratliff for the position of Utility Clerk at the city position pay rate contingent upon passing all required pre employment tests. Commissioner Chaney made the motion to approve. Commissioner Carter

seconded the motion. Mayor Justice called for discussion, there being no further discussion motion passed unanimously.

6. Consider the request to extend a job offer to Robbi Howell for the position of Director of Events/ Annex Administrator at the city position pay rate contingent upon passing all required pre employment tests. Commissioner Carter made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for discussion, there being no further discussion motion passed unanimously.
7. Consider request to adopt the amended rental agreements for the Garfield Annexation Building and the Pikeville Fire Department as presented. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously.
8. Consider a request to bid excavator as a capitol item. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice asked Utility Manager Greg May if this was a budgeted item. Mr. May replied; Yes. Mayor Justice; This has rubbered tracks? Mr. May; Yes. Mayor called for further discussion, there being none the motion passed unanimously.
9. Consider a request for closed session for the purpose of discussion of legal and economic development issues. Commissioner Layne made the motion to approve. Commissioner Davis seconded the motion. Motion passed unanimously.
10. Consider request to re convene. Commissioner Chaney made motion to re-convene into regular session. Commissioner Davis seconded the motion.
11. Consider request for mayor to sign and to mail a letter to Davis Spenard, Assistant Attorney General in reference to the Pikeville Utility Rate. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for further discussion, there being none the motion passed unanimously.

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

The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is February 23, 2009 at 6:00 p.m.

APPROVED:

FRANKLIN D. JUSTICE, II, MAYOR

ATTESTED:

REBECCA HAMILTON, CITY CLERK