

**CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
SPECIAL CALLED MEETING MINUTES
May 29, 2009 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a special called session on Monday, May 29, 2009. The meeting was held in the City Hall Conference Meeting Room located at 118 College Street, Pikeville, Kentucky.

1. There being a quorum present, Mayor Franklin D. Justice called the meeting to order at: 4:00 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

2. A list of City Bills totaling \$169,663.35 was presented to the Commission for approval of payment. Presented was a list bill in the amount of \$143,097.55 along with bills from Summit Engineering totaling \$26,565.80 for a total bill amount of \$169,663.35. Commissioner Davis made the motion to approve. Commissioner Layne seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously 5-0.

3. City Manager request the commission to consider authorizing all required easements authorized by the City Manager on any property owned by the City of Pikeville located on or near Thompson Road be conveyed to AEP for the purpose of the construction of Thompson Road Project and to authorize the Mayor to sign and execute any such required easements. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for additional comments, there being none the motion passed unanimously 5-0.

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

4. 2nd reading of an Ordinance 0-2009-011 was read requesting the commission to adopt the City of Pikeville 2009-2010 annual budget. Commissioner Chaney made the motion to adopt the ordinance. Commissioner Carter seconded the motion.

Mayor Justice called for further discussion, there being none the Mayor called for a roll call vote. The ordinance was adopted 5-0 as shown.

AN ORDINANCE ADOPTING THE CITY OF PIKEVILLE, KENTUCKY
ANNUAL BUDGET FOR THE FISCAL YEAR JULY 1, 2009 THROUGH JUNE 30,
2010,
BY ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS
FOR THE OPERATION OF CITY GOVERNMENT

ORDINANCE NO. 0-2009-011

WHEREAS, an annual budget proposal and message has been prepared and delivered to the City Commission; and

WHEREAS, the City Commission has reviewed such budget proposal and made necessary modifications.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY OF PIKEVILLE,

SECTION I: That the annual budget for the fiscal year beginning July 1, 2009 and ending June 30, 2010 is hereby adopted per Exhibit "A" attached.

SECTION II: That this ordinance shall be in effect on July 1, 2009.
The above ordinance was given first reading this 11th day of May, 2009.
At Pikeville, Kentucky, this ordinance was given a second reading
on the 29th day of May, 2009.
Passed this 29th day of May, 2009.

Commissioner Barry Chaney moved the adoption of the foregoing Ordinance.
Commissioner Jimmy Carter seconded the motion.

Upon call of the roll, the votes were as follows;

	YES	NO
FRANKLIN D. JUSTICE, II MAYOR	<u>X</u>	_____
JAMES A. CARTER, COMMISSIONER	<u>X</u>	_____
EUGENE W. DAVIS, 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
FRANKLIN D. JUSTICE, II, MAYOR

ATTEST:

/S/ Rebecca Hamilton
REBECCA HAMILTON, CITY CLERK

5. 2nd reading of an Ordinance 0-2009-012 was read requesting the commission to adopt the ordinance amending Chapter 93 Parks and Recreation. Commissioner Layne made the motion to adopt the ordinance. Commissioner Carter seconded the motion. Mayor Justice called for further discussion, there being none the Mayor called for a roll call vote. The ordinance was adopted 5-0 as shown.

**AN ORDINANCE AMENDING CHAPTER 93
“PARKS AND RECREATION”
CREATING SECTION 93.25 and AMENDING
SECTION 93.99**

ORDINANCE NO: 0-2009-012

WHEREAS, the City of Pikeville City Commission is amending Chapter 93 Parks and recreation.

NOW, THEREFORE, BE IT ORDAINED Chapter 93 “Parks and Recreation” is amended to read as follows:

CHAPTER 93: PARKS AND RECREATION

GENERAL PROVISIONS

§ 93.01 VEHICLES IN DOWNTOWN BUSINESS DISTRICT, PARKS AND RECREATION AREAS PROHIBITED; EXCEPTION.

It shall be unlawful for any vehicles, including but not limited to motorcycles, 4-wheelers, golf-carts, mini-bikes, go-carts, snowmobiles, cars, or trucks, to traverse the turf, playing surface, or sidewalks of any city athletic field, including the Hambley Athletic Field, the City Park, City Walk Track, Tennis Courts or any other City Athletic Softball Field. Maintenance or Emergency vehicles acting on behalf of the city are exempt from this section.

CITY PARK & DOWNTOWN BUSINESS DISTRICT

§ 93.16 PROHIBITIONS; EXCEPTIONS.

(1) No person while in the City Park or downtown business district of the City of Pikeville shall ride, propel or in any manner operate roller skates, in-line roller blades, a skateboard or motorized scooter.

(2) No person within the downtown business district shall ride, propel or in any manner operate roller skates, in-line roller blades, a skateboard or non-motorized scooter on public rights-of-way, streets, parking garage, public roadways public parks and other public recreational facilities within the boundaries or territories mentioned.

(3) The use of skate boards, roller skates, roller blades, bicycles or any other motorized or non-motorized device with wheels or rollers upon which a person may ride shall be prohibited in the City Park adjacent to Huffman Avenue and College Street, including but not limited to the public sidewalk and grounds located therein.

(4) This section does not apply, so long as they are used for the purpose for which they were intended, to wagons, wheel chairs, strollers or other devices designed and used for the transportation of children, infants, physically challenged, or incapacitated persons, or to carts or other devices intended and used for transporting merchandise or materials.

BOB AMOS PARK

§ 93.25 PROHIBITIONS; EXCEPTIONS.

(1) For the purpose of public safety it shall be unlawful for any person to trespass onto or through any areas that are gated, fenced or may be marked as restricted areas within the confines of Bob Amos Park.

(2) All such areas shall be designated and may be marked as restricted by the City of Pikeville. Any person or persons found to be trespassing may be subject to a citation for each offence. Citation will not exceed the maximum penalty as outlined under section 93.99.

(3) Citations for such an offence may be issued by the police department personnel, fire chief, fire marshal, project manager, codes officer, parks director, city manager or any other designated official who works for the city approved by the city manager.

§ 93.99 PENALTY.

(A) Any person violating any provision of § 93.16 Chapter 93 may be fined ~~in a sum~~ a minimum of \$100.00 per violation however the maximum amount is not to exceed the maximum amount allowed by law for the commission of a misdemeanor.

(B) In addition to any other penalty provided for herein, any person violating § 93.16 Chapter 93 will subject the offending vehicle to impoundment by the police for a period of time not to exceed thirty (30) days. If the offending vehicle is impounded from a minor (person under the age of 18) then a parent or guardian must accompany the minor to claim the offending vehicle from the police department within the (30) day period. All outstanding fines must be paid in full before such time the property will be turned back over to the owner.

(C) In addition the City of Pikeville reserves the right to charge any individual(s) with criminal trespass under the Kentucky Revised Statutes for the violation of any provision of Chapter 93.

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 11th day of May, 2009; the ordinance was given a second reading on the 29th day of May, 2009.

Passed this 29th day of May 2009.

Commissioner Dallas Layne moved for the adoption of the forgoing ordinance.

Commissioner Barry Chaney seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

/S/ Frank Justice
FRANKLIN D. JUSTICE, II MAYOR

ATTEST:

/S/ Rebecca Hamilton

REBECCA HAMILTON, CITY CLERK

6. 2nd reading of an Ordinance 0-2009-013 was read requesting the commission to amend the City of Pikeville 2008-2009 annual budget. Commissioner Chaney made the motion to adopt the ordinance. Commissioner Carter seconded the motion. Mayor Justice called for further discussion, there being none the Mayor called for a roll call vote. The ordinance was adopted 5-0 as shown

**ORDINANCE AMENDING THE FISCAL BUDGET
FOR THE 2008-2009 FISCAL YEAR**

ORDINANCE NO. 0-2009-013

WHEREAS, certain additional information has come to the attention of the Finance Department which necessitates the amendment of the 2008-2009 fiscal year budget to reflect certain increases and decreases to revenues and expenditures.

NOW, THEREFORE be it ordained by the City of Pikeville that the fiscal budget for the 2008-2009 fiscal year is hereby amended to reflect an increase and or decrease of revenues and /or expenditures as reflected in the attached exhibit entitled "Budget Amendments".

The above ordinance was give first reading on May 11th 2009.

The ordinance was given second reading on May 29th, 2009. The ordinance shall be in full force and effect immediately after it is passed and published as required by law.

Passed, this 29th day of May 2009.

Commissioner Jimmy Carter moved the adoption of the foregoing ordinance. Commissioner Dallas Layne seconded the motion.

Upon roll call, the votes were as follows:

	<u>YES</u>	<u>NO</u>
FRANKLIN D. JUSTICE, II MAYOR	<u>X</u>	_____
JAMES A. CARTER, COMMISSIONER	<u>X</u>	_____
EUGENE W. DAVIS, COMMISSIONER	<u>X</u>	_____
DALLAS LAYNE, COMMISSIONER	<u>X</u>	_____
BARRY N. CHANEY, COMMISSIONER	<u>X</u>	_____

The Mayor declared the within Ordinance adopted.

/S/ Frank Justice
FRANKLIN D. JUSTICE, II, MAYOR

ATTEST:

/S/ Rebecca Hamilton
REBECCA HAMILTON, CITY CLERK

7. 2nd reading of an Ordinance 0-2009-014 was read requesting the commission to adopt the ordinance for consent to annex unincorporated territory on Island Creek owned by the First Baptist Church as submitted and read. Commissioner Chaney made the motion to adopt the ordinance. Commissioner Layne seconded the motion. Mayor Justice called for further discussion, there being none the Mayor called for a roll call vote. The ordinance was adopted 5-0 as shown.

**ORDINANCE FOR A CONSENT TO ANNEX BY THE
CITY OF PIKEVILLE CERTAIN UNINCORPORATED
TERRITORY LYING ADJACENT TO THE
PRESENT CITY CORPORATE
OWNED BY THE FIRST BAPTIST CHURCH**

ORDINANCE NO. 0-2009-014

WHEREAS, the First Baptist Church of Pikeville, KY, has submitted their Consent and Request for Annexation, pursuant to KRS 81A.412, for the following described property, and

WHEREAS, the First Baptist Church is the sole owners of the property and the City of Pikeville did received by letter a request authorizing the annexation as voted by the First Baptist Church board of directors which gave authorization to Harold Childress to address a letter on the church and boards behalf for consent and

WHEREAS, the area requested to be annexed is contiguous to the present City limits, and

WHEREAS, the Pikeville City Commission has determined that the benefit of the city to accept this Consent for Annexation of this, area

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PIKEVILLE that the tract or parcel of property described hereinafter, contiguous to the present city limits of Pikeville, Kentucky is hereby declared to be annexed into the corporate limits of the City of Pikeville and shall be by the passage of this ordinance become part of the city for all purposes. The property annexed hereby is described as follows:

City of Pikeville
Proposed Annexation
First Baptist Church
Island Creek Mission
Island Creek, Pikeville, Kentucky

Beginning at a point on the line of the City of Pikeville Corporate Line, Ordinance # 110.15, said point being the on the boundary line between The First Baptist Church of Pikeville and property now or formerly owned by Rosalie Sword and being near Island Creek Road.

Thence, leaving the City of Pikeville Corporate Line and crossing the bottom toward Island Creek S 53°45'39" E a distance of 465.14' to a point in Island Creek; Thence, running up Island Creek S 28°04'12" W a distance of 197.19'; Thence, S 19°35'27" W a distance of 89.42'; Thence, S 41°37'30" W a distance of 68.90'; Thence, S 61°25'51" W a distance of 82.39'; Thence, S 78°40'11" W a distance of 96.30'; Thence, N 83°57'30" W a distance of 40.52'; Thence, leaving Island Creek and Crossing the bottom N 22°47'00" W a distance of 409.97' to a point on the City of Pikeville Corporate Line, Ordinance #110.15; Thence, with the City of Pikeville Corporate line N 01°45'20" W a distance of 106.83'; Thence, N 10°01'10" W a distance of 27.18' to a point near Island Creek Road; Thence, running down Island Creek Road with the City of Pikeville Corporate Line N 54°09'43" E a distance of 129.36'; Thence, N 50°26'24" E a distance of 80.87' to the point of beginning and containing 4.90 acres more or less and being a portion of the tract of land conveyed to The First Baptist Church of Pikeville by Eugene Hagan's and Pegg Hagan's, his wife, and Horton Hagan's and Barbara Hagan's, his wife, by deed dated December 27, 1990 which is of record in Deed Book 646 Page 127 of the records of the Pike County Court Clerk's office.

Steven E. Haywood, PLS #2661

Date: 5/11/2009

A map of the property in which the City of Pikeville proposed to annex prepared by Summit Engineering, Inc. entitled "City of Pikeville, Map Showing Proposed Annexation First Baptist Church Island Creek Mission Island Creek, Pikeville, Kentucky"-- dated 05/11/09 is on file in the office of the city clerk and may be viewed during regular office hours.

This ordinance shall be in full force and effect after it is passed and published as required by law.

The above ordinance was given a first reading this 11th day of May 2009.

This ordinance was given a second reading on the 29th day of May, 2009.

Passed this 29th day of May, 2009.

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

Commissioner Dallas 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> </u>	<u> </u> Abstain
DALLAS LAYNE, COMMISSIONER	<u> X </u>	<u> </u>
JIMMY CARTER, COMMISSIONER	<u> X </u>	<u> </u>
BARRY CHANEY, COMMISSIONER	<u> </u>	<u> </u> Abstain

The Mayor declared the within ordinance adopted.

 /S/ Frank Justice
FRANK JUSTICE, II, MAYOR

ATTESTED:

 /S/ Rebecca Hamilton
REBECCA HAMILTON, CITY CLERK

8. City Commission was asked to consider a 1st reading of an ordinance amending Chapter 150.01 and 150.02 of the City Fire prevention Code. City Attorney Russell read the attached ordinance aloud. No further action was required at this time. The second reading of said ordinance is schedule at the next regular scheduled meeting to be held on June 8th 2009.

Donovan Blackburn, City Manager, presented the following matters for the Commission's consideration:

9. Consider the request to place an advertisement for bid for the purchase of purchasing new police vehicles. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously 5-0.

10. City Manager asked the commission to consider the request to adopt a letter dated May 18th 2009 and the Memorandum of Understanding and all the terms therein as presented to the commission addressed to the city of Ankang, China and to authorize the City Manager to sign, execute and submit to the government of the city of Ankang, China. This is a part of the Sister City program. Commissioner Carter made the motion to approve. Commissioner Layne seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously 5-0.

11. The City Commission was asked to consider the adoption of a contract and resolution and to accept all terms and rates set forth therein of a Wholesale Water Purchase Contract as presented dated May 29th 2009 between the City of Pikeville and Mountain Water and to authorize the Mayor to sign and execute said contract on behalf of the City of Pikeville. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously 5-0.

12. The City Commission was asked to consider the adoption of a Agreement for the purpose of a “Customer Mutual disconnect Agreement” and to accept all terms and rates set forth therein of the Agreement as presented dated May 29th 2009 between the City of Pikeville and Mountain Water and to authorize the Mayor to sign and execute said Agreement on behalf of the City of Pikeville. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously 5-0.

13. City Manager Donovan Blackburn gave the City Commission an update regarding an update on the Pikeville floodwall certification. Mr. Blackburn stated that he was working with Congressman Roger’s office on a grant in order to complete the flood wall certification. The grant application in the amount of \$110,000 was conducted by Submit Engineering and submitted last Friday which was the deadline date for the grant. Congressman’s office is helping to obtain the funding for the grant for the certification. The certification is being driven from FEMA. The city has until August to secure funding and engineering services commitment. Failure to do so will result in FEMA not allowing the Army Corp of Engineers to recognize that he flood wall exists and will lose the protection status of the wall. This will impact flood insurance and the ability to build in the downtown area due to the flood plain. There has been several memorandums and meeting that has taken place over the past year or so with Congressman Roger’s office asking for assistance on this unfunded mandate. City Manager stated he would keep the commission advised as additional information is released.

14. The City Commission was asked to consider a request by the City Manager for a closed executive session for the purpose of discussion of economic development issues concerning Marion Branch, various City personnel human resource issues and a legal issue involving the city Cable Franchise Agreement and Sudden-Link. Commissioner Davis made the motion to approve. Commissioner Carter seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously 5-0.

15. Commissioner Davis made the motion to reconvene from closed executive session back into regular session. Commissioner Carter seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously 5-0.

16. The City Commission was asked to approve the minutes as submitted from the regular commission meeting held on May 11th 2009. 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 5-0.

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

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

APPROVED:

FRANKLIN D. JUSTICE, II, MAYOR

ATTESTED:

REBECCA HAMILTON, CITY CLERK