

**CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
September 28, 2009 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, September 28, 2009. The meeting was held in the City Hall Conference Meeting Room located at 118 College Street, Pikeville, Kentucky.

There being a quorum present, Pro-Tem Mayor Eugene Davis 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 *Absent***

MINUTES

The minutes for the previous regular meeting held on September 14, 2009 were in each Commission Member's agenda package. There being no additions or corrections, Commissioner Carter made the motion to approve the minutes as prepared. Commissioner Chaney seconded the motion. Pro-Tem Mayor Eugene Davis called for discussion, there being none the motion carried unanimously. 4-0

PAYMENT OF CITY BILLS

A list of City Bills totaling \$120,009.62 was presented to the Commission for approval of payment. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Pro-Tem Mayor Eugene Davis called for discussion, there being none the motion carried unanimously. 4-0

- A. 1. City Engineer's Report: Jack Sykes was present with Summit Engineering, Inc. Mr. Sykes submitted pay request #7 to Mountain Enterprises, Inc. in the amount of \$55,547.43 and authorize the mayor pro-tem to sign on the Thompson Road Widening Project. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Pro-Tem Mayor Davis called for further comments, there being none the motion passed unanimously. 4-0.**

2. Consider request to approve change order to add three additional parking spaces at the Thompson Road Fire Station under the Mountain Enterprise contract for Thompson Road Widening for a total not to exceed \$6,000.00. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Pro-Tem Mayor Davis called for discussion, there being none the motion passed unanimously. 4-0.

3. Mr. Sykes submitted a request to add an additional 1,200 linear feet of sewer pipe to the Jerry Kanney Sewer project as a change order to the existing contract for the construction with H20 Construction in the amount of \$47,750. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Pro-Tem Mayor Davis called for discussion, there being none the motion passed unanimously. 4-0.

B. 1. City Attorney Russell Davis was absent. City Manager Donovan Blackburn read into record the following.

1. Mr. Blackburn read into record the 2nd reading of an ordinance per KRS 81A.412 guidelines annexing 17.84 acres of unincorporated territory lying adjacent to the current existing Pikeville City limits boundaries adjacent to Lykins Branch Road. Commissioner Carter made the motion to adopt the ordinance #0-2009-021. Commissioner Layne seconded the motion. Pro-Tem Mayor Davis called for comments, there being none he had the clerk call roll call. Area was annexed by a unanimous vote of 4-0 as indicated below.



ORDINANCE FOR A CONSENT TO ANNEX BY THE CITY OF PIKEVILLE CERTAIN UNINCORPORATED TERRITORY LYING ADJACENT TO THE PRESENT CITY CORPORATE CONSISTING OF APPROXIMATELY 17.84 ACRES LOCATED ON OR NEAR LYKINS BRANCH ROAD

ORDINANCE NO. 0-2009-021

WHEREAS, by the action of required submitted signatures by the property owners for their Consent and Request for Annexation, pursuant to KRS 81A.412, for the following described property, and

WHEREAS, the various property owners are the sole owners of the property and the City of Pikeville did received by letter a request the property owners consent authorizing the annexation of the described property attached herein 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
Description
Lykins Branch #3

Beginning at a point on the City of Pikeville existing corporate boundary, Ordinance #110.11 and being on the boundary line of Quail Valley Subdivision; Thence, up the hill with the City of Pikeville existing corporate boundary S 59°05'47" W a distance of 128.12'; Thence, S 53°44'52" W a distance of 132.80'; Thence, S 52°39'45" W a distance of 21.85' a common point on the City of Pikeville existing corporate boundary line, Ordinance #110.12 and City of Pikeville corporate boundary, Ordinance #0-2007-024; Thence, with the city of Pikeville corporate boundary, Ordinance #0-2007-024 N 52°19'37" W a distance of 24.93'; Thence, N 19°31'17" E a distance of 168.90'; Thence, N 02°55'30" W a distance of 176.50'; Thence, S 87°34'38" W a distance of 70.83'; Thence, S 72°18'14" W a distance of 73.88'; Thence, S 35°01'03" W a distance of 139.61'; Thence, S 56°57'54" W a distance of 36.24'; Thence, S 80°06'14" W a distance of 82.86'; Thence, S 75°18'12" W a distance of 59.72'; Thence, S 64°59'33" W a distance of 58.43'; Thence, S 51°04'56" W a distance of 63.14'; Thence, S 36°09'51" W a distance of 60.99' to a common point on the City of Pikeville corporate boundary, Ordinance #0-2007-024 and City of Pikeville corporate boundary, Ordinance #0-2009-016; Thence, continuing with City of Pikeville corporate boundary, Ordinance #0-2009-016 N 68°35'47" W a distance of 316.55'; Thence, N 40°08'07" E a distance of 276.46'; Thence, N 20°04'52" W a distance of 262.97'; Thence, N 10°39'28" E a distance of 345.15'; Thence, N 02°04'59" W a distance of 640.24' to a point at or near the line of Donald R. Tackett; Thence, leaving the City of Pikeville corporate boundary and running with Donald R. Tackett S 62°44'39" E a distance of 132.94'; Thence, N 16°21'26" E a distance of 14.21'; Thence, N 31°36'24" E a distance of 243.03' to a point at or near the CSX Railroad right of way; Thence, with the CSX Railroad right of way S 67°49'35" E a distance of 61.94'; Thence, S 70°18'11" E a distance of 166.22'; Thence, S 72°17'42" E a distance of 181.56'; Thence, S 74°24'40" E a distance of 57.12' to a point; Thence, leaving the CSX Railroad right of way and running with the common line between Oliver Blackburn and Deskins Hollow Drive S 29°22'11" W a distance of 186.15'; Thence, S 26°08'20" W a distance of 121.11'; Thence, S 20°07'27" W a distance of 58.95' to a point at or near the corner of Michael Shane Hall; Thence, with the common line between Michael Shane Hall and Deskins Hollow Drive S 31°07'37" W a distance of 130.62' to a point at or near the corner of Oliver Blackburn; Thence, with the common line between Oliver Blackburn and Deskins Hollow Drive S 27°01'37" W a distance of 245.66' to a point at or near the corner of William David Deskins; Thence, with William David Deskins S 29°22'54" W a distance of 132.87'; Thence, S 21°22'54" W a distance of 78.57'; Thence, S 11°49'41" W a distance of 69.88'; Thence, S 22°37'53" E a distance of 41.36'; Thence, S 54°29'16" E a distance of 90.45'; Thence, S 46°00'02" E a distance of 39.56' to a point at or near the corner of Bob and Montana Runyon; Thence, S 53°12'45" E a distance of 28.15'; Thence, S 67°13'12" E a distance of 81.08' to a point at or near the corner of Randy and Vicki Ward; Thence, S 67°47'16" E a distance of 105.98' to a point at or near the line of Howard Keith Hall; Thence, S 19°21'08" W a distance of 25.38'; Thence, S 52°44'27" E a distance of 141.51'; Thence, N 81°23'34" E a distance of 48.70'; Thence, leaving the line of Howard Keith Hall S 78°47'02" E a distance of 42.46' to a point at or near the line of Mitchell and Linda Collins; Thence, S 72°27'55" E a distance of 147.52' to a point at or near Tom and Barbie Bow; Thence, with Tom Bow S 16°12'05" W a distance of 103.70'; Thence, S 29°20'09" E a distance of 89.26' to the point of beginning and containing 17.84 acres more or less.

Steven E. Haywood, PLS #2661

Date: 8/19/09

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 Lykins #3, Pikeville, Kentucky 41501"– dated 08/21/09 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 14th day of September, 2009. This ordinance was given a second reading on the 28th day of September, 2009.

Passed this 28 day of September, 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	_____	_____	Absent
GENE DAVIS, COMMISSIONER	<u>X</u>	_____	
DALLAS LAYNE, COMMISSIONER	<u>X</u>	_____	
JIMMY CARTER, COMMISSIONER	<u>X</u>	_____	
BARRY CHANEY, COMMISSIONER	<u>X</u>	_____	

The Mayor declared the within ordinance adopted.

/s/ Eugene Davis
EUGENE DAVIS, PRO TEAM MAYOR

ATTESTED:

/s/ Rebecca Hamilton

2. Mr. Blackburn read into record for an adoption of an emergency ordinance 0-2009-023 levying a property tax rate of .15 cents per \$100.00 assessed value of property owned. This is no change from last year's tax rate. Commissioner Chaney made the motion to adopt. Commissioner Carter seconded the motion. Pro-Tem Mayor called for roll call. Ordinance was adopted. 4-0 as shown below.

AN ORDINANCE FIXING A TAX LEVY ON REAL AND TANGIBLE PERSONAL PROPERTY, FRANCHISES, ALL FOR THE GENERAL OPERATING EXPENSE PURPOSES AND PROVIDING FOR A DUE DATE AND DISCOUNT ON ALL TAXES, IF PAID ON OR BEFORE NOVEMBER 10th, 2009 AND PENALTIES IF NOT PAID BY JANUARY 10th, 2010.

ORDINANCE NO. O-2009-023

SECTION I. The County Assessment of property situated within the City of Pikeville, both real and personal, is hereby adopted.

SECTION II. For the purposes of providing funds for the general operating expenses of the City of Pikeville for the Fiscal Year from July 1, 2009 to June 30, 2010, the following taxes are levied and the revised collection schedule adopted.

(A) Upon all real estate within the City of Pikeville not specifically exempted from taxation, situated within the City of Pikeville, of \$0.15 per one-hundred (\$100.00) dollars, of assessed value.

(B) A tax upon all tangible personal property and franchises, not specifically exempted from taxation, a tax of \$0.15 per one-hundred (\$100.00) dollars, of assessed value.

SECTION III. A discount of two (2%) percent of the total amount of the tax bill is hereby allowed upon all tax bills paid on or before November 10th, 2009.

SECTION IV. The face amount of tax without discount or penalty shall be due for tax bills that are paid after November 10th, 2009 through January 10th, 2010.

SECTION V. A penalty of five (5%) percent of the total amount of the tax bills that are not paid on or prior to February 10th, 2010 shall be imposed and collected.

SECTION VI. A penalty of twenty-one (21%) percent of the total amount of the tax bills that are paid after February 10th, 2010 shall be imposed and collected.

SECTION VII. Certificates of delinquency shall bear interest from the date of issuance until collected at the rate of twelve percent (12%) per annum.

SECTION VIII. The Tax Administrator is hereby designated and authorized to Collect the tax imposed herein.

SECTION IX. . This Ordinance is passed pursuant to, in compliance with, and by virtue of the authority of the following constitutional and statutory provisions, to- with: Kentucky Constitution, 157, 170, and 181; Kentucky Revised Statutes, 92.280; 92.281; 92.290; 92.330; 132.010; 132.020; and 134.430.

SECTION X. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION XI. An emergency is declared to exist with regard to the adoption of the ordinance. Said emergency being that the property tax bills are now ready to be mailed and the delay in mailing the property tax bills may cause a financial hardship upon the City of Pikeville.

Passed this 28th day of September, 2009.

Commissioner _____ Chaney _____ moved 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>
FRANKLIN D. JUSTICE, II, MAYOR	___	___ Absent
JAMES A. CARTER, COMMISSIONER	_x_	___
EUGENE W. DAVIS, COMMISSIONER	_x_	___
BARRY N. CHANEY, COMMISSIONER	_x_	___
DALLAS LAYNE, COMMISSIONER	_x_	___

The Mayor declared the within ordinance adopted.

/s/ Eugene Davis
Pro Team Mayor Eugene Davis
ATTEST:

/s/ Rebecca Hamilton
City Clerk

- 3. Mr. Blackburn read into record a resolution accepting the proposal and bid for Inter Mountain Cable Inc. for a non exclusive, 10 year franchise for the operation of a cable television system within the confines of the City of Pikeville and to authorize the Pro-Tem Mayor to sign and execute the resolution. Commissioner Layne made the motion to accept the bid and adopt the resolution. Commissioner Chaney seconded the motion. Pro-Tem Mayor called for comments, there being none the resolution was adopted. 4-0.**

RESOLUTION

A RESOLUTION ACCEPTING THE PROPOSAL OF INTER-MOUNTAIN CABLE INC. FOR A NON-EXCLUSIVE, TEN (10) YEAR FRANCHISE FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE CONFINES OF THE CITY OF PIKEVILLE.

WHEREAS, pursuant to the Communications Act of 1934, as amended, the Pikeville City Commission has determined that Inter Mountain Cable Inc. has the financial, legal and technical ability to provide the service, facilities and equipment it is proposing to provide in its proposal; and that Inter Mountain Cable Inc.'s proposal is reasonable to meet the future needs of the community, taking into account the cost of meeting such needs and interests; and

WHEREAS, the City of Pikeville, pursuant to Ordinance No. 0-2009-022, has created a non-exclusive franchise not to exceed ten (10) years for a cable television system to operate within the confines of the City of Pikeville; and

NOW, THEREFORE, BE IT RESOLVED BY THE PIKEVILLE CITY COMMISSION:

Section 1. That the proposal of Inter Mountain Cable Inc. is hereby accepted and approved for a non-exclusive, ten (10) year franchise for the operation of cable television system within the confines of the City of Pikeville pursuant to Ordinance No.

0-2009-022.

Section 2. That the statements set forth in the Preamble to this Resolution are hereby incorporated in this Resolution by reference, the same as if set forth at length herein.

Section 3. That if any section, sentence, clause or phrase of this Resolution is held to be unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remainder of the Resolution.

Section 4. That this Resolution shall be effective on the date of its passage.

- 4. Mr. Blackburn requested a motion to table the agenda item #3 for the adoption of the moratorium emergency ordinance 0 2009 025 and agenda item #4 for the resolution referring to the Planning Commission amending zoning regulation regarding Drug Treatment Centers. Commissioner Chaney made the motion to table. Commissioner Carter seconded the motion. Pro-Tem Mayor asked for additional comments. Dr. Bill Webb was present and had questions as to why the items where tabled. Mr. Webb was invited back to the next scheduled meeting and work session to be held on October 26, 2009 at 5 pm to discuss. Pro-Tem Mayor called for further discussion, there being none the motion passed unanimously 4-0. The agenda items where tabled.**
- 5. Mr. Blackburn read into record a resolution accepting the proposal and bid for Sudden Link Communications for a non exclusive, 10 year franchise for the operation of a cable television system within the confines of the City of Pikeville and to authorize the Pro-Tem Mayor to sign and execute the resolution. Commissioner Layne made the motion to accept the bid and adopt the resolution. Commissioner Chaney seconded the motion. Pro-Tem Mayor called for comments, there being none the resolution was adopted. 4-0.**

RESOLUTION

A RESOLUTION ACCEPTING THE PROPOSAL OF CEQUEL III COMMUNICATIONS II, LCC D/B/A SUDDENLINK COMMUNICATIONS FOR A NON-EXCLUSIVE, TEN (10) YEAR FRANCHISE FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE CONFINES OF THE CITY OF PIKEVILLE.

WHEREAS, pursuant to the Communications Act of 1934, as amended, the Pikeville City Commission has determined that Cequel III Communications II, LLC d/b/a Suddenlink Communications has the financial, legal and technical ability to provide the service, facilities and equipment it is proposing to provide in its proposal; and that Cequel III Communications II, LLC d/b/a Suddenlink Communications' proposal is reasonable to meet the future needs of the community, taking into account the cost of meeting such needs and interests; and

WHEREAS, the City of Pikeville, pursuant to Ordinance No. 0-2009-022, has created a non-exclusive franchise not to exceed ten (10) years for a cable television system to operate within the confines of the City of Pikeville; and

NOW, THEREFORE, BE IT RESOLVED BY THE PIKEVILLE CITY COMMISSION:

Section 1. That the proposal of Cequel III Communications II, LLC d/b/a Suddenlink Communications is hereby accepted and approved for a non-exclusive, ten (10) year franchise for the operation of cable television system within the confines of the City of Pikeville pursuant to Ordinance No. 0-2009-022.

Section 2. That the statements set forth in the Preamble to this Resolution are hereby incorporated in this Resolution by reference, the same as if set forth at length herein.

Section 3. That if any section, sentence, clause or phrase of this Resolution is held to be unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remainder of the Resolution.

Section 4. That this Resolution shall be effective on the date of its passage.

- 6. Mr. Blackburn read the 1st reading of an ordinance 0-2009-024 amending the City of Pikeville 2009 2010 operations budget. Second reading is scheduled for October 26, 2009 regular scheduled meeting.**

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

- 7. Consider a request to authorize the City Manager to add a pedestrian entrance into the first floor of the parking garage on the College Street side. Engineering has drafted a design for contractor to follow as was submitted and discussed during the work session. Commission Carter made the motion to approve. Commissioner Chaney seconded the motion. Pro-Tem Mayor Davis called for discussion, there being none the motion passed unanimously. 4-0.**
- 8. Consider a request to authorize the resurface & stripping project for the tennis courts located at Bob Amos Park. FEMA has agreed to reimburse the \$22,540 of the project. The total cost of the project will be \$56,943. Tennis Technology cost will be \$19,953 for surface paint, filling and stripping and Mountain Enterprise using state contract price will be in the amount of \$36,990 for the blacktop base. City Manager requested to authorize to start the project contingent up ensuring the estimates from both contractors falls within the state procurement requirements. Commission Chaney made the motion to approve. Commissioner Carter seconded the motion. Pro-Tem Mayor Davis called for discussion, there being none the motion passed unanimously. 4-0.**
- 9. Consider a request to approve "Request for Credit Line" document and authorize the Mayor or Pro-Tem Mayor to sign and execute. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Pro-Tem Mayor Davis called for comments. Mr. Blackburn added this is a yearly precaution, only if needed. Current the City has not had to borrow funds. Pro-Tem Mayor Davis called for further comments, there being none the commission approved. 4-0.**
- 10. Consider a request to adopt a Proclamation supporting the Pikeville Area Family YMCA after School Program and National Celebration of "Lights on Afterschool" and to authorize the Mayor and Commission to sign. Commissioner Chaney made the motion to adopt the Proclamation. Commissioner Carter seconded the motion. Pro-**

Tem Mayor Davis called for additional comments, there being none the motion passed unanimously. 4-0.

11. Consider request to accept and adopt the Sister City Agreement, between the City of Pikeville and Ankang City, Shaanxi Prc. as submitted and to authorize the City Manager, Donovan Blackburn to sign and execute said agreement on behalf of the City of Pikeville. Furthermore to name City Manager Donovan Blackburn as the head of the Delegation for the upcoming trip to China and to bestow all powers and authorities to act in this official capacity during the visits to China in October of 2009. Commission Carter made the motion to approve. Commissioner Chaney seconded the motion. Pro-Tem Mayor Davis called for discussion, there being none the motion passed unanimously. 4-0.
12. Consider request to approve and adopt amended city personnel policies 4.3 and 4.15 as submitted. Commissioner Carter made the motion to approve. Commissioner Layne seconded the motion. Pro-Tem Mayor Davis called for discussion, there being none the motion passed unanimously. 4-0.
13. Consider a request to authorize the Pro-Tem Mayor to sign and approve letters of Intent for various projects to be submitted to the Kentucky Emergency management Hazard Mitigation Grant program. Projects are Outdoor Sirens; \$200,000.00, AM Radio Warning Stations; \$230,000.00; Satellite Phones; \$15,000.00, City Hall Generator; \$50,000.00, Mobile Pump; \$65,000.00; Emergency Generators for Waster and Water Plants; \$645,000.00 and understand there is a match of up to 15% for each project if awarded. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Pro-Tem Mayor Davis called for discussion, there being none the motion passed unanimously. 4-0.
14. Consider request for closed session for discussion of personnel, legal and economic development issues. Commissioner Layne made the motion to adjourn. Commissioner Carter seconded the motion to adjourn. Pro-Tem Mayor called for discussion, there being none the motion passed unanimously to adjourn for closed session. 4-0
15. Commissioner Carter made the motion to re convene. Commissioner Chaney seconded the motion. Pro-Tem Mayor called for discussion, there being none the motion passed unanimously. 4-0. Pro-Tem Mayor called the session back into order.

CONSENT ITEMS

October 12, 2009 regular scheduled City Commission meeting is canceled. Delegation trip for City Manager and Commissioner Carter along with others is scheduled for October 11, 2009 thru October 23, 2009.

Pike County H1N1 Summit on September 29, 2009 at the EXPO at 1:00 p.m.
KLC Conference has notified the city that Donovan Blackburn has been nominated for City Official of the year and Ronald Conn has been nominated as City Employee of the year.

KLC Conference will present the City with the Enterprise Award for the City Park. Sue Varney received Gold POSIE at KLC Conference.

Minta Chaney received Bronze POSIE at KLC Conference.

There being no further business to come before the Commission, Commissioner Carter has made the motion to adjourn the meeting. Commissioner Chaney seconded the motion. Pro-Tem Mayor Davis called for discussion, there being none the meeting was adjourned.

The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is October 26, 2009 at 6:00 p.m.

APPROVED:

FRANKLIN D. JUSTICE, II, MAYOR

ATTESTED:

REBECCA HAMILTON, CITY CLERK