

**CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
May 23, 2011 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, May 23, 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 May 9, 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

Sean Cochran from Cut Thru Adventures was present and addressed the commission. Mr. Cochran states that they had a really good weekend and are excited for the future. He is bringing in paintball and forming leagues; people from all over are wanting to come in and play. There will also be play for the public. There are plans for fishing tournaments; we are wanting to showcase our city lake. Mr. Cochran says that carp fishing has been really good. In the fall, there are plans for a small mouth tournament down on the river and Kentucky Afield has shown interest in being part of it. Another thing we have planned for this year is a triathlon. It will consist of kayaking, bicycling, and running. Interest is being shown as far as from here to Chicago. We are going to show them what Pikeville has to offer. We have been slow getting started because of the weather; and we want to thank you all for helping us out. We are wanting to turn this into a destination area. Mayor Justice asked, "Where are you planning on doing the paintball?" Mr.

Cochran answers, “Behind the YMCA.” Mayor also asked, “Where are you putting in for the small mouth bass fishing?” Mr. Cochran responds, “Behind the Marion’s Branch entrance.” Mayor wants to know if the Marion’s Branch ramp is still in good shape. Mr. Cochran says that the ramp is still in good shape, however it’s not drivable. Mayor says, “So you put in at Marion’s Branch, did you take out down behind Walmart?” Mr. Cochran nods yes. Mr. Cochran goes on to say that we want to change people’s minds about the water around here. Mayor asked, “Are our bass staying healthy in our pond? Don’t have any trouble with people taking them out or anything?” Mr. Cochran replies that they are staying healthy and people are turning them loose as soon as they catch them. Mayor asked, “Do you have a restroom facility down there?” Mr. Cochran says no but it would be nice to have one. Commissioner Carter comments that it is great that you come in here with a plan and I think you are right that this could be a great destination place. City Manager says that Jesse Bowling has a presentation for Mr. Cochran. The News Express published a full page ad and the city bought a frame for the announcement and Jesse presented it to Mr. Cochran. Commissioner Chaney was curious to know what the average size small mouth caught was. Mr. Cochran tells a fishing story and tells there was a 14” fish that he caught not too long ago.

Nancy Yost was also present and presented the commission and the Mayor with pictures. She has been the owner of a store called Second Stage here in Pikeville for 25 years. Ms. Yost put a sign up across the street pointing toward her store. She is upset because she has been told that the sign has to be taken down because she is in violation of an ordinance that her sign is off premises. She presented pictures to the commission signs of other businesses that have signs off premises, and she wants to know why she can’t do so as well. City Attorney Rusty Davis addressed each picture individually. Ms. Yost still had questions so Mayor Justice asked that City Attorney Davis and Codes Officer Robert Smith make an appointment with Ms. Yost to further discuss the situation.

CITY ATTORNEY

1. Consider a 2nd reading and adoption of ordinance #0-2011-011 attempting to annex property on Island Creek consisting of approximately 343.53 acres. Commissioner Chaney made a motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments. Mayor asked City Manager, “Where exactly is this one Donovan?” City Manager answers, “From the Island Creek bridge to the UPS building.” Mayor asked, “Is anybody affected by that reading? Do you have any questions or comments? In your package, you had a map. There were three different readings, 011, 012, and 013.” 011 runs up Island Creek taking in the left hand side to the UPS store ties back into Marion’s Branch. City Manager is pulling up the maps so everyone can get a visual on the areas. Coming across the bridge, there is the Marions Branch area, that has already been annexed, that is the

up creek side. It is kinda like an island, through past annexation you are like an island inside the City of Pikeville. City Manager gets the map out for the citizens to look at and points out the areas. Mayor explains that all this is is an intent to annex, not the actual annexation; he explained the annex process to everyone. Question from a lady, she wants to know how city taxes will affect her as far as property. Mayor explains that if she has her value from the PVA that it would be fifteen cents per hundred dollars. She is also concerned that she would have to pay city school taxes. Mayor reassures her that she will not have to pay these taxes; however the city taxes comes with garbage, police, fire, and these general services of the area. City Manager was on the air a few days back trying to explain to everyone what the “in city rate” and the “out of city rate” would be. Mr. Blackburn tries to explain what the benefits of living in the city would be once again. Someone asked if the city has reduced rates for trash. City Manager answers that we do not have reduced rates but we do have back door service for special needs customers. Another question from the audience, if you are disabled do you get a discount on your taxes. Grace Ratliff, tax administrator, answered yes. A gentleman wants to know about city ordinances, what if he doesn’t want to cut his grass for three weeks what will happen then. City Manager answers that under our ordinance you will be subject to a fine. Another citizen speaks out and says that he has his own water, and his own septic system and he has been there 38 years with no problems. City Manager Blackburn explains to him that he doesn’t have to hook up on the city utilities unless his fails and then he would have to by law. Mayor Justice called for further comments, there being none, Mayor called roll call. Motion passed unanimously. 5-0.

**ORDINANCE DELCARING THE INTENTION OF THE CITY OF
PIKEVILLE TO ANNEX CERTAIN UNINCORPORATED TERRITORY
LYING ADJACENT TO THE PRESENT CITY CORPORATE LIMITS
AND COMPRISING OF APPROXIMATELY 346.53 ACERS EXTENDING
THE CITY’S CORPORATE LIMITS ONTO ISLAND CREEK**

ORDINANCE NO. 0-2011-011

WHEREAS, the City of Pikeville pursuant to KRS81A.420 declares that it is the desirable to annex certain unincorporated territory being more particularly described hereafter,

WHEREAS, the territory to be annexed is adjacent and contiguous to the City of Pikeville’s existing boundaries and

WHEREAS, the Pikeville City Commission has determined that by reason of the population density, commercial and/or industrial use of the surrounding land, the territory

sought to be annexed by the City of Pikeville is urban in character and suitable for development for urban purposes by the City of Pikeville without unreasonable delay;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PIKEIVLLE that the City of Pikeville does hereby declare that it is desirable to annex certain unincorporated property described hereinafter and does hereby declare it the intention of the City of Pikeville pursuant to 81A.420 to annex the property described hereinafter.

The unincorporated territory to be annexed is described as follows:

City of Pikeville
Proposed Annexation
Island Creek Area #1

Beginning at a point on the line of City of Pikeville Corporate Boundary Ordinance #0-86-011 and Ordinance #0-2004-014 and being near the confluence of Marion Branch and the Levisa Fork of the Big Sandy River;
Thence, with the City of Pikeville up Marion Branch S 77°55'10" W a distance of 573.49';
Thence, S 62°57'05" W a distance of 877.47'; Thence, S 14°15'59" W a distance of 310.81';
Thence, S 50°23'23" W a distance of 217.48'; Thence, S 07°23'41" W a distance of 260.36';
Thence, S 86°49'26" W a distance of 345.20'; Thence, leaving Marion Branch and running up a drain and continuing with the City of Pikeville N 74°35'44" W a distance of 432.00'; Thence, S 74°34'16" W a distance of 749.75'; Thence, N 18°50'18" W a distance of 681.63' to the top of the ridge between Island Creek and the Levisa fork of the Big sandy River; Thence, leaving the City of Pikeville and running with said ridge N 14°31'22" E a distance of 455.72'; Thence, N 08°52'43" E a distance of 504.50'; Thence, N 22°30'31" E a distance of 334.73' to the line of the City of Pikeville Ordinance #110.15; Thence, with the City of Pikeville S 69°58'23" E a distance of 146.23'; Thence, S 76°37'03" E a distance of 138.18'; Thence, S 88°13'33" E a distance of 83.19'; Thence, N 58°09'46" E a distance of 556.96'; Thence, leaving the ridge and running down the hill and continuing with the City of Pikeville N 32°34'32" W a distance of 542.13' to a point in a drain; Thence, down the drain continuing with the City of Pikeville N 01°47'39" E a distance of 100.82'; Thence, N 15°58'48" E a distance of 76.61'; Thence, N 00°57'00" W a distance of 131.07'; Thence, N 11°42'15" E a distance of 164.68'; Thence, N 15°47'07" E a distance of 278.17'; Thence, N 21°40'23" E a distance of 94.13'; Thence, N 05°43'08" E a distance of 126.60'; Thence, N 12°26'18" E a distance of 95.13'; Thence, N 15°16'16" E a distance of 119.97'; Thence, N 09°55'19" E a distance of 265.35'; Thence, crossing Island Creek N 10°26'53" E a distance of 427.19'; Thence, N 06°55'48" W a distance of 91.16'; Thence, N 07°51'54" W a distance of 92.19'; Thence, N 01°45'20" W a distance of 47.56' to a point at the City of Pikeville Ordinance #0-2009-014; Thence, continuing with the City of Pikeville Ordinance # 0-2009-014 S 22°47'00" E a distance of 409.97'; Thence, S 83°57'30" E a distance of 40.52' to Island Creek; Thence, down Island Creek continuing with the City of Pikeville N 78°40'11" E a distance of 96.30'; Thence, N 61°25'51" E a distance of 82.39'; Thence, N 41°37'30" E a distance of 68.90'; Thence, N 19°35'27" E a distance of 89.42'; Thence, N 28°04'12" E a distance of 197.19';
Thence, leaving Island Creek and continuing with the City of Pikeville N 54°07'40" W a distance of 465.90' to near Island Creek Road to a point on the line of City of Pikeville Ordinance #110.15; Thence, down Island Creek Road with the City of Pikeville N 50°00'23" E a distance of 169.14'; Thence, up the hil and continuing with the City of Pikeville N 40°47'09" W a distance of 141.90'; Thence, N 34°51'22" W a distance of 110.14'; Thence, N 45°02'02" W a distance of 61.16'; Thence, N 30°36'32" W a distance of 50.22'; Thence, N 49°55'56" W a distance of 195.34'; Thence, N 44°19'35" W a distance of 225.21'; Thence, N 67°16'19" W a distance of 326.00'; Thence, N 71°52'12" W a distance of 80.50'; Thence, N 19°45'50" W a distance of 89.90'; Thence, N 24°59'33" W a distance of 80.16'; Thence, N 34°42'26" W a distance of 202.66'; Thence, N 27°52'07" W a distance of 139.91' the top of the ridge between Island Creek and the Levisa Fork of the Big Sandy River; Thence, down the ridge and continuing with the City of Pikeville N 47°07'21" E a distance of 97.57'; Thence, N 35°34'04" E a distance of 43.12'; Thence, N 47°15'45" E a distance of 68.30'; Thence, N 54°29'55" E a distance of 64.70';
Thence, N 50°22'00" E a distance of 66.77'; Thence, N 63°57'20" E a distance of 65.61';
Thence, N 60°37'29" E a distance of 79.16'; Thence, N 67°24'23" E a distance of 32.60'; Thence, N 71°09'26" E a distance of 102.41'; Thence, N 77°40'34" E a distance of 41.08'; Thence, N 77°17'25" E a distance of 79.71'; Thence, N 81°02'15" E a distance of 48.26'; Thence, N 78°42'23" E a distance of 57.55'; Thence, N 88°31'48" E a distance of 48.94'; Thence, N 88°15'57" E a distance of 82.81'; Thence, N 58°00'35" E a distance of 11.82'; Thence, N 28°23'43" E a distance of 128.75'; Thence, N 57°20'08" E a distance of 126.97'; Thence, N 75°37'01" E a distance of 148.92'; Thence, N 66°49'42" E a distance of 118.74'; Thence, N 35°39'09" E a distance of 160.52'; Thence, N 43°30'46" E a

distance of 551.26' to near Island Creek Road; Thence, crossing Island Creek Road and Island Creek and continuing with the City of Pikeville S 48°40'44" E a distance of 900.58'; Thence, up the hill N 58°37'13" E a distance of 660.81' to a point on the ridge between Island Creek and the Levisa Fork of the Big Sandy River and being on the City of Pikeville Corporate boundary Ordinance #110.14; Thence, running with said ridge line and continuing with the City of Pikeville S 28°19'49" E a distance of 127.05'; Thence, S 21°49'35" E a distance of 123.56'; Thence, S 34°19'36" E a distance of 38.20'; Thence, S 50°43'09" E a distance of 215.12'; Thence, S 28°55'16" E a distance of 41.68'; Thence, S 04°34'44" E a distance of 35.96'; Thence, S 13°08'32" E a distance of 72.13'; Thence, S 12°21'24" E a distance of 69.15'; Thence, S 35°58'18" W a distance of 52.17'; Thence, S 37°55'17" W a distance of 24.08'; Thence, S 14°21'41" W a distance of 85.54'; Thence, S 29°52'54" W a distance of 139.99'; Thence, S 19°34'58" W a distance of 85.14'; Thence, S 18°21'04" W a distance of 30.49'; Thence, S 31°21'28" W a distance of 56.85'; Thence, S 23°13'37" W a distance of 48.24'; Thence, S 25°58'24" W a distance of 43.44'; Thence, S 44°01'34" W a distance of 42.57'; Thence, S 40°04'16" W a distance of 68.96'; Thence, S 45°48'59" W a distance of 41.61'; Thence, S 58°25'15" W a distance of 48.38'; Thence, S 64°44'57" W a distance of 42.06'; Thence, S 79°55'59" W a distance of 48.31'; Thence, N 86°18'41" W a distance of 32.83'; Thence, S 61°52'54" W a distance of 51.51'; Thence, S 51°22'56" W a distance of 33.83'; Thence, S 38°01'57" W a distance of 42.88'; Thence, S 32°21'20" W a distance of 61.22'; Thence, S 39°01'32" W a distance of 57.06'; Thence, S 32°39'37" W a distance of 51.04'; Thence, S 04°23'59" W a distance of 41.29'; Thence, S 02°32'28" E a distance of 47.54'; Thence, S 05°51'44" W a distance of 41.38'; Thence, S 20°00'16" W a distance of 37.06'; Thence, S 28°10'25" W a distance of 51.49'; Thence, S 33°18'26" W a distance of 40.41'; Thence, S 23°01'13" W a distance of 37.84'; Thence, S 14°17'07" W a distance of 43.02'; Thence, S 22°31'07" W a distance of 33.14'; Thence, S 39°29'47" W a distance of 23.25'; Thence, S 26°36'18" W a distance of 37.77'; Thence, S 15°47'15" W a distance of 81.61'; Thence, S 03°41'43" W a distance of 65.58'; Thence, S 18°51'14" W a distance of 49.07'; Thence, S 33°33'13" W a distance of 101.33'; Thence, S 14°52'40" W a distance of 53.51'; Thence, S 09°25'11" W a distance of 84.40'; Thence, S 13°16'42" W a distance of 151.83'; Thence, S 06°38'36" W a distance of 301.61'; Thence, S 09°44'47" W a distance of 74.96'; Thence, S 05°50'06" W a distance of 206.40'; Thence, leaving the ridge and running down the hill S 88°45'59" E a distance of 784.34' to a point in the Levisa Fork of the Big Sandy River and being a point on the line of City of Pikeville Ordinance #0-86-011; Thence, up the Levisa Fork of the Big Sandy River and continuing with the City of Pikeville S 08°24'55" W a distance of 213.86'; Thence, S 06°52'50" W a distance of 88.24'; Thence, S 05°21'26" W a distance of 33.92'; Thence, S 07°47'01" E a distance of 116.93'; Thence, S 01°52'20" W a distance of 258.73'; Thence, S 08°01'09" E a distance of 68.03'; Thence, S 00°36'34" W a distance of 298.72'; Thence, S 09°33'22" W a distance of 221.78'; Thence, S 12°15'01" W a distance of 151.54'; Thence, S 20°50'35" W a distance of 143.97'; Thence, S 09°45'53" W a distance of 29.04'; Thence, S 27°03'36" W a distance of 24.60'; Thence, S 09°52'50" E a distance of 33.85'; Thence, S 37°54'36" W a distance of 30.60'; Thence, S 09°56'18" W a distance of 18.16'; Thence, S 03°36'26" W a distance of 92.63'; Thence, S 01°08'50" E a distance of 111.81'; Thence, S 04°38'14" E a distance of 77.52'; Thence, S 01°02'47" E a distance of 147.01'; Thence, S 00°19'54" E a distance of 77.36'; Thence, S 06°12'10" E a distance of 132.62'; Thence, S 02°23'16" E a distance of 54.07'; Thence, S 07°08'02" E a distance of 93.73'; Thence, S 13°08'07" E a distance of 71.01'; Thence, S 13°36'50" E a distance of 133.27'; Thence, S 32°32'48" E a distance of 63.92' to the point of beginning and containing 346.53 acres more or less.

A map of the property in which the City of Pikeville declares its intention to annex prepared by Summit Engineering, Inc. entitled "City of Pikeville, Area of Proposed Annexation **Island Creek dated April 19, 2011**" is attached hereto.

BE IT FURTHER ORDAINED that following the publication of this ordinance as required by law, that if within sixty (60) days hereof, 50% of the resident voters or owners of real property within the limits of the above-described territory do no petition the Mayor at City Hall, 118 College Street, Pikeville, Kentucky 41501 in opposition to

the proposal, that a final ordinance will be passed finally annexing the above-described territory. If within sixty (60) days hereof, 50% of the resident voters or owner's of real property within the limits of the territory proposed to be annexed, petition the Mayor in opposition to the proposal, an election shall be held at the next regular election occurring at least sixty (60) days after a certified copy of the petition is presented to the County Court Clerk by the Mayor.

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 25th day of April 2011.

This ordinance was given a second reading of the __ day of _____ 2011.

Passed this ____ day of _____,2011.

Commissioner_____ moved for the adoption of the foregoing ordinance.

Commissioner_____ seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

FRANK JUSTICE, II, MAYOR

ATTESTED:

CHRISTY BILLITER, CITY CLERK

NOTICE OF RIGHT TO PETITION

Per KRS 81A.420, this publication shall serve to put on notice all resident voters and real property owners within the territory proposed to be annexed by the City of Pikeville Ordinance O-2011-011, of their right to petition the mayor of the City of Pikeville to place the question of annexation on the ballot for a vote.

A valid petition may be presented to the City of Pikeville's mayor at Pikeville City Hall within 60 days from the enactment of Ordinance O-2011-011. A valid petition must be signed by either 50% of the resident voters within the territory described or 50% of the real property owners within the territory proposed to be annexed.

2. Consider a 2nd reading and adoption of ordinance #0-2011-012 attempting to annex property on Island Creek consisting of approximately 685.38 acres. Commissioner Layne made a motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments. A lady from the audience has a question about animals, outside dogs and horses. Mayor directed this question to the City Manager. Mr. Blackburn asked City Attorney Rusty Davis to address the question. Mr. Davis says that it depends on the zoning of the area, most of Island Creek has not been zoned. If you are a residential area, you are not supposed to have farm animals. If you are classified as a farm, you can have cattle and so forth. In the residential area, we have a leash law in the City of Pikeville. Another resident from Island Creek asked the question of why there was a particular interest in annexing these areas. Mayor Justice replies that we are needing, in our study, housing for our working people and we want to put infrastructure into areas where we can develop housing if the owner so chooses to do so. We have people driving all the way from Letcher Co. and West Liberty to work at our hospital with gas at \$4.00 a gallon now. That's one thing in our comprehensive plan that says Pikeville you have to give the working man a place to live. And if you ever want to develop your property, we work to bring sewage and water there so that you could do that. Commissioner Carter adds that another misunderstanding on the whole annexation is that everyone thinks we are going to come in and foreclose on you and that's not the case. The next question was about building and doing construction on your property. Mayor says that you must have a permit to do construction, but there is no harm in neighbors helping neighbors. Another question was about deceased property owners. The lady was wondering if the heirs could sign in their place. City Attorney Davis says that we go by the PVA records. Mr. Davis says that it is the property owners responsibility to make sure the records are correct. The next question from a resident is in regards to fixed income people, he wants to know if there are taxes on property for fixed income people. Mr. Davis answers that the property tax apply whether you are fixed income or not. The PVA office does our evaluations the same as

with the county. Mayor Justice called for further comments, there being none, Mayor called roll call. Motion passes unanimously. 5-0.

**ORDINANCE DELCARING THE INTENTION OF THE CITY OF
PIKEVILLE TO ANNEX CERTAIN UNINCORPORATED TERRITORY
LYING ADJACENT TO THE PRESENT CITY CORPORATE LIMITS
AND COMPRISING OF APPROXIMATELY 685.38 ACERS EXTENDING
THE CITY'S CORPORATE LIMITS ONTO ISLAND CREEK**

ORDINANCE NO. 0-2011-012

WHEREAS, the City of Pikeville pursuant to KRS81A.420 declares that it is the desirable to annex certain unincorporated territory being more particularly described hereafter,

WHEREAS, the territory to be annexed is adjacent and contiguous to the City of Pikeville's existing boundaries and

WHEREAS, the Pikeville City Commission has determined that by reason of the population density, commercial and/or industrial use of the surrounding land, the territory sought to be annexed by the City of Pikeville is urban in character and suitable for development for urban purposes by the City of Pikeville without unreasonable delay;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PIKEIVLLE that the City of Pikeville does hereby declare that it is desirable to annex certain unincorporated property described hereinafter and does hereby declare it the intention of the City of Pikeville pursuant to 81A.420 to annex the property described hereinafter.

The unincorporated territory to be annexed is described as follows:

City of Pikeville
Proposed Annexation
Island Creek Area #2

Beginning at a point on the City of Pikeville Corporate Boundary Line Ordinance #110.15 and being near the Island Creek Road;

Thence, leaving the City of Pikeville and crossing Island S 35°26'31" W a distance of 333.19';
Thence, running with the toe of the hill S 48°16'28" W a distance of 176.56'; Thence, S 67°17'15" W a distance of 224.08'; Thence, S 57°20'19" W a distance of 412.91'; Thence, N 77°37'23" W a distance of 347.91' cross the Left Fork of Island Creek near the confluence with Island Creek; Thence, up the ridge between Island Creek and the Left Fork of Island Creek N 88°40'06" W a distance of 328.96'; Thence, S 81°01'53" W a distance of 245.19'; Thence, S 66°10'14" W a distance of 119.84'; Thence, S 86°07'24" W a distance of 150.76'; Thence, N 74°18'23" W a distance of 447.92'; Thence, N 57°48'57" W a distance of 416.07'; Thence, N 73°13'28" W a distance of 429.09'; Thence, N 82°34'19" W a distance of 151.26'; Thence, N 86°38'06" W a distance of 222.10'; Thence, N 78°03'42" W a distance of 82.20'; Thence, down hill following the center of the spur N 11°08'52" W a distance of 396.36'; Thence, N 06°42'46" W a distance of

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134.48'; Thence, N 04°14'56" E a distance of 635.67' to a point near Island Creek; Thence, crossing Raccoon Branch Road and Branch N 57°44'46" W a distance of 241.67' to the toe of the ridge; Thence, up the ridge between Raccoon Branch of Island Creek and a un-named drain on Island Creek N 78°51'24" W a distance of 694.12'; Thence, N 84°55'21" W a distance of 370.99'; Thence, S 67°23'21" W a distance of 640.48'; Thence, S 58°34'54" W a distance of 173.21'; Thence, N 88°36'12" W a distance of 336.78'; Thence, S 74°45'05" W a distance of 280.88'; Thence, S 85°54'58" W a distance of 345.77'; Thence, S 46°20'42" W a distance of 249.70'; Thence, N 90°00'00" W a distance of 287.41'; Thence, N 85°21'22" W a distance of 721.51' to a point on the high ridge at the head of the un-named drain on Island Creek; Thence, with the ridge around the head of the drain N 39°49'05" W a distance of 406.64'; Thence, N 28°04'59" E a distance of 563.20'; Thence, down the hill with a spur off the ridge N 12°53'10" W a distance of 511.41'; Thence, N 10°23'36" E a distance of 738.40'; Thence, N 00°59'43" E a distance of 172.59' to a point in Island Creek Road; Thence, with Island Creek road N 58°17'16" E a distance of 221.07'; Thence, N 35°13'47" E a distance of 142.26'; Thence, N 87°30'41" E a distance of 157.44'; Thence, N 89°17'03" E a distance of 273.57'; Thence, N 74°31'05" E a distance of 294.49' to a point at Little Dixie; Thence, up the ridge N 52°43'32" W a distance of 88.17'; Thence, N 46°38'10" W a distance of 476.83'; Thence, N 47°26'31" W a distance of 318.69'; Thence, N 72°11'19" W a distance of 321.11'; Thence, N 37°12'31" W a distance of 123.15' to appoint on the City of Pikeville Corporate Boundary Ordinance #1990.8; Thence, down the hill with a spur of the ridge with the City of Pikeville N 54°23'14" E a distance of 404.68'; Thence, N 56°49'36" E a distance of 109.18'; Thence, N 42°18'50" E a distance of 65.53'; Thence, N 46°05'49" E a distance of 126.84'; Thence, N 24°05'19" E a distance of 579.42' to a point near Nightingale Lane; Thence, down Nightingale Lane S 63°40'57" E a distance of 172.36'; Thence, S 82°16'01" E a distance of 110.30' near Cedar Creek Road; Thence, continuing with the City of Pikeville along cedar Creek Road N 54°24'23" E a distance of 54.79'; Thence, N 35°13'21" E a distance of 121.75'; Thence, N 58°41'40" E a distance of 61.21'; Thence, N 49°35'56" E a distance of 112.14'; Thence, N 24°59'52" E a distance of 511.70' to appoint on the City of Pikeville Corporate Boundary Ordinance #0-93-003; Thence, continuing with the City of Pikeville up the hill S 82°14'43" E a distance of 254.29'; Thence, S 14°40'33" W a distance of 384.26'; Thence, S 72°10'32" E a distance of 1588.04'; Thence, N 44°30'12" E a distance of 433.00' to a point on the high ridge between Island Creek and Poor Farm and being a point on the City of Pikeville Corporate boundary Ordinance #110.09; Thence, continuing with the City of Pikeville with the ridge around the heard of Poor Farm N 69°09'43" E a distance of 39.24'; Thence, N 86°21'09" E a distance of 235.05'; Thence, S 68°29'01" E a distance of 472.56'; Thence, S 65°54'57" E a distance of 260.58'; Thence, S 69°05'59" E a distance of 60.55'; Thence, S 62°56'48" E a distance of 92.06'; Thence, S 70°15'32" E a distance of 35.28'; Thence, S 59°57'46" E a distance of 73.03'; Thence, S 74°11'59" E a distance of 103.74'; Thence, S 86°59'28" E a distance of 126.61'; Thence, N 90°00'00" E a distance of 48.25'; Thence, S 69°53'13" E a distance of 212.60'; Thence, S 71°35'12" E a distance of 57.86'; Thence, S 41°58'57" E a distance of 269.62'; Thence, S 38°31'54" E a distance of 780.33' to a high knob at the head of Poor Farm; Thence, continuing with the ridge between Island Creek and the Levisa Fork of the Big Sandy River and continuing with the City of Pikeville S 51°57'34" E a distance of 243.89'; Thence, S 59°41'03" E a distance of 79.01'; Thence, S 13°22'52" E a distance of 345.05'; Thence, S 22°41'37" E a distance of 142.30'; Thence, S 45°58'14" E a distance of 143.46'; Thence, S 33°29'13" E a distance of 278.13'; Thence, S 31°15'50" E a distance of 336.84'; Thence, S 40°22'53" E a distance of 264.79'; Thence, S 25°06'28" E a distance of 86.26'; Thence, S 43°46'57" E a distance of 89.20'; Thence, S 54°41'10" E a distance of 128.87'; Thence, S 79°43'24" E a distance of 35.05'; Thence, N 88°09'18" E a distance of 75.85' to a point on City of Pikeville Corporate Boundary Ordinance #110.15; Thence, continuing with the ridge and the City of Pikeville S 44°00'02" E a distance of 47.53'; Thence, S 19°46'11" E a distance of 101.23'; Thence, S 13°35'15" E a distance of 72.87'; Thence, S 12°51'29" E a distance of 71.40'; Thence, S 18°14'18" E a distance of 189.47' to a knob; Thence, continuing down the hill with the City of Pikeville S 15°42'19" E a distance of 206.70'; Thence, S 20°25'37" E a distance of 896.81'; Thence, S 18°47'40" E a distance of 562.85' to the point of beginning and containing 685.38 acres more or less.

A map of the property in which the City of Pikeville declares its intention to annex prepared by Summit Engineering, Inc. entitled "City of Pikeville, Area of Proposed Annexation **Island Creek dated April 19, 2011**" is attached hereto.

BE IT FURTHER ORDAINED that following the publication of this ordinance as required by law, that if within sixty (60) days hereof, 50% of the resident voters or owners of real property within the limits of the above-described territory do no petition the Mayor at City Hall, 118 College Street, Pikeville, Kentucky 41501 in opposition to

the proposal, that a final ordinance will be passed finally annexing the above-described territory. If within sixty (60) days hereof, 50% of the resident voters or owner's of real property within the limits of the territory proposed to be annexed, petition the Mayor in opposition to the proposal, an election shall be held at the next regular election occurring at least sixty (60) days after a certified copy of the petition is presented to the County Court Clerk by the Mayor.

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 25th day of April 2011.

This ordinance was given a second reading of the __ day of _____ 2011.

Passed this ____ day of _____,2011.

Commissioner_____ moved for the adoption of the foregoing ordinance.

Commissioner_____ seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

FRANK JUSTICE, II, MAYOR

ATTESTED:

CHRISTY BILLITER, CITY CLERK

NOTICE OF RIGHT TO PETITION

Per KRS 81A.420, this publication shall serve to put on notice all resident voters and real property owners within the territory proposed to be annexed by the City of Pikeville Ordinance O-2011-012, of their right to petition the mayor of the City of Pikeville to place the question of annexation on the ballot for a vote.

A valid petition may be presented to the City of Pikeville’s mayor at Pikeville City Hall within 60 days from the enactment of Ordinance O-2011-012. A valid petition must be signed by either 50% of the resident voters within the territory described or 50% of the real property owners within the territory proposed to be annexed.

- 3. Consider a 2nd reading and adoption of ordinance #0-2011-013 attempting to annex property on Island Creek consisting of approximately 1,373.31 acres. Mayor asked, “Who is affected by tract #3?” Several residents raised their hands. Mayor explains that we are not pursuing all of that area any longer because we cannot provide utilities to everyone so we are only taking in the area that we can provide sewer and water utilities. Mayor informs them that they will be getting another letter to inform them of what areas that will be included in the revised tract #3, ordinance 022. Consider a 1st reading of an ordinance #0-2011-022 attempting to annex property on Island Creek consisting of approximately 757.29 acres. No further action is required at this time. The second reading will take place at next regular scheduled meeting.

PAYMENT OF CITY BILLS

The City Manager Donovan Blackburn requested the approval to pay city bills in the amount of \$174,043.69. Commissioner Layne made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for further discussion, there being none, motion passed unanimously. 5-0.

BIG SANDY AREA DEVELOPMENT DISTRICT

Denise Thomas was present for the Big Sandy Area Development. Ms. Thomas had no business to discuss at this time.

CITY ENGINEER

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

- 1. Consider request to approve submitted change order #1 with H2O Construction Inc. for \$7,200.00 for the US23 Corridor Sewer project and authorize the mayor to sign and execute said change order. 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.**
- 2. Consider request to authorize and approve the submitted invoice #463298 with S&ME for \$800.00 for Justice Way Development. Commissioner Layne 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 authorize payment and approve the submitted pay request #4 with R.L. Caudill Construction Inc. for \$74,645.05 for the Texas Roadhouse development work. Commissioner Carter made the motion to approve. Commissioner Chaney seconded. Mayor called for comments, there being none the motion passed unanimously. 5-0.**
- 4. Consider a request to authorize payment and approve the submitted invoice #11242 with Compton's Custom Countertops for \$12,263.02 for Bob Amos Soccer Bathroom Complex. Commissioner Layne made a motion to approve. Commissioner Davis seconded the motion. Mayor called for comments, there being none the motion passed unanimously. 5-0.**

Mayor Justice made a motion to take a fifteen minute recess. Commissioner Carter seconded the motion. Mayor called for comments, there being none the motion passed unanimously. 5-0.

Mayor Justice made a motion to come back into session. Commissioner Carter seconded that motion. Mayor called for comments, there being none, session was called back into order.

CITY ATTORNEY

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

1. Consider a 1st reading of an ordinance #0-2011-021 closing a portion of Hatcher Court by City Manager Donovan Blackburn. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.
2. Consider a 1st reading of an ordinance #0-2011-020 amending Parking Regulations by City Manager Donovan Blackburn. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.
3. Consider a 1st reading of an ordinance #0-2011-019 amending Chapter 32 “Departments, Boards, Committees, and Commissions General Provisions” by City Manager Donovan Blackburn. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.
4. Consider a 1st reading of an ordinance #0-2011-018 amending Chapter 35 “Taxation.” No further action is required at this time. The second reading will take place at the next regular scheduled meeting.
5. Consider 2nd reading and adoption of ordinance #0-2011-014 regarding regulations for concealed weapons within the City of Pikeville. Commissioner Layne 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 §130.15, §130.16, §130.17 and §130.99 OF THE CODE OF ORDINANCES
RELATED TO THE REGULATION OF CONCEALED DEADLY WEAPONS SO
TO MAKE IT COMPLY
WITH THE COMMONWEALTH OF KENTUCKY’S
CONCEALED DEADLY WEAPON PERMIT LAW**

ORDINANCE NO. 0-2011-014

Whereas, the adoption of the concealed deadly weapon license law by the Commonwealth of Kentucky does require the City of Pikeville to modify its law to conform to the provision of the Commonwealth’s law;

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that §130.15, §130.16, §130.17 and §130.99 OF THE CODE OF ORDINANCES RELATED TO THE REGULATION OF CONCEALED DEADLY WEAPONS IS AMENDED AS FOLLOWS:

§ 130.15 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context indicates or clearly requires a different meaning.

PRIVATE RESIDENTIAL AREAS. *Dwellings, building, homes, apartments or structures or rooms of apartments either used as single-family residences.*

NON-PRIVATE RESIDENTIAL AREAS. The ~~grounds~~, administrative offices, community rooms, maintenance areas, laundry rooms, police substations, educational facilities, playgrounds, common areas such as hallways, elevators and stairs, ~~parking areas, and streets and sidewalks~~ public bathrooms and bathhouses, showers, locker rooms and other places of limited privacy but publicly used located upon the Housing Authority of Pikeville property, Pikeville R.V. park and other City parks other than private residential areas defined above.

§ 130.16 PROHIBITIONS; EXCEPTIONS.

(A) It shall be unlawful to enter into or upon any public building and on any park owned, leased ~~and controlled or occupied~~ by the City by a licensee carrying a concealed deadly weapon pursuant to a license granted in KRS 237.110 except as otherwise permitted in private residential areas as defined in § 130.15.

(B) No person shall carry a concealed deadly weapon into or upon the non-private residential areas as defined in §130.15 of any City park or the Housing Authority of Pikeville property.

(C) The areas in which the carrying of concealed deadly weapons is prohibited hereunder shall be clearly identified by signs posted at the entrance to the restricted area.

(D) Nothing contained in this subchapter shall prohibit the carrying of concealed deadly weapons by a peace officer as described in Kentucky Revised Statutes.

§ 130.17 VIOLATIONS.

Persons violating this subchapter in addition to other penalties set forth in § 130.99 may be denied entrance to ~~Housing Authority~~ the premises, ~~in~~ ordered to leave the premises, and if employees of the Housing Authority of Pikeville or the City violate this subchapter, shall be subject to employee disciplinary measures for violation of this ordinance.

~~§ 130.99 PENALTY.~~

~~—(A)— Any child violating §§ 130.01— 130.03 shall be subject to the procedures and penalties provided for by the state unified juvenile code.~~

~~—(B)— Any parent, guardian, or other person exercising custodial control or supervision of the child who violates any provision of this subchapter may be subject to the financial penalty provided for in KRS 610.180 in addition to the penalty set forth in subsections (C) and (D) hereof.~~

~~—(C)— Any parent, guardian or person having legal custody or other person defined in § 130.01 who allows a minor to violate § 130.02 shall be guilty of a Class A misdemeanor and subject to a fine of no more than five hundred dollars (\$500.00) (See KRS 83A.065).~~

~~—(D)— Any person or corporation who violates § 130.02 (C) shall be guilty of a Class A misdemeanor and subject to a fine of no more than five hundred dollars (\$500.00) for an individual and two thousand dollars (\$2,000.00) for a corporation.~~

~~—(E)— Any violation of § 130.16 shall constitute a misdemeanor subject to the maximum penalty allowed by law for misdemeanors punishable by imprisonment of the maximum time allowed for misdemeanors by the Kentucky Revised Statutes.~~

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 the adoption of the foregoing ordinance. Commissioner _____ seconded the motion.

Upon roll call, the votes were as follows:

YES NO

FRANKLIN D. JUSTICE, II, MAYOR ___ ___

JAMES A. CARTER, COMMISSIONER ___ ___

EUGENE W. DAVIS, COMMISSIONER ___ ___

BARRY CHANEY, COMMISSIONER ___ ___

DALLAS LAYNE, COMMISSIONER ___ ___

The Mayor declared the within ordinance adopted.

FRANKLIN D. JUSTICE, II, MAYOR

ATTEST:

CHRISTY BILLITER, CITY CLERK

- 6. Consider a 2nd reading and adoption of ordinance #0-2011-015 Chapter 34 “Personnel and Employment Policy” regarding regulations for Training for city officers. 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 AMENDING CHAPTER 34 CREATING SECTION §34.25, OF THE CODE OF ORDINANCES RELATED TO THE TRAINING PROGRAM FOR PIKEVILLE CITY OFFICIALS AS REGULATED BY HOUSE BILL 119 IN THE

2011 REGULAR SESSION**ORDINANCE # 0-2011-015****AN ORDINANCE ADOPTING AN INCENTIVE PROGRAM FOR CITY OFFICIALS TO OBTAIN TRAINING RELATED TO CITY GOVERNMENT**

WHEREAS, the General Assembly passed House Bill 119 in the 2011 Regular Session of the Kentucky General Assembly and the bill was signed by the Governor of the Commonwealth to become effective on June 8, 2011;

WHEREAS, House Bill 119 authorizes the city governments of Kentucky to adopt training incentive programs to encourage city officials to obtain education and training related to the operation of city government;

WHEREAS, the City of Pikeville recognizes and values the importance of its city officials remaining informed and educated on topics related to city governments and the powers, duties, and responsibilities of city officials; and

WHEREAS, the City of Pikeville acknowledges that educated, informed, and well trained city officials will provide a direct public benefit by fostering a deeper understanding of laws, regulations, and by promoting exploration of diversified practices, programs, and delivery of services to the citizens of the City of Pikeville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PIKEVILLE, KENTUCKY:

CHAPTER 34: PERSONNEL AND EMPLOYMENT POLICIES**§ 34.25 CITY OFFICIALS TRAINING****SECTION 1: Definitions**

As used in this ordinance, the terms below shall have the following meanings:

- (1) "Training unit" means fifteen (15) clock hours of attendance or participation in qualifying courses during a calendar year.
- (2) "Excess hours" means credit hours earned beyond fifteen (15) during a single calendar year.
- (3) "Administrator" shall mean the Kentucky League of Cities City Officials Training Center.
- (4) "Qualifying course" shall mean any training, seminar, educational or learning event that provides instruction or information that is relevant to the duties and functions of city government and city officials and that has been approved by the administrator.

SECTION 2: Adoption of a City Officials Training Program; Application.

In accordance with House Bill 119 of the 2011 General Assembly, as codified in KRS Chapter 64, the City of Pikeville hereby adopts and establishes a City Officials Training Program to make available incentive payments as specified by this ordinance to the elected city officials, including the mayor, all members of the city commission and all city officials as listed by Chapter 31 of the City of Pikeville Code of Ordinances as regulated by KRS 83A.080 to include but not limited to the City Manager, City Clerk, Fire Chief, Police Chief, Finance Director, City Tax Director, City Attorney, for obtaining education and training as required under the provisions of this ordinance.

SECTION 3: Incentive Payment Amount; Required Training Participation

- (1) Each city official eligible for participation in the City Officials Training Program shall receive training incentive payments of \$500 for completion of each training unit during his or her continuous service as a city official within the

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city. The city official shall only receive training incentive payments for a maximum of four (4) training units. The city official shall not be awarded more than one (1) training unit per calendar year.

(2) The city official may continue to receive training incentive payments for four (4) training units in each calendar year following the fourth year, provided that the officer continues to earn a training unit each subsequent calendar year.

(3) The failure of a city official to obtain a training unit during any calendar year shall disqualify the officer from receiving any training incentive payments for the calendar year and the city official shall lose any previously accumulated training units earned during previous calendar years.

(4) Any city official earning excess hours during a calendar year shall be permitted to carry forward a maximum of ten (10) hours to apply to the earning of a training unit in the following calendar year.

(5) Training incentive payments shall be made to a city official presenting proof of completion of a training unit for a calendar year within sixty (60) days of the conclusion of the calendar year.

SECTION 4: Policy regarding payment or Reimbursement for training courses

Subject to the constraints and the appropriations established by the city's annual budget, the city shall consider paying the cost of attendance or participation in advance of a city official's attendance or participation in the qualifying course if proper application is made and submitted to the HR Director and approved by the City Manager. Alternatively, and subject to the constraints and appropriations established by the city's annual budget, the city shall consider reimbursing a city official for the cost of attendance or participation in a qualifying course upon presentation of proof to the HR Director that the official has received credit for the course.

SECTION 5: Administration of City Officials Training Program

(1) The City Officials Training Program for the City of Pikeville shall be administered by the Kentucky League of Cities City Officials Training Center, which shall be responsible for approving courses as qualifying under the terms of this ordinance, shall maintain records of attendance and participation, and shall notify the city when a city official earns a training unit and the number of training units earned by a city official during his or her continuous service as a city official within the city.

(2) The administrator shall evaluate and approve courses as qualifying for credit based on the relation of the course to the operation of city government. In addition to other courses which may be approved as qualifying courses by the administrator, courses that provide instruction on the statutory duties of cities and city officials, intergovernmental relationships, municipal finance and budgeting, municipal taxation, ethics, open records, open meetings, economic development, or municipal police powers shall be approved as qualifying courses under this ordinance. The administrator shall require the submission of the course or conference agenda, curriculum, name of the provider, and other course materials to determine whether a course should be approved as a qualifying course.

(3) A city official shall submit proof of attendance or participation in a qualifying course to the administrator. A city official shall submit the course name, date, location, name of the instructor or provider, and sufficient proof of attendance or participation in the qualifying course before the administrator shall award credit. The administrator shall not award credit to a city official for attendance or participation in a qualifying course that is not, in the administrator's opinion, substantially different from another course the city official attended or participated in during the same calendar year.

(4) The administrator shall maintain records that reflect each of the courses and hours completed by the city official and shall provide it to each city official upon request. The administrator shall, within thirty (30) days of the close of the calendar year, provide written or electronic certification to each participating city official of completed courses and hours, and shall, if applicable, certify the completion of a training unit and total number of accumulated training units. Upon receipt, a city official shall present a copy of the certification of the completion of the training unit and the total accumulated training units to the city HR Director in order to receive his or her training incentive payments.

SECTION 6: Status of Incentive Payments

(1) Training incentive payments do not constitute wages under KRS Chapter 337, creditable compensation under the County Employees Retirement System under KRS Chapter 78, or compensation for the purposes of setting maximum

compensation or modification of compensation under KRS Chapter 83A, and may be repealed or modified by the city at any time.

(2) The training incentive payment amount established in the ordinance shall not be adjusted by any index reporting changes to consumer prices or any other method to account for inflation.

SECTION 7: Severability

Each section and each provision of each section of this ordinance is severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person licensee, class or group, is held by a court of law to be unconstitutional or invalid for any reason, such holding shall not affect or impair the remainder of this ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently of the rest.

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 the adoption of the foregoing

ordinance. Commissioner _____ seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

FRANKLIN D. JUSTICE, II, MAYOR

ATTEST:

CHRISTY BILLITER, CITY CLERK

7. Consider a 2nd reading and adoption of ordinance #0-2011-016 Chapter 90 “Animals” regarding regulations for Dogs 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, Mayor called roll call. Motion passed unanimously. 5-0.

**AN ORDINANCE AMENDING CHAPTER 90 ANIMALS
AMENDING SECTION §95.05, OF THE CODE OF ORDINANCES RELATED TO
DOGS**

ORDINANCE NO. 0-2011-016

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that §90.02 and §90.05 OF THE CODE OF ORDINANCES RELATED TO ANIMALS BE AMENDED AS FOLLOWS:

**CHAPTER 90: ANIMALS
GENERAL PROVISIONS
§ 90.01 DEFINITIONS.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDON. Shall constitute the relinquishment of all rights and claims by the owner to the animal.
(KRS 257.100(4))

AT LARGE. Off the premises of the owner, and not under the control of the owner or his or her agent either by leash, cord, chain, or otherwise.

OWNER. Every person having a right of property to an animal and every person who keeps or harbors an animal, has it in his or her care, or permits it to remain on or about the premises owned or occupied by him or her.

§ 90.02 ANIMALS RUNNING AT LARGE.

(A) No person who is the owner of any animal shall permit it to run at large in any public road, highway, street, lane, or alley, or upon unenclosed land, or permit it to go on any private yard, lot, or enclosure without the consent of the owner of the yard, lot, or enclosure.

(B) The owner of an animal who permits it to run at large in violation of this section is liable for all damages caused by such animal upon the premises of another.

(C) Animals running at large will be subject to being tracked, properly caged and picked up by the city Animal Control Officer and then taken to the County Animal Shelter. Owners claiming the animal will be required to pay all applicable fees assessed by the animal shelter before being able to have their animal released. The animal shelter will then notify the city authorities of the owner's name of the animal so that the city may access the applicable fine and penalty set under § 90.99 to the pet owner.

(D) Animal owners who are repeat offenders by having their animals running at large and picked up by the city Animal Control Officer more than one (1) time in a ninety (90)-day period will also access an additional five hundred dollar (\$500.00) fine for each repeat offense during this time frame. This will be an additional penalty assessed on top of the fee and/or penalty set by § 90.99.

State law references: Seizure, impounding and destruction of dog lacking tag or other identification, KRS 258.215. (Am. Ord. 0-2009-027, passed 1-11-10) Penalty, see § 90.99

§ 90.03 CRUELTY TO ANIMALS IN THE SECOND DEGREE.

(A) A person is guilty of cruelty to animals in the second degree when except as authorized by law he or she intentionally or wantonly:

(1) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in division (B) in causing it to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four-legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing, any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;

(2) Subjects any animal in his or her custody to cruel neglect; or

(3) Kills any animal, other than a domestic animal killed by poisoning. This division (A)(3) shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

(B) Nothing in this section shall apply to the killing of animals:

- (1) Pursuant to a license to hunt, fish, or trap;
- (2) Incident to the processing as food or for other commercial purposes;
- (3) For humane purposes;
- (4) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;
- (5) For purposes related to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;
- (6) For bona fide animal research activities of institutions of higher education,; or a business entity registered with the U.S. Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(7) In defense of self or another person against an aggressive or diseased animal;

(8) In defense of a domestic animal against an aggressive or diseased animal;

(9) For animal or pest control; or

(10) For any other purpose authorized by law.

(C) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(KRS 525.130(1) - (3)) Penalty, see § [90.99](#)

Statutory reference:

Cruelty to animals in the first degree, a class D felony, see KRS 525.125

§ 90.04 DYEING OR SELLING DYED CHICKS OR RABBITS.

No person shall sell, exchange, offer to sell or exchange, display or possess living baby chicks, ducklings, or other fowl or rabbits which have been dyed or colored; nor dye or color any baby chicks, ducklings or other fowl or rabbits; nor sell, exchange, offer to sell or exchange or to give away baby chicks, ducklings or other fowl or rabbits, under two (2) months of age in any quantity less than six (6), except that any rabbit weighing three (3) pounds or more may be sold at an age of six (6) weeks.

(KRS 436.600) Penalty, see § [90.99](#)

~~§ 90.05 KILLING OR MAIMING SQUIRRELS.~~

~~No person shall kill, cripple, or maim squirrels in the city.~~

~~(Ord. 1020.4, passed 4-23-57) Penalty, see § [90.99](#)~~

§ 90.05 DOGS

***State law references:** Dogs, generally, KRS Ch. 258; dog and livestock protection, KRS 258.095 et seq.

(A) Confinement or control.

The owner, custodian, possessor or harbinger of every dog in the city shall, at all times, keep such dog either confined on his own premises within an enclosure, firmly secured by means of collar or chain and leash or other device so that it cannot stray from the premises on which it is secured or from its owner's custody, or in the immediate control of its owner, custodian or possessor. When any dog is engaged in a hunt, it shall be kept at all times under control of its owner, custodian or possessor.

State law references: Confinement and control of dogs at night, KRS 258.265.

(B) Barking dogs; penalties.

Any person, firm or corporation who shall own, keep, have in his possession or harbor any dog within the city which, by frequent or habitual unprovoked howling, yelping or barking, shall cause a nuisance by creating a serious annoyance or disturbance to a person or persons or ordinary sensibilities in the neighborhood shall be fined not more than fifty dollars (\$50.00) for each offense which occurs at least one day after a warning notice from the police or sheriff. A separate offense shall be deemed committed on each calendar day during or on which a violation occurs or continues after notice from the police, dog warden or nuisance officer. After notice is given, no further warning notice need be given for twelve (12) consecutive month.

(C) Dog wardens designated.

All members of the police department of the city, city animal control personnel and nuisance officer are hereby designated "dog wardens" for purposes of this section, in addition to any city dog warden who may be hereafter designated by the city manager pursuant to ordinance.

State law references: Employment of dog wardens, KRS 258.195.

(D) Vicious dogs.

- (a) A "dangerous" or "vicious" dog shall include any or all of the following, except police dogs or guard dogs acting under the supervision of a police officer or certified trained dog handler, or seeing-eye dogs:

1. Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or a domestic animal without provocation; or

2. Any dog which, without provocation, approaches in a threatening or terrorizing manner, any person or domestic animal upon the streets, sidewalks or any public grounds or places; or

3. Any dog which is trained to attack or cause injury or to otherwise endanger the safety of human beings or domestic animals, or any dog which has a history of attacking or propensity to attack people or domestic animals without provocation.

(b) The City Manager shall designate "dangerous" or "vicious" dogs that meet the definition above and shall notify the owner or possessor of said dog by certified mail of such designate. The owner of the dog shall have the right to appeal said designation by giving notice to the City Clerk within 15 days of the mailing of the "notice of 'dangerous' or 'vicious' dog determination" and in event of a timely appeal a hearing shall be conducted by the City's hearing officer. However, the dog so designated shall be treated as a "dangerous" or "vicious" dog pending said appeal and decision by the hearing officer.

(c) It shall be unlawful for any person to keep or harbor within the City of Pikeville a dog designated by the City Manager or otherwise known to be "vicious" or "dangerous" unless it is at all times kept on the owner's or harborer's property securely confined indoors or in a securely enclosed and locked outdoor pen or shelter suitable to prevent the entry of young children and designed to prevent the dog from escaping. Such pen or structure must have minimum dimensions of five (5) feet by ten (10) feet, must have secure sides and must be at least seven (7) feet high and have a secure top. If it has no concrete, cement or asphalt bottom, the sides must be imbedded into the ground no less than two (2) feet. The enclosure must also provide protection from the elements for the dog. A vicious dog shall be transported to or from the indoors and the securely enclosed and locked outdoor pen or shelter only if such dog is muzzled and restrained by a suitable chain or leash not exceeding six (6) feet in length and under the control of a responsible adult. The muzzle must be made in a manner that it will not cause injury to the dog or interfere with its vision or respiration but will prevent the dog from biting any person or animal.

- (d) Vicious dogs shall be permitted off the owner's or harborer's property only if such dogs are muzzled and restrained by a substantial chain or leash not exceeding six (6) feet in length and under the control of a responsible adult and only for the purposes authorized by KRS 258.235. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent the dog from biting any person or animal.

- (e) when any do required by this section to be confined, it shall also be required that a conspicuous notice be posted at the place of confinement of such a nature as to warn the public of the nature of the dog therein confined.

- (f) No person under the age of eighteen (18) years shall be permitted to own, harbor or handle a vicious dog.

- (g) It shall be unlawful for any person to keep or harbor within the City of Pikeville a vicious dog unless it is at all times wearing a vicious dog collar issued by the Pike County Animal Shelter. It shall be unlawful for any person to remove such collar from a vicious dog.

(h) Any person violating any of the provisions of this section shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for each offense. In addition to any other penalties provided herein, if a dog inflicts serious injury on a person or domestic animal in an unprovoked attack, the dog may be confiscated and humanely destroyed after a ten-day quarantine period.

§ 90.06 REMOVAL OF DOG EXCREMENT.

All dog owners are required, in a sanitary manner, to clean and remove droppings deposited by their dogs on any public property or on any other person's property. § 90.99 PENALTY.

(A) Any person who violates any provisions of this chapter for which another penalty is not already otherwise provided shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00), or imprisoned for not more than thirty (30) days, or both, for each offense. Each day the violation exists shall constitute a separate offense.

(B) Any person who violates § 90.03 shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00), imprisoned for not more than twelve (12) months, or both for each offense.

(C) Any person who violates § 90.04 shall be guilty of a misdemeanor and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

Statutory reference:

For further penalty regulations, see KRS 436.600 and 525.130

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 foregoing ordinance.

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 Mayor declared the within ordinance adopted.

FRANK JUSTICE II, MAYOR

ATTESTED:

CHRISTY BILLITER, CITY CLERK

- 8. Consider a 2nd reading and adoption of ordinance #0-2011-017 Chapter 92 "Dilapidated Housing" regarding regulations involving nuisance regulations within the City of Pikeville. Commissioner Chaney 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.**

**CHAPTER 92 DILAPIDATED HOUSING AND NUISANCES
AMENDING SECTION §92.12 AN ORDINANCE AMENDING
&§92.13, OF THE CODE OF ORDINANCES**

ORDINANCE NO. 0-2011-017

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that **§92.12 and §92.13 OF THE CODE OF ORDINANCES RELATED TO HOUSING AND NUISANCES BE AMENDED AS FOLLOWS:**

CHAPTE 92: DILAPIDATED HOUSING AND NUISANCES**GENERAL PROVISIONS****ENVIRONMENTAL NUISANCES****§ 92.12 ABATEMENT OF ENVIRONMENTAL NUISANCES.**

(A) It shall be unlawful for any owner, his agent, or any occupant or corporation, or each of them, whether or not the nuisance was created by said owner, agent, or occupant, to fail to remedy the existence of an environmental nuisance in violation of the provisions of §§ [92.10](#) or [92.11](#) within ~~ten (10)~~ [seven \(7\)](#) days unless a shorter period is specified pursuant to division (B) ~~or (C)~~ of this section after receiving notice thereof pursuant to this subchapter regardless of whether the violator has requested a hearing pursuant to § [92.13](#). An additional violation shall occur for each additional one hundred (100)-day period that an environmental nuisance remains unabated regardless of whether the violator has requested a hearing pursuant to § [92.13](#).

~~(B) It shall be unlawful for any owner, his agent, or any occupant or corporation, or each of them, whether or not the nuisance was created by said owner, agent, or occupant, to fail to remedy the existence of an environmental nuisance in violation of the provisions of §92.04 paragraph 1 section (g), paragraph 2 or paragraph 3 within three (3) days after receiving notice thereof pursuant to this subchapter regardless of whether the violator has requested a hearing pursuant to § 92.13 and § 92.98. In respect to violations of this section if these specific violations are not remedied, within 7 day after the 3 day abatement period elapse as stated under section 92.98 then regardless if an appeal has started as outlined under section 92.13 the city may entry the property where the violation was cited in order to remedy the violation immediately. If after the appeal the ruling is found to be in the violators favor then no further action is necessary and the city will not be able to collect any fines, penalties or cost the city incurred to remedy the charged violation. If however after the appeal the ruling is in the cities favor the violator as described above shall be responsible to pay to the city within 10 days all fees resulting from fines, penalties and additional cost incurred by the city to remedy the violation. If payment is not received by within the 10 day period then a lein shall be placed by the city against the property in which the violation occurred. Additional cost to remedy a violation shall be fair and approved by the City Manager prior to the work being completed.~~

~~(B)C~~ Notice in writing may be served upon an owner or person, or his agent or occupant, by hand delivery, first class mail, or by posting of the same on the property. The required notice if mailed shall be mailed to the last-known address of the owner of record of said property. Such notice shall describe the environmental nuisance so maintained, assessment of fines, and shall demand abatement of the nuisance within ~~ten (10)~~ [seven \(7\)](#) calendar days from the date of notice, unless the nuisance constitutes an immediate danger to the health, safety, and well-being of the community, in which case notice shall demand immediate abatement. It shall be the duty of all owners to see that their current address is maintained on record in the County P.V.A. Office.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94) Penalty, see § [92.99](#)

§ 92.13 DEADLINE FOR APPEAL OF NOTICE.

(A) Those persons listed in §§ [92.10](#) or [92.11](#) who receive notice to abate a nuisance as per § [92.12](#) may, within ~~ten (10)~~ [seven \(7\)](#) days after the date of the notice, request a hearing to contest the notice and fine as provided for hereunder. A request for a hearing will not prevent additional notices and fines pursuant to § [92.12](#) (A). If the hearing officer finds the violators guilty of the violation, he shall order the fine paid along with any additional violation notice fine issued prior to the hearing date.

(B) Any owner, his agent, or any occupant who has received notice of violation for failure to abate the condition pursuant to § [92.12](#) may be charged with a violation of this chapter in a criminal complaint. Those persons who have not had an opportunity to be heard pursuant to the terms of this chapter may request a hearing as provided for herein within ~~ten (10)~~ [seven \(7\)](#) days of being arraigned on such charges. A copy of said request shall be filed with the County District Court. It is the intent of this chapter to encourage use of the administrative procedures and to permit all first time offenders an election to refer said criminal complaint entered in the County District Court to the above administrative proceedings prior to the criminal trial on the merits of the complaint.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 94-0-010, passed 5-23-94)

DILAPIDATED HOUSING**§ 92.98 CITATION PROCEDURE.**

(A) Any person who violates this chapter may be cited for the appropriate violation and assessed the fine as set out in § [92.99](#). If any structure, parcel of land or tract of real estate is found to be in violation of this chapter, the owner or owners of the tract or parcel of land as reflected in the Property Valuation Office may be cited for the appropriate violation and fined as set out in § [92.99](#).

(B) The form of the notice of violation of this chapter shall contain in substance the following information:

(1) A statement that the notice represents a determination that a violation of this chapter has been committed by the individual or owner of the structure or property and that the determination shall be final unless contested as provided for herein;

(2) A statement of the specific violation for which the citation is issued;

(3) A statement of the monetary fine established for the violation; and

(4) A statement of options for responding to the notice and the procedures necessary to exercise these options.

(C) A citation issued pursuant to this chapter represents a determination that a violation thereof has been committed, and such determination shall be final unless contested as provided for herein.

(D) The notice of violation shall be hand-delivered or mailed to the violator, or mailed to the last known address of the owner or violator as listed in the P.V.A. Office.

(E) (1) Any person who receives notice of a violation shall respond to such notice as provided in this section within seven (7) days of the date of the notice, by either paying the fine set forth in the notice or requesting a hearing pursuant hereto.

(2) If the individual cited for violation of this chapter (Excluding section Section 92.12 (B)) or the property owner of the structure or real property cited for violation of this chapter has not responded to the notice within seven (7) days as provided for in division (E)(1) above, the city shall send a second notice by certified mail to the last known address of the individual or registered owner of the property as listed in the P.V.A. Office. Such notice shall state that if the individual or owner does not respond to the notice by either paying the fine or by requesting in writing with the City Clerk a hearing pursuant to this chapter, within seven (7) days of the receipt of the notice, the individual or owner shall be deemed to have waived his or her right to a hearing and the determination that a violation was committed shall be considered final. Any person who fails to request a hearing and fails to pay the fine within seven (7) days shall be deemed to have refused to pay the fine levied by the citation.

Under Section 92.12 (B) In respect to violations of this section if these specific violations are not remedied during the original 3 day abatement period then the city may send a notice by certified mail to the last known address of the individual or registered owner of the property as listed in the P.V.A. Office. Such notice shall state that if the individual or owner does not respond to the notice by remedying the violation and paying the fine then within (7) days of the postmarked date then regardless if an appeal has started by an individual or owner the city may entry the property where the violation was cited in order to remedy the violation immediately. If after the appeal the ruling is found to be in the violators favor then no further action is necessary and the city will not be able to collect any fines, penalties or cost the city incurred to remedy the charged violation. If however after the appeal the ruling is in the cities favor the violator as described above shall be responsible to pay to the city within 10 days all fees resulting from fines, penalties and additional cost incurred by the city to remedy the violation. If payment is not received by within the 10 day period then a lein shall be placed by the city against the property in which the violation occurred. Additional cost to remedy a violation shall be fair and approved by the City Manager prior to the work being completed.

(F) (1) Any person cited for a violation of this chapter may contest the determination that a violation occurred by requesting in writing a hearing before the hearing officer. Such hearing shall be held no later than fourteen (14) days from the date of receipt of the request, unless prior to the hearing the person requesting such hearing requests an extension of time not to exceed fourteen (14) days. No less than seven (7) days prior to the date set for the hearing, the Board shall notify the violator or owner of the structure or property of the date, time and place of the hearing. Any person requesting a hearing who fails to appear at the time and place set for the hearing shall be deemed to have refused to pay the fine levied by the citation.

(2) At the hearing, after consideration of the evidence, the hearing officer shall determine whether a violation was committed. Where it has not been established that a violation was committed, an order dismissing the citation shall be entered. Where it has been established that a violation was committed, the hearing officer shall uphold the citation and order the violator or owner to pay the citation within seven (7) days. A copy of such order shall be furnished to the violator. Any person ordered to pay the fine who fails to do so within seven (7) days shall be deemed to have refused to pay the fine levied by the citation.

(3) The hearing officer may consider the citation and any other written report made under oath by the officer who issued the citation in lieu of the officer's personal appearance at the hearing.

(4) An appeal from the hearing officer's determination may be made to the County District Court of Pike County within seven (7) days of the hearing officer's determination. The appeal shall be initiated by the filing of a complaint and a copy of the hearing officer's order in the same manner as any civil action under the Rules of Civil Procedure. The action shall be tried de novo and the burden shall be upon the city to establish that a violation has occurred. If the court finds that a violation occurred, the owner shall be ordered to pay the city all fines, fees, and penalties occurred as of the date of judgment. If the Court finds that a violation did not occur, the city shall be ordered to dismiss the citation and the plaintiff shall be authorized to recover his cost.

(5) The judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

(G) Upon information given by the Police Department or any other city employee that a violation fine has not been paid, a summons shall be issued against the offender directing the violator to appear at a specific time before the

court of appropriate jurisdiction. Failure to pay a violation fine shall result in the violator being fined not less than twenty five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) or imprisoned for not more than fifty (50) days, or both for each offense. No summons shall be issued during the time in which said citation is being contested pursuant to the provisions of this chapter.

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 9th day of May, 2011.

The ordinance was given a second reading on the 23rd day of May, 2011.

Passed this 23rd day of May, 2011.

Commissioner Chaney moved the adoption of the foregoing

ordinance. Commissioner Davis 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>	___
BARRY CHANEY, COMMISSIONER	<u>X</u>	___
DALLAS LAYNE, COMMISSIONER	<u>X</u>	___

The Mayor declared the within ordinance adopted.

/s/ Frank D. Justice, II

FRANKLIN D. JUSTICE, II, MAYOR

ATTEST:

/s/ Christy Billiter

CHRISTY BILLITER, CITY CLERK

CITY MANAGER

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

- 1. Consider request to adopt a resolution #2011-101 withdrawing from the Joint Tourism Board. Commissioner Carter made the motion to adopt. Commissioner Layne seconded the motion. Mayor called for further comments, there being none. Commissioner Davis abstained, motion passed unanimously. 5-0.**

**A RESOLUTION DISOLVING OR
WITHDRAWING FROM THE
JOINT PIKEVILLE/PIKE COUNTY
TOURISM COMMISSION
AND CONVENTION BUREAU**

Resolution **#2011-101**

WHEREAS, on June 11th 1984 by a joint action the Pikeville City Commission adopted by a resolution No. R-84-014 establishing the joint Pikeville/Pike County Tourism Commission as authorized by KRS 91A.360; and

WHEREAS, by the adoption and passage of this current resolution the Pikeville City Commission does hereby withdraw and dissolve either by independent or by joint action with the Pike County Fiscal Court the Joint Pikeville/Pike County Tourism Commission; and

WHEREAS, the City of Pikeville Commission invites the Pike County Fiscal Court to pass a joint resolution taking the same action to jointly dissolve the Pikeville/Pike County Tourism Commission and Convention Bureau as it was formed by city joint resolution R-84-014. As authorized by KRS 91A.360 the City of Pikeville and Pike County Fiscal Court would then be free to set up independent Tourism Commissions to represent their own agency; and

WHEREAS, if a joint action is taken to dissolve the joint Commission it is agreed that all assets owned by the Joint Pikeville/Pike County Tourism Commission and Convention Bureau will be divided equally and vested back to the newly formed independent Tourism Commissions and the exiting board shall be disbanded so that each agency may form and appoint new boards to represent their interests; and

WHEREAS, if the Pike County Fiscal Court does not take action to jointly dissolve the joint Commission all assets would remain with the existing tourism commission with it soul partner being the Pike County Fiscal Court and the exiting board shall represent only their interests; and

WHEREAS, if the Pike County Fiscal Court does not take action to jointly dissolve the Joint Pikeville/Pike County Tourism Commission and Convention Bureau within the next 30 days of the passage of this resolution then this action shall be deemed as the soul action to withdraw by the City of Pikeville; and

BE IT RESOLVED the Commission for the City of Pikeville does hereby dissolve its partnership of the Pikeville/Pike County Tourism Commission and Convention Bureau with the Pike County Fiscal Court and therefore withdraws either jointly or on its own from the Pikeville/Pike County Tourism Commission and Convention Bureau immediately and therefore voids all current activity and or appointments immediately. The City shall therefore be free to take immediate action to set up an independent City Tourism and Convention Commission as authorized by KRS 91A.360

Passed this 23rd day of May, 2011.

_____ moved for the adoption of the foregoing ordinance.

_____ seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

FRANK JUSTICE, II, MAYOR

ATTESTED:

CITY CLERK

- 2. Consider a request to adopt a resolution #2011-099 creating a City Tourism and Convention Commission. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for further comments, there being none the motion passed. 5-0.**

A RESOLUTION CREATING

CITY TOURISM AND CONVENTION COMMISSION

Resolution #2011-099

WHEREAS, pursuant to KRS 91A.360 authorizes the City of Pikeville to create a city tourism and convention commission; and

WHEREAS, it is the desire of the City of Pikeville to create an official City Tourism and Convention Commission as set forth by ordinance number 0-2011-019; and

WHEREAS, the purpose of the tourism and convention commission would be to promote the recreational, entertainment, convention and tourist activities in the City of Pikeville while supporting the existence of the East Kentucky Expo Center; and

WHEREAS, board member shall be immediately appointed and a first meeting of said commission shall take place within 30 days from the passage of this resolution.

WHEREAS, the City shall fund the city tourism and convention commission as pursuant to KRS 91A.390 (1) which states "The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent" and also per KRS 91A400 states "All moneys collected from the tax authorized by this section shall be turned over to the tourist and convention commission established in the city".

WHEREAS, the City Tourism and Convention Commission shall be required to follow the laws that apply to this commission and shall adopt any and necessary by-laws in order to do the business of this commission;

NOW THEREFORE BE IT RESOLVED,

(1) That the City of Pikeville pursuant to KRS 91A.360 creates a city tourism and convention commission.

(2) That the Mayor is authorized pursuant to statute to appoint the statutory number of commissioners to the City Tourism and Convention Commission.

(3) That the newly formed City Tourism and Convention Commission shall meet within the next 30 days.

This resolution was passed by vote of the Pikeville City Commissioners meeting held on May 23rd 2011, on the same occasion signed by the Mayor and attested by the City Clerk.

Passed this 23rd day of May, 2011.

_____ moved for the adoption of the foregoing ordinance.

_____ seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

FRANK JUSTICE, II, MAYOR

ATTESTED:

CITY CLERK

- 3. Consider a request to adopt a resolution #2011-100 appointing members of the Pikeville City Tourism and Convention Commission. Commissioner Chaney made the motion. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.**

**A RESOLUTION APPOINTING
INITIAL BOARD MEMBERS FOR THE**

May 23, 2011 Regular Meeting

**NEWLY FORMED PIKEVILLE CITY
TOURISM AND CONVENTION COMMISSION**

Resolution #2011-100

WHEREAS, the City of Pikeville have adopted a resolution as per KRS 91A.350 (2) establishing a City Tourism and Convention Commission for the purpose of promoting recreational, entertainment, convention and tourist activity in the City of Pikeville; and

WHEREAS, KRS 91A.360 provides that the chief executive officer of the city is to appoint the board members as outlined by the statue; and of the city; and

WHEREAS, under the prevision since there is no formal city hotel, motel or restaurant association the chief executive officer being the Mayor of the City shall hereby make the appoints to the board of the members representing the hotel, motel and restaurant businesses; and the following board members and ask that the Commission support his appointments by the passage of this resolution ; and

WHEREAS, by the provisions of KRS 91A.360 the chief executive officer of the city being the Mayor though he is solely responsible for the appointment would ask the commission to consider to support the appointments by the passage of this resolution; and

WHEREAS, pursuant to KRS 91A.360 (3) The commissioners shall be appointed for terms of three (3) years, for the initial appointments, the chief executive officer (Mayor) shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year. There shall be no limitation on the number of terms to which a commissioner is reappointed. Subsequent appointments shall be for three (3) year terms. The Mayor makes the following appointments to take affect and start their term on May 24th 2011 forward;

	Organization	Representative Name	Term Expiration Date
1	Hotel and Motel representative	Frank Bailey	5-24-2012
2	Hotel and Motel representative	Romaine Keith	5-24-2013
3	Hotel and Motel representative	Sam Keith	5-24-2014
4	Restaurant representative	Drew Justice	5-24-2012
5	Chamber representative	To be named by the mayor.	5-24-2012
6	City Resident representative	Donovan Blackburn	5-24-2014
7	City Resident representative	Jim Hobbs	5-24-2013

BE IT RESOLVED the Mayor does hereby submit the names above to serve through the term of the office of tourism commissioner as stated and by the passage of this resolution the commission does hereby support and affirm the mayor’s appointment. By the passage of this resolution the board members shall take office on May 24th 2011.

Passed this 23rd day of May, 2011.

_____ moved for the adoption of the foregoing ordinance.

_____ seconded the motion.

Upon roll call, the votes were as follows:

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

BARRY CHANEY , COMMISSIONER
JIMMY CARTER, COMMISSIONER

The Mayor declared the within ordinance adopted.

FRANK JUSTICE, II, MAYOR

ATTESTED:

CITY CLERK

4. Consider request to approve an easement agreement as submitted between the City of Pikeville and JMP and to authorize the Mayor to sign and execute said agreement. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.
5. Consider a request to authorize the Mayor and or City Manager to sign, execute and submit all required documentation to apply for the KaBoom Grant for city playground improvements. 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.
6. Consider a request to authorize the Mayor to sign, execute and submit all required documents for the National Trust Preservation Funds grant that will provide funding for a historic vignettes and documentaries which will require matching funds of \$5,000. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.
7. Consider a request to authorize the Mayor to sign, execute and submit a CERF application for the purpose of stabilizing the river bank at Cassidy Blvd. Commissioner Carter made a motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.
8. Pursuant to KRS 61.810, consider request for closed session for discussion of economic development, legal and personnel issues. Commissioner Carter made the motion. Commissioner Layne seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously. 5-0.
9. Commissioner Carter made the motion to re convene. Commissioner Layne seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously. 5-0. Mayor called the session back into order.
10. Be it resolved that the side walk adjacent to the Hilton Garden Inn between Hambley Blvd. and Elm Street is hereby closed to pedestrian traffic and shall be permitted for use of loading and unloading. Commissioner Carter made a motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.

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 Justice called for discussion, there being none the meeting was adjourned. 5-0

CONSENT ITEMS:

The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is June 13, 2011 at 6:00 p.m.

APPROVED:

FRANKLIN D. JUSTICE, II, MAYOR

ATTESTED:

CHRISTY BILLITER, CITY CLERK