

CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
SPECIAL MEETING MINUTES
JANUARY 6, 2009 AT 5:00 P.M.

The Board of Commissioners for the City of Pikeville met in a special called session on Monday, January 6, 2009. The meeting was held in the City Hall Conference Meeting Room located at 118 College Street, Pikeville, Kentucky.

There being a quorum present, Mayor Franklin D. Justice called the meeting to order at 5:00 p.m. Commission Members present at roll call were as follows:

COMMISSIONER:	DALLAS LAYNE	
	EUGENE DAVIS	ABSENT
	JIMMY CARTER	ABSENT (Arrived 6:00 PM)
	BARRY CHANEY	
	FRANK JUSTICE, II	

MINUTES

The minutes for the previous regular meeting held on December 8, 2008 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 Layne seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously.

PAYMENT OF CITY BILLS

A list of City Bills totaling \$542,130.45 was presented to the Commission for approval of payment. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously.

BUSINESS

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

1. Consider request to appoint Shawn Amos as the liaison on behalf of the City of Pikeville with the Pride Program. Commissioner Chaney made to motion to approve. Commissioner Layne seconded the motion. Mayor Frank Justice called for discussion, there being no further discussion the motion passed unanimously.
2. Consider request to appoint Paula Spradlin and Mike Thompson to the City Tree Board to serve in the current open terms. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Frank Justice called for discussion, there being none the motion carried unanimously.

3. Consider request to adopt a resolution in support of an application and authorize the mayor to sign and executive all documents on behalf of the City of Pikeville to the Environmental and Public Protection Cabinet, Division of Waste Management in the amount of \$26,200.00 for crumb rubber. The crumb rubber grant application requires a 25% match from the City of Pikeville. The areas for the crumb rubber would be the Bob Amos RV Area and the Pikeville Pond Area. Commissioner Chaney made the motion to approve the submission of grant. Commissioner Layne seconded the motion. Mayor Justice asked if this would be used for the playground area. City Manager Donovan Blackburn stated that the grant if awarded would be for the areas currently under construction. Mayor Justice called for further discussion, there being none the motion carried unanimously.

**RESOLUTION OF THE CITY OF PIKEVILLE, KENTUCKY
AUTHORIZING APPLICATION FOR FUNDING ASSISTANCE FOR THE
WASTE TIRE MARKET DEVELOPMETN CRUMB RUBBER GRANT
APPLICATION.**

WHEREAS, the City of Pikeville has made application to the Environmental And Public Protection Cabinet, Division of Waste Management for the purpose of obtaining funds in the to make necessary purchase for crumb rubber at a new construction site near the Pikeville RV Facility and the Pikeville Lake Area.

WHEREAS, the City Council of the City of Pikeville considers it in the best public interest to improve the facility (s) for public use.

NOW, THEREFORE, BE IT RESOLVED, the Board of Commissioners of the City of Pikeville as follows:

- (a) That the Mayor of the City of Pikeville, Frank Justice, II, DVM is hereby authorized to sign and submit the necessary application documentation to secure funding.
- (b) The city here certifies that it has the legal authority to apply for the grant and ensure proper construction, operation and maintenance of the project.

Passed this 6th day of January, 2009.

Commissioner Chaney moved for the adoption of the foregoing resolution.

Commissioner Layne seconded the motion.

Upon roll call, the votes were as follows:

YES

NO

FRANK JUSTICE, II MAYOR	<u> x </u>	<u> </u>
GENE DAVIS, COMMISSIONER	<u> </u>	<u> </u> Absent
DALLAS LAYNE, COMMISSIONER	<u> x </u>	<u> </u>
JIMMY CARTER, COMMISSIONER	<u> </u>	<u> </u> Absent
BARRY CHANEY, COMMISSIONER	<u> x </u>	<u> </u>

The Mayor declared the within resolution adopted.

 /s//Frank Justice
FRANK JUSTICE, II MAYOR

ATTESTED:

 /s/ Rebecca Hamilton
REBECCA HAMILTON, CITY CLERK

4. Consider request to appoint City Manager, Donovan Blackburn and Main Street Director Candi Sawyers to the Hillbilly Days Board for the 2009 term. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for further discussion, there being none the motion passed unanimously.
5. Consider request to approve a contract for: Proposed Thompson Road Widening Project, City of Pikeville, Pike County, KY, In the vicinity of Railroad Milepost CMG-100.3 to CMG-101.3 for construct or to cause to be constructed, the proposed widening of Thompson Road. The motion is further made to authorize the mayor to sign and execute all documents, payments or other terms of the contract. Commissioner Layne made the motion to approve. Commissioner Chaney abstained. Mayor Justice made the motion to second. Mayor Justice called for further discussion, there being no further discussion, the motion passed unanimously.
6. Consider request to authorize a change orders for Kenvirons on Utility Line Construction Projects. Request to decrease the North Mayo Sewer (10inch Main Force) by \$14,516.00 and increase the Buckley's Creek Project by \$61,375.00. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice asked for City Manager to explain why a change order was needed for projects. City Manager Donovan Blackburn stated this was basically needed due to progress of projects and the City has billed the county school board as approved for the project contract for the Buckley Creek Utility Line. Mayor Justice called for further discussion, there being none the motion passed unanimously.
7. Consider request to cancel the regular scheduled meeting date of January 12, 2009 for the Pikeville City Commission. Commissioner Layne made the motion to approve. Commission Chaney seconded the motion. Mayor Justice called for further discussion, there being none the motion passed unanimously.
8. Consider payment request #3 for the Bob Amos RV Park to H2O Construction in the amount of \$72,740.00 per the recommendation of Summit Engineer, Jack Sykes and the City Manager. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for discussion. City Engineer, Jack Sykes requested hold 10% retainage on project. Mayor Justice asked Mr. Sykes for an update on project. Mr. Syles stated the project

- was in the 1st phase and the sewage lines was buried, but wanted to request the retainage until tests could be processed on the lines. Mayor Justice called for motion to approve change request. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for further discussion, there being none, and motion for amount of \$65,466.00 was approved for payment unanimously.
9. Consider request for closed session for discussion of economic development issues regarding Marion Branch, legal issues regarding cable provider, utility and shelter and various HR issues regarding city employees. Commissioner Layne the motion to adjourn. Commissioner Chaney seconded the motion. Mayor Justice called for further discussion, there being none the motion passed unanimously.
 10. Consider request to re convene into a regular commission session. Commissioner Chaney made the motion. Commissioner Jimmy Carter was present and seconded the motion. Mayor Justice re convened the session.
 11. Consider request to call to order Public Hearing and discussion for purpose regarding the cable television franchise of InterMountain Cable and Suddenlink Communication. The purpose of the public hearing is the continuance of proceedings that were previous held in 2005 pursuant to 47 USC 546. The hearing will afford the public in the City of Pikeville (A) identifying the future cable related community needs and interest and (B) reviewing the performance of InterMountain Cable and Suddenlink Communication under their franchises during the franchise term. City Manager Donovan Blackburn; Thank everyone for coming out tonight and there is a register sheet for sign in. There has been a traffic accident in Prestonsburg near Bull Creek and attorneys for the hearing are behind the accident scene. There will be a slight delay to allow for their arrival. Mayor Justice called to order the public hearing and introduced Attorney Rusty Davis. Atty Davis; Opened the meeting with stating that the City of Pikeville is limited as to what they can do under federal law. I have been dealing with the cable company for over 20 years and last year the contract. Davis; Is there anyone here with complaints for the Operating Company InterMountain Cable? No hands raised. Davis; Is there anyone here with complaints for the Operating Company Suddenlink? Audience; Several hands raised. Davis; Is there anyone here just not getting service? Audience; several hands raised. Davis; The City is exploring options and one of them filing a class action law suit to get refunds and rebates for service that residents have not obtained. Davis; Has anyone here received rate adjustments? Audience; No. Davis; Over 500 surveys returned. Findings of surveys InterMountain renewal: 98 customers, 72 yes, 11 no and 15 no answer. Davis; few complaints. Davis; Suddenlink renewal: 305 responded, 83 yes, 171 no, 51 no answer. Davis; City is limited per law, we can not set rates for customers or channels for area, but we can expect to get the quality of service per federal standards. City Manager Donovan Blackburn; The contact information for Suddenlink is on the city website, www.cityofpikeville.com. Blackburn; Addressed audience; to be sure to sign up if they wish to address the meeting. Atty; Davis; The City has hired an expert help with the problems of the cable service. Linda Ains from Lexington, Kentucky. Attorneys arrive: Mayor Justice stated that both will be able to make comments. Mayor Justice; Rusty, do

you want to introduce? Davis; Yes, Linda Ains. Davis; Please explain what the City can do and the expected outcome of the proceedings? Linda Ains; City expert, Linda Ains; Sorry late. Going back to what the city process will be, is to collect data before making decision, financial, legal, technical ability of the service provider. Talking about what has to happen, whether the operator's proposal is reasonable, talking to meet the future cable related issues. Federal law says after the city has gathered all information the hearing procedures are closed. Then the Cable Operator can submit a proposal and that proposal will be public information. Then they (the city) can review the proposal. After that there is a preliminary assessment and the city would make a preliminary determination to review or denied, so and then there would be a valid hearing and a formal determination and now that is the process. Does that answer the question? And to night we are basically we are just gathering information, and we want to hear from the public, because federal law basically says that we must look at the needs and interest and that is what we are hear to do. Gather and Review. I don't know if we put into the record any documentation or emails? Rusty Davis; Yes, also that I have submitted to the city clerk correspondence and documents dealing with Suddenlink and their predecessor Tele Media and Suddenlink over the past 20 years primarily over the last 15 years I have gone through the struggle with them and we will enter that as part of the evidence of the hearing and the city clerk already has those. Ains; But these emails show that the city has repeatedly put Suddenlink on notice of problems. Certainly recently I know I have reviewed repeated violations, so I have to continue if anyone has any question? Mayor Justice; Does anyone have any questions for the attorneys at this time? Charlie Bentley; Pauley Addition resident, loss signal and no service. Raising the rate for service we do not receive. Suddenlink should promise to upgrade service and we expect the best service for the rate we are paying. Mayor; Anyone else? Roger Davis, Cedar Creek resident. I am not satisfied with Suddenlink. I am paying around \$100.00 per month for service and channels go in and out. Can not watch the sports package. Cable goes out on Saturday and no one to answer calls until Monday. Feels customers are being held hostage by cable provider. Benny Bartley; Keyser Heights resident for 27 years stated he was unsatisfied with Suddenlink. Mr. Bartley's main reason inconsistency with service not to say signal. Be assured one day good service, next morning gone. The service is undependable. No wonder you have problems. 1981 cable underground and not in conduit. Stella Marcum in Audience; I know we are not suppose to be talking about money at this meeting, but I think we should at least get what we paid for and what the company says they will give us, and when that is not done I think that is the company's responsibility is to adjust our payments for what we are getting from them, not what they say they are giving, but what they are actually giving us. Because we are in Myers Towers and everyone who lives in there is on limited income, old, handicapped and we have a hard enough time to live and like I said earlier before you got here and I have a sister in Williamson WV that pays the same amount I do and she gets 78channels crystal clear. If they would give us crystal clear for three days in a row on weekends and on Monday morning at 8 o'clock it goes right back snowy and 40 channels again and they say they

give us 58 channels and I have never received 58 channels and never received them clear and I feel like I have been robbed in the last 4 years by this company and I have no idea where to go or who to talk with about this and that there were so many other people that had the same problem other than where I live, where there is over 600 apartments. Mayor Justice; OK. Stella Marcum; I think this company should reimburse us. Mayor; OK. Mayor; Linda, thank you for coming up, sorry you got caught up in traffic. You heard to night a surveys and we have had some people come out tonight in adverse weather conditions and they have done so and we have meet several and this is a small town and we are around constichruates all the time and this is the number one complaint in Pikeville, KY that I have is the signal with mountain... Suddenlink communications..(sorry) I have been approached at least a hand full of times or 5 times this week alone and I told people about the meetings and they are not here. I will let Commissioner Carter speak for himself, but when we went back and talked in 2005 you where quite imamate about the quality of product you where getting and apparently from Rusty Davis this has been an on going problem ever since he has been city attorney for 20 some years. We started talking about the problems we are having and what we have been hearing. Rusty brought Linda Ains in and this is her specialty and she explained the procedure to us and we wanted to take action. She recommended Mr. Potts, his resume is quite extinguishing and she also told us where this may go in the future but you can see we are taking time and your tax payers dollars and we are taking this serious and there liable to be a lot more tax payer dollars go after this. I know this is your alls quality of life and we are going to address this issue. Pikeville is a wonderful community; I don't need to sell Pikeville to everybody sitting in this room. You know when you think of eastern KY, it's Pikeville, there are 250,000 people within 50 miles of this meeting we are having tonight, we are a county of 65,000, one of 3 medical schools, we have the regional medical facility, we are proud people, and I am tired of going over to Johns Creek and seeing a television with better picture than I have in a barn of all places. When I go watch the CATS I go to Billy Joe Fields barn. I don't like controversy, but you have our word that we will follow this to the end and I don't know where the end is taking us, but we are going to go there. Mayor Justice; You Commissioners have any comments; Commissioner Carter; I just want to thank everyone for coming out tonight, I know the weather is nasty and ha, I think this is important and I have brought this up in every meeting, that we deserve more, we deserve better, we deserve the best, and I know we have been promised and told this and that for several years and we have been told again that it is close, it's close, but we still have not gotten it. Again I want to thank everybody for coming out, and I am in the same boat as you are I am fortunate I live on top of a hill and I can get Satellite, the only reason I keep Suddenlink if for WYMT, and I think that is the reason for anyone with Satellite and to get a local KY station any other way you would do it. Again thank you for coming out and I am assuming everyone is here because they are not satisfied and I want to give equal opportunity and you are here in favor of Suddenlink please raise your hand. OK, that is what I thought.. (no one raised hand). Mayor Justice, Jimmy, before we get too far if I said by something, I apologize. Commissioner Carter don't care to pay

for something if we get the product that is advertised. I would rather they just not advertise on TV. I know this is coming out of Charleston and Huntington and they do have the best. Just not advertise. Gentleman; Can the City take over its own cable? LAins to address: Very expensive, but it is possible. There are municipalities that own their electric, Barboursville and they purchased the cable system. Linda Ains; in Kentucky there are 10 to 12 municipalities that operator the cable and compete directly with their cable operators, typically there is possible, very expensive and compete, there are times that a City will. Mayor; The City is not afraid of that. Mayor; Just a minute. Lady in back; Lady; How long? Time Frame? Linda Ains; The city currently providing information and feel comfortable that we need to collect and then we close these proceedings and the ball starts rolling. Blackburn; How long does the cable providers have to make their plan back to the Commission and at which point the Commissioner would decide to accept or not? Ains; I believe, based on Federal Law several months. Blackburn; Once the process goes, what ever the decision of the Commission makes as if it is favorable then we will operate as is and is not favorable we are at the mercy of the legal system. Mayor Justice; I don't know how much more information you can gather and I am ready to go on. I have interrupted Commissioner Layne twice; Commissioner Layne; This 2 years I have been elected for will make me 10 years on this Commission. A lot of friends call about Suddenlink and it seems they get mad and ask if we can do something about it. We have talked about it and we are taking about it. Thank you. Commissioner Barry Chaney; Thank everyone. Things I have heard to night disturb me, bad signal is one thing, cable problems. It sounds like to me that Suddenlink is committed to poor service. And if you are committed to poor service at least you could be nice about it when people call to complain and it bothers me that people of Pikeville are being talked down to when they call to complain and it also bothers me that it takes over take 30 minutes to get a service call in. I called and lady told me it would take 10 people in the same area to complain before they would send out a technician to check for a line down on the same street. I think that we need to do better and we are going to take this to the max and have the people of Pikeville treated better. Mayor Justice; Linda, I am going to make a statement here and if I am wrong you can correct me. This hearing will be continued at a date to be determined and at that meeting the commission will tell what the plan of action is there will not be no public response at that time and the cable provider will have ability to write back.. Linda; close proceeding and take action; Mayor; the meeting date will be 7 to 21 days in newspaper prior to the date of next hearing. Is there anything I need to add? Davis; We need to give both of our cable providers a chance to speak. Mayor: Is there anyone here from Suddenlink Communications? Please let me advise you if they speak please don't interrupt them. Peter Brown; Suddenlink; Suddenlink is committed to Pikeville. I have heard some very disturbing things and thank you for coming out. I have some questions. Over the 20 year period 17 years of that was from another company. Intent is not to pacify the situation. I have been associated with Pikeville for the last 2 years. I am not going to stand here and tell you a lot of things but for you to know I take this very seriously and Suddenlink

takes very seriously. They have done a lot deal of work over the last few years and invested a lot of capital. Back office working on all but 2 channels in fiber optic and studio feed to clear up the problem. You ask why not sooner, had to do other steps with networking and make improvements. There are still some areas that need addressed. Myers Towers, we have no access to your wiring in that building and have contacted the owner to try and correct that problem. I need to address people being rude. Mr. Brown; opened discussion to audience; complaints on quality of picture. Mr. Brown; will see results in mid January. Spoke to engineer this morning before I came down and we are on schedule. All the new channels will be brought into Pikeville. Why sooner that latter? We had to do infrastructure in Charleston network. That should be happening. We have recognized issues, but had to overcome problems had to be addressed. Commissioner Chaney; Hospital has a new building with new lines and you can only get snowy channels and the Hampton Inn is a new building. Mayor: question to Mr. Brown. Is it signal strength? Mr. Brown; not sure. Mr. Davis was on phone and he was not very happy also Mr. Blackburn not very happy. Mr. Brown continued with audience on addressing pacific problems. Mayor Justice; Thank you Mr. Brown. City Manager; InterMountain Cable; Adam; Hard to address if no complaints. Believe we have the state of the arts across KY and Local. We have 300-330 MEG system additional 750 MEG in last 5 years. I am sure we have problems, but try to address problems. Davis; Why 750? Davis? Why did you go with that system? Adam; Increase your bandwidth. Adam/InterMountain Cable; for service, but note expensive. Mayor: WYMT is aired over MT Cable? Adam; Yes. Jimmy Adkins; (in audience) I have their (MT Cable) package, excellent. Davis; Where is your antenna? Adam; Martin, top of hill. Mayor; Floyd County? Adam; Yes. Mayor: called the meeting to closing stating Mr. Brown's email is on City website for further discussion. Mr. Brown; receiver upgraded in next little bit. Commissioner Carter; Changed received and going to replace antenna at Flatwoods location? So it is not fixed? I thought you said it was? Brown; I apologize, by end of month. Commissioner Carter; So by the end of month? Brown; Yes. I will check. Mayor; we need to wrap it up and this hearing will be continued and date to be determined and the date will 7 to 21 days in newspaper prior to the meeting date and appreciate each and everyone of you coming out and appreciate the cable providers for coming and representing the companies. Mayor Justice called for adjournment; Commissioner Chaney made the motion. Commissioner Carter seconded the motion. Mayor Justice; All in favor? Yes. Meeting adjourned.

Next regular scheduled meeting is January 26, 2009 at 6:00 p.m. at City Hall, 118 College Street, Pikeville, KY 41501.

Mayor

ATTEST:

City Clerk