

**CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
SPECIAL MEETING MINUTES
December 14, 2009 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, December 14, 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 Frank Justice called the meeting to order at: 5:00 p.m. Commission Members present at roll call were a follows:

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

MAYOR: FRANKLIN D. JUSTICE, II

MINUTES

The minutes for the previous special meeting held on November 16, 2009 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. 5-0.

BUSINESS FROM FLOOR

Mayor Justice called for business from the floor. There being none, the Mayor called for Mr. Stratton with the Pike County Humane Society to come forward. The City of Pikeville presented a check in the amount of \$10,000.00 to Mr. Stratton for the Pike County Human Society. Mr. Stratton thanked the commission for their generosity and gave an update on the progress of the new shelter that is being built in the city limits on Lykens Branch.

City Manager Donovan Blackburn presented a request to adopt a Proclamation naming the month of January as Pikeville Medical Center Month to celebrate their being awarded the 2009 Hospital of the Year Award. Mr. Jerry Johnson was present as Mr. Blackburn read the Proclamation into record. Commissioner Carter made the motion to adopt. Commissioner Layne seconded the motion. Mayor Justice called for comments. Commissioner Chaney stated when he visited the hospital he was treated very professional and the hospital deserved the award.

Commissioner Layne stated he had received his hip replacement surgery at Pikeville Medical Center and he is now walking and with a cane. Commissioner Davis stated he visited the center for a heart cath and he had never been treated better in his life. The nurses did not know I was a city commissioner, just a patient. Mayor Justice stated he had already received a letter from his aunt in Powell County about the hospital and how proud she was for the award. Commissioner Chaney had not visited as a patient, but commented on the growth and the continued care for the area. Jerry Johnson addressed the Commission on behalf of the 1700 employees of the hospital and thanked them for their recognition. Mayor Frank Justice called for any further discussion, there being none the motion carried unanimously. 5-0.

*PROCLAMATION IN HONOR OF
PIKEVILLE MEDICAL CENTER
FOR BEING NAMED THE
"2009 NATIONAL HOSPITAL OF THE YEAR"*

WHEREAS, the Pikeville Medical Center opened its doors to receive its first patient on December 24th 1924 and became known throughout the region as "the house of hope and healing" and this year will be celebrating its 85th year anniversary;

WHEREAS, it was originally constructed for 50 beds but now has grown to over a 260 bed facility including 40 beds in the rehabilitation hospital and has the capability to expand itself to 500 beds as needed and is currently schedule to start a multi-million dollar expansion in early 2010 to include a parking garage and additional office space.

WHEREAS, Pikeville Medical Center is the region's leader in the health care industry with currently over 555,000 square feet of space and growing. PMC was named in 2007 & 2008 as one of the "Best Places to Work" in Kentucky and in 2009 was selected as one of the nation's Best Places to Work by Modern Healthcare;

WHEREAS, Pikeville Medical Center not only offers superior healthcare with outstanding patient services but is also a leading economic engine for the entire region's growth. With over 1,700 employees and 200 physicians on staff, it not only creates well paying career opportunities, but also generates 1.7 million dollars in occupational tax dollars to the city for services thus being the largest employer within the Pikeville corporate boundaries.

WHEREAS, Pikeville Medical Center leads the health care profession by offering to the entire Eastern Kentucky region many world class and state of the art procedures, facilities and equipment. PMC is leading the industry with state-of-the-art diagnostic equipment, top quality cancer care, a heart institute, 4-D echocardiograms & digital mammography just to name a few. With investment in such equipment, technology and expertise, it gives hope and saves many lives throughout the entire region.

WHEREAS, Pikeville Medical Center through its outstanding leadership lead by CEO Walter May and COO Jerry Johnson and all the hard working, committed & loyal employees have received various ratings and awards including 5-Star Rating for Cholecystectomy, Hip Fracture Repair, Treatment of Pneumonia, Treatment of Respiratory Failure, PRC 5-Star Service Award in Cardiothoracic Vascular Unit, Inpatient Rehabilitation, Obstetrics, Oncology, Kentucky Hospital Association Award for Leadership and Governance Award, McKesson National VIP Award for Supporting Organizational Growth and Technology, National American Organization of Nurse Executive Award, American Cancer Society's "Multiple Team Excellence Award",

Commission on Cancer's Outstanding Achievement Award just to name a few.

WHEREAS, Pikeville Medical Center has achieved one of the nation top awards and honors for hospitals as being named the "2009 National Hospital of the Year" by the American Alliance of Healthcare Providers. Out of over 5,800 hospitals in the country about 400 hospitals felt they met the qualifications to be considered for said award and applied. Pikeville Medical Center did compete against many world class - top rated hospitals such as The Mayo Clinic, The John Hopkins Hospital, The Cleveland Clinic, Duke University Medical Center & Vanderbilt University to name a few.

WHEREAS, to achieve this high honor all hospitals were graded in six principal areas; 1. Standards of conducts 2. Performance management and improvement 3. Staff development & training 4. Systems of communication 5. Good citizenship & 6. Availability of educational and promotional material for patients and their families. Pikeville Medical Center was infiltrated by the Alliance of Healthcare Providers mystery patients secretly utilizing the hospitals services better known as a "Mystery Patients".

WHEREAS, through the hard work and dedication of the 1,700 employees, Pikeville Medical Center did outperform all other hospitals in order to obtain and achieve this most distinguish and honorable awards thus establishing them as "National Hospital of the Year".

*Now, Therefore, Be it Proclaimed by the City of Pikeville as follows:
That through Pikeville Medical Center's leadership, employees, and the important services that is provided daily to the citizens of the City of Pikeville and entire region, that all employees of Pikeville Medical Center are hereby appointed and designated on this day as "Special Ambassadors" of good will for the City of Pikeville.*

Furthermore let it be known and recorded that the entire month of January 2010 be proclaimed as "Pikeville Medical Center Month" and all that hear give honor to such an outstanding organization & its employees for their outstanding accomplishment.

That for these outstanding accomplishments by Pikeville Medical Center as set forth herein it is hereby ordered by the Pikeville City Commission to be the cause of the clerk of the City of Pikeville for this document to be recorded among the records of the City of Pikeville so that others that come hereafter will know of their dedication to provide quality services to the public.

Adopted by Pikeville City Commission this 14th day of December, 2009.

Mayor Franklin D. Justice, II

PAYMENT OF CITY BILLS

The City Manager Donovan Blackburn requested the approval to pay city bills in the amount of \$799,112.98. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for further discussion, there being none the motion passed unanimously. 5-0.

December 14, 2009 Regular Meeting

BIG SANDY AREA DEVELOPMENT DISTRICT

Mayor Justice recognized Libby Radcliff and Jeff Sizemore to the meeting. Libby addressed the commission and stated Jeff and herself would be attending future meetings on behalf of the district.

CITY ENGINEER REPORT

City Engineer, Jack Sykes was present and had the following agenda requests:

1. Consider request to approve contract between the City of Pikeville and Summit Engineering, Inc. in the amount of \$80,000.00 for the purpose of Flood Levee Certification contingent that the City Attorney review and grant funding obtained to pay for the project. The request also authorizes the mayor to sign said contract. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for further comments, there being none the motion passed unanimously. 5-0.
2. Request to approve contact between the City of Pikeville and CORE Property Sciences in the amount of \$29,540.00 for the purpose of Flood Levee Certification contingent upon City Attorney Rusty Davis review and grant funds to become available to pay for the project and authorize the mayor to sign the contract. 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.
3. Consider request to approve of Pay Request #10 for Thompson Road Widening Project in the amount of \$458,522.22, to authorize payment to contractor and authorize the mayor to sign said pay request and to authorize Change Order #4 for Thompson Road Widening Project as submitted for the purpose of additional grade work, blacktop and brick inlays at the end of each sidewalk as required by the state. The total amount of the change order is \$37,001.00 and approve the request to 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.

Jack Sykes thank the commission for their time and wished everyone a Merry Christmas.

CITY ATTORNEY

City Attorney Rusty Davis was present and had several items to read into record.

1. Consider request for a reading and adoption of an emergency ordinance 0-2009-026. Ordinance amends the 2009-2010 Fiscal Year Annual Budget as submitted. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for

comment, there being none, mayor called for roll call. Ordinance passed unanimously. 5-0.

**AN EMERGENCY ORDINANCE AMENDING THE
FISCAL BUDGET
FOR THE 2009-2010 FISCAL YEAR**

ORDINANCE NO. 0-2009-026

WHEREAS, certain additional information has come to the attention of the Finance Department which necessitates the amendment of the 2009-2010 fiscal year budget to reflect certain increases and decreases to revenues and expenditures.

NOW, THEREFORE be it ordained by the City of Pikeville that the fiscal budget for the 2009-2010 fiscal year is hereby amended to reflect an increase and or decrease of revenues and /or expenditures as reflected in the attached exhibit entitled "Budget Amendments".

An emergency is declared to exist with regard to the adoption of the ordinance. Said emergency being that the City of Pikeville is on a time deadline to submit required paperwork to include this budget amendment in order to be awarded a 1 million dollar CDBG grant to the City of Pikeville for the purpose of constructing a sewer line project on Island Creek leading to Marion Branch Development . Failure to comply may result in the loss of said grant funds.

Passed this _14th day of December , 2009.

Commissioner Chaney moved the adoption of the foregoing ordinance.

Commissioner Layne seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within Ordinance adopted.

FRANKLIN D. JUSTICE, II, MAYOR

ATTEST:

REBECCA HAMILTON, CITY CLERK

- 2. Consider request for a reading and adoption of an emergency ordinance 0-2009-028 amendment to the City Occupational Tax ordinance. Commissioner Chaney made the motion to adopt. Commissioner Layne seconded the motion. Mayor called for comments. Mr. Davis stated the ordinance was to clarify the penalty dates. After auditor Don Wallen reviewed the ordinance he suggested the City to clarify the dates. Only 3 words were added to the Ordinance. Mayor called for additional comments, there being none the Ordinance was adopted. 5-0.**

**ORDINANCE RELATED TO THE AMENDMENT OF § 115.12
OF THE CODE OF ORDINANCE TO CLARIFY WHEN
PENALTIES SHALL BE DUE FOR FAILING TO FILE OR
PAY TAXES DUE UNDER THE ORDINANCE**

ORDINANCE NO. 0-2009-028

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that § 115.12 – Penalties is amended as follows:

§ 115.12 - Penalties

- (1) A business entity subject to tax on net profits may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:
 - (a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the city; or
 - (b) Fails to pay the tax computed on the return or report on or before the original due date prescribed for payment. §115.06(1).
 - (c) The total penalty levied pursuant to this subsection shall not exceed twenty- five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).
- (2) Every employer who fails to file a return or pay the tax on or before the time prescribed under Section (5) of this ordinance may be subject to a penalty in amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).
- (3) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was originally due until the tax is paid to the city. A fraction of a month is counted as an entire month.
- (4) Every tax imposed by this ordinance, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the city.
- (5) The city may enforce the collection of the occupational tax due under section (3) of this ordinance and any fees, penalties, and interest as provided in subsections (1), (2), (3), and (4) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the city shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this ordinance.
- (6) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.
- (7) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this ordinance of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.
- (8) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the city and required to be filed with the city by the provisions of this ordinance, or by the rules of the city or by written request for information to the business entity by the city.
- (9) Any person violating the provisions of section (11) of this ordinance by intentionally inspecting confidential taxpayer information without authorization, shall be fined not more than five hundred dollars (\$500) or imprisoned for not longer than six (6) months, or both.

- (10) Any person violating the provisions of section (11) of this ordinance by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1000) or imprisoned for not more than one (1) year, or both.

An emergency is declared to exist with regard to the adoption of the ordinance. Said emergency being that the City of Pikeville desires to clarify its occupation tax ordinance prior to the mailing of Tax Return to taxpayers on or before December 30 2009 and will be unable to meet said deadline if two readings of the ordinance is required.

The amended ordinance shall be in full force and effect after it is passed and published as required by law. The above ordinance was read and passed by 2/3 majority this 14th day of December, 2009.

Commissioner Chaney moved for the adoption of the forgoing ordinance.

Commissioner Layne seconded the motion.

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

FRANKLIN D. JUSTICE, II MAYOR

ATTEST:

REBECCA HAMILTON, CITY CLERK

- 3. Consider request to read the 1st reading of an Ordinance amending Chapter 90 "Animals". The Ordinance was read by City Attorney Rusty Davis. Second reading at the next scheduled meeting to be held January 11th 2010.**

CITY MANAGER

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

1. Consider request to approve the submitted lease agreement and all terms set forth therein as presented between the City of Pikeville and Hatfield and McCoy River Rats and authorize Mayor Justice to sign the agreement. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.
2. City Manager requested approval for the amended lease agreement between the City of Pikeville and Model City Day Care as submitted and authorize Mayor Justice to sign the agreement. Commissioner Chaney made the motion to approve agreement. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none the motion was passed unanimously. 5-0.
3. Consider request to name and approve City of Pikeville residents Kay Baird and Susan Huffman as the City members of the nomination committee for the Model City Day Care Board selection. The nomination is for a two year term beginning January 1, 2010. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor called for comments, there being none the motion passed unanimously. 5-0.
4. Consider request to approve the terms of the settlement agreement as submitted between the City of Pikeville and Sprinturf Company and to authorize Mayor Justice to sign the agreement. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously.5-0.
5. Consider request to select the desired option #2 in Sprinturf agreement and to authorize Mayor Justice to sign all necessary paperwork and approve payment as set forth by the terms of the agreement as necessary. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.
6. Consider request to authorize the City to apply for a loan from US Bank in the amount of up to \$250,000.00 maximum for the purpose of paying for shortfall of Sprinturf contract to install new turf on Hambley Field and authorize the Mayor to sign all required paperwork for said load. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none motion passed unanimously. 5-0.
7. Request to adopt Proclamation for the Human Rights read into record by Donovan Blackburn. Commissioner Chaney made the motion to adopt.

- Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.
8. Consider a request to adopt submitted Rural Development Loan Resolution on Bulletin 1780-27 and all approve terms set forth therein and to authorize the Mayor to sign said resolution. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none motion passed unanimously. 5-0.
 9. Consider request to name City Manager Donovan Blackburn as Proxy for Mayor Frank Justice for the project Marion Branch Sewer for funding agency Rural Development grant and loans. Proxy will be authorized Mr. Blackburn to represent the City in signing all official documents, attend quarterly meetings, represent the City in any required official capacity furthermore to authorize Mr. Blackburn to sign any and all required paperwork on the RD grant and or the \$1, 500,000.00 loan as approved in the resolution. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.
 10. Consider request to cancel the December 28, 2009 Regular scheduled meeting contingent upon City Manager feeling there is no urgent business to be brought before the commission on that date. If importation business is needed the City Manager will have the commission's approval to call said meeting. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor called for discussion, there being none the motion passed unanimously. 5-0.
 11. Consider request to award the bid for the US 23, City owned property located behind US Post Office for tree removal to Boyd Logging for the amount of \$35,000.00. Boyd Logging was the low bidder in the bid process. Request authorization for Mayor Justice to sign contract. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none motion passed unanimously. 5-0.
 12. Consider request to adopt Resolution accepting the terms for the CDBG grant for the Marion Branch Sewer Project and authorize Mayor Justice to sign. Commissioner Davis made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.

RESOLUTION

Whereas, the City of Pikeville has been awarded a Community Development Block Grant (CDBG) in the amount of \$1,000,000 for the Marion Branch Sewer Project;

Whereas, the terms of the CDBG grant award require the City of Pikeville to:

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- 1) Provide assurance that all conditions of the Kentucky State Clearinghouse review will be met;
- 2) Provide assurance that project cost overruns will be borne by the City;

NOW, THEREFORE, BE IT RESOLVED, That the City of Pikeville does provide assurance that conditions of the Clearinghouse review will be met, and does provide assurance that project cost overruns will be borne by the City of Pikeville.

Motion for adoption of this Resolution was made by _____,
 seconded by _____ and vote taken as follows:

FOR

AGAINST

_____	_____
_____	_____
_____	_____
_____	_____

THEREUPON said Motion was declared passed and the Resolution adopted this the ____ day of _____ 2009.

 Mayor, City of Pikeville

ATTEST:

By: _____
 City Clerk

13. Consider a request to adopt a resolution authorizing the borrowing of funds for the interim financing to be repaid from tax receipts and on a subordinate bases, municipal water and sewer system revenues and to authorize the mayor to sign and execute the resolution. Commissioner Layne made the motion to adopt. Commissioner Chaney seconded the motion. Mayor Justice called for comments. Commissioner Davis asked how much we where making the loan for. City Manager Donovan Blackburn stated the loan would be for \$1,500,000.00. Mayor called for further comments, there being none the motion passed unanimously. 5-0.

RESOLUTION NO. R-2009

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF PIKEVILLE, KENTUCKY, AUTHORIZING THE BORROWING OF MONEY FOR INTERIM FINANCING TO BE REPAYED FROM TAX RECEIPTS AND, ON A SUBORDINATE BASIS, MUNICIPAL WATER AND SEWER SYSTEM REVENUES;

PROVIDING FOR THE CREATION OF A CONSTRUCTION FUND FOR THE PROJECT TO BE FINANCED ON AN INTERIM BASIS BY SUCH BORROWING; AUTHORIZING THE EXECUTION AND DELIVERY OF A SHORT-TERM NOTE TO COMMUNITY TRUST BANK, INC. IN EVIDENCE OF SUCH BORROWING; AND PLEDGING CURRENT TAX RECEIPTS AND, ON A SUBORDINATE BASIS, MUNICIPAL WATER AND SEWER REVENUES TO SECURE PAYMENT OF THE SHORT-TERM NOTE.

WHEREAS, the City of Pikeville, Kentucky (the "City"), desires to borrow funds on an interim basis in order to initiate the acquisition, construction and installation of major improvements and additions (the "Project") to the City's combined water and sanitary sewer system (the "System"); and

WHEREAS, pursuant to KRS 65.7701 through 65.7721 (the "Act"), the City may issue a short-term note maturing no later than the end of the current fiscal year payable from the receipt of current taxes or revenues, or both, subject to certain conditions provided in the Act; and

WHEREAS, in order that the acquisition, construction and installation of the Project may be initiated, it is necessary that the City authorize and make provision for the borrowing of interim construction funds and for the repayment thereof in the above-described manner; and

WHEREAS, the City has made arrangements with Community Trust Bank, Inc. (the "Lender") to borrow as needed from time to time up to \$1,500,000 for Project construction purposes upon condition that such loan with interest thereon be repaid to the Lender on or before May 31, 2010;

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PIKEVILLE, KENTUCKY, AS FOLLOWS:

Section 1. There is hereby authorized the borrowing of up to the aggregate sum of \$1,500,000 from the Lender. The Mayor is hereby authorized to execute in the name and on behalf of the City a note substantially in the form attached hereto as Appendix A and made a part hereof (the "Note"), together with any necessary vouchers or requisitions requesting advances of cash funds by the Lender to the City. The rate of interest applicable to the Note shall be a variable rate as set out in Appendix A.

Section 2. The City hereby pledges to the Lender and grants to the Lender a security interest in, for the security of payment of the Note, its tax revenues and, on a subordinate basis, its municipal water and sewer revenues, which are received in the current fiscal year, which the City hereby appropriates in amounts sufficient to pay when due the interest on and principal of the Note and any other charges or amounts due thereunder.

Section 3. It is acknowledged that for the purposes described in the preamble of this Resolution (which is adopted as a part hereof), a special and separate fund and bank account of the City, designated as the “City of Pikeville Series 2010 Construction Fund” (the “Construction Fund”) shall be created. There shall be deposited in the Construction Fund by the Finance Director or other officer of the City from time to time all moneys borrowed for the interim financing of the Project as herein provided. A true and accurate separate accounting shall be made of all deposits in and disbursements from the Construction Fund, and at no time shall there be any commingling with other moneys of the City.

Section 4. The City hereby declares that the Note is a full faith and credit obligation of the City and shall be payable and secured solely as provided in Section 2 hereof. The Note is authorized to be executed and delivered by the Board of Commissioners under authority of the laws of the Commonwealth of Kentucky, with particular reference to the Act. The amount of the Note does not exceed 75% of the sum of the taxes levied and collected for the current fiscal year and the City’s water and sewer revenues, after paying outstanding revenue bond and other outstanding obligations, for the current fiscal year. The City Finance Director has made an estimate of such taxes and net water and sewer revenues to be received during the period the Note shall be outstanding, certified by such officer not more than 30 days prior to the effective date of this Resolution.

Section 5. Upon the occasion of each disbursement from the Construction Fund, it is agreed that there shall be filed with the City and the Lender, if requested, one or more requisitions, certificates or other written instruments in appropriate form wherein it is affirmed by the consulting engineers for the City, that to the extent the amount requested to be advanced represents payment to construction contractors, or to the consulting engineers, the same represents sums duly earned by and payable to such contractors or the consulting engineers, in accordance with a contract duly authorized and executed on behalf of the City, each such written instrument to bear an approving countersignature of the Mayor, City Manager, Finance Director or other authorized officer of the City. To the extent that the amount of any requested advance shall be for items not relating to construction contracts or compensation of the consulting engineers, it shall be certified by the Mayor, City Manager, Finance Director or other authorized officer of the City that the advance is for expenditures which have been duly authorized by the City and which are expenditures eligible for payment by the City from proceeds of the Note and the Bonds. Checks drawn upon the Construction Fund shall be signed by the Mayor, Finance Director, City Manager and/or other authorized officer of the City, provided the City Clerk may sign for one of such officers if such officer is not available.

Section 6. Moneys from time to time on deposit in the Construction Fund in excess of the amount secured by the Federal Deposit Insurance Corporation, if any, shall be secured by a valid pledge to the City of direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, having at all times a market value (exclusive of accrued interest) at least equal to the

balance maintained on deposit therein. If at any time there should be on deposit in the Construction Fund moneys in excess of the estimated disbursements on account of the Project for the next ten (10) days, the City reserves the right to direct that the Lender invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States Government, which shall mature not later than six (6) months after the date of each investment and which shall be subject to redemption at any time by the holder thereof. Earnings received from any such investments shall be deposited by the City in the Construction Fund. Any moneys remaining in the Construction Fund after all costs of the Project have been paid and all loans and advances reimbursed shall be promptly used to the extent possible for the redemption of Bonds of the issue referred to herein; and any residue shall be deposited in the account hereafter to be designated in the Bond-authorizing Ordinance for the payment of the principal of and interest on the Bonds.

Section 7. The officials of the City, and each of them, have been and are hereby authorized to take such actions as may be appropriate or necessary in order to proceed with the Project and the interim financing thereof, including, if required by the Lender, the execution and delivery on behalf of the City of a loan agreement and any such other documents that may be necessary or appropriate to carry out the interim financing.

Section 8. The City covenants that the expenditure of the proceeds of the Note will be made immediately upon receipt of such proceeds. The City further certifies and covenants with the holder of the Note that so long as the Note remains outstanding, the proceeds of the Note will not be invested or used in a manner which will cause the Note to be an "arbitrage bond" within the meaning of Sections 103(b)(2) and 148 of the U. S. Internal Revenue Code of 1986, as amended (the "Code"), and any lawful regulations promulgated or proposed thereunder, as the same presently exist, or may from time to time hereafter be amended, supplemented or revised. The Mayor, Finance Director and/or other authorized officers of the City are authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for evidencing compliance with federal "arbitrage bond" regulations, and any representations and certifications contained in such papers, documents, certificates and other instruments so executed shall be deemed to constitute representations and certifications of the City.

For the benefit of the holder of the Note, the City further represents, warrants, agrees, covenants and certifies as follows:

(A) Within the meaning of Section 141 of the Code, (i) less than 10% of the proceeds of the Note, if any, will be applied for any private business use, and the payment of principal of or interest on less than 10% of the amount of the Note, if any, will be secured directly or indirectly by any interest in property used for a private business use, or payments in respect of such property, or will be derived from payments in respect of such property; (ii) at least 90% of the proceeds of the Note will be applied for a governmental use of the City; (iii) any such private business use will be related to

such governmental use of the City and will not be unrelated or disproportionate; and (iv) none of the proceeds of the Note will be used, directly or indirectly, to make or finance loans to private persons.

(B) Within the meaning of Section 148(f)(4)(B) of the Code, it is reasonably expected at least 75% of the net proceeds (including investment proceeds) of the Note will be used for construction expenditures with respect to property which is owned by a governmental unit, at least 10% of such proceeds will be spent for the governmental purposes of the issue within six months from the date the Note is first issued, at least 45% of such proceeds will be spent for such purposes within one year from such date, at least 75% of such proceeds will be spent for such purposes within 18 months from such date, and at least 100% of such proceeds will be spent within two years from such date. If for any reason the arbitrage rebate requirements of Section 148(f) of the Code should be deemed to apply to the Note, the City will take all action necessary to comply therewith.

(C) The Note is not federally guaranteed within the meaning of Section 149(b) of the Code.

(D) Within the meaning of Section 265(b) of the Code, the Note is a “qualified tax-exempt obligation” and is hereby so designated by the City for purposes of Section 265(b)(3) of the Code, and in this connection the City states and certifies that the reasonably anticipated amount of qualified tax-exempt obligations (other than private activity bonds) which will be issued by it and all of its subordinate entities during the year 2009[2010] does not exceed \$30,000,000.

(E) This Resolution is intended to and does constitute, in part, a declaration of official intent under Income Tax Regulations Section 1.103-18.

The City shall at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the City on the Note shall, for the purposes of federal income taxation, be excludable from gross income.

Section 9. This Resolution shall be in full force and effect from and after its adoption and approval, as provided by law. The Secretary is authorized to deliver to the Lender one or more certified copies hereof, and the same shall constitute official evidence of all matters set forth herein.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PIKEVILLE, KENTUCKY, at a meeting held on the ___ day of December, 2009.

Mayor

Attest:

December 14, 2009 Regular Meeting

City Clerk

14. Consider request to post for a hourly paid position for the shelter reservations and RV park rental at the Bob Amos Park location. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.
15. Consider request to approve submitted Bond Council Agreement and all terms set forth therein for the purpose of city bond work for the RD Loan for the Marions Branch Sewer Project. The request is to approve and authorize the mayor to sign the agreement. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.
16. Consider request to approve and authorize Legal Services Agreement with City Attorney Russell Davis for the purpose of the RD Loan for the Marions Branch Sewer Project. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.
17. Consider request to adopt resolution for the application for the Energy Efficiency and Conservation Block Grant and authorize the mayor to sign. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Commissioner Carter abstained. Mayor Justice called for comments. City Manager stated this was to convert vehicles to a cleaner way to burn fuel. Gen Davis endorsed the use of the propane. City Manager added this would add 70 to 100 percent on the miles of an engine life. City Manager also stated this would only happen if the grant is awarded. Mayor Justice called for further comments, there being none the motion passed. 4-0.

**RESOLUTION FOR
ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANTS
(EECBG)
By the City of Pikeville**

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF PIKEVILLE, KENTUCKY AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE DEPARTMENT FOR LOCAL GOVERNMENT (DLG) FOR ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT, TO EXECUTE ANY DOCUMENTS WHICH ARE DEEMED NECESSARY BY DLG TO FACILITATE THIS PROJECT AND TO ACT AS THE AUTHORIZED CORRESPONDENT FOR THIS PROJECT.

WHEREAS, the City of Pikeville, Kentucky is making an application for an Energy Efficiency and Conservation Block Grant for a project to be administered by the Kentucky Department For Local Government;

WHEREAS, it is recognized that an application for and approval of an Energy Efficiency and Conservation Block Grant imposes certain obligations and responsibilities upon the County;

NOW, THEREFORE, be it resolved this 14th day of December, 2009, by the Board of Commissioners of the City of Pikeville, Kentucky that the Mayor is hereby authorized to execute and furnish all required documentation, including a memorandum of agreement, as may be required by DLG for the furtherance of the above-referenced project and to act as the authorized correspondent for said project.

Done this 14th day of December, 2009. Motion by _____ and seconded by _____,

Members present voting (vote count) in favor.

BY: _____
Mayor

ATTEST: _____
Clerk/Secretary

18. Consider request to adopt resolution for the purpose of grant application for Renaissance on Main for the purpose of generating a downtown signage project and to authorize the Mayor to sign the resolution. 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.

Resolution of the Pikeville City Board of Commissioners
City of Pikeville, Kentucky

Adoption of a resolution by the City of Pikeville Board of Commissioners authorizing the filing of a Renaissance on Main grant application to the Department for Local Government (DLG) for the Way Finding Signage Project; authorizing and directing the Mayor to execute any documents which are deemed necessary by DLG to carry out this project including grant agreement execution; and authorizing the Mayor to act as authorized correspondent for this project.

WHEREAS, the City of Pikeville Board of Commissioners desires to promote and carry out downtown revitalization efforts on behalf of its residents through the execution of the Way Finding Signage project.

NOW, THEREFORE, be it resolved this 14th day of December, 2009, by the City of Pikeville Board of Commissioners:

That a grant application for Renaissance on Main funding for the Way Finding Signage project shall be submitted to the Department for Local Government. The Board of Commissioners authorizes the Mayor to provide all information and such documentation as may be required by DLG, including, but not limited to, the execution of a Memorandum of Agreement for the project, should the project be awarded. The Mayor or the Mayor’s designee shall act as the authorized correspondent for this project.

Done this 14th day of December, 2009. Motion by _____ and seconded by _____ with a majority of members present voting in favor.

By: _____
Mayor

Attest: _____
City Clerk

19. Consider request to adopt a resolution for a grant from the City of Pikeville to the East KY Exposition Center in the amount of \$100,000.00 and authorize the mayor to sign. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor called for comments, there being none the motion passed unanimously. 5-0.

**RESOLUTION IN SUPPORT OF THE
REGIONAL EAST KENTUCKY EXPO CENTER
PROVIDING FINANCIAL SUPPORT IN
RELEIF OF FACILITY UTILITIES**

WHEREAS, the City of Pikeville City Commission fully supports the East Kentucky Expo Center as an economic catalyst for the entire region. This facility provides events and entertainment creating a wonderful quality of life for the entire region while bringing economic opportunity for our region, cities and county.

WHEREAS, during the planning for such a magnificent facility, under Governor Paul Patton’s administration, it was known and written in various reports that this facility would require both state and local government financial support. The facility like others of its kind was expected to operate with a deficient and would expect outside funding for its continued operation.

WHEREAS, the Pikeville City Commission is truly grateful to have such a fantastic facility in its backdoor that services the entire region. They acknowledge through the hard work of the board and management company, that acts have been brought in allowing people in and around our region to travel to Pike County and the City of Pikeville to enjoy such quality entertainment. This facility has also been used for various conferences, parties, gatherings and many other events. This past year several different high schools in our region also had their prom in the Expo Center. This is truly a regional facility that has created many memories for those who work, live and travel to our region.

WHEREAS, the Pikeville City Commission understands this facility is a state owned facility that is in need of financial support to keep the operation and facility going. Without such support from state and local government, the facility would be in jeopardy and unable to provide such mentioned services and entertainment.

WHEREAS, the Pikeville City Commission through their action of this resolution is in agreement to issue a “Grant” to the East Kentucky Expo Board which is owned by the State of Kentucky of which the board is appointed by the office of the Governor of Kentucky. The grant will be in the amount up to \$100,000 as budgeted and determined by the commission each year. The City of Pikeville does supply and receive revenue from the Expo Center with such services such as utilities of water, sewer, trash, natural gas and other emergency personnel services.

WHEREAS, the City of Pikeville will also agree to forgo any late fees and penalties during the budget year and issue said grant that may be either granted or credited to the East Kentucky Expo Center’s Board. The grant will be available each year starting in the first week of July, as long as the commission sees the city is financially able to offer said grant. It is understood that the city commission does have the authority to stop said grant at any time that they feel necessary to do so.

WHEREAS, the Pikeville City Commission requires the following conditional terms to take place in order for the East Kentucky Expo Center Board to qualify for this grant along with the dismissal of late fees and penalties. The grant will be available starting July 1st of 2009 and available each July of each year thereafter. To qualify, all of the East Kentucky Expo Center’s accounts MUST be paid in full at time said grant is issued during the cities fiscal year. There

cannot be any outstanding balance on any of their accounts. Under these conditions said grant may be issues via a city issued check or by creating credits of up to the \$100,000 on any East KY Expo account the City may wish to apply.

NOW, THEREFORE, BE IT RESOLVED the Pikeville City Commission fully supports the regional East Kentucky Expo Center and by the passage of this resolution agrees to execute said grant under the terms and conditions set forth and furthermore this resolution shall supersede any other previous action taken by this local government.

Passed this _____ day of _____, 2009.

Commissioner _____ moved for the adoption of the foregoing resolution.

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 Pikeville City Mayor declared the within resolution adopted.

FRANK JUSTICE,
MAYOR

- 20. Consider request to approve the Rural Developmetn Grant Water or Wast System Grant Agreement and authorize the mayor to sign. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.**
- 21. Consider request to approve the Rural Development Assurance Agreement and authorize the mayor to sign. Commissioner Layne made the motion to**

- approve. Commissioner Carter seconded the motion. Mayor Justice called for comments, there being none the motion passed unanimously. 5-0.
22. Consider request to approve the Rural Development project Equal Opportunity Agreement and authorize the mayor to sign. Commissioner Carter made the motion to approve. Commissioner Layne seconded the motion. Mayor called for comments, there being none the motion passed unanimously. 5-0.
 23. Consider request to approve the contact with the HIDTA Program Grant for the year 2010 and authorize the police chief & Mayor to sign said agreement as presented. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor called for comments, there being none the motion passed unanimously. 5-0.
 24. Consider request to adopt the "Police Department Priorities" directive as submitted and dated 12-14-09. Commissioner Carter made the motion to adopt. Commissioner Chaney seconded the motion. Mayor called for comments, there being none the motion passed unanimously. 5-0.
 25. Consider request for closed session for discussion of economic development, legal and personnel issues. Commissioner Davis made the motion to adjourn. Commissioner Layne seconded the motion to adjourn. Mayor Justice called for discussion, there being none the motion passed unanimously to adjourn for closed session. 5-0
 26. Commissioner Carter made the motion to re convene. Commissioner Chaney seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously. 5-0. Mayor called the session back into order

There being no further business to come before the Commission, Commissioner Carter 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

The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is January 11, 2010 at 6:00 p.m.

APPROVED:

FRANKLIN D. JUSTICE, II, MAYOR

ATTESTED:

REBECCA HAMILTON, CITY CLERK