

**CITY OF PIKEVILLE  
BOARD OF COMMISSIONERS  
REGULAR MEETING MINUTES  
August 27, 2012 AT 6:00 P.M.**

**The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, August 27, 2012. 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 August 13, 2012 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**

**Mayor Justice asked our Expo Manager, Steve St. John about the upcoming events that are being held. Mr. St. John reported that on September 13<sup>th</sup> Lynard Skynard would be in concert and that there would be some local bands opening for them.**

**PAYMENT OF CITY BILLS**

**The City Manager Donovan Blackburn requested the approval to pay city bills in the amount of \$165,972.57. Commissioner Layne made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for further discussion, there being none, motion passed unanimously. 5-0.**

**CITY ATTORNEY**

**Russell Davis was present and had a couple of items to read into record.**

- 1. Consider a 2<sup>nd</sup> reading and passage of an ordinance #0-2012-021 amending Chapter 92 dilapidated housing and nuisances ordinance section 92.35 of Landlord Licensing and authorize the mayor to sign and execute said ordinance on behalf of the City of Pikeville. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comment and asked city manager if we had a list of people who had applied for permits that we would send this ordinance to them. City Manager replied that we would. The majority of our landlords are appreciative of this and then there are the others that don't understand this. Mayor called for further comments, there being none, Mayor called roll call. Motion passed unanimously. 5-0.**

AN ORDINANCE AMENDING § 92.35  
PROCEDURE; DURATION; LICENSE FEE  
PROVIDING FOR EXEMPTIONS THEREFROM,  
EXPIRATIONS FOR LANDLORD PERMITS,  
INCREASED FEES FOR LATE RENEWALS  
OF PERMITS; § 92.38 VIOLATION PROVIDING  
FOR DISCONTINUATION OF UTILITIES FOR  
VIOLATIONS AND NOTICE TO TENANTS TO  
VACATE; § 92.99 PENALTY

**ORDINANCE NO. 0-2012-021**

**WHEREAS**, the City of Pikeville City Commission is amending Chapter 92 Dilapidated Housing and Nuisances, sections 92.35, 92.38 and 92.99

**WHEREAS**, this ordinance will take effect immediately upon passage and publication as required by state statute.

**NOW, THEREFORE, BE IT ORDAINED** Chapter 92 "DILAPIDATED HOUSING AND NUISANCES" sections 92.35, 92.38 and 92.99 are amended to read as follows:

**LANDLORD LICENSING**

August 27, 2012 Regular Meeting

**§ 92.35 PROCEDURE; DURATION; LICENSE FEE.**

(A) Every person, individual, firm, owner, corporation, landlord, or combination thereof engaged in the business of leasing or renting of any apartment building, multiple unit, multiple dwelling units, or single-dwelling unit which has a separate power meter and is rented or leased for more than sixty (60) days to the same person or family regardless of whether the initial term is less than sixty (60) days if the term is routinely renewed for more than sixty (60) days, is hereby required to make application to and receive an annual license from the City Tax Office before engaging in the business. The annual license fee shall be the fee set forth in the business. The annual license fee shall be the fee set forth in Chapter 115 of this Code or Ordinances. Said applicant shall state their name and address and identify the number of tenants occupying his or her property and the location thereof. The Tax Office shall present an updated list of all license holders the first working day of each month. The City Tax Office shall issue said license if:

- (1) The applicant's property is not in violation of any ordinance of the city;
- (2) All city taxes and fees shall be fully paid; and
- (3) The applicant provides a full legal description of all parcels of property he or she rents.

(4) Residential Property Owner of any apartment building, multiple unit, multiple dwelling units, or single-dwelling unit which has a separate power meter that a immediate family member occupies that the residential property owner would not receive any rental income for this dwelling or unit may file an affidavit/waiver with the City of Pikeville Tax Office to be exempt from this Landlord Permit Fee and Occupational Tax.

(B) The Building Inspector is hereby empowered to revoke said license if it is discovered that the applicant has:

- (1) Misrepresented himself or herself or the estate of his or her property;
- (2) Refused access to premises for inspection as required in § 92.36; or
- (3) Unabated violations or more than three (3) repeated violations on a same property in a twelve (12) month period.

(C) (1) Every person, individual, firm, owner, corporation, landlord, or combination thereof engaged in the business of leasing or renting of any apartment building, multiple unit, multiple dwelling units, or single-dwelling unit which has a separate power meter and is rented or leased for more than sixty (60) days to the same person or family regardless of whether the initial term is less than sixty (60) days if the term is routinely renewed for more than sixty (60) days, shall be required to pay a two dollar (\$2.00) yearly permit fee to the City Tax Office for each separate unit they are renting. All permit shall expire on December 31 of each year and subject to renewal. The permit fee for any permit not renewed on or before January 31 shall increase to \$10.00. Said permit shall state the landlord's name, address, contact number and e-mail address if one is available. The permit shall have the following information: the tenant's name, the location where they are rented or leased to, identifying the number of tenants occupying the specific property and the physical address of the rented or leased unit. The landlord shall provide the physical address and unit number of EACH rental units, maximum number of occupancy permitted for each unit as part of the permitting process. It shall also be the landlords responsibility to communicate with the tax office if a unit is no longer being used as rental property or if a new or additional unit is being used.

(2) The Building Inspector is hereby empowered to revoke the permit for any individual unit or property if it is discovered that the applicant has:

- (a) Their property is or becomes in violation of any of the ordinances of the city and/or the statutes of the state, federal government or this chapter;
- (b) Misrepresented himself or herself or the estate of their property;
- (c) Refused access to premises for inspection as required in § 92.36; or

(d) Unbated violations or more a repeat violation of any City ordinance on the same property.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 0-2010-015, passed 9-27-10; Am. Ord. 0-2011-017, passed 5-23-11)

#### § 92.36 INSPECTION; ENFORCEMENT.

(A) The Building Inspector or other such appropriate public official as the City Commission or City Manager shall designate shall inspect each unit before it is reoccupied by tenants or may inspect every rental facility within every two (2) to five (5) years, whichever event is shorter, in addition to any other inspection required by law or herein to which an applicant for license or licenses shall consent, to determine the health and safety conditions of the apartment buildings, multiple dwellings, rooming houses, dwelling or dwelling units, within the city.

(B) For the purpose of making this inspection, the Building Inspector is hereby authorized to enter, examine, and survey at all reasonable times before the unit is reoccupied all apartment buildings, commercial buildings, multiple dwellings, rooming houses, dwellings, or dwelling units. The tenant or person in charge of an apartment building, commercial building, multiple dwelling, rooming house, dwelling, or dwelling unit shall give the Building Inspector free access only to the leased portion of same or central facility serving same for the purpose of such inspection, examination, and survey.

(C) The Building Inspector will access a twenty-five dollars (\$25.00) inspection fee to the property owner each time an inspection occurs under the terms set forth by this chapter. If violations occur that cannot be corrected during the initial inspection then the property owner will be accessed a fee of ten dollars (\$10.00) for each return visit until which time the Building Inspector is satisfied that the violation(s) have been corrected.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 0-2010-015, passed 9-27-10; Am. Ord. 0-2011-017, passed 5-23-11)

#### § 92.37 NOTICE OF REVOCATION HEARING.

The Building Inspector shall cause notice of the revocation of the permit or license to be served upon the licensee as provided for herein for violation of any of the provisions of this chapter. The permittee or licensee may request a hearing to the City Clerk in writing. A hearing shall be scheduled and heard by the city's Vacant Property Review Board within thirty (30) days of the request. The owner may not allow another tenant to occupy their structure until which time all issues are remedied or until the hearing is concluded and the decision is rendered to allow tenants back into their structure.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 0-2010-015, passed 9-27-10; Am. Ord. 0-2011-017, passed 5-23-11)

#### § 92.38 VIOLATION.

(A) Failure to secure a license or permit in accordance with the provisions of this subchapter or failure to comply with any of the requirements of this subchapter is a punishable violation.

(B) If the Building Inspector determines there to be a violation of either federal, state or local regulations the landlord's permit for that unit(s), or if landlord's unit or units are subject to repeat violations, their license, shall be revoked immediately until which time the item(s) are corrected. If a landlord's permit or license is revoked then they shall not be permitted to allow their premises to be occupied by a tenant and utilities shall not be provided to any unit. If the unit is occupied, the City shall give notice to the Landlord and tenant that the unit has been declared by the City has uninhabitable as the result of violation(s) and that the tenants/occupants must vacate the premises within 30 days and at that time the utilities shall be discontinued to the unit.

(C) When a violation occurs, the Building Inspector shall determine what city agency shall be contacted for their review, assessment, plan of action and possible penalty if applicable. If it is a violation of fire codes, the City Fire Marshal shall be contacted to inspect for compliance before their permit or license may be reinstated by the Building Inspector. If it is a violation of a building code, the City Codes Enforcement Officer shall be contacted to inspect for compliance before their permit or license may be reinstated by the Building Inspector. If it is an environmental nuisance violation, the City Environmental Nuisance Officer shall be contacted to inspect for compliance before their

permit or license may be reinstated by the Building Inspector. It is the Building Inspector's responsibility to determine if there is a violation and contact the appropriate department as explained for their determination if the item has been corrected to federal, state or local compliance. When the appropriate department is satisfied with the resolution, they shall submit in writing to the Building Inspector their position. When the Building Inspector receives remedy statements from each department that all issues have been address it will then be the Building Inspector's responsibility to reinstate the landlord's permit or license to continue to operate.

(Ord. 0-90-007, passed 4-9-90; Am. Ord. 0-2010-015, passed 9-27-10; Am. Ord. 0-2011-017, passed 5-23-11) Penalty, see § 92.99

**§ 92.99 PENALTY**

A) (1) Except as otherwise provided in this section, any owner, his or her agent, and/or occupant who violates any provision of this chapter shall be issued a citation and fined for each violation as follows:

OFFENSE	FINE
(a) Environmental nuisance (§ 92.10), if not completed by specified date:	
First offense	
Second offense	\$75.00
Third offense	300.00
	1,000.00
(b) Litter, garbage, trash and weeds (§ 92.11), if not completed by specified date:	
First offense	
Second offense	75.00
Third offense	300.00
	1,000.00
(c) Abatement of environmental nuisance (§ 92.12), if not completed by specified date:	
First offense	
Second offense	75.00
Third offense (and every offense thereafter)	300.00
	1,000.00
(d) Dilapidated housing (§§ 92.20 - 92.29)	50.00
(e) Failure to acquire landlord license (§§ 92.35 - 92.37)	
First offense	150.00
Second offense (within 60 days)	300.00
Third offense (within 180 days and every offense thereafter)	1,000.00
<u>Failure to acquire landlord permit ((§ 92.35(C)(1))</u>	
<u>First offense</u>	<u>50</u>
<u>Second offense (within 60 days)</u>	<u>75</u>
<u>Third offense (within 180 days and every offense thereafter)</u>	<u>200</u>
(f) Landlord violations (§ 92.38)	500.00
(g) Unreasonable and loud noises (§§ 92.50, 92.51)	25.00

(2) Each day in which such violation occurs shall constitute a separate offense. The fines set out above shall be in addition to any cost to remedy a condition or to repair, alter, improve, vacate or close a structure as provided for in § 92.23.

(B) (1) If the Building Inspector determines there to be a violation of either federal, state or local regulations the landlord's permit for that unit(s), or if landlord's unit or units are subject to repeat violations, their license, shall be revoked immediately until which time the item(s) are corrected. If a landlord's permit or license is revoked then they shall not be permitted to allow their premises/unit to be occupied by a tenant and utilities shall not be provided to any premise unit. If the unit is occupied, the City shall give notice to the landlord and tenant that the unit has been declared by the City as uninhabitable as the result of violation(s) and that the tenants/occupants must vacate the premises within 30 days and at that time the utilities shall be discontinued to the unit.

(2) The city shall not be permitted to allow a structure or premises to be occupied by a tenant and utilities shall not be provided to any structure or premises or may discontinue this utility service for any structure or premise which is in violation of this chapter or for outstanding and delinquent fines assessed against the structure or premise regardless of the person or persons assessed such fines.

(C) Any person who violates any provision of this chapter may become individually liable to the city or the owner or owners of property affected by violation of this chapter not only for the cost of abatement of the violation as provided for herein, but also for all costs, expenses, attorney fees and/or civil damages incurred by the city or other person affected by the violation of this chapter to enforce the provisions of this chapter for each parcel of real property found in violation for those periods as charged.

(D) (1) Upon conviction for a first offense for violating any provision of §§ 92.50 through 92.55, the court shall impose a fine of seventy-five dollars (\$75.00). The minimum fine imposed by this division (D)(1) shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.

(2) Upon conviction for a second offense for violating any provision of §§ 92.50 through 92.55, the court shall impose a fine of one hundred fifty dollars (\$150.00). The minimum fine imposed by this division (D)(2) shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.

(3) Upon conviction for a third or subsequent offense for violating any provision of §§ 92.50 through 92.55, the court shall impose a fine of three hundred dollars (\$300.00). The minimum fine imposed by this division (D)(3) shall be mandatory and the court shall not suspend or waive any portion of the minimum fine. Furthermore, the sound amplification system shall be forfeited, pursuant §§ 92.50 through 92.55.

(a) The sound amplification system shall be forfeited and shall be confiscated by order of the Pike District Court (or by the Pike Circuit Court if a civil forfeiture action be filed) upon the conviction of a person for a third violation.

(b) Upon an entry of an order of confiscation, the officer's designee shall conduct the removal of the sound amplification system. If the officer determines, in the officer's own discretion, that it is impractical to remove the sound amplification system at the scene of the violation, then the vehicle shall be impounded by the police for the limited purpose of the expedient removal of the sound amplification system.

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 \_\_\_\_\_, 2012, the ordinance was given a second reading on the \_\_\_\_ day of \_\_\_\_\_, 2012.

Passed this \_\_\_\_ day of \_\_\_\_\_ 2012.

Commissioner \_\_\_\_\_ moved for the adoption of the forgoing ordinance.

Commissioner \_\_\_\_\_ seconded the motion.

Upon roll call, the votes were as follows:

Yes

No

FRANK JUSTICE, MAYOR	_____	_____
GENE DAVIS, COMMISSIONER	_____	_____
DALLAS LAYNE, COMMISSIONER	_____	_____
JIMMY CARTER, COMMISSIONER	_____	_____
BARRY CHANEY, COMMISSIONER	_____	_____

The Mayor declared the within ordinance adopted.

\_\_\_\_\_  
FRANKLIN D. JUSTICE, II MAYOR

ATTEST:

\_\_\_\_\_  
CHRISTY SPEARS, CITY CLERK

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2. Consider a 1<sup>st</sup> reading of an ordinance #0-2012-022 with the intent on closing a portion of city street located on Venter's Lane. A second reading is scheduled for the next commission meeting to be held on September 10<sup>th</sup> 2012. Mayor comments that if they wanted to relocate that road then there isn't much we could do about it anyway. City Attorney says that they could relocate it but could not close it, they would see that as a danger because people would use both. Mayor would like for the county to meet the cities specs on the upkeep of the road. City Attorney says that the ordinance mentions that it would be at the county specs; the highway department would be the one to pay for that.

**CITY MANAGER**

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

1. Consider request to approve and authorize a Memorandum of Agreement (MOA) between the Commonwealth of Kentucky, Office of the Governor Department for Local Government and the City of Pikeville, for the purpose of the construction of a horse trail, as submitted and authorize the mayor to sign and execute said MOA. Commissioner Layne made the motion to adopt. Commissioner Chaney seconded the motion. Mayor called for further comments, there being none, motion passed unanimously. 5-0.

2. Consider a request to hire Allison Chaney for the position of Part Time Office Clerk at the starting rate. Note: Allison is no relation to Commissioner Barry Chaney. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor called for comments. Mayor asked Attorney Davis about property for the Walters and Mr. Davis said he had no clue. Mayor Justice called for further comments, there being none the motion passed. 5-0.
3. Consider a request to blacktop Map Drive via approving the submitted quote for said project for Mountain Enterprises at state contract price. Commissioner Chaney made the motion. Commissioner Davis seconded the motion. Mayor Justice called for comments and asked where this is. City Manager says that this is a road up Harolds Branch on the right hand side, about a mile. Mayor called for further questions, there being none the motion passed unanimously. 5-0.
4. Announcement on consent items and congratulations to Christy Spears being certified as a Kentucky Certified City Clerk.
5. 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.
6. Commissioner Chaney 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.
7. Consider a request to amend the city pay rate chart to include the pay rate and position of Kentucky Certified City Clerk as submitted. Commissioner Chaney made a motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.
8. Consider a request to reclassify Christy Spears position from City Clerk to Kentucky Certified City Clerk and adjust her salary, based on time with the city, to the position on the city pay chart. Commissioner Chaney made a motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.
9. 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:**

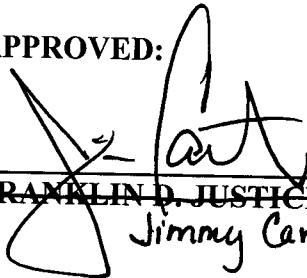
Upike's ribbon cutting and dedication of the Coal Building will be held Saturday, September 15<sup>th</sup> 2012 at 4 pm.



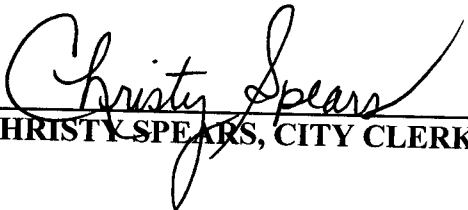
United for Coal Across Pike County on Saturday, October 13<sup>th</sup> 2012 from 2 pm till 3 pm. Go online at [www.unitedforcoal.com](http://www.unitedforcoal.com) for details

The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is September 10, 2012 at 6:00 p.m.

APPROVED:

  
~~FRANKLIN D. JUSTICE, II, MAYOR~~ - Pro tem  
Jimmy Carter

ATTESTED:

  
CHRISTY SPEARS, CITY CLERK