

**CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
February 11, 2013 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, February 11, 2013. 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: JIMMY CARTER
 JERRY KEITH COLEMAN
 BARRY CHANEY
 EUGENE DAVIS**

MAYOR: FRANKLIN D. JUSTICE, II

MINUTES

The minutes for the previous regular meeting held on January 28, 2013 were in each Commission Member's agenda package. There being no additions or corrections, Commissioner Davis made the motion to approve the minutes as prepared. Commissioner Chaney seconded the motion. Mayor Frank Justice called for discussion, there being none, the motion carried unanimously. 5-0.

BUSINESS FROM THE FLOOR

UPike President Governor Paul Patton and President Elect James Hurley to address the commission. Did not show up.

Mayor Justice asked Tommy McClanahan about a street light at Roger and Jean Dye's; they say it will not stay on. Donnie Slone with UMG spoke up and said that he has already taken care of that. Mayor then asked can we get one of our guys to knock on their door and let them know we are on that, thank you.

PAYMENT OF CITY BILLS

The City Manager Donovan Blackburn requested the approval to pay city bills in the amount of \$584,631.43. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments and Commissioner Davis ask his traditional question of whether or not we have the money. City Manager says yes we have the money. Mayor Justice called for further discussion, there being none, motion passed unanimously. 5-0.

Consider a request to approve and authorize payment of invoice #000008 to Holzman Moss Bottino, as submitted for \$34,030.34 for the professional services for the design of the Pikeville Theatre project. 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.

Consider approval and authorize payment to LightYear for the purchase of various pieces of office furniture for \$10,290. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments and there being none, the motion passed unanimously. 5-0.

CITY ENGINEER

Consider a request to approve and adopt a change order #1 for contracts #1 & #2 for the Bob Amos Equestrian Trail as submitted and to authorize the Mayor to sign and execute said change order on behalf of the City of Pikeville. Commissioner Davis made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments and then remarked that this is what we talked about in open meeting. Mayor called for further comments, there being none, the motion passed unanimously. 5-0.

CITY ATTORNEY

Russell Davis was absent and City Manager read the ordinances in his absence.

1. Consider a second reading and passage of an ordinance #0-2013-003 amending chapter 130.15 through 130.17 to clarify the restrictions upon the carrying of concealed deadly weapons in government building by the City of Pikeville and authorize the Mayor to sign and execute said ordinance. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments. City Manager says that this ordinance is to put us into check with KRS on concealed weapons. Mayor called for further comments, there being none, Mayor called roll call. Motion passed unanimously. 5-0.

**AN ORDINANCE RELATED TO THE AMENDMENT
OF §130.15, §130.16 AND §130.17 TO CLARIFY THE
RESTRICTIONS UPON THE CARRYING OF
CONCEALED DEADLY WEAPONS IN
GOVERNMENT BUILDING BY THE CITY OF
PIKEVILLE**

Ordinance #0-2013-003

WHEREAS, the City of Pikeville as heretofore adopted the pursuant to KRS 237.115 certain restriction upon the carrying of concealed deadly weapon in governmental building;

WHEREAS, KRS 65.870 was adopted and effective July 12, 2012 limiting local control of firearm, except as permit by KRS 237.115 upon the restriction of the carrying of a concealed deadly weapon in governmental building, and by this amendment the City of Pikeville intends to clarify its restriction upon the carrying of a concealed deadly weapon in governmental building so to insure that it is in full compliance with new statute KRS 65.870;

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that §130.15, §130.16 AND §130.17 are amended as follows:

§ 130.15 DEFINITIONS

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

~~— **PRIVATE RESIDENTIAL AREAS.** Dwellings, building, homes, apartments or structures or rooms of either used as residences.~~

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

§ 130.16-15 PROHIBITIONS; EXCEPTIONS.

(A) It shall be unlawful to enter into or upon any public building and on any park owned, leased or occupied controlled by the City of Pikeville or its agencies by a licensee carrying a concealed deadly weapon pursuant to a license granted in KRS 237.110 except as otherwise permitted in private residential areas as defined in § 130.15, buildings used for public housing by private persons, highway rest areas, firing ranges, and private dwellings owned, leased, or controlled by the City of Pikeville.

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

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

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

§ 130.17-16 VIOLATIONS.

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

The above ordinance was given first reading this ___ day of _____, 2013.

The ordinance was given a second reading on the ___ day of _____, 2013.

Passed this _____ day of _____, 2013.

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

Upon roll call, the votes were as follows:

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

The Mayor declared the within ordinance adopted.

FRANKLIN D. JUSTICE, II, MAYOR

ATTEST:

CHRISTY SPEARS, CITY CLERK

- 2. Consider a second reading and passage of an ordinance #0-2013-002 amending chapter 37 Public Records, setting fees for public record requests and authorize the Mayor to sign and execute said ordinance. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor called for comments, there being none, Mayor called roll call. Motion passed unanimously. 5-0.**

**ORDINANCE AMENDING CHAPTER 37 "PUBLIC RECORDS"
SETTING FEES FOR PUBLIC RECORD REQUESTS**

ORDINANCE NO. 0-2013-002

BE IT ORDAINED BY THE CITY OF PIKEVILLE AS FOLLOWS:

Chapter 37 "PUBLIC RECORDS" is amended as follows:

CHAPTER 37: PUBLIC RECORDS

GENERAL

§ 37.01 DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

CITY. The city government of this city.

COMMERCIAL PURPOSE.

(1) The direct or indirect use of any public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee.

(2) **COMMERCIAL PURPOSE** shall not include:

(a) Publication or related use of a public record by a newspaper or periodical;

(b) Use of a public record by a radio or television station in its news or other informational programs; or

(c) Use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties.

(KRS 61.870(4))

CUSTODIAN.

(1) The official custodian or any authorized person having personal custody and control of public records. (KRS 61.870(6))

(2) The **CUSTODIAN** having personal custody of most of the public records of this city is the Finance Director/City Clerk/Tax Administrator.

OFFICIAL CUSTODIAN.

(1) The chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care, and keeping of public records, regardless of whether the records are in his or her actual personal custody and control.

(KRS 61.870(5))

(2) The **OFFICIAL CUSTODIAN** of this city shall be the City Clerk.

MECHANICAL PROCESSING. Any operation or other procedure which is transacted on a machine, and which may include, but is not limited to a copier, computer, recorder or tape processor, or other automated device.

(KRS 61.870(8))

MEDIA. The physical material in or on which records may be stored or represented, and which may include, but is not limited to paper, microform, disks, diskettes, optical disks, magnetic tapes, and cards.

(KRS 61.870(7))

PERSON. A human being who makes a request for inspection of public records.

PUBLIC AGENCY.

(1) Every state or local government officer;

(2) Every state or local government department, division, bureau, board, commission, and authority;

(3) Every state or local legislative board, commission, committee, and officer;

(4) Every county and city governing body, council, school district board, special district board, and municipal corporation;

(5) Every state or local court or judicial agency;

(6) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;

(7) Any body created by state or local authority in any branch of government;

(8) Any body which, within any fiscal year, derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds. However, any funds derived from a state or local authority in compensation for goods or services that are provided by a contract obtained through a competitive procurement process shall not be included in the determination of whether a body is a public agency under this division;

(9) Any entity where the majority of its governing body is appointed by a public agency as defined in division (1) through (8) or (10) or (11) of this definition; and

(10) Any interagency body of two (2) or more public agencies where each public agency is defined in divisions (1) through (9) of this definition.

(KRS 61.870(1))

PUBLIC RECORDS. All books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, or retained by a public agency. **PUBLIC RECORDS** shall not include any records owned or maintained by or for a body referred to in KRS 61.870(1)(h) that are not related to functions, activities, programs, or operations funded by state or local authority nor any records that may be excluded by § 37.12.

(KRS 61.870(2))

REQUEST. An oral or written application by any person to inspect public records of the city.

SOFTWARE.

(1) The program code which makes a computer system function, but does not include that portion of the program code which contains public records exempted from inspection as provided by KRS 61.878 or specific addresses of files, passwords, access codes, user identifications, or any other mechanism for controlling the security or restricting access to public records in the public agency's computer system.

(2) **SOFTWARE** consists of the operating system, application programs, procedures, routines, and subroutines such as translators and utility programs, but does not include that material which is prohibited from disclosure or copying by a license agreement between a public agency and an outside entity which supplied the material to the agency. (KRS 61.870(3))

(Am. Ord. 0-2009-03, passed 2-9-09)

§ 37.02 REASONABLE FEES FOR PUBLIC RECORDS.

(A) **REASONABLE FEE** or **FEE.** The fair payment required by a public agency for making copies of non exempt public records requested for noncommercial purposes which shall not exceed the actual cost of reproduction, including the costs of the media and any mechanical processing cost incurred by the public agency, but not including the cost of staff. If a public agency is asked to produce a record in a nonstandardized format, or to tailor the format to meet the request of an individual or a group, the public agency may at its discretion provide the requested format and recover staff costs as well as any actual costs incurred.

(B) The following fees will be applied by the city:

(1) ~~Twenty-five cents (\$.25)~~ Ten cents (\$.10) per page for any copy on standard paper 8 1/2" x 11".

(2) ~~Thirty cents (\$.30)~~ Eleven cents (\$.11) per page for any copy on legal paper 8 1/2" x 14".

(3) Five dollars (\$5.00) per police department collision report. (.10 per page if requested by a party to report)

(4) Two dollars (\$2.00) per police department case report. (.10 per page if requested by a party to report)

(5) Ten dollars (\$10.00) per police department criminal history report.

(6) Fifteen dollars (\$15.00) per police department fingerprinting CDL or pre-employment report.

(7) Twenty-dollar (\$20.00) minimum for recordings produced on CD or cassette tape. Twenty-dollar (\$20.00) minimum for voice recordings, documents or photographs produced on CD ~~or cassette tape~~. Any photographs that have to be sent to a third party for copying will be eight dollars (\$8.00) plus actual third party charge.

(8) Ten dollars (\$10.00) first page and eight dollars per subsequent pages for typed transcript prepared of voice recording.

(C) Fees do not include postage. For commercial request if requestor lives in county items must be picked up from city location. If requestor is from outside of county request may be mailed. There will be a flat additional handling fee of five dollars (\$5.00) plus the cost of postage per request. Fees for non-commercial request, if requestor lives in the county items must be picked up from the city location. If requestor is from outside of the county request may be mailed at the additional cost of the cost of the postage.

(Ord. 0-2009-03, passed 2-9-09)

The above ordinance was given first reading this ___ day of _____, 2013.

The ordinance was given a second reading on the ___ day of _____, 2013.

Passed this ___ day of _____, 2013.

Commissioner _____ moved for the adoption of the foregoing ordinance.

Commissioner _____ seconded the motion.

Upon roll call, the votes were as follows:

YES

NO

FRANK JUSTICE, II MAYOR	_____	_____
GENE DAVIS, COMMISSIONER	_____	_____
JIMMY CARTER, COMMISSIONER	_____	_____
JERRY K COLEMAN, COMMISSIONER	_____	_____
BARRYCHANEY, COMMISSIONER	_____	_____

The Mayor declared the within ordinance adopted.

FRANK JUSTICE, II, MAYOR

ATTESTED:

CHRISTY SPEARS, CITY CLERK

- 3. Consider a first reading of an ordinance #0-2013-004 amending the Fiscal Budget for the 2012-2013 fiscal year. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.

CITY MANAGER

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

- 1. Consider a request to adopt a resolution for the application and administration of the Kentucky Office of Homeland Security Projects for the purchase of body armor and to authorize Mayor to sign and execute said resolution along with any additional documents for said applications or administration of grant. Commissioner Chaney made the motion to adopt. Commissioner Davis seconded the motion. Mayor called for further comments, there being none, motion passed unanimously. 5-0.
- 2. Request authorization to sign and submit Gardens and Green Spaces Program 2013 Grassroots Grants Application in the amount of \$1,500 and to authorize the Mayor to sign and execute any required documents for said grant submittal. It is for a garden project in partnership with Pikeville High School. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor called for comments and was wondering if this was on the high school's grounds. City Manager nodded yes. Mayor Justice called for further comments, there being none the motion passed. 5-0.
- 3. Consider a request to adopt a resolution authorizing the Mayor to enter into an agreement with the Department for Local Government for projects

- related to HB265 Coal Severance Line-Item Projects for fiscal year 2013-2014 as submitted and to authorize the Mayor to sign and execute on behalf of the City of Pikeville. Commissioner Chaney made the motion. Commissioner Carter seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.
4. Consider a request to adopt an amended city personnel policy 3.3 Vacations as submitted. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments and was wondering if this was the information that was in the packets and Commissioner Carter asked if this is for the firemen and City Manager nodded yes to both. Mayor Justice called for further comments, there being none, the motion passed unanimously. 5-0.
 5. Consider a request to authorize the Mayor to sign and execute the HB265 Coal Severance Line-Item Project Scope and Budget to the Department for Local Government as submitted. 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 a request to authorize and approve a Memorandum of Agreement for HB 1, Project #362 (FY2011) 19C S-2011 in the amount of \$175,000, as submitted and authorize the Mayor to sign and execute said MOA on behalf of the City of Pikeville. 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.
 7. Consider a request to authorize and approve a Memorandum of Agreement for HB 1, Project #362 (FY 2012) 19C S-2012 in the amount of \$175,000, as submitted and authorize the Mayor to sign and execute said MOA on behalf of the City of Pikeville. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.
 8. Consider a request to authorize and approve a contract, as submitted, between Tom Wright Construction, Inc. and the City of Pikeville for \$279,700 for the construction of the Bob Amos Equestrian Trail for Contract 1 & Contract 2 and authorize the Mayor to sign and execute on behalf of the City of Pikeville. Commissioner Chaney made the motion to approve. Commissioner Coleman seconded the motion. Mayor Justice called for comments. Mayor comments that when we get the trail built, are we looking for volunteers to run it. City Manager replies that that is what we are hoping for. Mayor says that he has already gotten one in the community that has expressed interest and I was unsure. Mayor called for further questions or comments, there being none, the motion passed unanimously. 5-0.
 9. Consider a request to adopt an amended Memorandum of Agreement (MOA) between the Commonwealth of Kentucky Infrastructure Authority and City of Pikeville for HB1, Project #363 (FY2011) 20CS-2011 for \$597,250, Project #363 (FY 2012) 20 CS-2012 for \$201,750 and project #363 (FY2012 10CS-2012 for \$321,000 allowing an extended expiration date for

June 30, 2014 for said project and authorize the Mayor to sign and execute said MOA on behalf of the City of Pikeville. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments. Commissioner Carter asked what are these for. City Manager says that these are for various utilities. Mayor called for further questions or comments, there being none, the motion passed unanimously. 5-0.

10. Consider a request to advertise for bid, replacement cost to repair concrete road at Keyser Heights based on a per foot basis for removal of existing concrete and replace based on a 1 foot square be 10 inch thick price. Commissioner Chaney made the motion to approve. Commissioner Coleman seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.

*******City Manager Announces Consent Items*******

Commissioner Carter was interested in the size of crowd that attended the kid's day at the Expo. Mr. St. John replied that there were somewhere near 1200 kids.

Mayor Justice wanted to know what City day was and the schedule. City Manager explained that it was an event in Frankfort hosted by KLC and the time frame.

11. 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 Davis seconded the motion. Mayor Justice called for discussion, there being none, the motion passed unanimously. 5-0.
12. Commissioner Chaney made the motion to re convene. Commissioner Carter seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously. 5-0. Mayor called the session back into order.
13. There being no further business to come before the Commission, Commissioner Davis has made the motion to adjourn the meeting. Commissioner Carter seconded the motion. Mayor Justice called for discussion, there being none, the meeting was adjourned. 5-0

CONSENT & ANNOUNCEMENT ITEMS:

Special called Theatre Committee meeting February 26th to award bid

February 20th 2013 will be City Night with KLC at the Frankfort Convention Center, Frankfort KY from 4:30 pm until 8:00 pm

February 20th 2013 will be City Day with KLC in Frankfort KY from 9:00 am until 4:00 pm

February 26th at 10 am at City Hall Conference room will be special Theatre Committee Meeting to award bid for the construction phase of new theatre

February 8 through 10 will be the WYMT Sport & RV show at the Expo

February 14th is Valentine Dinner at the Expo

February 18th is the Drillers Home Opener at the Expo

February 23rd is Rascal Flatts

February 25th through March 4 is the 15th Regional Tournament


Week of March 11th will be the National League of Cities Conference in DC

Week of April 1st will be the National Drug Summit in Florida

February 13th police station at 10:00 am for installation of pill box.

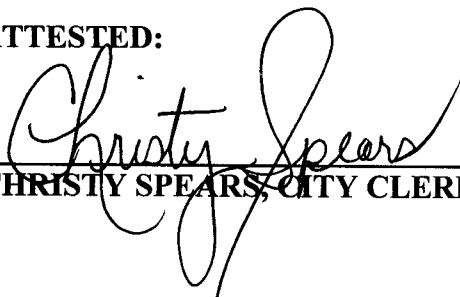
The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is February 25, 2013 at 6:00 p.m.

APPROVED:



FRANKLIN D. JUSTICE, II, MAYOR

ATTESTED:



CHRISTY SPEARS, CITY CLERK