

**CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
June 10, 2013 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, June 10, 2013. The meeting was held in the City Hall Conference Meeting Room located at 243 Main 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 special meeting held on June 5, 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. Mayor Justice and Commissioner Carter abstained and the motion carried unanimously. 5-0.

BUSINESS FROM THE FLOOR

Clifford Coleman to address the commission regarding various issues. Mayor lets Mr. Coleman know that the Commission has been made aware of some things that have been going on. Mr. Coleman approaches the podium and says that he has one personnel issue that he needs to bring up and then there is a public issue that he wants to bring up. Mr. Coleman says the personnel issue is an issue with his mom and dad and the public issue is an issue with all residents of Harold's Branch. Mr. Coleman says that his mom and dad has an existing drain tile, 20 foot drain tile right below their house. They contracted Jimbo Hamilton to put an extension onto it. Someone called and reported it and Robert Smith come up there and put a stop to it and told them it had to go through Frankfort. Robert gave Jimbo paperwork to fill out and everything and the letter came back from Frankfort saying that it was uncalled for, for them to even send the application to Frankfort. Mayor asked if the

Division of Water says that this was uncalled for. Mr. Coleman insist that the letter is right there in front of you, I passed it out to you. Mayor says the very first page. Mr. Coleman says yes. Mr. Coleman says that his concern is that it cost his mom \$111.00 to put it in the News Express to put in the paper for three consecutive days and it cost an excess number of dollars to fill out the application and send to Frankfort. I have called Jerry and talked to him about it. If you notice at the bottom of that letter, and I have discussed with Donovan, that Robert Smith, is he here today. Mayor says yes. Mr. Coleman says that if you are the flood plain coordinator then you should know all the regulations and any handbooks concerning that job title and should have been able to make a decision or should have made a phone call to Frankfort and gotten that problem expedited and properly handled. It wouldn't have cost her all the money in newspaper ads and all the money to fill out the applications and mail it to Frankfort. City Manager asked Robert Smith to address the issue. Mr. Smith reads KRS 150.250 in which addresses the issue. Robert adds that he is personally not an engineer and I do not calculate water sheds. The reason that this did not need to be permitted was because it did not have a big enough water shed. Mayor asked if that was what the state says and Robert says yes that is what the state says. City Attorney elaborates on the subject, since he is the one who wrote the ordinance that that applies to. State law says that they have to submit to the Division of Water, we don't have the jurisdiction. They make that determination, I don't do that, Robert Smith don't do that. If you have a gripe with what the state requires, you have got to take it up with them. They tell us not to issue these permits unless they tell us to. They might say it's within the exemption or they might not. We do what the state tells us to do. Mayor says that we face this a lot at Cedar Creek and City Attorney agrees and Mayor says this is the way we do it. City Attorney says yes this is the same way we do every place. The state is not real clear on what's exempt and what's not; and I bet Summit Engineering would tell you the same thing, that it is unclear, what they will approve and what they won't approve. It's like submitting an application for a surface mine permit. It's like some you do have to submit for and some you don't have to submit for. The problem is, we get jumped on if we just let people put in drain tiles; we get jumped on by the state or by someone downstream that gets flooded. And if you are the property owner and if you don't get it certified then you flood someone downstream then they are going to sue you. Mayor says that that is the point that I wanted to make clear. Clifford, we have already been through this before and I know that it is bad that it is happening to you, but when we had that tremendous rain that was in the Cedar Creek area we had this whole room full of residents that was all pipes stopping up and they flooded their neighbor and everything else. That is not our deal. If you have a problem with your neighbor you need to go talk to your neighbor. What our deal is, you need to make sure the pipe is adequate to what you are wanting it to do. Clifford says that is where Robert Smith should have stepped in. Mayor says that what his statute says is that you cannot even change the existing stuff that you have there. Clifford says it was not creating any problem at all. Commissioner Carter says but what the bottom line is that anytime you go into the creeks, rivers or streams you have to ask a permit to the state and they tell you whether or not you

can do it. City Attorney also adds that it makes a difference too whether or not you are in a water shed and if you put a three foot pipe in, that is three foot in diameter; and when you go and add additional pipes that creates additional burdens. Mr. Coleman may not understand the engineering principles, but it does. Now the state said it was exempt, but to me the \$110 where the state said the permit is not necessary, that money has not gone to waste. When your neighbor downstream gets flooded and wants to sue you, you're going to show them that piece of paper from the state and say hey, I was exempt. Commissioner Coleman addressed Mr. Smith and asked if the stream was anywhere else you would have treated it the same way no matter where it was and Robert said yes sir, it is my job to make sure they get permission from the state to build or construct along or across a stream. And I actually had the paperwork with me and signed it right there and nobody had to come to my office. I would like to add that the contractor did not get a job permit to put the drain tile in. Mayor says this is how it is these days Clifford, the state, the federal have all these regulations and we have to go by what it is. To say that Robert overstepped his bounds, I don't think so. I think Rusty made a valid point there, if anything you have yourself covered. Mr. Coleman says that your position and I understand that.

Mayor asked Mr. Coleman what else he would like to speak about. Mr. Coleman says that he has a public issue that he and Tommy Robinson had talked to Donovan about. He says he has a petition that has approximately 150 residents, licensed drivers, not just household people. That we're requesting that the stop signs be removed on Harold's Branch by the hospital that there was no traffic analysis done, is that correct? City Manager deferred to the Engineer Jody Hunt. Mr. Hunt says that there was not an actual study done, the hospital might have completed one in house. We did an analysis, in house, of the intersection of Harold's Branch that you are referring to. There are several reasons why it was designed in that fashion with the stop sign there. One reason would be, it's a ten story building with a thousand plus spaces in the parking lot so there is a huge volume of traffic coming in and out of there. It is to ensure safety of the operation and due to people coming along Harold's Branch and the parking area and the entrance area also. The high speeds of traffic, there is a sight distance issue that has occurred right up above that area. If someone is pulling out of the emergency entrance there, once he pulls out and if someone is coming down Harold's Branch very quickly, he might see that guy come out, that is the reason the stop sign is there, for safety issues. Mr. Coleman interrupted and asked how many accidents have been there. Mr. Hunt did not have those facts in front of him at that time. Mr. Coleman then wanted to know who made the decision to put the stop signs up; he goes on to say that the state highway says that they have no knowledge of it. And then says that Pike County says they have no knowledge of it, so did the City make the decision on their own, was there a vote on it, how did it happen? Mr. Hunt said we designed the intersection and Mr. Coleman said I know that. City Manager spoke up and said that the City Commission made the decision, then repeated the question for the Commission of who made the decision to allow the stop signs of Harold's Branch road. Mayor Justice says that they submitted the plans to us and we approved the plan Clifford.

City Manager says that with that in mind, a couple of issues and as I have mentioned to the Commission, there is a letter in front of you that this design be based upon the project being completed. However, currently, the project is not complete. When completed, there will be a thousand plus parking facility, new parking garage, eleven story new complex. So the consideration was not based upon today's traffic pattern but is based upon what is to come. When I spoke with Tommy Robinson today, very nice gentleman, we had a nice conversation in which we could agree to disagree. Commissioner Chaney adds that when going in and out of there while visiting people in the hospital, taking people to the emergency room and such, when those stop signs weren't there, when you come out it was hard to see. I almost got hit one day. Mr. Coleman says that his point is that the hospital has more than one way to exit. They have the other road that is existing with the stop light that they should use. Harold's Branch isn't the only exit for that hospital; they could go through the parking garage and go out the existing road that they have had forever and use that road. Let Harold's Branch be Harold's Branch, we are the ones who pay the property tax, not the hospital, they don't even pay tax. Mayor says Clifford, you're a good man. Anytime somebody comes on my property and tells me I have to do this, this, and this I don't like it, I don't care who it is. So I understand the first issue, but this issue right here has been a long issue coming through. All across this town, we have people encroaching on residential areas. I wasn't here last week, but we have a shopping center that is encroaching on a residential area. Where I grew up and love dearly at Meyer Barn Avenue been doing that forever, it is just part of that, a little bit of change. I understand why people are hesitant about coming to the top of that road. You do have to get wind off of me, for a little bit of inconvenience and for the progress of this town, I think I can go with that one. Mr. Coleman says the problem he has is the hospital is not utilizing their own accessibilities to get in and out. Mayor said they had the one area over here where we put a stop sign, and it just keeps growing. The problem is, we're hurting on land, you know that. It originated on Harold's Branch as a UMWA hospital, then it has just grown and grown and grown, then it just starts encroaching. We've got a situation here that you are going to hit on here in a minute that I do not know what the answer is, but I know that you cannot do it in the middle of the street. City Manager says the smokers, and Mr. Coleman says well I am not bringing that one up. Mayor says well I am going to then. Mr. Coleman says I feel sorry for them, the way that Walter May is treating them. My main issue is to keep on one topic and one topic only. Mayor says I understand you being upset that Robert came down and doing what he did. I understand what is going on at the hospital, it's encroaching on the neighbors here at Harold's Branch. Mr. Coleman says that he has many issues with Robert Smith, he says that he reported something to Robert and Robert told him that wasn't his department to call the fire department. Mayor said that that might have been the correct answer. Mr. Coleman continues to speak that he is a building inspector and that he has been there several times for the same thing. Mayor says to Mr. Coleman that he doesn't want to argue with him about situations but Mr. Coleman continues to speak. Mayor then tells Mr. Coleman about his situation with a mines in Pennsylvania to prove that he is not the only one

and he knows how he feels when dealing with the government. Mr. Coleman states that every resident on Harold's Branch is upset. Mayor says that he understands and it is not personal. He says that this Commission approved those stop signs based on the fact, and Mr. Coleman interrupts with when was it done and why wasn't it in the paper. Mayor tells Mr. Coleman that you can go on our website and find our agenda and our minutes, you will find whatever is up here and whoever is going to be here. Commissioner Coleman speaks up and says that this is what is on it. Mr. Coleman asked again about the voting on the stop signs and when it took place. Mayor Justice said we will go back and look at the minutes and find it, we can give you the day and the time and what month it was in. City Manager adds that we meet every second and fourth Monday of the month, and the public is welcome and encouraged to participate. Mr. Coleman insist that the hospital use the existing entrance that they have and not use the Harold's Branch entrance. He says that he has no problem with ambulances entering the Harold's Branch entrance because the entrance is no problem, it's the exiting that causes the problem. Mayor then asked him how many millions of dollars did he think went into designing the hospital. Mr. Coleman said let me put it to you this way, the little people is just as important as the rich man. Mayor says I understand that but you're coming in here questioning... Mr. Coleman speaking in the background trying to speak over Mayor then says that this will raise property taxes. Mayor said I am not going to raise your property taxes, I lowered your property taxes. This commission right here lowered the property taxes. Mr. Coleman says he is speaking as a whole... And Mayor says you have a petition of one hundred, fifty names. Mr. Coleman says we are all going to be here next month. Mayor says that's fine, but I am going to tell you. Mr. Coleman says to keep a disturbance down, I came as one, but we will all be here next month so you will need more seating in here. Mayor says Clifford, and the man continues to interrupt the Mayor. Mayor says you can come in here one more time with some other people in here and we'll bring it up, I am not going to come in here every time with the same argument every time. So, get everybody to come in here and we'll sit down and discuss this. Mr. Coleman says we are property owners of Harold's Branch and we have a right to express our opinion. Mayor says I am telling you that I am trying to be reasonable with you. Commissioner Carter asked what kind of rights did we take away from you. Mr. Coleman says show me somewhere else that has a through stop sign for a business. City Manager had said Walmart according to Mr. Coleman and then City Manager said I told you where but you do not listen. Mayor says that this is not even relevant to me. Donovan, I am done with this. Mr. Coleman says so nothing is going to be done. Commissioner Chaney says I will tell you where I am at on this situation, I voted on those stop signs and I will not back up. Mr. Coleman says the ones of you sitting on that board will not carry Harold's Branch next time. Mayor says that's up to you, thank you.

Ray Bartley with Boy Scout Troup 12 has fourteen kids to sign up to go to the National Gymboree on July 14th. We thought that the City might want to get some pins, City of Pikeville. We have talked to the Tourism Board and thought the City might want to do something. Mayor asked where this would be taking place. Mr.

Bartley said it will be thirty minutes outside Beckley, West Virginia. Commissioner Carter was wondering if the City had any of the pins left that they took to China and City Manager said he would check. Mayor says congratulations and thanks for letting us know.

PAYMENT OF CITY BILLS

The City Manager Donovan Blackburn requested the approval to pay city bills in the amount of \$802,661.97. Commissioner Davis made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments and Commissioner Davis asked if we have the money. City Manager nodded. Mayor Justice called for further discussion, there being none, motion passed unanimously. 5-0.

CITY ENGINEER

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

1. Consider request to approve and authorize payment for pay request #2 to Boca Enterprises, Inc. for \$53,568.47 and to authorize the Mayor to sign and execute said pay request. Commissioner Carter made the motion to approve. Commissioner Coleman seconded the motion. Mayor Justice called for comments and asked Mr. Hunt if he recommended we pay the request. Jody said yes sir. Mayor called for further questions or comments, there being none, the motion passed unanimously. 5-0.
2. Consider request to authorize and approve payment for invoice # 67417 to Summit Engineering for \$12,027.50 for the Peach Orchard Storm Water Separation Project. Commissioner Chaney made the motion to approve. Commissioner Coleman seconded. Mayor Justice called for comments and asked Jody if he recommended we pay this bill too. And Jody nodded yes. Mayor called for further questions or comments, there being none, the motion passed unanimously. 5-0.
3. Consider request to authorize and approve payment for invoice #67418 to Summit Engineering for \$1,045.40 for the Bob Amos Horse Trail Project. Commissioner Chaney made the motion to approve. Commissioner Davis seconded. Mayor called for comments, there being none, the motion passed unanimously. 5-0.

CITY ATTORNEY

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

- 1. Consider request for a second reading of an ordinance #0-2013-014 regarding an amended zoning map and zoning change for 116 Lakeview Drive from R1 to C2 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, there being none, Mayor called roll call. Motion passed unanimously. 5-0.**

**AN ORDINANCE RELATED TO THE AMENDMENT
OF THE CITY OF PIKEVILLE ZONING MAP FOR
116 LAKEVIEW DRIVE, LOT "B" PROPERTY
FROM R-1 TO C-2**

Ordinance #0-2013-014

WHEREAS, The Joint Planning Commission for Pikeville, Pike County and Elkhorn City has reviewed the proposed Zone Map Amendment contained herein and did approve the same by resolution during its May 28th, 2013 commission meeting after a duly notice public hearing was held on May 21st 2013 and

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that the Zoning Map for the City of Pikeville is amended as follows:

- 1. The Commission finds there have been major changes of an economic, social or physical nature of 116 Lakeview Drive, Lot "B" which was not anticipated in the community's comprehensive plan and which have substantially altered the basic character of such areas so that the current zoning classification is inappropriate.
- 2. That the City of Pikeville's zoning map for 116 Lakeview Drive, Lot "B" as the same is reflected on the attached map is hereby amended from a R-1 classification to C-2.

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:

YES NO

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 BILLITER, CITY CLERK

- 2. Consider a first reading of an ordinance #0-2013-015 adopting the City of Pikeville Annual Budget for the fiscal year of July 1, 2013 through June 30, 2014 by estimating revenues and resources and appropriating funds for the operation of the City government. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.**
- 3. Consider a request for a first reading of an ordinance #0-2013-016 amending the 2012 through 2013 Fiscal Operating Budget for the City of Pikeville. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.**
- 4. Consider a request for a first reading of an ordinance #0-2013-017 naming an unnamed alley to "Kenneth Robinson Alley." No further action is required at this time. The second reading will take place at the next regular scheduled meeting.**
- 5. Consider a request for a first reading of an ordinance #0-2013-018 amending Chapter 121 Smoking Regulations amending section 121.02 Definitions and 121.10 Prohibitions. This item was TABLED.**
- 6. Consider a request for a first reading of ordinance #0-2013-019 naming an unnamed street to "Ridgeview Drive." 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 request to authorize and approve an Easement Agreement as presented between the City of Pikeville and SE Acquisitions, LLC to install a utility pole with an overhead attachment owned and operated by SE Acquisition on Cassidy Blvd and authorize the Mayor to sign and execute said agreement. Commissioner Chaney made the motion to adopt. Commissioner Davis seconded the motion. Mayor called for comments. City Manager says that this is simply a pole beside a pole to allow business to allow high speed internet. Mayor asked if they already have overhead there and City Manager answers yes. Mayor asked if we have done anything about the aesthetics. City Manager says there is really no aesthetic issue because there is literally a pole beside a pole. Mayor says they are not drilling a new hole. City Manager says there is a pole set and an apparatus on it. We cannot put this apparatus on existing pole because of the functionality of the apparatus. Mayor called for further comments, there being none, motion passed unanimously. 5-0.**
- 2. Consider a request to authorize and approve the City Employee health insurance renewal as submitted that shall be effective on 07-01-2013 through 06-30-2014 and to authorize the Mayor and/or City Manager to sign and execute authorization for said renewal. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments. City Manager says that we have a little over five percent renewal request and we commend Rebecca Hamilton for her efforts on this because first renewal rate was a little over twenty seven percent. Mayor asked what did you have to give up. City Manager says that the deductible went from 250 to 750. Commissioner Carter asked who is that through Donovan and he says the same as before, Anthem. Mayor Justice called for further comments, there being none, the motion passed. 5-0.**
- 3. Consider a request to authorize and approve the execution for the request for procurement proposals of Membrane Technology and equipment for the city of Pikeville new Waste Water System. Commissioner Chaney made the motion. Commissioner Coleman seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.**
- 4. Consider a request to approve and authorize an amendment to the existing Real Estate Development Agreement between the United States Postal Service and The City of Pikeville, executed by the City on September 24, 2012 agreeing to extend said agreement and amending the closing date to occur on or before July 19, 2013 and authorize the Mayor to sign and execute said amendment on behalf of the City of Pikeville. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments. Commissioner Chaney says that this has**

taken us a longtime and Commissioner Carter agrees, long, long time. Mayor Justice called for further comments, there being none, the motion passed unanimously. 5-0.

5. Consider a request to authorize and approve a resolution creating a new festival in the City of Pikeville, in Pike County KY being Hatfield & McCoy Heritage Days Festival, creating an Executive Committee to govern said festival and to adopt their by-laws and to authorize the Mayor to sign and execute said resolution on behalf of the City of Pikeville all contingent upon the Pike County Fiscal Court jointly passing the same action. Commissioner Carter made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.
6. Consider a request to authorize and affirm the Mayor's initial appointments to the Hatfield and McCoy Heritage Day's Festival Committee. As City of Pikeville staff appointments one year term shall be Phillip Reed and the two year term shall be Jesse Bowling. As City Tourism appointments, one year term shall be Sean Cochran and the two year term shall be Donovan Blackburn. 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.

*****City Manager presented the Consent and Announcement Items*****

7. 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 Coleman seconded the motion. Mayor Justice called for discussion, there being none, the motion passed unanimously. 5-0.
8. 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.
9. There being no further business to come before the Commission, Commissioner Davis has made the motion to adjourn the meeting. Commissioner Coleman seconded the motion. Mayor Justice called for discussion, there being none, the meeting was adjourned. 5-0

CONSENT ITEMS:

JWT Opening Event at 6:30 pm in P-burg on June 15, 2013

City 2013-2014 Operational Budget public hearing shall be at 4:00 pm on June 11, 2013 at City Hall in the Commission Meeting Room

Special Commission Meeting scheduled for June 18' 2013 at 5:00 pm

Regular Commission Meeting scheduled for June 24, 2013 has been cancelled

City Manager off the week of June 24, 2013

Wayne Supply 100 Year Celebration event June 26, 2013 at 11:30 am to 2:30 pm

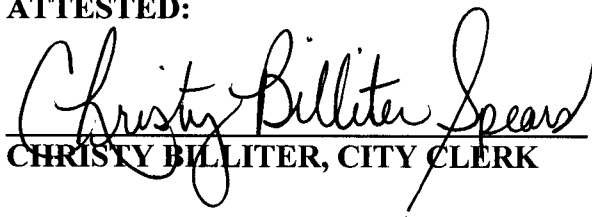
The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is July 8, 2013 at 6:00 p.m.

APPROVED:



FRANKLIN D. JUSTICE, II, MAYOR

ATTESTED:


CHRISTY BILLITER, CITY CLERK