

**CITY OF PIKEVILLE
BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
June 13, 2011 AT 6:00 P.M.**

The Board of Commissioners for the City of Pikeville met in a regular called session on Monday, June 13, 2011. 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 May 23, 2011 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

Mr. Case with the County Attorney's Office was present and wanted to give the city commissioners and one of the city employees "kudos". Mr. Case states that his office now looks outstanding as far as the Main Street program goes. Mr. Case wants to thank the commission and Minta Chaney personally for what has been done and wants to let them know that he is very pleased.

PAYMENT OF CITY BILLS

The City Manager Donovan Blackburn requested the approval to pay city bills in the amount of \$773,631.78. 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.

June 13, 2011 Regular Meeting

BIG SANDY AREA DEVELOPMENT DISTRICT

Brandon Montgomery was present for the Big Sandy Area Development. Mr. Montgomery is a new employee with Big Sandy ADD, he started last Monday. Mr. Montgomery had a couple updates to share with the commission. First, he reports that Jeff Sizemore wants to make sure that the FEMA approved hazard mitigation is in place. Next, a report from Libby Ratcliff saying that the monitoring for the Marion's Branch Sewer Project went well, and the contract was up May 31st. The contractor has been encouraged to complete the project by August 2011. Mayor asked Jody Hunt with Summit if we have been tearing people's yards up. Mayor says that we need to start fixing these people's yards back.

CITY ENGINEER

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

- 1. Consider request to authorize payment and approve the submitted invoice #57118 with Summit Engineer for \$2,879.13 for the Marion Branch Sewer Project. 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.**
- 2. Consider request to authorize payment and approve the submitted pay request #12 with H2O Construction, Inc. for \$151,937.30 for the Marion Branch Sewer project and authorize the mayor to sign and execute said pay request. Commissioner Chaney made the motion to approve. Commissioner Davis seconded. Mayor Justice called for comments. Mayor says to Mr. Hunt, "So you are going to talk to them about getting these things covered up?" Mr. Hunt answers, "Yes." Mayor calls for additional comments, there being none the motion passed unanimously. 5-0.**
- 3. Consider request to approve submitted Change Order #9 with Mountain Enterprises for \$3,423.00 for the Thompson Road widening project and authorize the mayor to sign and execute said change order. Commissioner Layne made the motion to approve. Commissioner Carter 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 a 2nd reading and adoption of an ordinance #0-2011-021 closing a portion of Hatcher Court. There was a pass on this ordinance to next meeting.**
- 2. Consider a 2nd reading and adoption of an ordinance #0-2011-020 amending Parking regulations. Commissioner Davis made a motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments, there being none, Mayor called roll call. Ordinance passed. 5-0.**

ORDINANCE AMENDING SECTION 72.991
OF THE CODE OF ORDINANCES
RELATED TO THE PROCEDURE FOR NOTICE TO THE
PERSON RECEIVING PARKING CITATION

Ordinance #0-2011-020

WHEREAS, the legislature did amend KRS 82.617 so to eliminate the requirement of the City to issue a second notice of parking violation by certified mail;

NOW THEREFORE, be it ordained by the City of Pikeville that Section 72.991 is amended to read as follows:

(A) Any person who received notice of a parking violation shall respond to such notice within seven (7) days of the date of the notice, by either paying the fine set forth in the notice or requesting a hearing pursuant to § [72.992](#) (A)

(B) If the owner of the vehicle cited for parking violation has not responded to the notice within seven (7) days as provided for in division (A) above, the city shall send a second notice by regular first-class mail to the address of the registered owner of the vehicle as listed with the Pike County Clerk or on the certificate of title. If a notice is mailed due to failure of payment then the party receiving the citation will be assessed an additional fee of ~~ten eight~~ dollars (\$8.00) ~~(\$10.00)~~ to cover administrative cost. Such notice shall state that if the owner of the vehicle does not respond to the notice by either paying the fine and the additional ~~eight~~ ~~(ten)~~ dollar ~~(\$8.00)~~ ~~(\$10.00)~~ administrative cost or by requesting in writing to the City Clerk a hearing before the hearing officer, within seven (7) days of the receipt of the notice, the owner shall be deemed to have waived his right to a hearing and the determination that a violation was committed shall be considered final. Any person who fails to request a hearing or pay the fine within seven (7) days shall be deemed to have refused to pay the fine levied by the citation.

(C) Failure to pay any fine within seven (7) days after the issuance date of the citation, and starting from the date of the issuance of the certified notice shall result in an additional penalty of one dollar (\$1.00) per day up to a maximum of 30 days equating to an additional penalty cost of up to thirty dollars (\$30.00), which will be in addition to the fine and administration cost set forth in the notice.

(D) Failure to pay any fine, fees and penalties as provided for herein within thirty (30) days from the date of the notice shall constitute a misdemeanor, and shall be subject to the penalty provisions of § [72.999](#) (B).

The ordinance shall be in full force and effect after it is passed and published as required by law but no sooner than July 15, 2011.

June 13, 2011 Regular Meeting

The above ordinance was given first reading this ____ day of _____, 2011, the ordinance was given a second reading on the ____ day of _____, 2011.

Passed this ____ day of _____ 2011.

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 BILLITER, CITY CLERK

- 3. Consider a 2nd reading and adoption of an ordinance #0-2011-019 amending Chapter 32 “Departments, Boards, Committees, and Commissions” General Provisions. Commissioner Carter made a motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments. City Manager says, “The commission is aware of the resolution that is already passed. As mentioned in work session, it contradicts the city ordinance. Also passed in legislative session, the city will have the authority to appoint two out of the seven members of the board, also giving the county two members. Previously, the Governor had the right to appoint all seven members. The only responsibility that the board will have will be caretaker of the Expo Center facility.” Mr. Potter speaks up saying that through the Pikeville/Pike County Tourism Board it basically consists of all the restaurants and all the hotels. Mr. Potter

says that they basically have a restaurant association. City Manager and City Attorney explain to Mr. Potter that if you do not meet the requirements of KRS then you really are not an organization or an association. The statute says that you have to have an association. Mayor called for additional comments, there being none, Mayor called roll call. Ordinance passed. 5-0.

**AN ORDINANCE RELATED TO THE AMENDMENT
OF CHAPTER 35 “DEPARTMENTS, BOARDS, COMMITTEES AND
COMMISSIONS GENERAL PROVISIONS” OF SECTION 32.05
“PIKEVILLE TOURISM AND CONVENTION COMMISSION” AND SECTION
32.15 “EAST KENTUCKY EXPOSITION CORPORATION” OF THE CITY
OF PIKEVILLE CODE OF ORDINANCE**

ORDINANCE NO. 0-2011-017

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that §32.05 & §32.15 OF THE CODE OF ORDINANCES UNDER CHAPTER 35 SHALL BE AMENDED AS FOLLOWS:

**CHAPTER 32: DEPARTMENTS, BOARDS, COMMITTEES AND COMMISSIONS
GENERAL PROVISIONS**

§ 32.01 TERM RESTRICTIONS.

- (A) No person shall be permitted to serve as a member, director, board member, or commissioner of any of the several public agencies, public corporations, public districts, commissions, or other subdivisions or bodies of the city which operate within the city and in the interest of the public unless said individual is at least **21 years of age and a resident of the City of Pikeville.**
- (B) No individual shall concurrently serve as a member, director, board member, commissioner, and the like on more than three (3) public agencies, public corporations, public districts, commissions, or other subdivisions or bodies of the city which operate in the interest of the public.
- (C) No person shall appoint, elect, nominate, or otherwise submit for approval the name of any individual as a member, director, board member, or commissioner of any of the agencies, public corporations, public districts, or commissions if said individual is prohibited from serving in said capacity by virtue of this section.
- (D) This section shall apply retroactively. Any person who has currently served the allowed time shall serve the remainder of his or her terms or one year, whichever is less. A partial term resulting by an appointment to fill an unexpired term shall not count toward the allowable terms but will be counted toward the allowable time left for that term..

JOINT TOURISM AND RECREATION COMMISSION

PIKEVILLE TOURISM AND CONVENTION COMMISSION

| <u>Term (In Years)</u> | <u>Term Limits</u> | <u>members</u> | <u># of city Appointments</u> | <u>Meeting Time</u> |
|----------------------------|------------------------|----------------|-----------------------------------|--|
| <u>3</u> | None | <u>1</u> | <u>1</u> | <u>2nd Tuesday each month</u> |

§ 32.05ESTABLISHMENT.

Pursuant to city resolution #2011-100 the Pikeville City Commission did abolish the cities participation and membership and all rights therein with the "Pikeville/Pike County Joint Tourism and Recreation Commission" in order to establish a standalone City of Pikeville City Tourism and Convention Commission as permitted under KRS91A.350.

Pursuant to KRS 91A.350, there is hereby established a City Tourism and Convention Commission.

→91A.360 Membership of tourist and convention commissions; terms; officers and employees; audit

- (1) The commission established pursuant to [KRS 91A.350\(2\)](#) shall be composed of seven (7) members to be appointed, in accordance with the method used to establish the commission. Members of a commission established by separate action of the local governing body of a city located therein shall be appointed separately by the chief executive officer of the local governing body that established the commission. The chief executive officer of a city shall mean the mayor. Appointments to a commission shall be made by the appropriate chief executive officer or officers in the following manner:
- (2) Two (2) commissioners shall be appointed from a list of three (3) or more names submitted by the local city hotel and motel association and one (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list of six (6) or more names submitted by it. If no formal local city or county hotel and motel association is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then up to three (3) commissioners shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local hotels or motels. A local city or county hotel and motel association shall not be required to be affiliated with the Kentucky Hotel and Motel Association to be recognized as the official local city or county hotel and motel association.
- (3) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local restaurant association or associations. If no formal local restaurant association or associations exist upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing a local restaurant. A local restaurant association or associations shall not be required to be affiliated with the Kentucky Restaurant Association to be recognized as the official local restaurant association or associations.
- (4) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the chamber or chambers of commerce existing within those governmental units, which by joint or separate action have established the commission. If the commission is established by joint action of a county and a city or cities, then each chamber of commerce shall submit a list of three (3) names, and the chief executive officers of the participating governmental units shall jointly appoint one (1) commission member from the aggregate list. If no local chamber of commerce is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local businesses.
- (5) Two (2) commissioners shall be appointed in the following manner:
 - (a) By the chief executive officer of the city.
- (6) A candidate submitted for appointment to the commission, pursuant to subsection (1)(a) to (1)(c), shall be appointed by the appropriate chief executive officer within thirty (30) days of the receipt of the required list or lists. Vacancies shall be filled in the same manner that original appointments are made.
- (7) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the appropriate chief executive officer or officers shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year. There shall be no limitation on the number of terms to which a commissioner is reappointed. Subsequent appointments shall be for three (3) year terms.

- (8) The commission shall elect from its membership a chairman and a treasurer, and may employ personnel and make contracts necessary to carry out the purpose of [KRS 91A.350 to 91A.390](#). The contracts may include, but shall not be limited to, the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business. Contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as advertising firms, chambers of commerce, publishers, and printers.
- (9) The books of the commission and its account as established in [KRS 91A.390\(2\)](#) shall be audited annually by an independent auditor who shall make a report to the commission, to the associations submitting lists of names from which commission members are selected, to the appropriate chief executive officer or officers, to the State Auditor of Public Accounts, and to the local governing body or bodies that established the commission that was audited. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.
- (10) A commissioner may be removed from office, by joint or separate action, of the appropriate chief executive officer or officers of the local governing body or bodies that established the commission, as provided by [KRS 65.007](#).

ESTABLISHMENT.

— Pursuant to [KRS 91A.350](#), there is established a Joint City-County Tourism and Recreation Commission.

➔ ~~91A.360~~ Membership of tourist and convention commissions; terms; officers and employees; audit

- ~~(1) The commission established pursuant to [KRS 91A.350\(2\)](#) shall be composed of seven (7) members to be appointed, in accordance with the method used to establish the commission. Members of a commission established by joint action of the local governing bodies of a county and a city or cities located therein shall be appointed, jointly, by the chief executive officers of the local governing bodies that established the commission. Members of a commission established by separate action of the local governing body of a county or a city located therein shall be appointed separately by the chief executive officer of the local governing body that established the commission. The chief executive officer of a city shall mean the mayor and the chief executive officer of a county shall mean the county judge/executive. Appointments to a commission shall be made by the appropriate chief executive officer or officers in the following manner:~~
- ~~(2) Two (2) commissioners shall be appointed from a list of three (3) or more names submitted by the local city hotel and motel association and one (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list of six (6) or more names submitted by it. If no formal local city or county hotel and motel association is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then up to three (3) commissioners shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local hotels or motels. A local city or county hotel and motel association shall not be required to be affiliated with the Kentucky Hotel and Motel Association to be recognized as the official local city or county hotel and motel association.~~
- ~~(3) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local restaurant association or associations. If no formal local restaurant association or associations exist upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing a local restaurant. A local restaurant association or associations shall not be required to be affiliated with the Kentucky Restaurant Association to be recognized as the official local restaurant association or associations.~~
- ~~(4) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the chamber or chambers of commerce existing within those governmental units, which by joint or separate action have established the commission. If the commission is established by joint action of a county and a city or cities, then each chamber of commerce shall submit a list of three (3) names, and the chief executive officers of the participating governmental units shall jointly appoint one (1) commission member from the aggregate list. If no local chamber of commerce is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local businesses.~~

(5) Two (2) commissioners shall be appointed in the following manner:

_____ (a) By the chief executive officer of the county or city, if the commission has been established by separate action of a county or city; or

_____ (b). One (1) each by the chief executive officer of the county and by the chief executive officer of the most populous city participating in the establishment of the commission, if the commission has been established by joint action of a county and a city or cities.

(6) A candidate submitted for appointment to the commission, pursuant to subsection (1)(a) to (1)(c), shall be appointed by the appropriate chief executive officer or officers within thirty (30) days of the receipt of the required list or lists. Vacancies shall be filled in the same manner that original appointments are made.

(7) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the appropriate chief executive officer or officers shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year. There shall be no limitation on the number of terms to which a commissioner is reappointed. Subsequent appointments shall be for three (3) year terms.

(8) The commission shall elect from its membership a chairman and a treasurer, and may employ personnel and make contracts necessary to carry out the purpose of ~~KRS 91A.350 to 91A.390~~. The contracts may include, but shall not be limited to, the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business. Contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as advertising firms, chambers of commerce, publishers, and printers.

(9) The books of the commission and its account as established in ~~KRS 91A.390(2)~~ shall be audited annually by an independent auditor who shall make a report to the commission, to the associations submitting lists of names from which commission members are selected, to the appropriate chief executive officer or officers, to the State Auditor of Public Accounts, and to the local governing body or bodies that established the commission that was audited. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.

(10) A commissioner may be removed from office, by joint or separate action, of the appropriate chief executive officer or officers of the local governing body or bodies that established the commission, as provided by ~~KRS 65.007~~.

EAST KENTUCKY EXPOSITION CORPORATION

| <u>Term (In Years)</u> | <u>Term Limits</u> | <u>members</u> | <u># of city Appointments</u> | <u>Meeting Time</u> |
|----------------------------|------------------------|----------------|-----------------------------------|---------------------|
| <u>4</u> | <u>None</u> | <u>7</u> | <u>2</u> | <u>As Needed</u> |

§ 32.15

ESTABLISHMENT.

_____ Pursuant to KRS 154.40-020 there is established a East Kentucky Exposition Corporation.

Board of Directors:

(1) The corporation shall be governed by a board of directors consisting of seven (7) members appointed as follows:

- (a) Three (3) members appointed by the Governor;
- (b) Two (2) members appointed by the county judge/executive of Pike County; and
- (c) Two (2) members appointed by the mayor of Pikeville.

Initial appointments shall be for a term expiring November 1, 2003. Thereafter, members shall serve terms of four (4) years beginning November 1, 2003. After a membership term expires, members shall serve until new members are appointed to replace them.

(2) A member may be removed by his or her appointing authority as set forth in subsection (1) of this section, for misfeasance or malfeasance and after being afforded notice, an opportunity for a hearing under KRS Chapter 13B, and a finding of facts. A copy of charges, transcripts of the records of hearings, and findings of fact shall be filed with the Secretary of State.

(3) Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

Eastern Kentucky Exposition Center Corporation.

(1) The Eastern Kentucky Exposition Center Corporation is created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth that shall be a public body corporate and politic. The corporation shall develop, operate, and manage the Eastern Kentucky Exposition Center funded by 2000 Ky. Acts ch. 549, Part II, Section F, Item 1(e) and Part II, Section S, Item 2(a)236. The corporation shall be attached to the Tourism, Arts and Heritage Cabinet for administrative purposes.

(2) The corporation shall be a participating agency in the Kentucky Employees Retirement System. Its employees shall be considered state employees for the purpose of participating in the Kentucky Employees Retirement System and shall be entitled to the requirements and benefits provided to other system participants.

Powers of board -- Executive director.

(1) The board may develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.

(2) A quorum of the board shall consist of four (4) members, with a majority of members present authorized to act upon any matter legally before the corporation.

(3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

(4) The board may adopt administrative regulations under KRS Chapter 13A to govern the operation, maintenance, or use of property under its custody and control.

(5) Minutes and records of all meetings of the board shall be kept, and all official actions shall be recorded.

(6) The board may establish an executive committee from among its membership with full authority to act between meetings of the board to the extent delegated by vote of a majority of the members of the board.

(7) The board may employ a full-time executive director who shall hold office at its pleasure.

(a) The executive director shall act under the direction of the board in employing necessary staff to perform the corporation's duties and exercise its powers.

(b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all the documents, which shall be public records under KRS 61.870 to 61.884.

Powers and duties of corporation.

The Eastern Kentucky Exposition Center Corporation shall have the following powers and duties:

(1) The corporation shall supervise the design, construction, and operation of the Eastern Kentucky Exposition Center and shall provide all management functions for the facility and for any other property acquired or leased in accordance with its powers established in this section.

(2) The corporation shall promote the growth and development of the convention, trade, tourism, hotel, restaurant, and entertainment industry in eastern Kentucky, Pike County, and the Commonwealth through utilization of the center.

(3) The corporation shall have the exclusive control of all exhibitions, performances, and concessions in the Eastern Kentucky Exposition Center. The corporation shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center and may sell the property upon ten (10) days' notice to satisfy any indebtedness.

(4) The corporation shall participate with local hotels and the travel industry to develop tourist packages and additional services to attract conferences and conventions to the region.

(5) The corporation may take, acquire, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease or by transfer from the State Properties and Buildings Commission and may dispose of any property so acquired in any manner provided by law.

(6) The corporation may levy a surcharge on tickets for functions held within the center to contribute to operating revenue.

(7) The corporation may sue and be sued and maintain and defend legal actions in its corporate name.

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 _____, 2011.

the ordinance was given a second reading on the ___ day of _____, 2011. Passed this ___ day of _____, 2011.

Commissioner _____ moved for the adoption of the foregoing ordinance.

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 Mayor declared the within ordinance adopted.

FRANK JUSTICE II,
MAYOR

ATTESTED:

CHRISTY BILLITER, CITY CLERK

4. Consider a 2nd reading and adoption of an ordinance #0-2011-018 amending Chapter 35 “Taxation.” Commissioner Layne made a motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments. Mr. Potter states that he thinks it is brave of you all to take this action. Mr. Potter questions the ordinance and wants to involve the county commission. Mayor Justice and City Manager Blackburn explains that it needs to remain before the City Commission. Mayor Justice called for further comments, there being none, Mayor called roll call. Mayor abstains. Ordinance passed. 5-0.

**AN ORDINANCE RELATED TO THE AMENDMENT
OF CHAPTER 35 “TAXATION” OF SECTION 35.27
“RESTAURANT TAX” OF THE CITY
OF PIKEVILLE CODE OF ORDINANCE**

ORDINANCE NO. 0-2011-018

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that §35.27 OF THE CODE OF ORDINANCES RELATED TO “RESTAURANT TAX” SHALL BE AMENDED AS FOLLOWS:
CHAPTER 35: TAXATION

Cross-reference:

Vacant Property Review Commission, see §§ [32.180](#) through [32.185](#)

AD VALOREM TAXES

§ 35.01 COUNTY ASSESSMENT ADOPTED.

The Pike County assessment of property situated within this city, both real and personal, is hereby adopted. (Ord. 0-90-025, passed 8-13-90; Am. Ord. 0-91-015, passed 8-26-91; Am. Ord. 0-92-013, passed 6-29-92; Am. Ord. 0-92-014, passed - -92; Am. Ord. 0-96-003, passed 5-30-96; Am. Ord. 0-97-001, passed 4-28-97; Am. Ord. 0-98-009, passed 4-27-98; Am. Ord. 0-2002-010, passed 9-9-02; Am. Ord. 0-2003-010, passed 9-8-03; Am. Ord. 0-2004-017, passed 10-11-04; Am. Ord. 0-2005-021, passed 9-26-05; Am. Ord. 0-2006-017, passed 10-9-06; Am. Ord. 0-2007-030, passed 10-9-07; Am. Ord. 0-2008-001, passed 1-14-08; Am. Ord. 0-2008-24, passed 10-13-08; Am. Ord. 0-2009-023, passed 9-28-09; Am. Ord. 0-2010-021, passed 9-27-10)

§ 35.02 LEVY OF TAXES.

For the purpose of providing funds for the general operating expenses of the City of Pikeville for the fiscal year from July 1, 2009 to June 30, 2010, the following taxes are levied:

(A) Upon all real estate within the city not specifically exempted from taxation situated within the city, an amount of \$0.15 per one hundred dollars (\$100.00) of assessed value.

(B) A tax upon all tangible personal property and franchises, not specifically exempted from taxation, a tax of \$0.15 per one hundred dollars (\$100.00) of assessed value.

(Ord. 0-90-025, passed 8-13-90; Am. Ord. 0-91-015, passed 8-26-91; Am. Ord. 0-92-013, passed 6-29-92; Am. Ord. 0-92-014, passed - -92; Am. Ord. 0-94-001, passed 1-24-94; Am. Ord. 0-95-004, passed - -; Am. Ord. 0-96-003, passed 5-30-96; Am. Ord. 0-97-001, passed 4-28-97; Am. Ord. 0-98-009, passed 4-27-98; Am. Ord. 0-99-006, passed 3-22-99; Am. Ord. 0-99-012, passed 10-25-99; Am. Ord. 0-2001-022, passed 8-27-01; Am. Ord. 0-2002-010, passed 9-9-02; Am. Ord. 0-2003-010, passed 9-8-03; Am. Ord. 0-2004-017, passed 10-11-04; Am. Ord. 0-2005-021, passed 9-26-05; Am. Ord. 0-2006-017, passed 10-9-06; Am. Ord. 0-2007-030, passed 10-9-07; Am. Ord. 0-2008-001, passed 1-14-08; Am. Ord. 0-2008-24, passed 10-13-08; Am. Ord. 0-2009-023, passed 9-28-09; Am. Ord. 0-2010-021, passed 9-27-10)

Cross-reference:

Abandoned urban property tax, see §§ [35.30](#) through [35.36](#)

§ 35.03 DISCOUNT.

(A) A discount of two percent (2%) of the total amount of the tax bill is hereby allowed upon all tax bills paid on or before November 1, 2010.

(B) The face amount of tax without discount or penalty shall be due for tax bills that are paid after November 1, 2010 through January 1, 2011.

(Ord. 0-90-025, passed 8-13-90; Am. Ord. 0-90-039, passed 12-27-90; Am. Ord. 0-91-015, passed 8-26-91; Am. Ord. 0-92-013, passed 6-29-92; Am. Ord. 0-92-014, passed - -92; Am. Ord. 0-95-004, passed - -; Am. Ord. 0-96-003,

passed 5-30-96; Am. Ord. 0-97-001, passed 4-28-97; Am. Ord. 0-98-009, passed 4-27-98; Am. Ord. 0-99-006, passed 3-22-99; Am. Ord. 0-99-012, passed 10-25-99; Am. Ord. 0-2000-017, passed 9-25-00; Am. Ord. 0-2001-022, passed 8-27-01; Am. Ord. 0-2002-010, passed 9-9-02; Am. Ord. 0-2003-010, passed 9-8-03; Am. Ord. 0-2004-017, passed 10-11-04; Am. Ord. 0-2005-021, passed 9-26-05; Am. Ord. 0-2006-017, passed 10-9-06; Am. Ord. 0-2007-030, passed 10-9-07; Am. Ord. 0-2008-001, passed 1-14-08; Am. Ord. 0-2008-24, passed 10-13-08; Am. Ord. 0-2009-023, passed 9-28-09; Am. Ord. 0-2010-021, passed 9-27-10)

§ 35.04 PENALTY/INTEREST.

(A) A penalty of five percent (5%) of the total amount of the tax bills that are not paid on or prior to February 1, 2011, shall be imposed and collected.

(B) A penalty of twenty-one percent (21%) of the total amount of the tax bills that are paid after February 1, 2011, shall be imposed and collected.

(C) Certificates of delinquency shall bear interest from the date of issuance until collected at the rate of twelve percent (12%) per annum.

(Ord. 0-90-025, passed 8-13-90; Am. Ord. 0-90-039, passed 12-27-90; Am. Ord. 0-91-015, passed 8-26-91; Am. Ord. 0-92-013, passed 6-29-92; Am. Ord. 0-92-014, passed - -92; Am. Ord. 0-95-004, passed - - ; Am. Ord. 0-95-004, passed - -95; Am. Ord. 0-96-003, passed 5-30-96; Am. Ord. 0-97-001, passed 4-28-97; Am. Ord. 0-98-009, passed 4-27-98; Am. Ord. 0-99-006, passed 3-22-99; Am. Ord. 0-99-012, passed 10-15-99; Am. Ord. 0-2000-017, passed 9-25-00; Am. Ord. 0-2001-022, passed 8-27-01; Am. Ord. 0-2002-010, passed 9-9-02; Am. Ord. 0-2003-010, passed 9-8-03; Am. Ord. 0-2004-017, passed 10-11-04; Am. Ord. 0-2005-021, passed 9-26-05; Am. Ord. 0-2006-017, passed 10-9-06; Am. Ord. 0-2007-030, passed 10-9-07; Am. Ord. 0-2008-001, passed 1-14-08; Am. Ord. 0-2008-24, passed 10-13-08; Am. Ord. 0-2009-023, passed 9-28-09; Am. Ord. 0-2010-021, passed 9-27-10)

§ 35.05 TAX ADMINISTRATOR.

The Tax Administrator is hereby designated and authorized to collect the tax imposed in this chapter.

(Ord. 0-90-025, passed 8-13-90; Am. Ord. 0-91-015, passed 8-26-91; Am. Ord. 0-92-013, passed 6-29-92; Am. Ord. 0-92-014, passed - -92; Am. Ord. 0-96-003, passed 5-30-96; Am. Ord. 0-2002-010, passed 9-9-02; Am. Ord. 0-2003-010, passed 9-8-03; Am. Ord. 0-2004-017, passed 10-11-04; Am. Ord. 0-2005-021, passed 9-26-05; Am. Ord. 0-2006-017, passed 10-9-06; Am. Ord. 0-2007-030, passed 10-9-07; Am. Ord. 0-2008-001, passed 1-14-08; Am. Ord. 0-2008-24, passed 10-13-08; Am. Ord. 0-2009-023, passed 9-28-09; Am. Ord. 0-2010-021, passed 9-27-10)

§ 35.06 STATUTORY AUTHORITY.

This subchapter is passed pursuant to, in compliance with, and by virtue of the authority of the following constitutional and statutory provisions, to-wit: Kentucky Constitution, 157, 170, and 181; KRS 92.280, 92.281, 92.290, 92.330, 132.010, 132.020 and 134.430.

(Ord. 0-90-025, passed 8-13-90; Am. Ord. 0-91-015, passed 8-26-91; Am. Ord. 0-92-013, passed 6-29-92; Am. Ord. 0-92-014, passed - -92; Am. Ord. 0-96-003, passed 5-30-96; Am. Ord. 0-2000-017, passed 9-25-00; Am. Ord. 0-2002-010, passed 9-9-02; Am. Ord. 0-2003-010, passed 9-8-03; Am. Ord. 0-2004-017, passed 10-11-04; Am. Ord. 0-2005-021, passed 9-26-05; Am. Ord. 0-2006-017, passed 10-9-06; Am. Ord. 0-2007-030, passed 10-9-07; Am. Ord. 0-2008-001, passed 1-14-08; Am. Ord. 0-2008-24, passed 10-13-08; Am. Ord. 0-2009-023, passed 9-28-09; Am. Ord. 0-2010-021, passed 9-27-10)

§ 35.07 EXEMPTION FROM TAX.

There shall be exempt from property taxation aircrafts not used in the business of transporting persons or property for compensation or hire as authorized by KRS 132.200.

(Ord. 0-2007-034, passed 11-26-07)

TRANSIENT ROOM TAX

§ 35.25 TAX IMPOSED; COLLECTION OF TAX.

(A) The city hereby adopts a three percent (3%) transient room tax to take effect January 1, 1986, as provided herein.

(B) Pursuant to KRS 91A.390, the room tax shall be assessed on a quarterly basis payable on the twentieth of each month for the prior quarter.

(C) The city shall, as set out in the statutes, collect the room tax and the Tax Administrator and the City Attorney shall be responsible for its collection in the event that it is not timely submitted.

(D) It shall be unlawful for any person, firm or corporation to operate a hotel or motel within this city without a hotel and motel license. Such license shall be issued by the Tax Administrator on an annual basis which shall expire on December 31 of each year. The license shall be displayed in the registration office in public view. Any person, firm or corporation who violates any provision of this division (D) shall be guilty of a misdemeanor and shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00) or imprisoned for not more than fifty (50) days, or both, for each offense. Each day in which any such violation occurs shall constitute a separate offense. The fines and imprisonment provided for herein shall be in addition to remedies provided for in division (E).

(E) No hotel and motel license for the operation of a hotel or motel shall be issued to any person, firm or corporation, who or which is delinquent in the payment of the tax at the time of issuing said license. All delinquent taxes shall bear interest at the rate of one and one half percent (1-1/2%) per month until paid. The city shall be entitled

to a lien upon any property owned or leased by any person, firm or corporation who is delinquent in the payment of the tax due from the city after thirty (30) days or upon the property in which the hotel or motel is located by filing a notice of lien with the Pike County Court Clerk's Office. The city shall be entitled to recover all of its costs and expenses, including attorney fee, incurred in connection with the collection of any delinquent taxes. The city may revoke or suspend the hotel or motel license of any hotel or motel delinquent in the payment of the tax due the city after thirty (30) days.

(F) The city shall retain and shall not disburse to the Tourism Commission any amount equal to five percent (5%) of the transient room tax collected by the city to cover administrative costs of billing and collecting the tax.

(G) The city may revoke or suspend the liquor license issued by the Alcoholic Beverage Control Administrator of any hotel or motel which is delinquent in the payment of the tax due hereunder to the city after thirty (30) days or in such cases where the hotel and/or motel's occupational license has not been renewed or revoked by the city. The Alcoholic Beverage Control Administrator is further authorized and directed hereby to consider previous tax delinquency of the tax imposed hereunder before issuing or reissuing any alcoholic beverage license to the delinquent individual, business or corporation and in cases where the individual, business or corporation has been repeatedly delinquent in the payment of the tax imposed hereunder, the Alcoholic Beverage Control Administrator shall not renew, reissue or issue an alcoholic beverage license to such individual, business or corporation.
(Ord. 0-92-011, passed 5-27-92)

§ 35.26 TAX IMPOSED FOR EASTERN KENTUCKY EXPOSITION CENTER.

(A) A tax is hereby imposed upon all persons, companies or corporations doing business within Pike County, Kentucky as motor courts, motels, hotels, inns or like or similar accommodation businesses at the rate of one percent (1%) of gross receipts derived from the rental and occupancy of suite, room or rooms.

(B) The tax herein imposed shall be used solely for the purpose of meeting the operating expense of the Eastern Kentucky Exposition Center.

(C) The tax herein imposed may be collected by the owner or operator of the business from the occupant.

(D) For the purpose of proper administration of this subchapter, it shall be presumed that all gross receipts derived from the rental of suites, room or rooms within motor courts, motels, hotels, inns or like or similar accommodation businesses are subject to the tax until the contrary is established.

(E) The owner or operator of motor courts, motels, hotels, inns or like or similar accommodation businesses shall file on a quarterly basis with the Eastern Kentucky Exposition Center Corporation on forms to be provided by the Corporation appropriate reports setting out gross receipts for rental of suites, room or rooms for the prior quarter and shall pay to the Treasurer of the Corporation the tax imposed thereon. The report and payment shall be made and paid no later than the twentieth day of the month following the end of the taxing quarter.

(F) Any person, company or corporation who is required to file a report, who furnishes a false or fraudulent report or who fails to furnish such a report shall be subject to a civil penalty of one hundred dollars (\$100.00).

(G) Any person, company or corporation who fails to pay the tax imposed herein within the time prescribed shall be assessed a civil penalty of ten percent (10%) of the tax due. All delinquent taxes shall bear interest at the rate of one and one-half percent (1.5%) per month until paid.

(H) The city shall be entitled to a lien upon any property owned or leased by any person, company or corporation who is delinquent for a period of thirty (30) days in the payment of the tax due hereunder by filing a notice of lien with the Pike County Clerk's Office. The city shall be entitled to recover all of its costs and expenses including attorney fees incurred in connection with the collection of any delinquent taxes.

(I) Nothing herein shall affect the three percent (3%) transient room tax set forth in § [35.25](#).

(J) The city may revoke, suspend or non-renew the liquor license issued by the ABC Administrator of any hotel, motel, inn or motor court which is delinquent in the payment of the tax due hereunder after thirty (30) days.

(KRS 91A.390)

(Ord. 0-98-025, passed 12-28-98)

§ 35.27 RESTAURANT TAX

Section

01 Definitions

02 Restaurant Tax

03 Reporting Procedures to City Council

04 Reporting Procedures for Restaurants

05 Transfer of Funds to Elizabethtown Tourism & Convention Bureau

06 Collection and Enforcement

07 Interest and Penalties

08 Information Deemed Confidential: Penalty for Disclosure: Exceptions

09 Duties, Director of Finance

10 Procedure for Applying for Refund or Overpayment

11 Failure to File Return: Failure to Pay the Restaurant Tax Withheld; Underpayment of amount due

12 Severability

13 Other Ordinances Not Repealed

01 Definitions:

Restaurant: As used in this chapter, restaurant means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants, coffee shops, cafeterias, short order cafes, luncheonettes, grilles, tea rooms, sandwich shops, soda fountains, roadside stands, street vendor, catering kitchens, delicatessen, or similar places in which food is prepared for sale for consumption of the premises or elsewhere. It does not include school cafeterias which are operated by the school system and not an independent corporation, food vending machines, establishments serving beverage only in single service or original containers. Temporary food stand, operated by non-profit organizations are exempt from this tax. Applies to food and beverages (excluded alcoholic drink that are taxed under §111.17).

Commission: The Pikeville Tourism and Convention Commission

02 Restaurant Tax.

On and after July 15, 2011, there is hereby levied upon the retail sale of all food and beverages by a restaurant located within the municipal limits of the City of Pikeville a tax equal to one and one-half percent (1.5%) of the gross amount of each sale (excluding any other tax). This tax may or may not be passed on to the ultimate customer/consumer at the discretion of the restaurant.

03 Reporting Procedures to City of Pikeville

A. The funds collected from this tax shall be maintained by the City Tax Administrator in a special fund managed by the City Finance Director and disbursed to the Commission monthly. All such money shall be used solely for the purpose of promoting recreational, convention and tourist activity in the City of Pikeville, as set out in KRS Section 91A.390, and shall not be used to provide a subsidy in any form to any motel, hotel or restaurant.

B. The Commission must obtain approval from the City Commission of the City of Pikeville prior to using any revenues from the restaurant tax for the purposed of capital improvements including the purchase or acquisition of land. In the event that an approved capital project must be debt serviced by bonds or bonded by the City of Pikeville the Commission will pledge amounts agreed upon by the Commission and City Commission necessary to satisfy principal and interest payments of the bond issue.

C. The Commission is strongly encouraged to obtain approval from the City Commission of Pikeville for any projects that are estimated at a cost of \$10,000 or more. In obtaining the approval, the Commission must provide the City Commission a complete copy of any and all plans, data, research, appraisals, blueprints, etc. regarding the project.

D. The Commission will continue to provide its annual budget to the City Commission.

E. The Commission shall provide a monthly written report to the City Commission which includes all income, expenditures, disbursements, and request pertaining to restaurant tax funds.

04 Reporting Procedures for Restaurants.

On or before the twentieth (20th) day of each calendar month, each restaurant owner and/or operator shall report to the City Tax Administrator on forms provided by the City of Pikeville the gross amount of sales of the restaurant from food and beverages for the preceding calendar month, and calculation of the tax due for that month by computing one and one-half percent (1.5%) of its gross sales from food and beverages. The owner/operator of the restaurant shall remit with the form the tax due to the City Tax Administrator.

05 Transfer of funds to Pikeville City Tourism and Convention Commission.

On or before the last day of each calendar month, the City Director of Finance shall transfer to the Pikeville City Tourism and Convention Commission the gross of monies collected from the restaurant tax collected as of the 25th of the current month. The Pikeville City Tourism and Convention Commission shall reimburse the City of Pikeville five percent (5%) of the tax collected as reimbursement for the costs of collections, including but not limited to the cost of reporting forms, postage, court cost, attorney's fees and all other expenses incurred in collection of this tax by the fifth (5th) day following the monthly transfer of funds.

06 Collection and Enforcement.

A. It shall be the duty of the City Tax Administrator to collect and receive the restaurant tax imposed by this Ordinance.

B. The City Tax Administrator shall keep records showing the amount paid by each restaurant owner and/or operator and the date of such receipt.

C. The City Tax Administrator is hereby charged with the enforcement of provisions of this Ordinance, and is hereby empowered to prescribe, adopt and promulgate, and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the provisions of the ordinance, including but not limited to provisions of the reexamination and correction of returns to which and underpayment or overpayment is claimed or found to have been made, and the rules and regulations as promulgated by him shall be binding upon the taxpayer. Provided, however, all such rules, regulations and decisions shall be subject to the consent and approval of the City Manager, Mayor and City Commission.

D. The City Tax Administrator, or any agent or employee designated by him or her in writing, may examine the books, papers, and records of any restaurant in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of restaurant tax imposed by the terms of this ordinance as he or she may deem is reasonably necessary for the purpose incident to the performance of his or her duties hereunder. The City Tax Administrator may enforce this right by application to the appropriate court having jurisdiction over these matters.

E. The City Tax Administrator may dispense with examination of the books, papers, and records of any taxpayer in any case where the City Tax Administrator is furnished with a certificate of a qualified Certified Public Accountant, or the sworn statement of any other reputable accountant or bookkeeper stating that the amount of restaurant tax reported conforms to the State or Federal Income Tax Return filed for the applicable period.

F. A restaurant owner and/or operator who collects the restaurant tax from one (1) or more persons and who fails to file a return and make payments therewith shall in addition to the penalties prescribed herein upon conviction be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), or imprisonment for not more than thirty (30) days, or both such fine and imprisonment, for each offense. Such criminal penalties shall be in addition to the penalties imposed within this Ordinance.

07 Interest and Penalties.

A. Any person who fails to file any return required within the afore stated time due to who fails to pay such restaurant tax when same shall become due, shall be charged a penalty of ten Percent (10%) of the amount of the unpaid restaurant tax for each month such return remains un-filed or tax unpaid, not exceeding a penalty of Twenty-Five Percent (25%) in the aggregate.

B. All restaurant taxes imposed by this Ordinance which remain unpaid after they become due shall bear interest at the rate of one and one-half of one percent (1.5%) per month (or part thereof).

C. Any person who shall fail, neglect or refuse to make any return or pay any tax due required by this Ordinance, or to pay the city those so withheld under the terms of this Ordinance, or any person who shall refuse to permit the City Finance Director or any agent or employee designated by him in writing, to examine books, records, and papers pertaining to information required under this Ordinance, or who shall knowingly make any incomplete, false, or fraudulent return, or who shall attempt to do anything whatsoever to avoid the full disclosure of the amount of gross receipts in order to avoid the payment of the whole or any part of the restaurant license tax, shall become liable to the city for such tax as well as the interest and penalty thereon, and shall in addition, be subject to a fine of not less than FIFTY DOLLARS (\$50.00) or more than FIVE HUNDRED DOLLARS (\$500.00) or imprisonment for not less than thirty (30) days, each day of non filing constituting a separate offense. Such criminal penalties shall be in addition to the penalties imposed above.

08 Information Deemed Confidential; Penalty for Disclosure: Exceptions.

Any information, including returns, documents, or payments made pursuant hereto and any other information gained by the City Tax Administrator or any other official, agent, or employee of the City of Pikeville as a result of any return, investigation, hearing or verification required or authorized by the ordinance shall be confidential; except, in

accordance with proper judicial order, and any person or agent divulging such information shall, upon conviction, be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisonment not to exceed Thirty (30) days, or both, at the discretion of the court, and upon conviction shall be dismissed from employment by the City. Provided, however, such person may disclose to the Commissioner of the Revenue Cabinet of the state or his or her duly authorized agent, or the other Commissioner of Internal Revenue Service, or his or her duly authorized agent, all such information and extend the right to inspect any of the books and records of the City to said Commissioner of the Revenue Cabinet of the state and/or to said Commissioner of the Internal Revenue Service who must grant to the City the reciprocal right to obtain information from the files and records of the Internal Revenue Service and maintains the privileged character of the information so furnished to them.

09 The City Tax Administrator, or any agent or employee designated by him or her in writing, shall have the following duties in connection with the restaurant tax.

A. Keep accurate records of all returns and of all sums received for restaurant taxes. Such records shall contain the names and addresses of each taxpayer, and the dates and amounts of payments. He or she shall keep the original returns on file for a period of not less than three (3) years after filing.

B. Enforce the provisions of this Ordinance, all in accordance with any policies set forth in any ordinance, municipal order, or executive order.

C. Prepare forms and instructions for the returns and payments required by this Ordinance. All instructions shall be clear and shall be as short as possible.

D. Examine returns. And for any returns appearing to be correct, made inquiries, investigations, and adjustments in the amount of tax due.

E. Where necessary to determine accurate figures for determining the amount of tax due, examine books, records, and information stored in computers of any taxpayer, provided that each city officer or employee acting under this ordinance shall identify himself or herself and request the information desired. If the officer or employee is refused admission to any place of business or refused access to any records or computer memory, the City Tax Administrator or employee shall leave the premises and shall seek an appropriate court order, with the assistance of the city attorney, to obtain access to the information needed.

F. The City Tax Administrator shall approve the form of all returns and written instructions prior to use by an agent or employee designated by him or her in writing.

G. The City Tax Administrator may prepare pamphlets for distribution to the public, clearly explaining the restaurant tax, returns, and payments required.

10 Procedures for Applying for Refund of Overpayment.

A. Any taxpayer (pursuant to this Ordinance) who truly believes that he has made or permitted an overpayment of his or her liability for any restaurant tax required by this Ordinance may apply for refund of said overpayment provided that he or she files an amended return, verified under oath and setting forth in detail the full explanation of the reason of the said claimed overpayment of his or her liability, within one (1) year of the date of said overpayment is made or the date he or she said restaurant tax payment was due, whichever occurs first.

B. If a refund has been properly claimed according to the provisions of paragraph A above, then the City Director of Finance, with the Tax Administrator's written approval shall have the authority to honor and refund any such overpayment actually made above actual liability upon the restaurant tax required under this Ordinance which he or she determines within his or her sole discretion was made through honest mistake or inadvertence.

C. In no event shall any refund be made for any payment upon any restaurant tax unless the refund claim is submitted and filed in strict compliance with the foregoing provisions of this section upon such refund claim forms or amended return forms as hereafter shall be promulgated by the City Tax Administrator from time to time.

11 Failure to File Return, Failure to Pay the Restaurant Tax Withheld, Underpayment of Amount Due.

A. If the taxpayer liable for collecting the restaurant tax and filing a return fails to make a return, the City Tax Administrator shall prepare an estimate of the amount of restaurant taxes due based on the best information available to them. The City Tax Administrator may make investigations to assist in making the estimate. He or she may consider the volume of business done in the same type of business, and any other relevant matters. When the City Tax Administrator estimates the restaurant taxes, the amount of interest and late charges provided by this Ordinance shall be added to the taxes due. He or she shall notify the taxpayer of the amount due. Such notification shall be in writing and shall contain a brief description of the method and estimated figures used in arriving at the estimated tax. Any taxpayer may dispute the amount of the estimated tax by filing within thirty (30) days of notification of the estimated taxes a return accompanied by payment of the entire balance due together with the interest and late charges due. Such return shall be processed like any late return, and shall establish the restaurant tax liability of the taxpayer in place of the estimated amount prepared by the City Tax Administrator. However, the City Tax Administrator may later determine that the amount shown in the return is insufficient so there is a deficiency, in the same manner as in the case of other returns.

B. If the City Tax Administrator determines, by examining available evidence, that the amount of restaurant taxes paid over by the taxpayer is less than the amount required by this Ordinance, he or she shall notify the taxpayer of the deficiency. The City Tax Administrator may use any of the methods authorized in paragraph A of the section to determine whether a deficiency exists and to determine the amount of such deficiency. He or she shall thereupon notify the taxpayer of the deficiency. Such notice shall be in writing and shall state not only the amount of the deficiency but also the methods and estimates used in arriving at the amount of the deficiency. If the taxpayer does not object in writing within thirty (30) days of the date of receiving such notice, the taxpayer shall be deemed to have accepted the revised figures for the restaurant tax liability. If the taxpayer does file written objection within the time specified, the taxpayer shall pay the fees, together with penalties and interest, under protest and may thereupon pursue administrative and judicial remedies as provided by this Ordinance and by state law to seek a refund.

C. If the City Tax Administrator finds that any taxpayer has overpaid, he or she shall notify them of overpayment and shall refund the amount of the overpayment to them.

D. When the City Tax Administrator notifies any taxpayer of any estimated amount due, alleged overpayment, or refund, he or she shall include in the notice clear instructions on how, when, and where the taxpayer may protest or appeal the decision.

E. If any taxpayer or any person, firm, association, or corporation required by this ordinance to pay a restaurant tax or to file a return shall fail to file any return for any month, such failure to file shall constitute a continuing offense against the city and the City Tax Administrator may proceed to estimate and collect the restaurant taxes at any time. In all other cases, no increases shall be made in the taxpayer's restaurant tax liability unless the first notice of such increase is received by the taxpayer within three (3) years of the time the return was first due.

12 Severability.

The provisions of this Ordinance are severable. If any sentence, clause, section, or part of this Ordinance or the application thereof to any particular case is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance, it being the legislative intent of the City Commission of Pikeville to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently of each other.

13 Other Ordinances Not Repealed.

Nothing contained herein shall be deemed to repeal or modify any other ordinance heretofore enacted and in force in the City of Elizabethtown unless specifically repealed by separate ordinance.

Nothing herein shall affect the 3% alcoholic beverage tax set forth in the Alcoholic Beverage Ordinance 111.17 and the tax provided for herein shall be in addition to the alcoholic beverage tax.

ABANDONED URBAN PROPERTY TAX

§ 35.30 DEFINITION.

For the purposes of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED URBAN PROPERTY.

(1) Any vacant structure or vacant unimproved lot or parcel of ground in the City of Pikeville which has been vacant or unimproved for a period of at least one (1) year and which:

(a) Because it is dilapidated, unsanitary, unsafe, varmint infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use;

(b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris; or has become infested with rodents or other varmints; or

(c) Has been delinquent for a period of at least three (3) years;

(2) Any property in the city that has been identified as "blighted" or "deteriorated" by the Vacant Property Review Commission.

(Ord. 0-2005-06, passed 4-25-05)

§ 35.31 TAX RATE.

The rate of taxation levied upon abandoned urban properties is one dollar and fifty cents (\$1.50) on each one hundred dollars (\$100.00) of assessed value.

(Ord. 0-2005-06, passed 4-25-05)

§ 35.32 ABANDONED URBAN PROPERTY LISTING.

The Code Enforcement Department shall each year determine which properties in the city are abandoned urban properties and shall prepare and furnish a list of abandoned urban properties located in the city to the city Finance Department and the Pike County Property Valuation Administrator prior to January 1 of each year.

(Ord. 0-2005-06, passed 4-25-05)

§ 35.33 REMOVAL FROM LIST.

Except as otherwise provided in § 35.34, a property classified by the Code Enforcement Department as abandoned property as of January 1 shall be taxed as abandoned urban property for such year. If the owner repairs, rehabilitates, or otherwise returns the property to productive use so that the property is no longer abandoned urban property, he or she shall notify the city, which shall, if it finds the property no longer abandoned urban property, notify the Finance Department and the Pike County Property Valuation Administrator to strike the property from the list of abandoned urban properties as of the succeeding January 1.

(Ord. 0-2005-06, passed 4-25-05)

§ 35.34 APPEAL.

No later than March 1 of each year, the Code Enforcement Department shall mail, by first class mail to owners of each abandoned urban property, as those names are listed in the records of the Property Evaluation Administrator, a notice that this property has been classified as abandoned urban property. The owner of any abandoned urban property who believes that his, her or its property has been incorrectly classified may appeal such classification to the Vacant Property Review Commission. Such appeal shall be in writing and shall be made no later than April 1 of that year. The Commission shall afford the owner the opportunity for a hearing. If the Commission finds that the property is incorrectly classified as abandoned urban property, it shall cause the property to be removed from the list of property so classified. The Commission shall develop policies and procedures for conducting such appeals.

(Ord. 0-2005-06, passed 4-25-05)

Cross-reference:

Vacant Property Review Commission, see §§ 32.180 through 32.185

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 _____, 2011.

the ordinance was given a second reading on the ___ day of _____, 2011. Passed this ___ day of _____, 2011.

Commissioner _____ moved for the adoption of the foregoing ordinance.

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 Mayor declared the within ordinance adopted.

FRANK JUSTICE II, MAYOR

ATTESTED:

CHRISTY BILLITER, CITY CLERK

- 5. Consider a 1st reading of ordinance #0-2011-023 amending the Fiscal 2010-2011 City Operational budget. No further action is required at this time. The second reading will take place at the next regular scheduled meeting.
- 6. Consider a 1st reading of an ordinance #0-2011-024 adopting the Fiscal 2011-2012 City of Pikeville Operating Budget. 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 approve the submitted engagement letter from Wallen and Cornett to conduct the City of Pikeville Annual Audit for the 2010-2011 fiscal year at the rate of \$31,400 and to authorize the mayor to sign said contract. 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. Consider a request to reclassify Jesse Bowling job title from the Director of Events to the Director of Tourism and Events and to adopt his amended job title & pay scale as submitted. Commissioner Chaney made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for further comments. Commissioner Chaney asked if Jesse would get a raise. City Manager answered that that was covered in the next motion. Mayor Justice called for additional comments, there being none the motion passed. 5-0.
- 3. Consider a request to approve the amended city pay scale as submitted dated 06-13-11 there is no rate change of the chart itself. City Manager request that Mr. Bowling be reclassified from his years pay rate to a four year pay rate from the new scale based on his experience Commissioner Chaney made the motion. Commissioner Carter seconded the motion. Mayor Justice called for comments.. Mayor Justice called for further discussion, there being none the motion passed unanimously. 5-0.
- 4. Consider request to adopt a resolution #2011-102 authorizing and approving the by-laws for the Pikeville City Tourism and Convention commission and to authorize the Mayor to sign said resolution and to also sign, initial and execute said by-laws as submitted on behalf of the

City of Pikeville. 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.

**JOINT RESOLUTION ADOPTING THE
BY-LAWS OF THE PIKEVILLE CITY TOURISM AND CONVENTION
COMMISSION**

Resolution #2011-102

WHEREAS, it is the will of the City of Pikeville Commission(herein after referred to as "City") to adopt the attached By-laws of the Pikeville City Tourism and Convention Commission (hereinafter referred to as "Tourism Commission").

WHEREAS, through the adoption of this resolution the City endorses and adopts the following document, which is attached hereto and incorporated by reference:

- 1. the By-Laws for Pikeville City Tourism and Convention Commission dated May 31st 2011;

WHEREAS, through the adoption of this resolution the above-mentioned By-Laws shall only be amended by a jointly passed resolution by both the Pikeville City Commission and the Pikeville City Tourism and Convention Commission.

WHEREAS, if so adopted it is the will of the Pikeville City Commission that the Mayor and Pikeville City Tourism and Convention Commission Chairman both initial the attached By-Laws dated May 31st 2011 in the space provided to verify their authenticity as the adopted By-laws.

NOW, THEREFORE, BE IT RESOLVED the Pikeville KY City Commission fully supports and approves, adopts by joint action the Pikeville City Tourism and Convention Commission's By-laws dated May 31st 2011 and all content set forth herein and as attached.

Passed this _____ day of _____, 2011.

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

ATTESTED:

CHRISTY BILLITER , CITY CLERK

5. Consider a request to approve and adopt an inter-local agreement as submitted between the Pikeville City tourism and Convention Commission and City of Pikeville as submitted for the purpose of redirecting the transit room tax and restaurant tax funds back to the city for city approved tourism projects and Expo Center operations and promotions and to authorize the mayor to sign and execute said contract on behalf of the City of Pikeville as presented. Commissioner Carter made the motion to approve. Commissioner Chaney seconded the motion. Mayor Justice called for comments. Mr. Potter asked that we respectfully table this item. Mayor asked, “Are we closing a door here Reed?”Mr. Potter says, “That’s what it sounds like.” Commissioner Carter comments that he thinks we need to move forward cause we have bills to pay. Commissioner Chaney adds that we are running out of time. Mayor then asked if the agreement is worked out, can we go back and change all this? City Manager answers, “Yes.” Mayor Justice calls for additional comments, there being none the motion passed unanimously. 5-0.

Inter-Local Joint
AGREEMENT

THIS AGREEMENT made and entered into this ____ day of _____ 2011, by and between, the City of Pikeville, Kentucky, with an address of 118 College Street, Pikeville, Kentucky 41501, (hereinafter referred to as “City”), and the Pikeville City Tourism and Convention Commission, with an address of 126 Main Street, Pikeville, Kentucky 41501 (hereinafter referred to as “Commission”).

WITNESSETH:

WHEREAS, the City of Pikeville created the Pikeville City Tourism and Convention Commission by resolution #2011-099 pursuant to KRS91A.350. Pikeville City Tourism and Convention Commission agrees jointly by the passage of this agreement with the Pikeville City Commission that pursuant to KRS82.082 “Home Rule” the

Pikeville City Commission reserves the right to the dissolution of this City Tourism and Convention Commission if the City feels the services the commission provides are no longer needed to serve the City of Pikeville. If the City Commission by the passage of a resolution agrees to dissolve the Pikeville City Tourism and Convention Commission the commission agrees by the passage of this agreement to return all money and assets to the city of Pikeville immediately upon dissolution; and

WHEREAS, by Ordinance Numbers 0-92-011 and 0-98-025, the City established a transit room tax within the City of Pikeville, Kentucky totaling 4% and by Ordinance Number 0-2011-018, established a restaurant tax totaling 1.5%; and

WHEREAS, pursuant to KRS 91A.390 (1) & (2) the Pikeville City tourism and Convention Commission shall annually submit to the local governing body which established it a request for funds for the operation of the commission. The local governing body shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent(3%) for the rent for every occupancy of a suite, room or rooms, charged by all persons, companies, corporation, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. By City Ordinance Numbers 0-92-011 and 0-98-025 the city did establish a 3% hotel bed tax as the funding mechanism.

WHEREAS, pursuant to KRS 91A.400 In addition to the three percent (3%) transient room tax authorized by KRS 91A.390, the city legislative body in cities of the fourth and fifth classes may levy an additional restaurant tax not to exceed three percent (3%) of the retail sales by all restaurants doing business in the city. All moneys collected from the tax authorized by this section shall be turned over to the tourist and convention commission established in the city as provide by KRS 91A.350 to 91A.390.

WHEREAS, the Pikeville City Tourism and Convention Commission by the approval and adoption of this agreement does hereby fully agree that its annual budget request for operating funds as required by KRS91A.390 (1) shall be for each year hereafter set at the rate of 0.5% of the total all funds and money collected by the City from the aforesaid transient room tax and restaurant tax. Pursuant to KRS 91A.390 and KRS 91A.400 all funds that are collected shall be collected and maintained by the City in a special fund, and disbursed monthly to the Pikeville City Tourism and Convention Commission. The Pikeville City Tourism and Convention Commission upon the receipt of the monthly funds shall then immediately upon the same day grant 99.5% of the funds back to the City of Pikeville and those funds shall then be maintained by the City in a special fund account for the purpose of approving and paying for any and all expenditures that would include but not limited to cost for operational, capitol, promotions, advertising, building, payroll and grounds improvement for the East Kentucky Expo Center along with any other city commission approved tourism projects meeting the standard and or definition of KRS91A.350 through KRS91A.400 guidance; This does not include the one (1%) transit room tax as adopted by ordinance #0-98-025. Pursuant to KRS91A.390 (1) one hundred percent of this (1%) total shall be dispersed to the city for the sole purpose of meeting the operating expenses of the East Kentucky Expo Center. and

WHEREAS, pursuant to KRS91A.390 (3) stating a portion of the money collected from the imposition of this tax, as determined by the tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business, including projects described in KRS 154.30-050(2)(a). The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.250. Whereas by the authority of this statue permits the Pikeville City Tourism and Convention Commission to take such action as described above.

WEHERAS , pursuant to KRS91A.360 all funds collected by the city from the city's transit room tax and restaurant tax shall be granted to the Pikeville City Tourism and Convention Commission as the City of Pikeville's official Tourism Commission. Pursuant to KRS91A.350 (2) the Pikeville City Commission did adopt a resolution establishing a separate tourist and convention commission for the purpose of promoting and developing convention and tourist activity and facilities within the City of Pikeville. KRS 91A.300 does hereby state that ALL moneys collected from the tax authorized by this section shall be turned over to the tourist and convention commission established in that city as proficed by KRS91A.350 to 91A.390.

WHEREAS, all funds and money collected by the City for the aforesaid transit room tax and restaurant tax shall be used for the purpose to include but not limited to the operation, up keep of the faculty and grounds, promoting and developing the East Kentucky Expo Center or other city commission approved tourism projects; and

WHEREAS, the City has will assume the responsibility and obligation for the maintenance and operation of the Eastern Kentucky Expo Center, therefore he City had determined, upon the advise an consent of the Commission, that the funds collected from the transit room tax of hotels and motels located within the City corporate boundaries by Ordinance no's. 0-92-011 and 0-98-025 and City restaurant tax by Ordinance no 0-2011-018 is needed to assist in the funding of the maintenance, operating, promotion, marketing and development of the Eastern Kentucky Exposition Center and other City Commission approved Tourism Projects; and

WHEREAS, the City of Pikeville and Pikeville City Tourism and Convention Commission agree that the office of the City Tourism and Convention Commission shall be located in the East Kentucky Exposition Center located at 126 Main Street, Pikeville, KY 41501. This is contingent to the fact that the City of Pikeville holds the lease on the East Kentucky Expo Center. If for whatever reason the lease the city holds is terminated for whatever reason for the East Kentucky Expo Center then the Pikeville City Commission would decide and approve what location that the Commission shall be relocated to. The Pikeville City Commission agrees to provide an office of the size of their choice and operation essentials such as electric, phone, internet and water for the operation of the commission.

WHEREAS, the City and Commission desire to reduce their agreement to writing,

NOW THEREFORE, for and in consideration of the premises and mutual covenants and obligations contained herein, the parties hereto agrees as follows;

1. Ninety nine point five percent (99.5%) of the funds and money collected by the Commission from hotel bed tax established by Ordinance Number 's 0-92-011 and 0-98-025 and restaurant tax by Ordinance Number 0-2011-018, or any amendment thereto, shall be kept and maintained by the City in a special fund and disbursed by the Commission and City for the sole purpose of disbursements as approved by the City for maintaining , operating, promoting, marketing and developing the East Kentucky Exposition Center and City Tourism Projects.

2. The City shall assume the responsibility and obligation for the maintenance, and operation of the Eastern Kentucky Exposition Center.

3. The Commission hereby acknowledges its advise to the City, and hereby consents, and agrees that the funds and money collected from the transit room tax established by Ordinances numbers 0-92-011 and 0-98-025 and City restaurant tax by Ordinance no 0-2011-018, shall be used by the City to assist the City in the financing and or funding of maintenance, operations, promotion, marketing and development of the East Kentucky Exposition Center and City Tourism Projects.

4. Ninety nine point five (99.5%) of the funds and money disbursed to the Commission by the City as set forth in numerical paragraph 1 above shall be upon receipt of said funds and money immediately transferred at the same time and day by the Commission to the City to be used by the City for the purpose of funding the maintenance, operations, promotions, marketing and development of the East Kentucky Exposition Center and other Commission Approved City Tourism Projects, and the City shall provide the Commission on a periodic request basis, documentary evidence to confirm that all the funds and money transferred by the Commission to the City pursuant to this Agreement have been used by the City for the purpose of funding the maintenance, operations, promotions, marketing and development of the East Kentucky Exposition Center and City Commission approved Tourism Projects. Provided however, in the event that the Ninety Nine point five (99.5%) of the funds and money transferred by the Commission to the City is no longer needed to assist for the purpose of funding the maintenance, operations, promotions, marketing and development of the East Kentucky Exposition or City Tourism Projects, then in that event that both parties hereto agree to renegotiate the allocation of said funds and money or any portion thereof, to be used for the purpose of financing and funding the maintenance, operations, promotions, marketing and development of the East Kentucky Exposition or City Tourism Projects by jointly both parties approving a joint revised agreement to the terms set forth herein.

5. This Agreement shall remain in full force and effect so long as Ordinances Number's 0-92-011, 0-98-025 and 0-2011-018, or any amendment thereto remains in effect.

6. This Agreement shall remain in full force and effect until which time that both parties agree to any amendments. It will require both parties to jointly agree to amend, adjust or dissolve this agreement or any part herein.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed on behalf of such party by an authorized representative as of the date first set forth above.

CITY OF PIKEVILLE, KY

BY:

Frank Justice

TITLE: Mayor

PIKEVILLE CITY TOURISM AND CONVENTION

COMMISSION

BY:

TITLE: CHAIRPERSON

STATE OF KENTUCKY;

COUNTY OF PIKE

Acknowledged, subscribed and sworn to before me by, City of Pikeville, Kentucky by and through Frank Justice, Mayor of the City of Pikeville, Kentucky, this _____ day of _____ 2011.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF KENTUCKY;

COUNTY OF PIKE

Acknowledged, subscribed and sworn to before me by Pikeville-Pike County Tourism Commission by and through Judi Patton, Chairperson of the Pikeville-Pike County Tourism Commission , this _____ day of _____ 2011.

NOTARY PUBLIC

My Commission Expires: _____

- 6. Consider a request to approve the Agent Letter with Blackburn Insurance Agency for the approval of the contract for the City Health Insurance per the submitted plan with Agent Charlie Anderson and authorize the City Manager to sign any necessary paperwork execute**

said plan on behalf of the city. Commissioner Davis made the motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments. City Manager comments that this is the first year in seven years that we actually have a savings. Mayor Justice called for further comments, there being none the motion passed unanimously. 5-0.

7. Consider a request to adopt a resolution #2011-103 for Hazard Mitigation and to authorize the Mayor to execute and sign said resolution. 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.

Resolution #2011-103

WHEREAS the unit of local government of The City of Pikeville has experienced severe damage from flooding, severe thunderstorms/wind/hail/lightning, wildfires, landslides, tornadoes, and severe winter storms on many occasions in the past century resulting in property loss, loss of life, economic hardship, and threats to public health and safety;

WHEREAS the current Regional *Hazard Mitigation* Plan (the Plan) has been updated after more than two years of research and work by the Big Sandy Area Development District in partnership with local sub-committees and the Regional Mitigation Planning Committee as well as the citizens of the BSADD Region;

WHEREAS the Plan recommends many hazard mitigation actions that may help to protect people and property affected by the natural hazards that face the City of Pikeville;

WHEREAS a public meeting was held to review the Plan as required by law;

NOW THEREFORE BE IT RESOLVED by the City Commission of the City of Pikeville that:

1. The Regional *Hazard Mitigation* Plan update of 2011 is hereby adopted as the official plan of The City of Pikeville.
2. The Respective officials identified in the strategy of the Plan are hereby directed to implement the recommended actions assigned to them. These officials will report quarterly on their activities, accomplishments, and progress to the City of Pikeville City Commission.
3. The Emergency Management Director or designated employee will provide annual progress reports on the status of implementation of the plan to the City of Pikeville City Commission. This report shall be submitted to The City of Pikeville by March 15th of each year.

APPROVED by the City of Pikeville on this _____ day of _____ 2011.

Frank Justice, Mayor

ATTESTED and Filed in my office this _____ day of _____ 2011

Clerk

8. Consider a request to award a bid on Wrought Iron outdoor Furniture to Real Wood, LLC for the amount of \$31,083.78 (who was the low

bidder) and to authorize payment. Commissioner Carter made a motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments. Commissioner Carter asked, "What is the furniture for?" City Manager responds that the furniture is for the Expo. Commissioner Carter asked, "Will it match everything we have throughout?" Mayor Justice called for further comments, there being none, the motion passed unanimously. 5-0.

9. Consider a request to authorize the Pikeville Medical Center to place a double wide office temporarily on their property on South Mayo Trail at the old Lowe's building lot until which time the new addition to the hospital can be constructed which may take up to 2 years. Commissioner Chaney made the motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for comments, there being none. Commissioner Davis abstained. Motion passed unanimously. 5-0.
10. Consider a request for the approval for the Mayor to sign and submit all documentation required for the Kentucky Office of Homeland Security Grant for the purpose of applying for \$50,000 grant for new CAD hardware and software for the 911 system. 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.
11. Consider a request to approve an engineering services contract with between the City of Pikeville and S&ME as submitted for the purpose of doing core sampling at Marion Branch Development site for the amount of \$70,370.00 and to authorize the mayor to sign and execute said contract. Commissioner Chaney made a motion to approve. Commissioner Carter seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.
12. Consider a request to reject the bids on the generator for City Hall and re-bid. Issue being the specs for the generator that was bid is too small for the building. Commissioner Davis made a motion to approve. Commissioner Layne seconded the motion. Mayor Justice called for discussion, there being none, the motion passed unanimously. 5-0.
13. Pursuant to KRS 61.810, consider request for closed session for discussion of economic development, legal and personnel issues. Commissioner Davis made the motion. Commissioner Carter seconded the motion. Mayor Justice called for discussion, there being none the motion passed unanimously. 5-0.
14. 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.
15. Consider a motion to approve the conveyance of a 350 foot strip of property along Cedar Creek Road to JMP Holdings LLC in exchange for JMP Holding agreement to construct concrete steps from Pig in a

Poke to the river for river traffic access to restaurants. 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.

16. Consider a motion to approve conveyance to Bailey Hotel LLC (subject to the City's ownership thereof) by quitclaim deed of approximately 1 ½ feet of property along Hambley Blvd adjacent to the Bailey Hotel tract for the purpose of constructing a Hilton Garden Inn in consideration of the economic benefit to the City from having additional hotel rooms to serve tourism. The City will adopt an ordinance closing the right of way. Bailey Hotel will be responsible to determine if the property subject to the right of way is owed by the City. Commissioner Chaney made the motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments, there being none, motion passed unanimously. 5-0.
17. Consider a motion to establish and award a grant to the Hillbilly Christmas in July Organization in the sum of \$30,000 to be used for the purchase of playground equipment for installation in the RV/ soccer park playground. 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.
18. Consider a request to approve the submitted 3-party Letter of Intent between the City of Pikeville, United States Postal Service & KY Pikeville Thompson, LLC (Neil Wilson) for the purchase of the Post Office property and development of a new post office as outlined in the agreement and to authorize the mayor to sign and execute said agreement. Commissioner Chaney made a motion to approve. Commissioner Davis seconded the motion. Mayor Justice called for comments, there being none, the motion passed unanimously. 5-0.
19. 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:

Commission Budget Work-session at 10:00 am June 13th 2011 at City Hall Conference Room

City Manager will be on vacation the week of June 20th 2011

Main Street "After Hours" event June 16th at Expo Center Plaza from 5:30 pm until 6:30 pm

Pikeville Tourism and Convention Commission meets the last Wednesday each Month at the City Annex Building

The next scheduled Regular Meeting of the City of Pikeville Board of Commissioners is June 27, 2011 at 6:00 p.m.

APPROVED:

FRANKLIN D. JUSTICE, II, MAYOR

ATTESTED:

CHRISTY BILLITER, CITY CLERK