

**HOOVER CITY COUNCIL  
MINUTES OF MEETING**

**DATE:** August 3, 2009  
**TIME:** 6:00 P.M.  
**PLACE:** Hoover Municipal Center  
**PRESENT:** Mayor Tony Petelos  
Mr. Gary Ivey, Council President  
Mr. John Greene, Council Member  
Dr. Trey Lott, Council Member  
Ms. Mari Morrison, Council Member  
Mr. Brian Skelton, Council Member  
Mr. Gene Smith, Council Member  
Mr. Jack Wright, Council Member

**ALSO PRESENT:** Mr. Mark Boardman, City Attorney  
Ms. Linda Andrews, Library Director  
Mr. Tommy Daniel, Director, Public Works  
Ms. Susan Fuqua, Director, Municipal Court  
Officer Jehad Al-Dakka, Police Department  
Mr. Richard Johnson, Director, Inspection Services  
Mr. Rod Long, City Engineer  
Mr. Frank Lopez, Director Revenue and Taxation  
Mr. Craig Moss, Director, Park and Recreation  
Mr. Allen Pate, Executive Director  
Mr. Tim Westhoven, Asst. Executive Director  
Chief Chuck Wingate, Fire Chief  
Mr. Robert Yeager, Finance Director

The meeting was called to order by the Council President, Gary Ivey. The City Clerk had roll call and a quorum was present.

The City Clerk then gave the invocation.

Mr. Greene led those present in the Pledge of Allegiance.

1. **REPORTS**

Dr. Lott made a motion to

1. **APPROVAL OF MINUTES**

Mr. Ivey stated each member of the Council had previously received a copy of the minutes of the July 30, 2009 special meeting, August 3, 2009 regular meeting, and the August 13, 2009 work session.

Mr. Wright made a motion that the minutes be approved as presented and to dispense with the reading. This motion was seconded by Mr. Greene.

Mr. Ivey called for any comments or questions; there being none, on voice vote the motion carried unanimously.

2. **CHANGE MEETING DATES – WORK SESSION AND REGULAR MEETING – FIRST MEETING IN SEPTEMBER**

Mr. Ivey stated a motion was in order to change the date of the Monday, September 7, 2009 meeting to **Tuesday, September 8, 2009, at 6 p.m.**; and change the date of the Thursday September 3, 2009 Work Session meeting to Tuesday, September 8, 2009 at 5:45 p.m.

Mr. Wright made a motion to change the meeting dates. This motion was seconded by Mr. Skelton.

Mr. Ivey called for any comments or questions; there being none, on voice vote the motion carried unanimously.

3. **RESOLUTION NO. 4268-09 – AMENDMENT TO DEVELOPMENT AGREEMENT WITH APPLE DEVELOPMENT, LLC – THE GROVE (Continued from 6/15/09 meeting)**

Mr. Ivey stated a motion was in order to TABLE this resolution.

Mr. Wright made a motion to **TABLE Resolution 4268-09** to the call of the Chair. This motion was seconded by Mr. Skelton.

Mr. Ivey called for any comments or questions; there being none, on voice vote the motion carried unanimously.

4. **RESOLUTION NO. 4294-09 – DECLARE SEIZED VEHICLE AS SURPLUS**

The City Attorney read Resolution No. 4294-09. This would declare a seized vehicle, 1998 Lincoln Navigator, as surplus to be auctioned via the Jefferson County Sheriff's Ebay account.

Mr. Wright made a motion to approve **Resolution No. 4294-09**. This motion was seconded by Mr. Skelton.

Mr. Ivey called for any comments or questions; there being none, on voice vote the motion carried unanimously.

5. **RESOLUTION NO. 4295-09 – DECLARE WEEDS AND/OR GRASS AS PUBLIC NUISANCE, AND ORDER ABATEMENT AT 1032 ALFORD AVENUE**

The City Attorney read Resolution No. 4295-09. This would declare weeds and/or grass to be a public nuisance and order the abatement thereof at 1032 Alford Avenue.

Mr. Richard Johnson and Mr. Robert Macke, Inspection Services Department, joined the City Attorney at the podium. Mr. Johnson distributed pictures to the Mayor and Council, and City Clerk.

Mr. Wright made a motion to approve **Resolution No. 4295-09**. This motion was seconded by Mr. Skelton.

The City Attorney discussed the pictures distributed by Mr. Johnson. He asked Mr. Macke when these pictures were taken. Mr. Macke stated they were taken this morning. The City

Attorney asked Mr. Macke if the pictures fairly and accurately depict the nuisance that is presented to the general public health, safety, and welfare. Mr. Macke answered yes. The City Attorney asked Mr. Macke if it were his opinion that the weeds need to be abated by the City of Hoover. Mr. Macke answered yes.

Mr. Ivey called for any comments or questions; there being none, on voice vote the motion carried unanimously.

6. **RESOLUTION NO. 4296-09 – DECLARE WEEDS AND/OR GRASS AS PUBLIC NUISANCE 647 PRESERVE WAY**

The City Attorney read Resolution No. 4296-09. This would declare weeds and/or grass to be a public nuisance at 647 Preserve Way.

Mr. Wright made a motion to approve **Resolution No. 4296-09**. This motion was seconded by Mr. Skelton.

The City Attorney stated through the good efforts of the Mayor's Office the City has had seven other properties that have gone through this procedure. All seven have been voluntarily taken care of by the land owner, including the property next door to this property. However, this property has not been taken care of. He presented pictures of this property and asked Mr. Robert Macke, Inspection Services, when these pictures were taken. Mr. Macke stated they were taken this morning. The City Attorney asked Mr. Macke to describe the front and back yards of this property. Mr. Macke stated the rear yard is overgrown with weeds over twelve inches in height. The front yard is not as bad. The City Attorney asked Mr. Macke if the overgrowth created a hazard to the general public health, safety, and welfare of the citizens of Hoover. Mr. Macke answered yes. The City Attorney stated this is the first hearing concerning this property and asked the Council to consider this resolution in order to begin the process of abating this property.

Mr. Ivey called for any comments or questions.

Mr. Smith stated the first picture depicts that the underside of the ceiling is not complete. He asked would this mean that animals have access to the structure as a whole.

The City Attorney stated yes, but the City is proceeding at this point under the weed statute. Mr. Smith stated he understood this could be a separate issue at some point. Mr. Macke stated the process is under way to address the other issue.

Mr. Ivey called for further comments or questions; there being none, on voice vote the motion carried unanimously.

7. **ABC APPLIATION – ON OR OFF PREMISE BEER AND WINE – BRUNO'S – 3780 RIVERCHASE VILLAGE**

Mr. Ivey stated this is a request for approval of an ABC Application for On or Off Premise Retail Beer and Table Wine for **Southern Family Markets of Hoover B LLC**, doing business as Bruno's 51, 3780 Riverchase Village. This is due to a change in ownership.

Mr. Ivey asked the clerk if the routine background check had been completed on this application. The clerk answered yes.

Ms. Morrison made a motion to approve the ABC Application. This motion was seconded by Dr. Lott.

Mr. Ivey called for any comments or questions; there being none, on voice vote the motion carried unanimously.

8. **ABC APPLIATION – OFF PREMISE BEER AND WINE – PIC A PAC – 3219 LORNA ROAD**

Mr. Ivey stated this is a request for approval of an ABC Application for Off Premise Retail Beer and Table Wine for Lorna Road LLC, doing business as Pic A Pac, 3219 Lorna Road.

Mr. Ivey asked the clerk if the routine background check had been completed on this application. The clerk answered yes.

Dr. Lott made a motion to approve the ABC Application. This motion was seconded by Ms. Morrison.

Mr. Ivey called for any comments or questions; there being none, on voice vote the motion carried unanimously.

9. **ABC APPLICATION – RESTAURANT RETAIL LIQUOR – I LOVE SUSHI JAPANESE CUISINE – 5426 HIGHWAY 280, SUITES 13 AND 14**

Mr. Ivey stated this is a request for approval of an ABC Application for Restaurant Retail Liquor for **I Love Sushi, Inc.**, doing business as I Love Sushi Japanese Cuisine, 5426 Highway 280, Suites 13 and 14.

Mr. Ivey asked the clerk if the routine background check had been completed on this application. The clerk answered yes.

Ms. Morrison made a motion to approve the ABC Application. This motion was seconded by Dr. Lott.

Mr. Ivey called for any comments or questions; there being none, on voice vote the motion carried unanimously.

10. **APPROVAL OF BUDGET FYE 9/30/09**

Mr. Ivey stated he spoke with Mayor Petelos regarding questions and concerns he had based on the public hearing held at the Special Meeting on Thursday, July 30. He asked the Mayor if had been able to respond to those concerns.

Mayor Petelos stated the concerns were regarding the School System's reserve account. He asked Robert Yeager, Hoover Finance Director, to address this issue. The Mayor commented on the great job Mr. Yeager had done on the City's budget. This has been a tough budget. He stated that Mr. Yeager has experience with the schools, having served as finance director there for twelve years

Mr. Yeager addressed the Mayor and Council. He presented them with a recap based on the September 30, 2008 audit of Hoover City Schools. The audit clearly shows that as of September 30, 2008 the three major funds (General Fund, 24 Mill Fund, and Debt Service Fund) totaled \$132.3 million in the fund balance. He believed it was a complete mistake to try to ignore the debt service fund as part of their general operating reserves because when

they received the lump sum payment from Jefferson County on the one cent sales tax, approximately \$86 million, it allowed them to pay debt service with that money and free up the 24 mill Fund which previously had been used since 1994 to make those debt service payments. Therefore, it totally freed up their operating budget. The only real fair way, in his estimation, to analyze their reserves is to combine all three funds. He emphasized his opinion that it is totally a mistake to ignore the debt service fund. The school system had that money in cash. It can be used to pay their \$16 million dollars of annual debt service. That is \$16 million that the 24 Mill Fund does not have to pay. The information presented to the Mayor and Council included a document containing a six year view of the debt service fund. It clearly shows that in 2004, 2005, and 2006 the 24 Mill Fund was used to pay the debt service. In 2007, 2008, and budgeted 2009 some of the \$24 Mill Fund was moved into the Debt Service Fund, but for the most part the debt service was paid for out of the One Cent Jefferson County Sales Tax Fund.

Mr. Ivey asked for clarification on the \$11 million which was not highlighted in the paper work that Mr. Yeager indicated would bring the fund up to \$143 million. Mr. Yeager stated it is the combination of their special revenue funds that having ending fund balances, their capital projects funds, and some fiduciary funds...monies located in the local schools in revenues collected in the way of fees for things such as field trips, etc. If fees are collected, a fiduciary fund must be created to ensure the money is spent for the intended purpose for which it was collected. For the purposes of discussion tonight, he completely ignored that money because it is money that is earmarked.

Mr. Ivey asked the Mayor if he had additional comments. Mayor Petelos answered no.

For purposes of discussion, Mr. Ivey called for a motion.

Mr. Wright made a motion to approve the Mayor's Budget as submitted. This motion was seconded by Mr. Skelton.

Mr. Smith stated the Council heard a fair number of comments on Thursday evening from quite a number of people regarding where standings are or are not with regard to the education budget. He stated he respects Mr. Yeager's opinion. However, these numbers, unless the Council were not to vote the budget tonight, speak more to the 2010 Budget rather than the current budget which will expire in approximately 60 days. There were two gentlemen who spoke at the meeting on Thursday who suggested that the City and the School System share the pain.

Mr. Smith then made a motion to amend the Mayor's Budget to include an additional \$1.5 million to the school system to be paid out of the reserve fund. This motion was seconded by Mr. Greene.

Mr. Ivey called for discussion on the proposed amendment.

Mr. Wright stated he totally listened to the comments made at the hearing on Thursday and found a lot of valuable points. The disproportionate nature he understands and is concerned about, but in looking at the reserves he must pay attention to the fund balances of both. He certainly is not interested in any disconnect with the schools. He believes the future of the City of Hoover and the Hoover City Schools is mutually tied and mutually responsive. He totally supports the concept of quarterly informal meetings to discuss formal timing of our

settings. He agreed that the operations of the city and the schools needed to be understood by all and he felt he could use more. He commented on the Lid Bill and how the schools model is affected and is very important. There is a time frame that the City and the School System are in. He does not think anyone saw the economic situation coming two or three years ago, and like many individuals we were all probably more liberal than we would have expected to with revenues. Whether we come out of this as we knew it two years ago, 36 months, or 60 months...he does not know the answer. Until major things in our economy are fixed he does not think we will have a solid foundation. Reserves held by one entity are certainly dependent on the reserves of the other entity and he sees the City and the School System as mutually tied in our reserve standing. One of the key things about this budget is that it is retroactive and is ten months old. As soon as this meeting is over we begin working on the next budget. He is interested in a level funding amount from the City to the School System in order for their model to hold because they do work on a very solid model and it has fluctuations in it. He is very concerned about what the State is going to do and even more concerned about what the State can or can't do with the Rainy Day Fund being depleted because they are getting some stimulus money and that money is soon to be gone. With the thought that another budget starts five minutes after this meeting and he would like to see school funding in that budget, as well as the concept of healthy discussions with the School Board and the Council, he expressed his support of the Mayor's Budget as submitted. He stated the Council has the authority to amend the budget if needed. At the moment the reserves are adequate in both entities. We are all trying to avoid a crisis mode.

Ms. Morrison stated she took to heart comments that were made at the hearing on Thursday and felt there were a lot of well founded suggestions made as to how to continue to fund the school system. We are going through a very difficult time and it is time to look at our books. The City Council has looked very closely at the City of Hoover budget. She was not happy that some of her pet projects had to be cut but it is difficult to carry one flag if you can't be consistent throughout your role or what you are attempting to do. During her five years as a City Council Member she has never received a telephone call from a superintendent of the school system or from a Board of Education member. Sixteen months ago the City Council was involved in interviews for a Board of Education appointment. At that time, based on information that had been given to her regarding alleged deficit spending, she strongly questioned each applicant about this issue. Following the second night of inquiry, Andy Craig made a statement that there was no deficit spending and they had no reserves....they had "funds". However, she recalls that "fund" was over one hundred thousand dollars. This was sixteen months ago. During this period of time, there has been quite a bit of spending and things that have gone on. She felt she had to tread a very fine line as a Council Member dealing with anything involving the School Board because it is a separate entity. Once the City Council appoints a person to the Board of Education they answer to the public as a whole. However, there are questions that must be and will be asked. She believes there will be closer communications between the City Council and the School System. She stated she always wants the City of Hoover to make some contribution to the School System. It is very concerning to her when citizens comment that they will not support an ad valorem tax because of the way the school system spent the money the last time a tax was voted on. She felt that much had been cleaned up through the discussions on Thursday and now is the time to get head strong and work toward ways in which we can better fund the Hoover School

System. She stated that all entities needed to look at their budgets. With that in mind, she noted we are looking at the 2009 Budget tonight, which is retroactive. She believed that going into the 2010 Budget there will be much more involvement to see where monies are being spent.

Mr. Ivey stated there was a lot of discussion on Thursday. At this time, he opened the floor for any additional or new comments.

Ms. Tricia Crain, 3309 Thornton Drive, stated she was pleased with the discussions on Thursday night, but was disappointed to see that only \$2 million remained in the Mayor's Budget for the school system. She expressed appreciation for Mr. Smith's motion. She felt the School System was very important to everyone. Her main concern was how late this budget came in and the money is already spent. She stated she was very disappointed that the superintendent was not aware the school system would not be receiving the monies from the City. Now, having to dip into the reserves will have a long term impact. She reminded the Council that every member on this School Board was appointed by the Council. The School Board members then appointed the superintendent. She stated she is looking forward to the quarterly meetings and believed strongly that they need to happen as soon as possible, particularly with regard to the 2010 Budget. She understood that the Council does not have the authority to direct the School Board but she felt the Council should have a say in how the School Board functions.

Ms. Kelly Fuller, 2211 Bark Circle, Russet Woods, stated her family moved here in 2000 from a state with high property taxes where even school supplies were supplied by the schools. After much research, the sole reason they chose to live in Hoover was the schools. She hears a lot of discussion about Mountain Brook and Homewood, none of which matters. This is the City of Hoover and we need to come together as a community. She felt that the current decisions were being based on politics. She understood there had to be across the board cuts in spending. This year is over and it is not the time to make cuts. She stated waiting this long to adopt a budget was a huge mistake and does not need to be repeated on the 2010 Budget. She expressed appreciation to Mr. Smith on his proposal for an additional \$1.5 million. She wished it had been more. She stated she understood the schools have to make cuts. She stated the decision of the Council should not be based on emotion or politics but as an investment in the future of the children. She asked the Council to take their responsibility seriously as they consider this budget by reconsidering the \$2 million and give a more significant impact to the schools.

Mr. Wright stated the Mayor's Budget also included a half million dollars for SRO officers which is matched by the schools. He noted the total hard contribution is \$2.5 million.

Mr. Ivey called for additional comments. There being none, he asked for a roll call vote on the motion and second to amend the original motion to add \$1.5 million. On roll call vote the votes of the Council were as follows: Mr. Ivey, "Nay"; Mr. Greene, "Yea"; Dr. Lott, "Nay"; Ms. Morrison, "Nay"; Mr. Skelton, "Nay"; Mr. Smith, "Yea"; Mr. Wright, "Nay". The motion was denied.

Mr. Ivey asked for a roll vote on the original motion and second to approve the Mayor's Budget as submitted. On roll call vote the votes of the Council were as follows: Mr. Ivey,

“Yea”; Mr. Greene, “Nay”; Dr. Lott, “Yea”; Ms. Morrison, “Yea”; Mr. Skelton, “Yea”; Mr. Smith, “Yea”; Mr. Wright, “Yea”. The motion carried.

**11. PAYMENT OF BILLS**

Mr. Wright stated the bills had been reviewed. He made a motion to pay the bills in full as submitted. This motion was seconded by Mr. Skelton.

Mr. Ivey called for discussion. There being none, on voice vote the motion carried unanimously.

Mr. Ivey called for comments or questions from the Council or the audience. There being none, the meeting was adjourned.

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Margie Handley  
City Clerk