

**HOOVER CITY COUNCIL  
MINUTES OF MEETING**

**DATE:** September 8, 2009  
**TIME:** 6:00 P.M.  
**PLACE:** Hoover Municipal Center  
**PRESENT:** Mr. Gary Ivey, Council President  
Mr. John Greene, Council Member  
Dr. Trey Lott, Council Member  
Ms. Mari Morrison, Council Member  
Mr. Gene Smith, Council Member  
Mr. Jack Wright, Council Member

**ABSENT:** Mayor Tony Petelos  
Mr. Brian Skelton, Council Member

**ALSO PRESENT:** Mr. Mark Boardman, City Attorney  
Chief Nick Derzis, Police Chief  
Ms. Susan Fuqua, Director, Municipal Court  
Mr. Bob House, House Consultants  
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. Ben Powell, Director Support Services  
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 reappoint **Mr. Wayne Dutt** to serve another six year term on the **Mental Retardation and Developmental Disabilities Healthcare Authority of Jefferson County**. This motion was seconded by Mr. Wright. On voice vote the motion carried unanimously.

The City Attorney read a **Proclamation** declaring the week of September 13, 2009 as **National Assisted Living Week**.

The City Attorney read a **Proclamation** declaring the week of September 17 through September 23, 2009 as **Constitution Week**. Ms. Nancy R. Cole, Chairperson, Constitution Week, Lily of the Cahaba Chapter NSDAR, was present to receive the proclamation. In the

absence of Mayor Petelos the proclamation was presented to Ms. Cole by Allen Pate, Executive Director for the City of Hoover.

2. **APPROVAL OF MINUTES**

Mr. Ivey stated each member of the Council had previously received a copy of the minutes of the August 17, 2009 regular meeting.

Mr. Wright made a motion that the minutes be approved as presented and to dispense with the reading. 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.

3. **RESOLUTION NO. 4299-09 - BUDGET AMENDMENT**

The City Attorney read Resolution No. 4299-09, which would amend the Budget FYE 9/30/09 as shown on the attached Exhibit "A" to the resolution.

Mr. Wright made a motion to approve **Resolution No. 4299-09**. 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.

4. **RESOLUTION NO. 4310-09 – AWARD BID NO 18-09 – RIVERCHASE SANITARY SEWER REHABILITATION**

The City Attorney read Resolution No. 4310-09, which would award Bid No. 18-09 for the Riverchase Sanitary Sewer Rehabilitation to **Insituform Technologies, Inc.** in the amount of \$1,777,352.00, theirs being the lowest responsible bid meeting all specifications and requirements. This resolution would also authorize the Mayor to execute a contract with said company for the work to be performed.

Mr. Wright made a motion to approve **Resolution No. 4310-09**. 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.

5. **RESOLUTION NO. 4311-09 – AWARD BID NO 19-09 – ISERIES SERVER REPLACEMENT**

The City Attorney read Resolution No. 4311-09, which would award Bid No. 19-09 for the ISERIES Server Replacement to **Dynamix Group** in the amount of \$139,974.00, theirs being the lowest responsible bid meeting all specifications and requirements.

Mr. Wright made a motion to approve **Resolution No. 4311-09**. 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.

6. **RESOLUTION NO. 4312-09 – AUTHORIZE ADDITIONAL SIGNATURE TO PRISONER ESCROW ACCOUNT**

The City Attorney read Resolution No. 4312-09, which would authorize the signature of **Matthew Tomberlin** to be added to the Prisoner Escrow Account with Regions Bank.

Mr. Wright made a motion to approve **Resolution No. 4312-09**. 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.

7. **RESOLUTIONS 4313-09, 4314-09, 4315-09 – AUTHORIZE MAYOR TO EXECUTE AGREEMENTS WITH THE ALABAMA DEPARTMENT OF TRANSPORTATION**

The City Attorney read the following resolutions, which would authorize the Mayor to execute agreements with the Alabama Department of Transportation, as follows:

**Resolution No. 4313-09** – Construction Agreement for Hoover Park Avenue sidewalks project (Phase 1) along Rockview Lane and Cloudland Drive.

**Resolution No. 4314-09** – Construction Agreement for sidewalks along Park Avenue in Hoover from Chapel Road to Farley Road, West Cliff Drive.

**Resolution No. 4315-09** – Transportation Enhancement project with funding by the Federal Highway Administration (Landscaping at I-65 and US Highway 31).

Mr. Wright made a motion to approve **Resolutions 4313-09, 4314-09, and 4315-09**. This motion was seconded by Dr. Lott.

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

8. **RESOLUTION NO. 4316-09 – DECLARE SEIZED VEHICLE AS SURPLUS**

The City Attorney read Resolution No. 4316-09, which would declare a seized vehicle (Blue 1998 Chevrolet Ventura van) as surplus to be auctioned via the Jefferson County Sheriff's Department EBay account.

Mr. Wright made a motion to approve **Resolution No. 4316-09**. 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.

9. **ABC APPLICATION – SPECIAL EVENTS LICENSE – TASTE OF SHELBY COUNTY – GREATER SHELBY COUNTY CHAMBER OF COMMERCE**

Mr. Ivey stated this item is to consider the request of the Greater Shelby County Chamber of Commerce for approval of their ABC Application for a Special Events License to hold the **Taste of Shelby County** event on September 17, 2009, at 611 Doug Baker Boulevard, Suites 111 through 114.

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. **ABC APPLICATION – SALE OF OFF PREMISE BEER – RAHI – 1537 MONTGOMERY HWY.**

Mr. Ivey stated this item is to consider the request of the RAHI Investments, Inc., for approval of their ABC Application to allow the sale of off-premise beer at **RAHI**, 1537 Montgomery Highway (previously Hoover Hop N Save).

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.

**11. PUBLIC HEARING – CONDITIONAL USE – OFF PREMISE BEER AND WINE – TARGET T2503 – 5561 GROVE BOULEVARD**

Mr. Ivey stated this is the public hearing to consider the request of Patricia Johnson for Conditional use approval to allow the sale of off premise retail beer and table wine at Target T2503, located at 5561 Grove Boulevard. This property is owned by Target Stores, Inc., and is zoned PC Planned Commercial.

Ms. Morrison made a motion to approve the **conditional use**. 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.

Ms. Morrison made a motion to approve the **ABC Application for Target Stores, Inc.** 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.

**12. PUBLIC HEARING – CONDITIONAL USE – ON PREMISE RESTAURANT RETAIL LIQUOR – BAHU BURGER – 4745 CHACE CIRCLE, SUITE 125**

Mr. Ivey stated this is the public hearing to consider the request of John Michael Bodnar for Conditional use approval to allow the on premise sale of restaurant retail liquor at Baha Burger, located at 4745 Chace Circle, Suite 125. This property is owned by Chace Lake Commercial, LLC, and is zoned PC Planned Commercial.

Ms. Morrison made a motion to approve the **conditional use**. 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.

Ms. Morrison made a motion to approve the **ABC Application for Baha Burgers, LLC**. 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.

**13. PUBLIC HEARING – CONSIDER ADOPTION, BY REFERENCE – 2009 INTERNATIONAL CODES AND 2008 NATIONAL ELECTRICAL CODE – FIRST READING ORDINANCE NO. 09-2180**

Mr. Ivey stated this is the public hearing to consider the adoption, by reference, of the 2009 International Building Code, Plumbing Code, Fuel Gas Code, Mechanical Code, Residential Code, Fire Code, Energy Conservation Code, and the 2008 National Electrical Code.

The City Attorney had the first reading of Ordinance No. 09-2180. The second reading and consideration for adoption is set for Monday, September 21, 2009.

Mr. Ivey called for questions or comments from the Council.

Mr. Smith stated he desired to hold his comments until after audience participation.

Mr. Brooks Harris, Chairman of Governmental Affairs, Greater Birmingham Association of Homebuilders, requested that the Council exempt the fire sprinkler portion of the 2009 Building Code. He stated there are other issues they feel need additional consideration. They are currently working with city staff on those issues and plan to have a list prepared a couple of weeks prior to the second reading of the proposed ordinance.

Ms. Morrison requested that this list be distributed to each of the Council Members prior to the second reading.

Mr. Smith stated it would be best to receive the list in time for conversation with staff rather than receiving it on the day of the meeting. He felt that one week prior to the second reading would be sufficient. Mr. Harris stated he would make sure they received it.

Mr. Smith asked Mr. Harris what his opposition is to the fire sprinkler portion of the code. Mr. Harris stated there are a number of different things they are opposed to regarding this portion of the code. One of the biggest issues is that they believe it is not a market driven portion of the code. They do not believe people will demand it in their homes if it is not mandated. It would be very costly to put this into all residential construction. They also believe there are a number of issues relating to installation cost that are not clear.

Mr. Smith asked Mr. Harris if he thought homeowners would not want to bear the cost of homebuilding inspections if it were not mandated. Mr. Harris felt that they would.

Mr. Smith asked Mr. Harris if the opposition was to the number of sprinkler heads required by the code or just the fact that they were required at all. What if the requirements were to be cut back to just the two most prominent sources of fire within residential dwellings, being the garage and the kitchen?

Mr. Harris stated he believed there would still be issues regarding installation that the code does not properly address. The current standards require the sprinklers be installed by a level 3 licensed fire sprinkler installer and very few of them exist at this time. It would take five years to attain this license, which would create a back log for a great period of time. In addition, issues regarding pressure and the way the sprinkler systems are designed could involve a lot of additional cost. He said without question these systems, no matter how they are going to be installed, will be expensive and burdensome to the consumer. He noted that the building industry is currently struggling and felt that adding this requirement during this economy would be a disaster.

Mr. Smith stated he had a sprinkler system installed in his home. He asked Mr. Harris how much more expensive did he think it would be. Mr. Harris stated he received a quote on a 2400 square foot split foyer for approximately \$8,500, which did not include mark ups and additional fees. That would be approximately \$3.50 per square foot.

Mr. Smith asked what he estimated the cost to be if the sprinkler area were cut back to the garage area only. Mr. Harris stated he did not feel he had the expertise to answer that question. Mr. Smith stated it would be approximately \$2500.

Mr. Greene stated it was his understanding that if the Council adopted the code without the sprinkler requirement the consumer would still have the option to install the sprinkler system in their home. Mr. Harris stated that was correct.

Ms. Brenda Arthur, 1224 Greystone Parc Drive, stated she owns a second home in Orange County, California, with a sprinkler system. She wished to speak first hand on the cons against a fire sprinkler system. It is a 36 inch rectangular box located in her garage. Inside the box is a pressure gauge that gauges the pressure going through the home at any given time. With regard to the location of her home within her neighborhood, it is located closest to the main water main off of the public street. This means that the pressure on her fire sprinkler system is greater than the last home at the end of the street. Any time she is visiting her home here in Hoover, she is worried about the status of the home in Southern California. The sprinkler heads look like small round white disks that are located in the ceiling. They are not the same as commercial sprinkler heads. If the system goes off the disks pop down and water begins spraying the home. In order for the sprinkler system to be activated the fire has to reach a certain temperature in the home. At that point, the home is probably already destroyed. She does not understand how this is supposed to be so advantageous to everyone. Also, the pressure needs to remain around 150 on the gauge. If it increases to 160 – 170 it automatically goes off whether there is a fire or not. If there are small children in the home and they kick a toy up on the disk it will activate the sprinkler. Also, pest control service people might accidentally step on one while checking the attic area and set it off. These pipes are like PVC pipes and if someone were to step on one of them, it would flood the home. The pipes flow through the house and they are marked. The water flows through the house constantly. It can not be turned off from the main water main. It has to be turned off by the Fire Department. Any standing water in the pipes must be drained periodically. There are two valves on her home. One relieves the pressure and the other can actually drain the system and it refills automatically. Ms. Arthur stated she owns a vacant lot on Greystone Crest and is contemplating building a home there. She is totally against the fire sprinkler systems and wanted to share her views first hand with the Council.

Mr. Wright stated he understood Ms. Arthur to say the PVC pipes were installed in her attic. Ms. Arthur answered yes, because in Southern California the homes are built on slab, but even if they were installed under the floor the same issues would exist.

Mr. Wright noted that PVC pipe could not be used in Hoover due to the cold weather in the winter.

Mr. Smith asked Ms. Arthur how many accidental activations she had experienced in her home. Ms. Arthur stated she had not experienced any activations in her home, but she had a situation once where the pressure reached almost 165 and she had to call someone with a certified license to deal with the fire sprinkler system. In her neighborhood they have had about four out of the two hundred homes experience accidental activation since 2002.

Ms. Arthur suggested that if the City wanted to change the building code it should require putting in more water bibs for hoses so the homes could be watered down and save the inside of the home. She felt that smoke detectors were very helpful as well. She felt there were some safety issues here and suggested looking to other places for other safety issues in preventing fires.

Mr. Smith asked had there been any structure fires in that neighborhood over the seven year period. Ms. Arthur answered no, only wild fires.

Ms. Morrison asked Ms. Arthur if she had to monitor the pressure herself. Ms. Arthur answered yes. She stated there is a safety valve that can be placed on there to regulate the pressure at around 150. Anything over 150 is scary. There is no warning signal that goes off, it just has to be visually monitored. The pressure goes up at night because people are not using much water at night. The pressure goes down during the day. Her house is closest to the water main and has the greatest amount of pressure. She strongly suggested addressing some of these issues with the Water Works Board as well.

Mr. Smith asked if the sprinkler system is fed on the other side of the regulator that feeds the plumbing to the house. Ms. Arthur stated that was correct, it is totally separate.

Mr. Arnold Singer, 630 Riverhaven Place, stated he purchased his condominium in 2007. There are 10 to 11 sprinklers installed throughout the unit and yet the price of the unit was extremely reasonable. He did note there was a danger he was not aware of when he moved there. The living room of their home has been struck by lightning twice this year destroying televisions, computer modems, routers, etc. The sprinkler heads are not the pop down units described by Ms. Arthur, but more like commercial units. He did not see how the installation could be so costly due to the fact that the price of his home was reasonable. He felt the sprinkler system requirement was a good idea but was glad to see it would not include retrofitting existing homes.

Mr. Smith stated he appreciated having the public hearing on the first reading. This is something he believed would be good to do on any issue but especially this one.

Mr. Smith asked Fire Marshal, Chief Brocato, his view on the new standard. Chief Brocato stated that as Fire Marshal he would endorse fire sprinklers in the home. Fire sprinklers reduce the chances of dying in a home by approximately 80% and reduce fire damage to a home by 50% to 70%.

Mr. Smith asked if there was information that could be gathered before the next meeting with regard to the number of accidental activations that have taken place in residential dwellings within the City.

Chief Brocato stated there are very few sprinkler systems in residential dwellings in the City of Hoover. Accidental activations do occur in commercial buildings. The problems are generally related to frozen pipes instead of the sprinkler heads themselves. Most of the problems he would view as plumbing problems.

Dr. Lott noted there were several homebuilders in the audience. He asked would any of them turn him down if he requested to have a fire sprinkler system be installed if he were building a new house. They answered no.

Ms. Morrison asked if this is an all or nothing proposition with regard to the Building Code.

Mr. Allen Pate answered no. The Council has the option of adopting the code with amendments. He noted that Mr. Harris mentioned the homebuilders will probably have some other amendments they would like the Council to look at. The code requires some things that simply can not be done today, such as the new energy innovative requirements....the right materials are not on the market in Hoover. He stated that if the City is not ready to adopt it at the next meeting in September there is nothing wrong with carrying it forward to another meeting.

Mr. Smith said to Richard Johnson, Director of Inspection Services, that he had copies of letters given to the Mayor this past April and again last month stating that if the City does not react by accepting these codes it would be reclassified from a 3 to a Class 9. He asked Mr. Johnson how soon would they do that and how far can the City amend or exclude portions of these codes and still be able to salvage its current ISO rating.

Mr. Johnson stated he believed the time frame for the response to the ISO was August on next year. It is unknown how much can be amended and still get full credit for the adoption.

Mr. Smith asked would it be beneficial upon receiving the lists of amendments from the homebuilders to get the ISO's opinion on whether or not the City would lose its current rating based on the list of requests.

Mr. Johnson stated he had tried to do that without success thus far. In his opinion the scope of their requests, outside of the sprinkler system, are so minor he does not believe it would be of consequence to the overall ISO rating simply because asking to amend one of nine documents in less than five parts is trivial.

Mr. Smith clarified that the nine documents were all of the other codes. Mr. Johnson stated that was correct.

Mr. Smith stated his only other concern is that all of these documents are placed within one vote. If one of the documents is contentious enough that it might cause a person to feel the need to vote against that one document, as amended, thus causing to vote against all of the documents. When it comes time for a vote, it would be helpful procedurally to separate any document of concern from the other documents.

Mr. Ivey felt the Council would be in a better position to determine that after reviewing and discussing with staff the list of concerns from the home builders. He added that there is time to continue the matter if needed.

Ms. Morrison stated she would like to hear from the homebuilders the position of other southeastern states, as well as other major cities in Alabama, regarding this same issue.

Mr. Harris stated four states have already adopted statewide exemptions to the sprinkler code. The closest one to Alabama is Texas.

Ms. Morrison asked Richard Johnson if it would be possible to check on their ISO rating. Mr. Johnson answered yes.

Mr. Harris stated the City of Alabaster and the City of Birmingham have also adopted exemptions.

Mr. Dwight Sandlin, Signature Homes, 3901 Grand Avenue, stated the homebuilders agree with Chief Brocato that first and foremost the issue is safety. However, he felt that making this a requirement would put a burden on the entire city because of the expense. He questioned what value is added to this from the standpoint of safety perspective and of property damage. The safety of lives is non-negotiable, but it is his understanding that this is not a life safety issue.

Mr. Wright stated it is also disproportionate cost when looking at a \$160,000 home versus a \$350,000 home. It is a much bigger penalty on the smaller home.

Mr. Sandlin agreed. He emphasized that the homebuilders have no problem in looking out for the ISO rating for insurance. They just want to convey to the Council that from their

perspective it is illogical. It is his understanding that this has not proven to save lives over what they are currently doing.

Mr. Wright inquired as to the location of the International Building Code Council. Mr. Sandlin stated the headquarters is located in Washington, D.C.

Mr. Smith stated the City exempted the garage issue a few years back. He asked if the homebuilders were looking to exempt multi-family structures as well as single family dwellings.

Mr. Mike Wood answered yes. They are looking to exclude that portion of the code which would include multi-family.

Mr. Smith asked Chief Wingate what he thought about removing sprinklers from multi-family dwellings. Chief Wingate stated it is a decision that the Council as a governing body has to make for life safety in the City of Hoover.

Richard Johnson stated for clarity that the IRC document that they are proposing to amend does not apply to multi-family dwellings. That is a separate code.

Mr. Ivey called for further questions or comments. There were none. He stated the second reading of this ordinance and consideration for adoption is tentatively set for Monday, September 21, 2009.

#### 14. 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 Dr. Lott.

Mr. Ivey called for discussion.

Mr. Smith asked the Finance Director, Robert Yeager, what was the expense to AT&T. Mr. Yeager stated it is for an upgrade related to the 911 equipment.

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

Mr. Ivey called for comments or questions from the Council regarding other items.

Mr. Smith stated the **Hoover Coalition** this week is promoting their “*Host an Underage Drinking Party. Pay the Price*” campaign. Those interested in purchasing a t-shirt can go to the website [www.hostpays.com](http://www.hostpays.com).

Ms. Dorothy Harbst, 5668 Colony Lane, restated comments she made at the last City Council regarding a situation in her past and in another state whereby she believes all of her Bill of Rights were violated. She felt it was important the Council know that this violation is continuing even as she lives in Hoover. During her comments, both Mr. Smith and Mr. Ivey asked Ms. Harbst to address how her rights had been violated while living in the City of Hoover. Ms. Harbst did not describe specifically those violations, only that they continue to exist. She also expressed great concern with regard to the proposed healthcare bill that is being considered at a federal level.

There being no further comments or discussion, the meeting was adjourned.

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Margie Handley  
City Clerk