

**HOOVER CITY COUNCIL
MINUTES OF MEETING**

DATE: October 19, 2009
TIME: 6:00 P.M.
PLACE: Hoover Municipal Center
PRESENT: Mayor Tony Petelos
Mr. Jack Wright, Council President, Pro-Tempore
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

ABSENT: Mr. Gary Ivey, Council President

ALSO PRESENT: Mr. Mark Boardman, City Attorney
Mr. Tommy Daniel, Director, Public Works
Chief Nick Derzis, Police Chief
Ms. Susan Fuqua, Director, Municipal Court
Ms. Patricia Guarino, Library
Mr. Bob House, House Consultants
Mr. Richard Johnson, Director, Inspection Services
Mr. Rod Long, City Engineer
Mr. Frank Lopez, Director, Revenue and Taxation
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, Pro-Tempore, Jack Wright.

Mr. Wright invited Scout Troop 21 and Scoutmasters Dan Strunk, Mr. and Mrs. Eggers, Mark Branin and David Gunn to come to the front of the chambers. He asked the troop to lead the Pledge of Allegiance following the Invocation.

The City Clerk then gave the invocation.

Scout Troop 21 lead those present in the Pledge of Allegiance.

Each member of Scout Troop 21 gave their name and the school they attend.

Mr. Wright thanked the troop and the scoutmasters for coming.

The City Clerk had **roll call** and a quorum was present.

1. APPROVAL OF MINUTES

Mr. Wright stated each member of the Council had previously received a copy of the minutes of the October 5, 2009 regular meeting and the October 15, 2009 work session.

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

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

2. **RESOLUTION NO. 4329-09 – DR. MILTON “LUKE” FAULKNER, M.D.**

Mr. Skelton requested this item be continued to the November 16, 2009 Council meeting, as some of the family members were unable to attend the meeting tonight.

Mr. Wright stated a motion to continue was in order.

Mr. Skelton made a motion to continue Resolution No. 4329-09 to the November 16, 2009 Council meeting. This motion was seconded by Dr. Lott. On voice vote the motion carried unanimously.

3. **RESOLUTION NO. 4330-09 – VACATION OF STORM DRAINAGE EASEMENTS – COTTAGES OF DANBERRY SUBDIVISION**

The City Attorney read Resolution No. 4330-09. This would vacate a portion of a 15 foot storm sewer easement in The Cottages of Danberry subdivision.

Mr. Skelton made a motion to approve Resolution No. 4330-09. This motion was seconded by Dr. Lott.

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

4. **RESOLUTION NO. 4331-09 – AWARD BID NO. 22-09 – POLICE DEPT. FIRST FLOOR INTERIOR RENOVATION**

The City Attorney read Resolution No. 4331-09. This would award Bid No. 22-09 for the Police Department First Floor Interior Renovation to Duncan and Thompson Construction Services, L.L.C. in the amount of \$174,985.00; theirs being the lowest responsible bid meeting all specifications and requirements. This would also authorize the Mayor to execute a contract with said contractor for the work to be performed.

Mr. Skelton made a motion to approve Resolution No. 4331-09. This motion was seconded by Dr. Lott.

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

5. **RESOLUTION NO. 4332-09 – EXTEND FISCAL YEAR 9/30/09 BUDGET**

The City Attorney read Resolution No. 4332-09. This would extend the Budget for Fiscal Year Ending September 30, 2009 to November 30, 2009 with regard to employee salaries, benefits and other essential expenditures.

Mr. Skelton made a motion to approve Resolution No. 4332-09. This motion was seconded by Dr. Lott.

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

6. **2ND READING ORDINANCE 09-2180 – ADOPTION OF 2009 INTERNATIONAL CODES AND 2008 NATIONAL ELECTRIC CODE**

Mr. Wright stated a motion was in order to WITHDRAW Ordinance No. 09-2180 from consideration.

Mr. Skelton made a motion to **WITHDRAW Ordinance No. 09-2180**. This motion was seconded by Dr. Lott.

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

7. **RESOLUTION NO. 4333-09 – SET PUBLIC HEARING TO CONSIDER ADOPTION OF 2009 INTERNATIONAL CODES AND 2008 NATIONAL ELECTRIC CODE**

The City Attorney read Resolution No. 4333-09. This would set a public hearing for Monday, November 2, 2009, at 6:00 p.m., 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 Electric Code, with proposed amendments.

Mr. Skelton made a motion to approve **Resolution No. 4333-09**. This motion was seconded by Dr. Lott.

Mr. Wright called for discussion or comments.

Mr. Smith stated he would like to receive a copy of the proposed amendments as soon as possible in order to review them prior to the November 2nd meeting.

There being no further discussion, on voice vote the motion carried unanimously.

8. **RESOLUTION NO. 4334-09 – AUTHORIZE PAYMENT TO BIRMINGHAM-JEFFERSON COUNTY TRANSIT AUTHORITY AND TERMINATE BUS SERVICE**

The City Attorney read Resolution No. 4334-09. This would authorize the payment in full of Invoice No. 7324 to the Birmingham-Jefferson County Transit Authority, and terminate bus service with said authority effective November 1, 2009.

Mr. Smith made a motion, for the purpose of discussion, to approve Resolution No. 4334-09. This motion was seconded, for the purpose of discussion, by Mr. Skelton.

Mr. Wright called for discussion or comments.

Mr. Skelton stated the City was experiencing some difficulty in receiving a current bill from the transit authority. He suggested a substitute motion to authorize the Mayor to negotiate with the transit authority as to the amount the City will pay, and

terminate service at that time. He noted he would be willing to make that motion if Mr. Smith desired to withdraw his motion.

After a brief discussion regarding a proposed termination date, Mr. Skelton stated the main issue is to authorize the Mayor to negotiate a final settlement with the transit authority with the understanding that the termination date would be either October 31 or November 1.

Mr. Smith stated he understands there are different fields of thought with regard to not having a written contract, and he felt Mr. Skelton had a good thought. That being said, he then **withdrew his motion.**

Mr. Skelton then made a motion to authorize Mayor Petelos to negotiate a final settlement with the transit authority as to what the City will pay to them, and terminate bus service effective October 31, 2009. This motion was seconded by Dr. Lott.

Mr. Wright called for further discussion from the Council. There being none, he called for comments from the audience.

Mr. John Wright, Jr., 1120 Beacon Parkway East, a prior resident of Hoover for 17 years, spoke as a 35 year advocate of transit. He felt that the Highway 31 Express was an exciting breakthrough for riders and transit advocates, and to cease the service would be a heart breaking situation for those with no other means of transportation. He also felt it would be damaging to the City of Hoover as many people use the bus service to come to Hoover to work and shop. He implored the Council to delay this decision and reconsider the resolution to allow the Mayor to negotiate with the transit authority. He did not understand why MAX had not been forthcoming with information to the City as to why the recent bill was such an increase. Mr. Wright stated he had a good relationship with MAX and offered to assist the Mayor in the negotiations.

Mr. Smith responded by saying that this program began with a three year federal subsidy grant as a pilot program. After that funding, the last obligation of the City of Hoover was \$38,000. That amount has now increased to \$110,000. He then addressed Mr. Wright's comments regarding bus riders who come to Hoover to shop in Hoover. He stated that based on last year's figures and the current \$110,000 invoice the City of Hoover will have subsidized each rider just under \$50 each way. In order for the City of Hoover to break even on one round trip the rider would have to purchase \$2500 worth of goods. The number of riders is only in the dozens, not in the hundreds or thousands as indicated by Mr. Wright. Mr. Smith stated he had requested the Birmingham News and the Hoover Chamber of Commerce to send out requests to the businesses. There are thousands of businesses and residents in this City but he received only six emails and one phone call. Only two of which were in favor of any service at all. He felt it was unfortunate, but the City is faced with having to go up on employee benefits and freeze employee salaries. Not to mention the City is unable to fund education as it has in past years. The economic times being what they are combined with the lack of use of the bus service leads him to believe

the money could be used more wisely elsewhere. He noted that the Mayor has said the City would have to take the proposed allotment for this coming year to help pay for last year's invoice.

Mr. John Wright, Jr., implored the Council to at least consider cutting back the number of routes rather than shutting down the routes all together, which is the action Vestavia Hills has taken. He believed that from a public relations standpoint shutting down this route would leave a bad mark on Hoover.

Ms. Judy Gordon, 1817 Catala Road, Vestavia Hills, spoke in opposition to the termination of bus service. Ms. Gordon has a disability and uses the bus frequently because she is unable to drive. She also is a member of the Transit Advisory Council representing Vestavia. She stated she remembered the day the Highway 31 Express route was approved. She understands that \$100 per round trip seems like a lot of money but she knows a lot of people who ride the bus. She understands there is an economic crisis, but to her it is not just about dollars and cents. She talked about the riders who work at the Quality Inn who on November 1 will either have to pay someone to drive them to work or stop working in Hoover. She asked the Council to delay this decision and have a meeting with MAX to discuss the problems. She presented to the Council copies of an article she wrote for the newspaper a few years ago.

Mr. Wright thanked Ms. Gordon for her comments.

Mr. Smith thanked her for her thoughts as well. He said any action the Council may or may not take at this meeting is based on today's needs. There is nothing that says the transit authority could not renegotiate with the Mayor for future service. He noted that even if there was no Birmingham-Jefferson County Transit system the ClasTran system would still be available.

Ms. Gordon stated she understands that ClasTran is full. She noted that ClasTran is not a bus company and can not take on people who are not disabled. She was not certain that her disabilities would qualify for ClasTran. She said the options are few and services are becoming more and more limited. She was grateful to hear Mr. Smith's comment that his mind would not be closed to a future negotiation.

Mr. Smith told Ms. Gordon that should she have problems with Vestavia helping her get assistance from ClasTran she could contact him and he would try to help her. He told her she could contact the Hoover City Clerk if she needed to get in touch with him.

Ms. Catherine Walch, 1501 Fairway View Drive, Hoover, spoke in opposition to terminating the bus service. She felt that Hoover should continue to be compassionate as it has been in past years.

Mr. Bob Chavies, 3498 Kildare Drive, supported the idea of terminating the bus service. He agreed that very few people were using the bus service and the City of Hoover could not afford to pay \$100 per person per round trip. He commended the Council for their action.

Mr. Wright called for further discussion. There being none, he requested a roll call vote. On roll call vote the vote of the Council was as follows: Mr. Wright, "Yea"; Mr. Smith, "Yea"; Mr. Skelton, "Yea"; Ms. Morrison, "Yea"; Dr. Lott, "Yea"; Mr. Greene, "Yea". The motion carried.

9. **RE-ISSUANCE OF EXPIRED ABC LICENSE – LASPADA BISTRO – 4524 SOUTHLAKE PKWY, SUITE 7**

Mr. Wright stated a motion was in order to approve the re-issuance of an expired ABC License for LaSpada, Inc., d/b/a LaSpada Bistro, 4524 SouthLake Parkway, Suite 7, to allow for the sale of restaurant retail liquor.

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

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

10. **RE-ISSUANCE OF EXPIRED ABC LICENSE – JOHNNY CARINOS – 4330 CREEKSIDE AVENUE**

Mr. Wright stated a motion was in order to approve the re-issuance of an expired ABC License for Balcony Restaurant Group 6 LLC d/b/a Johnny Carinos, 4330 Creekside Avenue, to allow for the sale of restaurant retail liquor.

Ms. Morrison made a motion to approve the ABC Application for Balcony Restaurant Group 6 LLC. This motion was seconded by Dr. Lott.

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

11. **PUBLIC HEARING – CONDITIONAL USE – OFF PREMISE WINE – CVS – 1775 MONTGOMERY HWY**

Mr. Wright stated this is the public hearing to consider the request of James B. Pittman for Conditional Use approval to allow the off premise only sale of table wine at CVS located at 1775 Montgomery Highway. This property is owned by Riverchase Shopping Center and is zoned PC Planned Commercial.

Ms. Morrison made a motion to approve the **conditional use**. This motion was seconded by Dr. Lott.

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

Ms. Morrison then made a motion to approve the **ABC Application for Alabama CVS Pharmacy LLC**. This motion was seconded by Dr. Lott.

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

12. **PUBLIC HEARING – CONDITIONAL USE – SALE OF RESTAURANT RETAIL LIQUOR – EMBASSY SUITES – 2960 JOHN HAWKINS PKWY.**

Mr. Wright stated a motion was in order to continue this public hearing to the November 16, 2009 City Council meeting.

Mr. Skelton made a motion to **continue to the November 16, 2009 City Council meeting**. This motion was seconded by Dr. Lott.

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

13 **PUBLIC HEARING – CONDITIONAL USE – ON OR OFF PREMISE BEER AND WINE – TAZIKIS GREEK FARE – 4745 CHACE CIRCLE, SUITE 117**

Mr. Wright stated this is the public hearing to consider the request of Mr. Keith Richards for Conditional Use approval to allow the sale of retail beer (on or off premises) and retail table wine (on or off premises) at Tazikis Greek Fare, located at 4745 Chace Circle, Suite 117. This property is owned by Chace Lake Station 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. Wright called for discussion. There being none, on voice vote the motion carried unanimously.

Ms. Morrison then made a motion to approve the **ABC Application for Tazikis, Inc.** This motion was seconded by Dr. Lott.

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

14. **PAYMENT OF BILLS**

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

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