

**HOOVER CITY COUNCIL  
MINUTES OF MEETING**

**DATE:** January 4, 2010  
**TIME:** 6:00 P.M.  
**PLACE:** Hoover Municipal Center  
**PRESENT:** Mayor Tony Petelos  
Mr. Gary Ivey, Council President  
Mr. Jack Wright, Council President, Pro-Tempore  
Mr. John Greene, Council Member  
Dr. Trey Lott, Council Member  
Ms. Mari Morrison, Council Member

**ABSENT:** Mr. Brian Skelton, Council Member  
Mr. Gene Smith, Council Member

**ALSO PRESENT:** Mr. Mark Boardman, City Attorney  
Officer Jehad Al-Dakka, Police Department  
Chief Frank Brocato, Fire Department  
Mr. Tommy Daniel, Director, Public Works  
Mr. Bob House, House Consultants  
Mr. Richard Johnson, Director, Inspection Services  
Mr. Rod Long, City Engineer  
Mr. Allen Pate, Executive Director  
Mr. Ben Powell, Director Support Services  
Mr. Tim Westhoven, Asst. Executive Director  
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. **APPROVAL OF MINUTES**

Mr. Ivey stated each member of the Council had previously received a copy of the minutes of the December 21, 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. On voice vote the motion carried unanimously.

2. **RESCHEDULE 1/18/2010 MEETING TO TUESDAY 1/19/2010 AT 6 P.M.**

Mr. Ivey stated a motion was in order to reschedule the Monday, January 18, 2010 regular meeting to Tuesday, January 19, 2010, at 6 p.m. due to the Martin Luther King, Jr. holiday.

Mr. Wright made a motion to reschedule the January 18, 2010 meeting as stated. This motion was seconded by Dr. Lott.

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

3. **PUBLIC HEARING - CONDITIONAL USE – ON PREMISE SALE OF RESTAURANT RETAIL LIQUOR – BEEF O’BRADY’S – 5519 GROVE BLVD.**

Mr. Ivey stated a motion was in order to continue this public hearing for conditional use to the January 19, 2010 City Council meeting.

Mr. Wright made a motion to **continue the conditional use to the January 19, 2010 meeting**. This motion was seconded by Dr. Lott.

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

Ms. Morrison then made a motion to **continue the ABC Application to the January 19, 2010 meeting**. This motion was seconded by Dr. Lott.

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

4. **2<sup>ND</sup> READING OF ORDINANCES 10-2184, 10-2185, AND 10-2186 – AMEND MUNICIPAL CODE - CITY’S MS4 (STORMWATER), FLOOD, AND EROSION CONTROL**

The City Attorney had the second reading of Ordinance No. 10-2184. This ordinance would adopt an ordinance to regulate, prohibit, and eliminate illicit discharges to the City’s MS4.

Mr. Wright made a motion to approve **Ordinance No. 10-2184**. This motion was seconded by Dr. Lott. Mr. Ivey called for comments or questions from the Council or the audience. There being none, on roll call vote of the Council the votes were as follows: Mr. Ivey, “Yea”, Mr. Greene, “Yea”, Dr. Lott, “Yea”, Ms. Morrison, “Yea”, and Mr. Wright, “Yea”. The motion carried unanimously.

The City Attorney had the second reading of Ordinance No. 10-2185. This ordinance would modify Chapter 12, Article III, Flood Damage Prevention.

Mr. Wright made a motion to approve **Ordinance No. 10-2185**. This motion was seconded by Dr. Lott. Mr. Ivey called for comments or questions from the Council or the audience. There being none, on roll call vote of the Council the votes were as follows: Mr. Ivey, “Yea”, Mr. Greene, “Yea”, Dr. Lott, “Yea”, Ms. Morrison, “Yea”, and Mr. Wright, “Yea”. The motion carried unanimously.

The City Attorney had the second reading of Ordinance No. 10-2186. This ordinance would Amend Chapter 12, Article IV, Erosion and Sedimentation Control.

Mr. Wright made a motion to approve **Ordinance No. 10-2186**. This motion was seconded by Dr. Lott. Mr. Ivey called for comments or questions from the Council or the audience. There being none, on roll call vote of the Council the votes were as follows: Mr. Ivey,

“Yea”, Mr. Greene, “Yea”, Dr. Lott, “Yea”, Ms. Morrison, “Yea”, and Mr. Wright, “Yea”.  
The motion carried unanimously.

5. **1<sup>ST</sup> READING ORDINANCE NO. 10-2187 – CALL FOR SPECIAL ELECTION TO BE HELD ON MARCH 23, 2010**

The City Attorney had the first reading of Ordinance No. 10-2187. This would call for a special municipal election to be held on March 23, 2010, at the request of the Hoover City Board of Education, to determine whether the 24 mills of the ad valorem tax presently being levied by the City of Hoover (which 24 mills are for public school purposes) should continue to be levied each successive tax year of the City of Hoover commencing with the tax year for which municipal taxes will become payable on October 1, 2028, and continuing thereafter without limit as to time, the proceeds of which shall be used by the City Board of Education for public school purposes.

Mr. Ivey stated this ordinance will have its second reading and consideration for adoption on Tuesday, January 19, 2010.

Mr. Ivey called for comments or questions regarding this ordinance.

Mr. Wright stated he was on the City Council when the original 24 mill tax was passed and he recalled that this tax was called the “brick and mortar” tax to be used for the construction of schools.

Mr. Alan Zeigler, Attorney representing the School Board, stated he worked on the 1990 Special Election which added the first 14 mills and on the 1998 Special Election which added the additional 10 mills. He said that in neither instance did the ballot limit the use of the tax proceeds to capital. It was limited to public school purposes but not solely to capital. He noted that the tax had been used substantially for brick and mortar and had been pledged for every issue of school debt incurred by the School Board since the beginning of the tax proceeds.

Mr. Wright inquired as to the amount of revenue to be received from the 24 mill tax this year.

Mr. Andy Craig, Superintendent of Hoover City Schools, answered “\$37 million”.

Mr. Wright asked what will be the cost of the election to the City.

The City Clerk stated it would be approximately \$125,000.

Dr. Lott asked would the school system reimburse the City for the cost of the election.

Mr. Zeigler stated he understood the School Board would pay for the publication costs of notices and any legal representation in connection with the election. The Alabama Code requires that notice of special election be published in the newspaper two months prior to the election.

Mr. Wright asked Mr. Zeigler how long is “thereafter without limit as to time”.

Mr. Zeigler stated it could be forever. He said the 6.5 mill tax that the City receives out of the 30.5 mills is levied without limit as to time as well under the constitution. He stated that most municipal levied taxes whether for general purposes or for schools are levied without

limit as to time. He went on to say that county levied taxes for schools have a thirty year limit but that does not apply to municipal levied taxes. When Hoover's tax was increased from 6.5 mills to 20.5 mills in 1990 and then to 30.5 mills in 1998 there were limitations placed on it. It is the School Board's request to have an election to remove that limitation so that they might enjoy the benefit of refinancing some of their debt at a lower interest rate should the financial climate permit.

Mr. Wright stated he had concerns with levying these taxes in perpetuity.

Dr. Lott asked could the Board not take advantage of the lower rates now by having a limit put on the amount they are requesting on the number of years.

Mr. Zeigler stated they could explore that possibility but if they ask for 20 years now next year they would have only 19 years left. Mr. Zeigler went on to say that the levy was limited to the year 2027 which was not a problem at the time. Most financing is done for less than thirty years. Currently, there are 7 to 18 years left. A thirty year financing could not be done now with a 17 year time.

Ms. Morrison questioned whether during a recession is the right time to ask for an extension of a tax that is already in place. In addition, she questioned why they were asking for this now when the levy does not end until 2027. She asked Mr. Zeigler to clarify whether they are trying to take advantage of low interest rates now or when and if the financial climate permits.

Mr. Zeigler said the rates are lower now and if rates trend to be lower three or four months from now and the School Board does not take this action in March then it will not matter what the rates are in April and May. He emphasized that the Board is not asking for an increase. Rather, it is asking for the assurance that the basic funding level of the schools in Hoover would remain the same for a period extending beyond 2028 so that if there is an opportunity to refund capital debt they could take debt that has 10 to 12 more years to run that was incurred for a facility that is going to be there for 25 to 30 years and finance the debt for a period longer than the 17 years that is allowed now.

Ms. Morrison simplified it in comparing it to a person seeking to refinance a home except that a body such as the School Board has bond holders that would require assurances that the revenue would be there and they need to go beyond the 18 years.

Mr. Zeigler agreed. He stated an individual would know whether or not they would have the income to do a thirty year financing. The Board of Education knows right now that they are limited by the 2027 limitation of that tax.

Mr. Wright asked Mr. Zeigler if the School Board was subject, as the City is, to only refinance a bond issue one time. Mr. Zeigler stated under federal law the Board of Education, unless it receives an exemption, is subject to the "reapply prohibition" but it only applies to advance refunding not to current refunding.

Mr. Wright asked if most of their warrants and bonds were for twenty years or thirty years.

Mr. Zeigler stated he did not believe any of them were for a full thirty years.

Dr. Lott stated that based on that information they did not need more than thirty years.

Mr. Zeigler indicated that limiting it to thirty years would mean coming back later for another election.

Dr. Lott noted there had not been a need for an election since 1998.

Mr. Wright questioned the affect decreased real estate values would have on the tax roll.

Mr. Zeigler stated it would have the same affect on the School Board's 24 mills as it does on the City's 6.5 mills. If the assessed value is less then the tax proceeds will be less as well.

Dr. Lott stated he felt the tax levy should be limited to thirty years and if the School System had a major need at some point they could come before the City Council and ask for an election at that time. He was not comfortable with an indefinite tax.

Mr. Zeigler stated he had worked many school tax elections and it was his experience that most municipal school taxes are levied without limit as to time. He mentioned Mountain Brook and Homewood as two he knew about. He was not sure about Vestavia Hills.

Ms. Morrison asked if county school taxes were limited to thirty years by statute. Mr. Zeigler answered yes.

Mr. Wright asked how much debt is serviced by the \$37 million received from the 24 mill tax.

Mr. Craig stated the total debt is currently \$184 million. The annual debt service is \$16 million. He then discussed the need to expand the time limit on the tax levy noting that three of their four bond issues become callable within the next 24 months

Ms. Morrison asked Mr. Craig how he would explain this to the citizens to make them want to vote for it.

Mr. Craig stated he would tell them that right now as a citizen of Hoover the burden of these facilities is concentrated on them and the people who will be benefiting from the facilities in 2028 and beyond are not going to have to pay for those facilities.

Dr. Lott stated it did not appear that Mr. Craig would need an indefinite tax to take advantage of the lower rates. He noted the county seems to have managed with a thirty year limitation.

Mr. Zeigler stated the county has to hold elections on a fairly regular basis.

Mr. Zeigler went on to say that it was a question of whether a board of education should be put in a situation of having to renegotiate on a periodic basis or to be assured, subject to economic shifts, of being able to provide schools as long as needed.

Dr. Lott stated putting a limitation on the Board of Education may be a positive thing to ensure accountability in the management of funds.

Mr. Zeigler stated better management of funds is the essence of what they are trying to accomplish.

Mr. Wright inquired as to the total revenues and total expenses for the school system this year.

Mr. Craig stated he did not have the exact numbers but would get that information to Mr. Wright. He said the approximate numbers would be \$140 million in revenues, and roughly \$20 million more than that in expenses.

Mr. Craig then reported approximately \$119 million in reserves to start the year, including the general fund, debt service fund, and 24 mill fund.

Ms. Morrison asked Mr. Wright if there was public input during the 1990 and 1998 special elections that could be found in the minutes of the City Council meetings.

Mr. Wright stated it would not be in the minutes, but he remembered distinctively the 1998 tax being advertised as brick and mortar to build more schools and has been talked about many times since then. It was politicized by proactive forces to build brick and mortar. The School System now has Spain Park High School, Berry Middle, Deer Valley Elementary, Bumpus Middle, Riverchase Elementary, etc.

Ms. Morrison recalled that it was a very close election.

Mr. Ivey asked for additional comments or questions. There was no further discussion. Mr. Ivey thanked Mr. Zeigler and Mr. Craig for attending the meeting.

6. **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. There being none, on voice vote the motion carried unanimously.

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

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Margie Handley  
City Clerk