

**HOOVER CITY COUNCIL  
MINUTES OF MEETING**

**DATE:** June 7, 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  
Ms. Mari Morrison, Council Member  
Mr. Brian Skelton, Council Member  
Mr. Gene Smith, Council Member

**ABSENT:** Dr. Trey Lott, Council Member

**ALSO PRESENT:** Mr. Mark Boardman, City Attorney  
Chief Nick Derzis, Police Chief  
Mr. Bob House, House Consultants  
Mr. Richard Johnson, Director, Inspection Services  
Mr. Rod Long, City Engineer  
Mr. Frank Lopez, Director, Revenue and Taxation  
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**

Mr. Ivey recognized Ms. Morrison regarding reappointments to the Board of Zoning Adjustment.

Ms. Morrison made a motion to reappoint **Dan Mikos** and **Allan Rice** to another term on the **Board of Zoning Adjustment**. This motion was seconded by Mr. Skelton. On voice vote the motion carried unanimously.

2. **APPROVAL OF MINUTES**

Mr. Ivey stated each member of the Council had previously received a copy of the minutes of the May 17, 2010 work session and the May 17, 2010 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 Mr. Skelton. On voice vote the motion carried unanimously.

3. **RESOLUTION NO. 4417-10 – AWARD BID NO. 08-10 – TRAFFIC SIGNAL EQUIPMENT (VIDEO DETECTION) Continued from 5/17/10 meeting**

The City Attorney read Resolution No. 4417-10. This would award Bid No. 08-10 for Traffic Signal Equipment (Video Detection) to Temple Incorporated in the amount of \$42,509.95; theirs being the lowest responsible bidder meeting all specifications and requirement.

Mr. Wright made a motion to approve **Resolution No. 4417-10**. This motion was seconded by Mr. Skelton.

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

4. **RESOLUTION NO. 4423-10 –AWARD BID NO. 09-10 – GROUNDS MAINTENANCE EQUIPMENT**

The City Attorney read Resolution No. 4423-10. This would award Bid No. 09-10 for Grounds Maintenance Equipment by Item Number to the following companies: Advanced Mower, Jerry Pate Turf & Irrigation, and Riverchase Lawn Equipment.

Mr. Wright made a motion to approve **Resolution No. 4423-10**. This motion was seconded by Mr. Skelton.

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

5. **RESOLUTION NO. 4424-10 – AUTHORIZE MAYOR TO EXECUTE AGREEMENT WITH SAIN ASSOCIATES – CHAPEL LANE EXTENSION PROJECT**

The City Attorney read Resolution No. 4424-10. This would authorize the Mayor to execute a Supplemental Services Agreement with Sain Associates, Inc. regarding the Chapel Lane Extension Project #STPBH-7321 (600).

Mr. Wright made a motion to approve **Resolution No. 4424-10**. This motion was seconded by Mr. Skelton.

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

6. **RESOLUTION NO. 4425-10 – AUTHORIZE ADDITIONAL SIGNATURES TO THE PRISONER ESCROW ACCOUNT**

The City Attorney read Resolution No. 4425-10. This would authorize the additional signatures of Marquese J. Jackson, Mark A. Estep, and Colin S. Johnson to the Prisoner Escrow Account with Regions Bank.

Mr. Wright made a motion to approve **Resolution No. 4425-10**. This motion was seconded by Mr. Skelton.

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

7. **PUBLIC HEARING - CONDITIONAL USE – SALE OF OFF PREMISE ONLY  
BEER AND RETAIL WINE – INDIA HERITAGE – 3137 LORNA RD., STE. 7**  
*(Continued from 5/17/10 meeting)*

Mr. Ivey stated this is the public hearing to consider the request of Snehal Sane, India Heritage, for **Conditional Use** approval to allow the off-premise only sale of beer and retail wine at **India Heritage** located at **3137 Lorna Road, Suite 7**. This property is owned by Don Schilleci c/o Sundance Properties and is zoned C-1 Neighborhood Shopping District.

Mr. Ivey asked the clerk if this item was ready to move forward. The clerk answered yes.

Ms. Morrison then made a motion to approve the **conditional use**. This motion was seconded by Mr. Skelton.

Mr. Ivey 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 India Heritage Inc.** This motion was seconded by Mr. Skelton.

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

8. **PUBLIC HEARING – CONDITIONAL USE – ALDERSGATE UNITED  
METHODIST CHURCH – 901 ROSS BRIDGE PKWY**

Mr. Ivey stated this is a public hearing to consider the request of Evan Terry, representing Aldersgate United Methodist Church, for **Conditional Use** approval on property located at **901 Ross Bridge Parkway** to be used for the new site of **Aldersgate United Methodist Church**. The property is owned by United States Steel Corporation and is zoned PR-1 Planned Single Family. (*P&Z Case #C-0510-07*)

Mr. Ivey stated it was his understanding there are conditions to be placed on the approval of this request. He recognized Mr. Bob House, Planning Consultant, at this time.

Mr. House stated the conditions are as follows:

1. Prior to issue of a building permit for any building on the site, the new road and access drive to the property shall be constructed pursuant to an approved preliminary plat, and the subject property shall be established as a lot on a final plat approved by the city.
2. The second entrance to the new road shall be constructed prior to completion of the sanctuary.

Ms. Morrison made a motion to approve the conditional use subject to the conditions as read by Mr. House. This motion was seconded by Mr. Skelton.

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

Mr. Smith asked Mr. House if this was part of the original Ross Bridge Planned Unit Development or would this be an amendment. Mr. House stated the church is not shown on the original plan but the property is currently zoned PR-1 Planned Single Family Residential. Mr. Smith wanted to clarify that this would not require an amendment to the PUD. Mr. House stated that was correct.

Mr. Ivey called for further discussion from the Council or the audience. There being none, Mr. Ivey called for a vote. On voice vote the motion carried unanimously.

9. **PUBLIC HEARING – CONDITIONAL USE – RIVERCHASE UNITED METHODIST CHURCH – 1953 OLD MONTGOMERY HWY.**

Mr. Ivey stated this is a public hearing to consider the request of Stuart A. Garrett, representing **Riverchase United Methodist Church**, for **Conditional Use** approval to allow additions to be built on the property located at **1953 Old Highway 31**. The property is owned by Riverchase United Methodist Church and is zoned R-1 Single Family District. (*P&Z Case #C-0510-08*)

Mr. Ivey stated it was his understanding there are conditions to be placed on the approval of this request. He recognized Mr. Bob House, Planning Consultant, at this time.

Mr. House stated there are five restrictions that are the product of a neighborhood meeting held prior to the Planning and Zoning Commission meeting. He then read the five restrictions at length (*Note: A sixth condition was added later in the meeting – See the motion made by Ms. Morrison*)

Ms. Morrison made a motion to approve the conditional use subject to the five conditions read by Mr. House. This motion was seconded by Mr. Skelton.

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

Mr. Smith wanted to clarify that Item No. 4 on the list of conditions would mean that the City would require that the undisturbed buffer be supplemented should they fall below the minimum standards of Article XIII. Mr. House stated that was correct.

Mr. Ivey called for comments from the audience.

Mr. Randy Harper, 777 Carl Raines Lake Road, stated his property is located directly across the street from the church. He then read a prepared statement expressing his concerns about the pond located on his property. Mr. Harper distributed copies of the prepared statement to the Council and asked that it be placed in the minutes. (*A copy of this prepared statement is attached to and made a part of the minutes of this meeting*)

Mr. Wright inquired as to the location of Mr. Harper's property in relation to the subject property. Mr. Harper stated his property is located on Carl Raines Lake Road directly across the road from the church property. Mr. Harper then showed the Council the location of his property and the pond.

Mr. Smith stated Mr. Harper's list of concerns included the request of the church for water testing on a monthly basis. He asked Mr. Harper if he meant only during the time of construction or perpetually. Mr. Harper stated he believed it should be done perpetually as he had invested a lot of time and money in the pond. He is concerned about the runoff of gas and oil into the pond.

Ms. Morrison asked Mr. Harper if he had tried to contact the engineer representing the church since his meeting with him in May 17th. Mr. Harper answered no because he was waiting to hear back from him.

Mr. Skelton asked Mr. Harper if the church agreed to these issues in principal at the meeting on May 17<sup>th</sup>. Mr. Harper answered yes.

Mr. Wright asked Mr. Harper if his property was in Hoover. He answered no. It is located in unincorporated Shelby County.

Mr. Harper stated he also owns property on the church side of the road that is currently be used as a playground for their day care and he felt that permission for that use was still an unresolved issue.

At this time, Mr. Stuart Garrette, representing Riverchase United Methodist Church, addressed the Council regarding these issues. He stated he had researched the playground property since their meeting on May 17<sup>th</sup> and found that it was deeded to the church in 1996 and he planned to discuss this with Mr. Harper at a later date. He stated it was the their plan to come through Planning and Zoning and City Council for their conditional use approval and then at the engineering stage of the process they would get back with Mr. Harper with documents that would require his signature in order for the church to improve the dam owned by Mr. Harper before the church could do away with their detention pond. The plan was to wait until they had those documents in hand before approaching the City with their proposed engineering drawings. It was a step by step process and they just had not reached that step yet. Mr. Garrette stated they do not disagree with the plan. It was offered by the church's engineers to improve Mr. Harper's dam to the benefit of Mr. Harper as well as the church. The church is in agreement with items requested by Mr. Harper with the exception of water testing monthly on a perpetual basis. He stated that during construction and a period of one year after construction was reasonable, but not perpetually.

Mr. Ivey stated the church seems to have the intentions of working through issues that were discussed with Mr. Harper at their meeting in May. Mr. Garrette stated that was correct. He noted that at that time they had already applied for the conditional use. He stated the conditional use could proceed without disturbing Mr. Harper's property. He agreed the church should have been more responsible and provided more communication with Mr. Harper.

Ms. Morrison asked were they still planning to build a water treatment facility. Mr. Garrette stated they would develop a water quality detention treatment area on the church property if they do away with their pond. It is currently not required on the plan because the pond is shown on the plan. However, if they improve the dam and do away with their pond then they would put the water quality unit on their property.

Ms. Morrison asked Mr. Garrette to clarify that their Engineer, Mr. Watson, made the statement to Mr. Harper that his pond could not handle the run off. Mr. Garrette felt that was an interpretation of Mr. Watson's statement. He further stated that the church is required by the City to ensure there will be no more water after the project than there was before the project. The point Mr. Watson was making to the Harper's was that their dam can not handle the water they get now. Therefore, even if the church did not do the construction the dam can not handle the water. Once the church discovered that fact Mr. Watson suggested that the church improve the Harper's dam to aid the Harpers as well as the church.

Ms. Morrison asked Mr. Garrette if the pond currently shown on the church site plan could sufficiently handle the run off from the new construction. Mr. Garrette answered yes. He

emphasized that the current site plan is such that they would not have to interfere with the Harper's property.

Ms. Morrison asked Mr. Garrette if the church was in agreement with the five conditions read by Mr. House. Mr. Garrette answered yes.

Mr. Smith noted there was no legal written documentation regarding the promises the church has made to the Harpers. He asked Mr. House what would be the options for the Harpers if the Council approved this without any written documentation.

Mr. House stated Mr. Garrette and his engineer represented to the City just prior to the meeting tonight that they have designed their site with a detention pond on the church property where run off post construction will equal run off pre-construction. If they go across the street and work on the Harper's dam then they would not be required to have a detention pond on the church property because they could use the Harper's lake as a detention pond. Based on the comments from both sides he understands that this is an option not a requirement. The lake does not have to be improved in order to meet the City's requirements.

Mr. Ivey stated he understands that if the church builds the detention pond on the church property then the lake, whether or not it can handle the water, is no worse off.

Mr. House stated that is correct. The City's Subdivision Regulations require that the rate of flow can not be increased off site due to development. There must be a detention pond to hold the water and then discharge it at the same rate as was discharged before development.

Mr. Ivey stated it would be to the church's advantage technically to work out something to assist with the dam.

Mr. Garrette stated that is correct. The only reason the church would not do it is if something broke down in negotiations down the road. The church currently has a plan that will work as far as the approval of the conditional use and would like to work the issues out with the Harpers at the final engineering stage of the project.

Ms. Morrison stated the only option the Council has is to consider the conditional use site plan that has been through Planning Commission and is before the Council at this time, which includes a pond on the church property, and if the church decides later to do away with the pond they would have to come back through the process. She asked Mr. House if that was correct.

Mr. House stated that if they had an alternative detention plan off site and decided not to put the pond on the church site it would require the approval of the Engineering Department.

Mr. Smith asked would the church be required to go to the Board of Zoning Adjustment, Planning Commission, or the City Council if they decide not to build the pond on their property.

Mr. House stated the Council could build that flexibility into the approval of the conditional use.

Mr. Smith agreed with Ms. Morrison that the Council is voting on the plan before them at this time and not the possible alternative. He understands the Harpers are looking for a “circuit breaker”.

After a brief discussion, Mr. Ivey noted that the City Engineering Department is the circuit breaker. Mr. House agreed that either plan would require the approval of the Engineering Department.

Mr. Smith asked Mr. Harper how this sounded to him. He indicated that he was fine with it as long as his prepared statement was attached to the minutes.

Mr. Smith suggested that Mr. House provide the appropriate language regarding an approval subject to this issue.

Ms. Morrison stated the issue regarding the water testing period by the church needs to be worked out as well.

Mr. Smith stated he thought he saw Mr. Harper agree to a twelve month period after construction.

Mr. Ivey explained to Mr. Harper that the Council would be voting on the “either/or” on the storm water detention, not on Mr. Harper’s letter. The letter can be part of the record but not part of the motion.

Mr. Wright asked Mr. Harper how many times per year does Southeastern Pond Management look at his lake. Mr. Harper stated they have been out there twice. He does not have on going contract with them.

Mr. Skelton stated he was convinced that the church and Mr. Harper will be able to work something out. Mr. Harper’s letter can not be attached to the minutes as a requirement. The City does not want to create an undue hardship on anyone. He felt the Council could approve the conditional use as is tonight and the church can make a determination based on negotiation with the Harpers.

Mr. Ivey asked the Council if they were comfortable with Mr. House forming the language regarding the detention issue. There was no opposition.

Mr. House suggested that the wording contain the condition that the detention pond shown on the site plan does not need to be built if the City agrees that the church has worked out an agreement with the Harpers to replace that pond with detention in their lake.

Ms. Morrison made a motion to approve with the changes as suggested by Mr. House. (The total of six conditions as listed below)

1. Exterior, pole mounted, light fixtures shall be of the type shown on the attached pole light mounting detail and shall not exceed twenty five feet in height. Poles located in the proposed parking lot that abuts the undisturbed buffer along the north property line and the driveway that connects the parking lot to Carl Raines Lake Road shall not exceed 20 feet in height.
2. All exterior lights shall be designed to cast light down upon the premises and to minimize spillage of light onto adjacent property.

3. The multi-purpose field and the passive church yard shall not be illuminated nor used for league play.
4. The undisturbed buffer shall be delineated with temporary fencing prior to grading of the property. The City shall require that the undisturbed buffer be supplemented with plant material as stipulated in Article XIII of the Zoning Ordinance.
5. Upon grading of the property, that portion of the buffer located between the pond and north property line shall be supplemented with plant material in order to mitigate the effects of vehicular traffic at the intersection of the driveway and Carl Raines Lake Road. The entire buffer east of the driveway shall be installed along the north property line prior to issue of a building permit for any new building on the property.
6. The owner shall not be required to construct the on-site storm water detention pond if the storm water from the site is detained or retained off-site. On-site and off-site storm water detention or retention shall be approved by the City prior to installation.

This motion was seconded by Mr. Skelton. Mr. Ivey called for additional questions or comments. There being none, on voice vote the motion carried unanimously.

*(A copy of the six conditions along with the pole light mounting detail is attached to and made a part of these minutes)*

#### 10. 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 additional comments or questions.

Mr. Smith commended the Mayor and the City Staff for another well run **SEC Tournament**. He said it was his understanding that it was the best attended in the history of the tournament.

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

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Margie Handley  
City Clerk