

**REGULAR MEETING OF THE COUNCIL  
OF THE CITY OF BIRMINGHAM  
DECEMBER 29, 2009, at 9:30 A.M.**

---

The Council of the City of Birmingham met in the Council Chambers of the City Hall of Birmingham on December 29, 2009, at 9:30 a.m., in regular meeting.

The meeting was opened with prayer by Apostle Joseph Hamilton, Pastor of New Zion Bible Way Church

The Pledge of Allegiance was led by Councilmember James “Jay” Roberson.

Present on Roll Call:	President Pro Tempore	Hoyt
	Councilmembers	Abbott
		Austin
		Parker
		Rafferty
		Roberson
		Scales
		Smitherman

Absent:	None
---------	------

Interim Mayor Royal reminded the Council of the PapaJohn.com Bowl to be held Saturday, January 2, 2009 at 1:00 p.m. Interim Mayor Royal also announced some of the events for the game will be aired on ESPN.

Interim Mayor Royal encouraged all citizens to participate in the U.S. census.

Interim Mayor Royal recognized Police Captain Moody Duff who spoke on “Operation Crackdown” the City’s efforts to curtail celebratory shooting on New Years Eve. Beginning New Years Eve, the police will crackdown on shooting firearms and firecracker which are illegal in the City of Birmingham. Captain Moody stated anyone caught discharging a firearm or firecracker will be charged with wreck less endangerment and the discharging of a firearm.

Interim Mayor Royal spoke on a packet given to each Councilmember and made available to the citizens about the City’s Fiscal Year Budget, the Council’s goals for the Fiscal Year budget and possible options to be considered relative to the budget.



DEC 29 2009

	<u>Title of Appropriation</u>	<u>Amount</u> <u>Increase/Decrease</u>
<u>PEP129CP 03522</u>	Western Area Middle School	\$ (250,000.00)
	Glenn K-8 School	250,000.00
	Projects To Be Approved	(3,022,500.00)
	Ossie Ware Mitchell Middle School	300,000.00
	WJ Christian K-8 School	300,000.00
	Hudson K-8 School	500,000.00
	Green Acres Middle School	300,000.00
	Ramsay Middle School	500,000.00
	Oxmoor Valley School	872,500.00
	Parker High School	250,000.00
		<u>\$ -</u>

Recommendation by the Interim Mayor:

I recommend the above appropriation in the amount of \$5,772,500.00.

Respectfully,  
Roderick V. Royal /s/  
Roderick V. Royal  
Interim Mayor

Certification of the Deputy Director of Finance:

I hereby certify that there is available in the Capital Fund Budget of the City of Birmingham \$5,772,500.00 unencumbered and unappropriated, sufficient to meet the additional appropriation of \$5,772,500.00 provided for in the proposed ordinance.

Respectfully,  
Henry Young, III /s/  
Henry Young, III  
Deputy Director of Finance

The ordinance was read by the Deputy City Clerk and all interested parties who desired to be heard in relation thereto having been heard and considered, Councilmember Abbott moved its adoption which motion was seconded by Councilmember Smitherman. Whereupon Councilmember Scales made a substitute motion to defer the ordinance for two (2) weeks which motion was seconded by Councilmember Parker, and upon the roll being called, the vote was as follows:

Ayes: Hoyt, Parker, Scales,  
Nays: Abbott, Austin, Rafferty, Roberson, Smitherman

**DEC 29 2009**

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the substitute motion to defer the ordinance two (2) weeks NOT adopted.

The Presiding Officer called for the vote on the original motion to adopt the ordinance and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Royal, Scales, Smitherman  
Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the original motion to approve the ordinance adopted.

**The following resolution which was first introduced at the regular meeting on Tuesday, December 22, 2010, at 9:30 o'clock a.m., and which was deferred to the regular meeting on Tuesday, December 29, 2010, at 9:30 o'clock a.m., was called by the Presiding Officer:**

**RESOLUTION NO. 1880-09**

**BE IT RESOLVED** by the Council of the City of Birmingham that payment to Birmingham Jefferson County Animal Control, Birmingham, AL, in the amount of \$63,389.02 per month to extend the current animal control services contract from the period beginning January 1, 2010 through January 31, 2010.

Appropriated for in FY2009 – 2010 Budget  
G/L Account: 001\_400\_96100\_96101.550-002

The resolution was read by the Deputy City Clerk, whereupon Councilmember Smitherman moved its adoption which motion was seconded by Councilmember Austin, and upon the roll being called the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Scales, Smitherman  
Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the resolution adopted.

The following ordinance was introduced by Councilmember Abbott:

**ORDINANCE NO. 09-184**

**AN ORDINANCE TO AMEND “THE BUSINESS LICENSE CODE OF THE CITY OF BIRMINGHAM, ALABAMA”, AS ADOPTED BY ORDINANCE NO. 97-183, AS AMENDED,**

DEC 29 2009

**TO ADD AN ADDITIONAL NAICS SUB-SECTOR AND CORRESPONDING LICENSE SCHEDULE FOR “ALL OTHER OUTPATIENT CARE CENTERS” TO ARTICLE I “SCHEDULE OF BUSINESS LICENSES”, NAICS SECTOR 621 “AMBULATORY HEALTH CARE SERVICES”.**

**SECTION 1. BE IT ORDAINED** by the Council of the City of Birmingham that “The Business License Code of the City of Birmingham, Alabama”, as adopted by Ordinance No. 97-183, as amended, be and is hereby further amended to add the following North American Industry Classification System (NAICS) sub-sector and corresponding license schedule to Article I “Schedule of Business Licenses”, NAICS Sector 621 “Ambulatory Health Care Services”:

**NAICS / NAICS TITLE  
LICENSE SCHEDULE / LICENSE DESCRIPTION**

**NAICS 621                      NAICS TITLE - Ambulatory Health Care Services**

**“SCHEDULE 498 - ALL OTHER OUTPATIENT CARE CENTERS**

(a) Each person, firm or corporation with medical staff primarily engaged in providing general or specialized outpatient care (except family planning centers, outpatient mental health and substance abuse centers, HMO medical centers, kidney dialysis centers, and freestanding ambulatory surgical and emergency centers) and centers or clinics of health practitioners with different degrees from more than one industry practicing within the same establishment (i.e., Doctor of Medicine and Doctor of Dental Medicine) where gross receipts from services rendered within the City of Birmingham during the year next preceding are less than

\$5,000.....	\$60.00
\$5,000 and less than \$10,000.....	100.00
\$10,000 and less than \$15,000.....	150.00
\$15,000 and less than \$20,000.....	200.00
\$20,000 and less than \$25,000.....	250.00
\$25,000 and less than \$30,000.....	300.00

**Plus** an amount equal to **3/10 of 1%** of subject gross receipts in excess of \$30,000.”

**SECTION 2.** The provisions of this ordinance are severable. If any provision, section, paragraph, sentence, or thereof, or the part application thereof to any person, shall be declared unconstitutional or invalid by a court of competent jurisdiction, such declaration shall not affect or impair the remainder of the ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof, separately and independently of each other.

**SECTION 3.** This ordinance shall become effective and operative as such commencing on and after January 1, 2010 and on and after said date shall be binding in the City of Birmingham.

The resolution was read by the Deputy City Clerk, whereupon Councilmember Abbott made a motion that unanimous consent be granted to adopt said resolution, which motion was seconded by Councilmember Austin, and upon the roll being called, the vote was as follows:

DEC 29 2009

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Royal, Scales, Smitherman  
Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the motion to give unanimous consent for adoption of said resolution adopted.

Whereupon Councilmember Abbott made a motion that said resolution be adopted, which motion was seconded by Councilmember Austin, and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Royal, Scales, Smitherman  
Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared said resolution adopted.

The following ordinance was introduced by Councilmember Smitherman:

**ORDINANCE NO. 09-185**  
**AN ORDINANCE TO FURTHER AMEND**  
**THE GENERAL FUND BUDGET**

**BE IT ORDAINED** by the Council of the City of Birmingham that the budget for the General Fund Budget for the fiscal year ending June 30, 2010, be and the same is hereby amended as follows:

	<u>Title of Appropriation</u>	<u>Amount</u> <u>Increase/Decrease</u>
<u>Appropriation</u>		
<u>Fund 001 General Fund</u>		
<u>Revenue</u>		
	Fund Balance	\$ (1,238,000.00)
<hr/>		
<u>Appropriation</u>		
Information Management Services		
512-002	R&M Office (Computer) Equipment	\$ 100,000.00
529-003	Communications Airtime	248,000.00
600-015	Capital Outlay Capitalized Leases	890,000.00
		<hr/>
		\$ 1,238,000.00
		<hr/>

Recommendation by the Interim Mayor:

I recommend the above appropriation in the amount of \$1,238,000.00.

Respectfully,  
Roderick V. Royal /s/

DEC 29 2009

Roderick V. Royal  
Interim Mayor

---

Certification of the Deputy Director of Finance:

I hereby certify that there is available in the General Fund Budget of the City of Birmingham \$1,238,000.00 unencumbered and unappropriated, sufficient to meet the additional appropriation of \$1,238,000.00 provided for in the proposed ordinance.

Respectfully,  
Henry Young, III /s/  
Henry Young, III  
Deputy Director of Finance

The ordinance was read by the Deputy City Clerk and all interested parties who desired to be heard in relation thereto having been heard and considered, Councilmember Smitherman made a motion which motion was seconded by Councilmember Parker, that the ordinance be adopted as amended, and upon the roll being called the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Scales, Smitherman  
Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the ordinance adopted.

The following resolution was introduced by Councilmember Parker:

**Case No. SUB 2009-00057**  
**RESOLUTION NO. 1881-09**

**BE IT RESOLVED** By the Council of the City of Birmingham that the City Clerk be, and she is hereby, directed to cause to be published in a newspaper of general circulation beginning on or before Thursday, January 7<sup>th</sup>, 2010 for four consecutive weeks in the City of Birmingham, a notice in words and figures as follows:

**VACATION NOTICE**

Notice is hereby given that at a regular meeting of the Council of the City of Birmingham to be held in the Council Chamber in the City Hall of Birmingham on Tuesday, February 2<sup>nd</sup>, 2010, commencing at 9:30 a.m. said Council, will hold a public hearing upon a proposal that it, the said Council, adopt a resolution in words and figures substantially as follows:

**DEC 29 2009**

The resolution was read by the Deputy City Clerk, whereupon Councilmember Parker moved its adoption which motion was seconded by Councilmember Smitherman, and upon the roll being called the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Scales, Smitherman

Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the resolution adopted.

The following resolution was introduced by Councilmember Smitherman:

**RESOLUTION NO. 1882-09**

**BE IT RESOLVED** by the Council of the City of Birmingham that a resolution expressing sympathy to the family of Thomas W. Abbott, Jr. to be prepared by Councilmember Carole Smitherman and is hereby adopted by reference in a form to be approved by the President of the Council as if set out in full herein.

The resolution was read by the Deputy City Clerk, whereupon Councilmember Smitherman made a motion that unanimous consent be granted to adopt said resolution, which motion was seconded by Councilmember Parker, and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Scales, Smitherman

Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the motion to give unanimous consent for adoption of said resolution adopted.

Whereupon Councilmember Smitherman made a motion that said resolution be adopted, which motion was seconded by Councilmember Parker, and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Scales, Smitherman

Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared said resolution adopted.

The following resolution was introduced by Councilmember Smitherman:

**RESOLUTION NO. 1883-09**

**DEC 29 2009**

**BE IT RESOLVED** by the Council of the City of Birmingham that a resolution expressing sympathy to the family of Annie Lee Lewis to be prepared by Councilmember Hoyt and is hereby adopted by reference in a form to be approved by the President of the Council as if set out in full herein.

The resolution was read by the Deputy City Clerk, whereupon Councilmember Smitherman made a motion that unanimous consent be granted to adopt said resolution, which motion was seconded by Councilmember Abbott, and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Scales, Smitherman

Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the motion to give unanimous consent for adoption of said resolution adopted.

Whereupon Councilmember Hoyt made a motion that said resolution be adopted, which motion was seconded by Councilmember Abbott, and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Scales, Smitherman

Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared said resolution adopted.

The following resolution was introduced by Councilmember Smitherman:

**RESOLUTION NO. 1884-09**

**BE IT RESOLVED** by the Council of the City of Birmingham that a resolution expressing sympathy to the family of Floyd Lagoon to be prepared by Councilmember Hoyt and is hereby adopted by reference in a form to be approved by the President of the Council as if set out in full herein.

The resolution was read by the Deputy City Clerk, whereupon Councilmember Smitherman made a motion that unanimous consent be granted to adopt said resolution, which motion was seconded by Councilmember Abbott, and upon the roll being called, the vote was as follows:

Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Scales, Smitherman

Nays: None

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared the motion to give unanimous consent for adoption of said resolution adopted.



**DEC 29 2009**

I hereby certify that there is available in the Capital Fund Budget of the City of Birmingham \$85,107.00 unencumbered and unappropriated, sufficient to meet the additional appropriation of \$85,107.00 provided for in the proposed ordinance.

Respectfully,  
Henry Young, III /s/  
Henry Young, III  
Deputy Director of Finance

**RESOLUTION NO. 1885-09**

**BE IT RESOLVED** by the Council of the City of Birmingham that the agreement with Birmingham-Jefferson County Transit Authority, Birmingham, AL, in an amount not to exceed \$2,000.00, to provide a 9' x 5' Bus Shelter to be located at Wilson Road between 33<sup>rd</sup> and Rutledge Avenue for the West Goldwire Neighborhood in accordance with Section 3-1-7 of the General Code of the City of Birmingham, be and the same hereby is approved, and;

**BE IT FURTHER RESOLVED** that the Mayor is hereby authorized to execute the appointment letter on behalf of the City.

Appropriated for in FY209 - 2010 Budget  
GL Account: 031\_200\_12090\_12091\_15198.540-001

**RESOLUTION NO. 1886-09**

**BE IT RESOLVED** by the Council of the City of Birmingham that the agreement with Children's Village, Birmingham, AL, in an amount not to exceed \$5,000.00, to continue to provide a "safe haven" for girls and boys who have been abused, neglected, abandoned and homeless in accordance with Section 3-1-7 of the General Code of the City of Birmingham, be and the same hereby is approved, and;

**BE IT FURTHER RESOLVED** that the Mayor is hereby authorized to execute the agreement on behalf of the City.

Appropriated for in FY 2009-2010 Budget  
GL Account: 031\_200\_12090\_12091\_15198.540-001

**RESOLUTION NO. 1887-09**

**WHEREAS**, the Council is periodically called upon to support public events that are organized and coordinated by local organizations for the purpose of projecting a positive image and goodwill in the City; establishing rapport with the public and core constituents; gathering

**DEC 29 2009**

knowledge about community interests and issues; as well as showing appreciation to those participants who benefit from various projects and programs; and

**WHEREAS**, recently, the Council received an invitation from Councilor Maxine Herring Parker determining that the Legislative Delegation Meeting that is being held Tuesday, January 5, 2010, 8:00 a.m. until 9:00 a.m. at the Birmingham Museum of Art serves a public purpose; and

**WHEREAS**, the Council has reviewed and considered relevant factors concerning this event and has determined that it serves a public purpose; and

**WHEREAS**, the Council finds that participation and representation at this worthy event is in the best interest of its citizens; and

**BE IT RESOLVED** that the Council of the City of Birmingham finds that the above-mentioned and similar events are determined to be public purposes that promote goodwill and serve a public purpose. Therefore, we request that City of Birmingham funds be used to pay for this event.

**ADOPTED** this Twenty-Ninth day of December, Two Thousand and Nine.

**RESOLUTION NO. 1888-09**

**BE IT RESOLVED** by the Council of the City of Birmingham, Alabama, that the lump sum bid of One Hundred Forty-Seven Thousand Two Hundred Eighty-Two Dollars and NO/100 (**\$147,282.00**), submitted by **VOLUNTEER RESTORATION, INC.**, 1712 Sterchi Street, Knoxville, TN 37921 (NOT IN City), **for PARKING DECK #3 – EXISTING DECK CONCRETE REPAIRS**, 401 20<sup>TH</sup> Street North, Birmingham, AL 35203; received by the Department of Planning, Engineering and Permits October 20, 2009, 2009, be and the same is hereby accepted, this being the lowest bid submitted, meeting specifications. The project will be funded under **PEP127CP 3425 [approp. YR09]**. The contract to be awarded is let in compliance with Title 39, Code of Alabama, 1975, as amended, and all other applicable provisions of law.

**BE IT FURTHER RESOLVED** that the Mayor be, and he is hereby authorized to enter into a contract with Volunteer Restoration, Inc., in accordance with said bid, providing that the total contract not exceed the appropriation.

**RESOLUTION NO. 1889-09**

**BE IT RESOLVED** by the Council of the City of Birmingham that the bid for and the purchase of fire fighter hydraulic rescue tools at unit prices on file in the office of the Purchasing Agent for a period of one (1) year and month to month thereafter, from Rescue Resources, Inc., Hattiesburg, MS, for the Fire Department, be and the same hereby is accepted and approved, this being the lowest bid submitted meeting specifications.

DEC 29 2009

Appropriated for in FY 2009-2010 Budget  
GL Account: 001\_022\_99999.600-010

**RESOLUTION NO. 1890-09**

**BE IT RESOLVED** by the City Council of the City of Birmingham that payment to Terex Utilities, Birmingham, AL, in the amount of \$19,878.72 to perform a standard 5 year inspection of a 2001 Terex Model 6TC-65, serial #2001014890 for the Equipment Management Department, be and the same hereby is approved, this being the only source of supply.

**BE IT FURTHER RESOLVED** that the Mayor is hereby authorized to execute the agreement on behalf of the city.

Appropriated for in FY 2009 - 2010 Budget  
G/L Account: 001.151-004

**RESOLUTION NO. 1891-09**

**BE IT RESOLVED** by the Council of the City of Birmingham that the Director of Finance be and is hereby authorized to make the following refunds:

**SELLERS USE TAX**

ID# 193628	HYPERION SOLUTIONS CORP ATTN: DARLENE YOUNG 5450 GREAT AMERICA PKWY SANTA CLARA, CA 95054	\$14,293.47
------------	--	-------------

**OCCUPATIONAL TAX**

ID# 105894	LEGAL AID SOCIETY OF BIRMINGHAM ATTN: MARTHA J PATTON STE 300 310 RICHARD ARRINGTON BLVD BIRMINGHAM, AL 35203	\$2,946.26
------------	--	------------

***TOTAL*** **\$17,239.73**  
**RESOLUTION NO. 1892-09**

**BE IT RESOLVED** by the Council of the City of Birmingham that the employee estimated expense accounts of the following be and the same is hereby approved for payment:

Roderick Royal, Interim Mayor, Office of the Mayor, Scottsdale, AZ, \$581, January 6 – 10, 2009, to attend Public Funds Summit.

DEC 29 2009

**RESOLUTION NO. 1893-09**

**BE IT RESOLVED** by the Council of the City of Birmingham that the employee estimated expense accounts of the following be and the same is hereby approved for payment:

Ivor J. Brooks, Fire Chief, Fire Department, Palm Beach Gardens, FL, \$1,423.06, February 11 – 14, 2009, to attend Black Chief Officers Conference.

**RESOLUTION NO. 1894-09**

**BE IT RESOLVED** that the Council of the City of Birmingham hereby intends to provide financial support of the 2009 United States Tennis Association (USTA) Southern Sectional Events that will be held July 24 through August 1, 2010 in the 2010-2011 budget by appropriating an amount not to exceed \$17,500.00; and

**BE IT FURTHER RESOLVED** that said appropriation will assist the James Lewis Tennis Foundation, Incorporated in its effort to host the event as well as economically impact the City of Birmingham.

**ADOPTED** this Twenty-Ninth day of December, Two Thousand and Nine.

**RESOLUTION NO. 1895-09**

**WHEREAS**, the Council is periodically called upon to support public events that are organized and coordinated by local organizations for the purpose of projecting a positive image and goodwill in the City; establishing rapport with the public and core constituents; gathering knowledge about community interests and issues; as well as showing appreciation to those participants who benefit from various projects and programs; and

**WHEREAS**, recently, the Council received an invitation from the James Lewis Tennis Scholarship Foundation determining that the 2009 United States Tennis Association (USTA) Southern Sectional Event that is being held July 24 through August 1, 2010 at 13 tennis facilities throughout Birmingham serves a public purpose; and

**WHEREAS**, the Council has reviewed and considered relevant factors concerning this event and has determined that it serves a public purpose; and

**WHEREAS**, the Council finds that participation and representation at this worthy event is in the best interest of its citizens; and

**BE IT RESOLVED** that the Council of the City of Birmingham finds that the above-mentioned and similar events are determined to be public purposes that promote goodwill and serve a public purpose. Therefore, we request that City of Birmingham funds be used to pay for

DEC 29 2009

this event.

**ADOPTED** this Twenty-Ninth day of December, Two Thousand and Nine

The resolutions and ordinances introduced as consent agenda matters were read by the Deputy City Clerk, all public hearings having been announced, and unanimous consent having been previously granted, Councilmember Smitherman moved their adoption which motion was seconded by Councilmember Parker, and upon the roll being called, the vote was as follows:

**Ayes: Abbott, Austin, Hoyt, Parker, Rafferty, Roberson, Scales, Smitherman**

**Nays: None**

The vote was then announced by the Deputy City Clerk, whereupon the Presiding Officer declared said resolutions and ordinances adopted.

**ALL OTHER MATTERS WENT OVER.**

Upon motion by the Presiding Officer, the Council adjourned at 10:52 o'clock a.m.

**Approved: March 30, 2010.**

Steven Hoyt /s/  
**PRESIDENT PRO TEMPORE**

Steven Hoyt /s/  
**Printed Name**

Lee Frazier /s/  
**DEPUTY CITY CLERK**

Lee Frazier /s/  
**Printed Name**

**APPROVED AS TO FORM:**

Thomas Bentley III /s/  
**ACTING CHIEF ASSISTANT CITY ATTORNEY**

Thomas Bentley III /s/  
**Printed Name**