

MINUTES OF THE SELMA CITY COUNCIL
AUGUST 28, 2006
5:00 P.M.

Call to Order

Reverend Lee Goodwin gave the invocation.

Pledge of Allegiance

Roll Call

The Selma City Council met in a regular session in the Council Chambers of City Hall on Monday, August 28, 2006 at 5:00 p.m. with the following members present during roll call: Council President George Evans and Council members Cecil Williamson, Jean T. Martin, Geraldine Allen, Samuel Randolph, Johnnie M. Leashore, Bennie R. Crenshaw and Jannie M. Venter. Others present were Mayor James Perkins, Jr., City Clerk Lois Williams, Assistant City Clerk Ivy S. Harrison, City Attorney Jimmy Nunn, City Treasurer Cynthia Mitchell, and the Mayor's Executive Assistant Darlene Rudolph. Councilman Reid Cain arrived after roll call at 5:17 p.m.

APPROVAL OF AGENDA:

After review of the agenda items, the following amendments were made:

Additions: Executive Session

Deletions: None

A motion was then made by Councilwoman Martin and seconded by Councilwoman Venter to approve the agenda as amended. **The motion carried with a unanimous vote (show of hands) of the Council members present.**

APPROVAL OF MINUTES:

After approval of the agenda, President Evans asked for a motion to approve the minutes of August 14, 2006 regular meeting and August 17, 2006 reconvened meeting. A motion was made by Councilman Leashore and seconded by Councilwoman Crenshaw to approve the minutes with amendments. Following discussion, **the motion carried with a majority vote (show of hands) of the Council members present. There were seven ayes and one nay vote. Councilman Williamson cast a nay vote. President Evans stated he would like to acknowledge that he was absent during these meetings; however, he would cast a vote.**

President Evans stated an Executive Session is requested at this time to discuss a legal matter pertaining to the tower. President Evans stated the Attorney representing the City wants to address the Council early so that he can get back to work on another legal matter.

EXECUTIVE SESSION

Attorney Nunn requested a motion to recess into executive session for the purpose of discussing a legal matter for approximately twenty minutes. A motion was made by Councilman Leashore and seconded by Councilman Williamson, to recess this meeting into executive session to discuss a legal matter at 5:18 p.m. **The motion carried with a unanimous vote (show of hands) of the Council members present.**

Following executive session, a motion was made by Councilwoman Martin and seconded by Councilman Leashore to reconvene the meeting into regular session at 5:51 p.m. **The motion carried with a majority vote (show of hands) of the Council members present. Councilman Randolph was absent from the Chambers when the vote was taken. Councilman Randolph arrived in the Chamber shortly afterwards at 5:52 p.m.**

CITIZENS' REQUESTS

Mrs. Carolyn Bates

Re: Selma Disability Advocacy Program

Mr. Andy Arrington

Re: Drug Task Force

I. MAYOR'S REPORT

A. **Transition of Staff - Office of Mayor.** Mayor Perkins stated he would like to start by making the Council and citizens aware of the transition in staff in the Office of Mayor. He stated he would like to present to the Council this evening, the new Administrative Assistant Mrs. Darlene Rudolph. He further stated he is in the process of filling the position she was in as Secretary, but presently he has hired a temporary employee to occupy this position as we go through this process and he would like the Council to meet Ms. Florence Wilson.

B. **Certificate of Service Award.** Mayor Perkins stated there are some employees who have earned their Certificate of Service and he would like to present them at this time: Mr. Henry Hicks, Public Works, *Five Years of Service*; Mr. Darryl Moore, Code Enforcement, *Ten years of Service*; Detective Ray Moore, Police Department, *Ten Years of Service*; Mr. Lawrence Williams, Public Works, *Twenty Years of Service*. Mayor Perkins stated he would like to thank them for their years of dedicated service to the City of Selma.

C. **Resolution #R191-05/06 Alabama Power Foundation.** Mayor Perkins stated he would like to ask Ms. Krystal Dozier to come forward to present this resolution. Ms. Dozier stated the Council has a copy of a resolution which states the City of Selma desires to apply to Alabama Power Foundation, Inc. and the Alabama Urban Forestry Association for FY 2006-2007. She further stated the total cost of this project is \$4,890.00 and the maximum amount is \$2,000.00, with the City pledging \$140.00 cash and approximately \$2,750.00 in in-kind match, and she asked the Council favorable approval. A motion was made by Councilwoman Martin and seconded by Councilwoman Crenshaw to approve adoption of the said resolution. A roll call vote was taken and the motion passed with a unanimous vote of the Council.

D. **Use of Public Facilities.** Mayor Perkins stated he just wanted to make the Council aware of a situation and ask that they would please give some consideration to this matter; stating there is a standing rule in place that the Council can request the use of public facilities, and employees as well, for half the required rate. Mayor Perkins stated this has caused some disappointment in this area and has cost the City about \$7,000.00. Mayor Perkins stated it is at the Council discretion to do so, but we do monitor the performance of this department and we are not trying to make a profit; however, we are trying to do the best we can. Mayor Perkins stated the challenge right now is the number of these requests, they are beginning to escalate and he wants to ask the Council to give some serious thought to how and when they decide to honor a request to do a pro bono at one of the facilities because we have to do our due diligence on this issue and the staff is feeling a little pressure. Mayor Perkins asked if the Council would help to solve this issue.

E. **Resolution #R180-05/06 - Planning and Development Copier.** Mayor Perkins asked Ms. Charlotte Griffith, Director of Planning and Development, to come forward. Mayor Perkins stated the Office Venter to approve said resolution. After discussion, Mayor Perkins stated this item will be tabled.

F. **Accounts Payable/Vendor Aging Report.** Mayor Perkins stated per request the Council has a copy of the open invoice aging report dated 8/28/06. Mayor Perkins stated this report shows, as of today, the City owes within 1-30 days, \$167,737.80; 31-60 days, \$7,940.13; 61-90 days, \$1,372.71; and over 90 days, \$4,433.99. Mayor Perkins stated a copy of the details is also attached to this report. Mayor Perkins stated the Finance Department staff could provide justification to all that are in each status. Mayor Perkins stated there is implication that the City is delinquent on bills that are due and we are really interested in finding out who this is or what invoices are being said to be past due. Mayor Perkins stated that just because a person submits an invoice to the City does not obligate the City to pay, because what we have to do is confirm and validate that the service and/or goods have been delivered, and in many instances there might be disputes. Mayor Perkins stated there could be lots of different things that would cause an invoice not to be paid. Mayor Perkins stated a payable is not placed in the system until we are certain it is appropriate to pay. Councilman Cain stated he appreciates the report, it is dated for today's date, but it has the information that he requested two months ago. Councilman Cain stated he would like to thank the Mayor for providing this information; however, his first request was made in June and he hopes it doesn't take as long or is as difficult to receive such information in the future. Mayor Perkins stated he would like to clarify that the initial request that was made was for an aging report based on prior dates. Mayor Perkins stated, as stated before, the system does not maintain the data in that fashion, and in subsequent requests, the current aging reports were requested, but the issue has always existed about the aging reports for a prior date. President Evans stated the Mayor has given the report and he would like to thank him, and ask to move on at this time.

I. MAYOR'S REPORT

G. Good Samaritan Tenant Lease Agreements. Mayor Perkins stated per request he has also given the Council copies of the lease agreements with tenants at the Good Samaritan facility. Mayor Perkins asked the Council if they have questions to please give him a call.

H. Retiree Health Insurance Over Budget. Mayor Perkins stated since this is a technical issue, he would like to ask City Treasurer Ms. Cynthia Mitchell to come forward to address the Council on this issue. Ms. Mitchell addressed the Council stating the document given to the Council, on the first page, is a screen print of a liability account of what has been collected of the portion of the health insurance that retirees have to pay in the amount of \$66,533.50. Ms. Mitchell stated that for accounting purposes, these payments are collected in a separate account until the end of the year when the cost incurred is offset, and on the second page, we have expenses of \$132,801.10, but as stated \$66,533.50 has been collected, and we are not over the budget. Mayor Perkins further stated the question raised has to do with the last column (YTD Balance) on the second page of \$39,639.10, which represents, on its face, an overpayment of this account, but what happens is that this money is reimbursed by collecting from the retirees their portion of the insurance payments, and that goes into the liability account, on the first page. Councilman Williamson stated the Council was only given the second page, so it did look like we had spent almost forty thousand dollars and perhaps the Council should have known about the first page. Councilman Williamson asked if there is any other account like this one that the Council receives that would be offset by another account. Ms. Mitchell stated the Library has this issue as well.

I. Uncollected Garbage Fees/Uncollected Court Fines. Mayor Perkins asked if the Administrative Committee of the Council would meet with he and Ms. Mitchell to discuss these two issues of the uncollected garbage fees and court fines and then determine how they would like to handle reporting this information back to the Council. President Evans asked if the Administrative Committee would meet with the Mayor to discuss this matter.

J. Police Department Roof Repairs. Mayor Perkins stated the repairs at the Police Department are scheduled to start in about a week. Mayor Perkins stated the contractor has tooled up and are about ready to go to work. Mayor Perkins further stated that because of the public concerns expressed about "mold", an environmental assessment has been done, the professionals are preparing a report and he would have this information by the next Council meeting.

K. Insurance Claims Denied. Mayor Perkins stated the only thing he can do at this point is to explain to the Council what happened, but he cannot tell the Council why the insurance denied. Mayor Perkins stated when the City was first hit by the hurricane; the immediate first response was to deal with the emergency issues, to contact FEMA, and to start working on dealing with the cleanup, repair and recovery. Mayor Perkins stated in the process of doing this, FEMA was invited to do assessments of the damages because there were certain costs for recovery and repairs that were reimbursable by FEMA, after these assessments, we were then notified that the insurance company had to do their assessments before FEMA, which he had never heard of that, but that is what was said. City Clerk Lois Williams concurred. Mayor Perkins stated FEMA gave information based on their assessments of what they thought we were suppose to receive for the damages assessed. Mayor Perkins stated when the insurance came in and they took a different approach to the assessments and it has not been a positive experience, because their damage assessments were much lower than FEMA. Mayor Perkins further stated he does not want to stand and cite why they did what they did, when we received their assessments, at the point we then began to have trouble with the reimbursements, because FEMA then relied on what the insurance company reported. Mayor Perkins stated we lost control of this situation, which put us in a perpetual cycle of dispute with trying to recover money, which also delayed the process. Councilman Cain stated insurance companies do not denied claims without a written explanation and that is what he is asking for, a written explanation of the reasons those claims were denied. Mayor Perkins stated that information is available in the Office of the City Clerk. President Evans stated he would obtain a copy of this information from the Clerk and provide it to Councilman Cain.

L. Memo to President Evans. Mayor Perkins stated on August 21, 2006, as stated in the prior Council meeting, he submitted a memo to President Evans referencing the news editorials by Council members Reid Cain and Cecil Williamson on the St. Phillip Street project. Mayor Perkins stated in this memo he asks that he would honor his recommendation to remove Council members Cain and Williamson from the Public Safety Committee and also that he would not appoint the two of them to the same committee on a three member committee such that that committee would be made up of a majority of those two members. Mayor Perkins stated he asks

I. MAYOR'S REPORT

this without hesitation or reservation. Mayor Perkins stated he is convinced that Councilman Cain influences Councilman Williamson to do a lot of things that he does not feel otherwise he would do. Mayor Perkins stated there are a lot of instances when Councilman Williamson actually engages his office with civility, which they have done business, he asked questions and answers were provided. Mayor Perkins stated in some of the things that he sees happening, even the outburst tonight, there seems to be this tremendous hostility, and the Police Department has felt the sting. Mayor Perkins stated in this particular situation, he indicated to the officers and the citizens that he would make this request. Mayor Perkins stated he also discussed this matter with President Evans. Mayor Perkins stated he would make a public appeal to the President that he would honor his recommendation so that we really provide the Public Safety department with the kind of interaction from this Council that is positive and productive and he asks the Council favorable consideration. President Evans stated during his discussion with Mayor Perkins, he basically stated that he would not remove the Council members from the committee at this time. President Evans stated in the next 30-45 days, these committees would change anyway from the standpoint of new appointments, which runs from October to October, and he sees no reason to remove anyone from that committee based on the concerns the Mayor has and therefore he chose to say to the Mayor and the citizens that they will remain on the committee until new appointments take place. Councilman Leashore stated he hopes that we will not be going through the motions, in that, in the last term they were asked to give a listing of committees they would like to serve on and perhaps chair, and of course once this was done, the same appointments were put in place. Councilman Leashore further stated that as of October 1st, he hopes that President Evans would take a realistic view of these committees and make the necessary changes that are so very needed especially in the Public Safety committee. During discussion, President Evans stated he would ask the Council to give him some feedback on next month for the Council appointments and keep in mind that someone has to make a decision and this is a responsibility given to him by ordinance approved by a Council years ago. Mayor Perkins stated he wants the public to acknowledge that this conversation did take place, that we do not agree on this issue; however, he does respect the authority of the chair having the right to make that decision and it is accepted. Councilwoman Crenshaw and Councilman Cain made further comments, and President Evans stated we really need to move forward and continue to make progress to work together.

II. CITY ATTORNEY'S REPORT

A. Application - Alcoholic Beverage License - Pit Stop (1326 Voeglin). Attorney Nunn stated the Pit Stop application was brought before the Council at the last Council meeting, which resulted in a four to four vote. Attorney Nunn stated that he met with Mr. Newberry who asked what would it take to bring this matter before the Council again. Attorney Nunn stated he and President Evans called Mr. Roquemore at the League of Municipalities who left a message stating that since the vote was defeated by a four to four vote, the applicant would have to make application again before the Council. Attorney Nunn stated he would contact Mr. Newberry following this meeting. Councilman Leashore asked if they would have to go back through the entire process again. Attorney Nunn stated if nothing has changed with the facility we should be able to use the same inspections that have already been done, the sign has been posted, ad was ran in the newspaper and it would be up to the Council whether to proceed with the vote. Attorney Nunn stated it would have to be placed on first reading unless the Council waives it. Councilman Leashore stated he recommends that anything that can be dismissed in this process would be done hopefully to get the application before the Council again as soon as possible so that the entire Council can vote the application up or down. Councilwoman Crenshaw stated she feels it is important that the sign goes back up at the location. Councilman Leashore stated he does not agree that the sign should go back up at the location. President Evans stated he concurs with Councilwoman Crenshaw and asked Attorney Nunn to move forward with making sure the sign was replaced. Attorney Nunn stated the sign was never removed due to the fact that this issue would be addressed to the Council again. Attorney Nunn stated it will remain at this time and bring everything back to the Council hopefully during the next Council meeting.

B. Trailer & Mobile Homes. Attorney Nunn stated per request of Councilwoman Venter, Mr. Harris was contacted concerning two trailers/mobile homes, one of which is located on 5th Avenue. Attorney Nunn stated these are actually some sort of sheds and that Mr. Harris did talk to the owners and their attorney and it was agreed that they would remove the sheds or make them compliant with the codes. Attorney Nunn stated the second mobile home is located on Hall Street; however, Mr. Harris has been out sick, his first day back to work is today, but he stated he is aware of the mobile home and he would make this a priority to have this taken care of. Attorney Nunn stated an update would be given at the next Council meeting.

II. CITY ATTORNEY'S REPORT

C. Ordinance - O110-05/06 Amending Section 4-8 - Near Churches or Schools.

Attorney Nunn stated if the Council recalls we are dealing with a restaurant that is proposing to locate on Broad Street. Attorney Nunn stated that First Baptist Church has drafted a letter to the Council concerning the ordinance referenced in section 4-8 of the Selma City Code. Attorney Nunn stated he has spoken to the League of Municipalities along with President Evans concerning this ordinance and read the contents to the Council. Attorney Nunn stated the question is how would the distance be measured and after talking to the League and the ABC Board, there are no clear definitions of how to measure the distance as it relates to approval of the application, there are no court rulings or AG Opinions except certain situations that do not apply to this situation. Attorney Nunn stated the ordinance is a little vague because it does not state whether measurements should be taken from front door to front door, or back door to back door; however, if either entity wanted to file a lawsuit after the Council takes action to approve or deny, the courts would probably look at the drafters of the ordinance to see what the interpretation of the ordinance was intended. Attorney Nunn stated this would be the Council and at another angle in cases of ambiguous language, the courts may rule against the drafters due to the fact that the drafters should have put more clarity in the ordinance. Attorney Nunn stated one recommendation is to amend the ordinance and then let the applicant reapply, or move forward as is and approve or deny on the basis of the current ordinance. Attorney Nunn stated his recommendation would be to seek revision of the ordinance. Following discussion, President Evans stated he would like to move the discussion of the issue to the work session. President Evans further stated that he feels the Council has been consistent and all denials have been done with rationale or reason.

D. Ordinance - O0109-05/06 The Power to Appoint The Chief of Police. Attorney Nunn stated per request of Councilman Williamson ordinance #O109-05/06 has been drafted establishing the power to appoint the chief of police. Attorney Nunn stated the Mayor currently has the appointment powers and this ordinance would give the appointment powers back to the Council. Attorney Nunn read section one, two, three and four of the ordinance. A motion was made by Councilman Leashore and seconded by Councilman Randolph to reject the said ordinance; however, President Evans stated this motion is out of order at this time. A motion was then made by Councilwoman Crenshaw and seconded by Councilman Leashore to suspend the rules to vote on this ordinance at tonight's meeting. A roll call vote was taken and the motion failed due to a nay vote cast. Councilman Williamson cast the nay vote. During discussion, President Evans stated this item would be tabled and moved to the work session on next Thursday. Mayor Perkins stated he appreciates the opportunity to speak on this issue and being consistent in regards to his support of Chief Jimmy Martin. Mayor Perkins stated he does not understand when one considers that two years ago, there were thirteen murders, a year ago, there were nine murders, and this year, there was one murder, why one would want to get rid of a Chief that is performing at that level. Mayor Perkins stated the District Judge reported in the Crime Task Force meeting that the juvenile crimes are down 25%, and again he does not understand why anyone would want to get rid of a Chief who is performing at this level. Mayor Perkins stated he expresses his support for Chief and the Selma Police Department and their performance, and to appeal to Councilman Williamson that he would not try to prolong this for the purpose of creating an embarrassment for Chief Martin and asked if he would honor his request to withdraw his recommendation.

E. Request for Executive Session. Attorney Nunn stated he wants to make a request for an executive session and he wants to record that there is another lawsuit filed against the City of Selma by the Old Towne Association and Carolyn C. Majors vs. Elwood Community Church, First Tuskegee Bank, Wallace Community College and the City of Selma. Attorney Nunn stated this suit was filed on August 21, 2006; it has been forwarded to the insurance company and he requests executive session to discuss further details.

F. Meadowcraft (Old All-Lock Facility) Lease Agreement. Attorney Nunn stated that it has been brought to the attention of his office that Meadowcraft wishes not to renew the lease agreement due to changes in their shipping and distribution of inventory. Attorney Nunn stated this agreement ends at the end of August.

G. Livestock in the City. Attorney Nunn stated he is still working on this issue.

H. Motion for Execution Session. Attorney Nunn stated he would like to request an executive session to discuss pending litigation against the City of Selma, for approximately 40 minutes. A motion was made by Councilman Leashore and seconded by Councilwoman Allen to move into executive session following one business item to be discussed by the Council to discuss a pending legal matter, and discuss standing committee reports after the meeting is reconvened from executive session. The motion carried with a unanimous vote (show of hands) of the Council.

BUSINESS ITEMS:

III. COUNCIL BUDGET

President Evans stated he has given the Council another item to review for the budget, not to act on. He stated he also shared this item with Ms. Williams, only from the standpoint of moving from cassette tapes to DVD recording of the Council meetings. President Evans stated this should not cost over \$800.00 to make this transition. President Evans stated between now and the next Council meeting the Council can get together and get with Ms. Williams to find out how this can be installed and he feels this would be meaningful because this machine would record on two DVD's and it would be easy to burn copies of DVD's oppose to cassette tapes. President Evans asked the Council to review this information to discuss in the work session. President Evans stated he would also like the Council to consider the purchase of one set of the Alabama Code books for the Council office, at a cost of \$295.00.

EXECUTIVE SESSION

A motion was made by Councilwoman Crenshaw and seconded by Councilwoman Martin to recess this meeting into executive session to discuss pending litigation at 7:41 p.m. for a period of approximately 40 minutes. The motion carried with a unanimous vote (show of hands) of the Council.

Following executive session, a motion was made by Councilman Leashore and seconded by Councilwoman Crenshaw to reconvene the meeting into regular session at 8:16 p.m. The motion carried with a unanimous vote (show of hands) of the Council.

STANDING COMMITTEE REPORTS

RECREATION COMMITTEE - COUNCILMAN SAMUEL RANDOLPH, CHAIRPERSON

Councilman Randolph stated there will be a Recreation Committee meeting next Tuesday at 5p.m.

ADMINISTRATIVE COMMITTEE - COUNCILWOMAN DR. GERALDINE ALLEN, CHAIRPERSON

Councilwoman Allen stated she would contact the Mayor's Office for a time and date to meet with the Administrative Committee in accordance with what has been requested.

PUBLIC SAFETY COMMITTEE - COUNCILMAN REID CAIN, CHAIRPERSON

There is no report for the Public Safety Committee.

COMMUNITY DEVELOPMENT COMMITTEE - COUNCILWOMAN JEAN MARTIN, CHAIRPERSON

Councilwoman Martin stated she would like to remind everyone that tomorrow is an election day and polls are open from 7 a.m. to 7 p.m. to renew the school tax for county and city.

PUBLIC WORKS COMMITTEE - COUNCILMAN LEASHORE, CHAIRPERSON

There is no report for the Public Works Committee; however, Councilman Leashore stated he would like to continue to thank the hardworking men and women of Public Works, and General Services.

DISCRETIONARY FUNDS COMMITTEE - COUNCILWOMAN CRENSHAW, CHAIRPERSON

Councilwoman Crenshaw stated \$550.00 has been collected from the Council discretionary for Mrs. Bates and the Disability Advocacy Program.

ADJOURNMENT

There being no further business to come before the Council, a motion was made by Councilman Leashore, and seconded by Councilwoman Crenshaw to adjourn, and by unanimous consent of the Council, this meeting adjourned at 8:22 p.m.



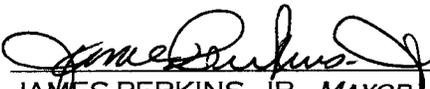
GEORGE F. EVANS, *COUNCIL PRESIDENT*

ATTEST:



LOIS WILLIAMS, *CITY CLERK*

APPROVED:



JAMES PERKINS, JR., *MAYOR*