

**MINUTES OF THE
SELMA CITY COUNCIL
JUNE 14, 2011
5:00 P.M.**

Call to Order

Invocation: Reverend Dr. Kenny Hatcher, Pastor
Northside Baptist Church

Pledge of Allegiance

The Selma City Council met in a regular session in the Council Chambers of City Hall on Tuesday, June 14, 2011 at 5:00 p.m.

MOMENT OF SILENCE IN MEMORY OF THE LATE MS. KATHRYN TUCKER WINDHAM

ROLL CALL

The following members were present during roll call: Council President Pro Tempore Corey Bowie and Council President Dr. Cecil Williamson; Council Members: Councilman Thomas Atchison, Councilwoman Susan Keith, Councilwoman Angela Benjamin, Councilman Samuel Randolph, Councilman Benny L. Tucker, and Councilwoman Bennie R. Crenshaw. Others present were City Clerk Ivy S. Harrison, City Attorney Jimmy Nunn, City Treasurer Cynthia Mitchell, and the Mayor's Executive Assistant, Ms. Brenda Smothers. Mayor George Evans was absent from the Council Meeting.

APPROVAL OF AGENDA

President Pro Tempore Bowie asked for the approval of the agenda items. A motion was made by Councilwoman Keith, and seconded by Councilman Tucker, to approve the agenda items, as written. **A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present.**

APPROVAL OF MINUTES

After approval of the agenda, President Pro Tempore Bowie asked for the approval of the minutes of May 10, 2011 regular meeting minutes. A motion was made by Councilman Tucker, and seconded by Councilwoman Keith, to approve the minutes of May 10, 2011. **A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present.** President Pro Tempore Bowie then asked for the approval of the minutes of May 31, 2011 regular meeting minutes. A motion was made by Councilman Tucker, and seconded by Councilman Atchison, to approve the minutes of May 31, 2011 regular meeting minutes. **A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present.**

CITIZENS' REQUEST

Mr. Mark Brookins
Re: Bike Trail (J. L. Chestnut, Jr. Boulevard, Broad Street, Water Avenue, and Others)

Ms. Tracey Craig
Re: Safe Route to Schools

During Ms. Craig's presentation, Attorney Nunn addressed the Council as it relates to the sale of alcoholic beverages within 200 feet of a Church, or within 300 feet of a school, and stated that if a municipality passes an ordinance prohibiting the sale of alcoholic beverages within a set distance from a church, school, etc., the ordinance cannot be used to prohibit the issuance of new licenses while allowing existing licensed premises to continue to renew their licenses annually (i.e., grandfathering does not apply to distance ordinances). Attorney Nunn further stated the distance cannot be increased up to 500 feet, and leave the existing businesses within the 300 - 500 feet there, and that if we increase it "up" then grandfathering does not apply; that we already have it up to 300 feet. Attorney Nunn stated that this is the State Law, and that they should have attached within their information, a copy of a "leading" case on this, the case of *City of Graysville, etc., et al. v. Dorothy M. Swann, d/b/a Graysville Package Store*. During discussion, Ms. Craig, along with Reverend Chestnut, and Mr. Robert Williams, Jr. stated that they will be going back to do re-assessments again, and more measurements, and then bring back a Proposal to the Council, with the assurance that there are no existing businesses within that 500 feet.

Ms. Aretha Rascoe

Re: Request for Street Light at 1407 Green Street

Ms. Rascoe was not present during the Council Meeting, but the Council acknowledged the request being made on behalf of her for a street light at her residence of 1407 Green Street. Councilman Tucker, along with Councilman Randolph, addressed the Council with regard to the street light. President Pro Tempore Bowie asked Councilman Tucker to meet with Mayor Evans, and possibly Alabama Power Company, to ascertain what can be done to resolve this matter, and Councilman Tucker concurred.

MAYOR'S REPORT

(In the absence of Mayor Evans, the Mayor's Report was presented by the Mayor's Executive Assistant Ms. Brenda Smothers.)

Ms. Smothers addressed the Council, and stated that Mayor Evans is unable to be here this evening for the Council Meeting, and that she would be presenting the Mayor's Report.

PRESENTATION OF PROCLAMATION

PROCLAMATION. Ms. Smothers stated to Council that she would like to present and acknowledge the following Proclamation, and that each of them should also have a copy within their packets:

Proclamation - "Juneteenth" - June 18, 2011. Ms. Smothers asked President Pro Tempore Bowie to come down, so that he could present a Proclamation, on behalf of Mayor Evans and the Selma City Council, honoring "Juneteenth", June 18, 2011. Ms. Smothers stated that Mrs. Malika Fortier is here to accept the Proclamation, and asked that she come forward to be a part of the Presentation. President Pro Tempore Bowie read said Proclamation in its entirety, and asked the Council and Citizens of Selma to join him in recognizing and honoring June 18, 2011 to be "Juneteenth" in the City of Selma. Mayor Evans and the Selma City Council proclaim June 18, 2011 to be "Juneteenth" in the City of Selma, Alabama, and called upon all Citizens, to become more aware of the significance of this celebration in the history and heritage of our Nation and City; reflecting on the unimaginable struggles of those who lived under slavery, and to commemorate the sacrifices of those who fought to end it. President Pro Tempore Bowie asked the Council and all Citizens to join in this "Tribute", which was received with a "Round of Applause" to acknowledge this Honor!

A. Monthly Financial Report - May, 2011. Ms. Smothers stated to Council that they should have within their information a copy of the Monthly Financial Report for the Month of May, 2011, which was delivered to them on today. Ms. Smothers further stated if they have questions, they can direct them to Ms. Cynthia Mitchell, our Finance Director. Councilman Atchison stated he would like to say, that we have an increase of approximately \$10,000.00 for the City of Selma's Lodging Tax for the Month of May, 2011, and he thinks that is great work, and that it is something that should be commended. President Pro Tempore Bowie and the Council concurred.

B. Police Department Report - May, 2011. Ms. Smothers stated to Council that they should each have before them a copy of the Police Report, and that they were also given the Noise Statistics. Ms. Smothers stated that Chief Riley is here to answer any questions. Chief Riley addressed the Council with answers to questions that they had, with regard to assistance that the Council could provide help with, in combating crime, and the increase in incidents.

C. Code Enforcement Report - May, 2011. Ms. Smothers stated to Council that they should each have before them a copy of the Code Enforcement Report, and that Mr. Darryl Moore is here to answer any questions they may have.

D. Resolution #R215-10/11 - Appointments to the Selma-Downtown Re-Development Authority. Ms. Smothers stated to Council that this is an update to the Resolution that was presented to the Council during the last Council Meeting; Resolution #R215-10/11 - Appointments to the Selma-Downtown Re-Development Authority. Ms. Smothers further stated two (2) names of individuals were inadvertently left off of those Appointments, Mr. John C. Calame and Mr. Gregory B. Cahoun. Ms. Smothers asked Council's approval of the same. A motion was made by Councilwoman Keith, and seconded by Councilwoman Benjamin, to approve Resolution #R215-10/11, Appointments to the Selma-Downtown Re-Development Authority. A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present. Following roll call, Councilwoman Crenshaw stated, for the record, when you say Downtown Re-Development, she is thinking about actually those people who really have invested a lot in Downtown. Councilwoman Crenshaw further stated that she knows a lot of the people who are on that List who do good work, but they do not even have a Business Downtown; they are not really involved in Downtown. Councilwoman Crenshaw stated once these names have been added, she is going to go with that, but that they really need to take a look at who has a vested interest in Downtown on that List, and they did not really do that. Councilwoman Crenshaw further stated that she thinks in the future they need to really take a look at it, and consider the fact that they really need to look at those people because she got a lot of calls after the List was done on the fact that they are Business People but they are not included in that. Councilwoman Crenshaw stated that she just wanted to make this Statement, because she really thinks it needs to be addressed.

E. Reminder, and Announcements. Ms. Smothers stated she would like to announce, and remind Citizens and the Council of the following:

- (1) "Juneteenth" Celebration - June 18, 2011 - Taylor-Z-ville - 2:00 p.m. - 6:00 p.m.
- (2) Fourth of July Celebration - Theme: "America - Past, Present and Future"!

CITY ATTORNEY'S REPORT

A. Resolution #R214-10/11 - Tippett Drive Drainage Improvements. Attorney Nunn stated to Council that they should have before them Resolution #R214-10/11, Tippett Drive Drainage Improvements. Attorney Nunn further stated to Council that they should also have a draft Proposal outlining the bids that were taken via Hogg Engineering Corporation, which includes removal and replacement of an existing storm drainage inlet located between 1913 and 1915 Tippett Drive. Attorney Nunn stated to Council that they have two (2) bid Proposals before them; namely, Smitherman Brothers Construction Company in the amount of \$5,200.00, and Tri-County Construction Company in the amount of \$5,850.00. Attorney Nunn stated that, per Mr. Ray Hogg, D & Construction Company was contacted, but they did not submit a bid. Attorney Nunn stated to Council that the lowest bid that they have before them is from Smitherman Brothers Construction Company, in the amount of \$5,200.00, which is being recommended by our Professional Engineering Service, Hogg Engineering Corporation, for the Tippett Drive Drainage Improvements' Project, in the form of Resolution #R214-10/11. Attorney Nunn further stated that said Resolution #R214-10/11 represents the recommendation of Smitherman Brothers Construction Company who had the lowest bid proposal amount of \$5,200.00, along with the Professional Engineering Services' Fee to Hogg Engineering Corporation, in the amount of \$1,650.00. Attorney Nunn stated Resolution #R214-10/11 is up for Council's consideration of the same. During discussion, a motion was made by Councilwoman Keith, and seconded by Councilman Randolph, to approve Resolution #R214-10/11, in the amount of \$5,200.00 to Smitherman Brothers Construction Company to proceed with the Tippett Drive Drainage Improvements, retaining Hogg Engineering Corporation for Professional Engineering Services, related to the Project in the amount of \$1,650.00. **A roll call vote was taken and the motion passed with a majority vote of the Council Members present. There were seven affirmative votes and one nay vote. Councilwoman Crenshaw cast a nay vote.**

B. Ordinance #O109-10/11 - Selma High School Conveyance to Selma City Board of Education. Attorney Nunn stated to Council that they should have before them Ordinance #O109-10/11, Selma High School Conveyance to Selma City Board of Education. Attorney Nunn further stated during the last Council Meeting, the Council did approve to make the transfer from the City of Selma to the Selma City Board of Education; the property where Selma High School is located. Attorney Nunn stated in the Conveyance we do have to do it via an Ordinance to make a transfer of land from the City, to reflect the Council's approval. Attorney Nunn further stated in doing the Ordinance he did place some restrictive covenants in there, stating that the property that is being transferred will be restricted to the benefit of the public for educational purposes, and for construction of a new high school, that if property at any time is not used for the purpose outlined, then it will automatically revert back to the City of Selma. *A motion was made by Councilwoman Crenshaw, and seconded by Councilwoman Benjamin, to proceed with Ordinance #O109-10/11, Selma High School Conveyance to Selma City Board of Education.* Attorney Nunn stated that he would ask that if the Council is going to take action on Ordinance #O109-10/11, to suspend the rules, and proceed on taking action tonight. A motion was then made by Councilwoman Crenshaw, and seconded by Councilwoman Benjamin, to suspend the rules in order to take action on Ordinance #O109-10/11, Selma High School Conveyance to Selma City Board of Education, at tonight's Council Meeting. **The motion carried with a unanimous (show of hands) vote of the Council Members present.** A motion was then made by Councilman Atchison, and seconded by Councilwoman Benjamin, to approve Ordinance #O109-10/11, Selma High School Conveyance to Selma City Board of Education. **A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present. Following Roll Call, it was the Consensus of the Council to take the following action:** *For clarification, and for a matter of record, the motion made earlier by Councilwoman Crenshaw, and seconded by Councilwoman Benjamin, to proceed with Ordinance #O109-10/11, Selma High School Conveyance to Selma City Board of Education, is still on the "Floor" for action, but is now being Eliminated.*

C. Charter Communications Document - Request. Attorney Nunn stated to Council, if they Recall, during the last Council Meeting it was requested by President Williamson to bring a copy of the Charter Communications' Agreement. Attorney Nunn stated to Council that what they have before this is a copy of the Agreement between Local Government Services, LLC, and the City of Selma, Alabama, that was adopted by the Council. **A roll call vote was taken and the motion passed with a majority vote of the Council Members present. There were seven affirmative votes and one nay vote. President Williamson cast a nay vote.**

D. Charter Communications Agreement. Attorney Nunn stated to Council that this is the same Agreement that was presented to the Council during our last Council Meeting. Attorney Nunn further stated that we discussed this Agreement in detail with Mr. Greg Fender, our Consultant, who was available for any questions that the Council may have had. Attorney Nunn stated during the last Council Meeting, it was "Tabled" until this Council Meeting, and it is up for discussion and consideration. A motion was made by Councilwoman Keith, and seconded by Councilman Tucker, to approve the Charter Communications Agreement. A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present.

E. ABC License Application for Dollar General Store (701 Roosevelt Avenue), Dollar General Store (2004 E. Dallas Avenue), and Dollar General Store (1360 E. Highland Avenue). Attorney Nunn stated to Council that they should have before them an Alcoholic Beverage License as it relates to the Dollar General Store, for three (3) locations at: 702 Roosevelt Avenue, 2004 E Dallas Avenue, and 1360 E. Highland Avenue. Attorney Nunn further stated that said Alcoholic Beverage License Applications are up for 1st Reading tonight, and asked Council's consideration of the same. A motion was made by Councilman Atchison, and seconded by Councilman Tucker, to place the ABC License Applications for Dollar General Store, at all three (3) locations on 1st Reading. A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present.

F. ABC License Application for New Orleans Bar & Grill - 8 Mulberry Avenue (Formerly Diegos). Attorney Nunn stated to Council that they should have before them an Alcoholic Beverage License as it relates to the New Orleans Bar and Grill, which is located at 8 Mulberry Avenue. Attorney Nunn further stated that said Alcoholic Beverage License Application is up for 1st Reading tonight, and asked Council's consideration of the same. A motion was made by Councilman Atchison, and seconded by Councilman Tucker, to place said ABC License Application for New Orleans Bar & Grill, located at 8 Mulberry Avenue, on 1st Reading. A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present.

G. ABC License Application for a Father's Day Weekend Bash (Special Event) - 4100 U. S. Highway 80, West (Taylor-Z-Ville). Attorney Nunn stated to Council that they should have before them an Alcoholic Beverage License as it relates to a Father's Day Weekend Bash, for a Special Events, Retail License, to be located at 4100 U. S. Highway 80, West. Attorney Nunn further stated that this Special Event License is considered a "140 Special Events Retail License" which is from 1 - 7 days. Attorney Nunn stated that Mr. Khari Varner, the Applicant, is here tonight in the event the Council has any questions, and that he is requesting for a 2-day event, which is scheduled to begin on Friday, June 17th. Attorney Nunn stated if the Council is going to take any action on said Alcoholic Beverage License Application, the action needs to be taken tonight in an effort to send this back to the ABC Board. Attorney Nunn further stated that the request was made by Council President Pro Tempore Bowie for Mr. Varner to obtain a Security Plan, and he has done the same. Councilwoman Benjamin stated that she had obtained a copy from Mr. Varner, and placed a copy in each Council Member's Chair, prior to this Council Meeting. A motion was made by Councilwoman Keith, and seconded by Councilwoman Crenshaw, to suspend the rules, and consider said ABC License Application for a Father's Day Weekend Bash (Special Event), at tonight's Council Meeting. A roll call vote was taken and the motion passed with a majority vote of the Council Members present. There were seven affirmative votes and one abstention. President Williamson abstained from voting.

H. ABC License Application for Woodstock Festival Stages (Special Retail). Attorney Nunn stated to Council that they should have before them an Alcoholic Beverage License as it relates to an application for Woodstock Festival Stages, for a Special Events, Retail License, "160" which is for more than 30 days. Attorney Nunn further stated that the Applicant is Vision Cultural and Heritage Foundation, to be located at 1737 County Road 155, which is in the Police Jurisdiction within the City of Selma. Attorney Nunn stated that he will try to make a trip out there, and will get the mileage, in an effort to get some directions to report back to the Council, so that they will have an opportunity to come back during the next Council Meeting to consider said Application. During discussion, a motion was made by Councilman Randolph, and seconded by Councilman Tucker, to place the ABC License Application for Woodstock Festival Stages (Special Retail - 160), on 1st Reading. A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present.

I. Resolution #R212-10/11 - Weed Abatement (Phase 1). Attorney Nunn stated to Council that they should have before them Resolution #R212-10/11, Weed Abatement (Phase 1), which consists of Twenty-Nine (29) pieces of property that have been identified to have dangerous weeds, as listed herein, via the Code Enforcement Office. Attorney Nunn further stated Resolution #R212-10/11 authorizes the City Clerk, Mrs. Ivy S. Harrison, to forward Certified Letters to the Property Owners, as it relates to weeds that have been declared a public nuisance via the Code Enforcement Officer, advising them of the same. Attorney Nunn further stated that the Letters request the Property Owners to abate the weeds that have declared a nuisance, and if they shall not do the same, then the City of Selma will abate the weeds, and place a Lien on said property. Attorney Nunn asked Council's approval of the same. During discussion, a motion was made by Councilwoman Benjamin, and seconded by Councilman Tucker, to approve Resolution #R212-10/11,

Weed Abatement (Phase 1). A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present.

J. Resolution #R213-10/11 - Weed Abatement (Phase II) - Public Hearing. Attorney Nunn stated to Council that they should have before them Resolution #R213-10/11, Weed Abatement (Phase II) - Public Hearing, as it relates to Authority to Abate and Remove Weeds Declared as a Public Nuisance, and this is considered the Public Hearing. Attorney Nunn further stated since no one appeared and no objections have been filed within the City Clerk's Office at least Five (5) days before this Public Hearing, Resolution #R213-10/11 gives the Code Enforcement Officer authorization to direct the Public Works Department, or a reputable private contractor providing the lowest responsible quote to abate and remove the weeds and/or overgrown grass from the properties listed herein in Resolution #R213-10/11. Attorney Nunn asked Council's consideration of the same. During discussion, a motion was made by Councilman Atchison, and seconded by Councilman Tucker, to approve Resolution #R213-10/11, Weed Abatement (Phase II). A roll call vote was taken and the motion passed with a unanimous vote of the Council Members present.

K. Alabama Supreme Court Decision on Appointment Powers. Attorney Nunn stated to Council that under State Law, Section 11-43-81, of the Alabama Code (1975), it gives the Mayor the authority to be the Chief Executive Officer of the City of Selma, and under that authority, he has the power to appoint all Officers whose appointments are not otherwise provided for by Law, which could mean by Ordinance, or State Law. Attorney Nunn further stated at this point and time, the appointment powers are at the Mayor's discretion. Attorney Nunn stated to Council, if they recall, back in October of 2004, we gave the Mayor authority to appoint all Department Heads except the City Clerk, the City Treasurer, and the Two (2) Municipal Judges, which is State Law. Attorney Nunn further stated that the Attorney General has always interpreted it the same way, also, unless provided by Law. Attorney Nunn stated that that can be an Ordinance, and they have always relied on the Court of Civil Appeals to get their rulings; in this case, the City of Brighton. Attorney Nunn further stated to Council that what they have before them is a Supreme Court of Alabama Decision that was issued on May 27, 2011, where the Mayor of Fairfield challenged the City Council on this matter. Attorney Nunn further stated that the Supreme Court Decision rendered despite the Court of Civil Appeals' conclusion in Brighton and the aforementioned Attorney General Opinions to the effect that a City Council can enact an Ordinance reserving for itself the appointing authority for a municipality, that they hold the phrase "not otherwise provided for by law" in Section 11-43-81 does not allow for a municipality to maintain or retain the appointment powers via an Ordinance. Attorney Nunn stated he just wanted to inform the Council that this is a new ruling that has come out, just a few days ago, but that we are already in compliance, because our Ordinance states now that the Mayor has the Appointment Powers. Attorney Nunn stated that this is a new State Law that affects the Council as a "Body", and he is just advising them of the new State Law that has come out.

L. Election - Update. Attorney Nunn stated to Council, again the Special Run-Off Election is scheduled for Tuesday, July 5th, and we are receiving Absentee Applications as we "speak". Attorney Nunn further stated that the last day to request an Absentee Application to vote is Thursday, June 30th, Five (5) days prior to the Election.

BUSINESS ITEMS:

I. NOISE ORDINANCE

President Pro Tempore Bowie stated this Item was covered during the Mayor's Report.

II. JUNETEENTH RECOGNITION

President Pro Tempore Bowie stated this Item was covered during the Mayor's Report.

III. 3RD ANNUAL CITY OF SELMA YOUTH CONFERENCE - JULY 27 - 30, 2011

Councilwoman Benjamin stated that the deadline for the Pre-Conference, where we take the young people to Columbiana to the 4-H Center for "Team Building" Skills and Workshops is actually on tomorrow, June 15th, or at the 40-Person (free Conference), and the General Conference deadline is June 29th (Downtown Selma Walking Conference). Councilwoman Benjamin further stated that she has already given the Task List to the Mayor, and he is going to go over it with those people who can help concerning "Getting Equipment to the Community Day". Registration Forms are ready, and are due by June 15th.

IV. COMMUNITY DEVELOPMENT UPDATE FROM MAYOR EVANS ON WARD 4

Ms. Smothers presented Councilwoman Benjamin with a Report, for which she stated she would follow-up with the Mayor, if she has any questions.

STANDING COMMITTEE REPORTS

RECREATION COMMITTEE - Councilman Benny Tucker, Chairman

Councilman Tucker made a report.

ADMINISTRATIVE COMMITTEE - Councilwoman Angela Benjamin, Chairman

No Report.

PUBLIC SAFETY COMMITTEE - Councilman Corey Bowie, Chairman

No Report.

COMMUNITY DEVELOPMENT - Councilwoman Susan Keith, Chairman

Councilwoman Keith made a report.

PUBLIC WORKS/GENERAL SERVICES COMMITTEE - Councilman Samuel Randolph, Chairperson

No Report.

DISCRETIONARY COMMITTEE - President Cecil Williamson, Chairperson

President Pro Tempore Bowie stated that we have one (1) discretionary fund request, "Jessica Lolley Annual Humanitarian Scholarship" to report on at tonight's Council Meeting, in the amount of \$250.00.

CHILDREN AND FAMILIES - Councilwoman Angela Benjamin, Chairperson

Councilman Benjamin made a report.

SELMA-DALLAS YOUTH AMBASSADORS - Councilwoman Bennie Ruth Crenshaw, Chairperson

Councilman Crenshaw made a report.

**INTRODUCTION OF THE SUMMER YOUTH WHO ARE
WORKING WITHIN THE CITY COUNCIL'S OFFICE:**

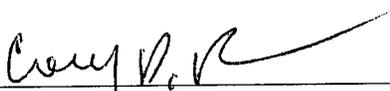
**MS. DANIELLE SMITH
MR. JEREMY REESE
MS. TYSHERICA MILHOUSE**

CLOSING REMARKS BY EACH COUNCIL MEMBER.

During discussion, Councilwoman Keith asked Councilman Atchison to schedule a time that will be convenient for the Council to meet before the next Council Meeting, to discuss the Old Y.M.C.A. Building.

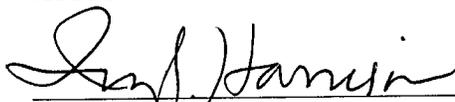
ADJOURNMENT

There being no further business to come before the Council, a motion was made by Councilwoman Keith, and seconded by Councilwoman Benjamin, to adjourn, and by unanimous consent of the Council, this meeting adjourned at 6:45 p.m.



COREY BOWIE, Council President Pro Tempore

ATTEST:



IVY S. HARRISON, City Clerk

APPROVED:



GEORGE PATRICK EVANS, Mayor