

**MINUTES OF THE SELMA CITY COUNCIL MEETING
HELD ON MONDAY, MAY 14, 2001**

The Selma City Council met in a regular session in the Council Chambers of City Hall on Monday, May 14, 2001 at 5:00 p.m with the following members present: President George P. Evans and Council members Glenn Sexton, Rita S. Franklin, Jean T. Martin, Samuel Randolph, Benny L. Tucker, Bennie Ruth Crenshaw, and James Durry. Councilwoman Nancy G. Sewell was absent due to the illness of her husband. Others present were Mayor James Perkins, Jr., City Attorney Jimmy Nunn, City Clerk Jackie Smith, and the Mayor's Administrative Assistant Sherri James. The Reverend Polk Van Zandt gave the invocation.

After roll call, President Evans declared a quorum present and the meeting was opened for the transaction of business as set forth on the agenda. President Evans asked if there were any additions or corrections to the agenda prepared for this meeting. Councilwoman Franklin asked that the agenda be amended to delete the report on NLC. There being no other corrections to the agenda, on motion made by Councilwoman Franklin and seconded by Councilman Tucker the agenda was approved with the stated amendment.

President Evans asked if there were any additions or corrections to the minutes of the regular Council meeting held on Monday, April 23, 2001. Councilwoman Franklin asked that Section II. Mayor's Report Item E, Sirote & Permutt, Attorneys at Law be amended to include the request of a detailed, itemized statement of the charges for which payment was approved. There being no other additions or corrections to the minutes, on motion made by Councilman Sexton and seconded by Councilwoman Franklin, the minutes were approved as recorded.

I. MAYOR'S REPORT

A. Sales Tax Report. Mayor Perkins presented the eighth month sales tax report, which indicated a total of \$922,755.08 was collected for the month of May 2001 as compared to \$933,815.74 collected during the month of May 2000. This decrease represents \$11,060.00 or 1.18% for the month. The annual comparison shows a decrease of \$71,055.70 or 4.24%. The sales tax report also shows a substantial increase in rental tax collections for the month of May. Rental tax, for the month of May 2001 was \$30,065 as compared to normal rental tax collections of approximately \$16,000 per month.

B. Summer Youth Employment Program. Mayor Perkins stated he has identified funds in the amount of \$30,281 from Mayor and Council discretionary funds to hire thirty-three kids for the summer youth employment program. The total budget for fifty jobs is \$45,550 and an additional \$15,000 is needed to totally fund the program. The Mayor stated agencies through which the City has contracted for services are willing to accept students to aid in the placement process. Mayor Perkins further stated that most of the slots would be filled through an application process with need being a factor.

C. Vacant Lot Maintenance. Mayor Perkins stated that owners of vacant lots throughout the city were mailed notices explaining certain lots within the city are overgrown and in violation of city ordinances and are targeted to be cut by the General Services Department if the owners do not cut them. All owners were given a fifteen-day notice to respond. The Mayor stated that the fifteen-day period has expired and the General Services Department has begun to cut the lots. Mayor Perkins asked the Council to inform him of any lots, not included on the list, so that the owners can be notified of the violations. Councilman Durry asked Mayor Perkins to check to see if the Weed and Seed target area, Ward 8, could be granted special permission or the process expedited to cut the lots.

I. MAYOR'S REPORT

D. Appointment of Assistant Fire Chief. Mayor Perkins stated, after study and review with Attorney Nunn, the law clearly states the Mayor has the authority to appoint the Assistant Fire Chief. Mayor Perkins stated he and Ms. Valeria Jones, Personnel Director have worked together on the appointment and a selection has been made based on experience, knowledge of the job and an interview. After interviewing the top four candidates, as submitted by the Personnel Department, Mayor Perkins stated he was pleased to appoint Captain Mark Walker as the Assistant Fire Chief at an annual salary of \$33,000. Councilwoman Crenshaw motioned to accept the appointment of Mark Walker as Assistant Fire Chief at an annual salary of \$33,000. Mayor Perkins stated a budget amendment was not necessary because the salary of retired Assistant Chief Barlow is already a budgeted item.

A brief discussion followed whereby Council members Franklin and Durrly stated they felt the Council has the authority to appoint the Assistant Fire Chief. Mayor Perkins informed the Council that the State of Alabama Code of Ordinances gives the Mayor the authority to appointment department heads and assistants, unless otherwise provided for by local ordinance. The Mayor stated he will instruct City Attorney Nunn to prepare an ordinance for the Selma City Council to comply with State code on the appointment of department heads. Councilman Tucker reminded City Attorney Nunn of an ordinance he was asked to prepare giving the Selma City Council authority to appoint the Assistant Fire Chief. Attorney Nunn stated he would prepare both ordinances for presentation at the next Council meeting.

E. East Selma Pond Project. Mayor Perkins deferred the presentation of this project to Councilman Durrly. Councilman Durrly stated he was pleased with the proposal on the East Selma Pond Project and motioned for Council to accept the project and proceed immediately. Councilwoman Martin asked Councilman Durrly to amend his motion to approve contracting with Hogg Engineering Corporation in the amount of \$28,205 for engineering services in connection with the East Selma Pond Project. Funds for engineering services will be paid from grant funds. Councilman Tucker seconded the motion and on roll call vote the Council voted unanimously to approve the contract with Hogg Engineering Services.

II. CITY ATTORNEY'S REPORT

A. Hiwatha Ford vs City of Selma. Attorney Nunn informed the Council that the judge has signed an order to dismiss the case of Hiwatha Ford vs City of Selma. Attorney fees to defend the City of Selma in this case will be forthcoming.

B. Attorney Fees for Personnel Board. Attorney Nunn presented an invoice from Attorney J. Garrison Thompson in the amount of \$1,687.50, which represents the legal fees charged to provide legal advice to the Personnel Board during the hearing of employees Michael Palmer and Robert Green. Attorney Nunn stated he presented the facts in each of the cases, therefore he could not provide the Board with legal advice. A motion was made by Councilman Sexton and seconded by Councilman Tucker to approve payment of the attorney fees as submitted. On roll call vote the motion passed with a unanimous vote of the Council.

C. Attorney Fees for Pitts & Pitts and John W. Kelly, III. Attorney Nunn stated it is his recommendation to deny the attorney fees submitted by Attorneys Henry Pitts and John Kelly for representing Assistant Chief Robert Green during his appeal before the Personnel Board. Attorney Nunn presented a letter written to Attorney General Bill Pryor requesting an Advisory Opinion as to the laws requiring the City of Selma to pay the attorney fees of an employee when the employee, at his own will, hires an attorney to represent him during a personnel disciplinary hearing. Attorney Nunn also presented a resolution authorizing and empowering the City Attorney to request an advisory opinion from the Attorney General's Office on behalf of the City Council.

II. CITY ATTORNEY'S REPORT

C. Attorney Fees for Pitts & Pitts and John W. Kelly, III.

A motion was made by Councilman Tucker and seconded by Councilwoman Franklin authorizing payment of the invoice for legal fees in the amount of \$3,134.69. On roll call vote the motion died for the lack of a majority vote. There were three affirmative votes and five negative votes. Council members Sexton, Franklin and Tucker voted in favor of the motion. Council members Durry, Evans, Randolph, Martin and Crenshaw voted against the motion. A motion was made by Councilwoman Crenshaw to adopt the resolution as presented by Attorney Nunn. Councilman Randolph seconded the motion. The motion to adopt the resolution passed with a majority vote of the Council. There were five affirmative votes and three negative votes. Council members Durry, Evans, Randolph, Martin and Crenshaw voted in favor of the motion. Council members Sexton, Franklin and Tucker voted against the motion.

D. Posters and Signs in Council Chambers. Attorney Nunn presented Council with a memo of his conversation with Attorney Ken Smith of the Alabama League of Municipalities. Attorney Smith stated that a Council meeting is not considered a public forum where the public can express their views and the public has no right to be disruptive. Attorney Smith suggested an individual be assigned to monitor the hallway outside the Council Chambers as the public express their views so that their actions will not be disruptive. A motion was made by Councilman Sexton and seconded by Councilman Durry to accept the report of the City Attorney and to make the same a policy to become a part of the order of business for Council meetings. The motion passed with a unanimous vote of the Council.

E. Contract for Repairs to Fire Station No. 5. Attorney Nunn presented a contract on behalf of Fancher Brothers Roofing Company to complete repairs to the roof at Fire Station Number 5 in the amount of \$3,250.00. A motion was made by Councilwoman Martin and seconded by Councilwoman Crenshaw to approve the contract with Fancher Brothers Roofing for repairs to the fire station. On roll call vote the motion passed with a majority vote of the Council. Councilman Sexton had left the Council Chambers, however when he returned he indicated he would have voted in favor of the motion if he was present for the roll call.

F. Contract for Repairs to Magistrate's Office. Attorney Nunn stated after carefully researching the Council minutes he could not find where the Council voted to approve a contract for repairs to the Magistrate's Office. Attorney Nunn presented a contract on behalf of Larry Lewis Construction to complete renovations to the Magistrate's Office in the amount of \$2,200.00. A motion was made by Councilwoman Franklin and seconded by Councilwoman Martin to approve the contract with Larry Lewis Construction for renovations to the Magistrate's Office. On roll call vote the motion passed with a unanimous vote of the Council.

G. Claim of Sandra Stevenson – Claim Number C 00-003. Attorney Nunn presented a claim on behalf of Sandra Stevenson who stated her automobile was damaged when it struck a pothole on Marie Foster Blvd on December 27, 2000. Ms. Stevenson is claiming damages in the amount of \$40.00. Upon conferring with Public Works Director Tommy Smith, Attorney Nunn was informed that the pothole in the street was made when Alagasco repaired a gas leak and the City was in no way involved. After receiving several call of complaint, Mr. Smith indicated the Public Works Department filled the hole with asphalt to prevent further complaints. Mr. Smith recommended the claim be forwarded to Alagasco. Attorney Nunn stated he is in agreement with Mr. Smith and recommends the claim be denied and forwarded to Alagasco. Councilwoman Crenshaw asked Attorney Nunn to also include the cost of the City repairing the street. A motion was made by Councilwoman Franklin and seconded by Councilman Sexton to deny the claim of Sandra Stevenson and forward it to Alagasco. The Council voted unanimously on the motion.

II. CITY ATTORNEY'S REPORT

H. Claim of Terry T. King – Claim Number C 00-004. Attorney Nunn presented a claim on behalf of Terry T. King who stated her automobile was damaged when it struck a pothole on Water Avenue and Wilson Street on September 11, 2000. Mr. King is claiming damages in the amount of \$859.75. Upon conferring with Public Works Director Tommy Smith, Attorney Nunn was informed that Public Works Department has no knowledge or reports as it relates to the pothole at the stated location. Attorney Nunn stated it is his recommendation that this claim be denied because the City had no notice of a pothole at the location; therefore the City is not liable. A motion was made by Councilwoman Franklin and seconded by Councilwoman Martin to deny the claim of Terry T. King. The Council voted unanimously on the motion.

I. Claim of DeWayne and Angela Thomas – Claim Number C 00-005. Attorney Nunn presented a claim on behalf of DeWayne and Angela Thomas who stated while traveling on Eighth Avenue on July 15, 2000 their vehicle was damaged when a large tree limb fell onto their vehicle. Mr. Tommy Smith has investigated this matter, along with talking to Mrs. Thomas who was not able to provide any additional information because her husband was driving the vehicle. Mr. Smith also stated the City had no knowledge or record of a tree limb falling on Eighth Avenue. Attorney Nunn stated it is his recommendation that this claim be denied because the City did not have any knowledge of the dangerous condition of the tree. A motion was made by Councilwoman Franklin and seconded by Councilwoman Martin to deny the claim of DeWayne and Angela Thomas. The Council voted unanimously on the motion.

J. Claim of Connie Parr – Claim Number C 00-007. Attorney Nunn presented a claim on behalf of Connie Parr who stated while traveling on Selma Avenue her vehicle came in contact with a piece of concrete in the street causing damage in the amount of \$93.00 to a tire and rim. Mr. Tommy Smith investigated this matter and reported that a crew did remove a piece of broken curb from the street. Mr. Smith also stated the City of Selma had no prior knowledge or reports as it relates to a damaged curb in this location. Attorney Nunn stated it is his recommendation that this claim be denied because the City had no prior knowledge. A motion was made by Councilwoman Franklin and seconded by Councilman Durry to deny the claim of Connie Parr. The Council voted unanimously on the motion.

K. Claim of Joseph Chapman, III – Claim Number C 00-008. Attorney Nunn presented a claim on behalf of Joseph Chapman, III who stated his automobile ran into a pothole on Marie Foster Blvd. at the intersection of Third Avenue. Mr. Tommy Smith investigated this matter and reported construction work was in progress by a private contractor. Mr. Smith further reported that the work was coordinated through the office of Ray Hogg Engineering Firm and Gardner Plumbing, private contractor. Attorney Nunn stated it is his recommendation that this claim be denied because the City of Selma is not liable and the claim should be filed with Hogg Engineering and Gardner Plumbing. A motion was made by Councilwoman Franklin and seconded by Councilwoman Martin to deny the claim of Joseph Chapman, III and forward it to the responsible parties. The Council voted unanimously on the motion.

L. Claim of Terry Carmichael – Claim Number C 00-010. Attorney Nunn presented a claim on behalf of Terry Carmichael who stated his automobile ran into a pothole on Water Avenue in the vicinity of Steve's Service Center. Mr. Tommy Smith investigated this matter and reported the City had no knowledge or any report of this pothole and there is no evidence of a pothole being in that location. Attorney Nunn stated it is his recommendation that this claim be denied because the City had no prior knowledge. A motion was made by Councilwoman Franklin and seconded by Councilman Sexton to deny the claim of Connie Parr. The Council voted unanimously on the motion.

II. CITY ATTORNEY'S REPORT

M. Claim of Senovia B. Wilson – Claim Number C 01-001. Attorney Nunn presented a claim on behalf of Senovia B. Wilson who stated her automobile was damaged when it struck a pothole on Marie Foster Blvd on January 11, 2001. Ms. Wilson is claiming damages in the amount of \$370.00. Upon conferring with Public Works Director Tommy Smith, Attorney Nunn was informed that the pothole in the street was made when Alagasco repaired a gas leak and the City was in no way involved. After receiving several call of complaint, Mr. Smith indicated the Public Works Department filled the hole with asphalt to prevent further complaints. Mr. Smith recommended the claim be forwarded to Alagasco. Attorney Nunn stated he is in agreement with Mr. Smith and recommends the claim be denied and forwarded to Alagasco. A motion was made by Councilman Durry and seconded by Councilwoman Franklin to deny the claim of Senovia Wilson and forward it to Alagasco. The Council voted unanimously on the motion.

N. Claim of Alex King. Attorney Nunn stated Mr. Alex King filed a claim against the City for damages caused from water flooding his home on Vine Street during the heavy rain periods this winter. Attorney Nunn stated reports from Mr. Tommy Smith stated the house is located in a low area and prone to flooding. Councilman Tucker stated work is currently being done in the area to prevent this from occurring again. Councilman Tucker further stated he would like to transfer \$1,000 from his discretionary fund account to the general fund claims account to pay Mr. King for the damage to his property. A motion was made by Councilman Durry and seconded by Councilman Sexton to transfer the funds to satisfy the claim of Mr. Alex King. The Council voted unanimously on the motion.

O. Claim of Jesse R. Williams – Claim Number 01-007. Attorney Nunn presented a claim on behalf of Jesse R. Williams who states he was falsely arrested and put in jail on April 17, 2001. Attorney Nunn stated this case is set for a hearing in municipal court on July 17, 2001 and recommended the Council take no action. A motion was made by Councilman Sexton and seconded by Councilwoman Franklin to deny the claim of Jesse R. Williams. The Council voted unanimously on the motion.

III. HISTORICAL PROTECTION ORDINANCE

Councilwoman Franklin presented an ordinance for Attorney Nunn and the Council members to review. The ordinance pertains to the City's responsibility to preserve the history of our city. Councilwoman Franklin asked Attorney Nunn to pay special attention to item number six where it refers to a Class C misdemeanor. Councilwoman Franklin motioned to place the ordinance on first reading.

IV. ALABAMA LEAGUE 2002 CONFERENCE HOTEL RESERVATIONS

Councilwoman Franklin suggested the City Clerk reserve a block of twelve rooms at the Adams Mark Hotel in Mobile, Alabama for the 2002 Alabama League of Municipalities Conference. Councilwoman Franklin stated rooms are reserved well in advance and if Selma officials does not make reservations at this time rooms would not be available at a later date.

V. STANDING COMMITTEE REPORTS

RECREATIONN COMMITTEE REPORT

There was no report from the Recreation Committee.

ADMINISTRATIVE COMMITTEE REPORT

The Administrative Committee report was informational only.

V. STANDING COMMITTEE REPORTS

PUBLIC SAFETY COMMITTEE REPORT

A. Transfer of 1967 Fire Truck. Councilwoman Franklin stated Chief Allen has asked that the 1967 American LaFrance Aerial Platform Fire Truck be taken out of service and declared surplus property that is no longer needed by the City of Selma. A motion was made by Councilwoman Franklin and seconded by Councilman Durry to declare the 1967 fire truck surplus property and donate the fire truck to the Fire Museum of the Old Depot Museum. On roll call vote the motion passed with a majority vote of the Council. There were eight affirmative votes and one abstention. Councilwoman Martin abstained on the vote.

COMMUNITY DEVELOPMENT COMMITTEE REPORT

A. Petition Against Installing Cell Telephone Tower. Councilwoman Martin presented a petition on behalf of residents in the Green Street area who are petitioning against the installation of a cellular telephone tower on Franklin Street. The residents fear interference with radio and telephone reception if the tower is allowed to be installed. Attorney Nunn and Mayor Perkins were asked to investigate this matter and report back to the City Council at the next meeting. Councilwoman Franklin made a motion to place a temporary two-week moratorium on the placement of towers in the city limits until Attorney Nunn can investigate this matter and make a recommendation to the Council. Councilwoman Martin seconded the motion and it carried with a unanimous vote of the Council.

B. Contribution of Funds for Student to Australia. Councilwoman Martin informed the Council that an Attorney General opinion has been located that permits the City to contribute funds for a student to travel to Australia to play basketball, if for a public purpose. President Evans asked Mayor Perkins and Attorney Nunn to review this matter and make a recommendation at the next Council meeting.

PUBLIC WORKS/GENERAL SERVICES COMMITTEE REPORT

A. Selma WaterWorks Invoices. Councilman Sexton asked when the City of Selma was going to pay the invoices from the Selma WaterWorks totaling approximately \$27,000 for work performed at the All Lock facility. Mayor Perkins stated he has been unable to locate any type of written agreement and the cost sharing of the past is different from the costs submitted for these invoices. Mayor Perkins stated he has requested Finance Director and City Clerk research certain information relative to the cost sharing for the All Lock facility but they have not had the opportunity to provide him with that information. President Evans asked that this matter be delayed until the next Council meeting.

VI. MR. BILLY ATCHISON – ALABAMA POWER COMPANY

Mr. Billy Atchison stated he was present before the Council to introduce himself as the new manager for the Selma office of Alabama Power Company. The Council thanked Mr. Atchison for attending the meeting and stated they look forward to a continued cooperative working relationship with Alabama Power Company.

VII. MR. CARL C. MORGAN, JR. – COUNCIL LIASION

Mr. Carl C. Morgan, Jr. stated he was present before the Council to present his monthly liaison report. Mr. Morgan stated he has attended monthly and/or bi-monthly meetings of six agencies representative of Selma and Dallas County. Mr. Morgan reported the group working on the incinerator project feels strongly the incinerator application will be approved. Mr. Morgan's other report was informational only.

VIII. MR. CLYDE RICHARDSON – TORNADO LOUNGE

Mr. Clyde Richardson stated he was present to address the Council about what he feels is a conspiracy by the Selma Police Department to disrupt his business at the Tornado Lounge he owns and operates on Alabama Avenue. Mr. Richardson stated he operates a legalized and civilized business and the constant show of police force and harassment of his patrons has been damaging to his operation. President Evans turned this matter over to the Public Safety Committee for review and a future report to the Council on Mr. Richardson's complaints. Councilwoman Franklin scheduled a Public Safety Committee meeting on Thursday, May 24, 2001 at 4:00 p.m. to address Mr. Richardson's concerns.

IX. MRS. YVONNE HATCHER – SPECIAL YEARS, INC.

Mrs. Yvonne Hatcher stated she was present to introduce the opening of a new elderly care facility, Special Years, Inc., located 900 Mabry Street. Mrs. Hatcher stated this facility has a well-qualified staff that provides a safe, socialization area for senior citizens. Council members were invited to tour the facility at any time.

X. MR. JERRY YEAGER

Mr. Jerry Yeager stated he was present to seek Council approval for the placement of a practice gymnasium at the Morgan Academy facility. Mr. Yeager informed the Council that professional engineers and architects designed this practice facility. Councilwoman Franklin stated the precedence is the City of Selma waives building permits for schools. A motion was made by Councilwoman Franklin to grant Morgan Academy permission to place the practice facility on its campus and for the City of Selma to waive any building permit fees that would be charged to the school. Councilman Sexton seconded the motion and the motion passed with a majority vote of the Council. Council members Durry and Randolph were absent from the Council Chambers.

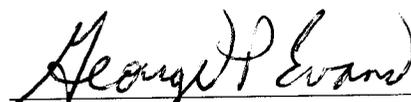
XI. MS. AMY FABRICIUS

Ms. Amy Fabricius stated she was present before the Council to request Council assistance for nine children to attend a summer camp in the Vermont. Ms. Fabricius stated it cost \$950, which includes food, housing, and transportation, per child to attend the camp. Fund raising efforts have been ongoing and the group remains in need of approximately \$2,800.00. President Evans encouraged Council members to make donations to this worthwhile cause.

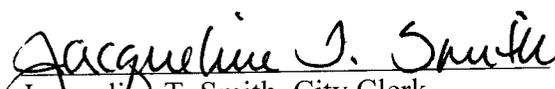
XII. MR. CLARENCE WILLIAMS

Mr. Clarence Williams stated he was present to address matters as a concerned citizen. Mr. Williams spoke briefly about grass cutting, loose dogs, potholes, water leaks and a junkyard on Jeff Davis Avenue. Mayor Perkins responded to the City's stand on each of Mr. Williams concerns.

President Evans stated the next meeting of the Selma City Council would be held on Tuesday, May 29, 2001 at 5 o'clock in the evening due to the Memorial Day holiday. There being no further business to come before the Council, on motion made and duly seconded, the Council voted by a unanimous consent to adjourn at 7:30 p.m.


George P. Evans, President

ATTEST:


Jacqueline T. Smith, City Clerk

APPROVED:


James Perkins, Jr., Mayor