

MINUTES OF THE SPECIAL CALLED SELMA CITY COUNCIL MEETING HELD ON THURSDAY, SEPTEMBER 27, 2001

The Selma City Council met in a special called session in the Council Chambers of City Hall on Thursday, September 27, 2001 at 4:00 p.m. with the following members present: President George P. Evans and Council members Glenn Sexton, Rita S. Franklin, Jean T. Martin, Nancy G. Sewell, Benny L. Tucker, Bennie Ruth Crenshaw, and James Durry. Councilman Randolph was absent from the meeting. Others present were Mayor Perkins, City Attorney Jimmy Nunn, City Clerk Jackie Smith, and the Mayor's Administrative Assistant Sherri James. The Reverend Dr. Stuart Thomas Wilson 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 special call. President Evans stated the purpose of the special called meeting was for Council to be provided certain documents relative to the Selma WaterWorks and Sewer Board bond issue. One document is a Certificate of No-Litigation and Incumbency Certificate that requires the signature of the City Clerk and the other document a resolution for Council adoption, ratifying and confirming a water franchise and a sewer franchise granted to the Waterworks and Sewer Board of the City of Selma.

I. WATER BOARD BOND CLARIFICATION AND VERIFICATION APPROVAL

President Evans stated Water Board Chairman Billy Hicks had presented several documents to the Council at the September 24th Council meeting and asked that the documents be made a part of the official minutes. At that same meeting, President Evans stated Attorney Nunn was authorized to research, for clarification, the liability and responsibility of certain Water Board issues relating to the franchise agreement.

President Evans stated on Wednesday, September 26th Chairman Hicks presented him with a copy of a Certificate of No-Litigation and Incumbency Certificate that requires the signature of the City Clerk. Mr. Hicks stated that Attorney Nunn had previously recommended the City Clerk not sign the certificate until further review because there are some litigation issues involving the Water Board. Additionally, the bond attorney has prepared a resolution for the Council to ratify and confirm a water franchise and a sewer franchise granted to the Waterworks and Sewer Board of the City of Selma.

Attorney Nunn stated the resolution states no litigation is pending and there is no threatened litigation and he cannot advise the Council to adopt a resolution with such language when there is clearly two cases of pending litigation; the Samuel Randolph case and the William Hicks, et. al versus the City of Selma. Attorney Nunn further explained the adoption of such a resolution would limit the City from challenging the Water Board on franchise issues.

Councilwoman Sewell stated the Council needs time to review and discuss the certificate and resolution at the next work session. President Evans stated today's meeting was only to provide the information to the Council, however, action would need to be taken, one way or the other, by October 4th or the Water Board could potentially face considerable expenses.

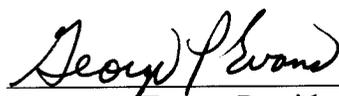
Water Board Attorney Gary Thompson briefly addressed the Council to provide details of the bond issue and to explain the No-Litigation Certificate. Attorney Thompson stated the Water Board bond issue is a \$4.5 million dollar issue with interest rates of 3-3.5% and approximately \$3 million for new improvements. Attorney Thompson explained that the No-Litigation Certificate acknowledges that there is no litigation or threatened litigation relative to the incorporation consent, the election of board members, the water and sewer franchise granted by ordinance on June 22, 1987 or the present members and terms of office. Attorney Thompson stated, to his knowledge, there is no litigation or threatened litigation in these regards.

I. WATER BOARD BOND CLARIFICATION AND VERIFICATION APPROVAL

A citizen in the audience approached Attorney Nunn and informed him that he was going to cause a lawsuit to be prepared challenging the City's water and sewer franchise. Councilwoman Sewell asked that this matter be tabled for further discussion.

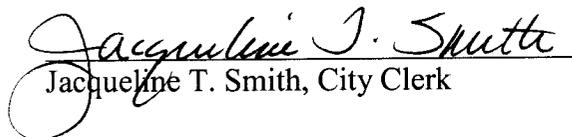
Attorney Nunn stated it is his recommendation that the Council not take action on this matter at the time because the Council has personal knowledge that an individual will file litigation. President Evans stated he is of the opinion that the Council needs additional time to weigh its options and rather than adjourn this meeting it would be recessed and the Council will reconvene on Sunday, September 30, 2001 to take action.

There being no further business to come before Council, on motion made by Councilwoman Martin and seconded by Councilwoman Franklin, the Council voted by unanimous consent to recess until Sunday, September 30, 2001 at 5:00 p.m.



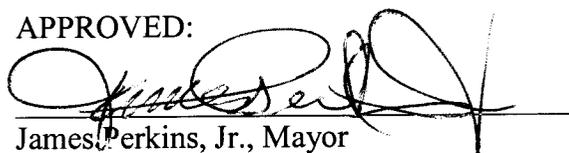
George P. Evans, President

ATTEST:



Jacqueline T. Smith, City Clerk

APPROVED:



James Perkins, Jr., Mayor

September 27, 2001

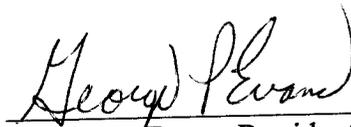
SPECIAL CALLED METING OF THE SELMA CITY COUNCIL

THURSDAY, SEPTEMBER 27, 2001 AT 4:00 P.M.

As President of the Selma City Council, I am calling a Special Meeting of the Council for Thursday, September 27, 2001 at 4:00 p.m. in the Council Chamber of City Hall.

The purpose of the meeting will be to discuss the item listed below:

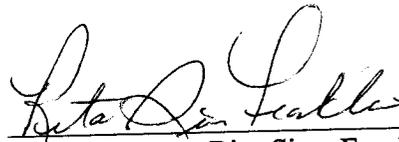
- Water Board Bond Clarification and Verification Approval



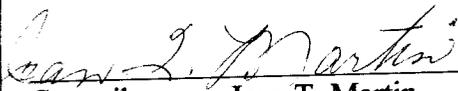
George P. Evans, President
Selma City Council



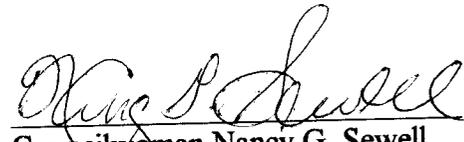
Councilman Glenn Sexton
Ward One



Councilwoman Rita Sims Franklin
Ward Two



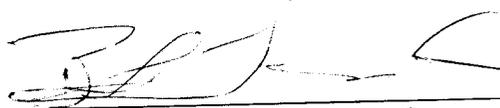
Councilwoman Jean T. Martin
Ward Three



Councilwoman Nancy G. Sewell
Ward Four

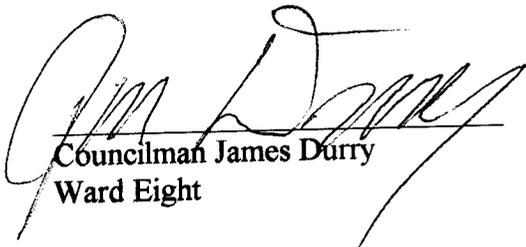


Councilman Samuel Randolph
Ward Five



Councilman Benny Lee Tucker
Ward Six

Councilwoman Bennie Crenshaw
Ward Seven



Councilman James Durry
Ward Eight

This special meeting is being called under Alabama Law by the President of the Selma City Council authority.

MINUTES OF THE RECONVENED SELMA CITY COUNCIL MEETING HELD ON SUNDAY, SEPTEMBER 30, 2001

The Selma City Council met in a reconvened session of the special called session in the Council Chambers of City Hall on Sunday, September 30, 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, Nancy G. Sewell, Samuel Randolph, Benny L. Tucker, Bennie Ruth Crenshaw, and James Durry. Others present were Mayor Perkins, City Clerk Jackie Smith, and the Mayor's Administrative Assistant Sherri James. City Attorney Jimmy Nunn was absent from the meeting. The Reverend Goodwin Wilson 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. The agenda of the special called meeting consisted of matters pertaining to the Selma WaterWorks and Sewer Board bond issue.

I. REMARKS

President Evans made opening remarks, after which each Council member was given the opportunity to also make comments on the agenda item. President Evans also urged each Council member to be mindful that this matter affects all citizens, not just the Council, and should be reflected in the remarks and actions of Council members.

Councilman Durry stated he felt the citizens would suffer if the bond issue was delayed and the favored passage of the bond issue hoping it would bring closure to some of the conflict between the Water Board and the Council.

Councilwoman Franklin stated she was in agreement with Councilman Durry and further stated the passage of the bond issue would help the aging infrastructure and the wastewater treatment plant.

Councilman Randolph stated he felt a vote to approve passage of the bond issue would be a mistake due to the instability of the Water Board. Councilman Randolph suggested Mayor Perkins be reinstated as superintendent to serve as a liaison between the two entities.

Councilwoman Martin stated she, too, agreed with Councilman Durry that the citizens would be the ones to suffer.

Councilwoman Sewell made an appeal to other Council members to bring closure in the proper manner, that being to reinstate the Mayor as superintendent and delay action on the bond issue.

Councilman Tucker stated he stands for what is right and supports passage of the bond issue.

Councilman Sexton stated he agrees with the comments of Councilwoman Franklin because of the infrastructure and repairs needed.

Councilwoman Crenshaw stated she has been suggesting for nearly year that the Council adopt a resolution encouraging the Water Board and Mayor to talk about their differences so he can be reinstated as superintendent. Councilwoman Crenshaw stated that with the Mayor as superintendent a lot of the differences in the two entities could be resolved and the Mayor could make the Council more aware of the actions of the Water Board.

Mayor Perkins deferred comments until later in the meeting.

I. REMARKS

President Evans stated he felt the process by which the Water Board submitted the no litigation certificate was procedurally incorrect and it should have been given to the Mayor to have the City Clerk sign. President Evans further stated that if the bond issue could be delayed he would concur until all questions have been answered.

Mr. Russell Stutts, Mr. Stutts stated the bond issue at hand is a refinancing issue with interest rates as low as they have been in thirty years. The issue provides for \$3 million new money for capital improvements, \$1.22 million to pay off old bonds, plus one-year debt service. According to information provided by Mr. Stutts, the bonds have been printed, official statements printed and distributed to investors, and the governments have also been delivered. Mr. Stutts stated it is his recommendation that the Selma WaterWorks and Sewer Board proceed with closing in a timely manner on October 4th as scheduled.

II. QUESTIONS AND ANSWERS

Q. Councilwoman Crenshaw asked what would be the penalty if the bond issue is not accepted by October 4th.

A. Mr. Stutts stated the amount of measurable expenditures today amount to approximately \$40-50,000. Other factors include increased interest rates and doubt to investors.

Q. Councilwoman Martin asked had the bonds been sold?

A. Mr. Stutts replied yes; approximately 90% of the bonds have been sold and delivery will take place upon closing.

Q. Councilman Durry asked what affect a delay on this bond issue would have on the general citizenry.

A. Mr. Stutts stated the uncertainty to investors with regard to delivery would always be hanging over the WaterWorks and the City of Selma.

Q. President Evans asked why the City is involved in the bond issue.

A. Mr. Stutts stated the Water Board is appointed by the City of Selma and the Certificate of No-Litigation and Incumbency Certificate is a state law requirement.

Q. President Evans asked Mr. Stutts what the terminology "no litigation or threatened litigation" meant to the City.

A. Mr. Stutts stated the terminology means that the City of Selma agrees not to threaten litigation.

III. REMARKS - CITIZENS

Attorney Rose Sanders stated Council members Sewell, Randolph and Crenshaw reiterated her feelings as it relates to Mayor Perkins and the Selma WaterWorks and Sewer Board. Mrs. Sanders stated if the Mayor was Superintendent, the Council would have been informed of the bond documents and what the requirements were. Attorney Sanders said she feels the Water Board is only disrespecting the Mayor's Office and urged the Council to deny the bond issue.

III. REMARKS - CITIZENS

Rev. Webb stated the issues surrounding the Water Board needs to be resolved, and most important the Mayor should be reinstated as Superintendent. Mr. Webb asked if Council/Water Board members could be replaced. President Evans informed him that the appointments were four-year terms. Mr. Webb encouraged the Council to seek a plan to be equitable for all citizens. Mr. Webb further stated he is the plaintiff in a lawsuit being prepared challenging the validity of the franchise agreement.

President Evans referred to Section 3 of the resolution "the Council will not authorize any action on the part of the City to contest in any way the validity or enforceability of the franchise or the franchise ordinances and no such action shall be taken by any..." President Evans asked Attorney Thompson to elaborate on this phrase. Mr. Stutts responded by stating the franchise would remain in tact throughout the life of the bond issue but the City will not take legal action against the franchise. Mr. Stutts stated other action could be taken to seek clarity.

After several questions from Mayor Perkins as to how a delay of the bond issue would adversely affect on the City's bond rating, Mr. Stutts agreed that there is no tangible evidence the City would be affected. Mayor Perkins then informed the Council of an affidavit presented by Councilman Randolph recommending the two WaterWorks and Sewer Board franchises be terminated for non-performance since the WaterWorks is not performing general maintenance on sewers and street repairs and because Chairman Hicks has made several key management mistakes.

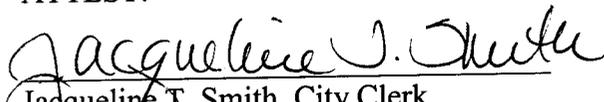
IV. CALL FOR THE VOTE

President Evans stated after hearing all the facts presented in this matter he was calling for the vote. Councilwoman Sewell made a motion to table approval of the resolution and no litigation and incumbency certificate indefinitely to allow for more clarity on the matter and also allow the City and the Water Board the opportunity to resolve their many differences. The motion was seconded by Councilwoman Crenshaw. On roll call vote the motion passed with a majority vote of six affirmative and three negative votes.. Council members Durry, Randolph, Martin, Evans, Sewell and Crenshaw voted in favor of the motion. Council members Sexton, Tucker and Franklin voted against the motion.

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 6:45 p.m.


George P. Evans, President

ATTEST:


Jacqueline T. Smith, City Clerk

APPROVED:


James Perkins, Jr., Mayor