

**MINUTES OF THE
SELMA CITY COUNCIL
MAY 5, 2009
12:00 NOON**

Call to Order

Invocation: Reverend Darryl Moore, Pastor
Second Missionary Baptist Church

Pledge of Allegiance

The Selma City Council met in a regular session in the Council Chambers of City Hall on Tuesday, May 5, 2009 at 12 o'clock noon.

ROLL CALL

The following members were present during roll call: Council President Dr. Geraldine Allen and Council members Cecil Williamson, Dr. Monica Newton, Angela Benjamin, Benny L. Tucker, Bennie R. Crenshaw, and Corey Bowie. Others present were Mayor George Evans, City Clerk Ivy S. Harrison, City Attorney Jimmy Nunn, City Treasurer Cynthia Mitchell and the Mayor's Executive Assistant Brenda Smothers. Councilwoman Susan Keith was absent during roll call, but arrived at 12:07 p.m. Councilman Samuel Randolph was absent during roll call, but arrived at 1:02 p.m.

APPROVAL OF AGENDA

President Allen asked for the approval of the agenda items. A motion was made by Councilman Bowie, and seconded by Councilman Tucker, to approve the agenda items as written. **The motion carried with a unanimous (show of hands) vote of the Council members present.**

APPROVAL OF MINUTES

After approval of the agenda, President Allen asked for the approval of the minutes of April 14, 2009 regular meeting minutes. A motion was made by Councilman Tucker, and seconded by Councilwoman Newton, to approve the minutes of April 14, 2009. **A roll call vote was taken and the motion passed with a unanimous vote of the Council members present.**

President Allen stated at this particular time, we would be in the "hands" of our City Attorney to Canvass Ballots of our Special Election, and to Certify the Results of that Special Election, which was held on Tuesday, April 28, 2009.

I. CANVASS BALLOTS

Canvassing of the Provisional Ballots was facilitated by City Attorney Jimmy Nunn and City Clerk Ivy S. Harrison. During canvassing, Mrs. Harrison stated that a total of 3 Provisional Ballots were submitted to the Board of Registrar's Office from Tuesday, Special Election on April 28th. Mrs. Harrison further stated 2 of those ballots were Certified by the Board of Registrar's Office, and will be counted today.

II. CERTIFICATION OF ELECTION - RESOLUTION #R199-08/09

Attorney Nunn stated Resolution #R199-08/09 is being revised to reflect the totals of the Provisional Ballots, and if Council preferred, he could bring it back before them for a vote later in the Council meeting, or they could take action on the Resolution now. Following Attorney Nunn's statement, Councilwoman Newton made a motion, which was seconded by Councilwoman Crenshaw, to approve said Resolution #R199-08/09 to Certify the results of the April 28th Special Election, School Board Referendum. **A roll call vote was taken and the motion passed with a unanimous vote of the Council members present.**

CITIZENS' REQUESTS

Mr. Jimmy Coleman, Mr. Steve South, Mr. Ed Fleming, Mr. Lawrence Towns
Re: Sunday Liquor Sales

Ms. Velma Brewer
Re: Public Conduct of Elected Officials

Mr. Edward Shaw
Re: Citizen Concerns Related to Overlook Hills

A. **Proclamation - "National Hospital Week"**. Mayor Evans stated to Council that he has prepared a Proclamation for the Council to approve and adopt in honor of American Hospital Association Week, to proclaim "*American Hospital Week*" in Selma, May 10 - 16, 2009, and "urges all residents to express their appreciation for the people, facilities, and technologies that may be trustworthy, reliable health care possible in our community". Mayor Evans further stated Mr. Keel, CEO of Vaughan Medical Center is here, along with Ms. Mary South, Director of Community Relations, and asked that they come up during the presentation of the Proclamation. Mr. Keel stated to the Council, on behalf of the Hospital, he appreciates all of the support that the Hospital receives, and thanked Mayor Evans and the Council, along with the Community, for the support that they receive.

B. **Proclamation - "National Moment of Remembrance"**. Mayor Evans stated to Council that some of them may not know Charles "Chuck" Strong but that he is a native of Selma, and lives in California now. Mayor Evans further stated Charles "Chuck" Strong has made several good albums, and that his most successful Blues album is in the Top #2 "spot" as "we speak". Mayor Evans stated he is going to be in Selma on Friday, May 8, 2009, to do a performance here at our local Elks Club. Mayor Evans stated he wants to proclaim Friday, May 8, 2009, "*Charles 'Chuck' Strong Day*" in Selma, because "he is a native son, who has enriched the world of music with his unique blend on story telling and rhythm". Mayor Evans further stated "his contributions to the entertainment world and his hard work in that field reflect positively on the talent, fortitude and abilities of all 'Selmians'".

C. **Phoenix Park Proposal**. Mayor Evans stated to Council that they should have before them a copy of the Phoenix Park Proposal. Mayor Evans further stated the location of that Park is on the vacant land, across the street from, and facing the St. James Hotel. Mayor Evans further stated if Council recalls, this is the area where the building collapsed, that is now complete in terms of the ground being completely leveled off, and looking beautiful. Mayor Evans stated a Committee came to him on this last week, to talk about the possibility of placing the Phoenix Group in that area, which would only be temporary until the City decides upon a business to operate the space, but at this point the City has no one who has indicated that they want to put a business there. Mayor Evans stated the Phoenix Group would like to come and place the design in there, with no cost to the City. Mayor Evans further stated Ms. Nancy Smith of the Historic and Preservation Society, along with Mr. George Needham, of the Historic and Preservation Society, and Mr. Steve Grossman of the Dallas County Arts Alliance are present, and asked that they come forward and address the Council with a presentation. Mayor Evans further stated the Committee is asking for permission to move forward, with the understanding of coming back to update the Council as to how the project is going to be done, and the phases it will be done in. Mayor Evans stated that Attorney Nunn would draft a contract agreement as it relates to this project. President Allen asked if something in writing could be given to the Council, prior to them taking a vote at all? Mayor Evans answered, and stated at next Tuesday's meeting, he will have a draft copy of the contract agreement to present to the Council, for their consideration. Mr. Grossman stated this will be in the same way that the "Butterfly" Project was; that it will be a combined effort of the Arts Community and this wonderful community that he is proud to be affiliated with, and also working with the Historic Society which is going to be the "driving force" on this, and a commitment from at least one of the Garden Clubs.

D. **Alabama Firefighters and EMS Personnel Honors**. Mayor Evans stated to Council that the Alabama Firefighters and EMS Personnel would like to declare a day for honoring our Firefighters and EMS, on Friday, June 19, 2009 at 7:00 p.m., at the Birmingham-Jefferson Convention Complex. Mayor Evans further stated that they are asking that the City Sponsors or Co-Sponsors this event, and he wanted to bring it before the Council to ask their consideration as a City to be a part of this Program which is taking place in June. A motion was made by Councilman Williamson, and seconded by Councilwoman Newton, to continue this item until the next Council meeting on next week, which is Tuesday, May 12th.

E. **Stewart King-McKenzie Building - Update**. Mayor Evans stated to Council that they should have within their packets cost estimates as it relates to the Stewart King-McKenzie Building. Mayor Evans further stated the Building has been inspected by Ms. Debra Love, and there are no known contaminants in the Building that she has found. Mayor Evans stated to Council that his recommendation is that they accept the Stewart King-McKenzie Building as a Gift, and asked Council favorable consideration of the same. A motion was made by Councilman Bowie, and seconded by Councilman Tucker, to accept the Stewart King-McKenzie Building as a Gift from the Owner. A roll call vote was taken and the motion passed with a majority vote of the Council members present. There were seven affirmative votes of the Council present, and one nay vote. Councilwoman Crenshaw cast a nay vote. During roll call, Councilwoman Crenshaw stated, for the record, that her vote is no based upon the fact that she thinks the person who owns the property should demolish the property.

F. **Landfill Project - Update**. Mayor Evans stated we have got to move forward with these projects because we are under a deadline of November 2nd, for having the new Landfill opened. Mayor Evans further stated to Council that they should have within their packets a copy of all of the items that must be done, and that he has met with our Staff to look at the possibilities of who could do what, in order to get this

project underway. Mayor Evans stated he is recommending that Ms. Debra Love be the individual to oversee this Landfill project for us, because he has no expertise in drawing up contract agreements in terms of this Landfill project. Mayor Evans further stated we do not have anybody on Staff who can actually oversee this Project, and being responsible for making sure that these dimensions, guidelines and policies are met. Mayor Evans stated to Council that they should also have within their packets a contract for seven (7) months from Ms. Love for \$14,000.00, to oversee this Project beginning May 1st, for the purpose of getting our new Landfill opened because if we do not open that Landfill by the deadline date, we could be fined by ADEM as to our failure to meet that criteria. During discussion, Councilman Williamson stated to President Allen, that he would like to read two (2) things into the record, and stated "on September 24, 2007, the Council approved a Contract for \$72,000.00, paying Ms. Debra Love \$6,000.00 per month for 12 months, for 6 or 7 days work each month to do this Landfill Project". Councilman Williamson further stated the other is, "from our Minutes of July 23, 2007, that Ms. Love gave some kind of report to the Council about the Landfill, and then she recommended that CDG Engineers and Holland Technical Services be awarded the proposal in the amount of \$61,000.00, I guess for the Engineering Services on this project; I just think that we are paying her for stuff that should have already been done or work that she should have done before for all this money." President Allen requested a copy of the Contract for \$72,000.00, for the Council as it relates to this matter. During further discussion, Mayor Evans asked Ms. Love to come forward to address the Council. A motion was made by Councilman Bowie, and seconded by Councilman Tucker, to table this matter until the next Council meeting, and to request that Mr. Tommy Smith, Public Works Director, be present for that Council meeting. A roll call vote was taken and the motion passed with a majority vote of the Council. There were five affirmative votes of the Council and four nay votes. President Allen, Councilwoman Newton, Councilman Randolph and Councilwoman Crenshaw each cast a nay vote.

G. Air Conditioning and Heating System - Expenses. Mayor Evans stated to Council that President Allen and he had met with the Air Conditioning and Heating System Representative, because they had some concerns as it relates to the heating and cooling of the Public Buildings. Mayor Evans further stated that Council should have a copy of the estimated expenses related to the Convention Center, as well as, City Hall, and asked Council consideration in the amount of \$13,297.04, to be paid out of the Public Buildings Account, #1.6022 141-0. A motion was made by Councilman Williamson, and seconded by Councilwoman Benjamin, to approve the expenses related to the Air Conditioning and Heating System, at the Convention Center and City Hall, in the amount of \$13,297.04. A roll call vote was taken and the motion passed with a unanimous vote of the Council.

H. Summer Food Program - Salary Schedule. Mayor Evans stated to Council that they should have within their packets a copy of the Summer Food Program, Salary Schedule. Mayor Evans further stated that Ms. Krystal Dozier will be the Administrator, with an estimated salary of \$1,805.76 for this Program which is based upon what was in the Budget last year, at a rate of \$15.48/hour. Mayor Evans stated the Director is Mr. Jerry Smith, who is also a Board of Education Employee, and his total salary will be \$3,568.20 at a rate of \$14.54/hour for 6 days. Mayor Evans stated a Clerk has not been selected yet, but will be paid \$1,474.40, at a rate of \$9.00/hour for 4 days, along with 2 Monitors to be paid \$1,185.60, at a rate of \$7.50/hour for 2 days. Mayor Evans stated that there will be 25 Site Supervisors, 1 - 2 hrs/ day, depending on the Site, roughly being paid at a rate of \$8,000.00, at \$7.25/hour. Mayor Evans stated he is providing this information to the Council for information only, for the Summer Food Program, which has already been funded via the State of Alabama, and does not come out of our General Fund.

I. Timeline for Ward 7 Discretionary Account. Mayor Evans stated Councilwoman Crenshaw had asked for the timeline for Ward 7 Discretionary Account, and he is providing that information to her as well as to the Council members, and a copy should be within their packets. Councilwoman Crenshaw stated the information Mayor Evans provided did answer some of her questions, but that her real issue is that, "if you have \$340.00 left, and with the Budget you start with \$10,000.00, when you want to get whatever is in the Budget from me which would have been \$340.00, you didn't get \$340.00, instead you pulled out \$2,000.00 which was not even there". Councilwoman Crenshaw stated her question is "why is this", because she does remember a Resolution where they had to fix an air conditioning in this building, and she thinks it was Councilman Bowie who did not have quite enough money to give, and in that Resolution they were asked to give a \$1,000.00 or \$2,000.00 each but it never showed up in a resolution stating that he had a deficit because he only had \$60.00 or a \$100.00. Councilwoman Crenshaw stated to President Allen that she would like to get that Resolution pulled because she needs to understand that it is going to be done across the board showing how monies are disbursed, and that she really thinks it should be done fairly "across the board". President Allen stated for clarification that it was not the "President but the vote of this Council to ask for any amendment changes and not the President". Ms. Cynthia Mitchell was asked to come forward to address the Council with an explanation of the "\$340.00". Ms. Mitchell stated on 2-24-09, the Council approved the reduction of each Council Person's Discretionary Funds by \$2,000.00. President Allen stated to Ms. Mitchell, that at that particular time she stated to them the Council should realize that there may be individuals who may have already spent their discretionary money, and Ms. Mitchell concurred with President Allen that she did make that statement to the Council. President Allen stated the Council still voted to reduce the discretionary amounts, and stated that whoever had the money that they were still taking the money from

their account, and Ms. Mitchell concurred. Councilwoman Crenshaw stated to Ms. Mitchell that she does understand that she was following orders, but that if she was asked to take \$2,000.00, or whatever the Council person had, that would have been the difference, as she thinks was done with Councilman Bowie, and that that would have been the thing to do.

J. Donation of Property - 405 Water Avenue. Mayor Evans stated to Council that they should have within their packets information on a piece of property that the owners would like to donate to the City of Selma. Mayor Evans further stated the property owners are Mr. Eugene Bayne and Mr. Lewis Bayne, and that he and Attorney Nunn, along with Mr. Darryl Moore, went and looked at the property. Mayor Evans stated to Council he is asking for their approval to accept the property as a gift from the Property Owners; namely, Mr. Eugene Bayne and Mr. Lewis Bayne, and that Attorney Nunn will proceed with drafting the legal documents of the Gift of the Property. A motion was made by Councilman Newton, and seconded by Councilman Randolph, to accept said property of 405 Water Avenue, as a Gift from the Property Owners. A roll call vote was taken and the motion passed with a unanimous vote of the Council.

K. Oil Lease Money - \$250,269.00. Mayor Evans stated to Council that the Oil Lease Money is in and is available now, in the amount of \$250,269.00. Mayor Evans further stated to Council that in the past the Council has split the amount in 10 ways, and he will make sure that the Council gets a copy forwarded to their mailboxes. Mayor Evans stated these funds can be used for "permanent" projects, and it is available now. A motion was made by Councilman Williamson, and seconded by Councilman Randolph, to divide the Oil Lease Money up by Ten (10). During discussion, Councilwoman Newton made an amended motion, seconded by Councilwoman Keith, to table this decision, until the Community Development Committee makes its report next week. A roll call vote was taken to table the decision, and the motion failed for lack of a majority vote of the Council. There were three affirmative votes and six nay votes. President Allen, Councilman Williamson, Councilman Randolph, Councilman Tucker, Councilwoman Crenshaw, and Councilman Bowie each cast a nay vote. A roll call vote was then taken to divide the Oil Lease Money by Ten (10), and the motion passed by a majority vote. There were seven affirmative votes and two nay votes. Councilwoman Newton and Councilwoman Benjamin each cast a nay vote.

L. Selma Water Works & Sewer Board Report from Council Members. Mayor Evans stated if it meets the President and Council's approval, he would like to during his report at Council meetings, at least once a month, provide an update to them and the Citizens on the Water Board meetings, since he serves as Superintendent of the Water Board, so that they will be informed, along with the three Water Board members who presently serve as Council Members. Councilman Williamson stated to Mayor Evans, that he had placed this item on the Agenda, actually for the Council Members who serve, but that if he or whomever could get an update to the Council at least once a quarter, that would be good.

M. Update - FY 2007-2008 City's Audit. Mayor Evans stated to Council that he spoke with the Auditors on last month, and they are scheduled to come back and meet with him, along with Ms. Mitchell and President Allen, to go over the rough draft hopefully by the last Council meeting in this month. Mayor Evans further stated he thinks by the first meeting in June we should have a complete copy of the Audit coming from the Auditing Firm that did our Audit here in Selma.

N. State Examiner's Audit - Update. Mayor Evans stated to Council that he is still waiting to hear from the State on this Audit. Mayor Evans further stated he thinks that they are waiting until the City's Audit is complete, but he will follow-up on this.

O. Update on Bound Budget - Copy. Mayor Evans stated to Council that the Council will be getting a bound copy of the Budget, and that Ms. Mitchell is working on it now and will hopefully have copies to each Council Member by the last meeting in this month.

CITY ATTORNEY'S REPORT

A. Map of School Board Districts. Attorney Nunn stated to Council that they should have within their packets a map of the School Board Districts. Attorney Nunn further stated per the Legislative Act, it states that District 1 will be composed of Wards 1 and 2, District 2 will be composed of Wards 4 and 5, District 3 will be composed of Wards 3 and 8, and District 4 will be composed of Wards 6 and 7, and One Member elected At Large. Attorney Nunn stated this is a Five-Member Elected School Board. Attorney Nunn further stated per the Legislative Act, it states the Council shall take the necessary steps to ensure that the Act complies with the Federal Voting Rights Act of 1965, its Amendment, and that we did send that to the Justice Department earlier. Attorney Nunn stated it also states that after the election, and if a majority of the electors voting pursuant to Section 1 of the Voting Rights Act vote to change to an elected school board, the Council shall take the necessary steps to make sure that it is in compliance with the Voting Rights Act, and on (b) it states the election to elect the initial members of the Board of Education shall be held by a Special Election called by the Selma City Council as soon as practicable after approval of this Act. Attorney Nunn further stated it is going to be left up to the Council as to whether they want to set this now, or if they prefer to set the election at a later date. A motion was made by Councilwoman Benjamin to conduct this Special

Election on the first Tuesday in November, 2009. President Allen stated to Council that Mayor Evans has discussed the possibility of adding something else to the ballot, and she asked Council if they could table this decision until the next meeting, so that the discussion with Mayor Evans can occur, and the information can be forwarded to all of them. The motion made by Councilwoman Benjamin was withdrawn at this time. President Allen also asked Attorney Nunn to refer this matter back to the Justice Department, and review the dates for Special Elections for Municipal Elections. Attorney Nunn stated he would research this, and check with the Justice Department to see if we have to seek approval on the Legislative Act, and also the Special Election that was just held.

B. Board of Education - Appointment Chart. Attorney Nunn stated to Council that they should have before them a copy of the Appointment Chart of the Board of Education. Attorney Nunn further stated after speaking with Attorney Katie Campbell, there are three School Board Members who are "up" to be re-appointed, or the seat needs to be re-appointed; namely, Ms. Debra Howard, term ends May, 2009, Ms. Sylvia Smith, term ends May, 2009, and Mr. Benjamin Givan, term ends May, 2009. A motion was made by Councilman Randolph, and seconded by Councilwoman Benjamin, to extend the School Board Members whose terms are set to be up this month, May, 2009, until the next Election. A roll call vote was taken and the motion passed with a unanimous vote of the Council. President Allen stated she wanted to acknowledge that we do have one former School Board Member, and a present School Board member with us today, and that Ms. Howard was also here. President Allen and the Council thanked them for their service.

C. Satisfaction of Lien - 2713 Alabama Avenue. Attorney Nunn stated to Council that they should have within their packets a copy of a Satisfaction of Lien as it relates to property located at 2713 Alabama Avenue. Attorney Nunn stated this piece of property went through the condemned property process, and was not bidded out, but instead was a "control burn" that was done by the Selma Fire Department. Attorney Nunn further stated a cost figure came back, and a lien was placed on the property for \$900.00 plus \$100.00 to cover advertising expenses. Attorney Nunn stated instead of the demolition cost being assessed, a "control burn" was done to the property. Attorney Nunn further stated a copy of a letter from Mr. Darryl Moore is attached, requesting that all liens pertaining to said property be removed from the tax sale, since the property was demolished by a "control burn". Attorney Nunn stated at this point in time the legal process is to file a "Full Satisfaction of the Recorded Lien" to free the property of the same. A motion was made by Councilman Randolph, and seconded by Councilwoman Newton, to approve the Full Satisfaction of Recorded Lien as it relates to property located at 2713 Alabama Avenue. A roll call vote was taken and the motion passed with a unanimous vote of the Council.

D. Alcoholic Beverage License - Mohammed Islam (The Moon of Selma, Inc. d/b/a Citgo Food Mart, 406 U.S. Highway 80, East). Attorney Nunn stated the Council has been given a retail table wine and retail beer license application, for off premises only, on behalf of Mr. Mohammed Islam, The Moon of Selma, located at 406 U.S. Highway, 80 East, in the Police Jurisdiction of the City, to be placed on 1st Reading. A motion was made by Councilwoman Keith, and seconded by Councilman Randolph, to place the said application on 1st Reading. A roll call vote was taken and the motion passed with a unanimous vote of the Council.

E. Alcoholic Beverage License - Sabrina Cunningham (Parkman Grocery, 313 Parkman Avenue). Attorney Nunn stated the Council has also been given a retail table wine and retail beer license application, for off premises only, on behalf of Ms. Sabrina Cunningham, Parkman Grocery, located at 313 Parkman Avenue, to be placed on 1st Reading. A motion was made by Councilwoman Newton, and seconded by Councilwoman Crenshaw, to not place the said application on 1st Reading. During discussion, Attorney Nunn stated it was his recommendation to place the application on 1st Reading, because we do have a procedure in place for Alcoholic Beverage License applications, and if there are individuals who would want to come and speak against the application being approved, they can come before the Council during the hearing. Councilwoman Crenshaw withdrew her second to the motion on the "floor", in an effort to allow the individuals to come before and address the Council. Attorney Nunn stated this will also allow individuals a chance to come and speak against the same, if they choose to do so. Councilman Williamson seconded the motion that was on the "floor". A roll call vote was taken and the motion to deny placing said application on 1st Reading, failed for a lack of majority vote of the Council. There were three affirmative votes and six nay votes. President Allen, Councilwoman Benjamin, Councilman Randolph, Councilman Tucker, Councilwoman Crenshaw, and Councilman Bowie each cast a nay vote. A motion was then made by Councilman Randolph, and seconded by Councilman Bowie, to place said application on 1st Reading. A roll call vote was taken and the motion passed by a majority vote. There were six affirmative votes and three nay votes. Councilman Williamson, Councilwoman Newton, and Councilwoman Crenshaw each cast a nay vote.

F. #O111-08/09 - Ordinance Declaring Parking of Motor Vehicles in Front Yard Illegal. Attorney Nunn stated to Council, if they recall, this was an Ordinance requested which has been prepared that deals with parking vehicles between the sidewalk and a house or building. Attorney Nunn further stated Council may want to forward it to the Committee, or may want to place it on 1st Reading, and asked for Council consideration of the same. A motion was made by Councilwoman Newton, and seconded by Councilman Williamson, to place said Ordinance #O111-08/09 on 1st Reading. A roll call vote was taken and

the motion passed by a majority vote. There were eight affirmative votes and one nay vote. Councilwoman Crenshaw cast a nay vote.

G. State of Alabama - Department of Revenue - 2009 Sales Tax Holiday. Attorney Nunn stated to Council, if they recall from last Council meeting, the Sales Tax Holiday was mentioned. Attorney Nunn further stated he has placed within their packets a copy of information as it relates to the Sales Tax Holiday, as well as, a copy of an attachment which lists the Counties and cities that will be participating or not participating in the Sales Tax Holiday for 2009. Attorney Nunn stated we have a deadline of July 6, 2009, in order to submit notification of our decision to the Alabama Department of Revenue.

BUSINESS ITEMS:

I. BEAUTIFICATION COMMITTEE

Councilwoman Newton stated from last Council meeting, she will be submitting those names that she has received to President Allen. President Allen asked Council if they have not already done so, to forward the list of names for the Beautification Committee to Ms. Diana Johnson, Council Secretary.

II. SUNDAY LIQUOR SALES

Councilman Williamson stated as he had mentioned, he gave everybody a copy of the local legislation that Senator Sanders had introduced, permitting on-premise liquor sales here in Dallas County, and a part of that local law was that the County Commission would decide for the City, as well as, the County, and that he does not think that is a good idea because the Council decides for all other liquor licenses in the City, and he thinks the Council should decide that for the City, or have a Referendum of the people about it. A motion was made by Councilman Williamson, and seconded by Councilman Tucker, to ask President Allen to contact Senator Sanders and ask him to have that part of the Bill changed, so that the City Council will make that decision for the City, as it relates to Sunday Liquor Sales. A roll call vote was taken and the motion passed with a unanimous vote of the Council.

III. PAYMENT OF COUNCILMAN SAMUEL RANDOLPH'S LEGAL FEES

Councilwoman Crenshaw stated she would like to pass something around to each Council member, and to also make a statement to make herself clear, and wants it to be made a part of the record. Councilwoman Crenshaw stated, "we have City employees displaced with a lay-off, and these are my reasons as to why I'm not dealing with legal fees and not wanting to do it; the payment upfront for medicines and having to wait for reimbursement is another reason why we do not need to disburse of funds, and after all of that having cuts being taken from their pay. So, paying legal fees is not a priority on my list but, I do believe in fundamental fairness. Now, I'm going to read a statement and I definitely want this statement made a part of the record of the minutes, and my previous statement, too. In a recent Council meeting, this Council by majority approved the payment of Dr. Allen's legal fees of approximately \$12,000.00, and in the same meeting denied Mr. Randolph's request to have his legal fees paid. I have concerns about this because I feel this was blatantly unfair and legally wrong. I know many of you were not on the Council when this issue first arose in the matter involving Mr. Reid Cain, where his legal fees were paid by the Council after he was accused of assaulting a police officer. However, at that time, the issue centered around whether Mr. Cain was acting in the scope of his Council duties when the act occurred and whether the Council should be responsible for his legal fees. Nonetheless, after this came up, there were some of us who had some legal research done and it was determined that a 'Three Part Test' had to be satisfied before the Council could legally expend of City and taxpayer funds to pay the legal fees of City employees or Council members. The Alabama Supreme Court has said, that municipal corporations have the implied power to employ counsel to render services in: (1) matter of proper corporate interest including to defend suits against the corporation; (2) defense of suits against the municipal officers; and (3) while in honest discharge of their duties. Further, the Court stated, that members of the Council and/or governing body cannot employ legal counsel to shield themselves from consequences of their own unlawful and corrupt acts. What this means is that this 'Three Part Test' must be met before any funds are paid. Also, the Supreme Court has said where the suit ends favorable for the City, there is no question that the legal fees can be paid. However, the question that I raise is, what is not proper corporate interest? In a case known as *Greenough v. Huffslutler (1983)*, a case in which the eligibility of two newly appointed board members to the Personnel Board was at issue. A civil action was brought to determine this quest and to enjoin the Board from acting until replacements were appointed. The Court held that they were not eligible, and when they attempted to get their legal fees paid, the Court said, 'A municipality cannot provide funds for the defense of an official in a criminal or civil action' where there is no benefit to the municipality. The Court said that paying such expenses would not only be outside the power of the City, but it would offend Section 94 of Alabama Constitution of 1901, which prohibits the grant of public funds for any individual purpose. (See, p. 285 Selected Readings Municipal Officials.) Here, to me the larger question of this 'Three Part Test' is whether any of us can say that by Dr. Allen voting for herself, that she was acting in honest and good-faith on behalf of the municipality in the line and scope of her duties and

the duty was discharge din good-fait when she voted for herself on the Water Board. I cannot say honestly that she did. It seems that we would be much more in line wit the test in paying Mr. Randolph's fees than Dr. Allen's. After all, he was the legal person to be on the Board, and was the one to prevail in the Injunction that was filed. I would ask each of you to consider this matter and if you don't want to take my word, go and read for yourself at Sec. 51, pg. 284-286 of Selected Readings for Municipal Officials. It is there, read it for yourself. I have an itemized accounting of the bill and this is further reason why the Council approved to pay Dr. Allen's Attorney's Fees in the amount of approximately \$12,000.00 in the Council meeting before. It was stated by Councilwoman Susan Keith that Councilman Randolph needed to present his fees just as Dr. Allen presented hers to the Council, and I feel that if you pay one Council Member, then the other Council Member's fees should also be paid. The Supreme Court in making its ruling on page 3, 2nd paragraph, stated on February 15, 2007, the Board filed a complaint in the Dallas County Circuit Court against Allen and Randolph, seeking a judgment. Both had to hire Lawyers to defend themselves; since the lawsuit was filed against both we should pay both of the Attorney's Fees. It is not fair for one Council Member's Attorney's Fees get paid, and the other not and they were both sued at the same time." Councilwoman Crenshaw stated she would like to make a motion, seconded by Councilwoman Keith, to pay Councilman Randolph's legal fees, based upon fundamental fairness when both individuals were sued. Councilwoman Keith stated to President Allen that she would like to make a statement; "I seconded the motion but I would like to say that I'm not seconding everything that Ms. Crenshaw said, but I think that a lot of us were not here, so I think that Mr. Randolph is a decent and fair man; again I wasn't here when this matter started with the Water Works & Sewer Board v. Geraldine Allen and Samuel Randolph were both sued jointly, but I think Councilman Randolph has presented his legal bills vis-`a-vis Mrs. Crenshaw. I told Councilman Randolph, 'present your legal fees' and I will motion for them to be paid by seconding the motion that Mrs. Crenshaw made." President Allen stated, "I do want to say as it relates to the statement made by Mrs. Crenshaw that the minutes reflect her comments, I cannot say honestly that she did; the discussion related to me was out of order; this is concerning only the payment of Councilman Samuel Randolph's legal fees and that these are also her opinions as she state that he is the legal person to be on the Board and was the one to prevail in the Injunction that was filed; this was not a Court opinion; this is Councilwoman Crenshaw's opinion, and it was out of order." A roll call vote was taken and the motion failed for lack of a majority vote. There were two affirmative votes, five nay votes, and two abstentions. Councilman Williamson, Councilwoman Newton, Councilwoman Benjamin, Councilman Tucker, and Councilman Bowie each cast a nay vote. President Allen and Councilman Randolph abstained from voting. During roll call, Councilman Bowie stated he was voting no, because Dr. Allen did her due diligence by the Council appointing her to the Board, and also Dr. Allen did not gain monetarily.

IV. SUNDAY LIQUOR SALE

Councilman Williamson stated this afternoon he put in everyone's mailbox a copy of a law that Senator Sanders is proposing to introduce in Alabama legislature to permit Sunday liquor sales in Selma and Dallas County, on-premise liquor sales. Councilman Williamson further stated aside from the moral issue, the bad thing about this bill is that it permits the County Commission to make that decision for the City of Selma, as well as, the County rather than the City Council making the decision for the City. Councilman Williamson stated he would like to make a motion that they as a Council ask their Council President to contact Senator Sanders and ask that he change that bill so that, as they do with all of their other liquor license applications in the City, that the Council will make that decision for the City, rather than the County Commission. During discussion, this issue will be continued until the next Council meeting, until Mayor Evans has had the opportunity to research this as to whether or not the bill affects the City of Selma, and Mayor Evans will bring back a report to the Council.

V. SCHOOL BOARD MEMBERS' ELECTION

Continued until next Council meeting.

VI. GOOD SAMARITAN HOSPITAL BUILDING

Councilman Williamson asked President Allen if there was any updates on the Good Samaritan Hospital Building? Mayor Evans came forward and stated that he spoke with Senator Sanders about a week ago as it relates to this matter, and that he thinks the Session ends this month, and that he is still trying to push it through to get the funding for Rural Health. Mayor Evans further stated by the last Council meeting in this month we will know whether or not we will get the funding, and then the Council will make a decision as to whether or not it chooses to continue the contract with ADECA, or whether or not it chooses to close that contract. Mayor Evans asked the Council to allow him to report back on the last Tuesday Council meeting in this month as to whether or not the funding was approved.

VII. ENVIRONMENTAL COURT

Councilwoman Keith stated an Environmental Court meeting is scheduled for Monday, May 11th at 3:30 p.m., here in the Council Chambers. Councilwoman Keith further stated that a Garbage Sub-Committee meeting is scheduled to meet at 4:30 p.m., and will follow the Environmental Court Meeting.

BUSINESS ITEMS:

VIII. NOISE ORDINANCE

This item is continued.

IX. HEARING ON MISSING MONEY AND CARS FROM THE POLICE DEPARTMENT

Councilman Williamson stated as he was coming to this meeting, "one of our Policemen told me, Mr. Mayor, and I am going to tell you who it was after the meeting, so you can check on it, that there is another missing car". Councilman Williamson stated, Madam President, I would like to make a motion, seconded by Councilman Tucker, that the Public Safety Committee conduct hearings on the missing money and cars from the Police Department. A roll call vote was taken and the motion passed with a majority vote of the Council. There were five affirmative votes of the Council and four nay votes. President Allen, Councilman Randolph, Councilwoman Crenshaw, and Councilman Bowie each cast a nay vote. Following roll call, President Allen asked that the Public Safety Committee give the Council an agenda as it relates to these hearings, along with the process and the time of these hearings. President Allen stated Councilman Bowie is Chairperson of that Committee, and asked that he get with the Public Safety Committee and do their due diligence and report back to the Council.

Following the below-stated discussion of the St. James Hotel Building, Councilwoman Newton stated to President Allen that she would like to change her vote regarding the public hearings on the missing money and cars. Councilwoman Newton stated, "as I have sat and thought about it we are not a legislative body and we are not a judicial body, and I just do not think that we are going to have anything to gain if the Attorney General can not find anything, I'm certainly no expert." With this change of Councilwoman Newton's vote from a "yes" vote to a "no" vote, there are now four affirmative votes of the Council and five nay votes. President Allen, Councilwoman Newton, Councilman Randolph, Councilwoman Crenshaw, and Councilman Bowie each cast a nay vote. Therefore, the motion fails for lack of a majority vote of the Council, and at this time there will not be any hearings conducted because it did not pass.

X. ST. JAMES HOTEL - UPDATE

Councilman Williamson stated to Mayor Evans, that as he is aware, the City owns the St. James Hotel, and he has heard in the last couple of weeks that they have reduced the food service to three days to save money, and the occupancy is very low. Councilman Williamson asked Mayor Evans if he knew anything about that, and asked if it was under "good shape and condition"? Councilman Williamson also asked Mayor Evans if they were going to have to take that building back? Mayor Evans stated that he is aware that Mr. Goldston has been here a couple of times trying to review and follow-up on some things. Mayor Evans further stated if it meets Council approval, he will go by and talk with Mr. Goldston, as well as, Mr. Ezell, to do a follow-up, and do a report at the next Council meeting.

STANDING COMMITTEE REPORTS

RECREATION COMMITTEE - Councilman Samuel Randolph, Chairman

No report.

ADMINISTRATIVE COMMITTEE - Councilwoman Monica Newton, Chairman

Councilwoman Newton made a report.

PUBLIC SAFETY COMMITTEE - Councilman Corey Bowie, Chairman

No report.

COMMUNITY DEVELOPMENT COMMITTEE - Councilwoman Angela Benjamin, Chairperson

Councilwoman Benjamin made a report.

CHILDREN AND FAMILIES - Councilwoman Angela Benjamin, Chairperson

Councilwoman Benjamin made a report.

PUBLIC WORKS COMMITTEE - Councilman Benny Tucker, Chairperson

No report.

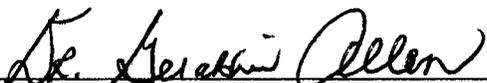
DISCRETIONARY COMMITTEE - President Geraldine Allen, Chairperson

President Allen reported discretionary requests: Mrs. Rotissa Jones and Mrs. Iris Moore, on behalf of Selma High School Football Team, to attend a Football Camp for a total of \$275.00, and for District Attorney Michael Jackson, 2009 LECC Conference on Tuesday, May 26th through Wednesday, May 27th, for food and fellowship on that Tuesday, in the amount of \$300.00 from the City, to be given to fund Tuesday evening's event.

CLOSING REMARKS BY EACH COUNCIL MEMBER.

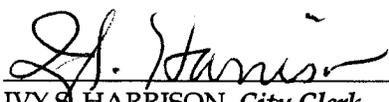
ADJOURNMENT

There being no further business to come before the Council, a motion was made by Councilman Williamson, and seconded by Councilman Bowie, to adjourn, and by unanimous consent of the Council, this meeting adjourned at 3:16 p.m.



DR. GERALDINE ALLEN, *Council President*

ATTEST:



IVY S. HARRISON, *City Clerk*

APPROVED:



GEORGE PATRICK EVANS, *Mayor*