

City of New Ellenton  
Special Meeting of City Council  
City Hall Council Chambers  
Minutes

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Thursday, March 12, 2009

**Welcome**

Mayor Dunbar welcomed everyone to and called the meeting to order at 5:05 pm.

**Invocation**

Councilman Braswell offered the invocation.

**Pledge of Allegiance**

Mayor Dunbar again welcomed everyone.

**Roll Call for the Record**

Present: Eartha Rodgers, Terence Williams, Vernon Dunbar, Daniel Braswell

**Others Present**

Assistant City Clerk Courtney Moseley, City Administrator L.C. Greene, Hank Roland, Cork Berry, Sammie McDuffie, Charlie Duvall, Vicki Simmons, Harold Craig, Rex Nordeen, Richard [inaudible], inaudible, Debbie Bouknight

Mayor Dunbar again welcomed everyone to the meeting and stated that there was one issue on the agenda: discussion of the Public Works water bond. Mayor Dunbar continued that there had been a meeting a week ago where the Commission of Public Works (CPW) presented details on the bond and added that the engineer also provided explanations and the City brought up some issues. Mayor Dunbar stated that from that meeting, tonight's meeting had been scheduled. Mr. Duvall stated that the matter at hand could not be discussed until there was a motion, adding that there must be a second before it could be discussed. Mayor Dunbar asked if that meant Council could not discuss the water bond. Mr. Duvall replied that a motion is needed. Mayor Dunbar stated that he thought the agenda could be discussed whether there is a motion or not. Mayor Dunbar stated that he was not sure how the CPW ran their meetings. Mr. Duvall responded that CPW meetings are run by rules and orders. An unidentified man stated that he was lost because someone said sewer bond, Mayor Dunbar corrected water bond. Mr. Duvall continued that the question was whether it could be discussed at an official meeting without a motion, again adding that a discussion could only be held if there was a motion and second, and only then could the merits be discussed. Mr. Duvall suggested that someone make a motion and it be seconded and then the discussion continue. Mayor Dunbar thanked Mr. Duvall, stating that he did not see any merit to it. Mr. Duvall stated that the Mayor and Council are obligated to follow the [inaudible] rules and orders just as CPW is. Mayor Dunbar continued that a joint meeting was held. Mr. Duvall interrupted that there was no joint meeting, and he wanted to correct it stating that there were individual members and the engineer from the CPW. An unidentified person asked how many members were present. Mr. Duvall responded that there were three members. The unidentified person asked of that was total. Mr. McDuffie replied that there was one representative from the CPW. Inaudible. Councilman Braswell added that there was a quorum of City Council members, and Mayor Dunbar asked if it mattered. Several people responded that it was a work session.

Inaudible. Mr. Duvall stated that there was no meeting of the Water Commission. Mayor Dunbar acquiesced. Mayor Dunbar stated that there were people present and the water bond was discussed. Mr. Duvall interrupted that pending issues between the two organizations were discussed. Mayor Dunbar stated that one issue was the water bond and there were some other issues that the City had. An unidentified person agreed. Mayor Dunbar asked if Mr. Duvall was satisfied. Mr. Duvall affirmed adding that it should be phrased correctly. Mayor Dunbar continued that the City had issues and that he understood that the CPW would have a meeting to discuss those and stated that Council was having a meeting to see where it stands. Mr. Duvall stated that the issues were brought up, but could not be discussed in depth as documentation that Ms. Simmons has indicates, because CPW has to receive a written request from the City to perform the functions desired. Mayor Dunbar asked if Ms. Simmons was Mr. Duvall's secretary. Mr. Duvall said no, but that Ms. Simmons simply had the document in her possession. Ms. Simmons stated that she requested it under a Freedom of Information Act request, under the Privacy Act. Mr. Duvall stated that the document could be brought out, continuing that it should not be discussed until a motion is presented. Mr. Duvall continued that the CPW was in attendance to ask for a motion to be presented, seconded and approved related to the bond resolution. Mr. Duvall added that it could be approved or not, and then a motion could be made for the City to give the Clerk permission to request in writing that the CPW perform certain functions for the City. Mr. Duvall asked about a contract as discussed. Mr. Duvall stated that it could not even be discussed at CPW meetings until a written request is received from the City which must first be brought before the City Council to approve. Mr. Duvall continued that once the letter is received it can be discussed. Mayor Dunbar stated that it was fine. Mr. Duvall stated that he could not make it any more clear and that the City has two motions to make in whatever order they choose. An unidentified man began to speak, but was interrupted by Mr. Duvall stating that no one should take what he said because he said it very clearly. Mr. Duvall stated that what he wants and then corrected that it is not what he wants, but what the law wants, which is that for the CPW to have any discussion or enter into a contract the Mayor must have City Council approve a request to be sent in writing, and this is required by law. Mayor Dunbar asked which law. An unidentified person replied that it was the Code of Laws of the State of South Carolina. Inaudible. Mr. McDuffie stated that the discussion at CPW related to forwarding the request to an attorney before the CPW acts. Mayor Dunbar stated that it is not a problem and stated asked what law prohibits any non-binding discussions in an open public meeting. Mr. Duvall stated that it was not non-binding and continued that Council wants CPW to enter into a contract. An unidentified person stated that as long as it is non-binding, you can talk about anything you want to. Mr. Duvall stated that before the CPW can make any consideration at any meetings, a letter must be received detailing the contract. Mayor Dunbar stated that Council does not have a contract. Inaudible. An unidentified person asked if Council needs to discuss things before it asks the CPW to do anything. Mayor Dunbar stated that the CPW wants a letter, sent to the CPW, asking for certain considerations and then the CPW will say yes, no or maybe and then Council will ask what CPW does not like and it will go back and forth. Inaudible. Mayor Dunbar asked if it would not be easier for everyone to discuss it at one table. Mr. Duvall stated that the CPW could not discuss it until a letter was received. An unidentified man stated that as long as it is non-binding, the Council can discuss it. Mr. Duvall stated that it was discussed last August and another time and that both times, a written request was requested by the CPW. Mr. McDuffie stated that the CPW would like the items wanted be put in writing and sent to the Commission so that the CPW could discuss it. Mayor Dunbar affirmed. City Administrator Greene stated that number five needed to be rescinded and did not need to come up tonight. Mr. McDuffie stated that he did not want to bring an issue to the CPW that was not what the City wanted. Mayor Dunbar stated that he understood. Ms. Simmons asked what number five City Administrator Greene was talking about. City Administrator Greene stated that number five was discussion of CPW bond. Inaudible. Mr. Duvall clarified that Council had to make a motion to approve the bond and then discuss the merits and vote. Mr. Duvall continued that the two items, the City's requests of CPW and the CPW's request of the City, are unrelated. Mr. Duvall stated that the linking of the two is blackmail and called extortion.

Mayor Dunbar stated that the list of items from the last work session was assistance in collection of outstanding utility debts by the CPW turning water off. Mayor Dunbar stated that he wanted to give an update and asked if he would be breaking any laws. Inaudible. Mayor Dunbar continued that a statute covering that had been found and that it is legal, stating that the City can enter into a contract with the CPW. Mayor Dunbar referenced the

law as 6-15-8. An unidentified man asked about the Court Order stating that he signed it. Mayor Dunbar stated that he did as well, and the unidentified man disagreed stating that Mayor Dunbar was not even around then. Mayor Dunbar stated that he was referring to the Consent Order related to the CPW. The unidentified man stated that he was talking about the one that he went to the Courthouse to sign. Mayor Dunbar stated that he does not know about that one, but that he signed the one he is referring to. The unidentified man stated that Council had not ever read it. Mr. Berry stated that the language in the bond from [inaudible] specifically states that the CPW will not deprive any customer from water because of, but stopped mid-sentence. Mr. Berry stated that the Mayor had read it and had it. An unidentified man stated that it would not be hard to get a hold of Floyd to straighten it out. An unidentified man read aloud. Mayor Dunbar stated that he did not think the document compels the City to sign any and every bond that the CPW sets before Council. An unidentified man stated that the agreement stipulates staying out of jail and paying off money. The man continued that Council should read the document and he did not feel that anyone behind the counter had. Mayor Dunbar asked if the man was referring to the Sewer Bond. The man stated that he was referring to the Court Order adding that the City operates under the Court Order whether it knows it or not. Inaudible. The man stated that he is not making it up. Mr. Berry stated that Harold had a copy. Mr. McDuffie stated that the settlement agreement stated on number eight that the City shall provide all approvals, consent and cooperation necessary for the CPW to obtain funding for improvements for proper operating standards signed and dated 20 July 2000. Mayor Dunbar stated that he was referring to the settlement as well and in his opinion the settlement agreement does not require the City to sign every bond that the CPW sets forth. Mr. Duvall stated that the reason for not signing it has to be relative such as the City is in bankruptcy or struggling to make its own payments. Mayor Dunbar asked where Mr. Duvall read that. Mr. Duvall stated that the agreement should be read carefully. Mayor Dunbar began to speak but was interrupted by Mr. Duvall stating that what he is saying is that the Council cannot choose to not sign the bond because the CPW will not enter into a contract. Mayor Dunbar stated that he did not read that. Inaudible. Mr. Williams asked for Mr. Roland to repeat his statement. Mr. Roland stated that the Mayor said Council is not required to sign every bond, adding that the Council could make decisions, and while he is not trying to choose sides, an example is that the CPW wants more money than it needs and it is a burden on the people of the City especially when they say they are not going up on water rates. Mr. Duvall asked to correct that the CPW is not asking for another \$800,000.00, but was interrupted by Mr. Roland. Inaudible. Mr. McDuffie stated that the number \$800,000.00 was said in the last meeting and it represented the total amount that is required and has been approved for \$464,000.00. Mr. Duvall stated that it was already in the budget. Mr. McDuffie stated that the letter of resolution requested is for another \$421,000.00 to raise it to the total. Inaudible. Mr. Duvall stated that it was for the wells. Mr. Roland stated that wells were not needed. Mr. Duvall stated that he was going by what the engineer said. Councilman Braswell asked to make a statement and said that during the work session he was well-informed on where the money is and the engineer explained it and the DHEC order. Mr. Roland asked who informed him. Councilman Braswell stated that the engineer, Mr. Edenfield, had explained the DHEC order. Mr. Roland asked about saving money. Councilman Braswell stated that the CPW is being told that it has to have another well. Mr. Duvall stated that part of the problem is piping in the water two miles out and stated that all of this was discussed and cleared and had been started in 2004. Mr. McDuffie stated that the work had already been approved by the USDA and that Council must weigh what it has been told and what it is hearing from the citizens and make a decision.

Mayor Dunbar stated that he wanted to go over the list of concerns, but was interrupted by Mr. Duvall. Mayor Dunbar asked to not be interrupted and be allowed to finish. Mr. Duvall asked for a motion. Mayor Dunbar stated that the list is the assistance in collecting outstanding utility bills by the CPW including a list of customers and a monthly list of the changes. Mayor Dunbar stated that he had a question about the by-laws, but that that request had been stricken. Mr. McDuffie asked why the by-law request was stricken, and Mayor Dunbar replied that he had been provided a copy of the by-laws. Mayor Dunbar continued that he may have issues with them, but that they are the CPW's by-laws and he just wanted to know what they were to insure that they fell within City ordinance and State Law which would also be CPW concerns. Mayor Dunbar continued that the CPW plans to address the Commissioner that lives outside of the City but serves on the CPW. Mayor Dunbar asked if anyone wished to add or subtract. Mr. Berry asked what the list requested is for. Mayor Dunbar replied that the list is a list of customers. An unidentified man stated that the list is names and addresses

of water customers. Mr. Berry asked if this was for in-town customers. Mayor Dunbar affirmed. Inaudible. Mr. Roland stated that it used to be done when he was there, and it takes 20-25 minutes. Mr. Roland continued that it had been done in the past and the CPW should offer more cooperation. Mr. Roland stated that there was no problem with it and with the economy, there are a lot of people coming and going from the City. Mr. Berry asked what grounds the CPW had for not sending the list. Mr. Duvall stated that there was no problem, but that in the meeting in August, which he emphasized that both men asking questions had attended, it was agreed that the City would send a letter which was never received. Mr. Duvall asked why a letter was never sent. Mayor Dunbar stated that the CPW never requested it. Mr. Duvall disagreed. Inaudible. An unidentified man stated that there are no privacy issues involved because in-town water users are on the tax rolls. Mr. Berry stated that somewhere along the way, he heard Commissioners indicate that there were privacy issues, but that there are no privacy issues when the same information is on the tax rolls. Mr. Roland stated that it took walking to every manhole hook-up over three months and Gene Crawford had done most of it, and there was an up-to-date list at that time. Mr. Roland continued that there was no need for both Council and the CPW to try to walk the manholes again when the information is available. Inaudible. Mr. Duvall stated that the letter was never sent. Mayor Dunbar stated that if a letter was requested, he missed it. Mr. Duvall stated that the Mayor missed a lot and the bottom line was that a written request was required from the City on official letterhead mailed via the United States Postal Service with a stamp on it. Inaudible. An unidentified person stated that it did not need to be mailed and as long as it has Mayor Dunbar's signature, it was fine, and Mr. Duvall was making it harder than it is. Inaudible. Mr. Duvall offered to pay for the stamp. Mr. Berry stated that it was splitting hairs. Inaudible. An unknown man stated that the list is no work, just computer printouts. Mayor Dunbar agreed and asked if there was anything else. *Motion to approve the writing of a letter requesting the CPW to provide a list of CPW customers in the City of New Ellenton by Councilman Braswell, second by Councilwoman Rodgers.* Mr. Duvall stated that the motion was incorrect and should say water customer list. Councilman Braswell stated that he said CPW water customers in New Ellenton. Mayor Dunbar asked if Council was setting aside the other situation. Councilman Braswell stated that the list was his main concern. Mr. Duvall stated that the motion should have all requests. Mayor Dunbar stated that the request should give it all to the CPW and let them see what they can do. Mr. Duvall stated that the City could send a letter on all of the requests or a letter for each request. Councilman Braswell stated that this was his main concern and why he brought it up. Mr. Duvall asked if Council wanted to amend the motion to include all of the requests. Councilman Braswell asked for the other request. Mayor Dunbar replied that the other request was assistance in collection of outstanding utility debts by the CPW turning water off. Inaudible. An unidentified person asked if the requests were the consensus of the Council members. Mr. Duvall stated that it would be known when Council votes. Mr. Roland stated that with the list, the City will know who is not paying its sewer bills and asked for an honest answer to the question how many times has the Mayor given the police chief an order to knock on the doors of the people on a list of non-paying trash customers. Inaudible. *Motion to amend the motion to include exploration of any methods to help the City collect its unpaid sewer bills by Councilman Braswell, second by Councilwoman Rodgers. All in favor. Approved. Vote on original motion including amendment: All in favor. Approved.* Mayor Dunbar stated that the City would forward a letter.

Mayor Dunbar asked when the CPW will review it. Inaudible. Mr. McDuffie stated that once the CPW receives the request, it will act on it. An unidentified person stated that if the bond resolution does not get passed tonight, the CPW will not get its money. Mayor Dunbar asked if that was a fact. Mr. Duvall stated that it is a fact. Inaudible. Mayor Dunbar stated that he wants the issues considered. Mr. McDuffie asked if the Mayor needed a yes or no on the City issues before acting on the water bond. Councilwoman Rodgers stated that Council does not feel that the issues will be considered, stating that she did not think that a letter was necessary; a phone call should be sufficient. Councilwoman Rodgers continued that if Council had to go through all of this, she was unsure whether the considerations would be explored at all. Mr. McDuffie asked for a motion to not pass the bond then. Mayor Dunbar stated that he did not feel Council was in a position to do that. Councilman Braswell stated that he was ready. Mr. Duvall stated that Council was ready and stated that the citizens of the City in serious jeopardy. Mayor Dunbar asked where Michelle was. Mr. McDuffie stated that all that was needed was a vote allowing the Mayor to sign the letter of resolution, and that the letter did not need to be there at that moment, but if it was needed, a copy was available. Inaudible. Mr. McDuffie stated that he was under an order

from DHEC to make repairs to the system. An unidentified man asked if the DHEC orders specifically required the CPW to do anything, and Mr. McDuffie replied that the DHEC order does not tell the CPW what to do, just that the problem has to be fixed. The man asked how much money the CPW has. Mr. McDuffie stated that the CPW has none. The man said that Mr. McDuffie gave an amount. Mr. McDuffie stated that the CPW had been approved. The man said someone said it was in the budget. Inaudible. Mr. Roland stated that the water bills are going to go up to pay the bond. An unidentified woman stated that the payments have been budgeted. Inaudible. Mr. Duvall stated that if there is not a yes vote tonight, Michelle from the USDA has informed the CPW that the loan will be gone. Inaudible. Mayor Dunbar asked why she had not come down to the meeting to relay that. Mr. Duvall stated that she had spoken to the Mayor on the phone that afternoon. Mayor Dunbar affirmed. Mr. Duvall stated that Michelle said she would come if the City was going to approve it and asked Mayor Dunbar if it would be approved, and Mr. Duvall stated that Mayor Dunbar's response to Michelle was that he did not know. Mr. Duvall continued that Mayor Dunbar's response meant Council either had no intention of approving it or Mayor Dunbar sincerely did not know if it would be approved. Councilwoman Rodgers stated that Mayor Dunbar cannot approve something on his own. Mr. Duvall stated that after talking to Mayor Dunbar, Michelle called Corinne at the CPW and informed her that she would not be coming and getting involved in local politics and then indicated that if it was not approved tonight, the loan was gone and the process would start all over. Inaudible. Mr. Duvall stated that DHEC says the work is needed. Inaudible. Mr. McDuffie urged the Mayor and Council to act on it. *Motion to approve the signature of the resolution requested by the CPW by Councilman Braswell, no second. Motion dies on the floor.* Inaudible. An unidentified man stated when DHEC comes knocking he will say "told you so." An unidentified man stated that DHEC wants a slurry station which is already budgeted and now are trying to get a well.

### **Adjournment**

*Motion to adjourn by Councilman Braswell, second by Councilwoman Rodgers. All in favor. Approved.*