

The Saraland City Council met in regular session on January 26, 2023 at the Saraland Municipal Annex. The meeting was called to order at 6:46 p.m. by Council President McDonald. Roll call was as follows:

Present: Council President Joe McDonald  
Councilmember Newton Cromer  
Councilmember Wayne Biggs  
Absent: Councilmember Veronica Hudson  
Councilmember Natalie Moyer

Attorney, Andy Rutens was present.

Councilmember Cromer opened the meeting with prayer.

#### APPROVAL OF MINUTES

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to approve the minutes of the meeting of January 9, 2023. Motion carried.

#### REPORT OF OFFICERS

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to approve a resolution requesting an Attorney General's opinion concerning eligibility for a person serving as Mayor to accept appointment as a member of the City Board of Education.

Attorney Rutens asked for a roll call vote:

Yes: Council President Joe McDonald  
Councilmember Wayne Biggs  
Councilmember Newton Cromer

Motion carried.

#### RESOLUTION NO. 2267

**RESOLUTION REQUESTING ATTORNEY GENERAL'S OPINION CONCERNING  
ELIGIBILITY FOR A PERSON SERVING AS  
MAYOR TO ACCEPT APPOINTMENT AS MEMBER OF  
CITY BOARD OF EDUCATION**

WHEREAS, on March 13<sup>th</sup>, 2006, the City of Saraland adopted Ordinance 724, establishing a school system for the City of Saraland, Alabama, as well as establishing a Board of Education for operation of the same; and

WHEREAS, the City School System was established pursuant to Code of Alabama Section 16-11-1 et seq. (1975), as amended; and

WHEREAS, Ordinance 724 authorized the organization and appointment of a Board of Education consisting of five (5) members who are elected by the City Council for five (5) year terms; and

WHEREAS, currently by operation and authority, the City School Board has never authorized compensation to be received by the Board Members for their services by majority vote of the Members of the Board as required by Alabama Code Section 16-1-26; and

WHEREAS, Article XVII, Section 280 of the Alabama Constitution in pertinent part provides that no person may “hold two offices of profit at one and the same time under this State . . . .”; and

WHEREAS, in pertinent part Alabama Code Section 36-2-1(b) provides “nor shall any person hold two offices of profit at one and the same time under this State . . . .”; and

WHEREAS, the Supreme Court of Alabama has previously opined that officers of the State who receive compensation cannot be appointed to another position which provides for compensation, but that a different result of legally holding a second position would be required if no compensation were provided, see, Opinion of the Justices, 13 So.2d 674, 678-79 (1943); Opinion of the Justices, 47 So.2d 591, 593 (1950); and

WHEREAS, a prior opinion issued by the Attorney General has concluded City Council Members receiving compensation also serving as Board of Education Members receiving compensation is not allowed, even if the official waives compensation that they are entitled to receive, see Hon. William D. Latham, Ala. Op. Atty. Gen. No. 2000-064; and

WHEREAS, there is no Attorney General’s opinion or other court opinions addressing the issue concerning whether or not when a school board has not voted to authorize payment of School Board Members as allowed by State Code, whether or not becoming a Member of that School Board is an “office of profit.”; and

WHEREAS, the City Council has determined this question is of such nature and character which makes the advice and opinion of the Attorney General necessary for the Council to perform their duties and consider the possible appointment of the current Mayor to the City Board of Education and, as such, is an appropriate request for an Attorney General’s Opinion pursuant to Alabama Code Section 36-15-1(1)(c).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Saraland, Alabama that the Mayor through this Resolution is authorized to request an Attorney General’s Opinion to address the issues and questions raised herein.

Adopted and approved this 26<sup>th</sup> day of January 2023.

REPORT OF STANDING COMMITTEES

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to approve invoice # D3-76084 & D3-74113 from Cummins Sales and Service in the amount of \$859.89 and \$887.61 for repair to the boom truck. Motion carried.

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to authorize training expense and adopt a resolution for a cash advance for Shelby Carter, Austin Sullivan, and O.J. Atkins to attend K-9 Seminar, February 5-10, 2023, in Dothan, Alabama. Motion carried.

### **RESOLUTION 2268**

**BE IT RESOLVED** by the City Council of the City of Saraland, that

**WHEREAS** a cash advance for Shelby Carter, Austin Sullivan, and O.J. Atkins to attend K-9 Seminar, February 5-10, 2023, in Dothan, Alabama; and

**WHEREAS** a statement of said expenditures will be presented to the City Clerk immediately upon return, at which time all monies will be balanced.

**ADOPTED AND APPROVED** this 26<sup>th</sup> day of January 2023.

#### **APPROVAL OF INVOICES**

Motion was made by Councilmember Cromer, seconded by Councilmember Biggs, to approve the following invoices:

#### **General Fund**

- |  |              |
|--|--------------|
| 1. Municipal Workers Compensation                        | \$219,392.00 |
| 2. Galloway Wettermark & Rutens, LLP – Professional Fees | \$10,376.92  |
| 3. T.R. Ingram Plumbing, LLC – Police Gym                | \$4,720.00   |

Motion carried.

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to approve the following invoices:

#### **Gas Tax Fund**

- |   |             |
|---|-------------|
| 1. S.C. Stagner, Celeste Rd. Widening, Est. #6                | \$26,816.40 |
| 2. Geotechnical Engineering, Inv.# 22232-0123-492- Second Ave | \$1,996.00  |

Motion carried.

Motion was made by Councilmember Cromer, seconded by Councilmember Biggs, to approve the following invoice:

**General Obligation Warrant 2022-A**

- 1. Geotechnical Engineering, Inv.# 2207-0123-494, Sportsplex \$31,050.00

Motion carried.

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to approve the following invoice:

**American Rescue Plan Funds**

- 1. Hydraulic Crane Specialist, Inc., Inv.# 28493 (Incinerator) \$2,247.00

Motion carried.

**ORDERS, RESOLUTIONS, ORDINANCES & OTHER BUSINESS**

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to remove item #6 – School Board appointment from the agenda.

Attorney Rutens asked for a roll call vote:

Yes: Council President Joe McDonald  
 Councilmember Wayne Biggs  
 Councilmember Newton Cromer

Motion carried.

AFTER PROPER PUBLIC NOTICES HAVING BEEN DULY GIVEN, A PUBLIC HEARING WAS HELD TO CONSIDER THE annexation of Parcel 02 1307350000017.030, approximately 5.1 acres at 10568 Traxler Lane, filed by owners Dustin & Rebecca Payne.

Council President McDonald declared the public hearing open.

There was no one in favor of or in opposition to the application.

Council President McDonald declared the public hearing closed.

Councilmember Biggs introduced an ordinance approving the annexation of Parcel 02 1307350000017.030, approximately 5.1 acres at 10568 Traxler Lane, filed by owners Dustin & Rebecca Payne.

**ORDINANCE 1243**

**AN ORDINANCE ANNEXING PROPERTY TO THE CITY OF SARALAND UNDER CODE SECTION 11-42-21**

WHEREAS, the owner of the below-described territory has filed a written petition with the City Clerk requesting that the territory be annexed to the City of Saraland; and

WHEREAS, the City Council of the City of Saraland is desirous of annexing the said territory to the City of Saraland; and

WHEREAS, the said territory is contiguous to the City's present corporate limits and otherwise meets the requirements of Section 11-42-21, Code of Alabama 1975.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SARALAND, ALABAMA, THAT THE FOLLOWING DESCRIBED PROPERTY IS HEREBY ANNEXED INTO THE CITY OF SARALAND:

Section 1: The City of Saraland assents to the annexation of the following described property to the City, to-wit:

Approximately 5.1 acres at 10568 Traxler Ln, parcel 02 1307350000017.030, petitioned by owners Dustin & Rebecca Payne, as described by the legal description here:

**Lot 8, MADDOX ESTATES, according to plat thereof recorded in Map Book 47, Page 99, Probate Court Records, Mobile County, Alabama**

**EXCEPTING THEREFROM such oil, gas and other minerals in, on and under said real property, together with all rights in connection therewith, as have previously been reserved by or conveyed to others; it being the intention of the Grantor to convey to the Grantees only the interest Grantor owns therein, if any.**

The same is hereby annexed to the corporate limits of the City of Saraland and said property of territory hereby is made a part of the City of Saraland and is to adopt the zoning R-1.

Section 2: The City Clerk of the City of Saraland shall file the description of the territory annexed by this ordinance in the Office of the Judge of Probate of Mobile County, Alabama

Section 3: This ordinance shall be effective upon its adoption and publication as required by law.

ADOPTED AND APPROVED this the 26<sup>th</sup> day of January 2023.

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to suspend the rules to allow for immediate consideration of the proposed ordinance for the annexation of Parcel 02 1307350000017.030, approximately 5.1 acres at 10568 Traxler Lane, filed by owners Dustin & Rebecca Payne.

The following votes were recorded:

Yes: Council President Joe McDonald  
Councilmember Wayne Biggs  
Councilmember Newton Cromer

Motion carried.

Unanimous consent being given to allow for immediate consideration of the proposed ordinance, motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to adopt the ordinance for the annexation of Parcel 02 1307350000017.030, approximately 5.1 acres at 10568 Traxler Lane, filed by owners Dustin & Rebecca Payne.

The following votes were recorded:

Yes: Council President Joe McDonald  
Councilmember Wayne Biggs  
Councilmember Newton Cromer

Motion carried.

AFTER PROPER PUBLIC NOTICES HAVING BEEN DULY GIVEN, A PUBLIC HEARING WAS HELD TO CONSIDER THE approval of alcoholic beverage application for on-premises beer, wine & liquor retail (020- Restaurant Retail Liquor) for Ruby Tuesday Operations LLC d/b/a Ruby Tuesday #3198, 1206 Shelton Beach Road, Saraland Alabama, 36571

Council President McDonald declared the public hearing open.

There was no one to speak for or against the application.

Council President McDonald declared the public hearing closed.

Motion was made by Councilmember Cromer, seconded by Councilmember Biggs, to suspend the rules to allow for the consideration of the application for on-premises beer, wine & liquor retail (020- Restaurant Retail Liquor) for Ruby Tuesday Operations LLC d/b/a Ruby Tuesday #3198, 1206 Shelton Beach Road, Saraland Alabama, 36571

The following votes were recorded:

Yes: Council President Joe McDonald  
Councilmember Wayne Biggs  
Councilmember Newton Cromer

Motion carried.

Unanimous consent being given to allow for immediate consideration of the proposed application, motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to approve the application for an alcoholic beverage license for on-premises beer, wine & liquor retail (020- Restaurant Retail Liquor) for Ruby Tuesday Operations LLC d/b/a Ruby Tuesday #3198, 1206 Shelton Beach Road, Saraland Alabama, 36571

The following votes were recorded:

Yes: Council President Joe McDonald

Councilmember Wayne Biggs  
Councilmember Newton Cromer

Motion carried.

Motion was made by Councilmember Cromer, seconded by Councilmember Biggs, to authorize training expense and adopt a resolution for a cash advance for Clayton Horton to attend Fire Inspector II Certification Class, April 17-21, 2023, in Orange Beach, Alabama. Motion carried.

**RESOLUTION 2269**

**BE IT RESOLVED** by the City Council of the City of Saraland, that

**WHEREAS** a cash advance for Clayton Horton to attend Fire Inspector II Certification Class, April 17-21, 2023, in Orange Beach, Alabama; and

**WHEREAS** a statement of said expenditures will be presented to the City Clerk immediately upon return, at which time all monies will be balanced.

**ADOPTED AND APPROVED** this 26<sup>th</sup> day of January 2023.

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to authorize training expense and adopt a resolution for a cash advance for Clayton Horton to attend Fire Inspector III Certification Class, April 24-28, 2023, in Orange Beach, Alabama. Motion carried.

**RESOLUTION 2270**

**BE IT RESOLVED** by the City Council of the City of Saraland, that

**WHEREAS** a cash advance for Clayton Horton to attend Fire Inspector III Certification Class, April 24-28, 2023, in Orange Beach, Alabama: and

**WHEREAS** a statement of said expenditures will be presented to the City Clerk immediately upon return, at which time all monies will be balanced.

**ADOPTED AND APPROVED** this 26<sup>th</sup> day of January 2023.

Motion was made by Councilmember Cromer, seconded by Councilmember Biggs, to approve Fire Department to request and receive grant funding from ALEA for Hazmat equipment (100% reimbursement). Motion carried.

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to approve the Mayor to sign the contract with Volkert, Inc. for the Comprehensive Plan. Motion carried.

Motion was made by Councilmember Biggs, seconded by Councilmember Cromer, to approve recommendation of Turner Wilson Fencing, in the amount of \$14,100.00 for Incinerator Fence Project. Motion carried.

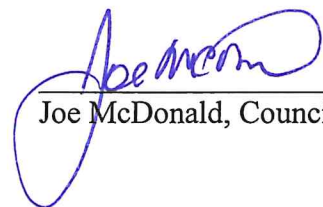
(Copy of the Bid Tabulation Sheet is filed with the minutes of January 26, 2023).

Motion was made by Councilmember Cromer, seconded by Councilmember Biggs, to authorize a contract with the Chamber of Commerce to provide fireworks display on July 1, 2023, for the Independence Day celebration. Motion carried.

There being no further business to come before the Council, motion was made by Councilmember Cromer to adjourn at 6:58 p.m.

ACCEPTED and APPROVED the 9<sup>th</sup> day of February 2023.

  
Judi Smith, City Clerk

  
Joe McDonald, Council President