

**WORK SESSION MEETING MINUTES**  
**March 14, 2022**

The members of the City Council of the City of Phenix City, Alabama met at 3:00 p.m. Eastern Time for the regularly scheduled work session on Monday, March 14, 2022, at the Martin Idle Hour Park Community Center located at 3743 Moon Lake Drive, Phenix City, Alabama 36867. Upon roll call, the following members were present: Councilmember Arthur L. Day, Jr., Councilmember Steve Bailey, Councilmember R. Griff Gordy, and Mayor Eddie N. Lowe. Councilmember Vickey Carter Johnson was not present. Also present were City Manager Wallace Hunter, City Attorney Jimmy Graham, and City Clerk Melony Lee. Department Heads in attendance: Building Official Gil Griffith, City Engineer Angel Moore, Economic Development Manager Shaun Culligan, Economic Development Planning Director Tracie Hadaway, IT Director Mike Bauer, Fire Chief Kris Kennedy, Library Director Michele Kilday, Municipal Court Clerk Ruby White, Parks and Recreation Director Todd Hughes, Human Resources Director Stephanie Chastain, Chief of Police Ray Smith, Assistant Chief of Police George Staudinger, Graduate Engineer John Spraggins, and Utilities Director Charles Woody.

Upon a quorum being established, Mayor Lowe called the meeting to order.

Councilmember Bailey led the invocation.

Councilmember Vickey Carter Johnson joined the Work Session at 3:03 p.m.

Mayor Lowe called upon Emmitt Bennett to address Council, as listed on the agenda. Mr. Bennett came forward to address Council. Mr. Bennett read a letter that he wrote to Mayor and Council. The letter read as follows:

My name is Emmitt Bennett. My purpose for appearing before the City Council today, is to bring attention to a drainage problem that is causing an issue on my property located at 4014 Lakewood Drive in Phenix City. In 2012, I contacted the Public Works department about an issue with standing water that settled between my property and my neighbor's property. I was informed by another neighbor, who lives on 28<sup>th</sup> Avenue, that a storm drain was buried underground and it was currently covered over with a lot of debris and over-growth. The Public Works representative said that they could not come out and look for the storm drain. So, then I went up the road to see the acting Mayor of Phenix City, Sonny Coulter, to discuss the matter.

The next day, the Public Works crew came to my house looking for the storm drain. To their surprise, they found it and the source of the water between my house and my neighbor. The water was backing up out of a manhole that caused the water to flow between my property and my neighbor. I was told by an acting Public Works' supervisor (Leroy) at the time that no maps showed a storm drain in that area nor a drainpipe running under Lakewood Drive. A few days later, the city workers started digging the trench from the storm drain to Lakewood Dr. in order to carry out the water from the storm drain that originated from 28<sup>th</sup> Ave. I would call Public Works from time to time to request clean-up maintenance on the trench for weeds and over-growth and address the erosion problem near the storm drain. They always would come out and take care of the problem as

needed. They also came out one time and poured concrete and placed large stones to stop the erosion near the entrance of the storm drain.

That solution seemed to be working well. Last year, I contacted Public Works to come and clean out the trench again due to the over-growth. This time they told me that they couldn't do it because it was private property. So, then I called my Councilman, Mr. Bailey, about the matter. He spoke to the city Manager about it. Mr. Bailey informed me that the city Attorney informed the City Manager that they could not come on private property even though the trench was dug by the city's Public Works Department. If the City had continued the regular maintenance on the trench, then the water would not be forced to create another path.

This new path is eating my property and my hillside is now eroding. If the City had kept the original path cleaned out, then the water running off from the storm drain would not cause the soil on my property to wash away. (Mr. Bennett included three photos in his request to address council at a work session packet.) Photo # 1 shows the over growth and debris in the trench that the city used to maintain and the #2 and #3 shows the erosion of my property next to the debris and over-growth in the trench.

All that I am asking is that the City take care of this problem. Because I think I have gone about this matter in the right way. I know the majority of the council members were not on the council at the time when the trench was dug. I want all of you to not look at Emmitt Bennett living at 4014 Lakewood Drive but see yourself living there with this problem at 4014 Lakewood Drive.

Thank you for the opportunity for me to speak to the City council today. And the help from Ms. Tonya W. Williams of the City Clerk Office she was very helpful.

Mayor Lowe stated that the information given to Mr. Bennett by Councilmember Bailey was correct. Mayor Lowe also stated that the City has a right but not an obligation to maintain the trench even though it may have been done in the past. City Attorney Jimmy Graham stated that there has been two letters sent out, one by Graham's Legal Firm and the other by City Attorney Jim McKoon. City Attorney Graham read the letter:

In response to citizen inquires regarding the City's obligation for the maintenance of easements, please be informed that the City is under no obligation to maintain an easement of any description or type granted by deed or plat and accepted by the City. An easement if the sole purpose of access installation, maintenance, or repair of public utilities such as piping for sanitary sewer lines, potable water lines or storm water conveyance such as underground piping, open ditches, swales and associated structures lying above or below ground. However, the City may perform periodic maintenance of an easement by clearing brush, trees, weeds, debris or other conditions if such threatens the integrity or function of the utilities. The property lying within the easement belongs to the property owner and can therefore be maintained at their discretion but not altered in any way. Any maintenance performed by the owner shall

not cause damage to or interfere with the function of the utilities described herein.

City Attorney Graham stated that the City can only maintain the easement if it affected the Utilities Department. City Attorney Graham also stated that Mr. Bennett is one side and another landowner is on the other side, and they own it until the center of the ditch. City Attorney Graham further stated that the work performed on the easement in the past was to protect the infrastructure. Councilmember Day asked, if the grass grew in the ditch and interfered with Utility operation, would the City come onto the private property to fix the problem. City Attorney Graham stated that the City would then have the right to go into the trench and cut the grass. Councilmember Day asked if the property owners on each side of the ditch could build a fence around it. City Attorney Graham stated that the City's easement can't be blocked. City Manager Wallace Hunter stated that the easement was there before Mr. Bennett moved in the house. Mr. Hunter called upon City Engineer Angel Moore to explain. Ms. Moore stated that the pipe under Lakewood Drive has been there for quite some time. Ms. Moore also stated that if there is a blockage in the storm pipes the City has a right to go onto the easements for repair. Ms. Moore further stated that the City is not obligated to maintain the easement. Mr. Bennett stated that the water coming from the storm drain is coming on his property. Councilmember Johnson asked if the property line of the easement belongs to the property owners and should it be maintained by the property owners but not altered in anyway, does maintain the property alter it. Councilmember Johnson also asked if there was a water issue on the easement or just overgrown trees and shrubs. Mr. Bennett stated that the over growth was the main issue. Mr. Bennett also stated that after a hard rain, water falls in his yard. Mr. Hunter stated that the area has received a lot of rainfall and the City cannot control that. Councilmember Bailey stated that he looked at the drainage with Mr. Bennett. Councilmember Bailey also stated that work can be done on the property but the City's infrastructure cannot be altered in any way. Councilmember Bailey further stated that property owners must take responsibility for their own property. Councilmember Bailey stated that he has a creek in his backyard and he maintains and keeps both sides of it clear so that it won't cause more problems. City Attorney Graham stated that by State law, the City can't do maintenance of private property. City Attorney Graham also stated that if the trench was necessary for water flow, then the City would be responsible for that issue only, not to maintain the vegetation. Mr. Bennett stated that it wasn't all the time that the City came but at least once a year. Mr. Hunter stated that just because it was going on prior to him being City Manager doesn't make it right. Councilmember Bailey stated that the current Mayor, Council and City Manager can not speak for the prior Mayor, Council or City Manager. Mayor Lowe stated that when you know better, you have to do better. Mayor Lowe thanked Mr. Bennett for coming to speak with Council.

Mayor Lowe called upon Tim Simpson, PE and Scott Chambers to address Council, as listed on the agenda. Mr. Simpson nor Scott Chambers were present.

Mayor Lowe called upon Traci Hadaway, Economic Development Planning Director, to discuss the actions taken by the Planning Commission at their March 8, 2022 meeting.

Mayor Lowe called upon City Clerk Melony Lee who discussed the following with Mayor and Council:

1. Advised Council of a regular scheduled Council Meeting to be held on March 15, 2022 at 6:00 p.m. at the Martin Idle Hour Park Community Center.
2. Advised Council that the Planning Commission will meet March 22, 2022 at 5:15 p.m.

3. Advised Council of a regular scheduled Work Session to be held on April 4, 2022 at 3:00 p.m. at the Martin Idle Hour Park Community Center.
4. Advised Council of a regular scheduled Council Meeting to be held on April 5, 2022 at 9:00 a.m. at the Martin Idle Hour Park Community Center.
5. Advised Council that the Planning Commission will meet April 12, 2022 at 5:15 p.m.
6. Advised Council of a regular scheduled Work Session to be held on April 18, 2022 at 3:00 p.m. at the Martin Idle Hour Park Community Center.
7. Advised Council of a regular scheduled Council Meeting to be held on April 19, 2022 at 9:00 a.m. at the Martin Idle Hour Park Community Center.
8. Advised Council that the Planning Commission will meet April 26, 2022 at 5:15 p.m.

City Clerk Melony Lee stated that the Alabama League of Municipalities 2022 Convention will be held May 11, 2022 through May 14, 2022 in Tuscaloosa, Alabama. Ms. Lee also stated that as of right now, Councilmember Johnson is the only councilmember that will be attending the convention. Ms. Lee further stated that Mayor and Council would need to appoint Councilmember Johnson as the Voting Delegate at the April 5, 2022, Council Meeting.

City Clerk Melony Lee reviewed upcoming board appointment.

Mayor Lowe went over the agenda items.

During the discussion of the agenda items, Councilmember Johnson questioned the verbiage of an ordinance to be placed on first reading. An ordinance to amend Chapter 22 – Elections; Sec 22-1 Districts of the City; Voting Places; (a) – Districts, Boundaries Established : (1) – District 1; (2) – District 2; - District 2; (3) – District 3, of the Code of Ordinances of the City of Phenix City, Alabama. Councilmember Johnson stated that the verbiage for District One and District Three specifically outlined addresses and boundary lines. Councilmember Johnson also stated that for District Two there is only one sentence of description. Councilmember Johnson asked for a reason behind the lack of verbiage for District Two. City Manager Wallace Hunter called upon City Engineer Angel Moore to explain. Ms. Moore stated that District Two has always been described as the land that lies between the boundaries of District One and District Three. Councilmember Johnson questioned the statement that read that District Three begins at the point where the center line of Dillingham Street intersects the Alabama / Georgia State line. Ms. Moore stated that the descriptions are legal descriptions. City Attorney Jimmy Graham stated that in order to change or update the descriptions, the Alabama Department of Justice must approve it. Councilmember Bailey stated that District Two is between District One and District Three so once boundary lines are defined for the outer districts, the inter district boundaries are also defined. Councilmember Gordy stated that specific residents are not listed, just northern and southern borders. Councilmember Johnson stated that she wanted to make sure that the citizens of District Two and District Three knew and understood what District that they currently reside in. Councilmember Johnson also stated that she didn't want anyone to think that there was any map manipulation with the ending and beginning of District Two and District Three. Ms. Moore stated that the Engineering Department will look at the legal descriptions of past redistricting ordinances and the City's district maps and follow up with Mayor and Council.

Mayor Lowe continued reviewing agenda items.

City Attorney Jimmy Graham reviewed agenda claims with Council.

City Attorney Jimmy Graham asked for an Executive Session to discuss Good Name and Character for 60 minutes, from which the meeting would adjourn.

Councilmember Day moved to go into Executive Session to discuss Good Name and Character for 60 minutes, from which the meeting would adjourn. Councilmember Bailey seconded said motion. All were in favor.

Council went into Executive Session at 4:34 p.m.

Council came out of Executive Session at 5:34 p.m.

There being nothing further to discuss, the meeting adjourned until 3:00 p.m., Monday, April 4, 2022.