

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD**

January 18, 2011

The Council of Muscle Shoals, Alabama met at the City Hall in said City at 6:20 p.m. on the 18th day of January, 2011 being the regularly scheduled time and approved place for said meeting. The meeting was called to order by James Holland, Mayor Pro-Tem of the City. The invocation was given by Robert Evans. On roll call the following members were found to be present or absent, as indicated:

PRESENT: JOE PAMPINTO, NEAL WILLIS, JERRY KNIGHT GRISSOM
 JAMES HOLLAND, ALLEN NOLES
ABSENT: DAVID H. BRADFORD

Richard Williams, City Clerk, was present and kept the minutes of the meeting.

James Holland, Mayor Pro-Tem of the City, presided at the meeting and declared that a quorum was present and that the meeting was convened and opened for the purposes of transaction of business.

Upon motion duly made by Council Member Pampinto seconded by Council Member Willis and unanimously adopted, the Council waived the reading of the minutes of the previously held regular meeting and work session of January 3, 2010 and approved the minutes as written.

Mayor Pro-Tem Holland announced that the next item of business was consideration of a resolution awarding a bid for the purchase of a tractor with boom cutter.

Council Member Willis introduced the following resolution which was presented in the meeting and moved for its adoption:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2478 - 11

BE IT RESOLVED by the Council of the City of Muscle Shoals, Alabama as follows:

[1] That the Procurement Agent did send out advertisements for bids for the purchase of a used tractor with boom cutter, net of trade-in of a Ford 655 tractor with boom cutter with the bid opening being held January 14, 2011 at the City Hall of the City of Muscle Shoals, Alabama.

[2] At the appointed time and place, as specified above, the following bids were opened and tabulated as follows:

BIDDER:	BID PRICE:	Less trade-in	NET PRICE
Tri-Green Equipment LLC	\$70,000.00	\$6,000.00	\$64,000.00

[3] The lowest, responsive, responsible bidder after evaluation and verifying the bid with the specifications, has been determined as Tri-Green Equipment LLC with a total bid price of \$64,000.00 for the purchase of a used tractor with boom cutter, net of trade-in.

BE IT FURTHER RESOLVED, that the apparent low and best bidder, Tri-Green Equipment LLC is now awarded the bid for the purchase of a used tractor with boom cutter.

Council Member Noles seconded the motion and upon said motion being put to a vote, all voted “AYE” and “NAYS” were none.

Mayor Pro-Tem Holland announced that the Resolution had been approved.

Mayor Pro-Tem Holland announced that the next item of business was consideration of a resolution adopting a written procurement policy to comply with state and federal guidelines for grant projects.

Council Member Noles introduced the following resolution which was presented in the meeting and moved for its adoption:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2479 - 11

WHEREAS, the CITY OF MUSCLE SHOALS is the recipient of EPA and/or Community Development Block Grant funds, and

WHEREAS, the CITY OF MUSCLE SHOALS is required to have a written procurement policy in order to be in compliance with State and Federal guidelines,

NOW, THEREFORE, BE IT RESOLVED THAT:

The CITY OF MUSCLE SHOALS does hereby acknowledge the State Code of Alabama (1975) Sections 41-16-50 through 41-16-63 and all subsequent revisions; Public Works Law (Title 39, Code of Alabama, 1975) and all subsequent revisions; Title 24 CFR Part 85.36; and all related exclusions, revisions, and policy letters issued by ADECA; as its official written policy as regards all procurement made in relation to the expenditures of EPA and/or Community Development Block Grant and related local matching funds.

FURTHER, BE IT RESOLVED THAT:

- (1) The attached Standards of Conduct for purchasing, contracting, and disbursing EPA and/or Community Development Block Grant and Local Matching Funds shall become part of this procurement policy.
- (2) That the Mayor, or his official designee, will initiate all purchases relating to the expenditure of EPA and/or CDBG or local matching funds.
- (3) That full and open competition will be sought for every purchase related to the expenditure of said funds.
- (4) That all accounting records be maintained in a manner consistent with Title 24 Code of Federal Regulations Part 85 “Common Rule” and Office of Management and Budget Circular A-87.

(5) That subject to the previously mentioned exclusion, revisions, and policy letter issued by ADECA one of the four methods of procurement be used in the expenditure of EPA and/or CDBG or local matching funds:

Small purchase - Used for purchases of \$15,000 or less.

1. Sealed bids - Used for purchases such as construction in which the procurement lends itself to a firm fixed price contract, and the selection of the bidder can be made principally on the basis of price.
2. Competitive Negotiation - Used when conditions are not appropriate for the use of sealed bid i.e. professional services.
3. Non-competitive proposal - Used when item or service is available from only a single source; an urgent public need or emergency does not allow for the delay caused by the advertisement process; or after solicitation of a number of sources, competition is determined to be inadequate.

(6) That the Code of Conduct shall exempt gifts or items received by city officials, employees, etc., where the financial interest is judged to be of an insubstantial amount or the gift is of nominal intrinsic value.

**STANDARDS OF CONDUCT FOR PURCHASING, CONTRACTING,
AND DISBURSING, COMMUNITY DEVELOPMENT BLOCK GRANT
AND LOCAL MATCHING FUNDS**

WHEREAS, the CITY OF MUSCLE SHOALS is the recipient of EPA and/or Community Development Block Grant Funds, and

WHEREAS, elected and appointed officials, department heads and employees of the CITY OF MUSCLE SHOALS are responsible for the purchasing, contracting, and disbursement of said funds, and

WHEREAS, it is the responsibility of elected and appointed officials, department heads and employees of the CITY OF MUSCLE SHOALS to comply with all Federal, State, and local laws, guidelines, and policies related to the purchasing, contracting, and disbursement of said funds, and

WHEREAS, it is the desire of the CITY OF MUSCLE SHOALS to establish purchasing and contracting standards of conduct to govern the performance of its elected and appointed officials, department heads, and employees in the purchasing, contracting and disbursement of said funds,

NOW, THEREFORE, BE IT RESOLVED THAT:

The rules, regulations, policies, guidelines, and procedures as delineated by the State Code of Alabama (1975) Section 36-25-1 through Section 36-25-30 and Title 24 Code of Federal Regulations Part 85.36 shall be reference herein become the official Code of Conduct in relation to all procurement with said funds. Violators of this Code shall be dismissed, disciplined, or prosecuted criminally or civilly as provided by law and the circumstances.

Council Member Grissom seconded the motion and upon said motion being put to a vote, all voted "AYE" and "NAYS" were none.

Mayor Pro-Tem Holland announced that the Resolution had been approved.

Mayor Pro-Tem Holland announced that the next item of business was consideration of a resolution to appoint two (2) members to the Zoning Board of Appeals.

Council Member Noles introduced the following resolution which was presented in the meeting and moved for its adoption:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2480 - 11

WHEREAS, the terms of two (2) members of the Zoning Board of Appeals of the City of Muscle Shoals have expired and the City Council being desirous of making the necessary appointments to said board within the City;

WHEREAS, notice was given to the public of said pending vacancies and applications solicited for members to said board;

WHEREAS, the following individuals made proper application and met the requirements for appointment, are eligible for appointment to fill the pending vacancies:

Paula Michael and Brenda Simpson

WHEREAS, Paula Michael and Brenda Simpson were the only applicants and determined to be eligible for appointment, and

WHEREAS, a roll call vote was had by the City Council as follows:

Council Member Pampinto: Paula Michael and Brenda Simpson
Council Member Willis: Paula Michael and Brenda Simpson
Council Member Grissom: Paula Michael and Brenda Simpson
Council Member Holland: Paula Michael and Brenda Simpson
Council Member Noles: Paula Michael and Brenda Simpson

WHEREAS, Mayor Pro-Tem Holland announced that Paula Michael and Brenda Simpson had received a majority of the votes cast, now

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Muscle Shoals, Alabama does hereby appoint the following named persons to serve as set forth herein:

<u>APPOINTEE</u>	<u>BOARD</u>	<u>EXPIRATION OF TERM</u>
Paula Michael	Appeals Board	December 2015
Brenda Simpson	Appeals Board	December 2015

The Clerk is hereby directed to notify the above named persons of their appointment and to further notify the respective board of said appointments.

Council Member Grissom seconded the motion and upon said motion being put to a vote, all voted "AYE" and "NAYS" were none.

Mayor Pro-Tem Holland announced that the Resolution had been approved.

Mayor Pro-Tem Holland announced that the next item of business was consideration of a resolution appointing a member to Place #1 on the board of directors for the Health Care Authority of North Alabama d/b/a Healthgroup of Alabama.

Council Member Noles introduced the following resolution which was presented in the meeting and moved for its adoption:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2481 - 11

WHEREAS, the City Council of Muscle Shoals, Alabama is the appointing authority for certain members to the Board of Directors of The Health Care Authority of North Alabama d/b/a HealthGroup of Alabama; and

WHEREAS, the City Council deems it necessary and expedient that said appointments be made to insure the continued efficient and orderly conduct of the The Health Care Authority of North Alabama d/b/a HealthGroup of Alabama's business; and

WHEREAS, the City Council has determined that the nominations for members to the Board of Directors have been submitted in accordance with the Certificate of Incorporation of The Health Care Authority of North Alabama d/b/a HealthGroup, and

WHEREAS, the City Council finds it necessary and expedient to appoint a member to the Board of Directors for Place 1, and hereby proceeds to do so;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Muscle Shoals, Alabama that the following named person is hereby appointed as a member of the Board of Directors of The Health Care Authority of North Alabama d/b/a HealthGroup of Alabama, said appointment is for the place on the Board of Directors hereinafter set forth by the name of the appointee and for the term expiring as shown herein:

<u>Place #</u>	<u>Appointee</u>	<u>Expiration of Term</u>
Place 1	Steve Smith	December 20, 2012

BE IT FURTHER RESOLVED by the City Council of Muscle Shoals, Alabama that the Clerk of the City shall prepare a certified copy of this Resolution and deliver a copy of same to the Chief Executive Officer of The Health Care Authority of North Alabama d/b/a HealthGroup of Alabama.

Council Member Grissom seconded the motion and upon said motion being to a vote, all voted "AYE" and "NAYS" were none.

Mayor Pro-Tem Holland announced that the Resolution had been approved.

Mayor Pro-Tem Holland announced that the next item of business was consideration of a resolution to grant tax abatements to Gourmet Bakery Inc. and Athenian Ventures LLC for development of a commercial bakery in the City.

Council Member Grissom introduced the following resolution and moved for its adoption:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2482 -11

WHEREAS, this Resolution is made this 18th day of January 2011 (the Effective Date) by The City Council of Muscle Shoals, Alabama, (the Granting Authority) to grant a tax abatement for The Athenian Ventures, LLC and Gourmet Bakery, Inc. (the Companies); and,

WHEREAS, the Companies have announced plans for a new project, the establishment of a new commercial bakery, (the Project) located at 615 Geneva Avenue and John R Street, Muscle Shoals, Colbert County, Alabama, within the jurisdiction of the Granting Authority; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1 et seq., **Code of Alabama 1975**, as amended by Alabama Act No. 2009-722) (the Act), the Companies have requested from the Granting Authority an abatement of all state and local noneducational property taxes and all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education and except the 0.5% general sales and use taxes levied by Colbert County, which pursuant to Alabama Act No. 2007-351 cannot be abated; and

WHEREAS, the Companies have requested that the abatement of state and local noneducational property taxes be extended for a period of ten (10) years, in accordance with the Act; and

WHEREAS, the Granting Authority has considered the request of the Companies and the completed Applications to Local Granting Authority for Abatement of Taxes, copies attached as Attachment One and Attachment Two, filed with the Granting Authority by the Companies in connection with its request; and

WHEREAS, the Granting Authority has found the information contained in the Companies' applications for abatement of taxes to be sufficient to permit the Granting Authority to make a reasonable cost/benefit analysis of the proposed project, copy attached as Attachment Three, pages one and two, and to determine the economic benefits to the community; and

WHEREAS, the Project will involve an investment of approximately \$1,526,760, which consists of purchasing real property, land and buildings, located at Geneva Avenue and John R Street, Muscle Shoals, Colbert County, Alabama, \$508,760; making improvements to these existing buildings, \$200,000; purchasing existing personal property (manufacturing machinery), \$290,000; purchasing new manufacturing machinery, \$478,000; and, purchasing new personal property, \$50,000; and

WHEREAS, the Companies are duly qualified to do business in the State of Alabama and have power to enter into and to perform and observe the agreements and covenants on their part contained in the Tax Abatement Agreement; and

WHEREAS, the Granting Authority represents and warrants to the Companies that it has power under that constitution and laws of the State of Alabama, including particularly the provisions of the Act, to carry out provisions of the Tax Abatement Agreement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Muscle Shoals, Alabama, the Granting Authority, as follows:

Section 1. Approval is hereby given to the applications of the Companies and abatement is hereby granted of all state and local noneducational property taxes and all construction related transaction taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, as the same may apply to the fullest extent permitted by the Tax Incentive Reform Act of 1992 (Section 40-9B-1 et seq., **Code of Alabama 1975**, as amended by Alabama Act No. 2009-722), and except the 0.5% general sales and use taxes levied by Colbert County, which pursuant to Alabama Act No. 2007-351 cannot be abated.

Section 2. The period of abatement for the noneducational property taxes shall extend for a period of ten (10) years measured as provided in Section 40-9B-3(12) of the Act, unless the Companies cease operation for which these property tax abatements are granted. Should the Companies cease operation the abatements granted herein are considered null and void.

Section 3. The governing body of the Granting Authority is authorized to enter into a Tax Abatement Agreement with the Companies to provide for the abatement granted in Section 1.

Section 4. A certified copy of this Resolution, with the applications and Tax Abatement Agreement, shall be forwarded to the Companies to deliver to the appropriate local taxing authorities and to the Alabama Department of Revenue in accordance with the Act.

Section 5. The governing body of the Granting Authority is authorized to take any and all actions necessary or desirable to accomplish the purpose of the foregoing of this Resolution.

Council Member Pampinto seconded the motion and upon said motion being put to a vote, all voted "AYE" and "NAYS" were none.

Mayor Pro-Tem Holland announced that the Resolution had been approved.

There being no further business to come before the meeting, upon the motion duly made, seconded and unanimously carried, the meeting was adjourned.

CITY OF MUSCLE SHOALS, ALABAMA
a Municipal Corporation

MAYOR

COUNCIL MEMBER - PLACE ONE

COUNCIL MEMBER - PLACE TWO

COUNCIL MEMBER - PLACE THREE

COUNCIL MEMBER - PLACE FOUR

COUNCIL MEMBER - PLACE FIVE

ATTEST:

CITY CLERK