

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD
April 15, 2013**

The City Council of Muscle Shoals, Alabama met at the Muscle Shoals City Hall Auditorium in said City at 6:00 p.m. on the 15th day of April, 2013 being the scheduled time and approved place for said meeting. The meeting was called to order by James Holland, President of the Council. The invocation was given by Rusty Wheelles. On roll call the following members were found to be present or absent, as indicated:

PRESENT: JOE PAMPINTO, NEAL WILLIS, MIKE LOCKHART,
 JAMES HOLLAND, ALLEN NOLES
ABSENT: NONE

James Holland, President of the Council, 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. Richard Williams, City Clerk, was present and kept the minutes of the meeting.

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 April 1, 2013 meeting and approved the minutes as written.

Mayor Bradford read aloud a proclamation declaring April, 2013 as “Earth Month” and April 22, 1013 as “Earth Day” in the city.

President Holland announced that the next item of business was the award of a bid for renovation of the putting green at Cypress Lakes Golf & Tennis.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NO. 2608-13

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

That the City did send out advertisements for bids for the Cypress Lakes Golf Course putting green renovation project, the bid opening being set for the 3rd day of April, 2013, at the City Hall of the City of Muscle Shoals, Alabama.

BE IT FURTHER RESOLVED that at the appointed time and place, as specified above, the following bids were opened and tabulated as follows:

BIDDER:	Base Bid	Alternate #1 (Curbing)	Alternate #2 (Nursery Green)	Total Base Bid including All Alternates
SurLine	\$48,950.00	\$4,830.00	\$18,605.00	\$67,555.00
Eagle Golf	\$93,400.00	\$5,382.00	\$28,934.50	\$122,334.50

BE IT FURTHER RESOLVED that the lowest, responsible, responsive bidder, after verifying the bid with the specifications, has been determined as SurLine with a total base bid price and in addition, all alternates of \$67,555.00.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the apparent lowest, responsive and responsible bidder, SurLine, is now awarded the bid for the renovation of the Cypress Lakes Golf Course putting green project inclusive of all alternates at the bid price of \$67,555.00.

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

President Holland announced that the resolution had been approved.

President Holland announced that the next item of business was the scheduling of a public hearing to consider the vacation of a portion of Harrison Street and a certain alley within Second Street Terrace Addition No. 1.

President Holland announced that at a meeting to be held at the City Hall in said City at 6:00 pm on the 28th day of May, 2013, the Council will consider the vacation of the street and alley. At said time and place, all persons who desire to do so shall have the opportunity of being heard in opposition to or in favor of the approval of such vacation.

President Holland announced that the next item of business was a public hearing to receive public comment on the approval of retail incentives for Pounders & Associates XXX, LLC under Section 94.01 of the Constitution of Alabama 1901, as amended (Amendment 772).

President Holland noted that proper notice of the date, time and place of said hearing had been given and the matter was before the Council.

President Holland stated that the Council would hear from those persons in support of the approval of the retail incentives as well as those opposed.

There being no one wishing to speak, President Holland stated that consideration of the resolution granting the retail incentives was before the Council.

Council Member Noles introduced the following resolution and moved for its adoption:
STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2609 - 13

WHEREAS, Section 94.01(a)(3) of the Alabama Constitution of 1901, as amended (Amendment 772) authorizes county and municipal governments to “lend its credit to or grant public funds and things of value in aid of or to any individual, firm, corporation, or other business entity, public or private, for the purpose of promoting the economic and industrial development of the county or municipality; and

WHEREAS, the City Council of the City of Muscle Shoals, Alabama has considered the request of Pounders & Associates XXX, LLC for the grant of inducements relative to the construction, improvement and refurbishing of structures, outside of the Wilson Dam Corridor, and at 1306 Woodward Avenue, Muscle Shoals, Alabama to induce eligible and qualifying retail establishments, to include Stage Stores, Inc. d/b/a Goody’s, to locate within said area and hereby makes the following findings, to wit:

1. Notice of a public meeting, including a description of the proposed benefits to Pounders & Associates XXX, LLC, to be held at City Hall on Monday, April 15, 2013 at 6:00 p.m., was published in the *TimesDaily* on April 7, 2013.
2. A public meeting was in fact held before the City Council of Muscle Shoals on Monday, April 15, 2013 at 6:00 p.m. and all persons present were given the opportunity to make comment and ask questions.
3. The inducements to Pounders & Associates XXX, LLC, a private entity, and the expenditure of public funds as outlined herein serve valid and sufficient public purposes, including, but not limited to, inducing eligible and qualifying retail establishments, to include Stage Stores, Inc. d/b/a Goody’s, to locate within said area location in the City of Muscle Shoals, Alabama and the development of retail business on Woodward Avenue, a primary traffic artery, notwithstanding any incidental benefits accruing to Pounders & Associates XXX, LLC and its principals and its owners.

WHEREAS, the City has determined that entry into the transactions described herein will promote the economic development of the City, will create jobs within the City, will increase the tax revenues in the City and will improve the quality of life in the City.

NOW, THEREFORE, PREMISES CONSIDERED, BE IT RESOLVED by the City Council of the City of Muscle Shoals, Alabama that the following inducements for the benefit of Pounders & Associates XXX, LLC are hereby approved, to wit:

1. The City of Muscle Shoals agrees that Pounders & Associates XXX, LLC will be entitled to receive an amount equal to 50% of all municipal sales tax revenue generated from sales by Stage Stores, Inc. d/b/a Goody's and all other eligible and qualifying retail establishments, approved by the City Council for inducements described herein, to be located within said area location, namely 1306 Woodward Avenue in the City of Muscle Shoals, Alabama. The current municipal sales tax rate in the City is 3.50%. The sales tax revenues to be shared shall not include any revenues received by the City (a) from any increase in the rate of the sales tax enacted after April 15, 2013 or (b) any sales tax revenues related to construction, improvement and refurbishing of improvements at 1306 Woodward Avenue, Muscle Shoals, Alabama or (c) any of costs, including the purchase price, incurred by Pounders & Associates XXX, LLC associated with the initial acquisition of the property and the existing improvements thereon.
2. The amount of said payments due to Pounders & Associates XXX, LLC shall be based upon and calculated according to the monthly sales tax report filed with the Department of Revenue by the eligible and qualifying retail establishment to be located within said area location and any other retail establishment so located. Payments will be made by the 15th of the succeeding month after the filing of the sales tax report.
3. Payments hereunder shall not extend for a period greater than five (5) years from the date of the initial payment made by the City to Pounders & Associates XXX, LLC nor shall the aggregate amount of the payments exceed \$250,000.00 or the actual verified costs of the improvements, construction, and refurbishing of the structures at 1306 Woodward Avenue, Muscle Shoals, Alabama, whichever is less. The payments agreed to hereby shall cease to be the obligation of the City when the first of the following events shall occur:
 - i. The expiration of five (5) years from the date of the initial payment made by the City to Pounders & Associates XXX, LLC;
 - ii. The payment of the cumulative sum of \$250,000.00, or an amount equal to the actual verified costs of the improvements, construction, and refurbishing of the structures at 1306 Woodward Avenue, Muscle Shoals, Alabama, whichever is less, is paid by the City to Pounders & Associates XXX, LLC.
 - iii. In the event that the retail sales of the eligible and qualifying retail establishment shall not reach the amount set forth for business outside the Wilson Dam Corridor for the initial year, then the payments for the succeeding year shall reduced by a pro-rata amount in a ratio equal to the percentage of the reduced sales. In the event the retail sales of the eligible and qualifying retail establishment shall not reach the amount for the succeeding years than payments hereunder shall cease.
4. An eligible and qualifying retail establishment for the purposes hereof is defined Stage Stores, Inc. d/b/a Goody's and any other national chain retail establishment, approved by the City Council for inducements described herein, located at 1306 Woodward Avenue, Muscle Shoals, Alabama.
5. The incentives hereunder are non-transferable without the express written consent

- of the City of Muscle Shoals as approved by the City Council.
6. The expenditure of public funds as hereinbefore described for the purposes specified will serve a valid and sufficient public purposes, notwithstanding any incidental benefit accruing to any private entity or entities, including Pounders & Associates XXX, LLC.
 7. The Resolution reflects the City's negotiations to date; however, shall be binding only upon the execution of any other documents due to be executed by the City and Pounders & Associates XXX, LLC.
 8. The City Council does hereby authorize and direct the Mayor of the City, David H. Bradford, to execute and deliver on behalf of the City all documents necessary and required to effectuate the purposes of said Resolution.

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

President Holland announced that the resolution had been approved.

President Holland announced that the next item of business was consideration of a resolution to authorize an application for Community Development Block Grant - Economic Development funds for the North American Lighting project.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2610 - 13

WHEREAS, the City of Muscle Shoals has completed its application for Economic Development Funds through the State of Alabama's Community Development Block Grant Program, and

WHEREAS, the City of Muscle Shoals concurs with the objectives, needs and program activities proposed therein, now

THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Muscle Shoals, Alabama that said application shall be designated as the official application for the City of Muscle Shoals to be submitted to the Alabama Department of Economic and Community Affairs for CDBG-ED Funds of \$137,280.00, and

BE IT FURTHER RESOLVED that the Mayor is duly authorized to sign said application for and act on behalf of the City of Muscle Shoals and is further authorized to execute all other documents required for application or disbursement of State of Alabama CDBG-ED funds for the City of Muscle Shoals, and

BE IT FURTHER RESOLVED that the City of Muscle Shoals hereby pledges \$34,320.00 of local matching funds towards the project's completion, if the project is funded.

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

President Holland announced that the resolution had been approved.

President Holland announced that the next item of business was consideration of a resolution to authorize an application to the Alabama Department of Transportation for transportation enhancement funds to retrofit sidewalks with ADA compliant ramps and truncated domes.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2611 - 13

WHEREAS, the City Council of the City of Muscle Shoals, Alabama has reviewed the scope of work for the proposed Alabama Department of Transportation (ALDOT) FY 2013 Transportation Enhancement Project Application, now

THEREFORE BE IT RESOLVED By the City Council of the City of Muscle Shoals, Alabama that the proposed application be approved and

BE IT FURTHER RESOLVED that the Mayor be authorized to execute any necessary documents to complete the submittal of the application to ALDOT.

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

President Holland announced that the resolution had been approved.

President Holland announced that the next item of business was consideration of a resolution to make an appointment to the Muscle Shoals Board of Education.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2612 - 13

WHEREAS, a vacancy on the Muscle Shoals Board of Education has occurred and the City Council being desirous of making the necessary appointment to said board;

WHEREAS, notice was given to the public of said pending vacancy and applications solicited for a member to said board;

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

Butch Fleming Daniel Joey Puckett Clayton Wood

WHEREAS, Clayton Wood was determined to have received the best overall ranking on the City Council evaluations, and

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

Council Member Pampinto: Clayton Wood
Council Member Willis: Clayton Wood
Council Member Lockhart: Clayton Wood
Council Member Holland: Clayton Wood
Council Member Noles: Clayton Wood

WHEREAS, Council President Holland announced that Clayton Wood 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 person to serve as set forth herein:

<u>APPOINTEE</u>	<u>BOARD</u>	<u>EXPIRATION OF TERM</u>
Clayton Wood	Board of Education	June, 2018

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

Council Member Noles seconded the motion and upon said motion being put to a vote the following vote was recorded:

AYES: Council Member Pampinto, Council Member Willis, Council Member Lockhart
Council Member Holland, Council Member Noles

NAYS: None

President Holland announced the vote and declared that the resolution was adopted and approved

President Holland announced that the next item of business was consideration of a resolution to vacate public hearing to consider the vacation of a portion of a portion of Euclid Avenue and a certain alley in Detroit Park subdivision.

President Holland stated that the public hearing for this vacation was held on March 4, 2013 with no public opposition to approval of the vacation.

Council Member Willis presented the following resolution to approve the vacation and moved for its adoption:

**State of Alabama
Colbert County
City of Muscle Shoals**

**PETITION TO VACATE CERTAIN STREETS, AVENUES AND ALLEYS IN DETROIT
PARK SUBDIVISION AND DETROIT PARK SUBDIVISION THIRD ADDITION**

KNOWN ALL MEN BY THESE PRESENTS that EL-DE I Limited Partnership, being the owner of all the lands abutting thereon, does hereby petition to the Mayor and City Council of the City of Muscle Shoals to vacate the following streets, avenues and alleys being in the Detroit Park Subdivision Third Addition in Plat Book 2, Page 563, in the office of the Probate Judge of Colbert County, Alabama, to-wit;

1. Euclid Avenue east of said Detroit Street and continuing for 211"
2. An alley lying between Grand River Avenue and said Euclid Avenue east of said Detroit Street and continuing for 211'.

Attached hereto are the following:

1. Declaration of Vacation by Petitioner.
2. Newspaper notice.
3. Affidavit of Posting notice.

This the 15th day of April 2013.

EL-DE I Limited Partnership
By s/Vincent McAlister
Its General Partner

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2613 - 13

WHEREAS there has been exhibited to the Mayor and Council of the City of Muscle Shoals, Alabama, an instrument duly executed and acknowledged by EL-DE I, LIMITED PARTNERSHIP, vacating the following streets, alleys and avenues, or portions thereof, lying or being in Detroit Park Subdivision, Third Addition, known and designated according to the map and plat thereof recorded in the office of the said Probate Judge in Map Book 2, Page 563, to-wit:

1. Euclid Avenue east of said Detroit Street and continuing for 211'.
2. An alley lying between Grand River Avenue and said Euclid Avenue east of said Detroit Street and continuing for 211.

WHEREAS this Council is satisfied that EL-DE I, LIMITED PARTNERSHIP, is the owner of all the lands abutting all the streets, avenues and alleys or portions thereof; and

WHEREAS said EL-DE I, LIMITED PARTNERSHIP, has published notice of said vacation in a newspaper of general circulation and posted a copy thereof on the bulletin board at

the Colbert County Courthouse; and

WHEREAS it is the interest of the public that such streets, avenues and alleys, or portions thereof, be vacated; and

WHEREAS after the vacation of said public streets, avenues and alleys, or portions thereof, convenient means of ingress and egress to and from their property will be afforded to all other property owners shown on said map;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Muscle Shoals that the ascent of this Council be and the same is hereby given and granted to the said vacation of said public streets, avenues and alleys, or portions thereof, as vacated.

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

President Holland announced that the resolution had been approved.

President Holland announced that the next item of business was consideration of a resolution to make appointment to the Airport Authority Board.

Council Member Noles introduced the following resolution and moved for its immediate consideration:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2614 - 13

WHEREAS, the term of a member of the Airport Authority Board has expired and the City Council being desirous of making the necessary appointment to said board within the City;

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

WHEREAS, the following individual made proper application and met the requirements for appointment, is eligible for appointment to fill the pending vacancy:

J. Russell Allen

WHEREAS, J. Russell Allen was the lone applicant and determined to be eligible for appointment, and

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

Council Member Pampinto: J. Russell Allen
Council Member Willis: J. Russell Allen
Council Member Lockhart: J. Russell Allen
Council Member Holland: J. Russell Allen
Council Member Noles: J. Russell Allen

WHEREAS, President Holland announced that J. Russell Allen 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 person to serve as set forth herein:

<u>APPOINTEE</u>	<u>BOARD</u>	<u>EXPIRATION OF TERM</u>
J. Russell Allen	Airport Authority Board	March 2016

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

Council Member Lockhart seconded the motion and upon said motion being put to a vote the following vote was recorded:

AYES: Council Member Pampinto, Council Member Willis, Council Member Lockhart
Council Member Holland, Council Member Noles

NAYS: None

President Holland announced that the motion for immediate consideration had been approved. Council Member Noles moved that the resolution be approved as presented. Council Member Lockhart seconded the motion and upon said motion being put to a vote, a roll call was had and the vote was recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Lockhart
Council Member Holland, Council Member Noles

NAYS: None

President Holland announced the vote and declared that the resolution was adopted and 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

COUNCIL MEMBER - PLACE ONE

COUNCIL MEMBER - PLACE TWO

COUNCIL MEMBER - PLACE THREE

COUNCIL MEMBER - PLACE FOUR

COUNCIL MEMBER - PLACE FIVE

ATTEST:

CITY CLERK