

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD
December 15, 2008**

The Council of Muscle Shoals, Alabama met at the City Hall in said City at 6:30 p.m. on the 15th day of December 2008 being the regularly scheduled time and approved place for said meeting. The meeting was called to order by David Bradford, Mayor of the City. The invocation was given by Bill Howard. 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, DAVID H. BRADFORD

ABSENT: NONE

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

David Bradford, Mayor 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 Holland, seconded by Council Member Noles and unanimously adopted, the Council waived the reading of the minutes of the previously held regular meeting and work session of December 1, 2008 and the work sessions of December 2, 2008 and December 9, 2008 and approved the minutes as written.

Mayor Bradford announced that the next item of business was a public hearing to consider the issuance of a Restaurant Retail Liquor License to Bogeys Sports Grill LLC dba Bogeys Sports Grill, 301 Ford Road.

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

Mayor Bradford stated that the Council would hear from those persons in support of the issuance of the license as well as those opposed.

There being no one wishing to speak, Mayor Bradford stated that approval of the license application was before the Council. All those in favor of the application would indicate so by voting aye and those opposed would indicate by voting nay. Upon said question being put to a vote, a roll call was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford announced that the license had been approved.

Mayor Bradford announced that the next item of business was a public hearing to consider the issuance of a Lounge Retail Liquor License - Class I to James Russell McMahill dba Sundance Saloon, 4113 Woodward Avenue.

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

Mayor Bradford stated that the Council would hear from those persons in support of the issuance of the license as well as those opposed.

There being no one wishing to speak, Mayor Bradford stated that approval of the license application was before the Council. All those in favor of the application would indicate so by voting aye and those opposed would indicate by voting nay. Upon said question being put to a vote, a roll call was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford announced that the license had been approved.

Mayor Bradford announced that the next item of business was a public hearing to consider the adoption of an Ordinance to amend the Zoning Ordinance and Zoning Map of the City of Muscle Shoals, Alabama. The area being considered for zoning are tracts located along Martin Drive, Pinewood and Fleetwood Avenues and are more particularly described as follows:

ORDINANCE NO. 1412 -08

AN ORDINANCE TO AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF MUSCLE SHOALS, ALABAMA

Be it ordained by the Council of the City of Muscle Shoals, Alabama, that the Zoning Ordinance and the Zoning Map of the City of Muscle Shoals, are hereby amended as follows:

That the following described areas which are currently unzoned due to annexation and are hereby incorporated in and made a part of the R-2 District, to wit:

Tract 1:

Commence at the Southeast corner of Section 18 Township 3 South, Range 10 West, Colbert County, Alabama; thence West along said section line to the Western right-of-way boundary of a public road running in a North South direction for the point of beginning; thence West continuing on said section line a distance of 200 feet to a point; thence North a distance of 600 feet to a point on the Southern boundary of the property of John T. Graves (described in Deed recorded at Microfiche 9901, Frame 538 in the office of the Judge of Probate of said County) extended in an Easterly direction; thence with a deflection angle to the left of 90 degrees 04 minutes Westwardly along said Southern boundary of the

Graves' property extended and continuing along said Southern boundary to the 509.34 contour of Lake Wilson (formerly known at the 505 foot contour); thence in a Northwesterly direction with the meandering of said contour line a distance of 2450 feet more or less to the South line of the land of the United States of America (US-TVA Tract); thence along said South line in a Northeasterly direction a distance of 303 feet more or less again to said contour line; thence in a Southeasterly direction along the meandering of said contour line a distance of 550 feet more or less to a point; thence continuing with the meandering of said contour line in a Northeasterly direction a distance of 680 feet more or less to a point on the South line of the land of the United State of America (US-TVA Tract WDRT -10); thence along said South line in a Northeasterly direction a distance of 328 feet to a point which is the Northeast corner of the property of James Mark Ray as described in that certain deed dated February 14, 1995 and recorded in Microfiche 9507, Frame 756 in the office of the Probate Judge of said County; thence in a Southerly direction along the Eastern boundary of said James Mark Ray property to the point of intersection in the Western boundary of Center Drive; thence in a Southerly direction along the Western boundary of said Center Drive a distance of 1100 feet more or less to the point of intersection with the Southernmost boundary of Camp Drive; thence in a Southeasterly direction along said Southernmost boundary of Camp Drive a distance of 400 feet more or less to the point of intersection with said Western right-of-way boundary of said first aforementioned public road running in a North South direction; thence South along said Western boundary a distance of 650 feet more or less to the point of beginning.

Tract 2:

Commence at the Southwest corner of Section 17, Township 3 South, Range 10 West, Colbert County, Alabama; thence West to the Western right-of-way boundary of a public road running in a North-South direction for the point of beginning; thence North along said Western right-of-way boundary extended a distance of 1320 feet more or less to a point which is the Northwest corner of Tract 08-04-17-3-003-003.005 as designated in the records of the Revenue Commissioner for said Colbert County; thence East a distance of 91.7 feet more or less to a point on the 509.34 contour of Lake Wilson (formerly known as the 505 foot contour); thence in an Easterly and Northerly direction with the meandering of said 509.34 contour and continuing in an Easterly and then Southerly direction along said 509.34 contour (said Southerly direction being the Western boundary of Steenson Bay) a distance of 2800 feet more or less along said Western boundary of Steenson Bay to the Southeast corner of Tract number 08-04-17-3-003-002.000 as designated in said records of the Revenue Commissioner; thence West a distance of 630.77 feet to a point; thence South 380 feet more or less to the Southern boundary of said Section 17 and the Northern boundary of the City of Muscle Shoals, Alabama; thence West along said Southern boundary of said Section 17 extended to the point of beginning.

The Council finds that legal notice of the following proposed amendment to the Zoning Ordinance of the City of Muscle Shoals, Alabama, was published by posting the same in four (4) conspicuous places in the City of Muscle Shoals, Alabama, 15 days prior to the date hereof, there being no newspaper published in the City of Muscle Shoals, and said notice set for public hearing on the 15th day of December 2008, at 6:30 o'clock p.m., in the Chambers of the Council of the City of Muscle Shoals located in the City Hall, Muscle Shoals, Alabama, for all persons to appear to be heard either for or against the adoption of said amendment; and

WHEREAS, said public hearing was held and Mayor Bradford announced that now was the proper time for persons in favor and those in opposition to the ordinance to be recognized.

There being no one wishing to speak, Mayor Bradford announced that the adoption of the Ordinance was now before the Council. All those in favor of the Ordinance would indicate so by voting aye and those opposed would indicate by voting nay. Upon said motion being put to a roll call vote, a vote was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford announced that the ordinance had been adopted.

Mayor Bradford announced that the next item of business was consideration of the 2008 - 2009 General Fund Budget.

Council Member Noles introduced the general fund budget in writing for consideration:

Council Member Noles moved that unanimous consent be given for immediate consideration of and adoption of said General Fund Budget, which motion was seconded by Council Member Willis 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 Grissom,
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Noles then moved that the said General Fund Budget be finally adopted and spread upon the minutes of the meeting, which motion was seconded by Council Member Willis and, upon said motion being put to a vote, a roll call on final approval was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom,
Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford thereupon declared said motion carried and the 2008 - 2009 General Fund Budget was passed and adopted as introduced.

Mayor Bradford announced that the next item of business was consideration of a resolution appointing a member to the Library Board.

Mayor Bradford called for a vote on the candidates for appointment and a roll call vote was had and the vote recorded as follows:

Council Member Pampinto: Donna Ricks

Council Member Willis: Donna Ricks

Council Member Grissom: Donna Ricks

Council Member Holland: Donna Ricks

Council Member Noles: Donna Ricks

Mayor Bradford: Donna Ricks

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 2369 - 08

WHEREAS, the term of a member of the Library Board of the City of Muscle Shoals 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, and is eligible for appointment to fill the pending vacancy:

Donna Ricks

WHEREAS, Donna Ricks was determined to be the lone applicant and otherwise qualified for appointment, and

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

Council Member Pampinto: Donna Ricks
Council Member Willis: Donna Ricks
Council Member Grissom: Donna Ricks
Council Member Holland: Donna Ricks
Council Member Noles: Donna Ricks
Mayor Bradford: Donna Ricks

WHEREAS, Mayor Bradford announced that Donna Ricks 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>
Donna Ricks	Library Board	November 2012

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

Mayor Bradford announced that the Resolution had been approved.

Mayor Bradford announced that the next item of business was consideration of a resolution appointing a member to the Board of Education.

Mayor Bradford called for a vote on the candidates for appointment and a roll call vote was had and the vote recorded as follows:

Council Member Pampinto: Donald Pendergrass
Council Member Willis: Donald Pendergrass
Council Member Grissom: Donald Pendergrass
Council Member Holland: Donald Pendergrass
Council Member Noles: Donald Pendergrass
Mayor Bradford: Donald Pendergrass

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 2370 - 08

WHEREAS, a vacancy on the Board of Education within the City of Muscle Shoals will has occurred 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 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:

Joan Barnes	Scott Cooper	Keith Murphy
Donald Pendergrass	Katherine Steles	Byron Thornton
Larry Vance		

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

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

Council Member Pampinto:	Donald Pendergrass
Council Member Willis:	Donald Pendergrass
Council Member Grissom:	Donald Pendergrass
Council Member Holland:	Donald Pendergrass
Council Member Noles:	Donald Pendergrass
Mayor Bradford:	Donald Pendergrass

WHEREAS, Mayor Bradford announced that had received a majority of the votes cast, 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>
Donald Pendergrass	Board of Education	June 2012

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

Mayor Bradford announced that the Resolution had been approved.

Mayor Bradford announced that the next item of business was consideration of a resolution declaring a John Deere Gator utility vehicle in the Parks and Recreation Department surplus property.

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 2371 - 08

WHEREAS, the City Council has been informed by the Parks & Recreation Director that a 1996 John Deere Gator utility vehicle, Serial #W006X4X018748 is no longer used in the performance of city business and is no longer required for use by the City; and

WHEREAS, the City Council has determined that the said item of property is surplus property and the City has no further use for said item of property due to its age and condition and it is not economical for the City to retool or refit the said item of property in order that it be able to be placed in service in the performance of city business; and

WHEREAS, the City Council is informed that the utility vehicle is no longer in service and that a request by Northwest Shoals Community College has been made for transfer of the Gator utility vehicle for use in the performance of their duties within Colbert County; and

NOW, THEREFORE, the City Council of the City of Muscle Shoals, Alabama does hereby determine that the following item of property be declared surplus property and disposed of by the Parks & Recreation Director of the city in a manner that will require no further expenditure by the City nor expose the City to any liability in the further use of or operation of said items of property; and the Council does hereby authorize the Parks & Recreation Director of the City to dispose of said item of property in such manner.

The Council states that the following item of property is surplus property:
1996 John Deere Gator utility vehicle, Serial #W006X4X018748

BE IT FURTHER RESOLVED that the Parks & Recreation Director is authorized to take the steps necessary to convey the above described Gator utility vehicle to the Northwest Shoals Community College in a manner consistent with the terms and conditions and pursuant to this Resolution for and in consideration of the sum of One Thousand and no/100 Dollars (\$1,000.00).

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

Mayor Bradford announced that the Resolution had been approved.

Mayor Bradford announced that the next item of business was consideration of a resolution amending the payment schedule for the current payment due from Shoals Marketplace LLC.

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

STATE OF ALABAMA

COLBERT COUNTY

RESOLUTION NUMBER 2372 - 08

WHEREAS, the City Council of the City of Muscle Shoals, Alabama entered into a renewal of for the repayment of indebtedness of Shoals Marketplace, LLC which provided for payment of \$50,000.00 by December 31, 2008, and;

WHEREAS, the City Council has reviewed the contents of a proposal whereby Shoals Marketplace, LLC will pay \$10,000.00 on or before December 31, 2008 and the remaining portion of the amount due, namely \$40,000.00, to be paid on or before June 1, 2009; and

BE IT HEREBY RESOLVED that the City Council of the City of Muscle Shoals, Alabama, does hereby approve and accept the terms of proposal by Shoals Marketplace, LLC to pay \$10,000.00 on or before December 31, 2008 and the remaining portion of the amount due, namely \$40,000.00, to be paid on or before June 1, 2009.

IT IS FURTHER RESOLVED by the Council that the terms and conditions contained in the documents denominated Second Renewal and Supplemental Mortgage Note and Supplemental Mortgage by and between the City of Muscle Shoals, Alabama and Shoals Marketplace, LLC.

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

Mayor Bradford announced that the Resolution had been approved.

Mayor Bradford announced that the next item of business was consideration of a resolution approving certain amendments to the Project Development Agreement with North American Lighting, Inc.

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

STATE OF ALABAMA

COLBERT COUNTY

RESOLUTION NUMBER 2373 -08

**A RESOLUTION AUTHORIZING THE AMENDMENT OF CERTAIN PROVISIONS
OF A PROJECT DEVELOPMENT AGREEMENT WITH
NORTH AMERICAN LIGHTING, INC.**

WHEREAS, the City Council of the City of Muscle Shoals, Alabama has entered into A Project Development Agreement with North American Lighting, Inc., an Illinois corporation; and

WHEREAS, the City has been requested that certain provisions of the Project Development Agreement be amended and the City Council has reviewed the same and has determined that the terms and conditions of the amendment are agreed upon by the City; and

WHEREAS, the City Council has reviewed the contents of an instrument styled Project Development Agreement and finds that said instrument is in due form and proper order and upon consideration of same determines that it is wise and expedient that the City execute and deliver said instrument to North American Lighting, Inc., and

WHEREAS, the City Council finds that other instruments and related documents may be required in connection with said instrument and project and is desirous of authorizing the

execution and delivery of other instruments and related documents in connection with the said Project Development Agreement as above described;

BE IT HEREBY RESOLVED that the City Council of the City of Muscle Shoals, Alabama, does hereby approve the amendment to the Project Development Agreement as follows:

Section 1.1.3 (c) Reduction of Reimbursement Obligation insofar as the City of Muscle Shoals is concerned and as same pertains to the Full Employment Threshold requirement which shall be extended from the existing date of December 31, 2008 unto December 31, 2010.

Section 1.1.3 (d) Termination of Reimbursement Obligation insofar as the City of Muscle Shoals is concerned and as same pertains to the termination date which shall be extended from June 30, 2009 unto June 30, 2011.

BE IT FURTHER RESOLVED that the Mayor of the City, David H. Bradford, be, and hereby is, authorized to execute and deliver any required instruments and related documents in connection with the said amendments as herein approved for and on behalf of the City.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be prepared forthwith by the Clerk and delivered unto North American Lighting, Inc. and furthermore shall retain a copy to be kept on file by the said Clerk.

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

Mayor Bradford announced that the Resolution had been approved.

Mayor Bradford announced that the next item of business was consideration of an ordinance regulating yard sales in the city.

Council Member Holland thereupon introduced the following ordinance in writing in the meeting:

ORDINANCE NUMBER 1413 - 08

WHEREAS, the City Council of the City of Muscle Shoals, Alabama is desirous of creating and establishing certain guidelines for the conduct, frequency and location of yard sales, and sales of like kind;

BE IT ORDAINED by the Council of the City of Muscle Shoals, Alabama as follows:
Section 1. Definitions:

A. Yard Sale: A yard, garage, lawn, rummage sale, or sale of like type sale is defined as the sale and offering for sale of personal and household items and property by the owner of same at the residence of the person conducting the sale.

Section 2. Each person engaged in or holding a yard, garage, lawn, rummage sale, or sale of like type, at a residence or physical location within the City shall conduct said sale only for a period of time no longer than two (2) consecutive days between the hours of 6 a.m. and 6 p.m. and shall not be conducted on Sundays.

Section 3. No more than three (3) yard sales per calendar year shall be conducted at the same residence or physical location by any person or persons.

Section 4. No signs or advertisements pertaining to said sales may be placed on public property or rights of way (including utility poles) and all signs advertising said sales, regardless where placed, must be removed within forty-eight (48) hours after the conclusion of the sale. No sign or advertisement shall be placed at any location which would obstruct or interfere with sight or view of anyone traveling on the City's streets or rights of way.

Section 5. Any person violating any provision of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished pursuant to Section 1-7 of the Code of Ordinances of the City of Muscle Shoals.

Section 6. The Ordinance, and its provisions, shall become upon publication or posting pursuant to law or as otherwise provided for by law.

Council Member Holland moved that unanimous consent be given for immediate consideration of and adoption of said Ordinance, which motion was seconded by Council Member Noles 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 Grissom, Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Holland then moved that the said Ordinance be finally adopted, which motion was seconded by Council Member Noles and, upon said motion being put to a vote, a roll call on final approval was had and the vote recorded as follows:

AYES: Council Member Pampinto, Council Member Willis, Council Member Grissom, Council Member Holland, Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford thereupon declared said motion carried and the Ordinance was adopted.

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