

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD
March 20, 2006**

The Council of Muscle Shoals, Alabama met at the Muscle Shoals City Hall in said City at 6:30 p.m. on the 20th day of March 2006 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 Paul McDougle. 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 of the City, 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 Pampinto and unanimously adopted, the Council waived the reading of the minutes of the previously held work session and regular meeting of March 6, 2006 and approved the minutes as written.

At this time, Mayor Bradford presented certificate of commendation to the Muscle Shoals Education Foundation and Muscle Shoals school system for sponsoring drug awareness programs in the community. Debbie Bradford and Kelly Word R.N. were present to receive the certificates.

Council Member Pampinto was recognized for the purpose of reconsideration of the application of SAI Investments LLC dba Pure Spirits of India, 316B Woodward Avenue for a Lounge Retail, Class II (Package) liquor license. Council Member Pampinto, having voted on the prevailing side, made a motion to reconsider the vote by which the said application was denied at the March 6, 2006 regular meeting of the City Council. Council Member Willis seconded the motion. Mayor Bradford stated that the matter before the Council was the motion to reconsider and that all members in favor of the motion to reconsider would vote "Aye" and those opposed would vote "Nay". The vote was called on the motion to reconsider and after the

vote, Mayor Bradford announced that the “Ayes” have it and the motion passed. Mayor Bradford then announced that the matter before the Council was the application of SAI Investments LLC dba Pure Spirits of India, 316B Woodward Avenue for the approval of a Lounge Retail, Class II (Package) liquor license.

Mayor Bradford announced that the next item of business consideration of the application for approval of a Lounge Retail Liquor license - Class III (Package) to SAI Investments, LLC dba Pure Spirits of India located at 316B 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 the subject of a public hearing at the regular meeting of the city council on March 6, 2006.

Mayor Bradford stated that the application for approval of the license 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 thereupon announced the vote and that the ayes have it and the application is approved.

Mayor Bradford announced that the next item of business was the scheduling of a public hearing on the issue of the adoption of an Ordinance to amend the City Code, Section 122-202, pertaining to landscaping in manufacturing districts. Mayor Bradford announced that at a meeting to be held at 6:30 p.m. on the 17th day of April, 2006, the Council will consider the adoption of an Ordinance to amend Section 122-202 of the City Code, the proposed Ordinance being as follows:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 122-202 OF ARTICLE V DIVISION 2 OF CHAPTER 122 OF CODE OF ORDINANCES OF THE CITY OF MUSCLE SHOALS, ALABAMA PERTAINING TO SUPPLEMENTAL REGULATIONS OF THE ZONING REGULATIONS OF THE CITY OF MUSCLE SHOALS, ALABAMA AND MORE PARTICULARLY THE PROVISIONS OF FACILITIES GENERALLY WITHIN THE CORPORATE LIMITS OF THE CITY OF MUSCLE SHOALS, ALABAMA.

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

I. Article V, Division 2, Section 122-202 of Chapter 122 of the Code of Ordinances of the City of Muscle Shoals, Alabama is hereby amended so that Article V, Division 2, Section 122-202 of Chapter 122 of the Code of Ordinances of the City of Muscle Shoals, Alabama shall read in its entirety as follows:

Sec. 122-202. Provision of facilities generally.

In each zoning district each structure shall be provided with off-street vehicle storage and parking facilities in accordance with the following:

- (1) In determining the number of parking spaces required, if such spaces result in fractional parts thereof, the number of spaces required shall be construed to be the next highest whole number.
- (2) Whenever a use is increased in floor area or units of service or whatever least used, additional parking spaces shall be provided in amount hereafter specified for the use, if the existing parking space is inadequate to serve the increased activity.
- (3) Off-street parking facilities for one- and two-family dwellings shall be located on the same lot or plot of ground as the building served.
- (4) Off-street parking facilities for multifamily dwellings containing up to and including eight dwelling units shall be provided on the same lot or plot of ground as the building served.
- (5) Off-street parking facilities for multifamily dwellings containing more than eight dwelling units may be located within 300 feet of the building intended to be served.
- (6) Off-street parking facilities for an industry or commercial establishment which employs 250 or more employees may be located within 300 feet of the building or buildings to be served, and a distance greater than 300 feet upon recommendation of the planning commission and approval of the mayor and city council.
- (7) Collective off-street parking facilities may be provided; however, such facilities shall be no less than the sum of such facilities as would otherwise be individually required.
- (8) The off-street parking requirements of one or a number of establishments can also be met through the provision of the total number of required spaces in an off-street parking lot or structure located not more than 500 feet from any of the establishments it is designed to serve. Also, the distance requirement shall be measured along sidewalks and pedestrian walks-not across country.
- (9) Off-street parking requirements for uses not specifically mentioned in this division shall be the same as those required for uses of a similar or related nature.
- (10) Parking lots or areas adjacent to public streets shall have driveways or curb cuts not to exceed 25 feet in width at the curblines. All such lots or areas shall have a protective wall or bumper block at least five feet from any sidewalk line, and the lots shall be so designed that all vehicles leaving the facility will be traveling forward when entering a street, alley or public thoroughfare.
- (11) Driveway entrances and exits of a parking area shall not be computed as a part of the required parking area.
- (12) Off-street parking.
 - a. Surfacing. Notwithstanding any provision to the contrary, all off-street parking spaces required by this section in B-1, B-2 and B-2A zones within the city and intended for use by the public or by employees, and their access roads within the parking area and leading from the street to said area, shall be

paved with an all-weather surface of asphaltic concrete, portland cement concrete or any equivalent material acceptable to the administrative officer, and maintained such that no dust will result from continued use. All spaces be arranged and marked so as to provide for orderly and safe parking. Drainage shall be provided to dispose of all surface water without crossing sidewalks. Off-street parking shall be required for any automobile, mobile home, recreational vehicle, boat, trailer sales or similar establishments that offer these types of items for sale. The parking area for these items on display shall be paved and meet the same requirements as the required parking area.

- b. Off-street parking and vehicular use area (PVA) landscaping requirements.
1. Purpose.
 - (I) Require planting and preservation of trees and other landscape elements to improve the appearance, character, and value of surrounding properties.
 - (ii) Establish criteria for off-street parking areas in order to protect and preserve the appearance, character, and value of surrounding properties, and thereby promote the general welfare, safety, and aesthetic quality of the city.
 - (iii) Partition large PVAs with planting islands and peninsulas.
 - (iv) Insulate public rights-of-way and adjoining properties from noise, glare, and other distractions originating from off-street PVAs.
 - (v) Provide safer vehicle and pedestrian circulation within off-street PVAs.
 - (vi) Protect streams and watercourses from excessive runoff and erosion, and to replenish underground water reservoirs by using drainage and infiltration systems.
 2. General requirements and landscape plans.
 - (i) Any off-street PVA (or system of PVAs) totaling 20 or more parking spaces or containing 8,000 square feet or more must be constructed in accordance with landscape plans complying with this subsection. Perimeter landscaping is required for all such PVAs; in addition interior landscaping is required for PVAs of 40 or more parking spaces, or 16,000 or more square feet in area.
 - (ii) Existing paved or unpaved PVAs. When a lawful paved or unpaved off-street PVA already exists at the effective date of Ord. No. 1240-00, such area may continue until it is expanded by more than 25 percent of its existing parking capacity as calculated pursuant to this section at which time the entire PVA must be brought into conformity with the requirements for new construction.
 - (iii) Minimum compliance. The requirements of this subsection are minimum standards.

(iv) Exceptions: Single family dwellings shall be exempt from the provisions of this section. M-1 and M-2 Districts shall require Frontage Landscaping only, provided the building site does not abut a R-1, R-2, R-3 zone in which case Section 5 Perimeter Landscaping Requirements will apply excluding island or peninsulas in the (PVA).

3. Definitions.

Access way. One or more driving lanes intended for use by vehicles entering or leaving a PVA.

Berm. A planted or landscaped elevated ground area between two other areas, generally designed to restrict view and to deflect or absorb noise.

Caliper. Trunk diameter of a tree used in landscaping, measured at breast height.

Crown. The branches and leaves of a tree or shrub with the associated upper trunk.

Deciduous plants. Those that shed their leaves during their dormant season and produce new leaves the following growing season.

Evergreen plants. Those that retain their leaves during their dormant season.

Ground cover. Plants, mulch, gravel, and other landscape elements used to prevent soil erosion, compaction, etc.

Interior landscaping. Treatment of grade, ground cover, vegetation, and ornamentation within a PVA.

Island. An interior landscaping feature surrounded on all sides by driving and/or parking surfaces.

Landscape element. A plant material (living or nonliving) or an ornamental material (river rock, brick, tile, statuary, etc.) differentiated from surrounding PVA surfacing materials.

Mulch. A material (pine straw, bark chips, wood chips, etc.) placed on the ground to stabilize soil, protect roots, limit weed growth, and otherwise promote tree and shrub growth by simulating the role of natural forest leaf litter.

Off-street parking and vehicular use area (PVA). An area, other than on public right-of-way, designated for the parking and movement of vehicles.

Parking garage. A structure used for parking of vehicles and having one or more parking levels above the grade of surrounding land.

Parking space. An area marked for the parking of one vehicle.

Peninsula. An interior landscaping feature attached on only one side to perimeter landscaping, buildings, etc., and surrounded on all other sides by PVA.

Perimeter landscaping. Treatment of grade, ground cover, vegetation, and ornamentation between a PVA and adjoining properties and/or rights-of-way, but excluding landscaping between a PVA and buildings on the same property.

PVA. See Off-street parking and vehicular use area.

Shrub. A woody plant, generally multistemmed, of smaller stature than a tree.

Stem. See Trunk.

Tree. A woody plant, generally with no more than one or two principal stems.

Trunk. A principal upright supporting structure of a tree or shrub.

Underground PVA. A parking area completely covered by a structure or by grass or other landscaping elements.

Visibility triangle. An area of critical visibility defined by this section in which landscaping is restricted in the interest of vehicular traffic safety.

4. General PVA landscaping requirements. Landscaping of PVAs when required shall be of two types as described below; perimeter landscaping and interior landscaping, and shall conform to landscape plans submitted and approved in accordance with the requirements of this subsection.

- (i) Landscape plan requirements. A master site plan in sufficient detail to indicate the number of parking spaces, the overall amount of PVA area, the amount of interior landscaping area, and the extent of perimeter landscaping shall be submitted and approved before issuance of a building permit. A detailed plan shall be submitted and approved before the installation of landscape materials is begun. Landscape plans submitted under this subsection shall include information as listed below:

- (1) General information, including date, north arrow, and scale of one inch to no more than 50 feet; all property lines, locations of all existing and proposed easements and rights-of-way. Existing and proposed topography, drawn at a maximum contour interval of five feet and indicating drainage channels; the zoning designations of the site itself and all adjacent properties; the names, addresses and telephone numbers of developers, architects, and owners of the property for which the

plan is designed; and the name and business affiliation of the person preparing the landscape plans.

- (2) Construction information, including the locations of buildings, parking spaces and vehicular use areas; utility fixtures, including light poles, power and service poles, aboveground pedestals (low-voltage) and pad-mounted (high-voltage) fixtures, underground electrical, communication and television cables and conduits; hose bibs sprinkler systems, meters, control boxes, etc.; and the amount (square feet) of PVA and intended surface treatments; and the total amount (square feet) of interior landscaping in peninsulas and islands.
 - (3) Landscaping details, including the locations, caliper, species (common name), and intended treatment (move, remove, or save) of existing trees four inches or larger in caliper. Locations, dimensions and treatments of all perimeter and interior landscaping areas (island and peninsulas).
 - (4) A schedule of all new and existing plants proposed for landscaping, including size (caliper and height, container size, etc.), condition (bare root, balled-and-burlapped, container grown, or preexisting), common names and botanical names (genus, species, and variety) of trees, shrubs, and ground cover, and the type and amount of turf grasses.
5. Perimeter landscaping requirements. For any PVA of 20 or more parking spaces or totaling 8,000 square feet or more, perimeter landscaping according to these standards must be provided within the property lines between the PVA and adjoining properties and public rights-of-way within 50 feet of the PVA. Planting areas existing in the public rights-of-way or on adjoining property shall not count toward the required perimeter landscaping area. Perimeter landscaping shall be required where parking or maneuvering areas abut R-1, R-2, and R-3 zoning districts.
- (i) Perimeter landscaping areas shall be at least five continuous feet in depth, excluding walkways, measured perpendicularly from the adjacent property line or right-of-way to the back of curb or pavement edge.
 - (ii) Perimeter landscaping for developments containing 100 or more spaces shall be at least ten feet in depth, excluding walkways, measured perpendicularly from the adjacent property to the back of the curb.

- (iii) Perimeter landscaping shall be planted in accordance with requirements for frontage landscaping as outlined in this section.

Note: Where a development is proposed adjacent to an existing commercial development, the respective property owners may make application to the building official for common access through the required perimeter strip. This application must be in writing from all property owners involved and be accompanied by a revised landscaping plan illustrating the proposed strip modifications.

- (iv) A development adjacent to an R-1, R-2, or R-3 district shall have a 20-foot landscaped buffer for developments requiring perimeter landscaping. All other developments adjacent to an R-1, R-2 or R-3 district shall have a ten-foot landscaped buffer area. All landscaped buffer areas required under this section shall consist of a solid unbroken visual screen, eight feet high within two years of planting, and in sufficient density to afford protection to the residential districts from the glare of lights, from blowing paper, dust and debris, from visual encroachment and to effectively reduce the transmission of noise. A perimeter buffer area shall be maintained in a clean and neat condition.
- (v) At the option of the developer, application may be made to the building official for the following reductions of the required landscaped buffer adjoining R-1, R-2, or R-3 districts.
 - (1) Developments of up to 50 parking spaces. Provided a wooden fence eight feet high is constructed at the property line to obstruct view from adjoining properties, the required buffer may be reduced to five feet where parking bays are proposed, and three feet where maneuvering area only is proposed. The strip area between the fence and the parking or maneuvering area shall be planted in accordance with subsection 5 above.
 - (2) Developments of 51 or more parking spaces. Provided masonry wall eight feet high is constructed at the property line to obstruct view from adjoining properties, the required buffer may be reduced to eight feet. The strip area between the wall and the parking or maneuvering area shall be planted in accordance with this section.
- (vi) Access ways through perimeter landscaped areas, between PVAs and public rights-of-way and between adjacent PVAs, shall conform to the following standards: The maximum

width of access way shall be 30 feet for one-way and 35 feet for two ways. The width of access ways may be subtracted from the perimeter dimension used in determining the number of trees required. Access ways for sites must have specific approval from the city public works department, city engineer, and if fronted on a state highway, the state highway department.

- (vii) Perimeter landscaping shall include at least an average of one tree and six shrubs per full 50 linear feet of perimeter requiring perimeter plantings (less access ways); shrubs are optional in areas where a berm at least three feet in height is used. Berms with ground cover that necessitates mowing shall not have a slope greater than one foot of rise per three feet of run. Trees and shrubs shall be well distributed, though not necessarily evenly spaced.

6. Interior landscaping requirements. Planting islands and/or peninsulas shall be provided for any PVA of 40 or more parking spaces or 16,000 or more square feet (not including the area of perimeter landscaping and not including the area of any plantings between the parking lot and buildings), with dimensions and arrangements as given below:

- (i) The minimum area of required interior landscaping shall be determined by the following formula:
Number of parking spaces \times 18 = Minimum square feet of interior landscaped area.
(Example: 50 parking spaces \times 18 = 900 square feet)
- (ii) Each island or peninsula, to count toward the total interior landscape requirement, shall be at least 100 square feet in area; however, the maximum contribution of any individual island or peninsula to the total interior landscaping requirement shall be 1,000 square feet.
- (iii) Islands and peninsulas must be at least five feet in their least dimension, measured from back of curb to back of curb.
- (iv) Islands and peninsulas in PVAs shall be as uniformly distributed as practicable, to subdivide large expanses of parking areas, to regulate traffic flow, to protect pedestrians, and to permit access by emergency vehicles. When practicable, islands and/or peninsulas shall be placed at the ends of rows of parking spaces or between the circulation drives and parking rows, to channel traffic safely around the parking areas and to demarcate parking rows. No more than ten adjacent parking spaces may be placed side by side, without an intervening landscaped/planted island or peninsula.

- (v) The interior landscaped area shall contain at least an average of one tree and four shrubs per 200 square feet of landscaped area. Each island or peninsula shall contain at least one tree or three shrubs.
- 7. Maintenance of landscaping. The owner, lessee, or his agents shall be responsible for providing, maintaining, and protecting all landscaping in a healthy and growing condition, and for keeping it free from refuse and debris. All unhealthy and dead material shall be replaced within one year after notification, or during the next appropriate planting period, whichever comes first.
- 8. Variances. The board of adjustments may grant a written variance from requirements of this subsection in extraordinary circumstances that do not permit full compliance with this subsection, provided the variance will accomplish the objective of this section.
- 9. Notice of installation. Upon the beginning of installation of plant material required by this subsection, the property owner or developer shall notify the building department. The building department will require correction of conditions contrary to the requirements of this subsection and replacement of plant materials that are dead, diseased, damaged, or planted so as to kill or injure plants, or that present a hazard to traffic or pedestrians.
- 10. Bonding. No certificate of occupancy shall be issued until the provisions of this subsection have been met or a performance bond, letter of credit or certified check has been posted. When circumstances preclude immediate planting, a certificate of occupancy may be granted after (1) the owner or developer has completed all curbing, irrigation system, and other construction preliminary to planting, and (2) the property owner or developer posts a corporate surety bond, letter of credit, or cashier's check with the city clerk in an amount equal to 110 percent of the cost of the total required planting, including labor. Such bond shall be made payable to the City of Muscle Shoals. Landscaping must be completed and approved within six months (180 calendar days) after the certificate of occupancy is issued in order to redeem the bond.

At said time and place, all persons who desire to do so shall have an opportunity of being heard in opposition to or in favor of the adoption of such Ordinance.

Mayor Bradford announced that the next item of business was presentation of the annual audit for the fiscal year ended September 30, 2005. The City Clerk discussed the audit, prepared by Leigh, King & Associates, CPAs. Mayor Bradford directed the audit be spread upon the minutes of this meeting as follows:

Mayor Bradford announced that the next item of business was consideration of a resolution to declare a 1998 KME F450 firetruck surplus and authorize sale of the vehicle to Phil Campbell Rescue for \$50,000.

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 2198 - 06

WHEREAS, the City Council has been informed by the Fire Chief that a certain firetruck used in the performance of duties is no longer required for use by the Fire Department; and

WHEREAS, the City Council is informed that a request by the Phil Campbell Rescue has been made for transfer of the firetruck for use in the performance of their duties; and

WHEREAS, the City Council has determined that the said firetruck is surplus property and the City has no further use for said firetruck due to its age and condition and it is not economical for the City to retool or refit the said firetruck in order that it be placed in service in the Fire Department;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Muscle Shoals, Alabama that the following firetruck be declared surplus property and be disposed of by the Fire Chief 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 said firetruck and the Council does hereby authorize the City Clerk/Treasurer to dispose of said firetruck in such manner. The Council finds that the following firetruck is surplus property:

1999 Ford F450 Super Duty 4 x 4 VIN 1FDXF47FOXEB59656

BE IT FURTHER RESOLVED that the Fire Chief is authorized to take the steps necessary to convey the above described firetruck to the Phil Campbell Rescue in a manner consistent with the terms and conditions and pursuant to this Resolution for and in consideration of the sum of Fifty Thousand and no/100 (\$50,000.00).

Council Member Noles 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.

There being no further business to come before the meeting, upon the motion duly made and approved 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