

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD
June 16, 2008**

The Council of Muscle Shoals, Alabama met at the Muscle Shoals City Hall in said City at 6:30 p.m. on the 16th of June 2008 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
ABSENT: ALLEN NOLES, DAVID H. BRADFORD

Richard Williams, City Clerk of the City, 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 work session and regular meeting of June 2, 2008 and approved the minutes as written.

Mayor Pro Tem Holland announced that the next item of business was the scheduling of a public hearing to consider the issuance of a Restaurant Retail Liquor License to Jeffrey Whitehead and Daniel Haynes dba The Blind Monkey Bar & Grill, 301 Ford Road.

Mayor Pro Tem Holland announced that at a meeting to be held at the City Hall in said City at 6:30 p.m. on the 14th day of July 2008, the Council will consider the approval of the license. 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 approval of such license.

Mayor Pro Tem Holland announced that the next item of business was a public hearing to consider the issuance of a Retail Table Wine License (Off premise) to Victoria Rai dba Mini Mart located at 1013 Woodward Avenue.

Mayor Pro Tem Holland 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 Pro Tem Holland 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

NAYS: None

Mayor Pro Tem Holland announced that the license had been approved.

Mayor Pro Tem Holland announced that the next item of business was consideration of a proposed Section 115 Trust Agreement for post employment benefits for City retirees.

Council Member Willis moved that the trust be approved as presented. 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 Declaration of Trust had been approved.

Mayor Pro Tem Holland announced that the next item of business was consideration of a resolution appointing Richard Williams to prepare and publish the lists of qualified voters for the upcoming elections.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2331 - 08

WHEREAS, elections for filling the offices of Mayor and Council Member Places 1, 2, 3, 4 and 5 will be held in the City of Muscle Shoals, Alabama on August 26, 2008 and a second election, if necessary, held on October 7, 2008; and

WHEREAS, the Mayor of the City, namely, David H. Bradford, is a candidate for the office of Mayor in the election to be held in the City on August 26, 2008 and by virtue of his candidacy is disqualified to perform the duties of preparation, certification, filing and publication of the lists of qualified regular voters as set forth in Section 11-46-36 of the *Code of Alabama of 1975* as amended; and

WHEREAS, the City Council has determined that it is necessary and expedient to appoint a disinterested person to perform the duties set forth in Section 11-46-36 of the *Code of Alabama of 1975*; and

WHEREAS, the City Council does hereby find that the said Richard L. Williams is a disinterested person and is capable of performing the duties set forth in Section 11-46-36 of the *Code of Alabama of 1975* as amended, for and during the elections to be held within the City on August 26, 2008, and during the second election, if necessary, to be held on October 7, 2008;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Muscle Shoals, Alabama that Richard L. Williams is hereby appointed to perform the duties preparation, certification, filing and publication of lists of qualified regular voters and all other duties set forth in Section 11-46-36 of the *Code of Alabama of 1975* for and during the elections to be held within the City on August 26, 2008, and during the second election, if necessary, to be held on October 7, 2008.

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.

Mayor Pro Tem Holland announced that the next item of business was consideration of a resolution to modify the July 1st payment obligation of Shoals Marketplace LLC to the City.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2332 - 08

WHEREAS, the City Council of the City of Muscle Shoals, Alabama has received a proposal to extend the time for payment of the indebtedness of Shoals Marketplace, LLC due July 1, 2008 and whereas said proposal provides for payment to the City the sum of \$50,000.00 on or before July 1, 2008 and an additional payment in the amount of \$50,000.00 on or before January 1, 2009 and;

WHEREAS, the City Council has reviewed the contents of the proposal and finds that it is in the best interests of the City to accept and approve the proposal;

BE IT HEREBY RESOLVED that the City Council of the City of Muscle Shoals, Alabama, does hereby approve and accept the terms of proposal to extend the time for repayment of the indebtedness of Shoals Marketplace, LLC due July 1, 2008 upon payment by Shoals Marketplace, LLC of the sum of \$50,000.00 by July 1, 2008 and an additional sum of \$50,000.00 on or before January 1, 2009.

BE IT FURTHER RESOLVED that all other terms and conditions of the documents evidencing and securing the indebtedness of Shoals Marketplace, LLC unto the City of Muscle Shoals, Alabama shall remain in full force and effect.

Council Member Willis 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 motion to reconsider Resolution #2329-08 adopted at the May 21, 2008 meeting to vacate a portion of Nebraska Avenue.

Council Member Willis moved to reconsider the resolution as noted. 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 motion had been approved.

Council Member Willis then moved that the following substitute resolution be offered for adoption:

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2333 - 08

WHEREAS, Clyde Ray, Jr., John P. Mims and First Metro Bank have presented to the City Council of Muscle Shoals, Alabama, written petitions, duly executed and acknowledged, setting forth that Clyde Ray, Jr., John P. Mims and First Metro Bank are the owners of the property abutting the portion of Nebraska Avenue located in Muscle Shoals Center Number Fifteen, Colbert County, Alabama, known and designated according to the map and plat thereof recorded in Map Book 3, Pages 30 in the office of the Judge of Probate of Colbert County, Alabama, particularly described on Exhibit A attached hereto and made a part hereof by reference; and

WHEREAS, the City Council of Muscle Shoals, Alabama, a municipal corporation, has been requested to assent to and approve the vacation and the annulment of the dedication of the described portion of the street to the use of the public; and

WHEREAS, the City Council of Muscle Shoals, Alabama, does hereby find that vacation of the street will not affect any person's access to or from his property.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Muscle Shoals, Alabama, a municipal corporation, that the act of Clyde Ray, Jr., John P. Mims, and First Metro Bank in vacating and annulling the portion of Nebraska Avenue lying located in Muscle Shoals Center Number Fifteen, Colbert County, Alabama, known and designated according to the map and plat thereof recorded in Map Book 3, Pages 30 in the office of the Judge of Probate of Colbert County, Alabama, particularly described on Exhibit A attached hereto and made a part hereof by reference be and the same is hereby ratified, approved and confirmed and the its assent is hereby given subject to existing easements for utilities.

BE IT FURTHER RESOLVED that the City of Muscle Shoals, Alabama, a municipal corporation, remise, release, and quit-claim to Clyde Ray, Jr., John P. Mims and First Metro Bank, whatever right, title and interest the City of Muscle Shoals, Alabama may have acquired in

and to the above described street and that the Mayor is hereby authorized to execute quit-claim deeds to Clyde Ray, Jr., John P. Mims and First Metro Bank, for and on behalf of the City of Muscle Shoals, Alabama.

EXHIBIT A

The following parts of Nebraska Avenue located in Muscle Shoals Center Number Fifteen, Colbert County, Alabama, known and designated according to the map and plat thereof recorded in Map Book 3, Pages 30 in the office of the Judge of Probate of Colbert County, Alabama, to wit:

- (a) All of Nebraska Avenue lying east of Sheffield Avenue and west of a line commencing at a point S 88° 13' 08" E, 6.87 feet from the southeast corner of Lot 38 of the aforementioned Muscle Shoals Center #15 and extended S 0° 01' 53" E for 50 feet; and
- (b) All of Nebraska Avenue lying east of a line commencing at a point 20 feet east from the Southeast corner of Lot 32 of the aforementioned Muscle Shoals Center #15 and extended south for 50 feet, and lying west of Alabama Avenue.

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 approve certain electronic voting equipment for use in municipal elections.

Council Member Grissom introduced the following ordinance which was read in the meeting:

ORDINANCE NUMBER 1409 - 08

AN ORDINANCE ESTABLISHING THE USE OF ELECTRONIC VOTE COUNTING DEVICES FOR MUNICIPAL ELECTIONS WITHIN THE CITY OF MUSCLE SHOALS, ALABAMA

WHEREAS, Chapter 7 of Title 17 of the Alabama Code of 1975, and the regulations adopted pursuant thereto by the Alabama Electronic Voting Committee, provide for the use of Electronic Vote Counting Systems: and

WHEREAS, Section 17-7-21 of the Code of Alabama 1975 provides that a municipality may, in its discretion, by adoption of an appropriate ordinance authorize, adopt and direct the use of electronic vote counting systems for use in all elections held in such municipality;

NOW, BE IT HEREBY ORDAINED by the City Council of the City of Muscle Shoals, Alabama that beginning with the municipal elections on August 26, 2008 and municipal elections held subsequent to the passage of this ordinance the City Council does hereby authorize and provide for the use of electronic voting devices, specifically the Election Systems and Software AutoMARK 87000, a system which complies with Section 17-7-21 of the Code of Alabama and

any regulations adopted pursuant thereto is hereby authorized for the reporting, counting, and tabulating of any and all election results in the City of Muscle Shoals, Alabama.

BE IT FURTHER RESOLVED that beginning with the municipal elections on August 26, 2008 and municipal elections held subsequent to the passage of this ordinance the City Council does hereby authorize and provide for the use of precinct counter, specifically the Election Systems and Software Model 100 Counter/76102B, a system which complies with Section 17-7-21 of the Code of Alabama and any regulations adopted pursuant thereto is hereby authorized for the reporting, counting, and tabulating of any and all election results at the precinct level in the City of Muscle Shoals, Alabama.

BE IT FURTHER ORDAINED, that Clerk of the City of Muscle Shoals, Alabama is hereby directed to forward a copy of this ordinance to the Office of the Secretary of State as provided in Section 17-7-21 of the Code of Alabama 1975.

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

NAYS: None

Mayor Pro Tem Holland announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Grissom then moved that the said ordinance be finally adopted and spread upon the minutes of the meeting, which motion was seconded by Council Member Pampinto 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

NAYS: None

Mayor Pro Tem Holland thereupon declared said motion carried and the Ordinance passed and adopted as introduced.

Mayor Pro Tem Holland announced that the next item of business was consideration of a request for a \$2,500.00 travel advance for Lt. Tommy Skipworth to attend the FBI academy in Quantico, Virginia.

Council Member Pampinto moved that the request be approved. Council Member Willis 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 travel advance had been approved.

Mayor Pro Tem Holland announced that the next item of business was a proposal to change the July 7th meeting date of the City Council due to scheduling conflicts.

Council Member Willis moved that the next regular meeting of the City Council be moved from July 7th to Monday, July 14th with the work session and regular meeting to begin at 5:30 pm and 6:30 pm respectively. 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 change in meeting dates had been approved.

There being no further business to come before the meeting upon a 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