

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD
June 20, 2005**

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 June 2005 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 Grissom and unanimously adopted, the Council waived the reading of the minutes of the previously held regular meeting of June 6, 2005 and approved the minutes as written.

At this time, Mayor Bradford recognized and presented certificates of recognition to the members and coaches of the Muscle Shoals High School boys tennis team for winning the 5A state championship.

Mayor Bradford announced that the next item of business was consideration of a resolution awarding a bid for gasoline.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2141-05

BE IT RESOLVED, by the Council of the City of Muscle Shoals, Alabama as follows:
[1] That the Purchasing Agent did send out advertisements for bids for the purchase

of fuel products, the bid opening being held June 20, 2005 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:

<u>BIDDER:</u>	<u>GASOLINE:</u>
	Per Gallon:
O'Steen Oil Company	\$1.66
Tatum Oil Company	\$1.682

[3] The lowest, responsive, responsible, bidder after evaluation and verifying the bid with the specifications, has been determined as O'Steen Oil Company with a bid price of \$1.66 per gallon for the purchase of gasoline. The apparent low and best bidder, O'Steen Oil Company is now awarded the bid for the purchase of gasoline.

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 awarding a bid for a track loader for the public works department.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2142-05

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

[1] That the Purchasing Agent did send out advertisements for bids for the purchase of a track loader, the bid opening being held May 26, 2005 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:

<u>BIDDER:</u>	<u>BID AMOUNT:</u>	<u>ALTERNATE- USED:</u>
Tractor & Equipment Co.	\$137,957.00	No bid
Thompson Tractor Co.	\$151,110.00	No bid
Joe Money Machinery	No bid	No bid

[3] The low bid of Tractor & Equipment Co. has been determined as a non-responsive bid. Exceptions to the minimum specifications of the bid included in the bid of Tractor & Equipment Co. are as follows:

- Exception to the requirement of 6 cylinders (proposed 4 cylinders)
- Exception to the requirement of 18 inch track shoes (proposed 16 inch shoes)

[4] The lowest, responsive, responsible bidder after evaluation and verifying the bid with the specifications, has been determined as Thompson Tractor Co. with a total bid price of \$151,110.00 for the purchase of a new track loader.

[5] Funding for named purchase shall be provided in the amounts of \$110,000.00 as budgeted from the general fund, and an additional \$41,110.00 shall be applied to the purchase from the city's one-half cent account.

The apparent low and best bidder, Thompson Tractor, Co. Is now awarded the bid for the purchase of a new track loader.

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.

Mayor Bradford announced that the next item of business was vacation of a portion of an east-west alley portion between 2nd Street and Woodside more particularly described below.

Council Member Noles thereupon introduced the following resolution which was presented in the meeting:

PETITION

WHEREAS, the undersigned, **CHRISTOPHER M. JAMES** and **KRISTI L. JAMES** (hereinafter referred to as "Petitioners") are the owners of all of the lands and properties in said subdivision known as **MUSCLE SHOALS CENTER NUMBER 7** abutting the alleyways, or portions thereof, hereinafter described with particularity; said Petitioners being desirous of vacating said alleyways, or portions thereof.

WHEREAS, Petitioners state that the alleyways, or portions thereof, that Petitioners desire to vacate are located within and as a part of the subdivision designated as **MUSCLE SHOALS CENTER NUMBER 7**, all of which are further known and designated according to the maps and plats thereof recorded in the Office of the Judge of Probate of Colbert County, Alabama.

WHEREAS, Petitioners state that convenient and reasonable means of ingress and egress to and from other property located within the said subdivision and other property is afforded to all other property owners and further, that said desired vacation shall not deprive the undersigned, or other, property owners from convenient and reasonable means of ingress and egress to and from their property;

WHEREAS, Petitioners state that the alleyways, or portions thereof, desired to be vacated are not currently being used;

WHEREAS, Petitioners state that there are public utilities situated or located on, over or through the alleyways, or portions thereof, desired to be vacated and that Petitioners request that said vacation be made subject to the public utilities and that the alleyways, or portions thereof, shall be subject to an easement to the City of Muscle Shoals, Alabama for the installation and maintenance of public utilities and drainage;

WHEREAS, Petitioners seek and request assent to the vacation by the governing body of Muscle Shoals, Alabama, same to be evidenced by a resolution duly adopted by the governing body and certified by the Clerk;

NOW, THEREFORE, we, the undersigned Petitioners, being all of the owners of property in the subdivision known as **MUSCLE SHOALS CENTER NUMBER 7** abutting on the alleyways, or portions thereof, located in said subdivision, and further described herein, and desirous of vacating same do hereby declare the following alleyways, or portions thereof, to be vacated, to wit:

That portion of that certain alleyway bounded on the North by the South line of Lots 20 through 25, inclusive, and bounded on the South by the North line of Lots 26 through 31, inclusive, all in **MUSCLE SHOALS CENTER NUMBER 7**, according to the map and survey prepared by P.S. Milner, and recorded in Map Book 2, Page 279, in the office of the Judge of Probate of Colbert County, Alabama. and bounded on the East by the East line of Lot of Lot 25 (extended) South to the Northeast corner of Lot 26 and bounded on the West by the West line of Lot 20 (extended) South to the Northwest corner of Lot 31 as shown on the above described plat.

Said vacated portion to be subject to a utility easement to the City of Muscle Shoals, Alabama for the installation and maintenance of public utilities and drainage.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 29th day of November 2004.

s/ Christopher M. James L.S.

CHRISTOPHER M. JAMES

s/ Kristi L. James L.S.

KRISTI L. JAMES

**STATE OF ALABAMA
COLBERT COUNTY**

I, the undersigned authority, a notary public in and for said County in said State, hereby certify that **CHRISTOPHER M. JAMES**, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 29th day of November 2004.

s/ Lynn R. Seal

NOTARY PUBLIC

My Commission Expires: 2/25/06

**STATE OF ALABAMA
COLBERT COUNTY**

I, the undersigned authority, a notary public in and for said County in said State, hereby certify that **KRISTI L. JAMES**, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 29th day of November 2004.

s/ Lynn R. Seal

NOTARY PUBLIC

My Commission Expires: 2/25/06

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2143 -05

WHEREAS, CHRISTOPHER M. JAMES and **KRISTI L. JAMES**, hereinafter referred to as Petitioners, are the owners of all of the lands and properties in said subdivision known as **MUSCLE SHOALS CENTER NUMBER 7** abutting the alleyways, or portions thereof, hereinafter described with particularity; said Petitioners being desirous of vacating said alleyways, or portions thereof, have joined together and presented their signed Petition of Vacation of a part of said alleyways to the City Council of the City of Muscle Shoals, Alabama, a municipal corporation, for its consideration, assent and approval, and

WHEREAS, the property above referred to is more particularly described as follows: That portion of that certain alleyway bounded on the North by the South line of Lots 20 through 25, inclusive, and bounded on the South by the North line of Lots 26 through 31, inclusive, all in MUSCLE SHOALS CENTER NUMBER 7, according to the map and survey prepared by P.S. Milner, and recorded in Map Book 2, Page 279, in the office of the Judge of Probate of Colbert County, Alabama. and bounded on the East by the East line of Lot of Lot 25 (extended) South to the Northeast corner of Lot 26 and bounded on the West by the West line of Lot 20 (extended) South to the Northwest corner of Lot 31 as shown on the above described plat.

Said vacated portion to be subject to a utility easement to the City of Muscle Shoals, Alabama for the installation and maintenance of public utilities and drainage.

WHEREAS, the aforesaid parties, as the owners of all property abutting the said portions of the alleyways to be vacated, having complied with all the requirements of Ordinances of the City of Muscle Shoals, Alabama, relating to the vacation of streets, public alleys, lots and blocks within the City of Muscle Shoals, Alabama, and

WHEREAS, the City Council of the City of Muscle Shoals, Alabama, has determined that convenient means of ingress and egress to and from their property is afforded to all other property owners owning property in the tract of land embraced in the map, plat or survey within which the above described alleyway is located, such means of ingress and egress being afforded by the remaining dedicated streets and public alleys in the area.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Muscle Shoals, Alabama, that the assent of the City Council of the City of Muscle Shoals, Alabama be and the same is hereby given and granted to the vacation of the portion of the alleyway herein above described, subject to the reservation of a utility easement to the City of Muscle Shoals, Alabama for in installation and maintenance of public utilities and drainage pipes.

The Petitioners understand and agree that if the vacation of the alleyway is assented to by the City Council of the City of Muscle Shoals, Alabama that public utilities are currently located in said alleyway sought to be vacated and an easement over, across and through the alleyway will be reserved to the City of Muscle Shoals, Alabama, its successors and assigns for the installation, maintenance and operation of public utilities and drainage pipes, including those now existing and constructed or placed therein in the future.

Furthermore, Petitioners understand and agree that , in consideration of the vacation of the alleyway, that each of them shall execute and deliver an easement for the installation, maintenance and operation of public utilities and drainage pipes over, across and through a 5' strip along their respective property in Muscle Shoals Center Number 7 subdivision lying and being adjacent to the vacated alley, it being the intent of the City to have an easement 26' in width, which shall include the vacated alleyway and five feet on each side thereof.

Also, the Petitioners understand and agree that in the event that the City Council assents to the vacation of the alleyway and the Petitioners, or their heirs and assigns, shall construct a fence over, across or through the vacated alleyway or the easements granted to the City that each of them who construct such fence shall place gates, the size and width thereof to be approved by the City, for use by the City, its agents or employees, The Electric Board of the City of Muscle Shoals, The Utilities Board of the City of Muscle Shoals or any entity authorized by the City in order to provide access for entry to the easement for installation, maintenance and/or operation of public utilities and drainage pipes and said access shall be available and unrestricted at all times for use by said entities.

Council Member Pampinto seconded the motion and, upon said motion and 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 resolution had been adopted.

Mayor Bradford announced that the next item of business was consideration of an ordinance annexing property located on the north side of E. 6th Street known as Cave Springs Missionary Baptist Church. A petition was presented by the petitioner, a copy of which is hereinafter made a part of these minutes.

Council Member Pampinto introduced the following ordinance which was presented in writing in the meeting:

PETITION FOR UNANIMOUS CONSENT TO ANNEXATION

TO THE CITY COUNCIL OF MUSCLE SHOALS, ALABAMA:

The undersigned, CAVE SPRINGS MISSIONARY BAPTIST CHURCH, a corporation, as owner of the real property hereinafter described, being the owner of all of the hereinafter described real property, do hereby execute and file with the City Clerk this petition in writing requesting that the property hereinafter described be annexed to the City of Muscle Shoals, Alabama, under and by authority of § 11-42-20 through § 11-42-24, *Code of Alabama, 1975*, said property being more particularly described as follows, to wit:

A tract or parcel of land lying in the Southeast 1/4 of the Southeast 1/4 of Section 5, Township 4 South, Range 10 West Colbert County, Alabama, and being more fully described as follows: Beginning at the Southwest Corner of the southeast 1/4 of the Southeast 1/4 of said Section 5; run thence North 0 Degrees 43 Minutes 05 Seconds West for 664.85 Feet (passing over a capped re-bar set at 48.58 Feet on the North margin of East Sixth Street); run thence south 88 Degrees 51 Minutes 16 Seconds East for 660.06 Feet; run thence South 0 Degrees 41 Minutes 14 Seconds East for 664.55 Feet (passing over a capped re—bar set at 620.35 Feet on the North margin of East Sixth Street) to a point in the right-of-way of East Sixth Street (80' R.O.W); run thence North 88 Degrees 52 Minutes 13 seconds West for 659.70 Feet the point of beginning, containing 10.07 acres more or less and being subject to a portion of the right-of-way for East 6th Street off the South side thereof.

The undersigned represents unto the governing body of the City of Muscle Shoals, Alabama as follows:

1. The undersigned constitutes all of the owners of the herein described real property, said property being located and contained within an area contiguous to the corporate limits of the City of Muscle Shoals, Alabama.

2. The property sought to be annexed to the City of Muscle Shoals and as described herein does not lie within the corporate limits of any other municipality as required by § 11-42-21 of the *Code of Alabama, 1975*.

3. Attached hereto as Schedule B and made a part hereof is a map of the property sought to be annexed for purposes of showing its relationship to the corporate limits of the City of Muscle Shoals, Alabama.

NOW, THEREFORE, the undersigned petition the governing body of the City of Muscle Shoals, Alabama to annex the property described herein to the said municipality and request that the governing body of the City of Muscle Shoals, Alabama propose, consider and adopt an Ordinance assenting to the annexation of the property described herein; that the corporate limits of the said municipality be extended and rearranged so as to embrace and include the property described herein; that such property described herein shall become and be a part of the City of Muscle Shoals, Alabama upon adoption of said Ordinance and publication thereof or as otherwise provided by law.

IN WITNESS WHEREOF, the undersigned, CAVE SPRINGS MISSIONARY BAPTIST CHURCH., has caused this instrument to be executed this 31st day of May 2005.

CAVE SPRINGS MISSIONARY BAPTIST CHURCH,

By: s/ Robert Fuqua

ROBERT FUQUA

Its Authorized Trustee

ATTEST:

s/ Charley Campbell

CHARLEY CAMPBELL

Its Authorized Trustee

STATE OF ALABAMA
COLBERT COUNTY

I, the undersigned authority, a Notary Public in and for said county, in said state, hereby certify that ROBERT FUQUA and CHARLEY CAMPBELL, whose names as Trustees of CAVE SPRINGS MISSIONARY BAPTIST CHURCH, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, that they, as such Trustees, and with full authority, executed the same voluntarily for and as the act of said CAVE SPRINGS MISSIONARY BAPTIST CHURCH on the day that same bears date.

Given under my hand and official seal this 31st day of May 2005.

s/ DeAnna Flippo

Notary Public

My Commission expires:9-11-07

ORDINANCE NO. 1345-05

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCLE SHOALS, ALABAMA AS FOLLOWS:

Section 1. The City Council of the City of Muscle Shoals, Alabama, as the legislative body of the City, does hereby find and declare that it is in the best interests of the citizens of the City and the citizens in the affected area to bring the territory described herein in Section 2 of this Ordinance into the City of Muscle Shoals, Alabama.

Section 2. The boundary lines of the City of Muscle Shoals, Alabama, be, and the same are hereby, altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Muscle Shoals, Alabama, and in addition thereto, the following described territory:

A tract or parcel of land lying in the Southeast 1/4 of the Southeast 1/4 of Section 5, Township 4 South, Range 10 West Colbert County, Alabama, and being more fully described as follows: Beginning at the Southwest Corner of the southeast 1/4 of the Southeast 1/4 of said Section 5; run thence North 0 Degrees 43 Minutes 05 Seconds West for 664.85 Feet (passing over a capped re-bar set at 48.58 Feet on the North margin of East Sixth Street); run thence south 88 Degrees 51 Minutes 16 Seconds East for 660.06 Feet; run thence South 0 Degrees 41 Minutes 14 Seconds East for 664.55 Feet (passing over a capped re—bar set at 620.35 Feet on the North margin of East Sixth Street) to a point in the right-of-way of East Sixth Street (80' R.O.W); run thence North 88 Degrees 52 Minutes 13 seconds West for 659.70 Feet the point of beginning, containing 10.07 acres more or less and being subject to a portion of the right-of-way for East 6th Street off the South side thereof.

Section 3. This Ordinance shall be published as provided by law and a certified copy of same, together with a certified copy of the petition of the property owners, shall be filed with the Probate Judge of Colbert County, Alabama.

Section 4. The territory described in this Ordinance shall become a part of the corporate limits of the City of Muscle Shoals, Alabama upon publication of this Ordinance as provided for and set forth in Section 3 of this Ordinance.

Council Member Pampinto moved that unanimous consent be given for immediate consideration of and adoption of said Ordinance, which motion was seconded by Council Member Holland 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 Pampinto then moved that the said Ordinance be finally adopted, which motion was seconded by Council Member Holland 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 passed and adopted as introduced and read.

Mayor Bradford announced that the next item of business was consideration of an ordinance regulating and restricting the height of structures and objects of natural growth in the vicinity of the Northwest Alabama Regional Airport.

Council Member Holland introduced the following ordinance which was presented in writing in the meeting:

ORDINANCE NUMBER 1346-05

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF THE NORTHWEST ALABAMA REGIONAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE NORTHWEST ALABAMA REGIONAL AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; AND IMPOSING PENALTIES.

This Ordinance is adopted pursuant to the authority conferred by the Airport Zoning Act, as amended, Alabama Code, Title 4: Aviation, Chapter 6: Airport Zoning, Section 4-6 through 4-6-15, inclusive.

WHEREAS, it is hereby found that an obstruction has the potential for endangering the lives and property of user of the Northwest Alabama Regional Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Northwest Alabama Regional Airport, and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Northwest Alabama Regional Airport and the public investment therein. Accordingly, it is declared:

- (1) that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Northwest Alabama Regional Airport;
- (2) that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation or potential incompatible land use conflicts be prevented;
- (3) that the prevention of these obstructions and land use conflicts should be accomplished, to the extent legally possible, by the exercise of the police power without compensation; and
- (4) that the Northwest Alabama Regional Airport fulfills an essential community purpose.

WHEREAS, it is further declared that the prevention of the creation or establishment or hazards to air navigation; the elimination, removal, alteration, or mitigation of hazards to air navigation; or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCLE SHOALS, ALABAMA as follows:

Section 1. Short Title. This Ordinance shall be known and may be cited as the “Northwest Alabama Regional Airport Zoning Ordinance.”

Section 2. Definitions. As used in this Ordinance, unless the context otherwise requires:

- (1) **AIRPORT** - Means Northwest Alabama Regional Airport.
- (2) **AIRPORT ELEVATION** - Means the established elevation of the highest point on the usable landing area measured in feet from mean sea level.
- (3) **AIRPORT HAZARD** - Means any structure or tree or use of land which obstructs the air space required for the flights of aircraft or which obstructs or interferes with the control or tracking and/or data acquisition in the landing, taking off, or flight at an airport, or at any installation or facility relating to flight, and tracking and/or data acquisition of the flight craft; hazardous, interfering with, or obstructing such landing, taking off, or flight of aircraft or which is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.

- (4) **AIRPORT HAZARD AREA** - Means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Ordinance.
- (5) **AIRPORT REFERENCE POINT** - Means the point established as the approximate geographic center of the airport landing area and so designated.
- (6) **APPROACH SURFACE** - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 4 of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
- (7) **APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES** - These zones are set forth in Section 3 of this Ordinance.
- (8) **CENTERLINE** - means a line extending through the midpoint of each end of a runway
- (9) **CONICAL SURFACE** - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.
- (10) **HAZARD TO AIR NAVIGATION** - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (11) **HEIGHT** - for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- (12) **HORIZONTAL SURFACE** - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
- (13) **INSTRUMENT RUNWAY** - Means existing or planned runway(s) for which there is or is planned to be an instrument landing procedure published by a defense agency of the federal government or by the Federal Aviation Administration. Runways 18 & 36 are instrument runways at Northwest Alabama Regional Airport.
- (14) **LANDING AREA** - Means the surface area of the airport used for the landing, takeoff, or taxing of aircraft.
- (15) **NONCONFORMING USE** - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
- (16) **NONPRECISION INSTRUMENT RUNWAY** - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
- (17) **OBSTRUCTION** - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 4 of this Ordinance.
- (18) **PERSON** - Means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee receiver, assignee, administrator, executor, guardian, or other representative.
- (19) **PRECISION INSTRUMENT RUNWAY** - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach

system is planned and is so indicated on an approved airport layout plan or any other planning document.

(20) **PRIMARY RUNWAY** - Means existing or planned paved runway(s), as shown in the official Airport Layout Plan (ALP), on which a majority of the approached to and departures from the Airport occur. Runway 11-29 is the primary runway at Northwest Alabama Regional Airport.

(21) **PRIMARY SURFACE** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Federal Aviation Regulations (FAR) Part 77, for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevations of the nearest point on the runway centerline.

The width of a primary surface is:

- A. 250 feet for utility runways having only visual approaches.
- B. 500 feet for utility runways having nonprecision instrument approaches.
- C. For other than utility runways the width is:
 - I. 500 feet for visual runways having only visual approaches.
 - ii. 500 feet for a nonprecision instrument runway having visibility minimums greater than three-fourths statute mile.
 - iii. 1,000 feet for a nonprecision instrument runway having a nonprecision instrument approach with visibility minimum as low as three-fourths statute mile, and for precision instrument runways.

(22) **RUNWAY**- A defined area on an airport prepared for landing and take-off of aircraft along its length.

(23) **STRUCTURE** - An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

(24) **TRANSITIONAL SURFACES** - These surfaces extend outward at ninety (90) degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at ninety (90) degree angles to the extended centerline.

(25) **TREE** - Any object of natural growth.

(26) **VISUAL RUNWAY**- A runway intended solely for the operation of aircraft using visual approach procedures.

(27) **UTILITY RUNWAY**- A runway that is constructed for and intended to be used by propeller driven aircraft 12,500 pounds maximum gross weight and less.

Section 3. Height Restriction Zones. In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the Approach Surface, Transitional Surfaces, Horizontal Surface, and Conical Surface as they apply to Airport. Such zones are shown on a zoning map consisting of one sheet prepared by the LPA Group, Inc., and dated November, 2000, which is attached to this Ordinance and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

(1) **APPROACH ZONES**

- A. Runway 29 Approach Zone is established beneath the approach surface at the end of Runway 29 on Northwest Alabama Regional Airport for precision landings and takeoffs. The inner edge of the approach zone shall have a width of 1000 feet which coincides with the width of the primary surface at a distance 200 feet beyond the end of the runway, widening thereafter uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet beyond the end of the primary surface, its centerline being the continuation of the centerline of the runway.
- B. Runway 11 Approach Zone is established beneath the approach surface at the end of Runway 11 on Northwest Alabama Regional Airport for non precision landings and takeoffs. The inner edge of the approach zone shall have a width of 1000 feet which coincides with the width of the primary surface at a distance 200 feet beyond the end of the runway, widening thereafter uniformly to a width of 4000 feet at a horizontal distance of 10,000 feet beyond the end of the primary surface, its centerline being the continuation of the centerline of the runway.
- C. Runway 18 Approach Zone is established beneath the approach surface at the end of Runway 18 on Northwest Alabama Regional Airport for non-precision landings and takeoffs. The inner edge of the approach zone shall have a width of 1000 feet which coincides with the width of the primary surface at a distance 200 feet beyond the end of the runway, widening thereafter uniformly to a width of 4000 feet at a horizontal distance of 10,000 feet beyond the end of the primary surface, its centerline being the continuation of the centerline of the runway.
- D. Runway 36 Approach Zone is established beneath the approach surface at the end of Runway 36 on Northwest Alabama Regional Airport for non-precision landings and takeoffs. The inner edge of the approach zone shall have a width of 1000 feet which coincides with the width of the primary surface at a distance 200 feet beyond the end of the runway, widening thereafter uniformly to a width of 4000 feet at a horizontal distance of 10,000 feet beyond the end of the primary surface, its centerline being the continuation of the centerline of the runway.

- (2) **TRANSITIONAL ZONES** - Transitional zones are hereby established beneath the traditional surface adjacent to each runway and approach surface as indicated on the zoning map. Transitional surfaces, symmetrically located on either side of runways, have variable widths as shown on the zoning map. Transitional surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extends at a slope of 7:1 from the sides of the primary surface and from the sides of approach

surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

- (3) **HORIZONTAL ZONE** - The area beneath a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of runway(s) 11-29 and connecting the adjacent arc by lines tangent to those arcs.
- (4) **CONICAL ZONE** - The area beneath the conical surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

Section 4. Height Limitations. Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(1) **APPROACH ZONES**

- A. Runway 29: One (1) foot in height for each 50 feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point 10,000 feet from the end of the primary surface then rising one (1) foot in height for each forty (40) feet in horizontal distance for an additional 40,000 feet from the end of the primary surface.
- B. Runway 11: One (1) foot in height for each 34 feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point 10,000 feet from the end of the primary surface.
- C. Runway 18: One (1) foot in height for each 34 feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point 10,000 feet from the end of the primary surface.
- D. Runway 36: One (1) foot in height for each 34 feet in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point 10,000 feet from the end of the primary surface.

(2) **TRANSITIONAL ZONES** - Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 550 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven(7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at ninety (90) degree angles to the extended runway centerline.

(3) **HORIZONTAL ZONE** - Established at one hundred fifty (150) feet above the airport elevation, or a height of 700 feet above the mean sea level.

- (4) **CONICAL ZONE** - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- (5) **EXCEPTED HEIGHT LIMITATIONS** - Nothing in this Ordinance shall be construed as prohibiting the growth, construction, or maintenance of a tree or structure to a height up to 50 feet above the surface of the land.

Section 5. **Use Restrictions.** Notwithstanding any other provisions of this Ordinance no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, take-off, or maneuvering of aircraft intending to use the airport.

Section 6. **Airport Hazard Area.** Any area land or water upon which an airport hazard might be established if not prevented as provided in this Ordinance. The airport hazard area within which land use compatibility zoning may take place includes all unincorporated area in the country, except within the police jurisdiction of any municipality and the area within two miles of an airport owned or operated by a municipality when said municipality exercises or declares its intention to exercise zoning control over these areas; provided, that when by local acts the jurisdiction of zoning regulations is limited to the corporate limits of a city, this Ordinance shall not confer any further territorial jurisdiction on such city or its planning board or boards.

Section 7. **Nonconforming Uses.**

- (1) **REGULATIONS NOT RETROACTIVE** - The regulations prescribed by this Ordinance shall not be construed to require removal, lowering or other change or alteration of any structure or tree not conforming to the regulation as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance and it diligently prosecuted.
- (2) **MARKING AND LIGHTING** - Notwithstanding the preceding provision of this Section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Administrative Agency to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such marker and lights shall be installed, operated, and maintained at the expense of the owner of the nonconforming structure.

Section 8. **Permits.**

- (1) **FUTURE USES** - Except as specifically provided in A, B, and C hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established and no tree shall be planted in any zone hereby created

unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Paragraph (4) of this section.

- A. In the area lying within the limits of the horizontal and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
- B. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
- C. In the areas lying within the limits of the transitional zone beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transitional zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending any construction or alteration of any structure or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in Section 4, Paragraph (5).

- (2) **EXISTING USES** - No permit shall be granted that would allow the establishment or creation of any airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- (3) **NONCONFORMING USES, ABANDONED OR DESTROYED** - Whenever the determines that a nonconforming structure or tree has been abandoned or more than eighty (80) percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
- (4) **VARIANCES** - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree or use his property in violation of the regulations prescribed in this Ordinance, may apply to the Administrative Agency for a variance from such regulations in question. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application of enforcement of the

regulations will result in unnecessary hardship and the relief granted would not be contrary to the public interest, but do substantial justice, and be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered by the Administrative Agency unless a copy of the application has been furnished to the Airport Director of Northwest Alabama Regional Airport for advice as to the aeronautical effects of the variance. If the Airport Director of Northwest Alabama Regional Airport does not respond to the application with fifteen (15) days after receipt, the Administrative Agency may act on its own to grant or deny said application.

- (5) **OBSTRUCTION MARKING AND LIGHTING** - Any permit or variance granted, if such action is deemed advisable by the Administrative Agency to effectuate the purpose of this Ordinance and be reasonable in the circumstances, may be so conditioned as to require the owner of the structure or tree in question to allow the City of Muscle Shoals to install, operate and maintain, at the expense of the City of Muscle Shoals, such markings and lights as may be necessary.

Section 9. Enforcement.

It shall be the duty of the Administrative Agency to administer and enforce the regulations prescribed herein. Application for permits shall be made to the Administrative Agency upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Administrative Agency shall be promptly considered and granted or denied. Applications for variance shall be made to the Administrative Agency by filing said application for variance with the Administrative Agency for determination.

Section 10. Appeals and Judicial Review.

- (1) Any person aggrieved, or any taxpayer affected, by any decision of the legislative body or Administrative Agency is an improper application of these regulations, may appeal to circuit court of the county where such airport is located.
- (2) All appeals hereunder must be taken within ten (10) days by filing with the agency from which the appeal is taken a notice of appeal specifying the grounds thereof. The agency from which appeal is taken shall forthwith transmit to the court all papers constituting the record upon which the action appealed from was taken.
- (3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which appeal is taken certifies to the court, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate, a stay would, in its opinion, cause imminent peril to life or property and file bond to indemnify the owner for damages as may be fixed by the court. In such cases, proceedings may be stayed upon the filing by the appellant of a supersedeas bond in an amount to be set by the circuit court on application by the appellant or the agency from which appeal is taken.

Section 11. Enforcement and Remedies.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance or of any ordinance or other authorities of the City of Muscle Shoals, in addition to other

remedies, may such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

Section 12. Penalties.

Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and, upon conviction, shall be punishable by a fine of not more than \$500.00. Each day a violation continues to exist shall constitute a separate offense.

Section 13. Conflicting Regulations.

Where there exists a conflict between any of the regulations of limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the airport compatible land use regulation shall govern and prevail.

Section 14. Severability.

If any of the provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 15. Effective Date.

The provisions of this Ordinance shall be effective upon its passage and its publication and posting as required 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 Grissom 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 Grissom 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 passed and adopted as introduced and read.

Mayor Bradford announced the next item of business was the rescheduling of the next meeting of the Council set for July 4, 2005.

Council Member Grissom moved that the next regular meeting of the City Council be rescheduled to Tuesday, July 5, 2005 at 5:30 p.m. in the City Hall Auditorium to avoid a conflict with the Independence Day holiday. 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 motion 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