

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD
October 4, 2010**

The Council of Muscle Shoals, Alabama met at the City Hall in said City at 6:10 p.m. on the 4th day of October, 2010 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 Ricky Williams. On roll call the following members were found to be present or absent, as indicated:

PRESENT: JOE PAMPINTO, NEAL WILLIS, JERRY KNIGHT GRISSOM
 JAMES HOLLAND, ALLEN NOLES, DAVID H. BRADFORD
ABSENT: NONE

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

David Bradford, Mayor of the City, presided at the meeting and declared that a quorum was present and that the meeting was convened and opened for the purposes of transaction of business.

Upon motion duly made by Council Member Holland seconded by Council Member Pampinto and unanimously adopted, the Council waived the reading of the minutes of the previously held regular meeting and work session of September 20, 2010 and approved the minutes as written.

Mayor Bradford presented a proclamation declaring October, 2010 as “National Dyslexia Awareness Month” in the City. Mr. John Hicks was present to receive the proclamation.

Mayor Bradford presented a proclamation declaring October, 2010 “Disability Awareness Month” in the City. Mr. Danny Prince, Director of the Northwest Alabama Rehabilitation Center was present to receive the proclamation.

Mayor Bradford announced that the next item of business was consideration of a resolution to award a bid for asphalt for the 2010 - 2011 fiscal year.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NO. 2458-10

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

[1] That advertisements for bids for the purchase of asphalt and binder for the fiscal year beginning October 1, 2010 were distributed, the bid opening set for the 16th day of September, 2010, 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:

NAME OF BIDDER	424A- 3/8" Asphalt / ton	424A - 1/2" Asphalt / ton	424A- 3/4" Asphalt / ton	424B - 1" Binder/ton
APAC	\$51.40	\$49.50	\$48.25	\$44.00
ROGERS GROUP	\$47.34	\$44.43	\$41.96	\$38.69

[3] After verifying the bids with the specifications it has been determined that the lowest, responsive, responsible bidder submitting a bid for all categories of asphalt and binder with is Rogers Group. The Council hereby elects to award the bid to multiple vendors. Rogers Group shall be awarded the bid as the primary supplier for asphalt and binder. APAC-Southeast Inc. shall be awarded the bid as the secondary supplier for all categories of asphalt and binder. In the event that the primary vendor cannot provide product at time of notification, product may be purchased from the secondary supplier.

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

Mayor Bradford announced that the Resolution had been approved.

Mayor Bradford announced that the next item of business was consideration of a resolution to award a bid for coarse aggregates for the 2010 - 2011 fiscal year.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NO. 2459-10

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

[1] That advertisements for bids for the purchase of coarse aggregates for the fiscal year beginning October 1, 2010 were distributed, the bid opening set for the 16th day of September, 2010, 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>Name of Bidder:</u>	<u>Per ton</u> <u>No. 57 /ton</u>	<u>Per Ton</u> <u>No.78</u>	<u>Per Ton</u> <u>Crusher Run</u>	<u>Per Ton</u> <u>Rip-Rap</u>
Rogers Group	\$9.50	\$9.75	\$9.00	\$10.50
Vulcan Materials	\$9.94	\$10.04	\$9.60	\$11.12

[3] The lowest, responsive, responsible, bidder after evaluation and verifying the bid with the specifications, has been determined as Rogers Group with a bid price of \$9.50 per ton for No. 57 coarse aggregate; \$9.75 per ton for No. 78 coarse aggregate; \$9.00 per ton for crusher run; and \$10.50 per ton for rip rap. The lowest, responsive and responsible bidder, Rogers Group is now awarded the bid for the purchase of coarse aggregates. Award shall begin on October 1, 2010, and shall end on September 30, 2011.

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 consideration of a resolution to award a bid for fuel products for the 2010 - 2011 fiscal year.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2460-10

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

[1] That the Procurement Agent did send out advertisements for bids for the purchase of fuel products, the bid openings being held September 29, 2010 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>MARK-UP ABOVE RACK PRICE:</u>
Fuel Masters	\$.0669
Mansfield Oil Co.	\$.0616
Tatum Oil Company	\$.0525
W.H. Thomas Oil Co.	\$.1022

[3] The lowest, responsive, responsible, bidder after evaluation and verifying the bid with the specifications, has been determined as Tatum Oil Company with a bid price of \$.0525 per gallon profit markup above rack price for regular conventional gasoline, diesel fuel, and 87-E10. The apparent low, responsive and responsible bidder, Tatum Oil Company is now awarded the bid for the purchase of fuel products, with said bids being awarded for a twelve month period. Award shall begin on October 1, 2010, and shall end on September 30, 2011.

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 to award bids for pipe products for the 2010 - 2011 fiscal year.

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

RESOLUTION NO. 2461-10

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

[1] That advertisements for bids for the purchase of various types of construction pipes were distributed, the bid opening set for the 23rd day of September, 2010, 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:

DESCRIPTION		POLYETHYLENE PIPE with SMOOTH INTERIOR		
DESCRIPTION OF PIPE SIZE	% usage	EAGLE WHOLESALE 100%	LOWE'S COMPANIES 0 %	SET-A-STEPS 0%
		\$ Price per foot	\$ Price per foot	\$ Price per foot
12"	49	3.85	5.50	5.98
15"	10	5.41	7.83	8.65
18"	26	6.44	9.54	10.40
24"	5	12.44	16.04	18.56
30"	5	16.68	23.63	19.64
36"	5	21.21	30.62	27.95

[3] The lowest, responsive, responsible bidder after evaluation of the bid has been determined as Eagle Wholesale based upon lowest price on 100% of City usage. The apparent low, responsive and responsible bidder, Eagle Wholesale is now awarded the bid for polyethylene pipe, with said bid being awarded for a one-year period beginning October 1, 2010.

DESCRIPTION		CORRUGATED ALUMINIZED METAL PIPE		
DESCRIPTION OF PIPE SIZE	% usage	CONTECH CONSTRUCTION 100%	SET-A-STEPS 0%	
		Price: \$ per foot	Price: \$ per foot	
12"	49	7.60	9.93	
15"	10	9.12	12.73	
18"	26	11.40	15.18	
24"	5	14.44	20.41	
30"	5	18.24	25.90	
36"	5	22.04	29.64	

[4] The lowest, responsive, responsible bidder after evaluation of the bid has been determined as Contech Construction Products based upon lowest price on 100% of City usage. The apparent low, responsive and responsible bidder, Contech Construction is now awarded the bid for corrugated metal pipe, with said bid being awarded for a one-year period beginning October 1, 2010.

DESCRIPTION		CONCRETE PIPE		
DESCRIPTION OF PIPE SIZE	%	SET-A-STEPS 100%	SHERMAN DIXIE (See Exceptions Below) 0%	
		Price per foot	Price per foot	
12"	41	9.97	10.20	
15"	10	12.13	11.40	
18"	34	14.59	13.40	
24"	5	23.35	21.10	
30"	5	34.63	30.70	
36"	5	47.15	41.90	

EXCEPTION: Sherman Dixie states that tongue and groove of pipe is 3-1/2" and the bid requires a minimum of 4-1/4" tongue and groove, making the bid non-responsive.

[5] The lowest, responsive, responsible bidder after evaluation of the bid has been determined as Set-a-Steps based upon lowest price on 100% of City usage. The apparent low, responsive and responsible bidder, Set-A-Steps is now awarded the bid for concrete pipe, with said bid being awarded for a period of one year beginning October 1, 2010, and ending September 30, 2011.

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

Mayor Bradford announced that the Resolution had been approved.

Mayor Bradford announced that the next item of business was consideration of a resolution to approve the expenditure of public funds for the purpose of inducing Chandler - Wilson LLC to locate a Zaxby's Restaurant at 2017 East Avalon Avenue.

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

RESOLUTION NUMBER 2462 - 10

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

WHEREAS, the City Council of the City of Muscle Shoals, Alabama has considered the request of Chandler-Wilson, LLC for the grant of inducements relative to the location of a Zaxby’s restaurant on East Avalon Avenue in Muscle Shoals and hereby makes the following findings, to wit:

1. Notice of a public meeting, including a description of the proposed benefits to Chandler- Wilson, LLC, to be held at City Hall on Monday, October 4, 2010 at 5:30 p.m., was published in the TimesDaily on Friday, September 24, 2010.

2. A public meeting was in fact held before the City Council of Muscle Shoals on Monday, October 4, 2010 at 5:30 p.m. and all persons present were given the opportunity to make comment and ask questions.

3. The inducements to Chandler-Wilson, LLC, a private entity, and the expenditure of public funds as outlined hereinbelow serve valid and sufficient public purposes, including, but not limited to, the location of a Zaxby’s restaurant in the City of Muscle Shoals, Alabama and the development of retail business on East Avalon Avenue, a primary traffic artery and feeder to Wilson Dam Highway, notwithstanding any incidental benefits accruing to Chandler-Wilson, LLC and its three principals and its owners.

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

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

1. The City of Muscle Shoals agrees to purchase the property described on Exhibit A attached hereto and made a part hereof by reference for \$550,000.00 plus up to \$250,000.00 in verified construction expenses incurred in the renovation of the improvements located on the Property and costs associated with the purchase transaction. Chandler-Wilson, LLC shall be solely responsible for all other costs and shall not hold itself out as an agent of the City with respect to the development or construction of the Zaxby's restaurant. Neither the City nor any of its agents, employees, officers or members of the City Council shall have any liability or obligation in connection with the construction or operation of Zaxby's restaurant.

2. The City of Muscle Shoals agrees to lease to Chandler-Wilson, LLC the subject property for 20 years (the “Lease”) at a rental rate equal to \$800,000 (or the actual cost of purchase and renovation) amortized over a 20 year period at an interest rate equal to the interest rate available to the City of Muscle Shoals on the date of issuance of the City's warrant (the “Warrant”) to the purchaser of the Warrant. The Lease shall contain such other terms and provisions, including insurance and indemnification provisions for the benefit of the City, as are approved by legal counsel for the City of Muscle Shoals.

3. The City of Muscle Shoals agrees that Chandler-Wilson, LLC will be entitled to a credit against its rental obligations under the Lease in an amount equal to 50% of sales tax generated solely by the Zaxby's restaurant for the City of Muscle Shoals. The current municipal sales tax rate in the City is 3.50%. The sales tax revenues to be shared shall not include any revenues received by the City (a) from any increase in the rate of the sales tax enacted after October 4, 2010 or (b) any sales tax revenues related to construction of improvements on the Property described on Exhibit A.

4. The Lease shall be guaranteed by the three principals of Chandler-Wilson, LLC having satisfactory net worth as established by certified financial statements or by a letter of credit in the amount of \$800,000.00. The form and substance of the Letter of Credit, if required, shall be satisfactory to the City.

5. Zaxby's is to make a \$2,000.00 per year payment for the first 10 years of the Lease and a \$2,500.00 per year payment for the second 10 years of the Lease as a payment in lieu of ad valorem taxes. Such payments are to be made directly to the City Board of Education of the City of Muscle Shoals.

6. The expenditure of public funds as hereinbefore described for the purposes specified will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities, including Chandler-Wilson, LLC and its three principals.

7. This Resolution attempts to summarize and reflect the City's negotiations to date; however, shall be binding only upon the sales/purchase contract for the Property, the Lease Agreement, the Warrant and any other ancillary documents are executed by each party and delivered.

Council Member Pampinto seconded the motion and upon said motion being put to a vote, a roll call was had and the vote recorded as follows:

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

NAYS: None

Mayor Bradford announced that the Resolution had been approved.

Mayor Bradford announced that the next item of business was the rescheduling of the October 18, 2010 regular meeting of the City Council to October 25, 2010 at the regularly scheduled time.

Council Member Pampinto moved that the meeting of October 18, 2010 be moved to Monday, October 25, 2010 with the work session to begin at 5:30 pm and the regular meeting immediately following or 6:00 pm whichever is later. Council Member Grissom seconded the motion and upon said motion being put to a vote, all voted "AYE" and "NAYS" were none.

Mayor Bradford announced that the meeting date change had been approved.

Mayor Bradford announced that a public hearing has been scheduled for citizen input on the City's intent to apply for Community Development Block Grant and Appalachian Regional Commission grant funds. The proposal is to construct the Peachtree Street extension to the Shoals Research Airpark. The hearing has been set for Monday, October 18, 2010 at 10:00 am in the City Hall Auditorium. All citizens are encouraged to attend and offer comment on the proposed project.

There being no further business to come before the meeting, upon the motion duly made, seconded and unanimously carried, the meeting was adjourned.

CITY OF MUSCLE SHOALS, ALABAMA
a Municipal Corporation

MAYOR

COUNCIL MEMBER - PLACE ONE

COUNCIL MEMBER - PLACE TWO

COUNCIL MEMBER - PLACE THREE

COUNCIL MEMBER - PLACE FOUR

COUNCIL MEMBER - PLACE FIVE

ATTEST:

CITY CLERK