

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

March 5, 2012

The Council of Muscle Shoals, Alabama met at the City Hall in said City at 6:15 p.m. on the 5th day of March, 2012 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

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

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 February 20, 2012 and approved the minutes as written.

Mayor Bradford read aloud a proclamation declaring March 10th, 2012 as “Shoals Cancer Awareness Day” in the City.

Mayor Bradford announced that the next item of business was approval of a travel advance in the amount of \$780.00 for the Canine Officer Jeremy Behel and Greg Scoggins to attend canine training and competition. Council Member Pampinto moved that the travel advance be approved. 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 travel advance had been approved.

Mayor Bradford announced that the next item of business was approval of a job description for the General Manager - Cypress Lakes Golf Course. Council Member Grissom moved that the description be approved as presented. 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 job description had been approved.

Mayor Bradford announced that the next item of business was adoption of proposed amendments to section 10.4.5.3 of the Civil Service Policies and Procedures as follows:

10.4.5.3 Coordination With Other Provided Leaves. Normally, FMLA leave will be charged against an employee's accrued leaves with pay in the following order:

- (1) sick leave;
- (2) annual leave (after sick leave is exhausted).
- (3) compensatory time

After an employee's accrued leaves with pay are exhausted, he will be eligible for contributions of sick leave from other employees within his department. Sick leave donations apply only to sick leave eligible events as defined in Section 10.4.2.4. Individual employees may contribute sick leave in increments of eight (8) hours (one shift for Fire Department extended shift employees), not to exceed eighty (80) hours (six shifts for Fire Department extended shift employees) in a calendar year. Contributions of sick leave may not extend beyond the FMLA period. The contributing employee must have a minimum of two hundred forty (240) hours of accumulated sick leave after the donation. Donations shall be made on a form approved by the personnel officer. Any employee desiring to receive or donate this benefit should contact the personnel officer to make the request. The personnel officer, after verifying the employee's eligibility for the benefit, shall notify the appropriate department head to give written notice to all employees of the request for assistance. If he does not have leave with pay accrued or donated, he will be placed in a leave without pay status for the remainder of the leave. While the employee is in a sick leave, annual leave, compensatory time status he will receive his regular pay and benefits associated with such leave. If he is placed in a leave without pay status, he will not receive any pay, however, the provisions of paragraph 10.4.5.4, below will apply concerning his benefits. Donated sick leave hours will be calculated based upon the relationship of the donor's base pay and the recipient's base pay, not to exceed one hour donated to one hour received. That calculation will then be applied to the hours donated to determine hours available to the recipient employee. Base pay is defined as the hourly rate excluding additions for intoxilyzer, EMT, shift differential, on-call pay or any other pay additions that are not applicable to all incumbents in the same pay class. No employee in a probationary status is eligible to participate in this benefit. Any attempt to coerce, pressure or otherwise exert undue influence on another employee to contribute sick leave to another employee will be a violation of these

policies and subject to disciplinary action. No employee donating sick leave may receive anything of value in exchange for their contribution.

Council Member Noles moved that the amendment be approved as presented. 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 amendment had been approved.

Mayor Bradford announced that the next item of business was consideration of a request to grant an ambulance license to Shoals Ambulance Inc. Council Member Willis moved that the application be approved. 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 business license had been approved.

Mayor Bradford announced that the next item of business was consideration of a resolution to vacate a portion of an alleyway in Highland Park Subdivision #3 for the Wendy's project.

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

STATE OF ALABAMA
COLBERT COUNTY

PETITION

WHEREAS, the undersigned, FORT HILL PROPERTIES II, a South Carolina limited liability company who has qualified to do business in the State of Alabama, (hereinafter referred to as "Petitioner") is the owner of all of the lands described hereinbelow abutting the alleyways, or portions thereof, said Petitioner being desirous of vacating said alleyways, or portions thereof. WHEREAS, Petitioner states that the alleyways, or portions thereof, that Petitioner desires to vacate are located within and as a part of the subdivision designated as Highland Park Subdivision, Plat No. Three, 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, Petitioner states 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, Petitioner states that the alleyways, or portions thereof, desired to be vacated are not currently being used;

WHEREAS, Petitioner states that there are no public utilities situated or located on, over or through the alleyways, or portions thereof, desired to be vacated;

WHEREAS, Petitioner seeks and requests 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, the undersigned Petitioner, being all of the owner of property as described hereinbelow, in the subdivision known as Highland Park Subdivision, Plat No. Three, 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 East by Lot line of 564 and bounded on the West by Lots 565, 566, 567, 568, 569, 570 and 571, all in Highland Park Subdivision Plat No. Three, according to the plat thereof as recorded in the Office of the Judge of Probate of Colbert County, Alabama, in Map Book 3, Page 31, as shown on the above described plat. (w\j31979)
IN WITNESS WHEREOF, Petitioner has caused this instrument to be executed this 1st day of March, 2012.

FORT HILL PROPERTIES II, A
SOUTH CAROLINA LIMITED
LIABILITY COMPANY
s/ Clark H. Mizell
BY: Clark H. Mizell
AS: Chief Financial Officer

STATE OF SOUTH CAROLINA

ACKNOWLEDGMENT FOR
LIMITED LIABILITY COMPANY

PICKENS COUNTY

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Clark H. Mizell as Chief Financial Officer of FORT HILL PROPERTIES II, a South Carolina limited liability company, is signed to the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of the same, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

GIVEN under my hand and seal on this the 1st day of March, 2012.

s/ Diane A. Hart
NOTARY PUBLIC
My Commission Expires: 11/21/2017

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2535 - 12

WHEREAS, FORT HILL PROPERTIES II, a South Carolina limited liability company, hereinafter referred to as Petitioner, is the owner of lands and properties of Lots Numbered 558, 559, 560, 561, 562, 563 and 564 in said subdivision known as Highland Park Subdivision, Plat No. Three, abutting the alleyways, or portions thereof; hereinafter described with particularity; said Petitioner being desirous of vacating said alleyways, or portions thereof, has presented its 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 East by Lot line of 564 and bounded on the West by Lots 565, 566, 567, 568, 569, 570 and 571, all in Highland Park Subdivision Plat No. Three, according to the plat thereof as recorded in the Office of the Judge of Probate of Colbert County, Alabama, in Map Book 3, Page 31, as shown on the above described plat. (w\j31979)

WHEREAS, the aforesaid Petitioner, as the owner 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, Petitioner wishes to reserve from the Quit Claim Deed of Conveyance a drainage and utility easement in favor of the City of Muscle Shoals, Alabama, described as follows:

A utility and drainage easement over and across the aforesaid alleyway located within the city limits of the City of Muscle Shoals, Alabama.

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 with reservation of the drainage and utility easement as referenced hereinabove.

Council Member Holland seconded the motion 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 thereupon declared said motion carried and that the Resolution had been approved.

Mayor Bradford announced that the next item of business was a public hearing to consider the issuance of a Retail Table Wine License (Off premises only) to SRI BABA LLC dba HT Express located at 503 Highway 43 South.

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

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

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

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

NAYS: None

Mayor Bradford announced that the license had been approved.

Mayor Bradford announced that the next item of business was a public hearing to consider the adoption of an Ordinance to amend the Zoning Ordinance and Zoning Map of the City of Muscle Shoals, Alabama. The area being considered for rezoning is located at 102 Blaine Street.

PROPOSED ORDINANCE

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

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

That the following described area which are currently zoned R-3 and is hereby incorporated in and made a part of the B-2 District, to wit:

A tract or parcel of land lying and being in the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 31, Township 3 South, Range 10 West, Colbert County, Alabama, more particularly described as follows: To find the point of beginning, commence at the Southwest corner of said Section 31; run thence North 3 degrees 22 minutes East 1320 feet to a bottle cap in the center of Wilson Dam Road; run thence South 85 degrees 33 minutes East 350 feet to the point of beginning; run thence South 3 degrees 04 minutes West 641.3 feet to a point; run thence South 86 degrees 56 minutes East 135 feet to a point; run thence North 3 degrees 04 minutes East 643.4 feet to a point; run thence North 85 degrees 33 minutes West 135.1 feet to the point of beginning, containing 2 acres. Together with the appurtenances thereunto belonging.

The Council finds that legal notice of the following proposed amendment to the Zoning Ordinance of the City of Muscle Shoals, Alabama, was published by posting the same in four (4) conspicuous places in the City of Muscle Shoals, 15 days prior to the date hereof, there being no newspaper published in the City of Muscle Shoals, and said notice set for public hearing on the 5th day of March, 2012, at 6:30 pm, in the Chambers of the Council of the City of Muscle Shoals located in the City Hall, Muscle Shoals, Alabama, for all persons to appear to be heard either for or against the adoption of said amendment, and

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

Mitchell Hayes, an attorney representing the estate of Kathleen Williams spoke on behalf of the petitioners, requesting the rezoning. He presented pictures of the subject property and a letter from Joe Pounders, a resident of the neighborhood in support of the rezoning.

Karen Rollison, daughter of the late Ms. Williams, spoke in favor of the rezoning.

Delois Huzar, 100 Michigan Street spoke in opposition to the rezoning. She noted that a petition with signatures from 45 residents of the area had been presented to the Planning and Zoning Board in opposition to the rezoning. She also stated that traffic problems currently exist on Blaine. Ms. Huzar stated that Blaine has no other outlet out of the subdivision.

Jim Stokes, 305 Blaine spoke in opposition to the rezoning. He also expressed concerns with traffic and no secondary outlet out of the subdivision.

Danny Mitchell, 110 Michigan stated that his property adjoins the subject property. He stated that he did not feel the property was a good choice for commercial property.

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

AYES: None

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

Mayor announced the adoption of the ordinance had failed.

Mayor Bradford announced that the next item of business was a resolution to accept the Gift Agreement of Neil Whitesell for the Cypress Lakes Golf & Country Club.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2536 - 12

WHEREAS, the City Council of the City of Muscle Shoals, Alabama has received a proposal pertaining to the gift of the assets, equipment and property of Cypress Lakes Golf & Country Club, Inc. through a gift of all of the outstanding stock of said company by the owner, Neil Whitesell; and

WHEREAS, the City Council has reviewed the contents of the proposal and the effects of receiving the gift as outlined herein and upon consideration of same determines that it is wise and expedient that the City accept and receive the gift of the stock of said company along with its assets, equipment and property; and

WHEREAS, it has been represented to the City by the said company's sole stockholder or its authorized officers or agents, that the stock, assets, equipment and property of the said company is free and clear from liens, claims and encumbrances and that said gift is made free and clear of all claims, liens and encumbrances, excepting only therefrom the recurring obligations of the company which are the restaurant lease, golf cart lease agreement, cleaning services agreement and uniform rental agreement;

WHEREAS, it has been further represented to the City by the said company's sole stockholder or its authorized officers or agents that the current employees of the company are under no contract of employment but are at-will employees and that the company shall be responsible for all salaries, wages and benefits up to the date of the transfer of the stock of the said company to the City and the City shall allow the current employees to remain as temporary employees of the City, subject to those desiring to do so by completing an application for said temporary employment for a period of time of up to six (6) months and otherwise meeting the City's criteria and requirements for temporary employees; and

WHEREAS, the City Council has reviewed a document entitled Gift Agreement and found its terms and conditions to be acceptable and is desirous of entering into said agreement and accepting the gift as herein set out; now

BE IT HEREBY RESOLVED that the City Council of the City of Muscle Shoals, Alabama, relying on the foregoing recitations and reliance upon the representations of the Company, does hereby authorize and direct the Mayor of the City, David H. Bradford, for and on behalf of the City to accept the transfer of all of the outstanding stock of Cypress Lakes Golf & Country Club, Inc. and to execute the necessary and required documents on behalf of the City of Muscle Shoals so that the City will acquire by gift all of the outstanding stock, assets, equipment and property of the said Cypress Lakes Golf & Country Club, Inc.; and

BE IT FURTHER RESOLVED that the Mayor of the City, David H. Bradford, be, and hereby is, authorized to execute and deliver any instruments and related documents in connection with the gift that may be meet and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be prepared forthwith by the Clerk and delivered unto Neil Whitesell along with the executed Gift Agreement pertaining to the gift herein described and furthermore shall retain a copy to be kept on file by the said Clerk.

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

Mayor Bradford announced that the resolution had been approved.

Mayor Bradford announced that the next item of business was of a resolution to establish a bank account at First Metro Bank for the Cypress Lakes Golf Course.

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

STATE OF ALABAMA

COLBERT COUNTY

RESOLUTION NUMBER 2537 - 12

WHEREAS, the City of Muscle Shoals has accepted ownership of the Cypress Lakes Golf and Country Club, and

WHEREAS, the Cypress Lakes Golf Course will be operated as a part of the City’s Parks and Recreation Department, and

WHEREAS, the use of various forms of electronic payments by participants at these facilities will be an integral part of its operations, now

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Muscle Shoals, Alabama that there is hereby established the Cypress Lakes Golf Course Account, to receive and account for funds received from these electronic payments, and

BE IT FURTHER RESOLVED by the City Council that the City Clerk/Treasurer is authorized to establish with First Metro Bank a checking account for the maintenance of these funds, and

BE IT FURTHER RESOLVED by the City Council that the Mayor or the Mayor Pro-tem and the City Clerk or Assistant City Clerk be authorized to signs checks for this account.

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 of a resolution to authorize Automated Clearing House (ACH) Network transactions originating through First Metro Bank for the Cypress Lakes Golf Course.

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

STATE OF ALABAMA
COLBERT COUNTY

RESOLUTION NUMBER 2538 - 12

WHEREAS, the City Council of the City of Muscle Shoals, Alabama has received an agreement from First Metro Bank that provides for the initiation of Automated Clearing House (ACH) Network transactions by the City for the payment of recreation activity fees at the Cypress Lakes Golf Course; and

WHEREAS, the City Council has determined that it is wise and expedient that the City execute and deliver said agreement to First Metro Bank providing for the City to initiate ACH transactions; now

THEREFORE BE IT RESOLVED, by the City Council of the City of Muscle Shoals that First Metro Bank or its successors or assigns be authorized to originate ACH transactions as authorized by the City of Muscle Shoals through its representatives or agents as designated below, and

BE IT FURTHER RESOLVED that any one of the following individuals be designated and authorized representatives of the City for the purpose of providing instructions and directions to First Metro Bank or its successors or assigns to effectuate for the City:

<u>NAME</u>	<u>TITLE</u>
Rusty Wheelles	Parks and Recreation Director
Sedonna Pierce	Secretary
Ricky Williams	City Clerk/Treasurer

BE IT FURTHER RESOLVED that any one of the previous individuals is authorized to sign necessary forms, account cards, and other documents to enable said Bank to handle the ACH origination service as needed by the City.

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 of a resolution to authorize Payment Alliance International to process credit and debit card transactions for the Cypress Lakes Golf Course.

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

STATE OF ALABAMA

COLBERT COUNTY

RESOLUTION NUMBER 2539 - 12

WHEREAS, the City Council of the City of Muscle Shoals, Alabama has received a proposal from Payment Alliance International that provides for the payment by credit or debit cards of recreation activity fees at the Cypress Lakes Golf Course; and

WHEREAS, the City Council has reviewed the contents of the proposal and finds that said agreement proposed is in due form and proper order and upon consideration of same determines that it is wise and expedient that the City execute and deliver said agreement to Payment Alliance International providing for the company to process credit and debit card transactions for the City at the Cypress Lakes Golf Course; and

WHEREAS, the City Council finds that other instruments and related documents may be required in connection with said proposal and is desirous of authorizing the execution and delivery of other instruments and related documents in connection with said proposal and the facilitation of the commencement and completion of the said proposal herein above described;

THEREFORE BE IT HEREBY RESOLVED that the City Council of the City of Muscle Shoals, Alabama, does hereby authorize and direct the Mayor of the City, David H. Bradford, for and on behalf of the City to execute the agreement authorizing Payment Alliance International to provide the necessary equipment to process debit and credit card payments for recreation activity fees at the Cypress Lakes Golf Course according to the terms and conditions of the proposal; and

BE IT FURTHER RESOLVED that the Mayor of the City, David H. Bradford, be, and hereby is, authorized to execute and deliver any instruments and related documents in connection with the proposal of Payment Alliance International for the institution and installation of the system to to process debit and credit card payments for recreation activity fees at the Cypress Lakes Golf Course according to the terms and conditions of the proposal; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be prepared forthwith by the Clerk and delivered unto Payment Alliance International along with the executed proposal pertaining to the project herein described and furthermore shall retain a copy to be kept on file by the said Clerk.

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 of a resolution to request a Determination of Obsolescence from the State of Alabama for abandonment of the Gattman Park swimming pool complex.

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 2540 - 12

Whereas, the City of Muscle Shoals was awarded an LWCF grant (**LWCF Project 01-00135**) on August 28, 1972, that allowed the City to construct a swimming pool in Gattman Park, and

Whereas, the City of Muscle Shoals recognizes that while the pool was an asset to our City in its first thirty years of operation, its extreme age, deterioration and failure to meet modern ADA standards now are a financial burden and liability for the city, and

Whereas, the rehabilitation of the present facility is not economically feasible, and

Whereas, the usage of the facility has been declining over the years, now

Therefore Be It Resolved by the City Council, that the City of Muscle Shoals requests a Determination of Obsolescence for the swimming pool in Gattman Park to allow for the facility's demolition and removal, and

Be It Further Resolved that the area be utilized as a Green-Open Space Park area that is appropriate to its setting adjacent to the city's walking trail and the Senior Citizen Center.

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.

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