

**MINUTES FROM A REGULAR MEETING OF THE
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD
January 16, 2007**

The Council of Muscle Shoals, Alabama met at the Muscle Shoals City Hall in said City at 6:30 p.m. on the 16th day of January 2007 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, JERRY KNIGHT GRISSOM
 JAMES HOLLAND, ALLEN NOLES, DAVID H. BRADFORD
ABSENT: NEAL WILLIS

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 Noles and unanimously adopted, the Council waived the reading of the minutes of the previously held work session and regular meeting of January 2, 2007 and approved the minutes as written.

At this time, Mayor Bradford presented a proclamation designating January as “National Radon Action Month” in the City.

Mayor Bradford announced that the next item of business was the scheduling of a public hearing to consider the issuance of a Restaurant Retail Liquor License to Something Fishy Inc. dba Something Fishy located at 301 Ford Road.

Mayor Bradford announced that at a meeting to be held at the City Hall in said City at 6:30 p.m. on the 5th day of February 2007, the Council will consider the approval of the license. At said time and place, all persons who desire to do so shall have an opportunity of being heard in opposition to or in favor of the approval of such license.

Mayor Bradford announced that the next item of business was the adoption of an Ordinance to amend Section 122-187(a) of the City Code related to approved materials for the facade of buildings located in B-1, B-2 and B-2-A zones in the City of Muscle Shoals.

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

ORDINANCE NO. 1383 - 07

AN ORDINANCE AMENDING ORDINANCE NUMBER 1080-89, ORDINANCE NUMBER 1193-98 AND ORDINANCE NUMBER 1278-02 AND ORDINANCE NUMBER 1298-03 ADOPTED BY THE CITY OF MUSCLE SHOALS, ALABAMA REGULATING THE CONSTRUCTION OF BUILDINGS WITHIN CERTAIN ZONES OF THE CITY OF MUSCLE SHOALS, ALABAMA

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

I. Ordinance Number 1080-89 of the City of Muscle Shoals, Alabama heretofore adopted by the Board of Commissioners of the City of Muscle Shoals, Alabama on December 19, 1989; Ordinance Number 1193-98 of the City of Muscle Shoals, Alabama heretofore adopted by the City Council of the City of Muscle Shoals, Alabama on June 1, 1998; Ordinance Number 1193-98 of the City of Muscle Shoals, Alabama heretofore adopted by the City Council of the City of Muscle Shoals, Alabama on October 14, 2002 ; and Ordinance Number 1298-03 of the City of Muscle Shoals, Alabama heretofore adopted by the City Council of the City of Muscle Shoals, Alabama on July 21, 2003[same being codified as Section 122-187 of the Code of Ordinances of the City of Muscle Shoals, Alabama] is hereby amended so that the said ordinance shall read in its entirety as follows:

Sec. 122-187. Facade of buildings facing street.

- (a) All structures and buildings erected and constructed in B-1, B-2 and B-2-A zones of the City of Muscle Shoals, Alabama, as said terms may be described by the zoning ordinance of the City of Muscle Shoals, Alabama, shall be erected and constructed so that the portions of said structures and buildings have decorative masonry products, as hereinafter defined, on the front and sides of, or any portion of said structure or

building that adjoins a public right-of-way and said decorative masonry products, as hereinafter defined, shall cover 100 percent of the nonglazed (area not covered by two-way glass through which parties may view) area of the front of said structure or building, and the sides thereof, or any portions of said structure of building which adjoin a public right-of-way.

The types of decorative masonry products required herein shall be either one, or a combination, of the following materials:

- (1) Brick
 - (2) Exterior Insulation Finish System (EIFS). EIFS is a synthetic stucco-cladding used on exterior walls in both commercial and residential construction. EIFS uses a stucco-like polymer-based outer coating containing a plastic resin which makes the coating softer and more flexible than traditional hard-coat stucco. EIFS is applied using an expanded polystyrene (PS) insulation board resembling Styrofoam.
 - (3) Stucco
 - (4) Natural stone
 - (5) Split-faced Block
 - (6) Ceramic tile
 - (7) Fiber Cement siding
- (b) From and after the date hereof, all structures and buildings erected and constructed in S-1, B-2 and B-2-A zones of the City of Muscle Shoals, Alabama, as said terms may be described by the zoning ordinance of the City of Muscle Shoals, Alabama, shall provide for asphalt or concrete paving to connect the front of said structure or building with the street or thoroughfare upon which said structure or building faces, equivalent to the width of the front of said structure or building.
- (c) Notwithstanding the foregoing, any building or structure within the city shall be exempt from the provisions set forth herein upon the presentation of an architectural rendering and plans for the exterior of said building or structure prepared and submitted by a certified, registered and professional architect and approved by the governing body of the City of Muscle Shoals, Alabama or its designee.

II. The Ordinance, and its provisions, shall become effective upon publication or posting pursuant to law or as otherwise provided for by law.

Council Member Pampinto moved for unanimous consent for immediate consideration. Council Member Noles seconded the motion and upon said motion 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 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 said Ordinance be finally adopted, which motion was seconded by Council Member Noles 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 Grissom, Council Member Holland,
Council Member Noles, Mayor Bradford

NAYS: None

Mayor Bradford thereupon declared said motion carried and the Ordinance had been approved.

Mayor Bradford announced that the next item of business was consideration of a resolution granting a Non-Disturbance Easement to the Muscle Shoals First Assembly of God, Inc. to construct a covered area into the City's right of way of Gusmus Avenue with certain restrictions.

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

STATE OF ALABAMA

COLBERT COUNTY

RESOLUTION NUMBER 2249 - 07

WHEREAS, the **MUSCLE SHOALS FIRST ASSEMBLY OF GOD, INC.**, hereinafter referred to as Church, has presented to the City Council of the City of Muscle Shoals, Alabama, its statement in writing, duly executed and acknowledged, requesting that it be allowed to construct a covered area to allow persons attending the services and activities of the Church to embark and disembark and enter the church building without having to bear inclement weather conditions and to further aid those attendees with physical challenges or who may be aged or infirm. The Church, in order to provide such access, represents that it is necessary and required that the proposed construction of a covered area and canopy and access extend and encroach into the City's right of way for Gusmus Avenue;

WHEREAS, the City Council finds that the right of way for Gusmus Avenue is 100' wide and that only a portion of said right of way is currently used to accommodate traffic and that there are no current plans for the widening of said Gusmus Avenue nor does the Council find that it will be necessary to do so within the foreseeable future; and

WHEREAS, the City Council finds that the extension into the right of way for the proposed construction project to the Church will not interfere or impede the flow of traffic along the paved and traveled portion of Gusmus Avenue as same currently exists and that said extension will not adversely affect the orderly flow of traffic hereafter;

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

1. That the request of the **MUSCLE SHOALS FIRST ASSEMBLY OF GOD, INC.** to construct a covered area to allow persons attending the services and activities of the Church to embark and disembark and enter the church building without having to bear inclement weather conditions and to further aid those attendees with physical challenges or who may be aged or infirm is hereby granted under the terms and conditions contained herein.

BE IT FURTHER RESOLVED by the City Council that a Non-Disturbance Easement is allowed and assented to for the **MUSCLE SHOALS FIRST ASSEMBLY OF GOD, INC.** to construct a covered area and access into the City's right of way known as Gusmus Avenue in a location to the east of Lots 3200 through 3211, inclusive, of Highland Park Subdivision No. 9 as recorded in Map Book 2, Page 70 in the Office of the Judge of Probate of Colbert County, Alabama and along the West portion of the right of way of said Gusmus Avenue.

BE IT FURTHER RESOLVED by the City Council that said Non-Disturbance Easement shall not be constructed in a manner that would interfere or impede the flow of traffic along the paved and traveled portion of Gusmus Avenue as same currently exists and that said extension will not adversely affect the orderly flow of traffic hereafter.

BE IT FURTHER RESOLVED by the City Council that said Non-Disturbance Easement shall remain in full force and effect for and during the period of time that the Church shall conduct religious services and activities at its present location and is granted solely to the Church and is non-transferable upon sale of the property to another entity without the express consent of the City of Muscle Shoals, Alabama as evidenced by a Resolution duly adopted by the City Council.

BE IT FURTHER RESOLVED by the City Council that the Church shall be responsible for all maintenance and upkeep for that area of the covered area and access extending into the City's right of way for Gusmus Avenue.

BE IT FURTHER RESOLVED by the City Council that the Petitioner, its successors and assigns, shall indemnify and hold harmless the City of Muscle Shoals, Alabama, its employees and agents from any and all liability, damage, cost and expense arising from the erection of said covered area and access extended into the City's right of way for Gusmus Avenue.

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.

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