

**MINUTES FROM A REGULAR MEETING OF THE  
COUNCIL OF MUSCLE SHOALS, ALABAMA, HELD  
March 19, 2007**

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The Council of Muscle Shoals, Alabama met at the Muscle Shoals City Hall in said City at 6:30 p.m. on the 19<sup>th</sup> day of March 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 Robert Evans. On roll call the following members were found to be present or absent, as indicated:

PRESENT:   JOE PAMPINTO, NEAL WILLIS, JERRY KNIGHT GRISSOM  
              JAMES HOLLAND, ALLEN NOLES  
ABSENT:    DAVID H. BRADFORD

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

James Holland, Mayor Pro-Tem of the City, presided at the meeting and declared that a quorum was present and that the meeting was convened and opened for the purposes of transaction of business.

Upon motion duly made by Council Member Pampinto, seconded by Council Member Willis and unanimously adopted, the Council waived the reading of the minutes of the previously held work session and regular meeting of March 5, 2007 and approved the minutes as written.

Mayor Pro-Tem Holland announced that the next item of business was the scheduling of a public hearing to consider the issuance of a Restaurant Retail Liquor License to Jonathan's Steakhouse II LLC dba Jonathan's Steakhouse II, 628 E. Second Street.

Mayor Pro-Tem Holland announced that at a meeting to be held at the City Hall in said City at 6:30 p.m. on the 16<sup>th</sup> day of April 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 Pro-Tem Holland 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 a tract located at on the north side of East Sixth Street and along the western boundary of the Shoals Research Park, owned by the City of Muscle Shoals containing 32.65 acres and is more particularly described as follows:

## **ORDINANCE NO. 1384 - 07**

### **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 areas, currently zoned R-2 is hereby incorporated in and made a part of the M-2 District, to wit:

A tract of land lying partly in the East 1/2 of the SE 1/4 and partly in the SE 1/4 of the NE 1/4 of **Section 6, Township 4 South, Range 10 West**, Colbert County, Alabama, part of said property also known as **ROSE HEIGHTS SUBDIVISION**, according to the Map or Plat of said Subdivision as recorded in the Office of the Judge of Probate, Colbert County, Alabama, in Map Book 2, Page 597 and being more particularly described as follows, to-wit: Commence at a P.K. nail and shiner set (stamped typical R. Collins, L.S – 13406) formerly an existing cotton spindle in the centerline of 6<sup>th</sup> Street (Colbert County Road #24 – 80 foot right of way), said point being locally known and accepted as the SE corner of said Section 6; thence N 88 degrees 48’ 20” W and along the centerline of said 6<sup>th</sup> Street 551.88 feet to a P.K. nail and shiner set; thence leaving said centerline N 00 degrees 19’ 46” W and along the Eastwardly line of the Davis B. McBride (Betty McBride Sellers) property as recorded in the Office of the Judge of Probate of Colbert County, Alabama, in Book 199, Pages 50-51 for 2656.57 feet (passing over a reference iron pin set [capped typical R. Collins, L.S.-13406 on the Northwardly right of way of said 6<sup>th</sup> Street at 39.78 feet] to an iron pin set (Sellers’ NE corner); said point lying on the Southwardly line of the E.E. Blackstock and wife, Ann F. Blackstock property (Book 9507, Pages 421-422); thence S 88 degrees 55’ 18” E and along Blackstock’s Southwardly line 395.94 feet to an existing iron pin (capped Alexander, L.S. #2268) Blackstock’s SE corner; thence N 00 degrees 20’ 47” W and along Blackstock’s Eastwardly line 306.30 feet to an existing iron pin (capped Alexander, L.S. #2268) Blackstock’s NE corner; said point lying on the Southwardly right of way of Peachtree Street; thence S 89 degrees 02’ 24” E and along said right of way 100.27 feet to a corner which falls in a 36” Hackberry tree lying on the Westwardly boundary of the Northwest Regional Airport and the Eastwardly line of said Section 6; thence along said Northwest Regional Airport boundary line and along said section line S 00 degrees 21’ 43” E 333.67 feet to an existing iron pin (capped R. Collins, L.S.-13406); said point being the NW corner of Tract 2, **SHOALS RESEARCH AIRPARK**, (Plat Cabinet C, Slide No. 126); thence S 01 degree 32’ 16” E and

along the Westwardly line of said Tract 2 and along the Eastwardly line of said Section 6 for 2632.48 feet (passing over an existing reference iron pin [capped R. Collins, L.S. – 13406] at 2592.45 feet) to the point of beginning. Said tract contains **32.65 acres**, more or less, and is subject to any easements of record or easements existing on site.

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, Alabama, 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 19<sup>th</sup> day of March 2007, at 6:30 o'clock p.m., 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 Pro-Tem Holland announced that now was the proper time for persons in favor and those in opposition to the ordinance to be recognized.

There being no one wishing to speak, Pro-Tem Holland 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. 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

NAYS: None

Mayor Pro-Tem Holland announced that the ordinance had been adopted.

Mayor Pro-Tem Holland announced that the next item of business was consideration of an ordinance to adopt state provisions related to the misdemeanor code.

Council Member Willis introduced the following ordinance in writing in the meeting:

## **ORDINANCE NUMBER 1385-07**

AN ORDINANCE AMENDING ORDINANCE NUMBER 1046 FOR PURPOSES OF ADOPTING THE PROVISIONS OF THE 2003 ALABAMA LAWS ACT 2003-355 PERTAINING TO MISDEMEANOR OFFENSES AND REAFFIRMING THE ADOPTION OF THE STATE MISDEMEANOR CODE AS OFFENSES AGAINST THE MUNICIPALITY

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

I. That Ordinance Number 1046 of the City of Muscle Shoals, providing for the adoption of the State Misdemeanor Code as offenses against the municipality and providing for punishments thereof, which was adopted by the Board of Commissioners of the City of Muscle Shoals on April 16, 1985, and which is codified in Chapter 70, Section 70-1 and Section 70-81

of the Code of Ordinances of the City of Muscle Shoals, Alabama, is hereby amended in the following respects and shall hereafter read in its entirety as follows:

Section 1. Any person or corporation committing an offense within the corporate limits of the City of Muscle Shoals, Alabama, or within the police jurisdiction thereof, which is declared by a law of the State of Alabama now existing or hereafter enacted, including specifically but not limited to, the provisions of Act 2003-355 of the Laws of the State of Alabama, to be a misdemeanor, shall be guilty of an offense against the City of Muscle Shoals, Alabama.

Section 2. Any person or corporation committing an offense within the corporate limits of the City of Muscle Shoals, Alabama, or within the police jurisdiction thereof, which is declared by a law of the State of Alabama now existing or hereafter enacted to be a violation, shall be guilty of an offense against the City of Muscle Shoals, Alabama.

Section 3. Any person or corporation committing within the corporate limits of the City of Muscle Shoals, Alabama, or within the police jurisdiction thereof, an offense as defined by Section 13A-1-2 of the Alabama Criminal Code, which offense is not declared by a law of the State of Alabama now existing or hereafter enacted to be a felony, misdemeanor or violation, shall be guilty of an offense against the City of Muscle Shoals, Alabama.

Section 4. Any person found to be in violation of Sections One (1), Two (2) or Three (3) of this Ordinance shall, upon conviction, be punished as provided in Section 1-7 of the Code of Ordinances of the City of Muscle Shoals, Alabama, except and unless as otherwise provided by Section 70-81 of the Code of Ordinances of the City of Muscle Shoals, Alabama. Any corporation found to be in violation of Sections One (1), Two (2) or Three (3) of this Ordinance shall, upon conviction, be punished as provided in Section 1-7 of the Code of Ordinances of the City of Muscle Shoals, Alabama.

Section 5. Any person found to be in violation of Section 32-5A-191, Code of Alabama, 1975 as amended, shall, upon conviction, be punished as provided by law.

II. This Ordinance shall go into effect immediately upon posting and publication as provided by law.

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Council Member Willis 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 Willis, Council Member Grissom, Council Member Holland, Council Member Noles,

NAYS: None

Mayor Pro-Tem Holland announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Willis 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 Willis, Council Member Grissom, Council Member Holland, Council Member Noles

NAYS: None

Mayor Pro-Tem Holland thereupon declared said motion carried and the Ordinance had been approved.

Mayor Pro-Tem Holland announced that the next item of business was consideration of an ordinance to amend section 1-7 of City Code related to punishments for offenses against the City.

Council Member Noles introduced the following ordinance in writing in the meeting:

## **ORDINANCE NUMBER 1386-07**

AN ORDINANCE AMENDING CHAPTER 1, SECTION 1-7 OF THE CODE OF ORDINANCES OF THE CITY OF MUSCLE SHOALS, ALABAMA FOR PURPOSES OF ADOPTING THE PROVISIONS OF THE 2003 ALABAMA LAWS ACT 2003-355 PERTAINING TO CERTAIN MISDEMEANOR OFFENSES AND REAFFIRMING THE STATEMENT OF PUNISHMENTS FOR OFFENSES AGAINST THE MUNICIPALITY

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

I. That Chapter 1, Section 1-7 of the Code of Ordinances of the City of Muscle Shoals, Alabama, is hereby amended in the following respects and shall hereafter read in its entirety as follows:

Section 1-7. General penalty; continuing violations.

(a) In this section, the term “violation of this Code” means:

(1) Doing an act that is prohibited or made or declared unlawful, an offense, an offense against the city of a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is declared a misdemeanor, an offense, an offense against the city of a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(b) In this section, the term “violation of this Code” does not include the failure of a city officer or city employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$500.00, except where otherwise provided by state law for violation of municipal offenses, imprisonment or confinement at hard labor for a term not exceeding six months, or any combination thereof. The penalty imposed upon a corporation shall consist of the fine only, plus costs of court. For violations of this Code which are continuous with respect to time, each day the violation continues is a separate offense.

Notwithstanding any other provision of law, the maximum fine for every person either convicted for violating any misdemeanor contained in Act 2003-355 of the Laws of Alabama adopted a municipal ordinance violation or adjudicated as a youthful offender shall be \$1,000.00.

(d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.

(e) Violations of this Code that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.

II. This Ordinance shall go into effect immediately upon posting and publication as provided by law.

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Council Member Noles moved for unanimous consent for immediate consideration. Council Member Grissom 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 Willis, Council Member Grissom,  
Council Member Holland, Council Member Noles,

NAYS: None

Mayor Pro-Tem Holland announced the vote and declared that the motion for unanimous consent for immediate consideration had been approved. Council Member Noles then moved that 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

NAYS: None

Mayor Pro-Tem Holland thereupon declared said motion carried and the Ordinance 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

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MAYOR

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COUNCIL MEMBER - PLACE ONE

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COUNCIL MEMBER - PLACE TWO

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COUNCIL MEMBER - PLACE THREE

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COUNCIL MEMBER - PLACE FOUR

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COUNCIL MEMBER - PLACE FIVE

ATTEST:

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CITY CLERK