

**CITY OF DAPHNE  
CITY COUNCIL BUSINESS MEETING AGENDA  
1705 MAIN STREET, DAPHNE, AL  
JANUARY 3, 2006**

**1. CALL TO ORDER**

**2. ROLL CALL/INVOCATION:**

**PLEDGE OF ALLEGIANCE:**

- 3. APPROVE MINUTES:**      Work Session Minutes meeting held December 15 2005  
   Council Meeting minutes meeting held December 19, 2005

**PRESENTATION:**              Pfil Hunt / Gardnyer Michael Capital, Inc. /  
   Update on Crystal Springs L.L.C.

**PRESENTATION:**              Ms. Shawn Holland / Monument at Scenic Overlook

**4. REPORT STANDING COMMITTEES:**

**A. FINANCE COMMITTEE - Scott**

**B. BUILDINGS AND PROPERTY COMMITTEE- Lake**

- a.) Discuss: Bond Issue for:
  - 1.) City Hall
  - 2.) Highway 90 Sewer
  - 3.) Tallent Property
- b.) Discuss: Bond Proposals

**C. PUBLIC SAFETY - Burnam**

**D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Landry**

Review minutes meeting held December 5<sup>th</sup>

**E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY – Yelding**

**5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:**

**A. Board of Zoning Adjustments – Eady**

**B. Downtown Redevelopment Authority -Barnette**

**C. Industrial Development Board – Yelding**

**D. Library Board – Lake**

Review minutes meeting held December 12<sup>th</sup>

**E. Planning Commission – Barnette**

Set Public Hearing for **February 6, 2006** to consider annexation of the remainder of TimberCreek Property / 139 acres located West of Interstate 10 and Woodrow Lane with B-2, General Business, zoning

**F. Recreation Board - Burnam**

**G. Utility Board – Scott**

**6. REPORTS OF THE OFFICERS:**

**A. Mayors Report**

a.) *Parade Permit / Apollo's Mystic Ladies / Mardi Gras / February 17, 2006 /*

*Rain Date February 23, 2006*

**B. City Attorney's Report**

**C. Department Head Comments**

**7. PUBLIC PARTICIPATION:**

**8. RESOLUTIONS & ORDINANCES:**

**RESOLUTIONS:**

a.) **Acceptance of Streets and Drainage /**

**Located in Madison Place Ssubdivision, Phase Two. .... /Resolution 2006-01**

b.) **Acceptance of Streets and Drainage /**

**Located in Ottawa Springs, Phase One. .... /Resolution 2006-02**

**ORDINANCES:**

a.) **Extension of the Moratorium on Approval and Construction**

**of Buildings in Excess of Fifty (50) Feet and/or Four (4) Stories**

**in Height. .... /Ordinance 2006-01**

**9. COUNCIL COMMENTS**

**10. ADJOURN**

**CITY OF DAPHNE  
CITY COUNCIL MEETING**

**ROLL CALL**

**CITY COUNCIL:**

**CALL VOTES**

COUNCILMAN YELDING

PRESENT\_\_ ABSENT\_\_ \_

COUNCILWOMAN BARNETTE

PRESENT\_\_ ABSENT\_\_

COUNCILMAN LAKE

PRESENT\_\_ ABSENT\_\_ \_

COUNCILMAN BURNAM

PRESENT\_\_ ABSENT\_\_ \_

COUNCILMAN SCOTT

PRESENT\_\_ ABSENT\_\_ \_

COUNCILWOMAN LANDRY

PRESENT\_\_ ABSENT\_\_ \_

COUNCILMAN PALUMBO

PRESENT\_\_ ABSENT\_\_ \_

**MAYOR**

MAYOR SMALL

PRESENT\_\_ ABSENT\_\_ \_

**CITY CLERK:**

DAVID L. COHEN

PRESENT\_\_\_ ABSENT\_\_\_

**CITY ATTORNEY:**

CITY ATTORNEY JAY ROSS

PRESENT\_\_ ABSENT

**MINUTE NOTES:**

**CITY COUNCIL MEETING  
MINUTES**

**NOTES:**

COMMITTEE RECOMMENDATIONS

**DECEMBER 15, 2005  
CITY OF DAPHNE  
CITY COUNCIL  
WORK SESSION  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.**

**COUNCIL MEMBERS PRESENT:** Bailey Yelding; Cathy Barnette; Greg Burnam; Ron Scott; Regina Landry; August Palumbo.

**ABSENT:** John Lake

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Kim Briley, Finance Director; Tim Fleming Attorney.

**1. CALL TO ORDER**

Council President Burnam called the meeting to order at 6:30 p.m.

**2. DISCUSS: LAKE FOREST LAKE**

Mayor Small stated that he has a meeting scheduled with Representative Randy Davis, Mayor Bonner, someone from the state and members of the Lake Forest Board to discuss the lake problems.

Council President Burnam stated that at this time they are not interested in taking over the lake.

**3. DISCUSS: LIAISON WITH SCHOOLS / BARNETTE**

Mrs. Barnette said that it would be good to have someone to attend meetings regarding the schools and then report to the Council, to keep them updated with what is going on. It was suggested that S.E.E.D.S. report on a quarterly basis, or have Tracy Roberts of Denise Schmidt report on a quarterly basis. Council decided to put this issue on the back burner.

**4. DISCUSS: TALLENT PROPERTY / HWY 90 SEWER / CITY HALL RENOVATIONS**

Council discussed finding out what the debt service is for the year. They discussed lumping everything together in a bond issue. \$7 million is needed for the City Hall renovation, \$2 million for the Hwy 90 sewer, and \$1.7 million for the Tallent property. Council requested having representatives of bond companies at the January work session.

**5. HEIGHT MORATARIUM ON ZONING CONDOS / BARNETTE**

Mrs. Barnette pointed out that the moratorium will expire before they adopt the High Rise Ordinance, and the Council needs to extend the moratorium so there will not be a lapse in time between the expiration and adoption of the Ordinance. Mr. Burnam said he will get with the City Clerk regarding putting this on the agenda for Monday night.

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**5. DISCUSS: CIVIC CENTER FEE WAIVERS FOR BALDWIN COUNTY  
HUMANE SOCIETY & SPANISH FORT HIGH SCHOOL**

The Council discussed the fee waivers for the Humane Society and left it up to the Mayor to waive some of the fees or not to waive the fees for this organization. Mayor Small said he will check with Mayor Bonner regarding the request from Spanish Fort High School.

**5. ADJOURN**

*Council President Burnam* adjourned the meeting at 8:00 p.m.

Respectfully submitted by

\_\_\_\_\_  
David L. Cohen  
City Clerk, MMC

Certification of Presiding Officer

\_\_\_\_\_  
Greg Burnam  
Council President  
Date & Time Signed:\_\_\_\_\_

**DECEMBER 19, 2005  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.**

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**1. CALL TO ORDER**

Council President Burnam called the meeting to order at 6:30 p.m.

**2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE**

Mr. Eady gave the invocation.

**COUNCIL MEMBERS PRESENT:** Cathy Barnette; Greg Burnam; Ron Scott; Regina Landry; August Palumbo.

**ABSENT:** Bailey Yelding; John Lake.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Tim Fleming, Attorney; Bill Eady, Planning Department Director; Ken Eslava, Public Works Director; Mund Hanson, Fire Chief; David Carpenter, Police Chief; David McKelroy, Recreation Director; Sharon Cureton, Human Resource Director; Kim Briley, Finance Director; Dale Foster, Librarian; Richard Merchant, Building Official; John Williams, Civic Center; Scott Hutchinson, City Engineer; Ed Bellue, Utilities; Al Guarisco, Village Point; Willie Robison, BZA; Glenn Swaney; BZA.

*Absent:* Sandra Morse, Civic Center Director.

**3. APPROVE MINUTES:**

**MOTION BY Mrs. Barnette to approve the minutes meeting held December 5, 2005. *Seconded by Mrs. Landry.***

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

**4. REPORT OF STANDING COMMITTEES:**

**A. FINANCE COMMITTEE – Scott**

The minutes of the December 12<sup>th</sup> meeting are in the packet.

**MOTION BY Mr. Scott to accept the Treasures Report ending November 30, 2005 with a balance of \$10,355,150.85. *Seconded by Mrs. Landry.***

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

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**SALES & USE TAX**

*Mr. Scott* stated that the Sales Tax continues to be about \$107,000 over what was projected. He said they have a conservative budget.

**LOADING TAX**

*Mr. Scott* reported that \$62,191.49 was collected, and that is \$9,000 above what was collected last year. He said this figure will drop as FEMA stops paying for the evacuees hotel rooms.

**MOTIONS:**

**Reject Bid on Sod & Hay**

*Mr. Scott* stated that Mr. Eslava recommended rejecting the bid on Sod & Hay in order to receive a lower bid, and the Finance Committee also recommends that they be rejected.

**MOTION BY Mrs. Barnette to reject the bid on Sod & Hay. Secoded by Mrs. Landry.**

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

**Extend 2005-D-Crowd Control Barricades**

*Mr. Scott* stated that Mr. Eslava requested that the bid be extended to purchase 300 additional barricades for the Mardi Gras parades, in order to maintain the same cost. This request was included in the Capital Budget Requests for FY06. He is seeking approval now in order to have them for the 2006 parades.

*Mayor Small* stated that Public Works has planned to buy 300 barricades per year for several years, in order to have enough for the entire parade route, which one more year and they will have enough.

**MOTION BY Mr. Scott to extend the 2005-D-Crowd Control Barricade bid at the same price except for freight charges, because of gas prices. Secoded by Mrs. Landry.**

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

**B. Buildings and Property Committee – Lake**

*Mr. Palumbo* reported that the Committee met on December 2<sup>nd</sup> and discussed several refund requests where they had rented the facilities during and after Hurricane Katrina, in which the deposits were refunded. They discussed requests for reduction in fees which was referred to full

**DECEMBER 19, 2005**  
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**DAPHNE, AL**  
**6:30 P.M.**

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Council, and was considered at the work session. Mr. Jeff Hudson was present to discuss City Hall renovations. The next meeting will be January 5, 2006 at City Hall.

**C. PUBLIC SAFETY COMMITTEE – Burnam**

The minutes for the December 5<sup>th</sup> meeting are in the packet. No action by the Council is needed. Mr. Burnam reported that the North Precinct is open in the Jubilee Square Mall. Mr. Burnam said that the grand opening will be sometime in January.

**E. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Landry**

The Committee met December 5<sup>th</sup>, and the minutes will be in the next Council packet.

*Mr. Palumbo* reported that the meeting was well attended by business people and civilians. The Sign Committee discussed areas that they want to tweak in the Ordinance. They also had a representative from a sign company that made a presentation. They hope to wrap it up within a couple more meetings. The next meeting will be Wednesday, January 4<sup>th</sup> at 5:30 p.m. at City Hall.

**F. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding**

*Mrs. Barnette* reported that there will not be a meeting in December, the next meeting will be January 27<sup>th</sup> at 8:00 a.m. at City Hall.

*Mr. Scott Hutchinson* answered questions from the Council regarding the sidewalks. He said that he is waiting for an O.K. from the Council to continue.

Council approved the plans that Mr. Hutchinson had submitted to the Council, and gave him the go ahead to proceed.

**5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:**

**A. Board of Zoning Adjustments – Eady**

The next meeting will be January 5<sup>th</sup> at 6:00 p.m. at City Hall, with one appeal, which is a setback encroachment.

**B. Downtown Redevelopment Authority – Barnette**

No report. The next meeting will be the 2<sup>nd</sup> Monday in January, which is January 9<sup>th</sup> at 5:15 p.m.

**C. Industrial Development Board – Yelding**

No report. Mr. Scott submitted a résumé from Ms. Nancy T. Cox for consideration to fill the vacancy left when Ms. Susie Davis resigned from the Board.

**MOTION BY Mrs. Landry to suspend the rules to consider a motion to appoint Ms. Nancy T. Cox to the Industrial Development Board to finish the term of Ms. Susie Davis. *Seconded by Mrs. Barnette.***

**ROLL CALL VOTE**

Barnette	Aye	Palumbo	Aye
Landry	Aye	Burnam	Aye
Scott	Aye		

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

**MOTION BY Mr. Scott to appoint Ms. Nancy T. Cox to the Industrial Development Board to fill the term of Ms. Susie Davis. The term will run from 2005-2011. *Seconded by Mrs. Landry.***

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

Council asked to be notified of vacancies on any Board or Committee.

**D. Library Board – Lake**

*Mr. Palumbo* reported that the Board met last week for an abbreviated meeting where they discussed and sent a recommendation to the Council for an additional employee.

**E. Planning Commission – Barnette**

There are several sets of minutes in the packet.

**MOTION BY Mrs. Barnette to set a Public Hearing to consider a proposed Ordinance amending the Land Use and Development Ordinance adding a Residential High Rise Article and other necessary amendments for January 16, 2006. *Seconded by Mrs. Landry.***

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

Mr. Cohen stated that January 16<sup>th</sup> is Martin Luther King Day, and a holiday for the City. The Council needs to set another date for the Public Hearing.

**MOTION BY Mrs. Barnette to *amend the motion* to set a Public Hearing to consider a proposed Ordinance amending the Land Use and Development Ordinance adding a Residential High Rise Article and other necessary amendments for January 17, 2006 6:30 p.m. *Seconded by Mrs. Landry.***

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

**MOTION BY Mrs. Barnette to suspend the rules to consider a motion to extend the moratorium on height variance requests until February 7, 2006. Seconded by Mr. Scott.**

**ROLL CALL VOTE**

<b>Barnette</b>	<b>Aye</b>	<b>Palumbo</b>	<b>Aye</b>
<b>Landry</b>	<b>Nay</b>	<b>Burnam</b>	<b>Aye</b>
<b>Scott</b>	<b>Aye</b>		

**AYE Barnette, Scott, Palumbo, Burnam** **NAY Landry**

**MOTION FAILED**

*Mrs. Barnette* said the purpose of the extension is so they can adequately plan, and not leave a period of time where they are not covered either by the extension or Ordinance.

*Mr. Burnam* said that they can adopt the Ordinance at the January 3<sup>rd</sup> meeting.

**Recreation Board – Burnam**

No report.

**F. Utility Board – Scott**

No report. The next meeting will be December 28<sup>th</sup> at 5:00 p.m.

**6. REPORTS OF THE OFFICERS:**

**A. *Mayor's Report***

*Mayor Small* reported that the Building Official had resigned, and he promoted Richard Merchant to the position. He stated that Mr. Merchant has always done a good job wherever he was working, and that he will do a good job as Building Inspector.

**B. *City Attorney's Report***

No report.

**C. *Department Head Comments***

*David Carpenter – Police Chief* – reported that they arrested a group passing counterfeit money. They had about \$14,000 to \$15,000 in counterfeit bills. He said two would go in a buy something using counterfeit money, and then go back to the car and give merchandise to the others who would return the merchandise for good money. The suspects had \$5,000 on them when they were arrested. Chief Carpenter also reported that the person who is suspected of robbing St. Paul's will be extradited back to Alabama.

*Ken Eslava – Public Works Director* – reported that the new automated truck has arrived and will be getting it on the road soon. He stated that the County Road 13 paving is progressing well, and should be finished very soon. He stated that he met with ALDOT regarding the Fog Warning System, and it will not be fixed until next year.

*David Carpenter – Police Chief* - announced that Chief Hanson’s mother passed away.

*David Cohen – City Clerk* – mentioned to the Council that they needed to make a motion to change the January 16, 2006 Council meeting to January 17, 2006.

**MOTION BY Mrs. Landry to change the January 16, 2006 Council meeting to January 17, 2006. Seconded by Mr. Scott.**

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

**7. PUBLIC PARTICIPATION**

*Mr. David Hudgens – Attorney – representing Buddy Breland* - spoke regarding the High Rise District.

**8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS**

**RESOLUTIONS**

- a.) Prepaid Travel / Ken Eslava / Dwyane Coley  
(*Withdrawn - Class Canceled*)...../Resolution 2005-84
- b.) Bid Award: 2006-G-Ten (10) Row Aluminum Bleachers ...../Resolution 2005-85
- c.) Agreement: Community Action Agency – Hurricane Katrina ...../Resolution 2005-86
- d.) Goldman Sachs Investment Custodian ...../Resolution 2005-87
- e.) Declaring Certain Personal Property Surplus &  
Authorizing Disposition...../Resolution 2005-88

**MOTION BY Mrs. Barnette to waive the reading of Resolution 2005-85, 2005-86, 2005-87, and 2005-88. Seconded by Mrs. Landry.**

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

MOTION BY Mrs. Barnette to adopt Resolution 2005-85. *Seconded by Mrs. Landry.*  
AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to adopt Resolution 2005-86. *Seconded by Mr. Scott.*  
AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to adopt Resolution 2005-87. *Seconded by Mrs. Landry.*  
AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to adopt Resolution 2005-88. *Seconded by Mrs. Landry.*  
AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

**ORDINANCES:**

- a.) Rezone: Property Located at the Southeast Corner of the Intersection of Pecan Court and Pollard Rd.  
(A & B-10, LLC) 2<sup>ND</sup> READ ...../Ordinance 2005-70
- b.) Rezone: Property Located on AL Hwy 181 Across From Austin Road ( Country Club Development, LLC) 2<sup>ND</sup> READ ...../Ordinance 2005-71
- c.) Annexation: Property Located Southeast of the Intersection of Lawson Rd. and County Road 13  
(Water Tank Site – Malbis Plantation) 2<sup>ND</sup> READ ...../Ordinance 2005-72
- d.) Appropriating Funds: Crowd Control Barricades 1<sup>ST</sup> READ...../Ordinance 2005-73
- e.) Appropriating Funds: Bayfront Drive Water Main & Sewer Project 1<sup>ST</sup> READ ...../Ordinance 2005-74
- f.) Appropriating Funds: Install Flooring: Bay Rivers Art Guild 1<sup>ST</sup> READ (EMERGENCY)...../Ordinance 2005-75

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g.) Appropriating Funds: Executive Assistant Pay Adjustment  
1<sup>ST</sup> READ ..... /Ordinance 2005-76

h.) Appropriating Funds: Library Computer Services Technician  
1<sup>ST</sup> READ ..... /Ordinance 2005-77

MOTION BY Mrs. Barnette to waive the reading of Ordinance 2005-70, 2005-71, and 2005-72.  
*Seconded by Mr. Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to adopt Ordinance 2005-70. *Seconded by Mr. Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION By Mrs. Barnette to adopt Ordinance 2005-71. *Seconded by Mr. Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to adopt Ordinance 2005-72. *Seconded by Mr. Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to suspend the rules to consider Ordinances 2005-73, 2005-74, 2005-75, 2005-76 and 2005-77. *Seconded by Mr. Scott.*

**ROLL CALL VOTE**

Barnette	Aye	Scott	Aye
Landry	Aye	Burnam	Aye
Palumbo	Aye		

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

MOTION BY Mrs. Barnette to waive the reading of Ordinance 2005-73, 2005-74, 2005-75, 2005-76 and 2005-77. *Seconded by Mrs. Landry.*

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

MOTION BY Mrs. Barnette to adopt Ordinance 2005-73. *Seconded by Mrs. Landry.*

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

MOTION BY Mrs. Barnette to adopt Ordinance 2005-74. *Seconded by Mrs. Landry.*

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

MOTION BY Mrs. Barnette to adopt Ordinance 2005-75. *Seconded by Mrs. Landry.*

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

MOTION BY Mrs. Barnette to adopt Ordinance 2005-76 *Seconded by Mrs. Landry.*

**AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED**

MOTION BY Mrs. Barnette to adopt Ordinance 2005-77. Seconded by Mrs. Landry.

AYE ALL IN FAVOR            NAY NONE OPPOSED            MOTION CARRIED

**8. COUNCIL COMMENTS**

*Mrs. Barnette* said that part of the confusion regarding the suspension of the rules has been partly due to her trying to work out a system for that. She stated that this was discussed at the work session, and it was her understanding that it was supposed to be on the agenda for tonight, because of the pressing need. She said it was confusing because it was her understanding that this was going to be taken care of. She said her whole stand for why she believes it is important not to suspend the rules on a regular basis, is because she is trying to take care of making sure that everyone in the city has the opportunity to make their voice heard. Today is a holiday time and it is difficult for people to come and make their voices heard, and so two reads gives them something to strive for. She said she understands that the argument that they are trying to do good business, and they are trying to take care of things, which is where most of these items came in on the agenda tonight. She said she is trying to be reasonable, and she apologized for confusing anyone in that process, and she certainly sees that things come up. She truly believes in what she is saying, that they need to read the Ordinances. She went along tonight to be agreeable, and to be a part of the Christmas spirit. She said she agrees that these were not emergencies, she said you might could make arguments here and there, but she is thoroughly disappointed in what they did this evening for the planning. She believes that it is of the utmost importance, and the attention of the Council needs to be there for this Ordinance, and she thought that was what the work session was for. She wished everyone a happy holiday season.

*Mrs. Landry* said that she feels in the public perspective of the High Rise, the High Rise District, the Planning Commission meetings, and the High Rise Moratorium, she feels that it has been very confusing to the general public picking up the paper and just reading what they write about it, and if the Council is going to extend the moratorium it needs to be on the agenda, it needs to be available to the public so that they will know what the Council is voting on, and what they doing. She felt it was too confusing, and she likes to see things in black and white, and that is why she voted against suspending the rules. She stated that they do have another two weeks before the moratorium ends, and they can very easily do it at the next Council meeting without any lapse in time. She wished everyone a happy holiday, and to be safe in their travels.

*Mr. Scott* wished everyone a safe and happy Christmas. He also thanked the employees for the work they have done this year. He commended his fellow Councilmen. He said although they have had some discussions and some spirited discussions, he said there has been a tone set by this Council that is one of civility and an enjoyable time to work with everyone, even though they don't always agree.

*Mr. Palumbo* spoke regarding the confusion over the moratorium. He said that they do have an opportunity at the next meeting to vote on the issue, however, the Public Hearing was set after that. He said he does not understand why they would vote on it before the Public Hearing, which means, unless they bring it up at the next meeting, there will be a gap. He does not know, there was a representative of a developer that spoke

before them tonight, and he thinks that what Mrs. Barnette said previously has some merit, that someone could come in and apply for something while there is that small window of opportunity. He is not for extending the moratorium indefinitely, but he does not think it is unreasonable to consider at the next meeting some type of extension, whether it be 15 days or 30 days, so that they can have the Hearing and take the vote prior to an extension. He thinks they will save themselves a lot of headaches if someone does come in and apply while that opening exists. He extended his holiday greetings to everyone. He said they are ending their second Christmas on the Council, and he has enjoyed his tenure as a Councilman. He said this is a hardworking group, they put a lot of time in. He said if you figure it up it totals to 75¢ an hour. He said he wanted the City to know that they have a hard working Council. He wished everyone a great 2006.

*Mr. Scott* asked if Cathy brings up her same motion on the third, will they have to suspend the rules for that motion.

*Mrs. Barnette* said it will be on the next agenda.

*Mr. Cohen* said it will be in Ordinance form, so the rules will have to be suspended.

*Mrs. Landry* said that there is some confusion, which goes back to her point, the moratorium has nothing to do with the Public Hearing, it is two separate issues, and that is where everybody is confused. The Public Hearing has to do with the amendment to the Land Use Ordinance regarding Residential High Rise Development. The moratorium is strictly what the Council put in place to give them time to get all this done.

*Mayor Small* wished everyone a Merry Christmas. He said that he appreciated the Council working as a team tonight. He said that there is a lot of work put into the things that were before them tonight, even though they don't see it. He said that there are things that they need to be adopted and in order to get them working, sometimes it is holding up work when the Council does not adopt some of the Ordinances.

*Council President Burnam* that Mr. Lake called and asked him to offer his apology for not being at the Council meeting, and to wish everyone a Merry Christmas.

*Council President Burnam* wished everyone a Merry Christmas and faith and happy holidays. He said the fact that the moratorium was not on the agenda was his fault. He forgot to tell the City Clerk, and he forgot to tell Rebecca to put it on there, but he assured everyone that it would be on the next agenda. He said on the subject of working as a team, maybe they will work together to suspend the rules at the next council meeting when they have to rely on each other.

## **9. ADJOURN**

**MOTION BY Mr. Scott to adjourn. Seconded by Mr. Palumbo.**

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1705 MAIN STREET  
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<b>AYE ALL IN FAVOR</b>	<b>NAY NONE OPPOSED</b>	<b>MOTION CARRIED</b>
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**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 7:44 P.M.**

Respectfully submitted by,

\_\_\_\_\_  
David L. Cohen  
City Clerk, MMC

**Certification of Presiding Officer:**

\_\_\_\_\_  
Greg Burnam  
Council President  
Date & time Signed:\_\_\_\_\_

**CITY COUNCIL MEETING  
STANDING COMMITTEE RECOMMENDATIONS:**

**FINANCE COMMITTEE REPORT**

**BUILDINGS & PROPERTY COMMITTEE REPORT**

**PLANNING/ZONING/CODE ENFORCEMENT COMMITTEE REPORT**

**PUBLIC SAFETY/ORDINANCE COMMITTEE REPORT**

**PUBLIC WORKS/BEAUTIFICATION/MUSEUM COMMITTEE REPORT**

## **Ordinance Committee**

*Monday, December 5, 2005  
City Hall Council Chambers  
5:30 p.m.*

*Councilwoman Regina Landry, Chairperson  
Councilman Greg Burnam  
Councilman Gus Palumbo*

*City Attorney Jay Ross  
Attorney Tim Fleming  
Code Enforcement Officer Ed Kirby*

### **I. CALL TO ORDER/MEMBERS PRESENT**

Members Present: Greg Burnam, Gus Palumbo, Tim Fleming, Ed Kirby

Also Present: David Cohen, Sharon Curetin, Bill Eady, David Carpenter, Scott Taylor, David Wilson, Lee Van Dame, Ken Eslava, Mund Hanson, Danny Bell

### **II. PUBLIC PARTICIPATION**

### **III. APPROVAL OF MINUTES**

**Nov. 8, 2005 Minutes**

**Motion by Mr. Palumbo      Seconded by Burnam      To approved**

**ALL IN FAVOR                  NONE OPPOSE                  MOTION CARRIED**

### **IV. ORDINANCE REVIEW/DISCUSSION**

**A. Ordinance 2005-52 and Proposed Ordinance 2005, which deals with employee insurability.**

**Sharon spoke in regard ordinance 2005-52. 1. Should all employees be insurability? 2. Should employee be given right to appeal. 3. How to clarify**

**A discussion began with regard to insurability.**

**Alter Ordinance 2005-52 to place employee to suspend driving privileges immediately. The employee has up to 10 days to clear up the manner. A predetermination hearing will be held after the 10 days.**

#### **B. Codification of City Ordinances**

**A discussion took place and a few minor changes to the proof needed to be fixed. An ordinance would then need to be prepared to adopt the revised codification.**

### **V. OTHER BUSINESS**

### **VI. Sign Committee at 6:30 P.M.**

**Members Present: Ed Kirby, Freida Romanchuck, Janine Raby**

**Also Present: Lee Vann Dame, Mr. Miseler, Tomasine Worner**

**Sign Committee Minutes on November 8, 2005**

**Mr. Miseler discussed the need for Holiday Inn Express to have a prominent sign. He would like to have over lay district sign height.**

**Lee Van Dame, a local owner of a sign company was invited to discuss various types of signs. He was asked to return to the next meeting when more time would be devoted to the discussion.**

**VII. ADJOURN**

**Motion by Mr. Palumbo      Seconded by Mr. Burnam      To adjourn at 6:25 P.M.**

**ALL IN FAVOR                      NONE OPPOSED                      MOTION CARRIED**

**Note the next meeting will be scheduled for January 4, 2005, at 5:00 P.M.**

**CITY COUNCIL MEETING  
REPORTS OF SPECIAL COMMITTEES**

**NOTES:**

**BOARD OF ZONING ADJUSTMENTS REPORT:**

**DOWNTOWN REDEVELOPMENT AUTHORITY REPORT:**

**INDUSTRIAL DEVELOPMENT BOARD:**

**LIBRARY BOARD:**

**PLANNING COMMISSION REPORT:**

**RECREATION BOARD REPORT:**

**UTILITY BOARD REPORT:**

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**Daphne Library Board  
December 12, 2005  
Meeting Minutes**

**In Attendance:**

Library Director: Dale Foster, Board Members: Glenn Swaney, Chairman, Gayle Robinson, Ernie Seckinger, and Anita Rigas. Council Representative: Gus Palumbo. Children's Librarian: Tonja Young. Public Participation: Benjamin Butzbaugh. Absent were Board Members Cassandra Day and John Lake.

**Call to Order:**

After a quorum was established, Glenn Swaney called the meeting to order at 4:45 pm.

**Reading and Approval of Minutes:**

The minutes of the November 14, 2005 meeting were reviewed and approved.

**Monthly Reports:**

The Monthly Report for November was presented to the Board and accepted. Circulation is leveling out. Computer usage was well up from last year, including wireless users. Volunteer hours totaled 88 for the month.

**Public Participation:**

Benjamin Butzbaugh, a new resident of Daphne, introduced himself. He and his wife are from St. Joseph, Michigan. He is interested in the Library and was cordially welcomed by the Board.

**Computer Services Technician Position/ Charlie Wilson's Volunteer Status:**

A proposal concerning this very necessary position is to be presented tonight at the City Finance Committee meeting by Mr. Foster and Mr. Swaney. In the interim between Mr. Foster's leave of absence and the hiring of a computer technician it was suggested that Charlie Wilson help manage the computers, freeing the staff for their regular duties. Since Mr. Wilson's consulting work load is taking up a major part of his time, discussion followed that he be put on retainer for this purpose. Mr. Wilson would then be available to train the new technician and keep up the 25+ computers in the Library. Since he helped set up the server he could perform any manual upgrades and regular maintenance of

the system as we continue to grow. Funds in the Library fund are available to pay for this. Motion was made by Ernie Seckinger and seconded by Glenn Swaney that Charlie Wilson be retained by the Library for no more that \$200 per week. Motion carried.

**Special Event:**

It was announced that the Friends will sponsor a Staff/Board appreciation luncheon on Friday, December 16 at 12:00.

**Holiday Closings:**

Mr. Foster presented a Proposed Holiday Closing Schedule for 2006. Motion was made by Anita Rigas and seconded by Gayle Robinson that the presented schedule be accepted by the Board. Motion carried.

The meeting adjourned at 5:05 pm.

Respectfully submitted by Anita Rigas

# **PLANNING COMMISSION**

## **SET PUBLIC HEARING FOR:**

**FEBRUARY 6, 2006**

- 1.) Annexation: TimberCreek Land Company, Inc /  
Remainder of TimberCreek property Northwest of  
the Intersection of TimberCreek Subdivision and  
Interstate 10

To: ~~Office of the City Clerk~~  
From: William H. Eady, Sr.,  
Director of Community  
Development  
Subject: TimberCreek Land Co., Inc.  
Date: December 28, 2005

## MEMORANDUM

At the regular meeting of the City of Daphne Planning Commission, December 22, 2005, eight members were present and the vote was unanimous for the affirmative recommendation of the above-mentioned annexation.

The Planning Commission's recommendation was to favorably recommend the annexation of the subject parcel to a B-2, General Business, zone.

Upon receipt of said documentation, please place on the appropriate agenda for action by the City Council.

If you should have any questions, please do not hesitate to contact the undersigned.

Thank you,

WHE/jd

cc: file

STATE OF ALABAMA  
COUNTY OF BALDWIN

**PETITION FOR ANNEXATION OF CERTAIN PROPERTY  
INTO THE CORPORATE LIMITS OF THE MUNICIPALITY  
OF THE CITY OF DAPHNE, ALABAMA**

( TIMBERCREEK LAND CO, INC. )

The undersigned, TimberCreek Land Co., Inc., files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as Remainder of TimberCreek to be annexed into the City of Daphne, a municipal corporation incorporated under the laws of the State of Alabama, and submits the following in support of its petition:

1. **Description Of Property:** The description of the property which Petitioner requests to be annexed into the City of Daphne is described in Exhibit "A" attached hereto and made a part of this Petition as if fully set out herein (the "Property").

2. **Map Of Property:** Attached hereto as Exhibit "B" and made a part of this Petition, is a map of the Property showing its relationship to the corporate limits of the municipality of the City of Daphne.

3. **Owner:** The Petitioner, TimberCreek Land Co., Inc., is the owner of the Property hereby sought to be annexed into the corporate limits of the City of Daphne.

4. **Specific Conditions:** This Petition is conditioned upon the adoption of an ordinance, which shall include specifically the conditions requested below upon annexing the said Property into the corporate limits of the City of Daphne. Please state the requested zoning, if other than R-1, or any other conditions which may apply upon annexation:

*D.P.C.*

-B-1- B-2, GENERAL BUSINESS

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5. Code: This Petition is filed pursuant to the provisions of Article 21, Chapter 42, Title 11, Code of Alabama, 1975, as amended.

DATED this 22nd day of November,  
2005.

Respectfully submitted,

TimberCreek Land Co., Inc.  
Name of Corporation

By: Allen Cox   
Its: Secretary-Treasurer

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that Allen Cox whose name as Sec.-Treasurer of TimberCreek Land Co., Inc., an Alabama corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily on the day same bears date.

GIVEN under my hand and official seal on this the 22nd day of November, 2005.

 (NOTARY SEAL)  
NOTARY PUBLIC  
My commission expires: 03-29-08

TIMBERCREEK LAND COMPANY, INC.  
ANNEXATION OF REMAINDER OF TIMBERCREEK PROPERTY  
NORTHWEST OF THE INTERSECTION OF  
TIMBERCREEK SUBDIVISION AND INTERSTATE 10

EXHIBIT "A"

LEGAL DESCRIPTION:

Beginning at the Northwest corner of Lot 44, TimberCreek, Phase Nine (Amended Plat), as per plat recorded on Slide No. 2056-D of the Probate Court Records of Baldwin County, Alabama; thence along the West boundary of said TimberCreek, Phase Nine (Amended Plat), run as follows: S 20° 51' 15" W 296.10 feet, S 26° 13' 34" W 60.00 feet, S 63° 46' 26" E 20.33 feet, S 26° 13' 34" W 150.00 feet, S 63° 46' 26" E 135.23 feet, S 12° 39' 08" W 123.51 feet, S 23° 27' 51" E 138.95 feet, S 15° 43' 34" W 250.00 feet, S 74° 16' 26" E 41.00 feet, S 15° 43' 34" W 222.16 feet to the Southwest corner of said TimberCreek, Phase Nine (Amended Plat); thence along the South boundary of said TimberCreek, Phase Nine (Amended Plat) run as follows: S 78° 35' 12" E 130.29 feet, S 83° 57' 06" E 167.69 feet, S 58° 10' 49" E 308.72 feet, N 72° 14' 17" E 382.69 feet, S 84° 23' 50" E 192.17 feet, N 61° 55' 13" E 312.41 feet, N 49° 29' 06" E 328.79 feet, N 42° 07' 38" E 282.03 feet, N 46° 02' 22" E 182.14 feet, N 56° 44' 36" E 163.06 feet to the Southwest corner of TimberCreek, Phase Seven (Amended Plat), as per plat recorded on Slide No. 1929-A of the aforementioned Probate Court Records of Baldwin County, Alabama; thence along the South boundary of said TimberCreek, Phase Seven (Amended Plat), run as follows: N 65° 21' 49" E 200.26 feet, N 73° 02' 20" E 159.77 feet, N 75° 26' 43" E 202.24 feet, S 74° 13' 21" E 215.40 feet, N 69° 02' 41" E 310.47 feet, N 86° 50' 19" E 100.13 feet to the Northwest corner of TimberCreek, Phase Ten, Part "A", as per plat recorded on Slide No. 2226-A of the aforementioned Probate Court Records of Baldwin County, Alabama; thence along the West boundary of said TimberCreek, Phase Ten, Part "A", run as follows: S 40° 17' 11" E 193.74 feet, S 16° 53' 28" E 200.00 feet, S 19° 00' 14" E 60.00 feet to a point on the arc of a 613.97 foot radius curve concave Northwardly; thence continuing along said West boundary of TimberCreek, Phase Ten, Part "A" and along said arc of curve, run Northeastwardly 52.94 feet to a point; said point bears N 68° 31' 34" E 52.92 feet from the last described point; thence continuing along said West boundary of TimberCreek, Phase Ten, Part "A", run as follows: S 29° 19' 04" E 121.27 feet, S 00° 28' 35" E 208.88 feet, N 89° 38' 38" E 54.64 feet to a point on the arc of a 65 foot radius curve concave Northeastwardly;

TIMBERCREEK LAND COMPANY, INC.  
ANNEXATION OF REMAINDER OF TIMBERCREEK PROPERTY  
NORTHWEST OF THE INTERSECTION OF  
TIMBERCREEK SUBDIVISION AND INTERSTATE 10

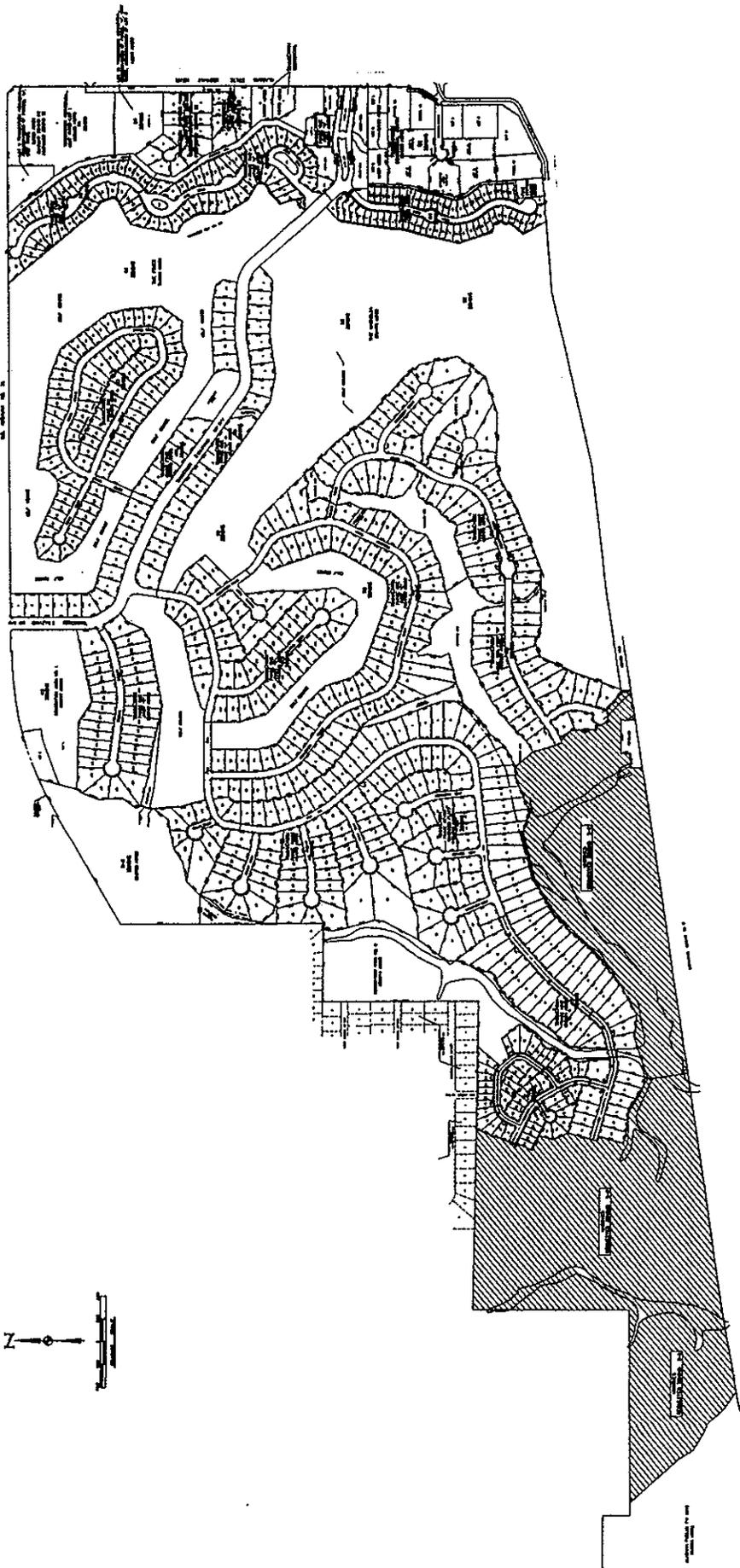
EXHIBIT "A"  
PAGE 2

thence continuing along said West boundary of TimberCreek, Phase Ten, Part "A" and along said arc of curve, run Southwestwardly 182.87 feet to a point; said point bears S 53° 29' 32" E 128.25 feet from the last described point; thence continuing along said West boundary of TimberCreek, Phase Ten, Part "A", run S 53° 44' 03" E 215.90 feet to a point on the West terminus of a service road that is North of and adjacent to the North right of way line of Interstate Highway No. 10; thence along said West terminus of a service road that is North of and adjacent to the North right of way line of Interstate Highway No. 10, run S 00° 03' 02" W 70.89 feet to a point on the North line of Section 33, T4S-R2E, Baldwin County, Alabama; thence along said North line of Section 33, T4S-R2E, run S 89° 28' 59" W 249.37 feet to a point; thence run N 00° 48' 51" W 76.04 feet to a point; thence run S 89° 23' 39" W 140.00 feet to a point; thence run S 00° 48' 51" E 75.73 feet to a point on said North line of Section 33, T4S-R2E; thence along said North line of Section 33, T4S-R2E, run S 89° 28' 59" W 265.82 feet to a point; thence run S 00° 00' 08" W 101.88 feet to a point on the North right of way line of Interstate Highway No. 10; thence along said North right of way line of Interstate Highway No. 10, run S 81° 32' 21" W 4683.42 feet to a point; thence continuing along said North right of way line of Interstate Highway No. 10, run S 81° 30' 38" W 848.37 feet to a point on the centerline of a natural drain; thence along said centerline of a natural drain, run as follows: N 27° 12' 16" W 182.77 feet, N 41° 35' 31" W 146.10 feet, N 57° 15' 17" W 276.05 feet, N 30° 59' 34" W 144.94 feet, N 48° 55' 22" W 263.34 feet, N 48° 17' 49" W 273.25 feet to a point on the South boundary of Senior Douglas Subdivision, as per plat recorded in Map Book 8, Page 116 of the aforementioned Probate Court Records of Baldwin County, Alabama; thence along said South boundary of Senior Douglas Subdivision, run N 89° 39' 00" E 419.86 feet to a point; thence run N 89° 25' 13" E 1322.04 feet to the Southwest corner of Section 28, T4S-R2E, Baldwin County, Alabama; thence along the West boundary of said Section 28, T4S-R2E, run N 00° 04' 44" W 1326.14 feet, more or less, to a point; thence run S 89° 07' 07" E 1527.77 feet to the point of beginning. Containing 139.6 Acres, more or less.





TIMBERCREEK ANNEXATION  
 EXHIBIT "B"



PREPARED BY  
 SUTHERLAND AND STRICKLAND  
 ENGINEERS, INC.  
 4000 WILSON AVENUE, SUITE 100  
 WILSON, N.C. 27157  
 DATE: 11/15/88

NO.	DATE	BY	DESCRIPTION
1	11/15/88	SS	PRELIMINARY PLAN
2	11/15/88	SS	FINAL PLAN
3	11/15/88	SS	AS SHOWN

PARCEL NUMBERS FOR REMAINDER OF TIMBERCREEK:

ALL OF:

05-32-08-28-4-001-001.002  
05-32-08-28-4-001-009.  
05-32-09-32-0-001-001.003  
05-32-09-32-0-001-001.005  
05-32-08-33-0-001-006.  
05-32-08-33-0-001-018.036

REMAINDER OF:

05-32-08-28-3-002-084.  
05-32-08-28-4-001-001.  
05-32-08-28-4-001-001.038  
05-32-08-28-4-001-001.134  
05-32-08-28-4-001-007.  
05-32-08-28-4-001-008.  
05-32-08-28-4-001-010.  
05-32-08-28-4-001-012.  
05-32-08-33-0-001-018.016

**ORDINANCE NO. 2006-**

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE LIMITS  
OF THE MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA**

**TIMBERCREEK LAND COMPANY, INC.  
ANNEXATION OF REMAINDER OF TIMBERCREEK PROPERTY  
NORTHWEST OF THE INTERSECTION OF  
TIMBERCREEK SUBDIVISION AND INTERSTATE 10**

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF  
DAPHNE, ALABAMA, AS FOLLOWS:**

**WHEREAS**, the owners of the property described in Section 2 of this Ordinance have signed and filed a written petition with the City Clerk of the City of Daphne, Alabama, requesting that such property be annexed to the corporate limits of the City of Daphne, Alabama; and,

**WHEREAS**, all of such property is located and contained within an area contiguous to the corporate limits of the City of Daphne, Alabama and does not lie within the corporate limits or police jurisdiction of any other municipality; and,

**WHEREAS**, said petition contains an accurate description of the property or territory proposed to be annexed together with a map of said property showing its relationship to the corporate limits of the City of Daphne; and,

**WHEREAS**, said petition has been presented to the Planning Commission of the City of Daphne on December 22, 2005 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned B-2, General Business, zone;** and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on February 6, 2006 concerning the petition for annexation; and,

**WHEREAS**, the City Council of the City of Daphne, Alabama has determined that it is in the best interest of said City that the property described in Section 2 hereof be annexed to the corporate limits of the City of Daphne, and that all the requirements of Sections 11-42-21 through 11-42-24, Code of Alabama, 1975, as amended have been complied with by said Petitioner.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF  
THE CITY OF DAPHNE, ALABAMA**, as follows:

**SECTION 1: CONSENT TO ANNEXATION.** The City Council of the City of Daphne, Alabama does by this Ordinance assent to the annexation of the property described in Section 2 of this Ordinance to the corporate limits of the City of Daphne, Alabama, and does by the adoption of this Ordinance, extend and rearrange said corporate limits to embrace and include such property.

**SECTION 2: THE PROPERTY.** That property requested to be annexed into the City of Daphne is described in Exhibit "A", attached hereto and made a part of this Ordinance as if fully set out herein.

**EXHIBIT "A"****LEGAL DESCRIPTION:**

Beginning at the Northwest corner of Lot 44, TimberCreek, Phase Nine (Amended Plat), as per plat recorded on Slide No. 2056-D of the Probate Court Records of Baldwin County, Alabama; thence along the West boundary of said TimberCreek, Phase Nine (Amended Plat), run as follows: S 20° 51' 15" W 296.10 feet, S 26° 13' 34" W 60.00 feet, S 63° 46' 26" E 20.33 feet, S 26° 13' 34" W 150.00 feet, S 63° 46' 26" E 135.23 feet, S 12° 39' 08" W 123.51 feet, S 23° 27' 51" E 138.95 feet, S 15° 43' 34" W 250.00 feet, S 74° 16' 26" E 41.00 feet, S 15° 43' 34" W 222.16 feet to the Southwest corner of said TimberCreek, Phase Nine (Amended Plat); thence along the South boundary of said TimberCreek, Phase Nine (Amended Plat) run as follows: S 78° 35' 12" E 130.29 feet, S 83° 57' 06" E 167.69 feet, S 58° 10' 49" E 308.72 feet, N 72° 14' 17" E 382.69 feet, S 84° 23' 50" E 192.17 feet, N 61° 55' 13" E 312.41 feet, N 49° 29' 06" E 328.79 feet, N 42° 07' 38" E 282.03 feet, N 46° 02' 22" E 182.14 feet, N 56° 44' 36" E 163.06 feet to the Southwest corner of TimberCreek, Phase Seven (Amended Plat), as per plat recorded on Slide No. 1929-A of the aforementioned Probate Court Records of Baldwin County, Alabama; thence along the South boundary of said TimberCreek, Phase Seven (Amended Plat), run as follows: N 65° 21' 49" E 200.26 feet, N 73° 02' 20" E 159.77 feet, N 75° 26' 43" E 202.24 feet, S 74° 13' 21" E 215.40 feet, N 69° 02' 41" E 310.47 feet, N 86° 50' 19" E 100.13 feet to the Northwest corner of TimberCreek, Phase Ten, Part "A", as per plat recorded on Slide No. 2226-A of the aforementioned Probate Court Records of Baldwin County, Alabama; thence along the West boundary of said TimberCreek, Phase Ten, Part "A", run as follows: S 40° 17' 11" E 193.74 feet, S 16° 53' 28" E 200.00 feet, S 19° 00' 14" E 60.00 feet to a point on the arc of a 613.97 foot radius curve concave Northwardly; thence continuing along said West boundary of TimberCreek, Phase Ten, Part "A" and along said arc of curve, run Northeastwardly 52.94 feet to a point; said point bears N 68° 31' 34" E 52.92 feet from the last described point; thence continuing along said West boundary of TimberCreek, Phase Ten, Part "A", run as follows: S 29° 19' 04" E 121.27 feet, S 00° 28' 35" E 208.88 feet, N 89° 38' 38" E 54.64 feet to a point on the arc of a 65 foot radius curve concave Northeastwardly; thence continuing along said West boundary of TimberCreek, Phase Ten, Part "A" and along said arc of curve, run Southwestwardly 182.87 feet to a point; said point bears S 53° 29' 32" E 128.25 feet from the last described point; thence continuing along said West boundary of TimberCreek, Phase Ten, Part "A", run S 53° 44' 03" E 215.90 feet to a point on the West terminus of a service road that is North of and adjacent to the North right of way line of Interstate Highway No. 10; thence along said West terminus of a service road that is North of and adjacent to the North right of way line of Interstate Highway No. 10, run S 00° 03' 02" W 70.89 feet to a point on the North line of Section 33, T4S-R2E, Baldwin County, Alabama; thence along said North line of Section 33, T4S-R2E, run S 89° 28' 59" W 249.37 feet to a point; thence run N 00° 48' 51" W 76.04 feet to a point; thence run S 89° 23' 39" W 140.00 feet to a point; thence run S 00° 48' 51" E 75.73 feet to a point on said North line of Section 33, T4S-R2E; thence along said North line of Section 33, T4S-R2E, run S 89° 28' 59" W 265.82 feet to a point; thence run S 00° 00' 08" W 101.88 feet to a point on the North right of way line of Interstate Highway No. 10; thence along said North right of way line of Interstate Highway No. 10, run S 81° 32' 21" W 4683.42 feet to a point; thence continuing along said North right of way line of Interstate Highway No. 10, run S 81° 30' 38" W 848.37 feet to a point on the centerline of a natural drain; thence along said centerline of a natural drain, run as follows: N 27° 12' 16" W 182.77 feet, N 41° 35' 31" W 146.10 feet, N 57° 15' 17" W 276.05 feet, N 30° 59' 34" W 144.94 feet, N 48° 55' 22" W 263.34 feet, N 48° 17' 49" W 273.25 feet to a point on the South boundary of Senior Douglas Subdivision, as per plat recorded in Map Book 8, Page 116 of the aforementioned Probate Court Records of Baldwin County, Alabama; thence along said South boundary of Senior Douglas

Subdivision, run N 89° 39' 00" E 419.86 feet to a point; thence run N 89° 25' 13" E 1322.04 feet to the Southwest corner of Section 28, T4S-R2E, Baldwin County, Alabama; thence along the West boundary of said Section 28, T4S-R2E, run N 00° 04' 44" W 1326.14 feet, more or less, to a point; thence run S 89° 07' 07" E 1527.77 feet to the point of beginning. Containing 139.6 Acres, more or less.

**SECTION 3: MAP OF PROPERTY.** The property hereby annexed to the City of Daphne, Alabama, is set forth and described in Exhibit "B" and attached hereto a map of the property showing its relationship to the corporate limits of the municipality of the City of Daphne and made a part of this Ordinance.

**SECTION 4: PUBLICATION.** This Ordinance shall be published as required by Section 11-42-21, Code of Alabama, 1975, as amended, and the property described herein shall be annexed to the corporate limits of the City of Daphne, Alabama, upon such publication.

**SECTION 5: PROBATE COURT.** A description of the property described in this Ordinance shall be filed in the Office of the Judge of Probate of Baldwin County, Alabama, as required by Section 11-42-21, Code of Alabama, 1975, as amended.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this \_\_\_\_\_ day of \_\_\_\_\_ 2006.

\_\_\_\_\_  
**Greg Burnam**  
**Council President**  
Date & Time Signed: \_\_\_\_\_

\_\_\_\_\_  
**Fred Small**  
**Mayor**  
Date & Time Signed: \_\_\_\_\_

**ATTEST:**

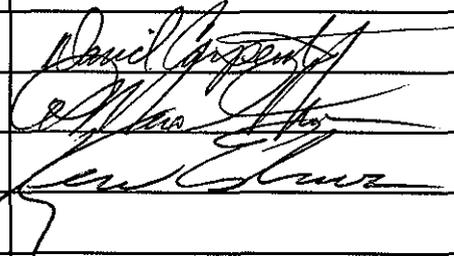
\_\_\_\_\_  
**David L. Cohen**  
**City Clerk, MMC**

**CITY COUNCIL MEETING  
MAYOR'S REPORT**

**NOTES:**

# CITY OF DAPHNE

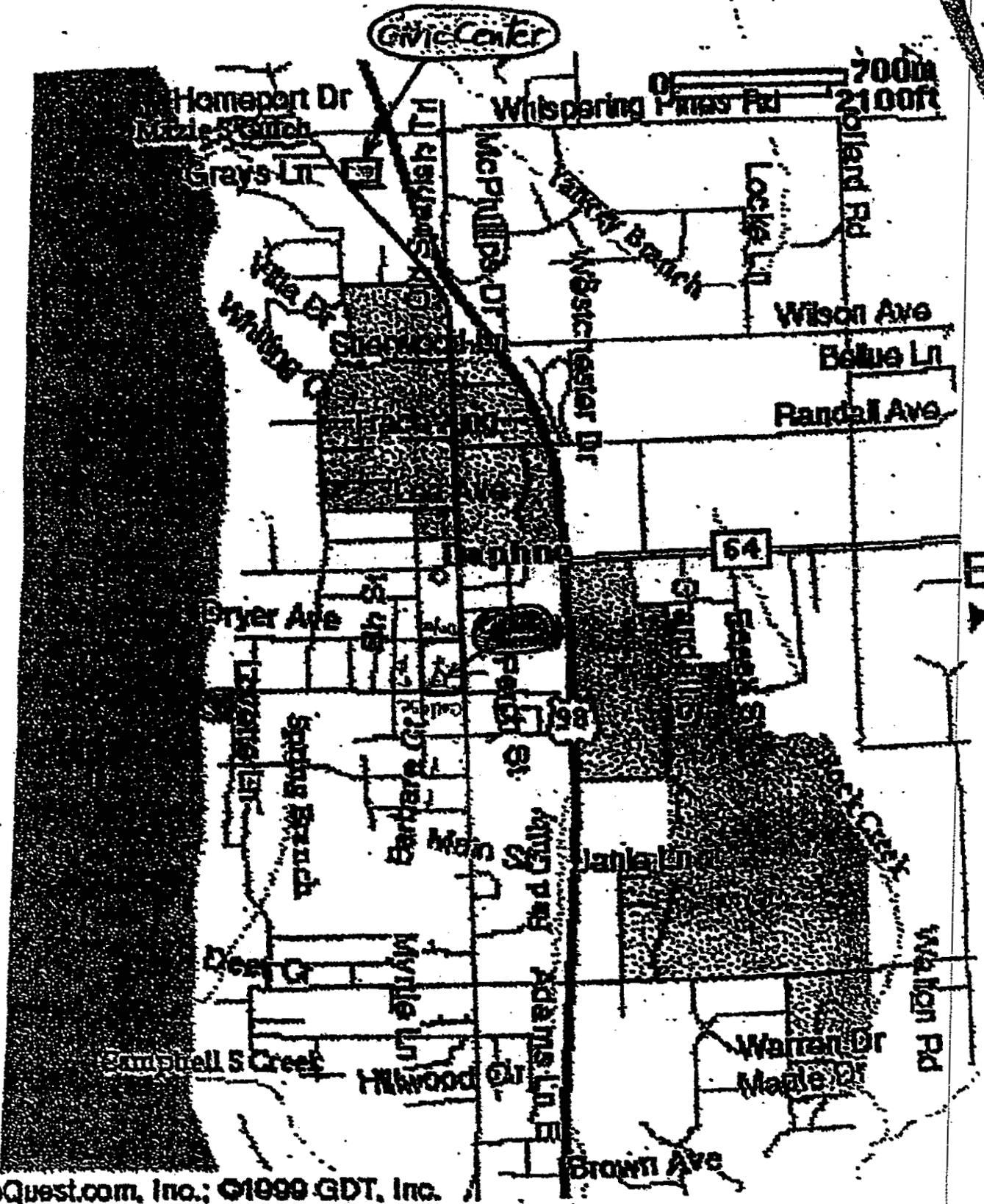
## PARADE PERMIT

<b>ORGANIZATION:</b>	<i>AML - Apollo's Mystic Ladies</i>
<b>CONTACT PERSON:</b>	<i>Lou Ann Strasser</i>
<b>ADDRESS:</b>	<i>P.O. Box 3133 Daphne, AL 36526</i>
<b>PHONE NUMBER (HOME):</b> <b>PHONE NUMBER (BUSINESS):</b>	<i>626-4915 990-1042</i>
<b>TYPE OF PARADE:</b>	<i>Mardi Gras</i>
<b>DATE OF PARADE:</b>	<i>Date: February 17, 2006 Rain Date: February 23, 2006</i>
<b>ROUTE TO BE TRAVELED:</b>	<i>See attached map</i>
<b>APPROXIMATE # OF PEOPLE &amp; CARS:</b>	<i>35 - 40 Units</i>
<b>START TIME:</b>	<i>6:45 P.M.</i>
<b>STOP TIME:</b>	<i>8:15 P.M.</i>
<b>ASSEMBLY AREA/STREET:</b>	<i>Behind Civic Center</i>
<b>ASSEMBLY TIME:</b>	<i>5:30 P.M.</i>
<b>APPROVAL</b>	
<b>POLICE: Chief David Carpenter:</b>	
<b>FIRE: Chief Mund Hanson</b>	
<b>PUBLIC WORKS: Ken Eslava</b>	
<b>CITY COUNCIL:</b>	
<b>SPECIAL INSTRUCTIONS:</b>	
<b>DATE ROUTED:</b>	<i>December 13, 2005</i>
<b>NOTIFICATION:</b>	

**Proof of Insurance: Received 12/12/05**

**Proof of Payment for Parade Permit: Received 12/12/2005**

**Payment to Civic Center: Received 4/14/2004**



Quest.com, Inc.; ©1999 GDT, Inc.

**CITY ATTORNEY'S REPORT**

**NOTES:**

**DEPARTMENT HEAD'S COMMENTS**

**CITY COUNCIL MEETING  
RESOLUTIONS, ORDINANCES, ORDERS & OTHER BUSINESS**

**NOTES:**

RECOMMENDATIONS

**COUNCIL COMMENTS:**

**RESOLUTION 2006- 01**

**Acceptance of Streets and Drainage  
located in Madison Place Subdivision, Phase Two**

**Whereas**, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval and recommends acceptance of the streets located in Madison Place Subdivision, Phase Two; and,

**Whereas**, an inspection was made by the Director of Community Development. All reports, as well as, all other related documents are on file and the streets and drainage have been installed in conformity with City standards; and,

**Whereas**, the Utilities Board of the City of Daphne has accepted the utilities of Madison Place Subdivision, Phase Two; and,

**Whereas**, the developer has provided to the City a two-year construction warranty bond for maintenance of improvements as required by the City of Daphne Land Use and Development Ordinance; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS**, that Madison Place Subdivision, Phase Two according to the plat by Engineering Development Services recorded in the Judge of Probate, Baldwin County, Alabama, and said streets being named Avery Lane, Elizabeth Drive, Lashay Drive, and Elise Court are hereby accepted by the City of Daphne, Alabama as a City street for maintenance.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 2006.**

**THE CITY OF DAPHNE,  
AN ALABAMA MUNICIPAL CORPORATION**

\_\_\_\_\_  
**GREG BURNAM**  
**COUNCIL PRESIDENT**  
Date & Time Signed: \_\_\_\_\_

\_\_\_\_\_  
**FRED SMALL**  
**MAYOR**  
Date & Time Signed: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**DAVID L. COHEN**  
**CITY CLERK, MMC**

**CITY OF DAPHNE  
PETITION FOR ACCEPTANCE  
OF ROAD(S) AND/OR RIGHTS-OF-WAY**

**SUBDIVISION NAME:** Madison Place, Phase Two

**LOCATION:** East and adjacent to Madison Place, Phase One

**THIS ACCEPTANCE OF ROADS AND RIGHTS-OF-WAY** is made this 11<sup>th</sup> day of November, 2005 by Elite Development, LLC, hereinafter called the Subdivider, owner of certain property located in Baldwin County, Alabama known as Madison Place, Phase Two Subdivision to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

**WHEREAS**, the Subdivider has agreed to the dedication of the roads and rights-of-way located in said subdivision to the City of Daphne, and further warrants that said roads and rights-of-way are complete and are in compliance with the minimum standards as outlined for construction in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled Subdivision Review, and Article XI, Minimum Requirements and Required Improvements. The Subdivider further warrants that the same are free from defects from any cause and are free and clear of any liens and encumbrances; and,

**WHEREAS**, the Subdivider does hereby agree to provide a Maintenance Bond, as outlined in Article XVII, entitled Subdivision Review, in an amount equal to ten (10) percent of the total street and drainage improvements (\$ 34,435.00 ) in the subdivision for a period of two (2) years after the date of their acceptance and dedication of the same to the City. Said bond shall be required by the City as a condition to the acceptance and dedication of any new roads or rights-of-way within the City; and,

**WHEREAS**, the Project Engineer acting on behalf of the Subdivider does hereby certify that all roads and rights-of-ways are complete and are in compliance with the minimum standards as outlined for construction in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled, Subdivision Review, and Article XI, Minimum Requirements and Required Improvements.

**WHEREAS**, the City of Daphne, Alabama, acting by and through the recommendation of the City of Daphne Planning Commission, has agreed to accept the responsibility for the maintenance of the roads and rights-of-way of said subdivision subject to a two (2) year maintenance period as described above; and,

**WHEREAS**, the City of Daphne has agreed to accept the property within the confines of the road right-of-way which does not include drainage or utility easements or any other improvements outside of these confines.

**CITY OF DAPHNE**  
**PETITION FOR ACCEPTANCE**  
**OF ROAD(S) AND/OR RIGHTS-OF-WAY**

**NOW, THEREFORE**, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the recommendation of the City of Daphne Planning Commission at their regular meeting of December 22, 2005. That said subdivision according the plat recorded in the Judge of Probate, Baldwin County, Alabama and said streets being named \_\_\_\_\_

Avery Lane    633 LF    50' ROW	Elizabeth Drive    251 LF    50' ROW
Lashay Drive    615 LF    50' ROW	Elise Court    338 LF    50' ROW

are hereby accepted for maintenance by the City of Daphne, Alabama as a city street.

**IN WITNESS WHEREOF**, the Subdivider has caused the execution of this dedication as of the date setforth above.

Respectfully submitted,

Elite Development, LLC  
Name of Individual or Corporation

By: \_\_\_\_\_

Its: Manager

**STATE OF ALABAMA    )**  
**COUNTY OF BALDWIN    )**

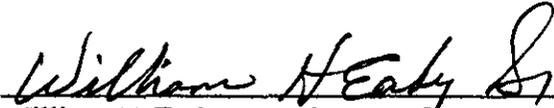
I, the undersigned Notary Public in and for said State and County, hereby certify that Clarence E. Burke, Jr. whose name as Manager of Elite Development, LLC an Alabama corporation or as owner of \_\_\_\_\_ is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer or owner and with full authority, executed the same voluntarily on the day same bears date.

Given under my hand and official seal on this the 16<sup>th</sup> day of November, 2005

Erin N. Day (NOTARY SEAL)  
NOTARY PUBLIC  
My commission expires: 4/2/08

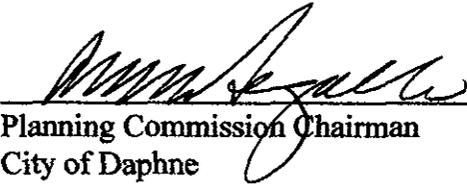
**CITY OF DAPHNE**  
**PETITION FOR ACCEPTANCE**  
**OF ROAD(S) AND/OR RIGHTS-OF-WAY**

Recommendation:



\_\_\_\_\_  
William H. Eady, Sr., Director of Community Development  
City of Daphne

Approval:



\_\_\_\_\_  
Planning Commission Chairman  
City of Daphne

Revised: March 18, 2004

**MAINTENANCE BOND**

BOND NUMBER 21BCSDL2458

KNOW ALL MEN BY THESE PRESENTS, That we, Summit Industries, LLC

(hereinafter called the Principal), and HARTFORD FIRE INSURANCE COMPANY (hereinafter called the Surety),  
are held and firmly bound unto City of Daphne

(hereinafter called the Obligee), in the full and just sum of Thirty Four Thousand Four Hundred Thrity Five  
& no/100 (\$34,435.00) Dollars,  
lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves,  
our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, said Principal has entered into a certain contract with the Obligee dated \_\_\_\_\_

Roadway, Drainage, Water and Sanitary Sewer for Madison Place, Phase II, Daphne, AL

which contract has been or is about to be completed and accepted.

**AND WHEREAS**, specifications and contract provided that Summit Industries, LLC  
should guarantee the project free from defects caused by faulty workmanship and materials for a period of  
years, general wear and tear excepted.

**NOW, THEREFORE**, if the said project shall be free from defects of workmanship and materials, general  
wear and tear excepted, for a period of .2 years, then this obligation shall be null and void; otherwise to  
remain in full force and effect.

Signed, sealed and delivered November 21, 2005

Witness as to

Principal

*Sam Marshall*

Summit Industries, LLC

*Just*

(Seal)

Hartford Fire Insurance Company

*Charlene C. Stout*

(Seal)

Charlene C. Stout

Attorney-in-fact

# POWER OF ATTORNEY

**THE HARTFORD**  
HARTFORD PLAZA  
HARTFORD, CONNECTICUT 06115

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Hartford Fire Insurance Company         | Twin City Fire Insurance Company <input type="checkbox"/>            |
| <input checked="" type="checkbox"/> Hartford Casualty Insurance Company     | Hartford Insurance Company of Illinois <input type="checkbox"/>      |
| <input checked="" type="checkbox"/> Hartford Accident and Indemnity Company | Hartford Insurance Company of the Midwest <input type="checkbox"/>   |
| <input type="checkbox"/> Hartford Underwriters Insurance Company            | Hartford Insurance Company of the Southeast <input type="checkbox"/> |

KNOW ALL PERSONS BY THESE PRESENTS THAT the *Hartford Fire Insurance Company, Hartford Accident and Indemnity Company and Hartford Underwriters Insurance Company*, corporations duly organized under the laws of the State of Connecticut; *Hartford Insurance Company of Illinois*, a corporation duly organized under the laws of the State of Illinois; *Hartford Casualty Insurance Company, Twin City Fire Insurance Company and Hartford Insurance Company of the Midwest*, corporations duly organized under the laws of the State of Indiana; and *Hartford Insurance Company of the Southeast*, a corporation duly organized under the laws of the State of Florida; having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of unlimited:**

*Gaylord C. Lyon, Jr., W.E. Cadden, Charlene C. Stout, Virginia M. Byrd, Rebecca Ward*  
of  
*Mobile, AL*

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on September 12th, 2000, the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*Paul A. Bergenholtz*

Paul A. Bergenholtz, Assistant Secretary

*John P. Hyland*

John P. Hyland, Assistant Vice President

STATE OF CONNECTICUT }  
COUNTY OF HARTFORD } ss. Hartford

On this 19<sup>th</sup> day of September, 2000, before me personally came John P. Hyland, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



*Jean H. Wozniak*

Jean H. Wozniak  
Notary Public  
My Commission Expires June 30, 2004

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of *Nov. 21, 2005*

Signed and sealed at the City of Hartford.



*Colleen Mastroianni*

Colleen Mastroianni, Assistant Vice President

**RESOLUTION 2006- 02**

**Acceptance of Streets and Drainage  
located in Ottawa Springs, Phase One**

**Whereas**, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval and recommends acceptance of the streets located in Ottawa Springs Subdivision, Phase One; and,

**Whereas**, an inspection was made by the Director of Community Development. All reports, as well as, all other related documents are on file and the streets and drainage have been installed in conformity with City standards; and,

**Whereas**, the Utilities Board of the City of Daphne has accepted the utilities of Ottawa Springs Subdivision, Phase One; and,

**Whereas**, the developer has provided to the City a two-year construction warranty bond for maintenance of improvements as required by the City of Daphne Land Use and Development Ordinance; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS**, that Ottawa Springs Subdivision, Phase One according to the plat by Engineering Development Services recorded in the Judge of Probate, Baldwin County, Alabama, and said street being named Ottawa Drive is hereby accepted by the City of Daphne, Alabama as a City street for maintenance.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006.**

**THE CITY OF DAPHNE,  
AN ALABAMA MUNICIPAL CORPORATION**

\_\_\_\_\_  
**GREG BURNAM  
COUNCIL PRESIDENT**  
Date & Time Signed: \_\_\_\_\_

\_\_\_\_\_  
**FRED SMALL  
MAYOR**  
Date & Time Signed: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**DAVID L. COHEN  
CITY CLERK, MMC**



**CITY OF DAPHNE  
PETITION FOR ACCEPTANCE  
OF ROAD(S) AND/OR RIGHTS-OF-WAY**

**SUBDIVISION NAME:** Ottawa Springs, Phase One

**LOCATION:** Off Co. Rd. 13, approximately ½ mile north of Co. Rd. 64

**THIS ACCEPTANCE OF ROADS AND RIGHTS-OF-WAY** is made this 16<sup>th</sup> day of November, 2005 by Gooden Homes, Inc., hereinafter called the Subdivider, owner of certain property located in Baldwin County, Alabama known as Ottawa Springs, Phase One Subdivision to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

**WHEREAS**, the Subdivider has agreed to the dedication of the roads and rights-of-way located in said subdivision to the City of Daphne, and further warrants that said roads and rights-of-way are complete and are in compliance with the minimum standards as outlined for construction in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled Subdivision Review, and Article XI, Minimum Requirements and Required Improvements. The Subdivider further warrants that the same are free from defects from any cause and are free and clear of any liens and encumbrances; and,

**WHEREAS**, the Subdivider does hereby agree to provide a Maintenance Bond, as outlined in Article XVII, entitled Subdivision Review, in an amount equal to ten (10) percent of the total street and drainage improvements (\$ 75,712.00 ) in the subdivision for a period of two (2) years after the date of their acceptance and dedication of the same to the City. Said bond shall be required by the City as a condition to the acceptance and dedication of any new roads or rights-of-way within the City; and,

**WHEREAS**, the Project Engineer acting on behalf of the Subdivider does hereby certify that all roads and rights-of-ways are complete and are in compliance with the minimum standards as outlined for construction in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled, Subdivision Review, and Article XI, Minimum Requirements and Required Improvements.

**WHEREAS**, the City of Daphne, Alabama, acting by and through the recommendation of the City of Daphne Planning Commission, has agreed to accept the responsibility for the maintenance of the roads and rights-of-way of said subdivision subject to a two (2) year maintenance period as described above; and,

**WHEREAS**, the City of Daphne has agreed to accept the property within the confines of the road right-of-way which does not include drainage or utility easements or any other improvements outside of these confines.

**CITY OF DAPHNE**  
**PETITION FOR ACCEPTANCE**  
**OF ROAD(S) AND/OR RIGHTS-OF-WAY**

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the recommendation of the City of Daphne Planning Commission at their regular meeting of December 22, 2005. That said subdivision according the plat recorded in the Judge of Probate, Baldwin County, Alabama and said streets being named \_\_\_\_\_  
Ottawa Drive 4,069 LF 50' ROW

---

are hereby accepted for maintenance by the City of Daphne, Alabama as a city street.

IN WITNESS WHEREOF, the Subdivider has caused the execution of this dedication as of the date setforth above.

Respectfully submitted,

Gooden Homes, Inc.

Name of Individual or Corporation

By: \_\_\_\_\_

Its: Manager

STATE OF ALABAMA    )  
COUNTY OF BALDWIN )

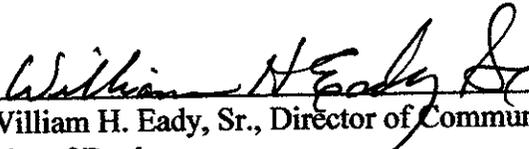
I, the undersigned Notary Public in and for said State and County, hereby certify that Tom Poulos whose name as MANAGER of GOODEN HOMES, INC an Alabama corporation or as owner of \_\_\_\_\_ is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer or owner and with full authority, executed the same voluntarily on the day same bears date.

Given under my hand and official seal on this the 18<sup>th</sup> day of NOVEMBER, 2005

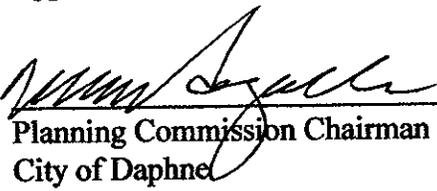
Emily N. Kelly (NOTARY SEAL)  
NOTARY PUBLIC  
My commission expires: 4/2/08

**CITY OF DAPHNE**  
**PETITION FOR ACCEPTANCE**  
**OF ROAD(S) AND/OR RIGHTS-OF-WAY**

Recommendation:

  
\_\_\_\_\_  
William H. Eady, Sr., Director of Community Development  
City of Daphne

Approval:

  
\_\_\_\_\_  
Planning Commission Chairman  
City of Daphne

**MAINTENANCE BOND**

**TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**  
Hartford, Connecticut 06183

BOND NO. 104620340

KNOW ALL MEN BY THESE PRESENTS:

That **J. B. Ammons Construction, Inc. and Blackmon Construction, Inc., A Joint Venture**

as Principal, hereinafter called Contractor, and **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**, as Surety, hereinafter called Surety, are held and firmly bound unto **The City of Daphne**

as Obligee, hereinafter called Owner, in the penal sum of **\$75,712.00**, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement

entered into a contract with Owner for **Ottawa Springs Subdivision**

in accordance with the General Conditions, the Drawings and Specifications, which contract is by reference incorporated herein, and made a part hereof, and is referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if Contractor shall remedy any defects due to faulty materials or workmanship which shall appear within a period of **2** year(s) from the date of substantial completion of the work provided for in the Contract, then this obligation to be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that Owner shall give Contractor and Surety notice of observed defects with reasonable promptness.

SIGNED and sealed this **16<sup>th</sup>** day of **November, 2005**

IN THE PRESENCE OF :

*Andsey Williams*

*Andsey Williams*

**J.B. Ammons Construction, Inc. and  
Blackmon Construction, Inc., A Joint  
Venture**

*Bill Ammons*

(Seal)  
Principal

*Principal*

Title

**TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**

By *Jim E. Mabrey*  
Jim E. Mabrey, Attorney-In-Fact



## **IMPORTANT DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE**

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002 (the "Act"). The Act establishes a short-term program under which the Federal Government will share in the payment of covered losses caused by certain acts of international terrorism. We are providing you with this notice to inform you of the key features of the Act, and to let you know what effect, if any, the Act will have on your premium.

Under the Act, insurers are required to provide coverage for certain losses caused by international acts of terrorism as defined in the Act. The Act further provides that the Federal Government will pay a share of such losses. Specifically, the Federal Government will pay 90% of the amount of covered losses caused by certain acts of terrorism which is in excess of an insurer's statutorily established deductible for that year. The Act also caps the amount of terrorism-related losses for which the Federal Government or an insurer can be responsible at \$100,000,000,000.00, provided that the insurer has met its deductible.

Please note that passage of the Act does not result in any change in coverage under the attached policy or bond (or the policy or bond being quoted). Please also note that no separate additional premium charge has been made for the terrorism coverage required by the Act. The premium charge that is allocable to such coverage is inseparable from and imbedded in your overall premium, and is no more than one percent of your premium.

**TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
TRAVELERS CASUALTY AND SURETY COMPANY  
FARMINGTON CASUALTY COMPANY  
Hartford, Connecticut 06183-9062**

**POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT**

**KNOW ALL PERSONS BY THESE PRESENTS, THAT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, corporations duly organized under the laws of the State of Connecticut, and having their principal offices in the City of Hartford, County of Hartford, State of Connecticut, (hereinafter the "Companies") hath made, constituted and appointed, and do by these presents make, constitute and appoint: Jim E. Mabrey, John T. Thomas, Jr., Maria A. Davison, Vernon D. Harrison, of Fairhope, Alabama, their true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following instrument(s): by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto and to bind the Companies, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of the Companies, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.**

This appointment is made under and by authority of the following Standing Resolutions of said Companies, which Resolutions are now in full force and effect:

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her.

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary.

VOTED: That any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary, or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority.

**This Power of Attorney and Certificate of Authority is signed and sealed by facsimile (mechanical or printed) under and by authority of the following Standing Resolution voted by the Boards of Directors of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, which Resolution is now in full force and effect:**

VOTED: That the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

**CITY OF DAPHNE  
ORDINANCE NO: 2006- 01**

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**AN ORDINANCE AUTHORIZING AN EXTENSION OF THE MORATORIUM  
ON APPROVAL AND CONSTRUCTION OF BUILDINGS  
IN EXCESS OF FIFTY (50) FEET AND/OR FOUR (4) STORIES IN HEIGHT**

---

**WHEREAS**, the City Council of the City of Daphne, Alabama desires to promote the health, welfare and safety of the citizens of the City of Daphne by exercising proper and appropriate land use management; and

**WHEREAS**, the City Council of the City of Daphne, Alabama has determined that in order to promote and maintain the health, welfare and safety of the citizens of the City of Daphne, a plan of development is needed to properly oversee and authorize the approval and subsequent construction of any structure in excess of fifty (50) feet and/or 4 stories in height, it shall be necessary to prepare, approve and pass a comprehensive land use plan involving the height of such buildings; and

**WHEREAS**, Section 13-7 of the City of Daphne Land Use Ordinance No. 2002-22, currently addresses the authorization of buildings in excess of 50 feet or 4 stories in height, but that said ordinance is in need of amendment and expansion; and

**WHEREAS**, the City Council of the City of Daphne, Alabama desires to promote the health, welfare and safety of the citizens of the City by establishing an additional moratorium on the approval and construction of buildings in excess of 50 feet and/or 4 stories in height; and

**WHEREAS**, the City Council of the City of Daphne pursuant to Ordinance No.: 2005-44, previously enacted a six (6) month moratorium on approval and construction of buildings in excess of fifty (50) feet and/or 4 stories in height, and

**WHEREAS**, the City of Daphne requires additional time to study, prepare and establish a comprehensive and binding Land Use Ordinance to effectively address the authorization and construction of buildings in excess of 50 feet and/or 4 stories;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA AS FOLLOWS:**

**SECTION I:**

- (a). That a moratorium is hereby declared to be in effect from the effective date of passage of this ordinance through February 7, 2006, thereby prohibiting the approval of and construction of any and all buildings or structures within the City of Daphne in excess of 50 feet and/or 4 stories in height in order to afford the City of Daphne sufficient time to prepare and establish a building and land use ordinance (or amendment of the existing Land Use Ordinance) that adequately regulates the construction of buildings in excess of 50 feet and/or 4 stories in height.
- (b). That this moratorium may be extended in length of time upon the majority vote of the City Council by passage of appropriate ordinance.
- (c). That Section 13-7 of the Daphne Land Use Ordinance No. 2002-22 is hereby suspended in that part as it relates to the approval or consideration of structures of more than four (4) stories or fifty (50) feet, as said provision is deemed suspended and without authority until such time as this moratorium expires and/or when said ordinance is amended by the City Council.

**SECTION II: CONFLICT WITH OTHER ORDINANCES**

That any Ordinance heretofore adopted by the City Council of the City of Daphne, Alabama which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

**SECTION III: SEVERABILITY**

That the provisions of this Ordinance are severable. If any provision, section, paragraph, sentence or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of the Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof separately and independently of each other.

**SECTION IV: EFFECTIVE DATE**

That this Ordinance shall be in full force and effect upon its adoption as provided by law by the City Council of the City of Daphne.

**APPROVED AND ADOPTED THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.**

\_\_\_\_\_  
**GREG BURNAM**  
**COUNCIL PRESIDENT**  
Date & Time Signed:\_\_\_\_\_

\_\_\_\_\_  
**FRED SMALL**  
**MAYOR**  
Dated & Time Signed:\_\_\_\_\_

**ATTEST**

\_\_\_\_\_  
**DAVID L. COHEN, CITY CLERK, MMC**