

CITY COUNCIL BUSINESS MEETING AGENDA
1705 MAIN STREET, DAPHNE, AL
JANUARY 18, 2011
BUSINESS MEETING
6:30 P.M.

1. CALL TO ORDER

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

- 3. APPROVE MINUTES:** Council meeting minutes / January 3, 2010
Council Work Session minutes / January 11, 2011

PRESENTATION: Present Fire Arm to Michael Williams / Chief David Carpenter

PROCLAMATION: Proclaiming Appreciation for Mickey Boykin / Daphne Museum

4. REPORT STANDING COMMITTEES:

A. FINANCE COMMITTEE / Boulware

Review minutes / January 10th

1.) Resolutions:

- a.) Authorize \$2 Million Additional Investment / **Resolution 2011-02**
- b.) Prepaid Travel / David Cohen / Certification Training Institute for Municipal Clerks / January 26-28, 2011 / Tuscaloosa, AL / \$140 / **Resolution 2011-03**
- c.) Bid Award: 20 Cubic Yard Rear Loading Refuse Collection Truck / Ward International Trucks of Alabama, LLC / **Resolution 2011-04**
- d.) BP Oil Barricade Purchase / **Resolution 2011—05**
- e.) Hiring Freeze Exception Policy / **Resolution 2011-06**

2.) Ordinances:

- a.) BP Oil Spill (\$465,000) / **Ordinance 2011-03**
- b.) Budget Amendment / Sports Complex Fence and Netting Replacement / **Ordinance 2011-04**

3.) Financial Report:

- a.) Treasurers Report / December 31, 2010
- b.) Sales & Use Tax Collections / November 30, 2010
- c.) Lodging Tax Collections / November 30, 2010

**4.) Motions to fill vacant positions forwarded form Council Work Session Discussion
(Salary/Wages listed below do not include benefits) / Motions as follows:**

a.) Police Department

- i.) School Crossing Guard / \$8.48/hour (10 hours/week during school schedule)
- ii.) Patrol Officer (School Resource Officer retired and internal lateral transfer was made from Patrol (leaving a Patrol vacancy) / \$16.54/hour - \$17.99/hour eligible range / \$34,407 - \$37,428/annual salary

b.) Civic Center

- i.) Civic Center Event Assistant / \$10.50/hour / \$20,906/annual salary

B. BUILDINGS & PROPERTY - Lake

Review minutes / January 3rd

C. PUBLIC SAFETY – Palumbo

Review minutes / January 12th

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Palumbo

Review minutes / December 8, 2010

E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Yelding

Review Beautification minutes / January 7th

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Jones

a.) **MOTION:** To reappoint Mr. Jim Moss to the BZA / Term ends February 2014

B. Downtown Redevelopment Authority – Barnette

C. Industrial Development Board – Yelding

D. Library Board – Lake

Review minutes / November 4, 2010

E. Planning Commission – Barnette

F. Recreation Board – Reese

G. Utility Board - Scott

Review minutes / September 29, 2010

Review minutes / November 3, 2010

Review minutes / December 1, 2010

6. REPORTS OF OFFICERS:

A. Mayor’s Report

a.) Parade Permit / Mystic Order of Persephone / Mardi Gras / March 4, 2011 / Rain Date - March 6, 2011

b.) **MOTION:** Authorize the Mayor to enter into the Jubilee Square Shopping Center Reciprocal Agreement with LA-Daphne

B. City Attorney’s Report

C. Department Head Comments

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

a.) \$2 Million Additional Investment...../Resolution 2011-02

b.) Prepaid Travel / David Cohen/Resolution 2011-03

c.) Bid Award: 20 Cubic Yard Rear Loading Refuse Collection Truck...../Resolution 2011-04

d.) Emergency Response Equipment Purchase Authorization: Mississippi Canyon 252 Incident (Deepwater Horizon-BP Oil Spill) Grant/Resolution 2011-05

e.) Adopting Hiring Freeze Exception Policy...../Resolution 2011-06

ORDINANCES:

2ND READ

a.) **Rezone: Plan B Investments Property. /Ordinance 2011-01**

1ST READ

b.) **\$465,000 Supplemental Funds: Deepwater Horizon BP Oil Spill. /Ordinance 2011-03**

c.) **Appropriation: Sports Complex Fence and Netting Replacement. /Ordinance 2011-04**

d.) **Establishing Surety Bond Limits for Certain Municipal
Officers & Employees. /Ordinance 2011-05**

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__ __

COUNCILMAN BOULWARE

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

**JANUARY 3, 2011
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

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

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Invocation was given by Councilman Boulware.

COUNCIL MEMBERS PRESENT: Bailey Yelding; Cathy Barnette; Kelly Reese; Ron Scott; Derek Boulware; August Palumbo.

ABSENT: John Lake.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Erick Bussey, Attorney; James White, Fire Chief; Kim Briley, Finance Director; Richard Johnson, Publics Works Director; Adrienne Jones, Planning Director; Richard Merchant, Building Official; Margaret Thigpen, Civic Center Director; David McKelroy, Recreation Director; Vickie Hinman, Human Resource Director; Anne Morris, Reference Librarian; Captain Danny Bell, Police Department; Scott Hutchinson, City Engineer; Joe Lemoine, Planning Commission; Dorothy Morrison, Beautification Committee; Darrelyn Bender, Eastern Shore Chamber of Commerce.

Absent: Tonja Young, Library Director; David Carpenter, Police Chief.

Council President Barnette noted that the second read for the TDG lake Forest, LLC property has been withdrawn from the agenda. The applicant has not had a chance to speak with the adjacent property owner, and based on the council's recommendation of that they wanted to have an additional two (2) weeks to do that before this item is heard.

3. APPROVE MINUTES

MOTION BY Councilman Boulware to approve the December 20, 2010 Council meeting minutes. Secoded by Councilman Scott.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

PUBLIC HEARING:

1.) **Rezone:** Plan B Investments

Located: Northeast of the intersection of Parker Lane and Whispering Pines Road
Northwest of Madison Place Subdivision

Present Zoning: R-3, High Density single Family Residential District

Requested Zoning: R-4, High Density Single Family Residential District

Recommendation: *Recommend Approval / Unanimous / Ordinance 2011-01*

Mrs. Adrienne Jones gave the presentation.

Council President Barnette opened the Public Hearing at 6:34 p.m.

No one spoke for or against the proposed rezoning.

Council President Barnette closed the Public Hearing at 6:34 p.m.

2.) Rezone: MPWS, LLC / Withdrawn per owner / Attached Letter

Located: Southwest corner of Lawson Road and County Road 13

Present Zoning: B-1, Local Business District

Requested Zoning: B-2, General Business District

Recommendation: *Unfavorable* / Eight members present / Seven members

voted in the affirmative and one dissented / Ordinance 2011-02

Council President Barnette stated that this item has been requested to be withdrawn from the agenda by the owner per a letter that is included in the council packet.

MOTION: Change the January 10, 2011 Work Session Date

MOTION BY Councilman Scott to change the January 10, 2011 work session date to Tuesday, January 11, 2011 at 6:30 p.m. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

MOTION: Change the January 17, 2011 Council meeting date (Martin Luther King Day)

MOTION BY Councilman Palumbo to change the January 17, 2011 Council meeting to Tuesday, January 18, 2011 at 6:30 p.m. due to the Martin Luther King holiday. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

Councilman Scott addressed a comment by Councilman Palumbo regarding a request that came from the Buildings and Property Committee meeting concerning a personnel request saying that he talked with Mrs. Briley today about needing a policy to handle personnel request. He said that he feels that

the Finance Committee would need to make a recommendation on it, and if necessary a work session with the council.

Council President Barnette stated that was one of the things that was discussed at the December 20th meetings that the Finance Committee is going to establish protocol and procedure on how council will address those hiring requests, since Human Resource is also part of that committee.

Councilman Scott stated that if they have something that is coming right now if they could get that in the pipeline then that will save some time.

Councilman Palumbo stated that since the Finance Committee will meet before the work session that is not a problem, but eventually it will have to come before the council.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE – Boulware

No report. The next meeting will be January 10th at 4:00 p.m. in the Executive Conference Room.

BP Grant Status and Proposed Reallocation of funds

Mrs. Briley stated that the first tab in the binder that she gave to council deals with resolutions and motions made regarding the first allocation of funds \$500,000. It goes over when the emergency was declared, and gives the authority on that. It includes the proclamation from the governor showing the State of Emergency. The next tab shows the grant agreement for the \$500,000. The next tab is the grant agreement for the \$465,000. Then it moves into the financial data which shows the grants, how much has been spent so far, how much is planned for other projects that have not been obligated yet, and the net available funds. The next tab shows two (2) reallocation requests.

Councilman Scott stated that there is not a date on the grant agreement, and he asked if that was available.

Mrs. Briley stated that it is available. She does not have it with her, but she thinks it coincides with the receipt of the funds since it was advanced to the city.

Councilman Palumbo asked what if any constraints there were on the funds?

Mrs. Briley stated yes.

Councilman Palumbo asked if there was any possibility of these funds being returned or the city being requested to return unused funds?

Mrs. Briley stated that the Alabama Emergency Management Agency has sent them a letter, and they are doing an audit. They are looking at every invoice, every check and everything right now. The funds that have been spent according to Chip Martin, who is the coordinator, they have been specifically approved by the Emergency Management.

**JANUARY 3, 2011
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

4

Councilman Palumbo stated that he was talking about funds that they have not expended yet. Is there a possibility that the city will have to give that money back?

Mrs. Briley stated that she thinks it is possible she just does not know. When all this happened everybody was scrambling to know how to handle things, because it had never happened before, and the City of Daphne responded by documenting like they do for a hurricane. They have used the forms that they do for hurricanes so they have all the documentation for time worked, equipment used and that type of thing. That is how they are proceeding. They are treating it like it was a hurricane event.

Council President Barnette stated that the city is obviously not under a State of Emergency anymore so the authorization of the first grant from the council authorizing the mayor to execute all documents necessary for the State of Emergency is not in effect so if they want to continue to spend funds for both the second grant and some of the additional funds of the existing grant do they need to take action to authorize expenditures?

Mrs. Briley stated that they really should, Yes.

Council President Barnette stated that with the information that they have they would need to go through the remaining funds, and identify those categories based on the grant application, and then authorize the expenditure of those funds so they are not just sitting there.

Mrs. Briley stated that is correct.

Council President Barnette asked Mrs. Briley if there was anything else they needed to do in her opinion for that grant.

Mrs. Briley stated that she knows on the \$465,000 that never came to council, although the mayor has already signed it, she guessed that would be a question for Mr. Ross, can they back track on that, she does not know.

Mr. Ross stated that it is probably not going to come at this point, and arguably moot since the money never came.

Mrs. Briley stated that they have the money. They just have not spent it.

Council President Barnette stated for the audit do they need to have something that authorizes, because the way that she read it, she may have misread it, but it looked like some of the boom that the city bought was with the second grant from the way that the way the accounting was done, but officially they did not really authorize it per say that way.

Mrs. Briley said right.

Council President Barnette asked Mrs. Briley to make a recommendation on how they need to make sure the paper work is in order according to the grant. She knows the second grant was more of a windfall.

**JANUARY 3, 2011
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

5

Mayor Small stated that the thing about the second grant was that it was a meeting that was called that morning, and the funds were available, and if you did not get in and speak up for those funds at that particular time, the grant was written that day and sent right back, you would miss out on those funds. That was something that happened all in one day.

Councilman Yelding asked, limited as to what they can spend the money for, does it have to be water related or just any projects? He thinks they should determine if they can spend it other than water related or some emergency reason.

Mrs. Briley stated emergency response, and that goes along with the reallocations that are listed if they are approved, can they do this with the money.

Councilman Yelding stated that he noticed somewhere that Magnolia Springs is asking to spend \$197,000 for a boardwalk. He does not know if that got approved or not, but there is certainly a lot of things that the city could spend the money on related to water that would not throw up a red flag. The council needs to know that.

Mrs. Briley said yes, the State will not give a direct answer unless they have the reallocation request.

Councilman Yelding said if you apply you just determine you want to spend the money on this they will say yes or no.

Mayor Small stated that they are not giving them any response. He has not had a response on any reallocation in 60 days.

Councilman Yelding stated that they should leave it there until the state says yes.

Mrs. Briley said they will not spend it until the state says they can.

Councilman Scott stated that he happened to be at the meeting that the mayor referenced on behalf of the county, and it was as the mayor described that the EMA Director put a bunch of projects on the board, and they argued through them and decided that most of the money should go down to the beaches. Perdido Beach, a town of little over 500 people, received over \$900,000 at that point, because they have a lot of sensitive back water Perdido Bay, Palmeto Creek, Soldiers Creek and Spring Branch. There was a lot of give and take, and at that time Fairhope ended up with \$500,000 and Daphne \$465,000. Then at some point it came down that you can send in an addendum or you could amend your grant request. It was thought that BP did not want the money back, that was told to the state at one point, and now he thinks they have changed that. There have been a lot of things that they have changed in this process. As Mrs. Briley said this is the first time they have gone through anything like this. It is not FEMA that they are used to dealing with it is another agency, and there was even conversation that if you had a project that was for the good of the community it was fine. There was a lot of back and forth, and he thinks that that may be where the boardwalk for Magnolia Springs was proposed. He does not know if that has been approved or not. He does not think they have approved anything for the last 60 days.

**JANUARY 3, 2011
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

6

Councilman Palumbo stated that obviously BP is rapidly folding the tent in this area, and he thinks anything the city ask for should fit within their guidelines simply because they may ask for the money back, and if the city spends it on something that they don't deem as having been related to an emergency of some type, then they will later have to re-appropriate it. He knows it was reported in yesterday's newspaper that they purchased a building in May over in Mobile for \$2 ½ million to set up their headquarters, and they recently sold the building. They are bugging out, and they seem to be in a hunker down mode in recent weeks. He thinks they should err on the side of caution on whatever they spend the money on. He said they do not know if the state will approve the reallocation requests. He has talked to constituents who have made claims with some approved, some not and some that just had no answer. He said it is almost a grab bag as to what kind of response they are going to give.

Mrs. Briley said that they never received any guidelines. There was no official anything. That is why they have treated like they do FEMA.

Councilman Scott pointed out that it is really not BP at this point. They gave the money to the state, and the audit comes from the state, and the BP monies that the state expended you know they are writing them off on their taxes. So the Federal government also is going to have to make sure that they were spent for items that would qualify under the US Tax Code as being items that would be deductible. But it is really not BP at this point they are out of it.

Councilman Boulware asked Mrs. Briley to refresh his memory did they discuss the second grant amount when the city received the \$465,000 at the Finance meeting.

Mr. Briley said that she does not recall.

Councilman Boulware said that he does not recall it either.

Councilman Scott stated that he did not believe they did.

Councilman Boulware asked if the money has been sitting in a reserve account.

Mrs. Briley stated that she has a separate fund for the BP money, and that is where it is.

Councilman Boulware stated just so that he understands he thinks Cathy brought up earlier that some of the second grant amount has been used.

Mrs. Briley said right.

Councilman Boulware asked if there was a reason why it all did not come out of the first grant?

Mrs. Briley said she does not know. That information came from Chip. When the money was spent she was not aware that it was coming from the second round of money, but in talking with Chip he said no this was from the second money. So that would be a question he would have to answer.

Councilman Boulware asked if Chip was here this evening?

He was not present.

Councilman Boulware asked the mayor if he could speak to the question.

Mayor Small said that he could not speak exactly for that, but he does know any money that was actually spent from the second grant was actually what the grant was for. They have spent no money outside of the criteria of the grant, and it would have been on boom or boom related supplies. He does not have his information in front of him, but the grant had some equipment in it. He does know that going back and reading the resolution which he saw earlier that it did state the first \$500,000, but the council was all aware of the second \$465,000, because they talked about it in a council meeting that the city received \$465,000 more dollars. Actually, Councilman Scott brought that up in a council meeting or some public meeting. It was not that no one knew about the money, everyone knew about it.

Councilman Boulware stated that he does not recall that, but he asked Councilman Scott if he recalled doing that.

Councilman Scott stated not specifically, but he does know that there was a discussion that the city had an additional \$465,000 that was being awarded by the state, and that they had applied for the grant.

Mayor Small stated that all the monies have been spent in accordance to the grant. Mrs. Briley has made sure of that.

Councilman Scott stated that that should be in the minutes somewhere.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake

The committee met before the council meeting. Minutes will be in the next packet.

MOTION: To authorize the Mayor to waive all fees associated with the Martin Luther King Committee March & Program at the Civic Center as has been done in the past

MOTION BY Councilman Palumbo to waive the Civic Center rental, cleanup and labor fees for the Martin Luther King Committee March & Program. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Council President Barnette stated that Mr. Lake sent a letter to be read into the record tonight, but due to a computer glitch it did not make it so it will be read at the next council meeting to be included into the minutes.

C. PUBLIC SAFETY COMMITTEE – Palumbo

The minutes for the December 8th meeting are in the packet. The next meeting will be January 12th at 4:30 p.m.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo

The committee met and discussed one item with regards to the Lighting ordinance. The next meeting will be January 12th after the Public Safety meeting. They will discuss revisions to the Civic Center ordinance.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

The minutes for the December 20th meeting are in the packet.

MOTION: To give Cub Scout Pak 87 permission to “Adopt a Mile” from 1501 Main Street to 602 Main Street

MOTION BY Councilman Yelding to give Cub Scout Pak 87 permission to “Adopt a Mile” from 1501 Main Street to 602 Main Street. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Mrs. Jones

There will not be a meeting in January.

B. Downtown Redevelopment Authority – Barnette

No report. The next meeting will be January 24th at 5:15 p.m.

C. Industrial Development Board – Yelding

No report.

D. Library Board – Lake

The minutes for the November 4th meeting are in the packet. There was not a meeting in December. The next meeting will be January 6th at 4:00 p.m.

E. Planning Commission – Barnette

The minutes for the November 18th meeting are in the packet. Site Review will be January 19th and the regular Planning Commission meeting will be January 27th at 5:00 p.m.

F. Recreation Board – Reese

No report. The next meeting will be January 12th.

G. Utility Board – Scott

The next meeting will be Wednesday, January 5th at 5:00 p.m.

JANUARY 3, 2011
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

9

6. REPORTS OF THE OFFICERS:

A. Mayor's Report

- a.) **MOTION:** Approve requests as set forth in the letter from the Eastern Shore Chamber of Commerce for the 23rd Annual Jubilee Festival to be held September 24, 25, 2011

MOTION BY Councilman Yelding to approve the requests for the 23rd Annual Jubilee Festival for September 24, 25, 2011 as follows:

Permission to block Main Street from Magnolia Avenue South to Dryer Avenue. The closing of this area would still allow access by area residents and church visitors.

Permission to use Centennial Park for KidsART.

Permission to allow children to paint on the back fence in Centennial Park.

Assistance from Police and Street Department with street closings and barricades from Friday, September 23, 2011 after 5:00 p.m. until Sunday, September 25, 2011 after 6:00 p.m.

Coordination buy the Mayor with Riviera Utilities for additional electrical power access at the City Hall entrance utility pole.

Permission to use City Hall as headquarters for the festival staff and volunteers.

Permission to place temporary banners to help promote the 23rd Annual Jubilee Festival.

Specifics of the banners are as follows:

Banners to read: Jubilee Festival, September 24th & 25th

Banners to be posted 2 weeks prior to event

Size of Banners to be 120" x 34"

Locations to include: Santa Rosa and Main Street Jubilee Mall, Lawson Road, Highway 98 at Montrose Welcome Sign

Permission to place banners within the site of the festival.

Seconded by Councilman Scott.

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

b.) Parade Permit / Martin Luther King, Jr. Celebration March / January 17, 2011

MOTION BY Councilman Scott to approve the parade permit for the Martin Luther King, Jr. Celebration March / January 17, 2011. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

B. City Attorney Report

No report.

C. Department Head Comments

David McKelroy – Recreation Director – The installation of the lights and the building of the restrooms have started at Trione. They are getting estimates on the damage caused by winds at Trione it is approximately \$41,000 in damages. Registration for the spring sports start this month.

Anne Morris – Reference Librarian – announced that they are starting the next series of computer classes at the Library.

7. PUBLIC PARTICIPATION

Mr. Willie Williams – 1513 Pollard Road – stated that he received the remediation letter from HMR and will distribute it to the community groups.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS:

a.) Acceptance of Property / BC Board of Education/Resolution 2011-01

MOTION BY Councilman Scott to waive the reading of Resolution 2011-01. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Boulware to adopt Resolutions 2011-01. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCES:

1ST READ

- a.) Rezone: Big Sandy Property/Ordinance 2010-72
- b.) Rezone: TDG Lake Forest, LLC Property/Ordinance 2010-73
- c.) Reclassify Parts Technician @Mechanical Shop /Ordinance 2010-74
- d.) Reclassify and Reorganize Personnel @Civic Center/Ordinance 2010-75
- e.) Centennial Park Gazebo/Ordinance 2010-76

1ST READ

- f.) Rezone: Plan B Investments Property/Ordinance 2011-01
- g.) Rezone: MPWS, LLC Property (*Withdrawn per owner*)./Ordinance 2011-02

Ordinance 2010-73 was pulled from the agenda earlier in the meeting.

MOTION BY Councilman Scott to waive the reading of Ordinance 2010-72, 2010-74, 2010-75 and 2010-76. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Ordinance 2010-72. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Ordinance 2010-74 and 2010-75. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Ordinance 2010-76. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCES 2011-01, 2011-02 WERE MADE A FIRST READ.

8. COUNCIL COMMENTS

Councilman Yelding wished everyone a happy new year. He wanted to say to his fellow councilmen that they need to roll up their sleeves and really work, and do the best possible job that they can do for the people of this wonderful city. He is looking forward to a really good year.

Councilman Scott wished everyone a happy new year.

Councilman Palumbo wished everyone a happy new year.

Councilwoman Barnette stated that at the last meeting she highlighted three (3) Planning Commission members who had been struggling with some illnesses. They all seem to be recovering nicely, but she does not think they are all out of the woods yet, but things are looking much better for the them for the new year. She thinks the prayers and well wishes that went out did a load of good.

9. ADJOURN

MOTION BY Councilman Yelding to adjourn. *Seconded by Councilman Reese.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

There being no further business to discuss the meeting adjourned at 7:28 p.m.

Respectfully submitted by,

David L. Cohen,
City Clerk, MMC

Certification by Presiding Officer:

Cathy S. Barnette,
Council President

Amend January 3, 2011 Council Minutes to Include this letter

Due to a death in my family, I am unable to attend tonight's meeting. However, I wanted to express my support for the Baldwin County Martin Luther King, Jr. Committee and request that the Daphne City Council wave the Civic Center Usage fee for this organization. This organization is a non-partisan committee that works to educate our community's citizens and leaders of the atrocities of the past.

This committee offers scholarships to children and students in our community. The Martin Luther King, Jr. Committee recognizes leaders and individuals for accomplishments and humanitarian efforts. The Committee also encourages the involvement of our children in hopes of building a stronger, better future Daphne. The Committee is driven by the moral integrity of Martin Luther King, Jr. With his example as their guide, their objective is to strengthen the awareness and understanding of racism through compassion.

Over the years I have heard many stories of individual's personal experiences of segregation and how, through fear, honorable people were treated as second class citizens. If we, as a society, fail to recognize the wrongs of the past we will be susceptible to repeat those injustices.

It was 25 years ago that the city of Daphne was asked to give a permit to allow a Martin Luther King, Jr. March. This request was met with criticism and statements that the March was not needed. I remember talking to Willie Williams, President of the Martin Luther King, Jr. Committee, that we should change the attitude of people. It was the next year that the Young Republicans of Baldwin County, along with the Baldwin County Republican Party, sponsored the March. I have participated in every one of the Marches and feel that it is an honor for the city of Daphne to be a part of this day to remember not only Reverend Martin Luther King, Jr. but also those that have given their lives to correct the injustices of segregation.

In conclusion, I would like to thank my constituents' for their support in my request. I believe it our responsibility, as community leaders, to set an example to our children how important it is to be a positive and compassionate contributor to society. If we, as leaders, fail to do this, we are missing an opportunity to educate and heal our community as well as setting ourselves up to repeat the mistakes of the past. I am

Very truly yours

John L. Lake

Daphne City Council Dis. 3

**JANUARY 11, 2011
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1

COUNCIL MEMBERS PRESENT: Cathy Barnette; John Lake; Kelly Reese; Ron Scott; Derek Boulware, August Palumbo.

ABSENT: Bailey Yelding.

Also present: David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Missty Gray, Attorney; Vickie Hinman, Human Resource Director; David Carpenter, Police Chief; Margaret Thigpen, Civic Center Director; Chip Martin, Fire Inspector.

Absent: Mayor Small; Jay Ross, City Attorney;

Council President Barnette called the meeting to order at 6:34 p.m.

1. CARL SCHNEIDER / INSURANCE UPDATE

Mr. Schneider updated council on what was going on in Montgomery regarding home insurance coverage for this area. He said that companies are willing to write policies, but they do inspect homes to make sure they are built to code. He said that the problem is with enforcing the codes. Alabama does not have a uniform code for the state. He recommends that council read the report that is included in the packet, and look at evaluating the city's current building code. He said that the codes are a minimum standard not maximum standard. He reported that the flood maps will be updated shortly in August.

Council President Barnette asked Mr. Schneider to keep the council updated, and maybe a public meeting can be arranged before hurricane season.

Council President Barnette requested that the agreement with the amendment be on the next council meeting agenda.

2. JUBILEE SQUARE RECIPORCAL EASEMENT AND OPERATION AGREEMENT

Ms. Missty Grey mentioned that the agreement was to update it with the existing buildings that are in the shopping center, and there is a change to the sign clause.

Mr. Nick Whitehead, LA-Daphne, answered questions from council.

Council President Barnette requested that the Jubilee Retail Overlay District ordinance be referenced regarding signs in the center. She said that the language needs to be consistent.

3. HIRING FREEZE / EMERGENCY HIRING PROCEDURE / VICKIE HINMAN

Mrs. Hinman handed out a hard copy of a proposed emergency hiring procedure.

Council discussed the procedure.

Consensus of council was the following:

1. All hiring requests for vacant positions will be presented in writing from the Department Head to the Human Resources Director and Mayor for approval.
2. The Human Resources Director will maintain an ongoing schedule of vacancies, which will include the rate of pay, to the Finance Director who will prepare a total cost for the position and then such information will be presented at the next scheduled Finance Committee meeting.
3. Upon approval by the Mayor and review by the Finance Committee, the hiring request, position justification, job description, and department salary total will be presented at the next available Council work session.
4. A motion stating the request to fill the vacancy will be on the next Council meeting agenda following the Council work session.
5. Temporary staffing of a vacant position may be obtained upon approval by the City Council.
6. Temporary staffing is hereby authorized during an employee's extended leave of absence to include workers comp absences.

Council President Barnette requested that an ordinance be prepared for the next council meeting.

Mrs. Hinman stated that there were two requests to fill vacancies.

Chief Carpenter made a request to hire a patrol officer to replace the officer that filled the position of School Resource Officer who retired. He also requested to fill the vacant position of School Crossing Guard at Santa Rosa and Main Street.

Council discussed the requests.

Consensus of council was to put the two requests on the agenda for the next council meeting.

Margaret Thigpen, Civic Center Director, requested to fill a vacant position of Event Assistant, because the present Event Assistant has resigned. She stated that left her, her assistant, another Event Assistant is out on medical leave and John Williams, who is still recovering from a bad break.

Some of the council was not in favor of this request.

Mrs. Thigpen mentioned to council that she has to have enough employees to cover events at the Bay Front and Civic Center events, and if not she will have to limit events at the Civic Center.

Council President Barnette asked that this request be on the next council agenda.

4. BP GRANT STATUS AND PROPOSED REALLOCATION OF FUNDS

Council asked questions of Chip Martin regarding the grant funds.

The city has received \$965,000 (*\$500,000 and \$465,000*) in grant funds from the state. \$420,263.47 has been spent. The \$465,000 additional funds have not been officially authorized by council. There are pending purchases of \$120,500 waiting for authorization by council.

**JANUARY 11, 2011
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

3

Council discussed the pending purchases.

Consensus of council was to first adopt an ordinance accepting the \$465,000, and have a separate resolution to authorize the purchase of the barricades. They want the other items included in the \$120,500 to come back to a work session for discussion.

Council discussed the reallocation requests.

Consensus of council is there are two different reallocation requests for different things that has been sent to the state, and they feel that sends a message to the state that the city's left hand does not know what the right hand is doing. They want to re-submit a council approved reallocation request.

5. ADJOURN

There being no further business to discuss the meeting adjourned at 9:24 p.m.

Respectfully submitted by,

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

Certification of Presiding Officer:

**Cathy S. Barnette,
Council President**

City of Daphne, Alabama

PROCLAMATION

MRS. MICKEY BOYKIN

WHEREAS, Mrs. Mickey Boykin has been a resident of the City of Daphne most of her life; and

WHEREAS, she has given many years of service to her community; and

WHEREAS, Mrs. Boykin served as president of the Old Methodist Museum from 2004 through December 2010; and

WHEREAS, Mrs. Boykin has worked tirelessly to accomplish the goals of the museum.

NOW, THEREFORE, BE IT RESOLVED THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA hereby proclaim their appreciation to Mrs. Mickey Boykin for her untiring efforts and personal dedication toward improving the quality of life for the citizens of the City of Daphne. We hope that her fine example will shine for all those who may follow in her footsteps.

Presented this 18th day of January 2011.

*Fred Small
Mayor*

ATTEST:

*David L. Cohen
City Clerk, MMC*

**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

CITY OF DAPHNE
FINANCE COMMITTEE MINUTES
January 10, 2011
4:00 P.M.

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 4:00 pm. Present were Chairman Derek Boulware, Councilman Ron Scott, Councilman Bailey Yelding, Finance Director Kim Briley, Senior Accountant Suz anne Henson, and Accountant Donna Page.

Finance Director Kim Briley left at 4:40 pm.

Also in attendance were Mayor Fred Small, Human Resources Director Vickie Hinman, Public Works Director Richard Johnson, Recreation Director David McKelroy, Revenue Officer Heather Gwynn, Fire Marshall Chip Martin, and Human Resources Payroll/Benefits Coordinator Sherree Hilburn.

II. PUBLIC PARTICIPATION

A. Self Insurance

1. Clint Jones with New York Life Ins. Co., John Lockard and Jim Williams of Lockard and Williams Insurance Services of Pascagoula, MS presented a proposal to administer the City's insurance if we decide to become self-insured. Mr. Williams noted that Lockard & Williams will waive their commission for the City the first year but there would be a \$1,000/month fee
2. Will Lyles and Clay Walden with Blue Cross Blue Shield discussed the advantages of self-insured such as more financial control, and the disadvantages such as losing our current retro rate credit of approximately \$900,000, which is used by BCBS to offset rate increases.

Written questions will be submitted to the insurance companies to be answered before making a decision between fully-insured and self-insured.

B. Daphne High School

The Mayor introduced Ms. Meredith Horton, Daphne High School Principal and Mr. Glenn Vickery, Head Football Coach, who asked that the City keep them in mind if reallocation of the BP funds is allowed. Ms. Horton discussed that the school needs their parking lot repaved, sprinklers for their theater that they cannot use because it doesn't meet fire code, cameras for security, and refurbishing of their athletic building that was built in 1995. Further discussion was made on the needs of the school and their recent academic and athletic accomplishments. The discussion continued that all reallocation requests must be approved by the State of Alabama and Council before expenditures could be made.

III. HUMAN RESOURCES BUSINESS

A. Update on Human Resource Department Activity

Ms. Vickie Hinman, Human Resources Director, presented the Human Resources activity update. There are currently four job openings: Recreation Program Coordinator; Police Officer (due to a retirement), Civic Center Sales Manager, and Civic Center Event Assistant (due to a resignation). Ms. Hinman also noted that a school crossing guard resigned today.

As of December 14th, 217 employees are accident and injury free and qualify for safety awards. The next Safety Committee meeting will be Wednesday, January 26, 2011, at 8:15 a.m.

Municipal Workers Compensation Fund for 2011 is estimated at \$262,376, which is an estimated decrease from 2010 of \$9,686.

Ms. Hinman distributed an employee turn-over report as of December 31 to the Committee members. Other projects include sexual harassment training for employees on January 20, 26 and February 1; fundamentals of personnel law training on February 24 and March 1 and 3; self insurance meetings; end of year reports in payroll and benefits; and preparing 2010 W-2s.

B. Personnel Request to fill Open Positions – Recreation Programs Coordinator

Mr. David McKelroy presented a request to fill the open Recreation Programs Coordinator position. It was discussed that this position was open before the hiring freeze, but was never filled. Ms. Briley noted that it is a budgeted position. It was noted that the Council will be discussing the procedure for filling vacancies during the hiring freeze at the work session scheduled for tomorrow, January 11, 2011. Mr. Yelding asked Mr. McKelroy to give additional information on what the duties of this position are and the need to fill the vacancy.

(Position requesting to be filled- position open before hiring freeze: Recreation Programs Coordinator – is a exempt position and annual salary is \$33,259 - \$36,159)

IV. ISSUES REQUIRING ACTION BY CITY COUNCIL

A. Appropriation Request

Lodging Tax / General Fund – Sports Complex Fence & Netting - \$6,350

Mr. McKelroy presented quotes to repair fencing (\$4,287.47) and netting (\$2,062.50) at Trione Sports Complex. It was discussed that this was caused by wind damage on December 11 and the City's insurance carrier has not responded as to whether it will be covered by insurance. Ms. Henson noted that it has been her experience that fencing is not always covered, and even if it is, the policy has a \$5,000 deductible. Mr. McKelroy stressed the safety concerns in replacing the fencing before softball tournaments begin on February 5. It was also discussed that eight bleachers were damaged in the wind storm, and no response from the insurance carrier has been received on replacing them either.

Motion by Mr. Scott to recommend Council adopt an ordinance appropriating \$6,350 to replace fencing and netting at Trione Sports Complex due to the emergency / safety concerns. Seconded by Mr. Yelding. Motion carried.

B. Prepaid Travel Request

David Cohen, City Clerk, Certification Training Institute for Municipal Clerks, Tuscaloosa, AL, January 25-28, 2011 - \$140

Motion by Mr. Yelding to recommend Council adopt a resolution approving prepaid travel for David Cohen, City Clerk, Certification Training Institute for Municipal Clerks, Tuscaloosa, AL, January 25-28, 2011. Seconded by Mr. Scott. Motion carried.

C. Bid

2011-H-TWO (2) 20 CUBIC YARD REAR LOADING REFUSE COLLECTION TRUCK

Nineteen bid invitations were sent out, with seven sealed bids received. Mr. Richard Johnson discussed that these trucks are needed for the recycling program to continue. He recommended the low bid from Ward International Trucks of Alabama, LLC for \$251,539.95 for two trucks be accepted for lease to own. Ms. Henson noted that interest rate quotes are currently being sought from several leasing companies and the purchase of the truck will be pending the approval of the lease terms by Council.

(Clarification of funding was requested by Finance Committee: Monies will be available due to the change in collection of Garbage Fees now being received as billed instead of after collections and an Ordinance to appropriate these funds will be needed).

Motion by Mr. Scott to recommend Council adopt a resolution awarding bid 2011-H-TWO (2) 20 CUBIC YARD REAR LOADING REFUSE COLLECTION TRUCKS to Ward International Trucks of Alabama LLC in the amount of \$251,539.55, for lease to own, pending receiving favorable lease information. Seconded by Mr. Yelding. Motion carried.

D. Discuss BP Oil Spill Report

The additional \$465,000 the City received for response to the Deepwater Horizon BP Oil Spill was discussed. Mayor Small noted that the City's grant with Alabama Emergency Management (AEMA) is \$965,000, received in two payments of \$500,000 and \$465,000. Mr. Chip Martin noted that requests to spend \$120,800 within the grant guidelines have been made, and are waiting on the Council's approval to spend the second payment of \$465,000.

Mr. Martin made application in September through Baldwin County EMC, who forwarded it through the State EMA to ADEM, to reallocate remaining funds of \$219,000, but approval has not been received.

The Committee members agreed to forward the ordinance for the \$465,000 Supplemental Funds: Deepwater Horizon BP Oil Spill to the full Council and ask that the rules be suspended on passing it.

Discussion was made on the Mayor's request for reallocations for the Daphne School improvements and that any request for reallocation requires State approval.

E. Authorize Additional \$2,000,000 Investment

Investing an additional \$2,000,000 in the City's long-term investment account with Raymond James was discussed. Mr. Scott noted that the account should be monitored closely to make sure the investments remain positive. Mr. Boulware noted that there is three-day liquidity on this account.

Motion by Mr. Scott to recommend Council adopt a resolution authorizing a \$2,000,000 additional investment in the City's long-term investment account with Raymond James due to the long-term nature of the investment. Seconded by Mr. Yelding. Motion carried.

V. CURRENT BUSINESS

A. Discuss Remote Computer Connections for City

It was discussed that after recent requests staff has been made aware that a City policy for remote computer connections is needed. State Code does not allow for the use of a City computer at home, but discussion continued that a recent Attorney General Opinion addressed the technological advances of this issue. It was decided that this resolution should go before the Buildings and Properties Committee for review.

B. Request Clarification: Hiring of Temporary Services for Temporary Vacancies

Ms. Henson noted that guidance from the Council is needed on filling temporary vacancies. They have previously been filled due to vacancies or through budgeted temporary service monies, but both these options have been cut from the budget.

C. Ordinance – Bonding Requirement

Mr. Scott stated it has been brought to his attention that the City is not following one of its own ordinance's requiring the bonding of certain Council members. The Mayor noted that there have previous occasions where employees could not be hired because they could not be bonded. It was discussed that further clarification has been requested from the City's attorney on this issue.

D. New Revenue Officer – Heather Gwynn

Ms. Henson introduced the new Revenue Officer, Ms. Heather Gwynn.

VI. FINANCIAL REPORTS

A. Treasurer's Report: December 31, 2010

The Treasurer's Report totaling \$21,279,886.60 was presented. It was noted that this includes the investment fund balance of \$2,867,617.79.

Motion by Mr. Scott to accept the Treasurer's Report as of December 31, 2010, in the amount of \$21,279,886.60. Seconded by Mr. Yelding. Motion carried.

B. Sales and Use Taxes: November 30, 2010

Sales and Use Tax Collected for November 2010	-	\$ 819,646
Sales and Use Tax Budgeted for November 2010	-	\$ <u>752,814</u>
Over Budget (for November)	-	\$ 66,832

YTD Budget Collections Variance – Over Budget - \$ 111,876

C. Lodging Tax Collections, November 30, 2010

The Lodging Tax Collections report shows \$48,302.23 collected for November 2010.

D. Report: New Business Licenses – December 2010

A report showing new businesses licensed and closed in the City for the month of December was presented.

E. Bills Paid Reports – December 2010

The December Bills Paid Report for FY 2010 was included in Packet #2 and the December Bills Paid Report for FY 2011 was included in Packet #2-A.

VII. ADJOURN

The meeting was adjourned at 5:50 p.m.

City of Daphne

Stop Loss Presentation

January 10, 2011

Lockard & Williams



INSURANCE SERVICES, P.A.

Lockard & Williams

INSURANCE SERVICES, P.A.

Lockard & Williams Insurance Services, P.A. was established in May of 1990 by John Lockard & Jim Williams. Together, they bring to the table over forty-seven years of insurance experience.

Lockard & Williams currently administers a variety of plans for self-funded clients in 6 states covering over 25,000 lives and paying claims in excess of 60 million dollars annually.

Lockard & Williams strives to provide state of the art technology and techniques to reduce current claims cost and future liabilities thereby insuring the financial integrity of the health plans that we administer. This along with the customer service to our clients has made us a successful match for any group.

L&W Services

- Fully insured medical and dental
 - local assistance with service issues
 - plan design consulting
 - enrollment and education
 - managed care networks

- Self-funded medical and dental
 - local administration
 - plan design consulting
 - enrollment and education
 - managed care networks
 - compliance

- COBRA/HIPAA Administration

- Consumer driven health plan
 - HSA – health savings account
 - HRA – health reimbursement account

- Section 125 administration (cafeteria plan)
 - premium only
 - medical reimbursement
 - dependent care reimbursement

- Life insurance
 - group plan
 - voluntary plan

- Disability insurance
 - group plan
 - voluntary plan

- Voluntary products
 - vision plan
 - cancer plan
 - accident plan
 - hospital supplement plan
 - dental plan
 - others available

- Consolidated billing

Account Team

- Blue Cross Blue Shield of Alabama
Will Lyles
Foley, AL
- Local Agent
Clint Jones
Daphne, AL
- Group Benefits Administrator
John Lockard/Jim Williams
Lockard & Williams Insurance Serv, P.A.
Pascagoula, MS

Reinsurance Rates

	<u>Option 1</u>		<u>Option 2</u>		<u>Option 3</u>
Specific Stop Loss Ded	\$35,000		\$35,000		\$35,000
Contract Type	12/12		12/12		12/12
<u>Fixed Cost:</u>					
Specific Premium:					
Single (80)	\$51.18		\$52.84		Pending
Family (147)	\$128.08		\$115.74		Pending
Aggregate Premium	\$4.48		\$4.57		Pending
Admin Fee (BCBS)	<u>\$42.05</u>		<u>\$42.05</u>		Pending
Total Monthly Fixed Cost					
Single	\$97.71		\$99.46		Pending
Family	\$174.61		\$162.36		Pending
Annual Fixed Cost	\$401,813.64		<u>\$381,884.64</u>		Pending
<u>Variable (Claims) Cost:</u>					
Aggregate Factors:	<u>Maximum</u>	<u>Expected</u>	<u>Maximum</u>	<u>Expected</u>	
Single	\$375.02	\$300.01	\$378.95	\$303.16	Pending
Family	\$939.14	\$751.31	\$985.28	\$788.22	Pending
Annual Variable Cost	\$2,016,662.16	\$1,613,320.44	<u>\$2,101,825.92</u>	\$1,681,453.68	Pending
<u>Fixed + Variable Cost:</u>					
Total Annual Cost	\$2,418,475.80	\$2,015,134.08	\$2,483,710.56	\$2,063,338.32	Pending

Note: Final Rates and any lasers will be determined upon submission of all claims data through 12/31/10.

Self Funded Premium

vs

Fully Insured

Self Funded

Monthly Premium:

	<u>Option 1</u>		<u>Option 2</u>		<u>Option 3</u>
	<u>Maximum</u>	<u>Expected</u>	<u>Maximum</u>	<u>Expected</u>	
Single (80)	\$472.73	\$397.72	\$478.41	\$402.62	Pending
Family (147)	\$1,113.75	\$925.92	\$1,147.64	\$950.58	Pending
Total Annual Cost	\$2,418,475.80	\$2,015,134.08	\$2,483,710.56	\$2,063,338.32	Pending

Fully Insured (BCBS)

Current Monthly Premium

Single (80)	\$412.94
Family (147)	\$1,018.81
Total Annual Cost	\$2,193,603.24

Direct Reimbursement

Option 2 & Option 3

Our Direct Reimbursement Program is available to your group at no cost. You will receive credits on your health billing for any amounts reimbursable under your reinsurance policy through ABLE Benefit Solutions. Your reinsurance carrier, with your authorization, will reimburse Blue Cross Blue Shield of Alabama for any claims over the specific deductible so that you are never out of pocket for any amount in excess of the specific deductible.

This is an exclusive arrangement with Blue Cross Blue Shield of Alabama in conjunction with ABLE Benefit Solutions.

Lockard & Williams Administrative Fees

Our fees for the City of Daphne also include the broker fee. The monthly fee will be \$1,000 (approximately \$4.40 per employee per month).

References

1. City of Pascagoula

Number of Employees	370
Locations Covered	MS
Group Contact	Bruce Knott Human Resources Director
Telephone Number	(228) 938-6611

2. Jackson County Board of Supervisors

Number of Employees	610
Locations Covered	MS
Group Contact	Alan Sudduth County Administrator
Telephone Number	(228) 769-3380

3. Graham Holding Company

Number of Employees	315
Locations Covered	AL
Group Contact	Shawn Blair Chief Financial Officer
Telephone Number	(251) 957-1606

Fred Small
Mayor

Vickie Hinman
Human Resources Director



Sherree Hilburn
Payroll and Benefits Coordinator

Michele Hanson
Human Resources Assistant

The Jubilee City

January 10, 2011

HUMAN RESOURCES DEPARTMENT ACTIVITY UPDATE

Job Openings	Apps Received	Status
Recreation Program Coord.		Open
Police Officer		Retirement - Open
Civic Center Sales Manager		Open
Event Assistant		Resignation-Open

Safety Committee:

As of December 14, 217 employees are accident and injury free and qualify for safety awards.

Next meeting will be Wednesday, January 26, 2011 at 8:15 a.m.

2011 estimated Municipal Workers Compensation Fund - \$262,376
An estimated decrease from 2010 plan year - \$9,686

Human Resources Department Projects:

Sexual Harassment Training – January 20, 26, Feb. 1
Fundamentals of Personnel Law Training – Feb. 24, March 1, March 3
Self Insured meetings, references
End of year reports in payroll and benefits
W-2's – January 31

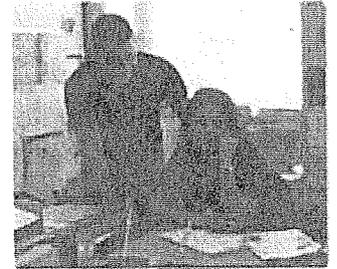
Human Resources Department
P.O. Box 400 Daphne, Alabama 36526
Phone: (251) 621-3075³⁷ Fax: (251) 621-4506

MANDATORY SEXUAL HARASSMENT TRAINING

What Supervisors need to know!

Training Objectives:

- Understand legal and policy requirements
- Recognize what constitutes harassment
- Handle complaints effectively
- Participate in investigations
- Take appropriate corrective action
- Maintain a productive work environment



Training Date and Schedule

All Supervisors

Thursday, January 20 9:00 a.m.

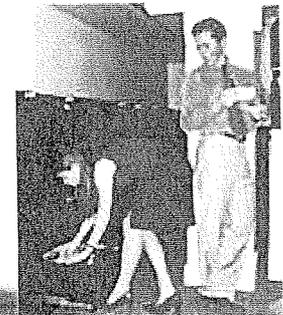
or

Wednesday, January 26 1:30 p.m.

Location: City Hall—Council Chambers

Length: 2 hours

*Supervisors must choose one of the training sessions to attend. Please contact HR by January 10th with a schedule of attendees for each department. Thank you!

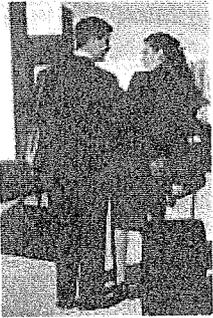


MANDATORY SEXUAL HARASSMENT TRAINING

What employees need to know!

Training Objectives:

- Recognize sexual harassment
- Differentiate between the 2 main kinds of harassment
- Understand and follow City policy
- Report incidents and cooperate in investigations
- Help promote and maintain a comfortable, productive work environment

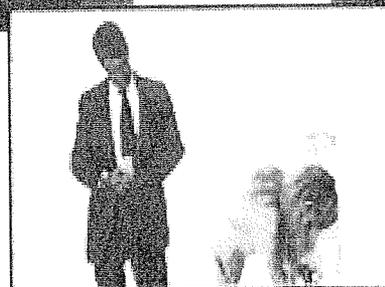
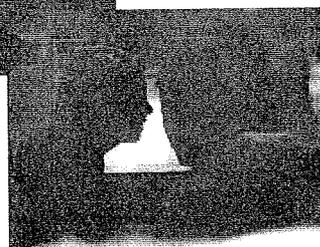
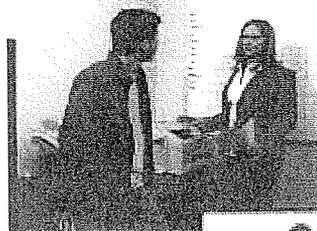


Training Dates and Schedule

Thursday January 20 1:30 p.m.
Wednesday January 26 9:00 a.m.
Tuesday February 1 10:30 or 3:30 p.m.

Location: City Hall Council Chambers
Length: 2 hours
Maximum Class Size: 50

***Employees must attend one of the sessions listed. Please contact Human Resources by January 10th with a schedule of attendees for each department.
Thank you!**





Municipal Workers Compensation Fund, Inc.
 P.O. Box 1270
 Montgomery, AL 36102

Revised Estimated Contribution Billing

Name Of Insured:
 City Of Daphne
 P O Box 400
 Daphne, AL 36526

Policy Effective Date	2/1/2011
Policy Terminate Date	1/31/2012
Policy Number	001-2011-00013-000
Risk ID	014001220
Printed	12/27/2010 at 11:12 AM
DUE UPON RECEIPT	AM
TOTAL AMOUNT DUE	\$ 262,376.00

Rate Code	Payroll Description	Rate	Basis	Payroll	Manual Premium
0042 AL	Landscape gardening & drivers	6.24 %	Payroll	264,427	\$ 16,500.00
7710 AL	Firefighters and drivers	5.50 %	Payroll	1,802,156	\$ 99,119.00
7711 AL	Volunteer Firefighters	\$ 125.00	Each	32	\$ 4,000.00
7720 AL	Police officers & drivers	5.71 %	Payroll	2,613,067	\$ 149,206.00
8380 AL	Auto Repair Shop	6.72 %	Payroll	250,405	\$ 16,827.00
8810 AL	Clerical office employees NOC	.38 %	Payroll	2,163,622	\$ 8,222.00
8831 AL	Animal Control	2.71 %	Payroll	97,509	\$ 2,642.00
8835 AL	Senior Citizens Program	5.30 %	Payroll	32,521	\$ 1,724.00
9015 AL	Building Maintenance and Janitor	6.43 %	Payroll	221,689	\$ 14,255.00
9101 AL	Library Workers	3.82 %	Payroll	308,777	\$ 11,795.00
9102 AL	Park NOC-all employees & drivers	5.96 %	Payroll	655,575	\$ 39,072.00
9402 AL	Street cleaning & drivers	11.86 %	Payroll	692,638	\$ 82,147.00
9403 AL	Garbage Collection	15.02 %	Payroll	599,885	\$ 90,103.00
9410 AL	Building Inspection and Code Enforcement	3.15 %	Payroll	255,780	\$ 8,057.00
Subcontractors					
6229 AL	Irrigation or drainage system construction & drivers	7.80 %	Payroll	97,183	\$ 7,580.00
8810 AL	Clerical office employees NOC	.38 %	Payroll	1,973	\$ 7.00
9102 AL	Park NOC-all employees & drivers	5.96 %	Payroll	105,985	\$ 6,317.00
Total				10,163,224	\$ 557,573.00

Premium Factors	Factor	Amount	Premium
Experience Modifier	.77		\$ 429,332.00
Safety Discount	3.00 %	\$ -12,880.00	
Drug Free	3.00 %	\$ -12,880.00	
Scheduled Discount	20.00 %	\$ -85,866.00	
Medical Protocol	4.00 %	\$ -17,173.00	
Volume Discount	4.60 %	\$ -19,749.00	
Payments and Adjustments			\$ -18,406.00
Annual Premium			\$ 280,782.00
Total			\$ 262,376.00

Make Check Payable and Remit to:
 Municipal Workers Compensation Fund, Inc., P.O. Box 1270, Montgomery, AL 36102

Total Now Due: \$ 262,376.00

*Estimated in year 2010
 \$ 272,062.00
 estimated decrease of \$ 9,686.00 for this yr.*

MILLENNIUM RISK MANAGERS

P.O. Box 43769 • Birmingham, AL 35243 • (205) 824-0210 • Fax (205) 824-0240

COPY

TO: Members of the Municipal Workers Compensation Fund, Inc.
DATE: December 17, 2010
RE: Workers Compensation Estimated Billing 02/01/11 through 1/31/12

Dear Member:

On behalf of the Municipal Workers Compensation Fund, Inc. please find enclosed your 2011 Estimated Annual Billing for the period 2/1/11 through 1/31/12.

This Estimated Billing was computed using your 2009 audited payrolls, multiplied by the 2011 Payroll Class Code Rates, multiplied by your 2011 Experience Modification Rating, less any applicable discounts.

If any changes should be made to any class codes or payroll amounts, please let us know as soon as possible so that we may send you a revised billing.

The premiums for the estimated billing are due in full by February 1, 2011 and payments should be made to:
Municipal Workers Compensation Fund, Inc.
Post Office Box 1270
Montgomery, Alabama 36102

Your coverage for the 2011 Fund Year is as follows:

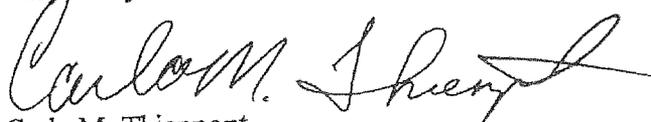
Part A – Workers Compensation Benefits are statutory
(mandated by State Laws of Alabama).

Part B – Employers Liability - \$500,000 per occurrence, no aggregate.
(The Fund will pay a maximum total of \$500,000 for each occurrence per Fund Year).

We would also like to reiterate the type of volunteer employment coverage that the Fund offers to its members. The Fund currently covers volunteer firefighters, rescue squad workers, and police officers. This is an optional coverage for these volunteer workers and we must be notified as soon as possible that coverage is desired. The coverage includes medical benefits, which are paid by the Fund and limited disability benefits, which are paid by Provident Life and Accident Insurance Company. We also require that each member that opts for this coverage to continually update approved rosters at the council meetings when any changes are made. These rosters will be requested by our office in the event a claim is filed. Volunteer firefighters, rescue squads and police officers are the only volunteer employees covered by this Fund.

If you have any questions regarding the above information, please do not hesitate to contact us at 1-888-736-0210.

Very Truly Yours,



Carla M. Thienpont
Vice President of Operations

Fred Small
Mayor
David McKelroy
Parks & Recreation
Director



The Jubilee City

Approved For Finance Comm. Agenda

Signature

Date

Chris Bradford
Parks Maintenance Supervisor

Mary Jensen
Seniors Program Coordinator

Recreation Programs Coordinator

Charlie McDavid
Athletic Coordinator

TO: Finance Committee
FROM: David McKelroy, Parks & Recreation Director *wbm*
DATE: January 6, 2011
RE: Open Position – Recreation Programs Coordinator

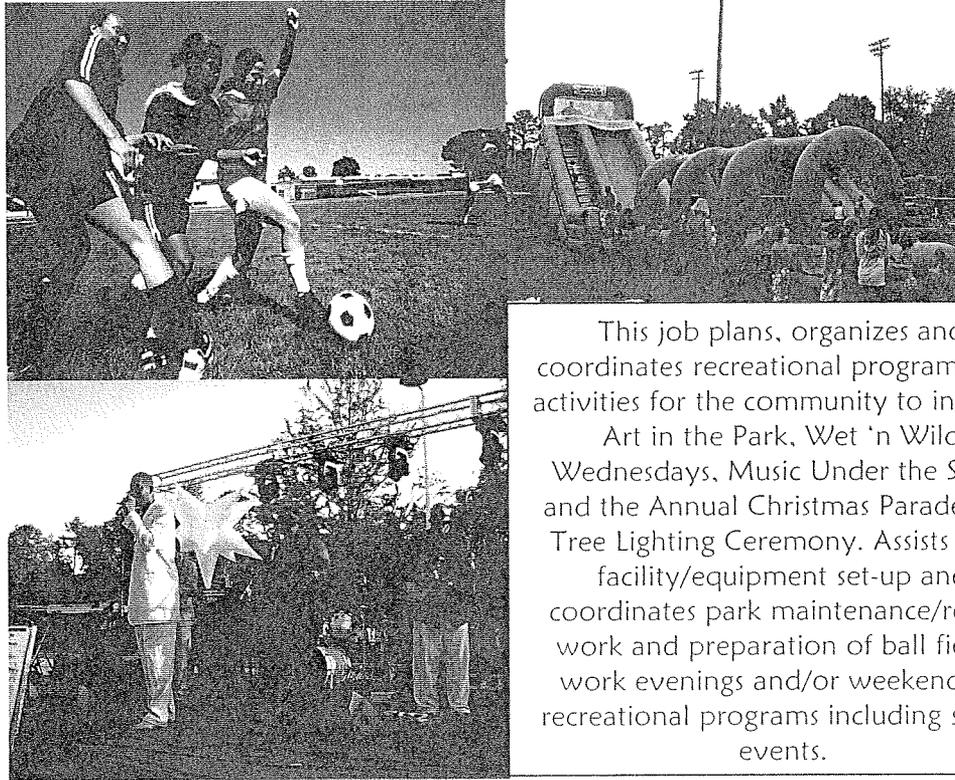
I would like to request that I be allowed to fill the position of Recreation Programs Coordinator. This position is responsible for coordinating all community events, special events and facility / instructor activities.

In FY2010, the Recreation Department was not allowed to rehire the Assistant Athletic Coordinator, a full time hourly employee. These hours were assumed by the Athletic Coordinator, the Director and Administrative Assistant. Currently, the average weekly hours worked by the Director are 52, the Athletic Coordinator is 47 and the Senior Coordinator is 44. The loss of another employee and directing additional work load to the existing staff would seriously hinder the effectiveness of the department in the areas of community and special events as well as in the areas of their responsibilities.

With the expansion of Trione Sports Complex, the additional demand on this facility and the loss of the athletic assistant, this position would also be ask to assist with some athletic activities.

It is the Parks and Recreation Department goal to continue to provide quality programs and facilities to its citizens as well as its visitors.

December 7, 2010
City of Daphne
JOB ANNOUNCEMENT
Recreation Programs Coordinator
\$33,259-\$36,158



This job plans, organizes and coordinates recreational programs and activities for the community to include: Art in the Park, Wet 'n Wild Wednesdays, Music Under the Stars, and the Annual Christmas Parade and Tree Lighting Ceremony. Assists with facility/equipment set-up and coordinates park maintenance/repair work and preparation of ball fields; work evenings and/or weekends at recreational programs including sports events.

To qualify, applicants must have a:

- Bachelor's degree in Recreation Administration or closely related field
- One (1) to two (2) years previous experience and/or training involving recreation programming, youth/senior program coordination, event coordination, public/senior interaction, public relations, personal computer operations, and supervision
- Or any equivalent combination of education, training, and experience which provides the requisite knowledge, skills and abilities for this job.
- Must possess and maintain a valid Alabama Driver's License

Applications and a job description may be picked up at Daphne City Hall, Monday through Friday, 8:00 a.m. - 5:00 p.m., or by downloading one from our website at www.daphneal.com/hr, and returned no later than 5:00 p.m., December 21, 2010. The City of Daphne is a drug free workplace and all applicants will be subject to drug/alcohol testing.

THE CITY OF DAPHNE IS AN EQUAL EMPLOYMENT OPPORTUNITY
EMPLOYER

Fred Small
Mayor
David McKelroy
Parks & Recreation
Director



Chris Bradford
Parks Maintenance Supervisor

Mary Jensen
Seniors Program Coordinator

Recreation Programs Coordinator

Charlie McDavid
Athletic Coordinator

TO: Finance Committee
FROM: David McKelroy, Parks & Recreation Director *wjm*
DATE: January 7, 2011
RE: Funds – Trione Sports Complex – Wind Damage

As you are aware, Trione Sports Complex suffered significant wind damage on December 11th. Damage to the Softball Fields fencing has been quoted by Hagan Fence of Baldwin County at \$4287.47. As per the Finance Department the deductible for this damage is \$5000.00. Safety netting on three fields was damaged and needs to be replaced. The netting keeps foul balls from injuring spectators on the nearby fields. New netting has been quoted at \$ 2062.50.

I request an appropriation for the \$6349.97 to repair the fencing and netting. Trione Sports Complex has softball tournaments schedule starting February 5 and practices for city sponsored softball and baseball starting February 8.

HAGAN FENCE OF BALDWIN COUNTY
 24446 HIGHWAY 59 NORTH
 ROBERTSDALE, AL 36567
 251 947 4143

Quote No.: 10763
 Date: 12/14/10

Page: 1

Quoted To: CITY OF DAPHNE P.O. BOX 400 DAPHNE, AL 36526	Customer No: 117 Phone No: (251) 680-5521
---	--

Salesperson: # 8- SCOTT

Product Code	Description	Qty	Unit Price	Amount	T
100	FEILD # 1	1	0.00	0.00	T
17878	PIPE - 1 7/8 X SS 40 X 8'	12	17.20	206.40	T
6816	TIE WIRE - 9 GA TIE 8 1/4"	2	5.031	10.06	T
851	CEMENT - PAKMIX	8	3.69	29.52	T
100	LABOR	1	750.00	750.00	T
100	FEILD # 2	1	0.00	0.00	T
100	RESET	1	500.00	500.00	T
	18 POST				
6816	TIE WIRE - 9 GA TIE 8 1/4"	2	5.031	10.06	T
851	CEMENT - PAKMIX	12	3.69	44.28	T
100	FEILD # 3	1	0.00	0.00	T
17878	PIPE - 1 7/8 X SS 40 X 8'	13	17.20	223.60	T
851	CEMENT - PAKMIX	8	3.69	29.52	T
6816	TIE WIRE - 9 GA TIE 8 1/4"	2	5.031	10.06	T
100	LABOR	1	750.00	750.00	T
100	FEILD # 4	1	0.00	0.00	T
996	CHAIN LINK 2 X 9 X 96	5	4.59	22.95	T
17878	PIPE - 1 7/8 X SS 40 X 8'	6	19.95	119.70	T
100	RESET 14 POST	1	0.00	0.00	T
6816	TIE WIRE - 9 GA TIE 8 1/4"	3	6.215	18.65	T
851	CEMENT - PAKMIX	20	3.89	77.80	T
178721	PIPE - 1 7/8 X SS 40 X 21' 6 CUT AT 10'6"	63	2.49	156.87	T
158824	PIPE - 1 5/8 X SCH 40 X 24'	30	2.60	78.00	T
100	RELIN 6 POST	1	250.00	250.00	T
100	LABOR	1	1000.00	1000.00	T

Total Weight: 7907.74

Sub-Total: 4287.47

Shipping: 0.00

Tax [0]: EXEMPT *

Quote Total: 4287.47



Quotation	
Document Number	: 20330498
P.O. Number	: netting
Doc. Creation Date	: 12/29/2010
Customer Number	: 1049997
Sales Rep	: Cole Blumenfeld

—
—
—

P.O. Box 7726
 Dallas, TX 75209
 TEL: 1-800-527-7510
 FAX: 1-800-899-0149

Sold To: CITY OF DAPHNE
 PO Box 400
 DAPHNE AL 36526-0400

This is NOT a Bill - DO NOT PAY.

Ship To: CITY OF DAPHNE
 PO Box 400
 DAPHNE AL 36526-0400

Payer: CITY OF DAPHNE
 PO Box 400
 DAPHNE AL 36526-0400

Check your quote at www.bsnsports.com/?&zip=36526-0400&ProgramID=20330498

We deliver according to the following terms and conditions:
 Terms of payment: Net 30

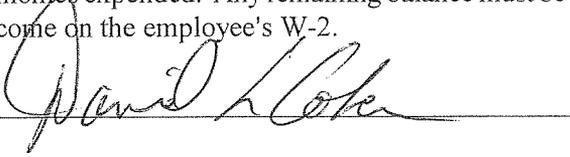
Item	Material Description	Delivery Dt(s)	SKU	Del Qty	Order Qty	Unit Price Program ID	Extended Price
10	1188059 #600 HTPP Net Black w/Rope Border 25 x 125	02/03/2011	8059BKRDS		3,125.000 FT2	0.660 Bid 3062995	2,062.50

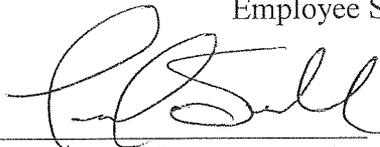
MDSE Total	\$	2,062.50
Shipping & Handling	\$	0.00
Sales Tax	\$	0.00
Final Amount	\$	2,062.50

PREPAID TRAVEL REQUEST FORM

EMPLOYEE NAME/TITLE	DAVID L. COHEN
DEPARTMENT	LEGISLATIVE
DATES OF TRAVEL	JANUARY 25-28, 2011
SCHOOL/ORGANIZATION	CERTIFICATION TRAINING INSTITUTE FOR MUNICIPAL CLERKS
LOCATION FOR TRAINING: CITY/STATE	TUSCALOOSA, AL
REGISTRATION FEE	\$245.00
LODGING	\$345.00
TOTAL ADVANCE REQUESTED (\$35 x # OF DAYS)	\$140.00

A complete Expenses Report with itemized receipts must be submitted upon return. The employee understands that proper itemized receipts must be submitted for all monies expended. Any remaining balance must be reimbursed to the City or this amount will be included as taxable income on the employee's W-2.

Employee Signature 


8069
120200 / 52211 /

 Department Head Approval Vendor # Dept Org # Object # Proj #

***PREPAID TRAVEL IS APPROVED BY THE FINANCE COMMITTEE THEN COUNCIL -PLEASE SUBMIT IN TIME TO ALLOW SUFFICIENT TIME FOR THESE APPROVALS.**

***ATTACH A COPY OF THE BROCHURE/REGISTRATION FORM FOR TRAINING EVENT ATTENDING - THE ATTACHED COPY SHOULD DISPLAY PURPOSE, DATES, AND COST OF TRAINING EVENT.**

Revised 3/06



THE UNIVERSITY OF
ALABAMA
CONTINUING STUDIES



**Certification Training Institute for Municipal Clerks and Administrators &
Master Municipal Clerk Academy
January 26-28, 2011, Tuscaloosa, AL**

Sponsored by
The University of Alabama

Program Description

Although the job responsibilities of Municipal Clerks vary, there is a common thread that weaves this family of professionals together. The Certified Municipal Clerk (CMC) & Master Municipal Clerk Academy (MMCA) Programs are designed to inform Municipal Clerks of their expanding responsibilities, shared experiences and improved work procedures. This program offers solutions to common problems and helps Municipal Clerks extend their critical professional capacities at all levels of government.

The CMC Program - The first CMC Program was offered in 1969 to recognize those Municipal Clerks who had achieved basic levels of professional competency. The CMC award is granted after an applicant has met specific requirements in education, experience and professional participation. The CMC Program is available only to Municipal and Deputy Clerks who have been active members of the International Institute of Municipal Clerks (IIMC) for two years. Approximately one in two active IIMC members holds the CMC designation. Continued IIMC membership is required to retain CMC and recertified CMC status.

The MMCA Program - To assure continued excellence and personal growth, today's Municipal Clerks must embrace ongoing educational opportunities, and active involvement in their profession and society. The MMCA program offers continuing advanced education programs for Clerks, and recognizes high-level achievements beyond attainment of the CMC designation.

Program Dates & Time

January 26, 2011 (8:15 a.m.) thru January 28, 2011 (12:00 p.m.)

Location

Bryant Conference Center, Tuscaloosa, Alabama

Fee

\$235/person

Who Should Attend

All municipal clerks from large cities to small towns are encouraged to attend.

John G. Burton Endowment Scholarships

Scholarships are being offered to Certification Training Institute applicants only. Applicants must be full-time city clerks or assistant city clerks in an Alabama Municipality. Criteria include, but are not limited to, financial need and if the applicant will be a first-time participant. Participants already enrolled in the program are eligible if they demonstrate strong financial need. Four scholarships in the amount of \$600 each are available. Scholarship monies must be used for the registration fee and associated travel costs.

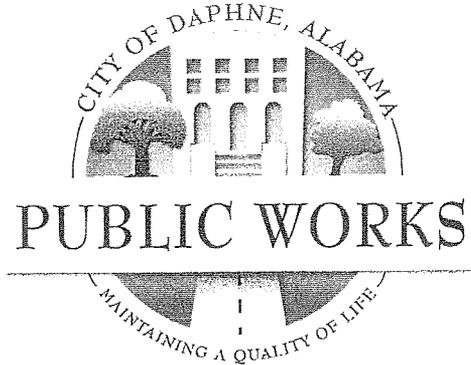
To receive a scholarship application form, contact Tommy Pow at tpow@ccs.ua.edu or (205) 348-6222.

Fred Small
Mayor

David Cohen
City Clerk

Kimberly Briley
Finance Director/Treasurer

Richard D. Johnson, P.E.
Director of Public Works



Bailey Yelding, Jr.
District 1

Cathy Barnette
District 2

John L. Lake
District 3

Kelly Reese
District 4

Ronald Scott
District 5

Derek Boulware
District 6

August Palumbo
District 7

To: Richard D. Johnson, P.E.
Public Works Director

From: Melvin McCarley 
Public Works Superintendent

Date: January 7, 2011

Re: 2011-H-TWO (2) 20 CUBIC YARD REAR LOADING REFUSE COLLECTION
TRUCK

The Finance Department and Public Works sent out requests for bids for two (2) 20 Cubic Yard Rear Loading Refuse Collection Trucks. Seven bids were received with Ward International Trucks of Alabama, LLC being the low bidder. The bid amount was \$251,539.55 for two (2) trucks and \$125,169.77 for one (1) truck.

I therefore recommend that we award the City of Daphne BID 2011-H-Two (2) 20 Cubic Yard Rear Loading Refuse Collection Trucks to Ward International Trucks of Alabama, LLC.

Please contact me should you have any questions regarding this bid award.

MPM:swc

CITY OF DAPHNE
 BID MINUTES SHEET

BID DOCUMENT NO: 2011-H-TWO (2) 20 CUBIC YARD REAR LOADING REFUSE COLLECTION TRUCK
 1/4/2011

PRESENT WERE:
 RICHARD JOHNSON PW DIRECTOR
 SUZANNE HENSON SENIOR ACCOUNTOUNT
 MELVIN MCCARLEY PW SUPERINTENDENT
 BUCK CONAWAY SW SUPERVISOR
 DUKE CRUTCHFIELD MECHANICAL SUPERVISOR
 19 INVITATIONS TO BID WERE MAILED, PICKED-UP, E-MAILED OR FAXED, 7 SEALED BIDS WERE RECEIVED.

THE PRESENTED BIDS WERE OPENED AND THE BIDS WERE READ ALOUD AS FOLLOWS:

CONTRACTOR NAME	TRUCK TYPE	BID AMOUNT	
		TWO (2) TRUCKS	ONE (1) TRUCK
Ingram Equipment Company, LLC	Kenworth / Heil	(2) \$ 264,264.00	\$ 132,132.00
Rush Truck Center, Mobile	Phoenix/Peterbuilt/Wayne	(2) \$ 263,776.00	\$ 131,888.00
Rush Truck Center, Mobile	Peterbuilt / Heil Body	(2) \$ 278,410.00	\$ 139,205.00
Empire Truck Sales, LLC	Freightliner/Heil Body	(2) \$ 255,393.52	\$ 127,696.76
Empire Truck Sales, LLC	Freightliner/Wayne Body	(2) \$ 240,759.52	\$ 120,379.76
Ward International Trucks of Alabama, LLC	International / Heil Body	(2) \$ 251,539.55	\$ 125,169.77
Ward International Trucks of Alabama, LLC	International/Wayne Body	(2) \$ 236,905.54	\$ 118,452.77
Gulf Coast Truck Equipment, Inc.		No Bid	

CITY OF DAPHNE

CHECK REQUEST

Payroll Wash

RECEIVED
JAN 03 2011

- | | | | |
|--|---|---|---|
| <input checked="" type="checkbox"/> 1000 GENERAL | <input type="checkbox"/> 4100 4 CENT GAS TAX | <input type="checkbox"/> 5100 97 CONSTRUCTION | <input type="checkbox"/> 5450 2006 CONSTRUCTION |
| <input type="checkbox"/> 2000 DEBT | <input type="checkbox"/> 4150 7 CENT GAS TAX | <input type="checkbox"/> 5110 CDBG | <input type="checkbox"/> 7000 GARBAGE/RECYCLING |
| <input type="checkbox"/> 2010 2006 SPECIAL TX WARR | <input type="checkbox"/> 4300 SAIL SITE | <input type="checkbox"/> 5300 99 CONSTRUCTION | <input type="checkbox"/> 7200 CIVIC CENTER |
| <input type="checkbox"/> 3000 COURT | <input type="checkbox"/> 5000 CAPITAL RESERVE | <input type="checkbox"/> 5350 2000 CONSTRUCTION | <input type="checkbox"/> 7250 BAY FRONT |
| <input type="checkbox"/> 3200 CONFISCATED FUNDS | | | |

Vendor Number 2681

Vendor Name CLARK TEMPORARY
(SEE BELOW IF NEW VENDOR)

Department PUBLIC WORKS

Date December 29, 2010

Requested by: DMPENRY

DEPT ORG#	OBJECT #	PROJECT #	INVOICE #	AMOUNT \$
<u>165000</u>	<u>53420</u>		<u>28,451</u>	<u>489.60</u>
DATE NEEDED <u>CHECK RUN</u>			TOTAL OF CHECK	\$ <u>489.60</u>

PURPOSE OF CHECK: TEMPORARY EMPLOYEE FOR GROUNDS- COX ON STD

APPROVED/DISAPPROVED: YES NO

FINANCE DIRECTOR/MAYOR: _____

NEW VENDORS ONLY: REMIT ADDRESS: _____

FED ID # _____

INCORPORATED:
Yes
No

PHONE: _____
FAX: _____

COMMENTS: _____

Fund Number 100
To be completed by A/P

ENTERED
JAN 03 2011

ORDINANCE 2011-
State of Alabama
\$ 465,000 Supplemental Funds: Deepwater Horizon BP Oil Spill

WHEREAS, the Mayor of the City of Daphne did heretofore request funds (in addition to the previously received \$ 500,000) for preventative measures in response to the Deepwater Horizon BP Oil Spill incident pursuant to a June 14, 2010 motion by the Daphne City Council; and

WHEREAS, thereafter, a supplemental grant agreement was executed and the City of Daphne did receive an additional payment in the amount of \$ 465,000 from the State of Alabama on July 7, 2010; and

WHEREAS, the approved additional funding request stipulated the use of the funds was to be for contracted services, response equipment, and supplies; and

WHEREAS, as of August 10, 2010, the BP Oil Spill incident was removed from emergency status by Baldwin County officials and the City of Daphne accepted the same date for the cessation of its emergency response; and

WHEREAS, since such time, the Alabama Emergency Management Agency has, on a case by case basis, authorized the use of any remaining funds for the purpose of preparing and equipping agencies to better respond to disaster and emergency events.

NOW, THEREFORE, BE IT ORDAINED that:

- 1) The City of Daphne does hereby accept additional funds from the Alabama Emergency Management Agency (AEMA) in the amount of \$ 465,000 for the purpose of preparing and equipping Public Safety and Public Works to better respond to future disaster and emergency events; AND
- 2) The following budget as heretofore submitted to the AEMA in the grant application is hereby adopted:

100,000	Absorbent Boom
90,000	Containment Boom
25,000	Response Vehicle
250,000	Skimming

AND

- 3) Any proposed use of funds that is not classified above shall be approved by the Daphne City Council and then forwarded to the State of Alabama for approval and reallocation.

Approved and adopted on this the ____ day of _____, 2011.

Cathy Barnette, Council President

ATTEST:

Fred Small, Mayor

David L. Cohen, City Clerk

Resolution 2011-

Raymond James: \$ 2,000,000 Additional Investment

WHEREAS, the City of Daphne did heretofore by Resolution 2010-105 authorize the investment of funds in the approximate amount of \$ 2,900,000 for the purpose of long-term capital growth; and

WHEREAS, the General Fund has accumulated additional funds that are not required for the day-to-day operations of the City and such funds can earn a higher interest rate by investing in governmental obligations; and

WHEREAS, section 11-81-21 of the Code of Alabama authorizes and legislates the types of obligations municipalities may invest in; and

WHEREAS, the City of Daphne did heretofore appoint Raymond James & Associates to serve as Investment Manager, and thereby invest City of Daphne funds in governmental securities in accord with the Code of Alabama.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Daphne, Alabama, that the Mayor and Finance Director are hereby authorized to take the steps necessary to invest an additional \$ 2,000,000 in the Raymond James Investment Account.

APPROVED AND ADOPTED by the City Council of the City of Daphne this _____ day of _____, 2011.

Cathy Barnette, Council President
Date & Time Signed: _____

Fred Small, Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen
City Clerk

TREASURER'S REPORT

As of December 31, 2010

TO: FINANCE COMMITTEE

FROM: KIMBERLY BRILEY, FINANCE DIRECTOR/TREASURER

<u>ACCT TITLE</u>	<u>BANK</u>	<u>BALANCE</u>
GENERAL FUND & ENTERPRISE FUNDS		
MMA ACCT	COMPASS	\$11,207,392.12
OPERATING ACCT	COMPASS	(\$167,838.15)
PAYROLL ACCT	COMPASS	(\$3,606.65)
		<u>\$11,035,947.32</u>
INVESTMENT FUND	RAYMOND JAMES (Initial investment 2,828,875.15)	\$2,867,617.79
AGENCY FUNDS		
MUNICIPAL COURT	COMPASS	\$312,542.11
SPECIAL REVENUE FUNDS		
SAIL SITE	RBC BANK	\$7,401.47
4 CENT GAS TAX	RBC BANK	\$317,525.66
7 CENT GAS TAX	RBC BANK	\$264,501.52
		<u>\$589,428.65</u>
CAPITAL PROJECT FUNDS		
CAPITAL RESERVE	WACHOVIA	\$2,407,330.60
2006 CONSTRUCTION	WACHOVIA	\$926,344.57
		<u>\$3,333,675.17</u>
DEBT SERVICE FUNDS		
DEBT SERVICE	WACHOVIA	\$2,144,977.50
2006 DEBT SERVICE	RBC BANK	\$995,698.06
		<u>\$3,140,675.56</u>
		<u>\$21,279,886.60</u>

* Note
Investment update

SALES & USE TAXES

ACTUAL COLLECTIONS

	2004	2005	2006	2007	2008	2009	2010	2011	Actual-2011	Budget	Monthly Variance	YTD Variance	% of Budget
October	697,830.58	833,700.71	932,634.66	944,542.36	867,190.18	806,503.85	764,641.13	800,512.03	800,512.03	755,468	45,044.03	45,044.03	5.96%
November	710,788.74	814,666.03	901,512.38	918,837.95	915,890.97	801,075.91	761,955.37	819,646.07	819,646.07	752,814	66,832.07	66,832.07	8.88%
December	941,151.87	1,091,073.78	1,168,443.68	1,182,584.39	1,120,005.09	1,078,330.45	1,004,037.20	-	-	991,992	-	111,876.10	0.00%
January	697,083.68	771,837.83	887,468.11	914,876.33	822,020.87	755,541.41	723,504.28	-	-	714,825	-	111,876.10	0.00%
February	688,421.54	788,825.08	878,123.66	877,975.60	865,625.83	748,620.87	733,335.60	-	-	724,538	-	111,876.10	0.00%
March	848,156.86	917,832.17	1,081,774.83	1,071,598.38	998,616.04	863,535.78	916,657.55	-	-	905,661	-	111,876.10	0.00%
April	752,039.55	863,144.81	968,760.72	960,140.54	963,691.85	823,173.33	809,588.73	-	-	799,876	-	111,876.10	0.00%
May	757,610.49	867,445.44	1,000,424.48	1,021,498.14	957,167.20	829,099.81	862,254.54	-	-	851,910	-	111,876.10	0.00%
June	818,209.20	982,863.46	1,024,091.07	1,066,433.92	997,274.15	868,309.52	887,262.68	-	-	876,618	-	111,876.10	0.00%
July	803,051.14	909,576.13	941,407.68	993,216.66	886,690.34	808,113.93	839,192.33	-	-	829,125	-	111,876.10	0.00%
August	745,320.33	869,818.11	950,539.01	954,421.57	964,626.26	831,984.35	790,713.80	-	-	781,228	-	111,876.10	0.00%
September	830,260.80	998,476.08	967,616.16	965,107.35	918,551.15	825,257.74	841,035.40	-	-	830,946	-	111,876.10	0.00%
Totals	9,289,924.78	10,708,260.63	11,702,796.44	11,871,233.19	11,279,349.93	10,039,546.95	9,934,178.61	1,620,158.10	1,620,158.10	9,815,001	111,876.10	111,876.10	0.00%

FY 2011 BUDGET/ACTUAL COMPARISONS

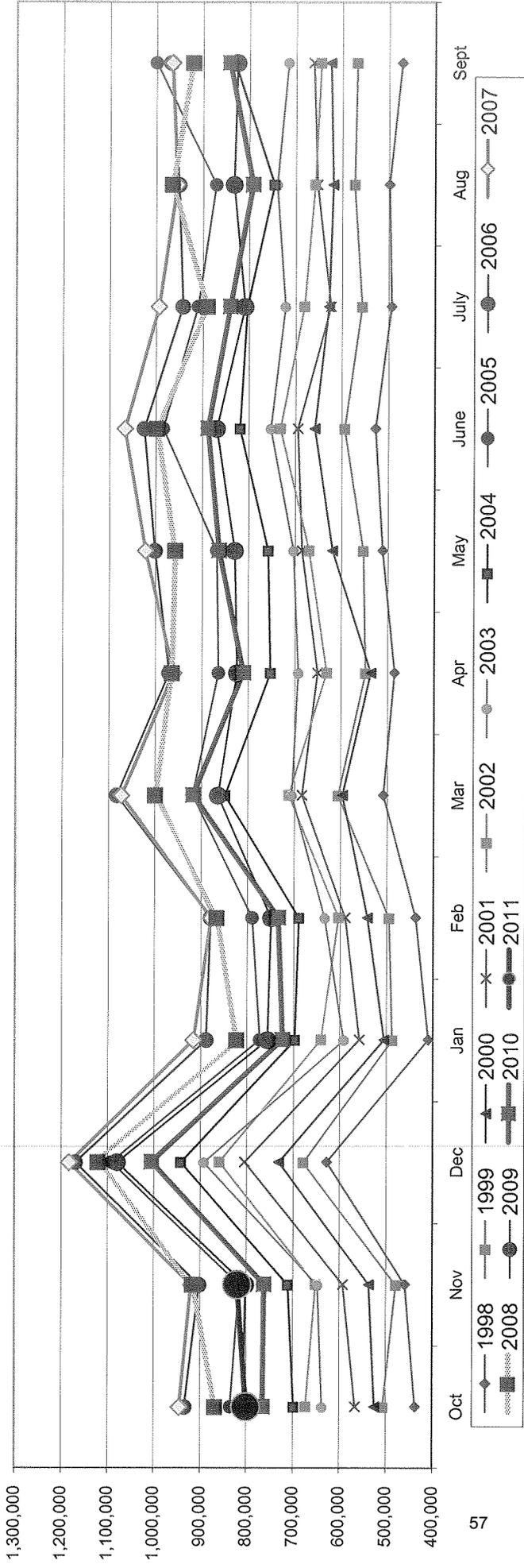
FISCAL YEAR COMPARISONS

	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	Percent Change	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011
October	135,870.13	98,933.95	11,907.70	(77,352.18)	(60,686.33)	(41,862.72)	35,870.90	11.87%	1.28%	-8.19%	-7.00%	-5.19%	4.69%
November	103,877.29	86,846.35	17,325.57	(2,946.98)	(114,815.06)	(39,120.54)	57,690.70	10.66%	1.92%	-0.32%	-12.54%	-4.88%	7.57%
December	149,921.91	77,369.90	14,140.71	(62,579.30)	(41,674.64)	(74,293.25)	-	7.09%	1.21%	-5.29%	-3.72%	-6.89%	0.00%
January	74,754.15	115,630.28	27,408.22	(92,855.46)	(66,479.46)	(32,037.13)	-	14.98%	3.09%	-10.15%	-8.09%	-4.24%	0.00%
February	100,403.54	89,298.58	(148.06)	(12,349.77)	(117,004.96)	(15,285.27)	-	11.32%	-0.02%	-1.41%	-13.52%	-2.04%	0.00%
March	69,675.31	163,942.66	(10,176.45)	(72,982.34)	(135,080.26)	53,121.77	-	17.86%	-0.94%	-6.81%	-13.53%	6.15%	0.00%
April	111,105.26	105,615.91	(8,620.18)	3,551.31	(140,518.52)	(13,584.60)	-	12.24%	-0.89%	0.37%	-13.58%	-1.65%	0.00%
May	109,835.95	132,978.04	21,073.66	(64,330.94)	(128,067.39)	33,154.73	-	15.33%	2.11%	-6.30%	-13.38%	4.00%	0.00%
June	164,654.26	41,227.61	42,342.85	(69,159.77)	(128,964.63)	18,953.16	-	4.19%	-6.49%	-12.93%	2.18%	0.00%	
July	105,524.99	32,831.55	51,808.98	(104,526.32)	(80,576.41)	31,078.40	-	3.81%	5.50%	-10.52%	3.85%	0.00%	
August	124,497.78	80,720.90	3,882.56	10,204.69	(192,641.91)	(41,270.55)	-	9.28%	1.07%	-13.75%	-4.96%	0.00%	
September	168,215.28	(30,859.92)	(2,508.81)	(46,556.20)	(93,293.41)	15,777.66	-	-3.09%	-0.26%	-4.82%	-10.16%	1.91%	
Annual \$ Change	1,418,335.85	994,535.81	168,436.75	(591,883.26)	(1,239,802.98)	(105,368.34)	93,561.60	9.29%	1.44%	-4.99%	-10.99%	-1.05%	0.94%

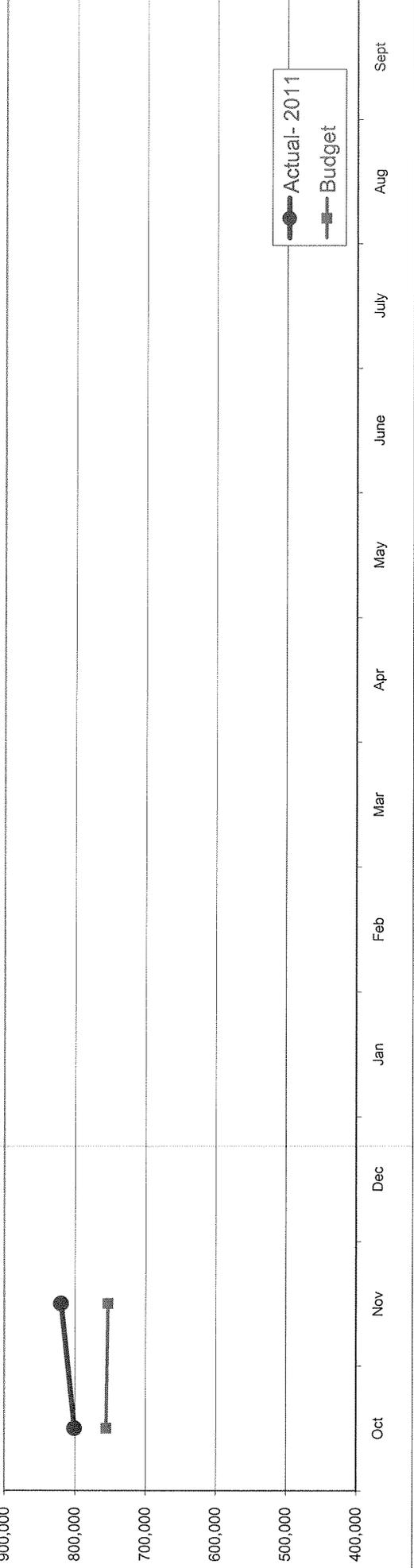
TOTAL collections: FY 10	9,934,179
TOTAL est. bdgt col: FY 11	9,815,001
Budgeted Dollar Variance 10/11	(119,178)
Budgeted Percent Variance 10/11	-1.20%

TOTAL collections: 11-30-10	1,620,158
Budgeted: 11-1-10 to 11-30-10	1,508,282
Actual Col: (<)Budget, 11-30-10	111,876
% Over/(Under) Budget, 11-30-10	7.42%

Sales & Use Tax Comparisons



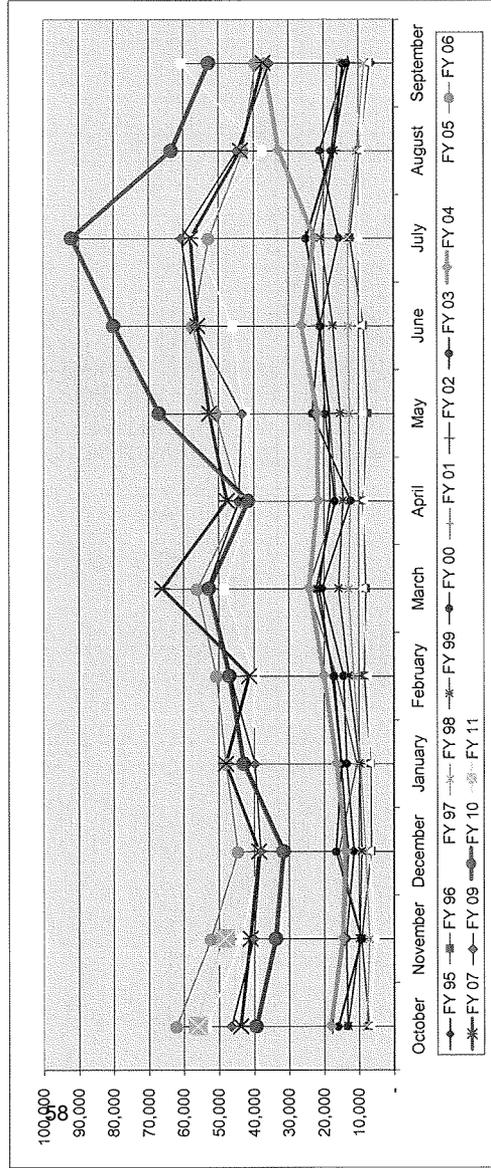
Fiscal 2011: Sales & Use Tax Budget vs. Actual Comparison



Monthly Lodging Tax Collections

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11
October	7,228.60	6,701.69	8,042.55	13,241.96	13,344.97	16,021.98	17,757.16	16,103.81	18,110.90	53,490.95	62,191.49	43,874.01	46,360.47	46,543.20	48,302.23	56,001.39	
November	9,371.57	5,419.99	7,156.30	9,963.87	13,712.88	9,378.73	14,346.00	9,488.82	14,652.46	43,652.17	52,326.23	41,028.15	42,599.84	40,178.69	33,763.37	39,405.56	
December	6,580.10	7,076.44	8,327.51	9,303.23	11,505.34	15,885.37	13,257.40	16,693.64	13,940.92	38,197.96	44,694.55	38,605.47	31,081.14	38,144.69	31,571.38	42,883.70	
January	6,765.39	6,990.72	9,704.80	9,934.03	13,517.89	10,802.39	15,150.55	15,089.26	16,416.20	40,334.81	48,014.80	48,012.19	45,607.80	39,706.04	42,883.70	46,998.32	
February	8,466.36	7,536.69	11,579.98	13,024.87	14,425.61	16,482.91	17,680.30	17,174.37	19,952.91	39,797.68	50,684.11	41,381.78	47,340.33	46,699.01	53,230.85	52,771.52	
March	8,017.74	8,902.63	13,048.18	15,837.90	20,536.51	24,601.77	21,371.61	22,246.25	24,206.01	48,474.92	56,076.62	66,080.49	53,123.15	53,230.85	44,277.75	41,531.05	
April	8,802.85	8,533.40	12,559.65	14,513.45	12,327.50	16,532.24	18,354.06	16,974.57	21,626.29	40,666.33	43,813.91	47,594.84	46,736.02	44,277.75	43,293.74	66,820.96	
May	7,427.26	8,958.97	12,786.85	15,280.40	23,309.92	18,386.51	18,526.24	19,610.83	21,785.09	42,479.97	50,871.74	52,564.61	46,145.12	43,293.74	56,494.11	79,822.84	
June	8,672.68	9,359.82	13,101.68	17,379.01	21,073.57	20,948.57	21,322.07	21,031.35	26,336.81	46,037.59	57,338.25	55,924.22	64,626.19	60,619.78	60,619.78	91,906.47	
July	12,568.56	9,975.46	13,200.77	20,840.98	15,680.49	23,389.72	25,013.71	25,026.81	22,654.15	56,266.23	52,752.31	57,842.80	62,035.23	60,619.78	60,619.78	91,906.47	
August	9,721.13	9,549.66	10,730.24	17,009.26	21,117.00	17,432.39	17,223.03	17,749.12	32,788.35	37,501.21	43,139.77	43,701.41	55,792.89	44,636.82	44,636.82	63,323.58	
September	6,371.27	6,806.02	7,400.70	8,586.97	14,397.17	13,393.86	16,116.04	12,997.60	14,563.86	36,847.13	60,635.33	39,398.90	49,698.91	35,430.82	35,430.82	52,662.79	
Total	100,428.26	96,406.17	128,825.48	170,726.13	193,945.54	205,978.62	212,999.73	211,754.69	269,317.22	547,535.15	601,302.68	573,770.96	591,147.09	549,255.30	643,461.54	104,303.62	

Ordinance 1997-28 adopted December 8, 1997 increased levy from 3% to 4%.



FY 2011 Budget
545,000
% Budget Collected,
11/30/2010
19%

Buildings & Property Committee Meeting
Monday, January 3, 2011 5:30 PM
Daphne City Hall

Committee

Councilman John Lake
Councilman August A. Palumbo
Mayor Fred Small
Richard Merchant, Building Inspector
Frank Barnett, Maintenance Supervisor
Margaret Thigpen, Civic Center Director

Committee Minutes (Summary)

Present: Councilman Gus Palumbo, Mayor Fred Small, Richard Johnson, Public Works Director, Frank Barnett, Maintenance Supervisor, Margaret Thigpen, Civic Center Director, Jane Robbins, Richard Merchant

Meeting began around 5:30 pm.

- A.) Minutes from December Meeting:** Motion made to approve minutes from December Meeting. Approved.

- B.) Park City Park Restrooms:** Discussion of the design and drawings (attached). Richard Johnson said he would like to get this out for contractor's bid/quote as soon as possible. Gus said that this had been in the works for long time and the Mayor said the City has the funds in place and it is not necessary to appropriate funds and not action from the Council is necessary. Richard said he would keep this project within the budgeted funds.

- C.) Civic Center Report:** Margaret Thigpen reported on revenue for December at Civic Center and Bayfront. Civic Center – 6 events \$5389.00 - \$890 waived for a total \$4499.00 and Bayfront – 9 events \$6104.00 - \$360 waived for a total of \$5744.00. Baldwin Pops had approximately 850 people.

Margaret would like to take the ordinance changes to the next Ordinance Committee Meeting. These are mainly regarding the host liability insurance issue and police protection at events. These proposed changes have been through legal (Eric Bussey at Ross & Jordan). She would also recommend we repeal the previous rate changes and replace with new ones. The cancellation clause has been reworked and reworded as well. **Gus Palumbo made a motion that these requested ordinance changes go to the next Ordinance Committee for consideration. This is a favorable recommendation from the Buildings & Property Committee. Motion seconded – so moved.** Discussion

about definition of BYOB – in particular the distribution portion has been added to the ordinance. **Gus said that any other items can be discussed at Ordinance meeting and to please let Kelly Reese, Derek Boulware and Eric know of meeting and agenda item.**

Zydeco Festival – working on firming up bookings for this event. It will go back to 3 days this year as in the past in an effort to revitalize this event.

Margaret will be serving on the Eastern Shore Tourism Council as a member which will be an asset to the City of Daphne. The Mayor commented that this will be a good opportunity to promote Daphne (i.e. soccer tournaments, etc.). Gus brought up the point that in the past the Senior Bowl players have practiced both days in Daphne and most recently they are only practicing one day here.

Event Assistant – Margaret reported that she has an Event Assistant that has turned in his notice and will be leaving the end of this month. Because of the recent Hiring Freeze placed on the City Margaret would like to know the procedures and guidance for going before council to ask for a replacement for this position. At this time there are no procedures in place and Gus made a motion that the Buildings & Property Committee make a favorable recommendation to replace this person and it should go to a work session.

D.) Building Inspection – 8 new permits on the table for this new year already. December reports were distributed including what impact fees would have been if in place.

Meeting Adjourned.



CITY OF DAPHNE
 PO Box 400
 DAPHNE, AL 36526

January, 7 2011 Meeting Minutes

In attendance: Margie Bellue, Dwayne Coley, Richard Johnson, David McKelroy, Dorothy Morrison, Rebecca Trosclair, Elaine Maxime, Bea Wilson, Patty Kearney, Selena Vaughn, Pat Albert

District 1

Treasurer's Report: \$6,623.88 Balance

District 2
 Carolyn Coleman
 Dorothy Morrison, Chair
Marilyn O'Connor Moore
 Bea Wilson

December meeting minutes were approved.

District 3

The possibility of moving the Gator Alley sign was discussed but will require some logistics.

District 4
 Tomasina Werner, Publicity
 Selena Vaughn, Secretary

Public Works Report: The Centennial Park gazebo will be ordered this week. It is possible that it will be installed by May. May Day Park construction is complete. Now landscaping needs to go in. Planning is in progress for the various phases of repaving Lake Forest main streets. US 98 landscaping plan is being held up while ALDOT is planning some changes to the highway itself. Meanwhile DBC requests that Public Works work on the next US 98 planning project of doing a landscape design for the Main Street and US 98 intersection. Public Works confirmed they will be replacing the two oaks that have recently been removed on 98. As for planting an oak at Whispering Pines and Main Street, Public Works will contact the skating rink for permission to plant on their property since ride of way and power lines limit our access. If agreed, 2 or 3 oaks @\$150 will be planted there as part of the Arbor Day celebration. DBC agreed to finance half the cost of the trees. Also, 3 oaks that died at Daphne East will be replanted as part of Arbor Day. As for planting the roundabout, it was decided that 3 hollies and some low plantings would be ideal. It was agreed that all the above plantings need to happen by the end of February for the highest chance of survival. Removal of unsightly plantings on 98 continues and PW is currently working at Veteran's Point. Continuing the sidewalk on Main in front of the Florist will require a decision about the width of the walk around obstructions. Dorothy and Dwayne to discuss. A review of Christmas decorations included the request for: less blue in the lights, no longer using the white fence around the tree or the **Santa, simplifying the decorations at the Season's greeting intersection.** Brackets are being researched in order to be able to hang the 10 foot wreath on City Hall next year. Candlestick lights will be refurbished by PW to use in Jubilee Square next year. Poinsettias will be spaced further apart to cover more distance. Crepe Myrtles at PW will be planted along the backside of Trione to screen PW from view. It was decided that for Mardi Gras the band lights will go on the Centennial fence with the garland.

District 5
 David Dueitt
 Patty Kearney

District 6
 Elaine Maxime

District 7
 Rebecca Trosclair

City Liaisons
 Margorie Bellue
 Richard Johnson
 Dwayne Coley
 David McKelroy
 Denise Penry
 Pat Albert

Arbor Day (9 AM, Recreation Center, Saturday, February 26) The Mayor will read the proclamation at the Feb. 7 council meeting and the two poster winners from last year will be presented with their works. Dorothy is calling the families. The Girl Scouts need to be invited again to sell cookies. Dorothy will invite Starbucks. **We need to present Andy Jones with a plaque for DHS's participation.**

Pat needs to get the star ornaments back from PW and to the children.

The DBC Award will be given to the Sugar Kettle on Tuesday, January 11 at 2.

Meeting adjourned.



Public Safety Committee

Wednesday, January 12, 2011

Councilman Gus Palumbo, Chairman
Councilman Derek Boulware
Councilman Kelly Reese
Fire Chief James White

Police Chief David Carpenter
Captain Scott Taylor
Captain Daniel Bell
Tracy Bishop - Secretary

Committee Members Attending:

Councilman Gus Palumbo, Councilman Kelly Reese, Councilman Derek Boulware, Chief David Carpenter, Lt. Kenny Hempfleng, and Chief James White.

CALL TO ORDER

Councilman Palumbo **convened** the meeting at 4:40 p.m.

PUBLIC PARTICIPATION –

Ashley Campbell, the city's environmental specialist, was in attendance asking for more "No Parking" signage at the drainage project on Dryer Avenue and Bayside Academy due to several citizen complaints. She asked for a sign that says "No Parking from this point to the corner". The signs are \$20 each. One of the existing signs has been damaged and will be replaced with the new sign. The second sign is already included in the plans so it's not a new project. Councilman Boulware made a motion to accept Ashley's proposal. Councilman Reese seconded the motion and the motion passed.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Minutes from November 2010 – Councilman Boulware made a motion to adopt the minutes, the motion was seconded by Councilman Reese. Motion passed.

FIRE DEPARTMENT

- A. **New Business** – Councilman Boulware asked Chief White to look into the calls from medical facilities. Chief White handed out a breakdown of the calls for service and an explanation page (see attached). Councilman Boulware questioned why we run on medical facilities and Chief White explained that they have limited capabilities dealing with severe medical issues and that it was explained more in the attachment.

The fire department was informed that they were awarded \$324,000 in a Communications Grant for radio equipment. Chief wants to bring Police and Public Works onboard with them. With this new system they would have the ability to talk to

the entire county. In discussion with the mayor, it was mentioned that they could buy the radios for Police and Public Works with BP money. The city will have to appropriate the \$16,219 for their share. He will wait for the official letter on the grant before placing the appropriation on the council agenda.

Chief announced that they broke ground last Thursday on the new training center.

B. Old Business – None

POLICE DEPARTMENT

A. New Business – Chief asked if anything has come of the capital budget? Councilman Palumbo stated “No”, that the Capital Budget is separate. The Operating Budget passed but not the Capital Budget. Councilman Palumbo asked Boulware to check with Kim on the status of the Capital Budget.

B. Chief then reviewed stats and D-Runs for November 2010.

Councilman Boulware asked about the man that arrested in Lake Forest for breaking into houses. He advised that he was back at home. Chief advised that he was arrested, charged, convicted, and sent back home to serve his sentence. Councilman Palumbo asked what the daily rate was for an inmate, and Chief told him \$42 per day. The food budget went down due to the fact that those in holding cells get a honeybun for breakfast versus a hot meal. With this change Chief will not have to go into his discretionary fund to supplement the food budget this year.

SRO replacement needed. Police department would hire from our existing list if allowed to do so.

Councilman Palumbo had someone contact him about needing a no “U-turn” sign at the Timbercreek/Hwy 181 light. Chief Carpenter advised that the intersection was either the County or the State. Councilman Palumbo stated he would talk to Richard Johnson about putting “Keep Right” signage up on Pine Court at the island. Councilman Palumbo asked if the police department had ever gotten any complaints at Timbercreek Blvd and Pine Run about the Yield sign. Chief stated that we have had no problems at this intersection nor traffic backing up.

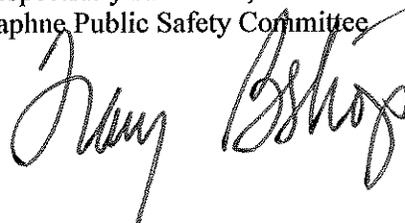
Old Business – Chief White stated that he knows there is a freeze on hiring, but wanted to know if he would go to the Public Safety Committee or City Council to plead his case. Palumbo stated to come back to the Public Safety Committee.

OTHER BUSINESS

ADJOURN

There being no further business to discuss, Mr. Palumbo adjourned the meeting at 5:15 p.m. The next meeting will be Wednesday, February 9, 2011 at 4:30 p.m. at City Hall Council Chambers.

Respectfully submitted,
Daphne Public Safety Committee

A handwritten signature in black ink, appearing to read "Amy Bishop". The signature is written in a cursive style with a large initial "A" and "B".

CITY OF DAPHNE
FIRE DEPARTMENT MONTHLY REPORT
Report Period: November 2010

	Current:	FY to Date:
Suppression:		
1-Fire/Explosion:	-	-
10-Fire, Other	0	5
11-Structure Fire/Commercial	1	6
11-Structure Fire/Residential	2	22
12-Fire in Mobile Property used as fixed structure	0	1
13-Mobile Property (vehicle) Fire	1	14
14-Natural Vegetation Fire	0	12
15-Outside Rubbish Fire	1	4
16-Special Outside Fire	0	6
17-Cultivated Vegetable Crop Fire	0	6
2-Overpressure Rupture:	0	1
3-Rescue Call and Emergency Medical Service Incidents:	130	1608
4-Hazardous Conditions (No fire):	5	31
5-Service Call:	18	212
6-Good Intent Call:	19	177
7-False Alarm & False Call:	21	199
8-Severe Weather & Natural Disaster:	0	2
9-Other Situation:	0	0
Total Emergency Calls:	193	2255
Monthly Total Calls:	198	2330
Highest:		
	14:00	14:00
Lowest:		
	<1	<1
Average (Minutes/Seconds) :		
	4:59	4:59
Miscellaneous Reports:		
Training Hours	793	1802
Property Loss - \$	32,500	1,141,997
Fire Personnel Injuries by Fire/Civilian Injuries by Fire	0	0
Advance Life Support Rescues	71	990
Number of Patients Treated	127	1559
Child Passenger Safety Seat Inspections/Installations	6	161
Classes		
	3	82
Persons Attending		
	127	5249
Plan Reviews		
	3	256
Final/Certificate of Occupancy		
	0	3
General/Annual Inspections		
	38	761
General/Re-Inspections (Violation Follow-up - Annual)		
	0	70
Business Licenses		
	3	54
Consultations-		
	0	0
All Other/Misc. Activities		
	0	0
Total Activities:	44	999

Authorized by:

James White

Chief James White

4



Daphne Police Department Directed Patrol Spreadsheet

**November
2010**

DATE	LOCATION	START TIME	END TIME	HOURS	OFFICER	SPEED LIMIT	# OF VEHICLES	HIGHEST SPEED	LOWEST SPEED	TICKETS ISSUED	WARNINGS ISSUED	TYPE OF D-RUN
11/9/2010	109 WINDSOR DR.	15:20	15:50	0:30	DONNELLY	30	103	-	-	0	0	BUS STOP SIGN
11/15/2010	109 WINDSOR DR.	15:20	15:45	0:25	LAZZARI	30	5	-	-	0	0	BUS STOP SIGN
11/16/2010	109 WINDSOR DR.	15:30	15:45	0:15	LEWIS	30	38	-	-	0	0	BUS STOP SIGN
11/17/2010	109 WINDSOR DR.	15:20	15:40	0:20	BARNETTE	-	3	-	-	0	0	BUS STOP SIGN
11/4/2010	117 WINDSOR DR.	12:50	13:20	0:30	DONNELLY	30	52	-	-	0	0	SEATBELT
11/12/2010	160 FAIRWAY DR.	16:45	17:15	0:30	BUMPERS	30	5	28	18	0	0	SPEEDING
11/19/2010	CO RD. 13 @ RAND AVE	19:45	20:15	0:30	PHILLIPS	30	32	41	19	0	1	SPEEDING
11/6/2010	CR 13 @ ASHLEY PLACE	20:15	20:45	0:30	SANDERS	30	47	64	25	1	0	SPEEDING
11/12/2010	CR 13 @ ASHLEY PLACE	20:40	21:45	1:05	DAWSON	30	53	49	30	2	2	SPEEDING
11/22/2010	CR 13 @ ASHLEY PLACE	18:45	19:30	0:45	DAWSON	30	43	47	30	1	7	SPEEDING
11/24/2010	CR 13 @ DAPHNE EAST	22:00	22:30	0:30	MENEFFEE	30	39	45	25	1	0	SPEEDING
11/23/2010	CR 13 @ RAND AVE	8:15	8:45	0:30	ROEBUCK	30	52	52	29	1	0	SPEEDING
11/17/2010	I-10 ON RAMP, WEST BOUND	10:45	11:15	0:30	BUMPERS	-	61	-	-	0	0	FAILURE TO YIELD
11/18/2010	I-10 ON RAMP, WEST BOUND	7:20	7:50	0:30	MITCHELL	-	18	-	-	0	0	FAILURE TO YIELD
11/18/2010	I-10 ON RAMP, WEST BOUND	16:15	16:45	0:30	DONNELLY	-	12	-	-	0	0	FAILURE TO YIELD
11/19/2010	I-10 ON RAMP, WEST BOUND	7:00	7:45	0:45	MERRITT	-	22	-	-	0	0	FAILURE TO YIELD
11/19/2010	I-10 ON RAMP, WEST BOUND	21:15	21:35	0:20	SANDERS	-	19	-	-	0	0	FAILURE TO YIELD
11/20/2010	I-10 ON RAMP, WEST BOUND	3:15	4:00	0:45	ARDIS	-	30	-	-	0	0	FAILURE TO YIELD
11/20/2010	I-10 ON RAMP, WEST BOUND	22:00	22:30	0:30	SANDERS	-	26	-	-	0	0	FAILURE TO YIELD
11/21/2010	I-10 ON RAMP, WEST BOUND	11:30	12:00	0:30	LEWIS	-	33	-	-	0	0	FAILURE TO YIELD
11/21/2010	I-10 ON RAMP, WEST BOUND	12:38	13:08	0:30	TAYLOR	-	18	-	-	0	0	FAILURE TO YIELD
11/21/2010	I-10 ON RAMP, WEST BOUND	13:30	14:10	0:40	LAZZARI	-	43	-	-	0	0	FAILURE TO YIELD
11/22/2010	I-10 ON RAMP, WEST BOUND	8:00	8:30	0:30	DONNELLY	-	11	-	-	0	0	FAILURE TO YIELD
11/23/2010	I-10 ON RAMP, WEST BOUND	7:00	7:45	0:45	OLIVER	-	50	-	-	0	0	FAILURE TO YIELD
11/23/2010	I-10 ON RAMP, WEST BOUND	8:25	8:55	0:30	BARNETTE	-	11	-	-	0	0	FAILURE TO YIELD
11/25/2010	I-10 ON RAMP, WEST BOUND	10:00	10:30	0:30	GRESHAM	-	30	-	-	0	0	FAILURE TO YIELD
11/29/2010	I-10 ON RAMP, WEST BOUND	8:15	8:45	0:30	LASSITER	-	62	-	-	0	0	FAILURE TO YIELD
11/25/2010	L.F. BLVD @ D'OLIVE BLVD	8:30	9:00	0:30	GRESHAM	-	12	-	-	0	0	STOP SIGN
11/29/2010	L.F. BLVD @ D'OLIVE BLVD	6:30	7:00	0:30	LEWIS	30	89	41	27	0	0	SPEEDING, STOP SIGN
11/29/2010	L.F. BLVD @ D'OLIVE BLVD	7:00	7:30	0:30	TAYLOR	-	8	-	-	0	0	STOP SIGN
11/29/2010	L.F. BLVD @ D'OLIVE BLVD	10:00	10:40	0:40	ARDIS	-	15	-	-	1	0	STOP SIGN
11/29/2010	L.F. BLVD @ D'OLIVE BLVD	15:20	16:00	0:40	LAZZARI	-	27	-	-	2	0	STOP SIGN
11/30/2010	L.F. BLVD @ D'OLIVE BLVD	13:00	13:30	0:30	LEWIS	30	40	-	-	0	2	STOP SIGN
11/24/2010	LAWSON RD. @ CANTERBURY	19:03	19:38	0:35	WILLIAMS	35	61	43	26	0	0	SPEEDING
11/11/2010	LAWSON RD. @ DAPHNE HIGH SCHOOL	21:36	22:06	0:30	MENEFFEE	35	31	51	28	1	0	SPEEDING
11/14/2010	LAWSON RD. @ DAPHNE HIGH SCHOOL	10:55	11:25	0:30	ROEBUCK	35	28	43	35	0	0	SPEEDING
11/13/2010	MAIN ST. @ ALLIGATOR ALLEY	14:20	14:40	0:20	OLIVER	35	58	43	26	0	0	SPEEDING
11/13/2010	MAIN ST. @ ALLIGATOR ALLEY	14:50	15:00	0:10	OLIVER	35	-	-	-	-	-	(Continued from Above)
11/4/2010	MAIN ST. @ CHATEAUGUAY DR.	13:55	14:25	0:30	MITCHELL	35	97	44	31	1	0	SPEEDING

DATE	LOCATION	START TIME	END TIME	HOURS	OFFICER	SPEED LIMIT	# OF VEHICLES	HIGHEST SPEED	LOWEST SPEED	TICKETS ISSUED	WARNINGS ISSUED	TYPE OF D-RUN
11/18/2010	MAIN ST. @ HARBOR PLACE	9:40	10:15	0:35	MITCHELL	35	80	51	34	1	0	SPEEDING
11/13/2010	MAIN ST. @ JACKSON OAKS	13:30	14:00	0:30	OLIVER	35	57	42	32	0	0	SPEEDING
11/25/2010	MAIN ST. @ PINEHILL	20:10	20:49	0:39	WILLIAMS	35	71	43	24	0	0	SPEEDING
11/10/2010	MAIN ST. @ RYAN AVE	18:30	19:00	0:30	PHILLIPS	35	23	43	31	0	1	SPEEDING
11/18/2010	PARK DR. @ PINE HILL	19:00	19:30	0:30	DAWSON	35	16	54	30	1	0	SPEEDING
11/19/2010	POLLARD RD @ LANDING EAGLE	18:24	19:00	0:36	WILLIAMS	35	80	44	21	0	0	SPEEDING
11/8/2010	POLLARD RD. @ BROOKSIDE	9:00	9:30	0:30	MITCHELL	35	42	43	34	0	0	SPEEDING
11/8/2010	POLLARD RD. @ RANDALL AVE.	12:30	13:00	0:30	OLIVER	35	41	43	26	0	0	SPEEDING
11/9/2010	RIDGEWOOD @ AVON CIR.	14:15	14:45	0:30	OLIVER	30	54	37	27	0	0	SPEEDING
11/11/2010	RIDGEWOOD @ KINGSWOOD	14:00	14:30	0:30	BUMPERS	30	19	31	17	0	0	SPEEDING
11/13/2010	RIDGEWOOD @ KINGSWOOD	9:00	9:30	0:30	OLIVER	30	36	34	21	0	0	SPEEDING
11/23/2010	RIDGEWOOD @ LAWSON	7:30	8:00	0:30	BARNETTE	-	32	-	-	1	1	SEATBELT
11/7/2010	RIDGEWOOD @ PAIGE CIR.	19:30	20:00	0:30	SANDERS	30	72	37	20	0	0	SPEEDING
11/8/2010	TIMBERCREEK @ ASPEN CT.	8:30	9:00	0:30	OLIVER	30	32	38	24	0	0	SPEEDING
11/10/2010	TIMBERCREEK @ ASPEN CT.	20:30	21:00	0:30	SANDERS	30	28	36	23	0	0	SPEEDING
11/14/2010	TIMBERCREEK @ ASPEN CT.	9:15	9:45	0:30	ROEBUCK	30	22	37	27	0	1	SPEEDING
11/19/2010	WHISPERING PINES @ YMCA	21:15	21:45	0:30	PHILLIPS	35	39	48	31	1	0	SPEEDING

TOTAL DIRECTED PATROLS: 56
TOTAL HOURS: 29 hours, 20 mins.
TOTAL TRAFFIC TICKETS: 15
TOTAL WARNINGS ISSUED: 15
TOTAL # OF VEHICLES: 2,128 cars

7

Ordinance Committee

Wednesday, December 8, 2010

City Hall Council Chambers

5:30 p.m.

Councilman Kelly Reese

Councilman Gus Palumbo

Councilman Derek Boulware

I. CALL TO ORDER/MEMBERS PRESENT

Members Present: Gus Palumbo, Derek Boulware, and Kelly Reese

Others Present: David Cohen and Richard Johnson

II. PUBLIC PARTICIPATION

III. ORDINANCE REVIEW/DISCUSSION

a. Garbage Fee Posting Procedures

Richard Johnson presented to the committee and committee recommended discussing with the city attorney.

IV. OTHER BUSINESS

V. ADJOURN

Motion by Mr. Boulware Seconded by Mr. Palumbo To adjourn at 6:15 P.M.

ALL IN FAVOR

NONE OPPOSED

MOTION CARRIED

**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:

To: Cathy Barnette, Council President
From: Adrienne Jones, Director
Community Development
Subject: BZA Board Member Appointment
Date: January 7, 2011

**MEMO
RAND
UM**

Mr. Jim Moss's term on the BZA expired February 2011. The Council needs to reappoint this member and his reappointment will last until February 2014.

Mr. Moss serves very well on the BZA, and attends all meetings.

I, respectfully request that he be reappointed to his position as a member on the BZA.

Thank you,

/ph

cc: Becky, City Clerks Office
Jane, Mayor's Office
File

**Daphne Public Library Board
November 4, 2010
Meeting Minutes**

In Attendance:

Library Director Tonja Young; Board Chair Jan Blankenhorn; Library Board Members Windrila Longmire, Andre LaPalme and Jim Bodman; Friends President Carol Simmons.

1) Call to Order:

After a quorum was established, Library Board Chairman Jan Blankenhorn called the meeting to order at 4:05 pm.

2) Reading and Approval of the Minutes:

The minutes of the October meeting were approved; a motion was made by Andre to approve the minutes as written and seconded by Jim. The motion passed.

3) Library Board Chairman's Report:

Ms. Blankenhorn stated that she and Ron met the artist at the sculpture dedication. She also stated that there had been many good activities in the library recently.

Jan asked for a motion to skip the December meeting and one was made by Windrila. The motion was seconded by Andre. Motion passed. The next meeting is set for January 6, 2011.

4) Library Director's Report:

Tonja stated that the October statistical reports were in the Board packets.

For October 2010, total patronage was down 8.64% to 17,714 compared with 19,389 for October, 2009. October 2010 circulation was down 0.79% at 25,841 compared to 26,046 in October 2009. Overall circulation year-to-date for FY2011 was 25,841 for October 2010, compared to 26,046 for this time in 2009, for an overall decrease in circulation of 0.79%. A total of 165 patrons were given library cards or renewals, and volunteers gave a total of 329 hours (Book Shop Manager = 135; Book Shop Staff = 135; Friends Board = 5; Shelves = 60) to the library in October.

Meeting room attendance was 650. Computer users numbered 2,458 as compared with 1,252 in October 2009, for an increase of 96.33%.

Tonja announced the upcoming computer classes and events, including Dr. Wayne Flynt speaking at the Local History Forum on December 1 on Harper Lee and the Alabama Literature Renaissance. Christmas events were announced, including the children's ornament make and take on December 3, the children's gift make and take on December 10, and Santa Stories on December 16. Copies of press releases for the month were included in the packet.

5) Public Participation

Carol announced that the Friends of the Library had sponsored the Halloween event and had donated funds for purchasing books throughout the year. She also announced that the Friends were sponsoring Santa Stories and a staff luncheon during December.

6) Other Business

None.

7) Adjourned

The meeting was adjourned by Jan at 4:42 pm.

Respectfully submitted by T. Young, November 18, 2010



Daphne Utilities

DRAFT MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ September 29, 2010 ♦ 5:00 p.m.

This meeting was cancelled due to a lack of a quorum.



Daphne Utilities

APPROVED MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ November 3, 2010 ♦ 5:00 p.m.

(October 2010)

I. CALL TO ORDER

The November 3, 2010 (October 2010) regular Board meeting for the Utilities Board of the City of Daphne was held and called to order by Chairman Robert Segalla, at 5:03 p.m.

II. ROLL CALL

Members Present: Robert Segalla, Chairman
Ron Scott, Vice Chairman
Lon Johnston, Secretary/Treasurer
Fred Small, Mayor
Fenton E. Jenkins

Others Absent:

Others Present: Jerry Speegle – Board Attorney
Rob McElroy – General Manager
Danny Lyndall – Operations Manager
Teresa Logiotatos – Finance Manager
Deloris Brown – Human Resources Manager
Drew Klumpp – Administrative Services Manager
Lori Scharles – Executive Assistant
Melinda Immel – Volkert & Associates
Tim Patton – Volkert & Associates
Ray Moore - HMR
Doug Bailey – HMR

Others Absent:

III. PLEDGE OF ALLEGIANCE

The Chairman led the Board and meeting attendees in the Pledge of Allegiance.

IV. APPROVAL OF MINUTES

a. Utilities Board Minutes from August 25, 2010:

The Chairman inquired if there were any corrections noted for the Minutes from the August 25, 2010, Utilities Board meeting. Mr. Johnston requested a grammatical error be corrected under item VII. Board Attorney's Report.

MOTION BY Lon Johnston to approve the Minutes for August 25, 2010; Seconded by Ron Scott.

AYE: JOHNSTON, SEGALLA, SCOTT, JENKINS, SMALL ABSENT: ABSTAIN: MOTION CARRIED

V. Old Business

a. Central Services Building (Property Investigation) – Update

Rob McElroy informed the Board that the building design layout is continuing.

b. Spanish Fort Sewer Franchise issues

Mr. McElroy had no new updates.

c. 19 Acres - Daphne Utilities property

Mr. McElroy had nothing new to add to this report. Mr. Scott asked if any progress has been made between Mr. Speegle and Mr. Ross. Mr. Speegle explained that he has been contacting Mr. Ross regarding properties between the City of Daphne and Daphne Utilities. Mr. Scott stated that it should be priority and finalized this off list.

d. Items in Abeyance:

1. **Gas Franchise Agreement** – No current information was reported.

2. **Sewer Only Cutoff Policy** – Chairman Segalla asked about the letters that were to be sent out and if any physical action had taken place. Drew Klumpp advised that one customer has had his door tagged, and additional letters were forwarded to Mr. Speegle's office for distribution.

VI. New Business

a. 2011 Daphne Utilities Board Meeting Dates – supplied for informational purposes only.

b. Election of Utility Board Officers

Chairman Segalla called for nominations for officers for the Utilities Board of the City of Daphne.

MOTION BY Lon Johnston to nominate Robert Segalla for the position of Chairman for the Utilities Board of the City of Daphne.

MOTION BY Mayor Fred Small to nominate Fenton Jenkins for the position of Chairman for the Utilities Board of the City of Daphne.

A vote was called for the Robert Segalla nomination: Jenkins, Johnston, Segalla

A vote was called for the Fenton Jenkins nomination: Scott, Small

The vote was 3 to 2 in favor of Robert Segalla as Chairman of the Utilities Board for the City of Daphne.

MOTION BY Ron Scott to nominate Fenton Jenkins for the position of Vice Chairman for the Utilities Board of the City of Daphne.

Motion by Robert Segalla to nominate Ron Scott for the position of Vice Chairman for the Utilities Board of the City of Daphne.

A vote was called for the Fenton Jenkins nomination: Jenkins, Johnston, Scott, Small

A vote was called for the Ron Scott nomination: Segalla

The vote was 4 to 1 in favor of Fenton Jenkins as Vice Chairman of the Utilities Board for the City of Daphne.

MOTION BY Ron Scott to nominate Lon Johnston for the position of Secretary/Treasurer for the Utilities Board of the City of Daphne.

MOTION BY Lon Johnston to nominate Ron Scott for the position of Secretary/Treasurer for the Utilities Board of the City of Daphne; Mr. Scott refused the nomination.

A vote was called for the Lon Johnston nomination: Jenkins, Johnston, Scott, Segalla, Small

The vote was all in favor of Lon Johnston as Secretary/Treasurer of the Utilities Board for the City of Daphne.

The new officers for the Utilities Board of the City of Daphne for 2010/2011 were stated as:

Chairman
Vice Chairman
Secretary/Treasurer

Robert Segalla
Fenton Jenkins
Lon Johnston

VII. BOARD ATTORNEY'S REPORT

Mr. Speegle had nothing further to add to his report.

VIII. FINANCIAL REPORT

Teresa Logiotatos reviewed with the Board the financial report for the end of the fiscal year. After discussing how the capital items can be presented in the financials, it was decided to include a separate line item in the monthly Financial Summary.

MOTION BY Lon Johnston to approve the 2010/2011 Proposed Budget as presented; Seconded by Fenton Jenkins.

AYE: JENKINS, JOHNSTON, SCOTT, SEGALLA, SMALL

NAY:

MOTION CARRIED

IX. GENERAL MANAGER'S REPORT

a. GM Report

Mr. McElroy informed the Board of an outstanding tour of the Wastewater Treatment Plant by the Girl Scouts. He updated and presented to the Board the award for the Winning Workplaces by Inc. Magazine.

Deloris Brown updated the Board regarding upcoming evaluations.

b. Operations Report

Nothing further was added to the Operations Report. At the Chairman's request, Mr. Lyndall shared with the Board his experiences at the Winning Workplaces Leadership conference.

Melinda Immel of Volkert & Associates had nothing further to add to her report.

Doug Bailey from HMR updated the Board on the Highway 64 South Sewer project.

X. BOARD ACTION –

A. Election of Utility Board Officers – Previously addressed.

B. Vote on 2010-2011 Budget – Previously addressed.

C. Vote on Daphne Utilities Employee - Handbook of Rules, Policies and Procedures

Deloris Brown recapped for the Board that the Handbook was previously distributed and comments were solicited, however none were received therefore the Handbook is now presented to the Board for approval. Chairman Segalla expressed his displeasure of the wording on Page 21 of the Handbook relative to "or (b) pay the employee at his or her then current rate of pay for each hour in excess of the one-half allowable carryover hours allowed to be carried over into the next calendar year", and requested it be deleted.

Chairman Segalla also recommended that on Page 15 of Step 5 Termination that the time allowed for an employee to request a review of the corrective action be lengthened to allow for requests that occur on Friday to be addressed on Monday. Mrs. Brown noted the recommendation and stated that it would be changed.

MOTION BY Lon Johnston to approve the Employee Handbook of Rules, Policies and Procedures with the deletion of "or (b) pay the employee at his or her then current rate of pay for each hour in excess of the one-half allowable carryover hours allowed to be carried over into the next calendar year", as written on Page 21; Seconded by Mayor Fred Small.

AYE: JENKINS, JOHNSTON, SCOTT, SEGALLA, SMALL ABSENT: ABSTAIN: MOTION CARRIED

XI. PUBLIC PARTICIPATION – None

XII. BOARD COMMENTS – None

XIII. ADJOURNMENT

MOTION BY Lon Johnston to adjourn the meeting. Seconded by Ron Scott.

AYE: JENKINS, JOHNSTON, SCOTT, SEGALLA, SMALL ABSENT: ABSTAIN: MOTION CARRIED

The meeting adjourned at 5:47 p.m.



Daphne Utilities

APPROVED MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ December 1, 2010 ♦ 5:00 p.m.
(November 2010)

I. CALL TO ORDER

The regular November, 2010, Board meeting for the Utilities Board of the City of Daphne was held on December 1, 2010 and called to order by Chairman Robert Segalla, at 5:05 p.m.

II. ROLL CALL

Members Present: Robert Segalla, Chairman
Ron Scott – arrived at 5:06
Lon Johnston, Secretary/Treasurer
Fred Small, Mayor

Others Absent: Fenton E. Jenkins, Vice Chairman

Others Present: Jerry Speegle – Board Attorney
Rob McElroy – General Manager
Danny Lyndall – Operations Manager
Teresa Logiotatos – Finance Manager
Deloris Brown – Human Resources Manager
Drew Klumpp – Administrative Services Manager
Lori Scharles – Executive Assistant
Melinda Immel – Volkert & Associates
Tim Patton – Volkert & Associates
Ray Moore - HMR
Doug Bailey – HMR

Others Absent:

III. PLEDGE OF ALLEGIANCE

The Chairman led the Board and meeting attendees in the Pledge of Allegiance.

IV. APPROVAL OF MINUTES

a. Utilities Board Minutes from November 3, 2010:

The Chairman inquired if there were any corrections noted for the submitted Corrected Minutes from the November 3, 2010, Utilities Board meeting.

MOTION BY Lon Johnston to approve the submitted Minutes for November 3, 2010, as Corrected; Seconded by Mayor Fred Small.

AYE: JOHNSTON, SEGALLA, SCOTT, SMALL ABSENT: JENKINS ABSTAIN: MOTION CARRIED

V. Old Business

a. Central Services Building (Property Investigation) – Update

Rob McElroy informed the Board that the property investigation will be reported on in Executive Session.

b. Spanish Fort Sewer Franchise issues

No updated information was reported.

c. 19 Acres - Daphne Utilities property

Mr. Speegle advised the Board that he and City Attorney Jay Ross have been corresponding; Mr. Speegle notified the Board that this issue is on the agenda for the next Building and Property Committee. He stated that Danny Lyndall has been collecting information on the locations of the various properties and lift-stations.

d. Items in Abeyance:

- 1. Gas Franchise Agreement** – No current information was reported.
- 2. Sewer Only Cutoff Policy** – No updated information was reported.

VI. New Business

a. Daphne Utilities Bond Rating Outlook – presented by Pfil Hunt w/Gardnyr Michael Capital Inc.

Mr. Pfil Hunt addressed the Board updating them on the positive Standard & Poors rating and stable outlook and gave congratulations on the solid financial operations the Board and staff are exercising at Daphne Utilities.

VII. BOARD ATTORNEY’S REPORT

Mr. Speegle had nothing further to add to his report but advised that an Executive Session would be needed for the purpose of discussing pending litigation and possible settlement of that litigation.

VIII. FINANCIAL REPORT

Teresa Logiotatos reviewed for the Board the financial report for the first month of the new fiscal year. She advised that all metered services were above budget and that the budget was set up this year based on a 5-year average and that revenues could be up due to the warm season. No other comments were made.

IX. GENERAL MANAGER’S REPORT

a. GM Report

Mr. McElroy notified the Board that the Wharton School had contacted the Utilities for information on the biodiesel operation. He had no further information to add to his report.

b. Operations Report

Nothing further was added to the Operations Report.

Deloris Brown updated the Board of the completion of the evaluation process and distributed to each Board member for their information a copy of the evaluation paperwork each employee receives.

Melinda Immel of Volkert & Associates advised the Board on the re-issuance of the renewal for the Wastewater Treatment Plant’s NPDES permit through ADEM and the critical situation it places on the plant. Mr. McElroy added that the equality limits are being investigated as well so that Daphne Utilities is not facing tighter restrictions than other municipalities.

Doug Bailey from HMR responded to the question about sewer taps for the Board. He indicated that 14 houses have been connected on the Hwy. 64 Sewer Project.

X. BOARD ACTION – None

XI. Public Participation –

Willie Williams, 1513 Pollard Road, Daphne, AL; addressed to the Board about a concern in the community, a situation occurring at the Hwy. 64 Sewer Project. He stated that he is community-minded and heard about the actions that occurred on the project involving the contractor’s foreman who made derogatory remarks about a Daphne Utilities’ customer which was uncalled for and violates the tenant of the community development block grant. He advised that under Title 6 of the Civil Rights Act of 1964, when using community development block grant you can’t be discriminatory, and the Restoration Act of 1987 which is under the HUD Community Development Act also mentions about using community development block grants. He expressed his disappointment because it was meant to help the folks in the community and not for them to be harrassed and

that the situation needs to be taken care of right away. He stated that the foreman needed to be removed from the community and replaced to finish the project and he also noted that he was putting a time limit on it to Chairman Segalla because he was sending an overnight letter to HUD and Alabama Department of Economic Community Affairs alleging complaints and violations of these statutes.

Chairman Segalla asked if a formal complaint had been written; Mr. Williams stated that he was in the process. Chairman Segalla requested that Mr. Jerry Speegle receive a copy of the complaint. Chairman Segalla asked for Mr. Speegle to comment on the roll of the Utilities for holding a public participation audience. Mr. Speegle stated that there certainly was an incident and management had taken action deemed appropriate. He noted that if any employee of the Utility files an appeal of that action, it would go to the Board, however the Board has not been informed of any action because it could tend to bias the Board. He stated that certainly public comment is just that, public participation. Mr. Speegle also noted that it would not be appropriate for the Board to ask any questions or investigate at this time if in fact the employee does file an appeal, and he admonished the Board that what anyone says here unless they were a witness to the incident would be inadmissible hearsay and not based on any personal knowledge of any events that occurred. Mr. Speegle requested the Board take anything said of a factual nature about any occurrences at just that, someone's opinion and probably not based on personal knowledge of what happened, what was said or any other circumstances. Mr. Speegle went on to say that if anyone wants to comment, they certainly can but the Chairman may limit comment and the number of people to comment on the same subject. Chairman Segalla offered to hear from anyone who has something to say and asked for the public to not be redundant and to observe a reasonable time limit per person.

Mr. Speegle also clarified that Daphne Utilities employees were there to inspect the project site and not manage the project. Mr. Scott explained that the grant came through the City of Daphne since Daphne Utilities services the sewer system once completed. He stated that this was the first he had heard of the incident but assured that it would be investigated. He commented that Councilman Yelding worked very hard to secure the grant for this project in hopes for a positive result for the community. He apologized for whatever role the City may have had.

Ms. Bennie Lee from 25504 Pollard Road, Daphne – addressed Chairman Segalla and the Board and commented about the incident with the contractors on the Hwy 64 Sewer project.

Mr. Willie Lee Johnson, Jr. from 706 Cedar Drive, Daphne – voiced his concerns to Chairman Segalla and the Board regarding the City of Daphne and the negative things he has heard about the City. He recommended that since the City of Daphne was involved in hiring a contractor that the City should get with the contractor to get the person involved in this incident off the job.

Ms. Eloise Wilson from 1601 Conaway Street, Daphne – announced that she recently moved to Daphne from Illinois and was appalled to hear of this incident going in the City of Daphne.

Chairman Segalla called for any other participants and then closed Public Participation.

XII. Board Comments – None

XIII. EXECUTIVE SESSION –

MOTION BY Lon Johnston to go into Executive Session at 5:41 pm for discussion of pending and ongoing litigation; Confirmed as proper purposes by Jerry Speegle; Seconded by Ron Scott.

AYE: JOHNSTON, SCOTT, SEGALLA, SMALL ABSENT: JENKINS ABSTAIN: MOTION CARRIED

Executive Session adjourned at 6:24 pm.

XIV. Adjournment

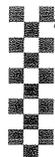
MOTION BY Ron Scott to adjourn the meeting. Seconded by Lon Johnston.

AYE: JOHNSTON, SCOTT, SEGALLA, SMALL ABSENT: JENKINS ABSTAIN: MOTION CARRIED

The meeting adjourned at 6:24 pm.

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:



CITY OF DAPHNE PARADE PERMIT

ORGANIZATION:	<i>Mystic Order of Persephone</i>
CONTACT PERSON:	<i>Kim Langham</i>
ADDRESS:	<i>912 Van Avenue Daphne, AL 36526</i>
PHONE NUMBER (HOME): PHONE NUMBER (BUSINESS):	<i>379-6167 581-3731</i>
TYPE OF PARADE:	<i>Mardi Gras</i>
DATE OF PARADE:	<i>March 4, 2011 / Rain Date: March 6, 2011</i>
ROUTE TO BE TRAVELED:	<i>From Daphne Civic Center down Main St. - turn @College Ave. - down to 6th St. - turn right on Belrose Ave & back to Main and back to Civic Center</i>
APPROXIMATE # OF PEOPLE & CARS:	<i>5 Floats, 25 Units, 700 People</i>
START TIME:	<i>6:45 p.m.</i>
STOP TIME:	<i>8:30 p.m.</i>
ASSEMBLY AREA/STREET:	<i>Civic Center</i>
APPROVAL	
POLICE: Chief David Carpenter:	<i>[Signature]</i>
FIRE: Chief James White:	<i>[Signature]</i>
PUBLIC WORKS: Richard Johnson:	<i>[Signature]</i>
CITY COUNCIL:	<i>1-18-11</i>
SPECIAL INSTRUCTIONS:	
DATE ROUTED:	
NOTIFICATION:	
Received Proof of Insurance:	<i>Received 1/12/11</i>
Received Parade Permit Fee:	<i>Received 1/12/11</i>

When recorded return to:

Raymond J. Kane, Esq.
Kane Russell Coleman & Logan PC
1601 Elm Street, Suite 3700
Dallas, Texas 75201

(Space Above for Recorder's Use Only)

**AMENDED AND RESTATED
RECIPROCAL EASEMENT AND OPERATION AGREEMENT**

THIS AMENDED AND RESTATED RECIPROCAL EASEMENT AND OPERATION AGREEMENT (this "**Agreement**") is made as of _____, 201____, by and among **L-A DAPHNE, LLC**, a Delaware limited liability company ("**Landholder**"); **HOME DEPOT U.S.A., INC.**, a Delaware corporation ("**HD**"); **RARE HOSPITALITY INTERNATIONAL, INC.**, a Georgia corporation ("**RHI**"); **O'CHARLEY'S INC.**, a Tennessee corporation ("**O'Charley's**"); **THE BANK OF PENSACOLA**, a _____ ("**BOP**"); **MOBILE EDUCATORS CREDIT UNION**, a _____ ("**MECU**"); **CHARLES K. BRELAND, JR.**, and **JUBILEE MALL, LLC**, an Alabama limited liability company (collectively, "**Jubilee**"); and **THE CITY OF DAPHNE, ALABAMA**, a municipality organized and existing under the laws of the State of Alabama ("**CITY**").

RECITALS

A. Landholder is the owner of certain real property located in the City of Daphne, Baldwin County, Alabama, which real property is contiguous with the HD Parcel, the RHI Parcel, the O'Charley's Parcel, the BOP Parcel, the MECU Parcel, the Jubilee Parcel, and Public Land (all as defined below), and is more particularly described on Schedule "A" attached hereto and incorporated herein by reference (the "**Landholder Parcel**").

B. HD is the owner of certain real property located in the City of Daphne, Baldwin County, Alabama, which real property is contiguous with the Landholder Parcel, the RHI Parcel, the O'Charley's Parcel, the BOP Parcel, the MECU Parcel, the Jubilee Parcel, and Public Land, and is more particularly described on Schedule "B" attached hereto and incorporated herein by reference (the "**HD Parcel**").

C. RHI is the owner of certain real property located in the City of Daphne, Baldwin County, Alabama, which real property is contiguous with the Landholder Parcel, the HD Parcel, the O'Charley's Parcel, the BOP Parcel, the MECU Parcel, the Jubilee Parcel, and Public Land, and is more particularly described on Schedule "C" attached hereto and incorporated herein by reference (the "**RHI Parcel**").

D. O'Charley's is the owner of certain real property located in the City of Daphne, Baldwin County, Alabama, which real property is contiguous with the Landholder Parcel, the HD Parcel, the RHI Parcel, the BOP Parcel, the MECU Parcel, the Jubilee Parcel, and Public

Land, and is more particularly described on Schedule "D" attached hereto and incorporated herein by reference (the "**O'Charley's Parcel**").

E. BOP is the owner of certain real property located in the City of Daphne, Baldwin County, Alabama, which real property is contiguous with the Landholder Parcel, the HD Parcel, the RHI Parcel, the O'Charley's Parcel, the MECU Parcel, the Jubilee Parcel, and Public Land, and is more particularly described on Schedule "E" attached hereto and incorporated herein by reference (the "**BOP Parcel**").

F. MECU is the owner of certain real property located in the City of Daphne, Baldwin County, Alabama, which real property is contiguous with the Landholder Parcel, the HD Parcel, the RHI Parcel, the O'Charley's Parcel, the BOP Parcel, the Jubilee Parcel, and Public Land, and is more particularly described on Schedule "F" attached hereto and incorporated herein by reference (the "**MECU Parcel**").

G. Jubilee is the owner of certain real property located in the City of Daphne, Baldwin County, Alabama, which real property is contiguous with the Landholder Parcel, the HD Parcel, the RHI Parcel, the O'Charley's Parcel, the BOP Parcel, the MECU Parcel, and Public Land, and is more particularly described on Schedule "G" attached hereto and incorporated herein by reference (the "**Breland Parcel**").

H. CITY is the fee owner of that certain real property located in the City of Daphne, Baldwin County, Alabama, described on Schedule "H-1" attached hereto and incorporated herein by reference, being further identified by cross-hatching on the site plan attached hereto as Schedule "H-2" and incorporated herein by reference (the "**Public Land**").

I. The Landholder Parcel, the HD Parcel, the RHI Parcel, the O'Charley's Parcel, the BOP Parcel, the MECU Parcel, the Breland Parcel, and Public Land are herein collectively referred to as the "**Parcels**" or the "**Center**", and each individually as a "**Parcel**". The plats depicting the Parcels are attached hereto as Exhibit A and incorporated herein by reference. Landholder, HD, RHI, O'Charley's, BOP, MECU, Breland, and CITY are sometimes referred to herein individually as a "**Party**" or an "**Owner**", or collectively as the "**Parties**" or the "**Owners**".

J. The Center is currently subject to that certain Reciprocal Easement and Operation Agreement between Jubilee Mall, L.L.C., an Alabama limited liability company, and HD dated June 11, 1999, and recorded on October 7, 1999, in the Office of the Judge of Probate of Baldwin County, Alabama, as Instrument No. 514793 (the "**Original REOA**"). The Parties intend that the Original REOA no longer control the development or operation of the Center. By execution and recordation of this Agreement, the Original REOA is hereby made null and void and of no further force or effect.

K. The Parties recognize that for the most favorable development and redevelopment of the Center, it is necessary that they agree and cooperate with respect to the operation and maintenance of their Parcels and the common areas and facilities existing and to be erected thereon (the "**Common Areas**") as indicated on the site plan of the Center attached hereto as Exhibit "I" (the "**Site Plan**"). The Parties therefore intend herein to grant to each other certain

reciprocal easements for pedestrian and vehicular ingress and egress over the common curb cuts, roadways, driveways, aisles, walkways and sidewalks for access and for delivery and to grant certain rights to install and maintain utility lines and site facilities within the Common Areas. The Parties also intend herein to provide for certain obligations and restrictions with respect to the operation and maintenance of their respective Parcels and the Common Areas and facilities constructed and to be constructed thereon. Such easements, obligations, and restrictions shall run to the benefit of, and bind the respective Parcels, and the owners from time to time of the Center or any portion thereof.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party hereto, the Parties agree as follows:

ARTICLE I - GRANT OF EASEMENTS

Section 1.01 Access Easements. Each Owner hereby grants and conveys, each to the other, for the benefit of each Parcel, a nonexclusive perpetual easement and right to the use of the Common Areas and the common curb cuts, roadways, driveways, aisles, walkways, and sidewalks located on each Parcel and indicated on the Site Plan and located on the Parcel of the granting Owner, for purposes of ingress, egress, passage and delivery, by vehicles and pedestrians.

Landholder, HD, and CITY each hereby grants and conveys, each to the other, for the benefit of each Parcel, a nonexclusive easement and right to use the parking areas from time to time maintained and located on the Parcel of the granting Owner, for purposes of vehicular parking. Notwithstanding the foregoing easements, no Owner shall be permitted to make any material change to the parking layout or pattern of traffic flow or do anything on its Parcel to reduce the provided parking spaces required pursuant to Article III(c) hereof.

The easements granted hereby and granted in Section 1.02 shall be for the benefit of, but not restricted solely to, the Owners of the Parcels in the Center, and each such Owner may grant the benefit of such easement to the tenants and other occupants of its respective Parcel for the duration of such occupancy, and to the customers, employees, agents, and business invitees thereof, but same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public nor shall it affect any real property outside of the Center. Such easement areas are reserved for said use for the term of this Agreement.

Notwithstanding the foregoing, the Parties acknowledge that the Public Land, a portion of which comprises the Common Areas, is subject to certain covenants and restrictions (the "**Covenants**") contained in Statutory Warranty Deed with Declaration of Covenants and Reservation of Easements, recorded on April 1, 2002, in the Office of the Judge of Probate of Baldwin County, Alabama, as Instrument No. 651254. In the event of any conflict between this Agreement and the Covenants with regard to the Public Land only, the terms of the Covenants shall control.

Section 1.02 Utility Easements. Each Owner hereby grants and conveys, each to the other, for the benefit of each Parcel, an easement in, to, over, under and across the Common Areas of such Owner's Parcel for the purpose of installation, operation, maintenance, repair,

replacements, removal, and relocation of underground storm sewer lines, sanitary sewer pipes, septic systems, water and gas mains, electric power lines, telephone lines, and other underground utility lines (the "**Utility Lines**") to serve the facilities located on each Parcel. The installation of any Utility Lines shall be subject, as to location, to the approval of the granting Owner, which approval shall not be unreasonably withheld or delayed.

Each Owner or any designee served by such Utility Lines may operate, maintain, and repair (and, if it does not interfere with the use of the granting Owner's Parcel, relocate) such Utility Lines, provided such repair and maintenance is performed expeditiously and only after five (5) business days' written notice to the granting Owner utilizing or serviced by said Utility Lines or the parking area to be affected by any construction work. The Party performing the repair shall, at its cost and expense, repair any damage to any improvements. Each Owner shall indemnify and hold the granting Owner and any occupant of the granting Owner's Parcel harmless from any claims, damage, or loss that may result from the activities in making such repairs or relocating its facilities.

Section 1.03 Sign Easements. Each Owner, as grantor, hereby grants to each other Owner, as grantee, for the benefit of each Parcel belonging to the other Owners, a nonexclusive easement under, through and across the Common Area of the grantor's Parcel(s) for the installation, operation, maintenance, repair and replacement of the free-standing signs and the panels displayed thereon described in Article IV of this Agreement and all Utility Lines appurtenant thereto. No signage (temporary or otherwise, including, but not limited to, an electronic marquee) with respect to persons who are not Owners or occupants shall be permitted on any pylon signs located in or upon the Center.

Section 1.04 Restrictions. The easements granted by this Article I shall be subject to the restrictions set forth in Article III.

ARTICLE II - MAINTENANCE AND OPERATION

Section 2.01 Maintenance and Repair.

(a) Each Owner shall maintain, repair, and replace all improved portions of the Common Areas located on its respective Parcel so as to keep such areas at all times in a safe, slightly, good and functional condition to standards of comparable community shopping centers in the market area.

(b) Each Owner shall be responsible for keeping the Common Areas on its own Parcel clean and free from refuse and rubbish. Any landscaped areas on the respective Common Areas shall be mowed and otherwise tended to by the Owner thereof.

(c) Each Owner shall repave, restripe, and replace markings on the surface of the parking areas and driveways in its Parcel from time to time as and when necessary so as to provide for the orderly parking of automobiles and shall place and maintain adequate exit and entrance and other traffic control signs to direct traffic in and out of said parking areas. Any striping and other markings shall be consistent with the Site Plan, and the lighting, paving, and striping materials shall be consistent with that used in the Center.

(d) Each Owner shall service, maintain, repair, and replace, and pay the cost of any fees or charges in connection with the Utility Lines located on its Parcel to the extent that such Utility Lines service the improvements on that Parcel or service the Center as a whole if such services are not provided. To the extent that any Utility Line exclusively servicing any Parcel crosses another Owner's Parcel, such Utility Line shall be so maintained by the party served by the Utility Line, subject to the provisions of Section 1.02. Maintenance of any portion of any Utility Lines serving more than one Parcel shall be performed by the Owner of the Parcel crossed by the Utility Line, but the cost thereof shall be shared on an equitable basis based upon the relative consumption or usage of the utility furnished from such Utility Line.

(e) Each Owner shall pay, prior to any penalty attaching thereto, all real estate taxes, assessments, and personal property taxes, if any, imposed upon the land and improvements and equipment located on its respective Parcel.

(f) Each Owner shall cause the Common Areas and all buildings and improvements located on its Parcel to comply with all applicable requirements of law and governmental regulation applicable thereto; provided, however, that an Owner may contest any such law or regulation so long as such contest would not create any material danger of a loss of title to, or impairment in any way of the use of, all or any portion of the Common Areas for their intended purposes.

Section 2.02 Delegation of Management. The Owners may enter into an agreement, with the consent of the Owners of all Parcels affected thereby, appointing one of the Owners or a third party to perform all or portions of the maintenance and repair of the Common Areas and related facilities of the Center. In such event, each Owner shall be responsible to pay its respective Share (as hereinafter defined) of the costs incurred by the designated party in performing such services, which costs shall include the ordinary operating and maintenance expenditures incurred as well as capital expenditures to the extent so authorized; provided, however, that any expenditure by the designated party for a repair or replacement costing Five Thousand Dollars (\$5,000) or more in which another Owner must share shall require the prior approval of each such Owner. As used herein, the term "**Share**" shall mean a fraction, the numerator of which shall be the number of square feet of floor area (exclusive of mezzanines used for storage and related office and non-sales uses) in all structures located on such Owner's Parcel as measured from the exterior base of any exterior wall and to the center line of any party wall (the "**Building Floor Area**"), and the denominator of which shall be equal to the aggregate of the Building Floor Area (as so measured) in all buildings in the Center.

ARTICLE III - RESTRICTIONS

The Center shall be subject to the following restrictions, which shall be binding on each Owner and each of its tenants, occupants, employees, agents, or invitees.

(a) No obstruction to the free flow of traffic and use of the parking and delivery facilities shall be permitted, except to the extent, if any, indicated on the Site Plan or herein expressly provided for.

(b) No building or other structure of any kind shall be permitted in any portions of the Center except in the "**Permitted Building Areas**" designated on the Site Plan, nor shall any

building or structure in the Permitted Building Areas exceed the maximum square footage indicated as "**Maximum SF**" if any is noted thereon.

(c) No building or other structure shall be permitted within the Center if such building or other structure would reduce the parking spaces within the Center to fewer than 4.5 per 1,000 square feet of gross leasable area to be built as shown (excluding mezzanine level space used only for storage and related offices and non-sales uses) located therein, or below the number of parking spaces required under applicable governmental rules, regulations, and ordinances.

(d) Any construction shall be conducted in a manner that will limit to the maximum extent practicable any interference with the operation of the balance of the Center.

(e) No portion of the Center shall be used for a business or use that creates strong, unusual, or offensive odors, fumes, dust, or vapors; is a public or private nuisance; emits noise or sounds that are objectionable due to intermittence, beat, frequency, shrillness, or loudness; or creates unusual fire, explosive, or other hazards.

(f) No portion of the Center may be leased, used, or occupied as a health spa or exercise facility; bowling alley; billiard parlor; funeral parlor; flea market; industrial manufacturing; automobile dealership; discotheque; skating rink; bar (other than incidental to a business operated primarily as a restaurant, a "bar" being defined for purposes of this Agreement as an establishment offering the sale of alcoholic beverages for consumption on the premises where such sales are not incidental to the sale of food for on-premises consumption in a bona fide restaurant), or social encounter restaurant. No restaurant shall be permitted to operate on any portion of the Center outside of the HD Parcel that is within 300 feet of the main entrance of the HD building located on the HD Parcel. The operation of a bar as part of a restaurant shall be deemed "incidental" if the gross sales derived from the sale of alcoholic beverages are less than forty percent (40%) of the total gross sales derived from the business operated on the Parcel.

(g) No portion of the Center may be leased, used, or occupied as an adult bookstore or establishment selling, exhibiting, or distributing pornographic or obscene materials; massage parlor; so-called "head shop"; unsupervised amusement arcade or game room; body and fender shop; car wash; off-track betting parlor; or restaurant or fast food operation incorporating coin-operating amusements or showing movies to its customers thereof other than as an incidental or immaterial part of its business.

(h) No portion of the Center outside of the HD Parcel may be used for (i) general offices in excess of 7,500 square feet; (ii) a restaurant in excess of 10,000 square feet except in the O'Charley's Parcel; or (iii) a home improvement center or the sale of lumber, hardware items, plumbing supplies, electrical supplies, paint, wallpaper, carpeting, floor coverings, cabinets, siding, ceiling fans, gardening supplies, nursery products, home appliances (including without limitation, stoves, dishwashers, washing machines, dryers, microwaves, and refrigerators), furniture, pool supplies, or other related items customarily carried by a home improvement center except for the incidental sale of such items. The sale of such items shall be deemed "incidental" if such items occupy no more than the lesser of (i) five percent (5%) of the total Building Floor Area of such business, or (ii) one thousand (1,000) square feet of sales and/or display area relating to such items individually or in the aggregate. Notwithstanding the

foregoing, (1) the sale or use of less than 2,000 square feet for the sale of paint, wallpaper, or ceiling fans in the aggregate shall not be deemed to constitute a violation hereof, and (2) the use and operation in the building labeled "Anchor A" on the Site Plan of an Academy Sports and Outdoors Store ("Academy") or a Dick's Sporting Goods Store ("Dick's"), or any successor sporting goods store, shall not be deemed to constitute a violation hereof so long as such store has a merchandise mix comparable to a typical Academy or Dick's in a majority of said stores operating in the southeastern United States as of the date hereof.

(i) There shall be no promotion, entertainment, amusement, or other activities in the Common Areas that would interfere with the use of the Common Areas and related facilities for their intended purposes. Notwithstanding the foregoing, (i) HD may utilize the portions of the Common Areas on the HD Parcel designated on the Site Plan as "**Outside Sales Area**" for purposes of Christmas tree sales and other seasonal sales and may use the underside of the lumber canopy of HD building and all sidewalks on the HD Parcel for the display and sale of merchandise, and (ii) other tenants of the Center outside the HD Parcel may utilize the sidewalk areas directly in front of their premises and those portions of the Common Areas outside the HD Parcel designated on the Site Plan as "Outside Sales Area" for the display and sale of merchandise so long as such display and sales are conducted in an orderly fashion and do not disrupt the safe and orderly pedestrian traffic.

ARTICLE IV - SIGNS

Section 4.01 Permitted Signs. The following signs only shall be permitted in the Center: (a) directional signs for guidance upon the parking and driveway areas; (b) exterior building identification signs of any occupant of the Permitted Building Areas of the Center, so long as such signs are similar to the standard identification signs from time to time being used by any such occupant in its other stores or restaurants, or are substantially identical in quality, format and design to other signs in the Center; (c) a temporary sign or signs on a Parcel identifying the lender(s) providing construction and/or permanent financing for any improvement to be located on the Parcel and/or identifying an occupant of a Parcel as "coming soon"; (d) a sign or signs identifying an automated teller machine(s) or similar financial equipment operated on any of the Permitted Building Areas, so long such signs are similar to other such signs in first-class shopping centers in the State; (e) exterior building signage approved by the City of Daphne for a Parcel, and (f) pylon and monument signs at the approximate locations depicted on the Site Plan hereto and as provided in Section 4.02 and Section 4.03 below. Each building identification sign located in the Center and that identifies a single Center occupant shall be maintained in good condition and repair by the Center occupant identified on such building identification sign.

Section 4.02 Pylon Signs. Subject to governmental requirements and to Section 1.03 above, each of the Landholder Parcel and the HD Parcel may have a pylon sign in the locations shown on the Site Plan attached hereto (the "**Center Pylon Sign**" and the "**Home Depot Pylon Sign**", respectively). Except as provided below, each Owner shall maintain in good condition and repair, at its sole cost, the pylon sign structure on its Parcel. The Owner of the HD Parcel shall have the right to display its sign panel in the bottom position on the Center Pylon Sign [or in third position, if more than three (3) panels are installed on the Center Pylon Sign]. If the Owner of the HD Parcel elects to display its sign panel on the Center Pylon Sign, (i) the initial design of the Center Pylon Sign shall be subject to the approval of the Owner of the HD Parcel, (ii) any change to the initial design of the Center Pylon Sign shall be subject to the prior written

approval of such Owner, and (iii) once constructed, the Center Pylon Sign may not be taken down, altered, or modified without the prior written approval of such Owner, which approval shall not be unreasonably withheld, delayed or conditioned. The cost of constructing, installing, maintaining, insuring, repairing and replacing the Center Pylon Sign structure (including electrical hookup to a common meter) shall be shared equally among the Owners/tenants displaying a sign panel on the Center Pylon Sign; provided, however, HD's share of the cost for the initial construction and installation of the Center Pylon Sign shall in no event exceed Seventy Thousand and 00/100 Dollars (\$70,000.00). Each Owner or tenant displaying a sign panel on the Center Pylon Sign or on the Home Depot Pylon Sign shall maintain, at its sole cost and expense, its own sign fascia and can.

Section 4.03 Monument Signs. Provided the signage otherwise permitted by governmental regulations to the Owner of the HD Parcel and on the Center Pylon Sign is not adversely affected thereby, the Landholder Parcel may have one free-standing, permanent monument sign structure at the location designated on the Site Plan attached hereto (the "**Monument Sign**"), which shall be constructed by Landholder at its sole cost, including sign fascia and cans. The Monument Sign shall conform to the sign drawings and criteria attached hereto as Schedule "J" and incorporated herein by reference. The cost of maintaining, insuring, repairing and replacing the Monument Sign structure (including electrical hookup to a common meter) shall be paid by the Owner of the Landholder Parcel. After the initial construction of the Monument Sign, each Owner or tenant displaying a designation on the Monument Sign shall maintain its own sign fascia and can. The Owner of the HD Parcel shall not have the right to display its sign panel on the Monument Sign.

ARTICLE V - LIABILITY AND INDEMNIFICATION

Section 5.01 Liability: Indemnifications. Each Owner shall indemnify and hold every other Owner, tenant, and occupant of the Center harmless (except for loss or damage resulting from the tortious acts of such other parties) from and against any damages, liability actions, claims, and expenses (including attorneys' fees in a reasonable amount) in connection with the loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon such Owner's Parcel, or occasioned wholly or in part by any act or omission of said Owner, its tenants, agents, contractors, employees, or licensees.

Section 5.02 Liability Insurance. Each Owner shall maintain or cause to be maintained comprehensive general commercial liability insurance insuring against claims on account of loss of life, bodily injury or property damage that may arise from, or be occasioned by, the condition, use or occupancy of the Common Areas in the Center by the Owner and the tenants, agents, contractors, employees, licensees, customers and invitees, of such Owner or the occupants of its Parcels except as herein provided. Said insurance shall be carried by a reputable insurance company or companies qualified to do business in the State in which the Center is located and have limits of not less than \$3,000,000 per occurrence. Each Owner shall maintain or cause to be maintained contractual liability insurance specifically endorsed to cover said Owner's agreement to indemnify as set out in Section 5.01. Notwithstanding the foregoing, any Owner or party responsible to maintain such insurance may "self insure", or provide for a deductible from said coverage related to the Parcel, to the extent of one percent (1%) of the net worth of said Owner or party in its last annual or fiscal year as certified by an independent certified public accountant and computed in accordance with generally accepted accounting principles

consistently applied. Such insurance may be carried under a "blanket" policy or policies covering other properties of the party and its subsidiaries, controlling or affiliated corporations. Each Owner shall, upon written request from another Owner, furnish to the party making such request certificates of insurance evidencing the existence of the insurance required to be carried pursuant to this Section or evidence of a self-insurance capacity as hereinabove provided, as the case may be. All such insurance shall include provisions denying to the insurer subrogation rights against the other parties to the extent such rights have been waived by the insured prior to the occurrence of subrogation waiver damage or loss. Each Owner hereby waives any rights of recovery against any other Owner, its directors, officers, employees, agents, tenants and occupants for any damage or consequential loss covered by said policies, against which such Owner is protected by insurance, to the extent of the proceeds payable under such policies, whether or not such damage or loss shall have been caused by any acts or omissions of the another Owner or its directors, officers, employees, agents, tenants or occupants.

ARTICLE VI - CASUALTY AND EMINENT DOMAIN

Section 6.01 Casualty.

(a) If any of the buildings located on any Parcel are damaged or destroyed by fire or other cause, the Owner of such building shall promptly cause either: (i) the repair, restoration, or rebuilding of the building so damaged or destroyed, or (ii) the razing of any damaged building, the filling of any excavation, and performance of any other work necessary to put such portion of the Center in a clean, sightly and safe condition.

(b) In the event any Common Area improvements are damaged or destroyed, the Owner of the Parcel to which such damage has occurred shall promptly cause the repair, restoration or rebuilding of the Common Area improvements so damaged or destroyed to the extent necessary to restore such area to a clean, sightly and safe condition to avoid interference with the remaining Common Areas of the Center and to adhere to any required parking ratios required by law and as set forth herein.

Section 6.02 Casualty Insurance. In order to assure performance of their respective obligations under Section 6.01, the Owners of the respective Parcels shall cause to be carried fire and extended coverage insurance on all buildings and improvements on their respective Parcels in the amount of the replacement cost of such improvements, and in amounts at least sufficient to avoid the effect of any co-insurance provisions of such policies, except if the Owner of said Parcel, or the party responsible for any required restorations, is permitted to "self insure" pursuant to Section 6.01. Any such insurance shall otherwise conform to the provisions with respect to insurance contained in Section 5.02.

Section 6.03 Eminent Domain. In the event the whole or any part of the Center shall be taken by right of eminent domain or any similar authority of law (a "**Taking**"), the entire award for the value of the land and improvements so taken shall belong to the Owner of the property so taken or to such Owner's mortgagees or tenants, as their interest may appear, and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Agreement. In the event of a partial Taking, the Owner of the portion of the Center so taken shall restore the improvements located on the Common Areas of the Owner's Parcel as nearly as possible to the condition existing prior to the Taking without contribution from any other Owner.

and any portion of any condemnation award necessary therefor shall be held in trust and applied for such purpose.

ARTICLE VII - REMEDIES

Section 7.01 Self Help: Lien Rights Disputes. If any Owner shall default in the performance of an obligation of such Owner (such Owner being herein called a "**Defaulting Owner**"), which default affects the Owner of another Parcel or any occupant thereof (an "**Affected Party**"), such Affected Party, in addition to all other remedies it may have at law or in equity, after ten (10) days' prior written notice to the Defaulting Owner and any first Mortgagee or SL Lessor as herein defined (or, in the event of an emergency, after such notice as is practical under the circumstances), shall have the right to perform such obligation on behalf of the Defaulting Owner, subject to the dispute provisions of Section 7.06. In such event, the Defaulting Owner shall promptly reimburse the Affected Party the cost thereof, together with interest thereon from the date of outlay at a rate equal to the lesser of (i) two percent (2%) in excess of the prime lending rate charged by Citibank, N.A., for commercial loans of its most preferred commercial customers, or (ii) the highest rate permitted by applicable law (the "**Interest Rate**"). As used herein, "**SL Lessor**" shall mean any party who has purchased a Property and leased it back to the preceding Owner, or its subsidiary or affiliate, on a net lease basis with the lessee assuming all obligations thereunder in what is commonly referred to as a "sale leaseback" transaction, and "**Mortgagee**" shall mean the holder of any first priority mortgage or deed of trust now or hereafter affecting the subject Parcel.

Section 7.02 Injunctive and Other Remedies. In the event of a breach by any Owner of any obligation of this Agreement, the other Owners shall be entitled to obtain an injunction specifically enforcing the performance of such obligation; the Owners hereby acknowledge the inadequacy of legal remedies and the irreparable harm that would be caused by any such breach, and/or to relief by other available legal and equitable remedies from the consequences of such breach. Any action taken or document executed in violation of this Agreement shall be void and may be set aside upon the petition of the other Owners of the Center. Any costs and expenses of any such proceeding, including attorneys' fees in a reasonable amount, shall be paid by the Defaulting Owner and, if recorded without effective dispute as provided in Section 7.06, shall constitute a lien against the land, and improvements thereon, or the interests therein, until paid.

Section 7.03 Non-Waiver. No delay or omission of any Owner in the exercise of any right accruing upon any default of any other Owner shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by any Owner of a breach of, or a default in, any of the terms and conditions of this Agreement by any other Owner shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement. Except as otherwise specifically provided in this Agreement, (i) no remedy provided in this Agreement shall be exclusive but each shall be cumulative with all other remedies provided in this Agreement, and (ii) all remedies at law or in equity shall be available.

Section 7.04 Non-Terminable Agreement. No breach of the provisions of this Agreement shall entitle any Owner or Party to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect, in any manner, any other rights or remedies that any Party may have hereunder by reason of any breach of the provisions of this Agreement. No

breach of the provisions of this Agreement shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value covering any part of the Center, and any improvements thereon.

Section 7.05 Force Majeure. In the event any Owner or any other party shall be delayed or hindered in or prevented from the performance of any act required to be performed by such party by reason of acts of God, strikes, lockouts, unavailability of materials, failure of power, prohibitive governmental laws or regulations, riots, insurrections, the act or failure to act of the other party, adverse weather conditions preventing the performance of work as certified to by an architect, war or other reason beyond such party's control, then the time for performance of such act shall be extended for a period equivalent to the period of such delay. Lack of adequate funds or financial inability to perform shall not be deemed to be a cause beyond the control of such party.

Section 7.06 Dispute Resolution. Any dispute between the parties may be litigated under the provisions of any simplified procedure for court determination of disputes applicable under the laws of the State in which the Center is located, if appropriate and available, or, with the mutual agreement of the parties, may be submitted to arbitration, in either of which events, all parties will join in a request for expediting the disposition of any proceeding brought to resolve the dispute. The prevailing party in the dispute shall be reimbursed for any court charges related to the resolution of the dispute and its reasonable attorney's fees.

ARTICLE VIII - TERM

This Agreement and the easements, rights, obligations, and liabilities created hereby shall be perpetual to the extent permitted by law.

ARTICLE IX - EFFECT OF INSTRUMENT

Section 9.01 Mortgage Subordination. Any mortgage or deed of trust affecting any portion of the Center shall at all times be subject and subordinate to the terms of this Agreement, except to the extent expressly otherwise provided herein, and any party foreclosing any such mortgage or deed of trust, or acquiring title by deed in lieu of foreclosure or trustee's sale, shall acquire title subject to all of the terms and provisions of this Agreement, subject to Section 7.01 hereof. Each party hereto represents and warrants to the other parties that there is no presently existing mortgage or deed of trust lien on its Parcel, other than mortgage or deed of trust liens that are expressly subordinate to the lien of this Agreement.

Section 9.02 Binding Effect. Every agreement, covenant, promise, undertaking, condition, easement, right, privilege, option and restriction made, granted or assumed, as the case may be, by any party to this Agreement is made by such party not only personally for the benefit of the other parties hereto but also as Owner of a portion of the Center and shall constitute equitable servitude on the portion of the Center owned by such party appurtenant to and for the benefit of the other portions of the Center. Any transferee of any part of the Center shall automatically be deemed, by acceptance of the title to any portion of the Center, to have assumed all obligations of this Agreement relating thereto to the extent of its interest in its Parcel and to have agreed with the then Owner or Owners of all other portions of the Center to execute any and all instruments and to do any and all things reasonably required to carry out the intention of

this Agreement, and the transferor shall, upon the completion of such transfer, be relieved of all further liability under this Agreement except liability with respect to matters that may have arisen during its period of ownership of the portion of the Center so conveyed that remain unsatisfied.

Section 9.03 Non-Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Center to the general public or for any public use or purpose whatsoever, it being the intention of the parties hereto and their successors and assigns and that nothing in this Agreement, expressed or implied, shall confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

ARTICLE X - NOTICES

Any notice, report, demand, request, consent, approval, designation or other communication required, permitted or desired to be given under this Agreement shall be in writing and shall be given or served or communicated by personal delivery, by United States registered or certified mail, return receipt requested; or by prepaid FedEx or other nationally recognized overnight delivery service, at the addresses noted below or such different address as the respective parties may from time to time designate by like notice. Any notice, report, demand, request, consent, approval, designation or other communication so sent shall be deemed to have been given, made or communicated, as the case may be, on the date the same was personally delivered or delivered by the United States mail as registered or certified matter with postage thereon fully prepaid, or delivered by FedEx or other nationally recognized overnight delivery service.

If to Landholder: L-A Daphne, LLC
 c/o Blackwater Management Group, LLC
 270 Doug Baker Boulevard
 Suite 700, Box 109
 Birmingham, Alabama 35242
 Attn: Ronald L. Carlson
 Tel: 205.972.9649

with a copy to: Blackwater Management Group, LLC
 270 Doug Baker Boulevard
 Suite 700, Box 109
 Birmingham, Alabama 35242
 Attn: Legal Department
 Tel: 205.969.1000

and: L-A Daphne, LLC
 c/o Lubert-Adler Partners, L.P.
 The Cira Centre
 2929 Arch Street
 Philadelphia, Pennsylvania 19104
 Attn: Leonard Klehr

If to HD: Home Depot U.S.A., Inc.
2455 Paces Ferry Road, NW
Atlanta, Georgia 30339
Attn: Real Estate and Legal Departments
Tel: 770.433.8211

If to RHI: Rare Hospitality International, Inc.
PO Box 98359
Atlanta, Georgia 30359
Attn: _____
Tel: _____

with a copy to: _____

Attn: _____
Tel: _____

If to O'Charley's: O'Charley's Inc.
306 Gay Street, Suite 210
Nashville, Tennessee 37210
Attn: _____
Tel: _____

with a copy to: _____

Attn: _____
Tel: _____

If to CITY: _____

Attn: _____
Tel: _____

If to BOP: The Bank of Pensacola
PO Box 12966
Pensacola, Florida 32591
Attn: Brenda King
Tel: _____

If to MECU: Mobile Educators Credit Union
3150 Airport Boulevard
Mobile, Alabama 36606
Attn: _____
Tel: _____

If to Jubilee: _____

Attn: _____
Tel: _____

ARTICLE XI - ENVIRONMENTAL COMPLIANCE

Section 11.01 Compliance and Indemnification.

(a) Each Owner of a Parcel agrees to (i) comply with all governmental laws, rules or regulations related to the use, storage, treatment, transportation, removal or disposal of Hazardous Materials (as said term is hereinafter defined); (ii) give notice to the other Owners immediately upon such Owner's acquiring knowledge of the Hazardous Materials Contamination (as said term is hereinafter defined) with a full description thereof; and (iii) promptly, at such Owner's sole cost and expense, to comply with the requirements of any governmental laws, rules or regulations requiring the removal, treatment or disposal of such Hazardous Materials or Hazardous Materials Contamination and provide the other Owners with satisfactory evidence of such compliance.

(b) Each Owner shall defend, indemnify and hold harmless the other Owners and their respective tenants from and against any and all liabilities (including strict liability), suits, actions, claims, demands, penalties, damages (including, without limitation, interest, penalties, fines and monetary sanctions), losses, costs or expenses (including, without limitation, consultants' fees, investigation and laboratory fees, reasonable attorneys' fees and remedial costs) (the foregoing are hereinafter collectively referred to as "**Liabilities**") that may now or in the future be incurred or suffered by another Owner by reason of, resulting from, in connection with, or arising in any manner whatsoever out of the breach of any covenant of an Owner contained in or referred to in this Section 11.01 of this Agreement or that may be asserted as a direct or indirect result of the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from an Owner's Parcel of any Hazardous Materials or any Hazardous Materials Contamination, or arise out of or result from the environmental condition of an Owner's Parcel, whether or not occasioned wholly or in part by any condition, accident or event caused by an act or omission of the Owner.

Section 11.02 Hazardous Materials. The term "Hazardous Materials" shall mean (a) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (b) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), as amended from time to time, and regulations promulgated thereunder; (c) asbestos; (d) polychlorinated biphenyls; (e) any substance, the presence of which on the Parcel is prohibited by any governmental law, rule or regulation; (f) any petroleum-based products stored or used other than in compliance with governmental laws, rules or regulations; (g) underground storage tanks; and (h) any other substance that, by any governmental law, rule or regulation, requires special handling in its collection, storage, treatment or disposal.

Section 11.03 Hazardous Materials Contamination. The term "Hazardous Materials Contamination" shall mean the contamination (whether presently existing or hereafter occurring) of a Parcel's facilities, soil, ground water, air or other elements on or of the Parcel by Hazardous Materials, or the contamination of the buildings, facilities, soil, ground water, air or other elements on or of any other real property as a result of Hazardous Materials at any time (whether before or after the date of this Agreement) emanating from the Parcel.

ARTICLE XII - MISCELLANEOUS

Section 12.01 Severability. If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstances, shall, to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid provision affects the consideration for this Agreement; and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 12.02 Governing Law. This Agreement shall be construed in accordance with the laws of the State in which the Center is located.

Section 12.03 Headings. The section headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof.

Section 12.04 No Partnership. Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers or render any of the parties liable for the debts or obligations of any other party.

Section 12.05 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

Section 12.06 Amendment. This Agreement may be amended, modified, or terminated at any time by a declaration in writing, executed and acknowledged by all the parties to the Agreement or their successors or assigns; this Agreement shall not be otherwise amended, modified or terminated during the term hereof.

Section 12.07 Counterparts. This Agreement may be signed in several counterparts, each of which shall be deemed an original, and all of such counterparts shall constitute one and the same instrument. The signature of a party to any counterpart may be removed and attached to any other counterpart. Any counterpart to which is attached a signature of all parties shall constitute an original of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK
SEPARATE SIGNATURE PAGES FOLLOW]

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

Resolution 2011-02

Raymond James: \$ 2,000,000 Additional Investment

WHEREAS, the City of Daphne did heretofore by Resolution 2010-105 authorize the investment of funds in the approximate amount of \$ 2,900,000 for the purpose of long-term capital growth; and

WHEREAS, the General Fund has accumulated additional funds that are not required for the day-to-day operations of the City and such funds can earn a higher interest rate by investing in governmental obligations; and

WHEREAS, section 11-81-21 of the Code of Alabama authorizes and legislates the types of obligations municipalities may invest in; and

WHEREAS, the City of Daphne did heretofore appoint Raymond James & Associates to serve as Investment Manager, and thereby invest City of Daphne funds in governmental securities in accord with the Code of Alabama.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Daphne, Alabama, that the Mayor and Finance Director are hereby authorized to take the steps necessary to invest an additional \$ 2,000,000 in the Raymond James Investment Account.

APPROVED AND ADOPTED by the City Council of the City of Daphne this _____ day of _____, 2011.

Cathy S. Barnette, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

**RESOLUTION 2011-03
PREPAID TRAVEL**

**BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA
HEREBY AUTHORIZES THE FOLLOWING:**

Prepaid travel expenses are approved for the purpose and amount indicated below for the following:

**David L. Cohen, City Clerk MMC, Certification Training Institute for Municipal Clerks,
Tuscaloosa, AL, January 25-28, 2011 - \$140**

A complete expense summary with receipts will be submitted and approved by the Mayor upon return from the above.

**APPROVED AND ADOPTED BY THE CITY COUNCIL, CITY OF DAPHNE, ALABAMA on
this _____ day of _____, 2011.**

Cathy S. Barnette, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

RESOLUTION NO. 2011-04
2011-H-TWO (2) 20 CUBIC YARD REAR LOADING REFUSE
COLLECTION TRUCK

WHEREAS, The City of Daphne is required under section 41-16-20 of the Code of Alabama to secure competitive bids for items in excess of \$15,000; and

WHEREAS, The City of Daphne acknowledges that the cost for the 2011-H-TWO (2) 20 CUBIC YARD REAR LOADING REFUSE COLLECTION TRUCK will exceed this amount; and

WHEREAS, Staff has reviewed the bids for the 2011-H-TWO (2) 20 CUBIC YARD REAR LOADING REFUSE COLLECTION TRUCK and determined that the bid as presented is reasonable; and

WHEREAS, Staff recommends the bid for the 2011-H-TWO (2) 20 CUBIC YARD REAR LOADING REFUSE COLLECTION TRUCK be awarded to Ward International Trucks of Alabama LLC; and

WHEREAS, the City Council did heretofore determine that, due to funding constraints, such equipment will be funded through a lease purchase; and

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept the bid of \$251,539.55 from Ward International Trucks of Alabama LLC as specified in BID SPECIFICATION NO: 2011-H-TWO (2) 20 CUBIC YARD REAR LOADING REFUSE COLLECTION TRUCK pending securing favorable leasing terms. The Mayor is hereby authorized to negotiate and enter into a lease agreement for such purchase.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ day of _____, 2011.

Cathy S. Barnette, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

Resolution 2011-05

**Emergency Response Equipment Purchase Authorization:
Mississippi Canyon 252 Incident (Deepwater Horizon -BP Oil Spill) Grant**

WHEREAS, the Mayor of the City of Daphne did heretofore request funds (in addition to the previously received \$ 500,000) for preventative measures in response to the Deepwater Horizon BP Oil Spill incident pursuant to a June 14, 2010 motion by the Daphne City Council; and

WHEREAS, thereafter, a supplemental agreement was executed and the City of Daphne did receive an additional payment in the amount of \$ 465,000 from the State of Alabama on July 7, 2010 for the same grant; and

WHEREAS, the approved funding request stipulated the use of the funds was to be for contracted services, response equipment, and supplies; and

WHEREAS, the barricades meet the requirement of response equipment in that they provide security and protection for the citizens of Daphne; and

WHEREAS, the City of Daphne is required under section 41-16-20 of the Code of Alabama to secure competitive bids for items in excess of \$15,000 and the barricades have been bid and awarded; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Daphne, Alabama, that the purchase of barricades is hereby authorized in an amount not to exceed \$10,000.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2011.

Cathy S. Barnette, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk, MMC

RESOLUTION 2011-06
A RESOLUTION ADOPTING HIRING FREEZE EXCEPTION POLICY

WHEREAS, Ordinance 2010-71 adopted the Fiscal Year 2011 budget on December 20, 2010; and

WHEREAS, a hiring freeze was enacted with the adoption of such budget ordinance thereby requiring that “authorized positions vacated, for any reason, may only be advertised and filled upon express approval by the City Council”; and

WHEREAS, certain administrative procedures are required in order to consistently evaluate and determine whether vacated positions will receive such express approval.

NOW, THEREFORE, BE IT Resolved that the following policies shall be enacted to setforth the eligibility criteria in order to determine whether advertising and filling the vacancy is approved by the City Council:

1. All hiring requests for vacant positions will be presented in writing from the Department Head to the Human Resources (HR) Director and Mayor for approval.
2. The Human Resources Director will maintain an ongoing schedule of vacancies, which will include the rate of pay, to the Finance Director who will prepare a total cost for the position and then such information will be presented at the next scheduled Finance Committee meeting.
3. Upon approval by the Mayor and review by the Finance Committee, the hiring request, position justification, job description, and a department salary total will be presented at the next available City Council Work Session.
4. A motion stating the request to fill the vacancy will be on the next Council meeting agenda following the Council Work Session.
5. Temporary staffing of a vacant position may be obtained upon approval by the City Council.
6. Temporary staffing is hereby authorized during an employee’s extended leave of absence to include workers comp absences.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2011.

Cathy S. Barnette, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk, MMC

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2011-01**

**Ordinance to Rezone Property Located
Northeast of the intersection of Parker Lane and Whispering Pines Road,
Northwest of Madison Place Subdivision**

WHEREAS, Plan B Investments, L.L.C., as the owner of certain real property located within the City of Daphne, Alabama, has requested that said property be rezoned from R-3, High Density Single Family Residential to R-4, High Density Single Family Residential; and,

WHEREAS, said real property is located Northeast of the intersection of Parker Lane and Whispering Pines Road, Northwest of Madison Place Subdivision, and more particularly described as follows:

COMMENCE AT THE SOUTHWEST CORNER OF LOT NUMBER 7 OF CAROLINE WOODS SUBDIVISION, PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2423-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING: THENCE RUN SOUTH 89 DEGREES 54 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 110.23 FEET; THENCE RUN NORTHWESTWARDLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 30 FEET, AN ARC DISTANCE OF 47.12 FEET (CHORD BEARS NORTH 45 DEGREES 05 MINUTES 57 SECONDS WEST, 42.43 FEET); THENCE RUN NORTH 00 DEGREES 05 MINUTES 57 SECONDS WEST, FOR A DISTANCE OF 79.05 FEET; THENCE RUN NORTH 79 DEGREES 57 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 50.79 FEET; THENCE RUN NORTH 00 DEGREES 05 MINUTES 57 SECONDS WEST, FOR A DISTANCE OF 236.96 FEET; THENCE RUN NORTHWESTWARDLY, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1071.71 FEET, AN ARC DISTANCE OF 281.22 FEET (CHORD BEARS NORTH 07 DEGREES 37 MINUTES 00 SECONDS WEST, 280.42 FEET); THENCE RUN NORTH 15 DEGREES 08 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 67.34 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, FOR A DISTANCE OF 36.94 FEET; THENCE RUN NORTH 76 DEGREES 51 MINUTES 49 SECONDS EAST, FOR A DISTANCE OF 84.84 FEET; THENCE RUN SOUTH 89 DEGREES 57 MINUTES 25 SECONDS EAST, FOR A DISTANCE OF 174.3 FEET; THENCE RUN SOUTH 00 DEGREES 04 MINUTES 34 SECONDS WEST, FOR A DISTANCE OF 139.01 FEET; THENCE RUN SOUTH 24 DEGREES 01 MINUTES 42 SECONDS WEST, FOR A DISTANCE OF 54.45 FEET; THENCE RUN SOUTH 03 DEGREES 47 MINUTES 20 SECONDS WEST, FOR A DISTANCE OF 262.06 FEET; THENCE RUN SOUTH 01 DEGREE 50 MINUTES 51 SECONDS WEST, FOR A DISTANCE OF 266.69 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 3.47 ACRES, MORE OR LESS, AND LIES IN FRACTIONAL SECTION 8 AND GRANT SECTION 19 AND 38, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

WHEREAS, at the City of Daphne Planning Commission meeting on November 18, 2010, the Commission considered said request and set forth a favorable recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, due notice of said proposed rezoning has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public hearing was held before the City Council on January 3, 2010; and,

WHEREAS, the City Council of the City of Daphne after due consideration and upon consideration of the recommendation of the Planning Commission, deemed that said application for rezoning of the above described real property is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, as follows

SECTION I: ZONING

That above described real property is hereby rezoned from R-3, High Density Single Family Residential to R-4, High Density Single Family Residential, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

SECTION II: REPEALER.

All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION III: SEVERABILITY.

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 said 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.

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne and after publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2011.

**Cathy S. Barnette,
Council President**

**Fred Small,
Mayor**

ATTEST:

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

**PLAN B INVESTMENTS LLC
ZONING AMENDMENT REVIEW
NORTHEAST OF THE INTERSECTION OF PARKER
LANE AND WHISPERING PINES ROAD, NORTHWEST OF MADISON
PLACE SUBDIVISION
EXHIBIT "A"**

(A PORTION OF CAROLINE WOODS SUBDIVISION, PHASES A & D)

LEGAL DESCRIPTION:

COMMENCE AT THE SOUTHWEST CORNER OF LOT NUMBER 7 OF CAROLINE WOODS SUBDIVISION, PHASE ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2423-C, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, FOR A POINT OF BEGINNING: THENCE RUN SOUTH 89 DEGREES 54 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 110.23 FEET; THENCE RUN NORTHWESTWARDLY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 30 FEET, AN ARC DISTANCE OF 47.12 FEET (CHORD BEARS NORTH 45 DEGREES 05 MINUTES 57 SECONDS WEST, 42.43 FEET); THENCE RUN NORTH 00 DEGREES 05 MINUTES 57 SECONDS WEST, FOR A DISTANCE OF 79.05 FEET; THENCE RUN NORTH 79 DEGREES 57 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 50.79 FEET; THENCE RUN NORTH 00 DEGREES 05 MINUTES 57 SECONDS WEST, FOR A DISTANCE OF 236.96 FEET; THENCE RUN NORTHWESTWARDLY, ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1071.71 FEET, AN ARC DISTANCE OF 281.22 FEET (CHORD BEARS NORTH 07 DEGREES 37 MINUTES 00 SECONDS WEST, 280.42 FEET); THENCE RUN NORTH 15 DEGREES 08 MINUTES 03 SECONDS WEST, FOR A DISTANCE OF 67.34 FEET; THENCE RUN NORTH 89 DEGREES 54 MINUTES 03 SECONDS EAST, FOR A DISTANCE OF 36.94 FEET; THENCE RUN NORTH 76 DEGREES 51 MINUTES 49 SECONDS EAST, FOR A DISTANCE OF 84.84 FEET; THENCE RUN SOUTH 89 DEGREES 57 MINUTES 25 SECONDS EAST, FOR A DISTANCE OF 174.3 FEET; THENCE RUN SOUTH 00 DEGREES 04 MINUTES 34 SECONDS WEST, FOR A DISTANCE OF 139.01 FEET; THENCE RUN SOUTH 24 DEGREES 01 MINUTES 42 SECONDS WEST, FOR A DISTANCE OF 54.45 FEET; THENCE RUN SOUTH 03 DEGREES 47 MINUTES 20 SECONDS WEST, FOR A DISTANCE OF 262.06 FEET; THENCE RUN SOUTH 01 DEGREE 50 MINUTES 51 SECONDS WEST, FOR A DISTANCE OF 266.69 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 3.47 ACRES, MORE OR LESS, AND LIES IN FRACTIONAL SECTION 8 AND GRANT SECTION 19 AND 38, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

ORDINANCE 2011-03
State of Alabama
\$ 465,000 Supplemental Funds: Deepwater Horizon BP Oil Spill

WHEREAS, the Mayor of the City of Daphne did heretofore request funds (in addition to the previously received \$ 500,000) for preventative measures in response to the Deepwater Horizon BP Oil Spill incident pursuant to a June 14, 2010 motion by the Daphne City Council; and

WHEREAS, thereafter, a supplemental grant agreement was executed and the City of Daphne did receive an additional payment in the amount of \$ 465,000 from the State of Alabama on July 7, 2010; and

WHEREAS, the approved additional funding request stipulated the use of the funds was to be for contracted services, response equipment, and supplies; and

WHEREAS, as of August 10, 2010, the BP Oil Spill incident was removed from emergency status by Baldwin County officials and the City of Daphne accepted the same date for the cessation of its emergency response; and

WHEREAS, since such time, the Alabama Emergency Management Agency has, on a case by case basis, authorized the use of any remaining funds for the purpose of preparing and equipping agencies to better respond to disaster and emergency events.

NOW, THEREFORE, BE IT ORDAINED that:

- 1) The City of Daphne does hereby accept additional funds from the Alabama Emergency Management Agency (AEMA) in the amount of \$ 465,000 for the purpose of preparing and equipping Public Safety and Public Works to better respond to future disaster and emergency events; AND
- 2) The following budget as heretofore submitted to the AEMA in the grant application is hereby adopted:

100,000	Absorbent Boom
90,000	Containment Boom
25,000	Response Vehicle
250,000	Skimming

AND

- 3) Any proposed use of funds that is not classified above shall be approved by the Daphne City Council and then forwarded to the State of Alabama for approval and reallocation.

Approved and adopted on this the _____ day of _____, 2011.

Cathy S. Barnette, Council President

ATTEST:

Fred Small, Mayor

David L. Cohen, City Clerk, MMC

ORDINANCE 2011-04
SPORTS COMPLEX FENCE AND NETTING REPLACEMENT APPROPRIATION

WHEREAS, Ordinance 2010-71 approved and adopted the Fiscal Year 2011 Budget on December 20, 2010; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2011 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2011 budget; and

WHEREAS, Ordinance 2009-55 sets forth an allocation of Lodging Tax proceeds that may be used for certain recreational grounds capital items; and

WHEREAS, \$822,500 was appropriated from the General Fund to be reimbursed by Lodging Tax proceeds for Sports Complex improvement (Ordinance 2010-09); and

WHEREAS, bids came in below the budgeted appropriation on the Lighting project leaving a balance remaining for additional improvements to the park; and

WHEREAS, wind damage occurred at the Sports Complex during a storm on December 11, 2010 and immediate funding is needed to replace Fencing and Netting for safety purposes during upcoming softball tournaments; and

WHEREAS, damages have been reported to the City's Insurance Company and an evaluation of coverage is pending; and

WHEREAS, until such time as insurance proceeds, if any, are received, such repair funds shall be included in the "loan" from the General Fund and repaid from Lodging Tax Funds designated for recreation; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that the Fiscal Year 2011 Budget is hereby amended to include a General Fund appropriation for the Sports Complex in the amount of \$ 6,350 for Sports Complex Fence & Netting Replacement and the General Fund will be reimbursed by Lodging Tax recreation funds and/or insurance proceeds.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2011.

Cathy S. Barnette, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

ORDINANCE 2011-05

AN ORDINANCE TO ESTABLISH SURETY BOND LIMITS FOR CERTAIN MUNICIPAL OFFICERS AND EMPLOYEES

WHEREAS, a review of Surety Bonds and the Blanket Employee Dishonesty Insurance Policy has been conducted; and

WHEREAS, certain coverage revisions have been recommended.

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

Section 1: That Ordinance 2005-09 be and is hereby repealed in its entirety.

Section 2: That the following officers and employees of the City of Daphne, Alabama are each hereby required to maintain Surety Bonds in their term and respective positions in the amount of \$500,000 each to include to-wit:

- a.) Mayor
- b.) Finance Director/Treasurer
- c.) Revenue Officer
- d.) Municipal Court Magistrate

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this the ____ day of _____, 2011.

**Cathy S. Barnette,
Council President**

**Fred Small,
Mayor**

ATTEST:

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