

**CITY OF DAPHNE
CITY COUNCIL BUSINESS MEETING AGENDA
MAY 17, 2005**

- 1. CALL TO ORDER**
- 2. ROLL CALL/INVOCATION:
PLEDGE OF ALLEGIANCE:**
- 3. APPROVE MINUTES: May 2, 2005**

PRESENTATION: Coach Vickery

PROCLAMATION: Building Bama Back Day / May 20, 2005

PROCLAMATION: National Police Week / May 15-21, 2005

PROCLAMATION: Emergency Medical Services Week / May 15-21, 2005

4. REPORT STANDING COMMITTEES:

A. FINANCE COMMITTEE - Scott

Review minutes of meeting held May 9th

- a.) Prepaid Travel / Resolution 2005-38
 - 1.) Kim Briley, Finance Director
 - 2.) Suzanne Henson, Senior Accountant
- b.) Authorize the Mayor to Enter into contracts:
 - 1.) Horizontal Baler w/Conveyor / Resolution 2005- 42
 - 2.) ALDOT Sidewalk Grant / Resolution – 2005-39
 - 3.) Electronic Equipment Recycling / Resolution 2005-43
- c.) Declare Certain Municipal Property Surplus & Authorize the Mayor to Dispose / Resolution 2005-40
- d.) New Appropriation: Ordinance 2005-24
 - 1.) Eastern Shore Chamber of Commerce: 5-Year Strategic Plan
- e.) Financial Reports:
 - 1.) Treasurers Report
 - 2.) Sales Tax Collection Graphs - March 31, 2005
 - 3.) Lodging Tax Collections – March 31, 2005

B. BUILDINGS AND PROPERTY COMMITTEE- Lake

C. PLANNING/ZONING/CODE ENFORCEMENT - Barnette

D. PUBLIC SAFETY/ORDINANCE COMMITTEE- Burnam

Review minutes meeting held May 10th

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

Review Daphne Museum minutes meeting held March 7th

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

- A. Board of Zoning Adjustments - Eady**
- B. Downtown Redevelopment Authority -Barnette**
- C. Industrial Development Board – Yelding₁**

- D. Library Board – Lake
- E. Planning Commission – Barnette
Review minutes meeting held April 28th
- F. Recreation Board - Burnam
- G. Utility Board B Scott

6. REPORTS OF THE OFFICERS:

A. *Mayors Report*

- a.) Recommend Appointment of Barry Giles to Board of Adjustments & Appeals/
Fire Code
- b.) Special Events Permit / Jubilee Christian Center / Youth Outreach @ Gator Alley
- c.) ABC License / Will Hughes Catering & Market / 040 Retail Beer – On or Off
Premises
- d.) ABC License / Will Hughes Catering & Market / 060 – Retail Table Wine – On or
Off Premises

B. *City Attorney’s Report*

C. *Department Head Comments*

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS:

- a.) **Supporting the Proposed Northern By-Pass North of
I-10 Between Hwy 98 and Hwy 181. /Resolution 2005-34**
- b. **Prepaid Travel / Kim Briley/Suzanne Henson. /Resolution 2005-38**
- c.) **Agreement: ALDOT / Bike/Pedestrian Facility
and Sidewalks /Resolution 2005-39**
- d.) **Declaring Certain Personal Property Surplus and
Authorizing the Mayor to Dispose of Such Property. /Resolution 2005-40**
- e.) **Dissolving Prior Granting of “Grandfather” Status to
Sno Ball Shack. /Resolution 2005-41**
- f.) **Authorize the Mayor to Enter Into a Contract with
International Baler Corp. for a Horizontal Baler/
W/Conveyor. /Resolution 2005-42**
- g.) **Authorizing the Mayor to Enter Into a Contract for the
Recycling of Electronic Equipment. /Resolution 2005-43**

ORDINANCES:

- a.) **Appropriating Funds: Eastern Shore Chamber of Commerce...../Ordinance 2005-24**
- b.) **Schedule of Licenses and Fees Amendment...../Ordinance 2005-25**

9. COUNCIL COMMENTS

10. ADJOURN

**CITY OF DAPHNE
CITY COUNCIL MEETING**

ROLL CALL

CITY COUNCIL:

CALL VOTES

COUNCILMAN YELDING

PRESENT__ ABSENT__ __

COUNCILWOMAN BARNETTE

PRESENT__ ABSENT__

COUNCILMAN LAKE

PRESENT__ ABSENT__ __

COUNCILMAN BURNAM

PRESENT__ ABSENT__ __

COUNCILMAN SCOTT

PRESENT__ ABSENT__ __

COUNCILWOMAN LANDRY

PRESENT__ ABSENT__ __

COUNCILMAN PALUMBO

PRESENT__ ABSENT__ __

MAYOR

MAYOR SMALL

PRESENT__ ABSENT__ __

CITY CLERK:

DAVID L. COHEN

PRESENT___ ABSENT___

CITY ATTORNEY:

CITY ATTORNEY JAY ROSS

PRESENT__ ABSENT

MINUTE NOTES:

**CITY COUNCIL MEETING
MINUTES**

NOTES:

COMMITTEE RECOMMENDATIONS

**MAY 2, 2005
CITY OF DAPHNE, AL
CITY COUNCIL MEETING
6:30 PM**

1. CALL TO ORDER

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

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Mr. Lake gave the invocation.

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

Also present: Mayor Small, David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Tim Fleming, Attorney; Bill Eady, Planning Department Director; Sharon Cureton, Human Resource Director; Ken Eslava, Public Works Director; David McKelroy, Recreation Director; Kim Briley, Finance Director; Dale Foster, Librarian; Mund Hanson, Fire Chief; David Carpenter, Police Chief; John Williams, Civic Center; Melvin McCarley, Public Works Supervisor; Lon Johnston, Utility Board; Willie Robison, BZA, Al Guarisco, Village Point Foundation.

Absent: Ronnie Phillips, Building Inspection Director; Sandra Morse, Civic Center Director.

3. APPROVE MINUTES:

<p>MOTION BY Mrs. Barnette to approve the minutes meeting held April 18, 2005. <i>Seconded by Mr. Lake.</i></p>
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AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

RECOGNIZING: Bayside Academy Chess Team/Regina Landry

Mrs. Landry read and presented the proclamation recognizing the Bayside Academy Chess Team for their success at the National Championships in Nashville Tennessee on April 8, 9, 2005.

PUBLIC HEARING: Proposed Annexation: Mitchell Company

Property located at the NW Corner of Whispering Pines Road and County Road 13

Mr. Doug Anderson representing the Mitchell Company gave a presentation with Mr. Eady showing slides of the proposed property. Mr. Anderson stated they are requesting to be annexed in with a R-3 zoning.

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Mrs. Barnette clarified the Planning Commission vote stating that in the memo from Mr. Eady the vote was stated wrong, the vote was six (6) aye, one (1) nay, one (1) early departure, and one (1) vacancy.

Council President Burnam opened the Public Hearing at 6:41 p.m.

No one spoke.

Council President Burnam closed the Public Hearing at 6:42 p.m.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE – Scott

No report.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake

No report.

C. PLANNING/ZONING/CODE ENFORCEMENT – Barnette

No report.

D. PUBLIC SAFETY/ORDINANCE COMMITTEE – Burnam

Mr. Burnam said the Committee will meet Tuesday at the Justice Center.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

Mr. Yelding said the Committee met last Friday and the minutes will be in the next packet.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Eady

Mr. Eady stated that there will not be a meeting this month.

B. Downtown Redevelopment Authority – Barnette

There was not a meeting in May, the next meeting will be in June.

C. Industrial Development Board – Yelding

No report.

D. Library Board – Lake

Mr. Lake reported that Mr. Jay Higginbotham will be the featured speaker at this week's Jubilee Mornings Program on Wednesday, May 4th at 10:00 a.m. in the Library. Mr. Higginbotham will discuss his travels to Cuba and Russia. A special Library Board Meeting has been scheduled for Thursday, May 12th at 4:30 p.m. in the Library. The purpose of the meeting is to develop plans for the new Library addition.

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E. Planning Commission – Barnette

Mrs. Barnette reported the Commission met last Thursday and the minutes will be in the next packet. The Site Review meeting will be May 18th 9:00 a.m. and the Planning Commission meeting will be May 26th. *Mrs. Barnette* asked the Council President the set a work session to discuss the Overlay District, she asked the Council to check their calendars so they can set a date.

F. Recreation Board – Burnam

G. Utility Board – Scott

Mr. Scott reported that the Board met April 27th and discussed changing the way they bill for gas. Utilities bills now every three (3) months, they are discussing going to month to month adjustments to make sure they will not loose money when these huge increases come along.

6. REPORTS OF THE OFFICERS:

A. Mayor's

a.) Change the May 16th Council meeting date

MOTION BY Mr. Yelding to change the Monday, May 16, 2005, City Council meeting to Tuesday, May 17, 2005. Seconded by Mrs. Landry.
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Mrs. Barnette said she will not be available for that meeting due to a prior commitment.

Mr. Scott said he will not be available for that meeting either.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

b.) Paying for a School Feasibility Study

Council President Burnam stated that they will consider this under Public Participation.

B. City Attorney's Report

No report.

C. Department Head Comments

David McKelroy – Recreation Director - reported that the Jazz in the Plaza was a great success and thanked Maria Nicholson for her hard work in putting it together.

John Williams – Civic Center – reported that the civic Center is very busy for the rest of the month with school activities and the Zydeco Music Fest.

Ken Eslava – Public Works Director - reported the traffic signal at County Road 64 and Pollard Road was installed this weekend and will be fully operational next Saturday.

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David Cohen – City Clerk – explained the purpose of the Resolution.

Mrs. Barnette asked Mr. Eslava if there was going to be a four (4) way stop at Santa Rosa and Main?

Mr. Eslava said yes, it is on target for Friday the 13th.

7. PUBLIC PARTICIPATION

Mr. Tom Fouts – 6500 Haley’s Lane – spoke regarding his neighbors, the Lay’s, handing out several documents regarding the Lay’s, including an application the Lay’s made to refinance their house.

Mrs. Annette Lay – 6490 Haley’s Lane – gave a rebuttal to Mr. Fouts comments regarding her and her husband, and that he made public some of their confidential financial records.

Ms. Kay Murphy – 101 Virginia Circle - spoke in favor of the school feasibility study.

Mr. Floyd Hilton – 9731 Aspen Circle – spoke against the school feasibility study.

Ms. Sherry Weller – 506 Ridgewood Drive – spoke in favor of the school feasibility study.

Ms. Martha Taylor – 810 Trione Avenue – spoke against the school feasibility study.

Mr. Paul Jiles – 8843 Pine Run - spoke against the school feasibility study.

Mr. Lee Davenport – 10663 Bridges Drive – spoke against the school feasibility study.

Ms. Amanda Lawrence – 30361 Crepe Myrtle Court – spoke against the school feasibility study.

Ms. Lou Ann Holton – Parliament Circle – spoke against the school feasibility study.

Ms. Susan Paris – 612 Oakridge Court – Supports the study. She wants Daphne tax dollars to stay in Daphne.

Mr. Fred Smith – 25766 Chamberlain Drive (Outside City Limits) – spoke against the feasibility study.

Mr. Ralph Christman – 708 Captain O’Neal Drive – spoke in favor of the school feasibility study

Mr. Jim Matthews – 112 Buena Vista Drive - spoke in favor of the school feasibility study.

Mr. Steven Schneider - 9091 North Court - was not in favor of the school feasibility study.

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Ms. Cindy Teague – 105 Marikesh Drive - spoke against the school feasibility study.

Ms. Tracy Roberts - 31490 Tara Blvd. Spanish Fort - Member of Baldwin County School Board –spoke against the school feasibility study.

Ms. Sabrina Pierce – 323 Grays Lane - spoke in favor of the school feasibility study.

Ms. Kay Murphy – President of PTA at Daphne Elementary – spoke in favor of the school feasibility study.

Ms. Lynn Davis – 121 Donna Circle - spoke in support of the school feasibility study.

Council President Burnam closed Public Participation.

Council President Burnam opened Council discussion regarding the School feasibility study.

The Council discussed the pros and cons of approving a School feasibility study.

MOTION BY Mrs. Barnette that the City of Daphne hire an independent consultant to conduct a Feasibility Study on the City of Daphne developing it’s own school district. Seconded by Mr. Lake.

The Council discussed this motion proposing an amendment.

Mrs. Barnette asked to amend her motion.

MOTION AMENDED BY Mrs. Barnette to authorize the Mayor to identify potential feasibility consultants to investigate the feasibility of a separate school system for Daphne, and then bring those back to the full Council, and then they can send it to the Finance Committee for authorization. Mr. Lake seconded the amendment.

The Council discussed the amendment.

AYE Barnette, Lake, Scott, Landry, Burnam

NAY Yelding, Palumbo

MOTION CARRIED

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS

- a.) Authorize the Filing of a FY CDBG DRI
Grant Application. /Resolution 2005-35
- b.) Supporting the Proposed Northern By-Pass at I-10
Between Highway 98 and Highway 181. /Resolution 2005-34
- c.) Declaring a Certain NRCS Project an "Emergency"
and Authorize the Mayor to Execute a Contract.
/Resolution 2005-35
- d.) EPA Smart Growth Implementation Assistance
Application. /Resolution 2005-36

MOTION BY Mrs. Barnette to waive the reading of Resolution 2005-35 and 2005-34.
Seconded by Mrs. Landry.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mr. Lake to adopt Resolution 2005-35 and 2005-34. Seconded by Mr. Yelding

Mr. Palumbo asked to vote on these separately.

Mr. Lake amended his motion.

Mr. Yelding seconded the amendment.

AMENDED MOTION BY Mr. Lake to adopt Resolution 2005-35. Seconded by Mr. Yelding.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mr. Lake to adopt Resolution 2005-34. Seconded by Mrs. Landry.

The Council moved this to the next agenda until they receive more information on this.

Mr. Lake withdrew his motion.

Mrs. Landry withdrew her second.

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MOTION BY Mr. Lake to suspend the rules to consider Resolutions 2005-36 and 2005-37. Seconded by Mrs. Barnette.

ROLL CALL VOTE

Yelding	Aye	Landry	Aye
Barnette	Aye	Palumbo	Aye
Lake	Aye	Burnam	Aye
Scott	Aye		

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mr. Lake to waive the reading of Resolutions 2005-36 and 2005-37. Seconded by Mrs. Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mr. Lake to adopt Resolutions 2005-36 and 2005-37. Seconded by Mr. Yelding.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCES

- a.) Annexation: Mitchell Company / Property located at the NW Corner of Whispering Pines Road & County Road 12. /Ordinance 2005-22
- b.) Appropriating Funds and Amending Sales & Use Tax Revenue Projections. /Ordinance 2005-23

MOTION BY Mr. Lake to suspend the rules to consider Ordinance 2005-22. Seconded by Mr. Scott.

ROLL CALL VOTE

Yelding	Aye	Scott	Aye	Burnam	Aye
Barnette	Aye	Landry	Aye		

Lake Aye Palumbo Aye

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

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MOTION BY Mr. Lake to waive the reading of Ordinance 2005-22. Seconded by Mrs. Landry.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mr. Lake to adopt Ordinance 2005-22. Seconded by Mr. Scott.

Council discussed this Ordinance.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mr. Lake to suspend the rules to consider Ordinance 2005-23. Seconded by Mr. Scott.

ROLL CALL VOTE

Yelding	Aye	Landry	Aye
Barnette	Aye	Palumbo	Aye
Lake	Aye	Burnam	Aye
Scott	Aye		

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mr. Lake to waive the reading of Ordinance 2005-23. Seconded by Mr. Scott.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mr. Lake to adopt Ordinance 2005-23. Seconded by Mr. Scott.

Mr. Scott said this came out of the Finance Committee. He said they are adjusting the revenues based upon the fact that \$700,000 more has been collected than what was budgeted, and they have taken a relatively conservative number of six percent (6%) increase and spread it out, which will mean that they will be bringing about \$1.6 million more in sales and use tax than they had originally budgeted, and because of that they are going to spend about \$1.1 million, and that is what they have allowed to spend, they probably won't spend that much.

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

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9. COUNCIL COMMENTS

Mrs. Barnette reported that on June 16th the Council will have a retreat/work session at 5:00 p.m. at the Civic Center. She said she would like to revisit some way the thought regarding buying property on 6th Street. Since city property abuts the parking lot at Christ the King, perhaps they could do some type of walk way to Dryer for city employees, even if it needs to be covered, so employees will not have to walk in the rain, that would be an innovative public/private partnership. She would like the Council to look at that before they start buying property for parking.

Mayor Small wanted the citizens to know that the subdivisions they have been working with on Whispering Pines, and all the area out to 181 is not in the City of Daphne, and a lot of people don't understand that. The city cannot control what goes on in those areas, but they can control it somewhat, because it is in the city's planning jurisdiction. There is no zoning out there, if someone wanted to put up a concrete plant they could legally do it. That is why it is important for people to think about bringing their property into the city out that way, so that they can take advantage of the zoning, planning and working with the Land Use Ordinance and Comprehensive Plan. Also, about the property on 6th street, the letter was not about buying, it was actually sending the residents a letter saying that if you every are interest in selling, the city would like first right of refusal, so that the city can have the property that coincides with the campus of the City Hall.

Mr. Burnam thanked Tracy Roberts, who is Baldwin County School Board, for coming to the Council meeting, and he means this from the heart, he really appreciates everything she, and everyone on the School Board does, for the school system. He said what they do is not easy.

10. ADJOURN

MOTION BY Mrs. Barnette to adjourn. Seconded by Mrs. Landry.

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:37 P.M.

Respectfully submitted by,

David L. Cohen, City Clerk, MMC

Certification of Presiding Officer:

Greg Burnam
Council President
Date & Time Signed: _____

**CITY OF DAPHNE, ALABAMA
OFFICE OF THE MAYOR**

PROCLAMATION

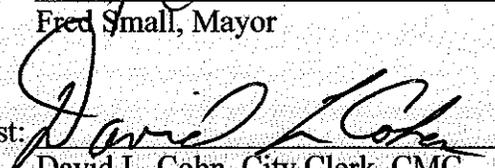
- WHEREAS,** The week of May 15-21, 2005 has been designated National Hurricane Preparedness Week by Baldwin County Emergency Management Agency; and
- WHEREAS,** Disaster prevention includes both being prepared as well as reducing damages (mitigation) and is followed by emergency response, relief, and recovery; and
- WHEREAS,** The mission of the Baldwin County Voluntary Organizations Active in Disaster, Long Term Recovery Team formed to meet the ongoing disaster related needs of the community in partnership with the Baldwin County Emergency Management Agency; and,
- WHEREAS,** This city shares the goal to rebuild Baldwin County and return citizens to the normal experienced before Hurricane Ivan, the Thanksgiving 2004 Tornado and 2005 Spring Floods; and
- WHEREAS,** Hundreds of Baldwin County families have homes and lives in need of repair, with needs left unmet by insurance, FEMA and the SBA Loan Program.

NOW, THEREFORE, I, Fred Small, Mayor of Daphne, Alabama, do hereby proclaim May 20, 2005, as **"BUILDING BAMA BACK DAY"** in the City of Daphne, and call upon citizens of Daphne, Alabama to observe the day by participating fully in efforts to recruit donations of building materials and supplies; also, to Volunteer time to help those still suffering from recent natural disasters I encourage the Citizens of Foley, Alabama who still need assistance to come forward and request such help from the Baldwin County VOAD Long Term Recovery Team Members.




Fred Small, Mayor

Attest:


David L. Cohn, City Clerk, CMC

CITY OF DAPHNE
OFFICE OF THE MAYOR

PROCLAMATION FOR NATIONAL POLICE WEEK
May 15 – 21, 2005

Whereas, The Congress and President of the United States have designated May 15 as Peace Officers' Memorial Day, and the week in which May 15 falls as National Police week; and

Whereas, the members of the law enforcement agency of Daphne play an essential role in safeguarding the rights and freedoms of Daphne; and

Whereas, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

Whereas, the men and women of the law enforcement agency of Daphne unceasingly provide a vital public service;

Now, Therefore, I, Fred Small, Mayor of Daphne, call upon all citizens of Daphne and upon all patriotic, civic and educational organizations to observe the week of May 15 - 21, 2005, as Police Week with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I further call upon all citizens of Daphne to observe Sunday, May 15th, as Peace Officers' Memorial Day in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

In witness thereof, I have hereunto set my hand and caused the Seal of Daphne to be affixed.

Fred Small, Mayor

Attest: _____
David L. Cohen, City Clerk, CMC

City of Daphne
Office of the Mayor

PROCLAMATION

Emergency Medical Services Week May 15-21, 2005

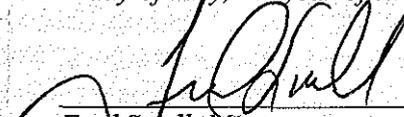
- WHEREAS,** emergency medical services is a vital public service; and
- WHEREAS,** the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and
- WHEREAS,** access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and
- WHEREAS,** the emergency medical services system consist of firefighters, emergency medical technicians, paramedics, emergency nurses, emergency physicians, educators, administrators, and others; and
- WHEREAS,** the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and
- WHEREAS,** it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week; and

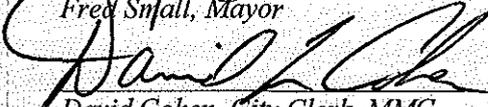
Now, therefore, the Mayor and Council of the City of Daphne in recognition of this event do hereby proclaim the week of May 15-21, 2005 as **EMERGENCY MEDICAL SERVICES WEEK.**

In witness hereof, I hereunto set my hand this 17th day of May, the year of two thousand and five.



Attest:


Fred Small, Mayor


David 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
MAY 9, 2005
4:00 P.M.**

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 4:00 P.M. Present were Chairman Ron Scott; Councilman Bailey Yelding; Councilwoman Regina Landry; Finance Director Kim Briley; Senior Accountant Suz anne Henson; and Accountant I Belinda Job.

Also in attendance were Mayor Fred Small and Public Works Director Ken Eslava.

II. PUBLIC PARTICIPATION

A. GOVAUCTIONS.US – Mr. Allen Perdue

Mr. Perdue discussed GOVAUCTIONS.US is a division of JM Wood Auction Company, who has been in business for over 32 years and is the 3rd largest auctioneering company for surplus equipment in America. Discussion continued that their services are available for the sale of surplus City equipment. A minimum acceptable bid amount for each piece of property would be established by the City. All property would remain onsite at the City during the auction. Mr. Perdue discussed digital pictures are taken and posted on the internet, therefore drawing bids from all over the United States and Mexico. Discussion continued that, for a commission rate of 7%, GOVAUCTIONS.US completes all paperwork; collects and remits sales tax and remits a check to the City in less than 14 days following the auction. Mr. Perdue noted successful bidders are responsible for picking up their merchandise; therefore, no delivery work is required by the City. Mr. Perdue noted the Cities of Robertsdale and Prichard have already signed with them and the City of Foley is considering it. Mr. Scott asked how often the City has surplus equipment. Mr. Eslava noted generally once every couple of years. Mayor Small noted the City has a number of vehicles that will be replaced very soon. Mr. Perdue provided the committee with a sample contract for review and consideration.

III. ISSUES REQUIRING ACTION BY CITY COUNCIL

A. Bids: 2005-P-HORIZONTAL BALER W/CONVEYOR

Mr. Eslava noted four bid invitations were sent out and that all invitations were signed but no bids were received. Therefore, the bid law authorizes the City to negotiate the purchase. Mr. Eslava discussed after three rounds of negotiations; it is his recommendation to award the bid to International Baler Corporation for a cost of \$48,750. Discussion continued funds for this purchase are encumbered from a prior fiscal year and the Mayor has approved the release of these funds for this purchase. Mr. Scott asked for a definition of encumbered funds. Ms. Briley noted it is money not spent at the end of one fiscal year and reserved for future expenditures. Mr. Scott asked what this equipment will be used for. Mr. Eslava noted it will be used in the recycling area for baling items such as cardboard, plastics, tin, aluminum, etc.

Motion by Chairman Scott to recommend to Council to adopt a resolution awarding the negotiated contract for the purchase of a Horizontal Baler w/Conveyor to International Baler Corporation for a purchase price of \$48,750; with payment to be made from encumbered funds. Seconded by Mr. Yelding .

B. Prepaid Travel – Kim Briley, Finance Director & Suzanne Henson, Sr. Accountant - \$210 Each

Mr. Scott discussed a request for prepaid travel in the amount of \$210 each for Kim Briley, Finance Director and Suz anne Henson, Sr. Accountant, to attend the 2005 Government Finance Officers Association (GFOA) Conference in San Antonio, Texas on June 24-29, 2005.

Motion by Mr. Yelding to recommend to Council to adopt a resolution approving prepaid travel in the amount of \$210 each for Kim Briley, Finance Director and Suz  ne Henson, Sr. Accountant; to attend the 2005 Government Finance Officers Association (GFOA) Conference in San Antonio, Texas on June 24-29, 2005. Seconded by Ms. Landry.

C. Bike/Pedestrian Facility and Sidewalks Agreement

Mr. Scott discussed the previous Council adopted a Resolution to apply for a sidewalk grant and they also agreed to provide matching funds pending the award of the grant. The Alabama Department of Transportation (ALDOT) has awarded the bid and requires another resolution to authorize the Mayor to execute the grant agreement.

Discussion continued the City would fund these projects up front at an estimated cost of \$1,018,700, with reimbursement in the amount of \$814,960 to follow. Mr. Eslava noted he would be working with Hutchinson, Moore & Rauch (HMR) on the projects. Ms. Briley discussed the matching funds were approved with the capital budget amendments at the last council meeting.

Motion by Chairman Scott to recommend to Council to adopt a resolution authorizing the Mayor to execute the Bike/Pedestrian Facility and Sidewalks grant agreement with the Alabama Department of Transportation. Seconded by Mr. Yelding.

D. Appropriation Request – Eastern Shore Chamber of Commerce - \$5,000

Mr. Scott noted an appropriation request in the amount of \$5,000 to assist the Chamber of Commerce with the development of a 5-year plan for the Eastern Shore. Mr. Tim Rosson represented the Chamber and discussed it is very important to have the support of the three cities on the Eastern Shore. Ms. Darrelyn Bender, President of the Chamber, stated the development of plan basics is already underway. A meeting will be held on June 1 with the Board of Directors, Past Chairman, Chamber Staff, Chamber Strategic Plan group, as well as City Council Members and Mayors, to discuss thoughts and ideas on what people want done in their Cities and what role the Chamber of Commerce should take. Ms. Bender noted once the plan is finalized, it will be presented to local businesses for their support and should be underway in October. Mr. Scott discussed one of the goals the Council has is to have a spirit of cooperation with the surrounding cities.

Motion by Ms. Landry to recommend to Council to adopt an ordinance amending the budget to appropriate funds in the amount of \$5,000 to the Eastern Shore Chamber of Commerce for the purpose of participating in the Chamber’s 5-year strategic planning process. Seconded by Mr. Yelding.

E. Disposal of Electronic Equipment through Recycling Program

Mr. Eslava discussed the need to establish a recycling program for electronics to eliminate disposal at the local landfill. Discussion continued electronics are currently picked up and taken to Magnolia Landfill, which is a lined landfill; however, if a piece of electronics should ever inadvertently be disposed of at the McBride Landfill which is an unlined landfill, the City could be faced with a large fine. Discussion continued the City of Fairhope currently has a recycling program in place and that the City of Daphne could possibly establish a relationship with Fairhope to accept Daphne’s disposed electronics for a small environmental fee. Mr. Eslava noted the electronics add to the per ton cost at the landfill, but if they were disposed of at Fairhope’s drop off location, it would be based on per unit and not weight. Mr. Scott asked if Daphne could set up its own drop off location. Mr. Eslava noted a facility would have to be constructed in order to hold all of the disposed electronics until they were picked up and the facility would have to be equipped with various pieces of machinery in order to prepare the items for shipment.

Discussion that there are two facets to this recycling:

- 1) Disposal of surplus electronic equipment owned by the City of Daphne
- 2) Providing an alternative method of disposal of electronic equipment to the citizens of Daphne.

Ms. Henson discussed she has looked at this type of program for the surplus electronic equipment owned by the City of Daphne. She noted that storage space requirements of surplus electronic equipment is a problem for the City and very little money is recovered through the sale of such surplus equipment. Ms. Henson discussed the disposal of this type of electronic equipment through GOVAUCTION.US as previously presented by Mr. Perdue would not be feasible due to the lack of a storage facility to hold this equipment until it is eventually sold and picked up.

Mr. Eslava discussed that Creative Recycling Systems, Inc. has a program to pick up surplus electronics for a trucking fee only. Mr. Eslava noted once a line of environmentally safe disposal method for electronic equipment is established; it would be used by the City of Daphne and also promoted to the citizens of Daphne.

Motion by Chairman Scott to adopt resolutions authorizing the Mayor to enter into contracts for recycling environmentally sensitive electronic items for the following purposes:

1) to declare surplus and authorize the Mayor to recycle such items owned by the City of Daphne that are no longer required for municipal operations from time to time as he determines necessary. And

2) to provide the citizens of Daphne with recycling alternatives for the disposal of such items. Seconded by Ms. Landry.

IV. CURRENT BUSINESS

A. Appropriation Request – CDBG Disaster Recovery Grant - \$463,100

Ms. Briley noted this has already been approved by the Council and should not be on the agenda.

B. 1985 CDBG – Request to Close Account

Ms. Briley requested this item be tabled at this time.

V. FINANCIAL REPORTS

A. Treasurers Report: April 2005

Mr. Scott discussed the treasurer's report in the amount of \$10,000,868.48. Ms. Briley noted reimbursements have been received from FEMA which has brought the cash balance up for the month of April.

Motion by Ms. Landry to recommend to Council to accept the Treasurer's Report as of April 30, 2005 in the amount of \$10,000,868.48. Seconded by Mr. Yelding.

B. Sales Tax Collection Graphs – March 31, 2005

Ms. Briley noted the budget amounts have been changed to reflect the amendments that were adopted in the last Council meeting. Ms. Briley discussed total collections for March 2005 were \$917,832.17. Discussion continued collections were \$69,675.31 above collections for March 2004 and 8.21% over last year.

C. Ad Valorem, April 30, 2005

Ms. Briley noted year to date collections for April 2005 are \$71,713 over last year. Mr. Scott noted the City should see an increase in Ad Valorem taxes next year because Baldwin County is currently re-pricing land.

D. Lodging Tax Collections, March 31, 2005

Mr. Scott discussed the proposed increase to the City's lodging tax rate and the possible uses of such rate increase. Discussion continued that 5% of the current lodging tax goes to the IDB, but that more should be applied to help get it off the ground. A vehicle replacement policy was also discussed. Discussion continued the Mayor has sent a letter to the local hotels advising them of what the City is considering; however, more

discussion is necessary before any increase is passed. Ms. Landry discussed she feels the average person will not be concerned with what the lodging tax rate is and does not feel people will choose not to stay in Daphne because of it. Mr. Scott asked the Mayor to prepare a proposed rate increase and a proposed schedule of how the funds will be used.

E. Business Licenses Report

Mr. Scott discussed the month of April 2005 brought in 48 new businesses with 1 reported closing.

F. Bills Paid – April 30, 2005

The Bills Paid Report was included in the Finance Committee packet for review.

VI. ADJOURN

The meeting was adjourned at 4:46 P.M.

CITY OF DAPHNE

**BID OPENING MINUTES
BID DOCUMENT NO: 2005-P-HORIZONTAL BALER W/CONVEYOR
APRIL 20, 2005
11:30 A.M.
CITY HALL**

Those present were as follows:

Ms. Suzanne Henson
Mr. Melvin McCarley

Sr. Accountant
Public Works Superintendent

4 bid invitations were mailed/picked up 0 sealed bids were received.

VENDOR

UNIT COST

BID BOND

NO BIDDERS – CONTRACT MAY BE NEGOTIATED!



Suzanne Henson, Sr. Accountant

MEMORANDUM

CITY of DAPHNE...DIVISION of PUBLIC WORKS

**To: Kim Briley, Finance Director
Finance Committee members**

From: Ken Eslava, Public Works Director 

Date: April 26, 2005

Re: Recommendation for Negotiated Contract...Horizontal Baler

As you will recall, we recently went out for public bids on a horizontal baler w/ conveyor for use in our Recycle operations. Four(4) bid packages were sent out, and all were picked up via signature according to return receipts. However, none of the bidders returned quotations by the date required.

This lack of returned bids enabled me to negotiate price with any of the companies willing to do so. I contacted two companies who produce the best machine and openly negotiated pricing, and the results are as follows:

International Baler Corporation....his price began with an in hand quotation of \$51,200.00. After the second round of negotiations were complete, the price stood at \$50,000.00. After the final negotiations were complete, our price is \$48,750.00 and includes all required specified equipment.

American Predator Series Baler....his in hand quotation is \$46,865.00. However, his machine does not meet our specifications regarding quality construction, NEMA electrical requirements nor critical items such

**required conveying equipment, etc.
If this vendor met our specs, the
price would be \$67,235.00.**

Footnote of interest: the other two vendors were contacted and asked to see if they would furnish a quote.....they declined our offer.

Therefore, I recommend that we award the International Baler Corporation the contract to supply the IBC Model LD-60-SD Horizontal Baler with conveying system to the City of Daphne based on the following criteria:

- a) They met all required specifications as stated bid document
2005-P-HORIZONTAL BALER W/ CONVEYOR**
- b) They are in fact, the lowest bidder**
- c) Our existing machine is an International Baler, and is a proven performer in terms of quality and operating capacity.**

The funds for paying for this machine are in encumbrance and available from a prior fiscal year, and were approved for release towards this equipment by the Mayor prior to bid requests being sent out. Funding from current fiscal City accounts will not be required to make this purchase!

cc: Mayor Fred Small



International Baler Corporation

Jacksonville, Florida

*FINAL
NEGOTIATED
DOCUMENT*

April 25, 2005

Mr. Ken Eslava
City of Daphne, AL
1705 Main Street
Daphne, AL 36526

Tel #: 251-621-3182
Fax #: 251-621-3189

Ref: Bid # 2005-P
Sub: Proposal # IB-16167-R2

Dear Mr. Eslava:

We are pleased to present our Revised Proposal # IB-16167-R2 covering an IBC Model LD-60-SD Horizontal Baler with Conveyor per our discussion.

The unique standard features of the IBC Model LD-60-SD, over our competitor's models, are listed below and should be strongly looked at by your customer.

- T-1 Alloy Steel Floor (Feed Chamber)
- T-1 Alloy Steel Body Shear Bar & Serrated Ram Shear Plate
- Press Head Replaceable Wear Pad System
- Press Head Wiper Flap
- 60 7/8" L x 58" W Hopper Feed Opening
- Hydraulic Gradual Release Door Lock
- Use of Quick-Lock Baling Wire
- Single 8" Bore Main Cylinder
- Conveyor Control (with Conveyor Option)

Also included is our Layout Drawing # CI4801-1 & CI4801-2 which illustrates the LD-60 SD with Conveyor for your review.

Please feel free to call upon me at my Cleveland, Ohio office (Phone# 440-846-3690) if you require assistance with any questions that may arise about the IBC LD-60-SD Baler.

Sincerely,

INTERNATIONAL BALER CORPORATION

Ken J. Korney
Regional Sales Manager
E-Mail: kkorney@aol.com
Enclosure: IBC Dwg.# CI4801-1 & CI4801-2

International Baler Corporation
5400 Rio Grande Avenue
P. O. Box 6922 (zip 32236)
Jacksonville, Florida 32254

Tel: 904-358-3812
800-231-9286
Fax: 904-358-7013
Email: sales@intl-baler.com
Web: www.intl-baler.com



International Baler Corporation

Jacksonville, Florida

DELIVERY:

- 8 to 10 Weeks After Receipt of Formal Purchase Order and Down Payment.

MAKE ORDER OUT TO:

**INTERNATIONAL BALER CORPORATION
P. O. Box 6922
Jacksonville, FL 32236**

Attn.: Ken J. Korney, Regional Sales Manager

KJK/jh

THIS QUOTE IS VALID FOR 30 DAYS.

Specifications and nominal dimensions are subject to change without notice.

International Baler Corporation

5400 Rio Grande Avenue
P.O. Box 6922 (zip 32236)
Jacksonville, Florida 32254

Tel: 904-358-3812
800-231-8286
Fax: 904-358-7013
Email: sales@intl-baler.com
Web: www.intl-baler.com



International Baler Corporation
Jacksonville, Florida

**REVISED SUMMARY SHEET
INTERNATIONAL BALER MODEL LD-60-SD**

DATE: April 25, 2005

CUSTOMER: CITY OF DAPHNE, AL
DAPHNE, AL

ATTN: KEN ESLAVA

PROPOSAL NO:IB-16167-R2

EQUIPMENT

<u>Item</u>	<u>Qty</u>		<u>List Price</u>	<u>Net Price</u>
"A"	1	LD-60-SD HORIZONTAL BALER	\$ 45,250	\$ 36,200
		• Conveyor Controls	Included	Included
		• Wire (1 Bundle)	90	80
		• In-Feed Hopper	Included	Included
		• Oil Temp. Switch	325	260
		• Hydraulic Oil (115 Gals)	690	575
		SUB-TOTAL	\$ 46,355	\$ 37,115

"B"	1	CY-48178 Conveyor	\$ 10,950	\$ 8,760
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INSTALLATION

"C"	--	Installation/Start-Up/Training	\$ 3,500	\$ 3,500
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FREIGHT

"D"	--	Freight (FOB: DAPHNE, AL)	\$ 925	\$ 925
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TOTAL PRICE: \$ 61,730 \$ 50,300

OPTIONS:

"E"	--	Un-Install, Relocate and Re-Install "Existing" Baler and Conveyor	\$ 900	\$ 900
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SUBTOTAL \$ 51,200

DISCOUNT \$ 2,450

TOTAL \$ 48,750

International Baler Corporation
5400 Rio Grande Avenue
P.O. Box 6922 (zip 32236)
Jacksonville, Florida 32254

Tel: 904-358-3812
800-231-9286
Fax: 904-358-7013
Email: sales@intl-baler.com
Web: www.intl-baler.com

Preconference Seminars

Make the most of your travel to the GFOA 2005 annual conference by registering for one or more of the preconference seminars scheduled for Friday, June 24, and Saturday, June 25. Receive a 10 percent discount on both conference and seminar registrations if you attend two preconference seminars in addition to the annual conference.

DROPS, PLOPS, and Other Postemployment Benefits: Designing Programs that Don't Break the Bank

Half-day Seminar | Friday, June 24 | 1 p.m.-5 p.m. | 4 CPE credits

Over the last few years, the most controversial stories in public finance involved governments making expensive, hard-to-understand promises to future retirees. Designed incorrectly, pension benefits like deferred retirement option plans (DROPs) and early retirement incentive programs can cost taxpayers a lot of money. Other postemployment benefits such as retiree health care may cost even more. This seminar will review some of the major risk exposures related to retiree benefits and will offer solutions that will save your jurisdiction money.

Making the Case: Practical Guidance on How to Prepare a Better Budget

Half-day Seminar | Friday, June 24 | 1 p.m.-5 p.m. | 4 CPE credits

The budget plays a unique and vital role in public-sector finance. The importance of that role is underscored when governments face the challenge of maintaining or increasing service levels with reduced resources. In such an environment, it is critical that budget preparers be able to effectively "make their case." This half-day seminar will use a wealth of practical examples drawn from actual budget documents to illustrate how any government's budget can become an even more effective policy document, financial plan, operations guide, and communications device.

What's Wrong with Budgeting (and How to Fix it): Outcome Budgeting, the Next Iteration

Full-day Seminar | Saturday, June 25 | 9 a.m.-5 p.m. | 8 CPE credits

Last year Peter Hutchinson, co-author with David Osborne of *The Price of Government*, led GFOA's highest-attended and highest-rated pre-conference seminar, Outcome Budgeting. This year Peter is back with an updated session on this innovative approach to budgeting in tough times. Peter will present the basic concepts of outcome budgeting, give examples of how local and state governments have used outcome budgeting to balance their budgets over the past year, and work with participants during the session to apply the system's tools and techniques to their own budget challenges.

The Bottom Line: How To Improve Performance and Save Money with Enterprise Technology

Half-day Seminar | Saturday, June 25 | 1 p.m.-5 p.m. | 4 CPE credits

The implementation of enterprise resource planning systems is a journey that begins, but does not end, at go-live. Along this journey, governments should seek to optimize their investment by using ERP to transform business operations. This seminar will examine how governments can achieve organizational transformation over the lifecycle of the ERP system – beginning with implementation and extending out through ongoing management of the system. Specifically, presenters will tackle issues such as expanding ERP functionality to new functional areas, process management, organizing for optimization, and ongoing harmonization of people, processes, and information technology.

Friday, June 24

8:30 a.m. - Noon	Certification Exams
1:30 p.m. - 5 p.m.	
1 p.m. - 5 p.m.	Preconference Seminar: DROPS, PLOPS, and Other Postemployment Benefits: Designing Programs that Don't Break the Bank
1 p.m. - 5 p.m.	Preconference Seminar: Making the Case: Practical Guidance on How to Prepare a Better Budget

Saturday, June 25

9 a.m. - 5 p.m.	Preconference Seminar: What's Wrong with Budgeting (and How to Fix it): Outcome Budgeting, the Next Iteration
9 a.m. - 5 p.m.	Standing Committee Meetings – GFOA committee meetings are open to all GFOA members.
10 a.m. - 4:30 p.m.	Registration Open
1 p.m. - 5 p.m.	Preconference Seminar: The Bottom Line: How to Improve Performance and Save Money with Enterprise Technology

Convention Center

All preconference seminars, conference sessions, meetings, luncheons, and exhibits will be at the Henry B. Gonzalez Convention Center. The center is located at 200 East Market in downtown San Antonio.

GFOA 2005 CONFERENCE AT A GLANCE

		Accounting, Auditing & Financial Reporting		Budgeting & Financial Planning		Cash Management & Investing		Debt Management		Management and Policy		Pension and Benefits		Technology and Digital Government	
SUNDAY - June 26, 2005															
1:30 p.m. - 2:30 p.m. Concurrent Sessions 1 CPE Credit each	<input type="checkbox"/>	Solving the Puzzle: Accounting for Derivatives Risky Business: A Look at the Newest Risk Assessment Guidance from COSO	<input type="checkbox"/>	How to Develop an Effective Fiscal Monitoring System	<input type="checkbox"/>	Check 21 and You	<input type="checkbox"/>	Direct from Washington: Regulatory News You Can Use	<input type="checkbox"/>	Managing Stress in a Stress-Filled World	<input type="checkbox"/>	Revenue-Enhancing Technology for Government's "Top Line"	<input type="checkbox"/>		
2:45 p.m. - 3:45 p.m. Concurrent Sessions 1 CPE Credit each	<input type="checkbox"/>	The Price is Right: Getting the Most from Cost Accounting Tactics: Auditing Standards After Sarbanes-Oxley	<input type="checkbox"/>	Putting the "Improvement" in Business Process Improvement	<input type="checkbox"/>	The Risks and Realities of Pension Obligation Bonds	<input type="checkbox"/>	The Risks and Realities of Pension Obligation Bonds	<input type="checkbox"/>	Workforce Solutions for the 21 st Century	<input type="checkbox"/>	Consumer-Driven Health Care Meets the Public Sector	<input type="checkbox"/>	Information Systems for Smaller Governments	
6 p.m. - 10:00 p.m.		GFOA Welcome Reception - Detailed information to follow													
MONDAY - June 27, 2005															
8:30 a.m. - 10:15 a.m.		General Session - (2 CPE) - Detailed information to follow													
10:30 a.m. - 12:10 p.m. Concurrent Sessions 2 CPE Credits each	<input type="checkbox"/>	The Big Picture: The Accounting and Auditing Year in Review	<input type="checkbox"/>	The Holy Grail: Achieving Structural Balance for Good	<input type="checkbox"/>	Catch 'Em If You Can: Preventing Payment Fraud	<input type="checkbox"/>	Open for Business: How the Central Post Office is Making Disclosure Easier	<input type="checkbox"/>	Polishing Your Presentation Skills	<input type="checkbox"/>	The Dangers of Using the Pension Fund to Close Budgetary Gaps	<input type="checkbox"/>	Getting the Most out of Your ERP Investment	
2:10 p.m. - 1:10 p.m. Concurrent Sessions 2 CPE Credits each	<input checked="" type="checkbox"/>	Lunch with your Colleagues (Delegates only)	<input type="checkbox"/>	Making Performance Management Measure Up	<input type="checkbox"/>	Hold the Paper: Electronic Alternatives to Paper-Based Payments	<input type="checkbox"/>	Bond Basics	<input type="checkbox"/>	What Finance Officers Need to Know about Economic Development	<input type="checkbox"/>	Preventing and Managing Conflicts of Interest	<input type="checkbox"/>	Opportunities and Obligations: The Finance Function and E-Government	
3:20 p.m. - 5 p.m. Concurrent Sessions 2 CPE Credits each	<input type="checkbox"/>	Don't Let This Happen to You! Avoiding Financial Reporting Deficiencies The Fifth Degree: Lessons Learned from SAS 99	<input type="checkbox"/>	By the People and for the People: Citizen Involvement in Public Budgeting	<input type="checkbox"/>	Investing Public Funds 101	<input type="checkbox"/>	Your Economic Development Toolbox	<input type="checkbox"/>	Motivational Strategies for Public Managers	<input type="checkbox"/>	Sustaining DB Plans in a DC World	<input type="checkbox"/>	Back to the Drawing Board: Business Process Design and Automation	
TUESDAY - June 28, 2005															
9 a.m. - 10 a.m.		General Session - (1 CPE) - Detailed information to follow													
10:15 a.m. - 11:55 a.m. Concurrent Sessions 2 CPE Credits each	<input type="checkbox"/>	My Blue Heaven! The 2005 GAIFRR	<input type="checkbox"/>	Thank You for Sharing: The Mechanics of Shared Service Agreements	<input type="checkbox"/>	Economic Forecast: What's Ahead	<input type="checkbox"/>	Pencil to Paper: Business Writing for Finance Officers	<input type="checkbox"/>	Drop Plans: Can They Work?	<input type="checkbox"/>	Procuring Enterprise Systems Large and Small	<input type="checkbox"/>		
2:10 p.m. - 1:40 p.m. Concurrent Sessions 2 CPE Credits each	<input type="checkbox"/>	Annual Business Luncheon (Delegates only)	<input type="checkbox"/>	Performance Measurement: Your Responsibility and Mine	<input type="checkbox"/>	Investment Strategies for the Current Economy	<input type="checkbox"/>	Demystifying Derivatives	<input type="checkbox"/>	Risk and Reward in Local Economic Development	<input type="checkbox"/>	Reevaluating the Risks and Rewards of Equity Investing	<input type="checkbox"/>	Technology's the Catalyst for Government Transformation	
3:50 p.m. - 4:50 p.m. Discussion Groups 1 CPE Credit each	<input checked="" type="checkbox"/>	Making Sense of It All: Explaining Financial Reporting to Non-Accountants	<input checked="" type="checkbox"/>	Establishing Strategic Partnerships with Departments	<input checked="" type="checkbox"/>	The Investment Portfolio Game: Testing Your Strategies	<input checked="" type="checkbox"/>	Arbitrage: The Good, the Bad, and the Ugly	<input checked="" type="checkbox"/>	The Politics of Public Finance Writing for Government Finance Review	<input checked="" type="checkbox"/>	Health Care Costs: Dealing with the 80/20 Rule	<input checked="" type="checkbox"/>	On a Shoestring: Strategies for Funding IT on a Tight Budget	
7 p.m. - 10 p.m.		Host Committee Closing Reception - Institute of Texas Cultures (Ticketed event sponsored by the San Antonio Local Conference Committee)													
WEDNESDAY - June 29, 2005															
8:30 a.m. - 10:10 a.m. Concurrent Sessions 2 CPE Credits each	<input type="checkbox"/>	What I Meant to Say Was: How to Write a Better Letter of Transmittal and MD&A	<input type="checkbox"/>	Translating Strategy into Results with the Balanced Scorecard	<input type="checkbox"/>	Banking Relations: Getting the Most from Your Bank	<input type="checkbox"/>	Reframing the Use of Short-Term and Variable-Rate Debt	<input type="checkbox"/>	Moving On Up: Managing Your Career in Public Finance	<input type="checkbox"/>	Can Retiree Health Care Be Saved?	<input type="checkbox"/>		
10:25 a.m. - 12:05 p.m. Concurrent Sessions 2 CPE Credits each	<input type="checkbox"/>	Think of It This Way: Explaining Pension and Benefits Accounting to Elected Officials and Citizens	<input type="checkbox"/>	What's New? Evaluating Contemporary Budgeting Applications	<input type="checkbox"/>	Evaluating Strategic Partnerships with Departments	<input type="checkbox"/>	Reframing the Use of Short-Term and Variable-Rate Debt	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		



BOB RILEY
GOVERNOR

ALABAMA
DEPARTMENT OF TRANSPORTATION

NINTH DIVISION
OFFICE OF DIVISION ENGINEER
1701 I-65 WEST SERVICE ROAD N
MOBILE, ALABAMA 36618-1109

TELEPHONE: (251) 470-8200
FAX (251) 473-3624



JOE MCINNES
TRANSPORTATION DIRECTOR

April 6, 2005

The Honorable Fred Small
Mayor, City of Daphne
P.O. Box 400
Daphne, Alabama 36526

*Approved for
Finance Committee
agenda.*
Fred Small

4-18-2005

Dear Mayor Small:

**RE: Project No. STPTE-TE05(933)
Bike/Pedestrian Facility and Sidewalks
City of Daphne
Baldwin County**

Attached is the original agreement between the City and the State on the above-referenced project. Please review the agreement and if it is acceptable to you, execute and return it to this office.

A resolution is also enclosed which will need to be certified in order to authorize you to sign the agreement. The city seal must be affixed to both the resolution and the signed agreement.

If you have any questions regarding this matter, please contact Mr. Dewayne A Hood at (334) 470-8253.

Sincerely,

R.F. Poiroux, P.E.
Division Engineer

By Dewayne A. Hood
Dewayne A. Hood
Special Projects Engineer

DAH/dah
Attachment
cc: File



ALABAMA DEPARTMENT OF TRANSPORTATION

1409 Coliseum Boulevard, Montgomery, Alabama 36110



Bob Riley
Governor

Joe McInnes
Transportation Director

April 1, 2005

Mr. R. F. Poiroux
Division Engineer
Alabama Department of Transportation
1701 Beltline Highway North
Mobile, Alabama 36618

Re: Transportation Enhancement Project
Project No. STPTE-TE05(933)
The City of Daphne
Bike/Pedestrian Facility and Sidewalks
Baldwin County

Dear Mr. Poiroux:

Enclosed is the original agreement between the Alabama Department of Transportation and the City of Daphne which provides for the above referenced project.

Please review this agreement and, if you find it acceptable, present it to the city for approval. After execution by the mayor, please sign and return the agreement to this office for further handling. A certified resolution affixed with the city seal, which authorizes the mayor to sign the agreement, should be included. Also, the city seal should be affixed to the signed agreement

If you have any questions concerning this agreement, please call Mr. Bob Kratzer at ATTNET 320-6442.

Yours very truly,

Robert J. Jilla
Multimodal Transportation Engineer

By: C. W. Colson, Jr. 
C. W. Colson, Jr.
Special Programs Engineer

RJJ:CWC/rac

Enclosure

c: Mike Dean (letter only)
File

**AGREEMENT
FOR A TRANSPORTATION ENHANCEMENT PROJECT**

**BETWEEN THE STATE OF ALABAMA AND
THE CITY OF DAPHNE**

Baldwin County

**Bike/Pedestrian Facility and Sidewalks
Project No. STPTE-TE05(933)**

PART ONE (1): INTRODUCTION

This Agreement is made and entered into by and between the State of Alabama (acting by and through the Alabama Department of Transportation), hereinafter referred to as STATE; and the City of Daphne, Alabama, hereinafter referred to as AGENCY, in cooperation with the U. S. Department of Transportation, Federal Highway Administration, hereinafter referred to as FHWA, and

WHEREAS, legislation enacted by the U. S. Congress authorizing the establishment of a Surface Transportation Program, and

WHEREAS, said legislation requires that ten percent of the Surface Transportation Program funds be available for transportation enhancement activities, and

WHEREAS, transportation enhancement activities are defined as...“provision of facilities for pedestrians and bicycles, provision of safety and educational activities for pedestrians and bicyclists, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, (including the provision of tourist and welcome center facilities), landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological

planning and research, environmental mitigation to address water pollution due to highway runoff, or reduce vehicle caused wildlife mortality while maintaining habitat connectivity, and establishment of transportation museums.”

WHEREAS, the AGENCY developed a project application, including the document relating thereto, which was subsequently submitted to the STATE and approved, and

WHEREAS, it is in the public interest for the STATE and the AGENCY to participate in a transportation enhancement program, as reflected by such project application.

NOW, THEREFORE, the parties hereto do hereby agree as follows:

PART TWO (2): PROJECT PROVISIONS

- A. Project Description:** The AGENCY will undertake a transportation enhancement project in accordance with this Agreement, plans approved by the STATE and the requirements, provisions, terms, and conditions of the project application, including the documents relating thereto, developed by the AGENCY and approved by the STATE. This application, including the documents relating thereto, is of record in the Alabama Department of Transportation and is hereby incorporated in and made a part of this Agreement by reference. It is understood by the AGENCY that failure to carry out the project in accordance with the Agreement, approved plans and the project application, including documents related thereto, may result in the loss of federal funding for the project.
- B. Time Limit:** This project will commence upon execution of this Agreement and upon written authorization to proceed from the STATE directed to the AGENCY. The AGENCY shall have no more than two (2) years from the date of execution of this agreement to begin construction, or to begin special studies or educational programs, or to begin right-of-way acquisition, or to commence other eligible activities in accordance

with the scope of work approved by the STATE. If this stipulation is not met, the STATE will notify the AGENCY in writing that the project is terminated.

C. Project Funding: It is expressly understood that federal funds for this project will be provided from Surface Transportation Program funds as authorized under 23 U.S.C 133(d)(2) and the STATE will not be liable for any funding. It is further understood that this is a cost reimbursement program and no federal funds will be provided to the AGENCY prior to accomplishment of work for which reimbursement is requested. Cost for the project will be financed, when eligible for federal participation, on the basis of 80 percent federal transportation enhancement funds and 20 percent AGENCY funds, not to exceed a maximum sum of \$814,960.00 in federal funds. The estimated cost and participation by the various parties is as follows:

	<u>Total Estimated Cost</u>	<u>Estimated Federal Funds</u>	<u>Estimated Agency Funds</u>	<u>Estimated State Funds</u>
Construction (Including Professional Fees for Construction Engineering and Inspection)	\$1,018,700.00	\$814,960.00	\$203,740.00	\$0

Plans for constructing improvements under this project will be developed by or for the AGENCY at no expense to the STATE or FHWA. Construction of improvements under this agreement will be by contract in keeping with applicable competitive bid laws.

Necessary engineering and inspection during construction will be performed by or for the AGENCY and will be paid for with federal funds. Any cost incurred by the AGENCY relating to this project which is determined to be ineligible for reimbursement by the FHWA or in excess of the limiting amount previously stated will be borne and paid by the AGENCY with no liability of the STATE for any such cost.

D. Project Budget: The AGENCY will develop and submit to the STATE for approval a project budget. This budget will be in such form and detail as may be required by the STATE. As a minimum, all major work activities will be described and an estimated cost and source of funds will be indicated for each activity. Space will be provided for approval by the Division Engineer and date of such approval. All cost for which the AGENCY seeks reimbursement must be included in a budget approved by the STATE in order to be considered for reimbursement.

Budget adjustments may be necessary and may be allowed, subject to the approval of the STATE in writing, in order to successfully carry out the project. However, under no circumstances will the AGENCY be reimbursed for expenditures over and beyond the amount approved by the STATE.

E. Ownership of Property: All work accomplished under the provisions of this agreement will be accomplished on property owned by or which will be acquired by the AGENCY at no expense to the STATE or FHWA. Any exceptions to this requirement must be approved by the STATE in writing prior to incurring costs for which reimbursement is requested by the AGENCY. In cases where property is leased, the terms of the lease will not be less than the expected life of the improvements.

F. Acquisition of Property: Acquisition of real property by the AGENCY as a part of this project will conform to and be in accordance with the provisions of the Federal Uniform Relocation Assistance & Real Property Acquisition Policies Act (49 CFR 24, Subpart B), all federal environmental laws, and all other applicable state and federal laws.

G. Protection of Interest: No change in use or ownership of real property acquired or improved with funds provided under the terms of this agreement will be permitted without prior written approval from the STATE and FHWA. The STATE and FHWA

will be credited on a prorata share any revenues received by the AGENCY from the sale or lease of property, which is the site of the federally funded project.

- H. Purchase of Project Equipment and/or Services:** The purchase of project equipment and/or services financed in whole or in part pursuant to this Agreement will be in accordance with applicable state and federal laws, rules, regulations, and procedures, including state competitive bidding requirements applicable to counties and municipalities in the State of Alabama when the purchase is made by any such entity. The AGENCY will, when authorized by the STATE, solicit bids and make awards for construction and/or services pursuant to this agreement. The AGENCY will not solicit bids until the entire bid package (plans, specifications, estimates, etc.) has been reviewed and approved by the STATE. Following receipt of bids, the AGENCY will provide all bids to the STATE with a recommendation for award. The AGENCY will not award the contract until it has received written approval from the STATE.
- I. Invoicing:** The AGENCY will, when appropriate, submit invoices to the STATE for reimbursement for work performed by or for the AGENCY in carrying out the terms of this agreement. Requests for reimbursement will be made on forms provided by the STATE and will be submitted through the Division Engineer for payment. The AGENCY may bill the STATE not more often than once per month for the funds due for work performed under this Agreement. Invoices for payment will be submitted in accordance with state law and will indicate that the payment is due, true, correct, unpaid, and the invoice will be notarized. The cost allowable is the cost defined in 41 CFR Subpart 1-15.7 of the Federal Procurement Regulations and will include direct and indirect cost incurred in carrying out the project as shown in the approved application and the documents related thereto.

Invoices for any work performed by the AGENCY under the terms of this agreement will be submitted within twelve (12) months after the completion and acceptance by the STATE for the work. Any invoices submitted after this twelve-month period will not be eligible for payment.

- J. Maintenance:** Upon completion and acceptance of the work by the STATE, the AGENCY will assume full responsibility for the project work.
- K. Contracts under this Agreement:** The AGENCY will not assign any portion of the work to be performed under this Agreement or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement, without the prior written approval of the STATE.
- L. Records and Reports:**
1. Establishment and Maintenance of Accounting Records: The AGENCY will establish and maintain, in accordance with requirements established by the STATE, separate accounts for the project, either independently or separately within its existing system, to be known as the Project Account. The cost accounting system must be adequate and acceptable to the STATE as determined by the auditor of the Alabama Department of Transportation.
 2. Documentation of Project Cost: All charges to the Project Account will be supported by properly executed invoices, contracts, or vouchers, as applicable, evidencing in proper detail the nature and propriety of the charges, in accordance with the requirements of the STATE.
 3. Checks, Orders and Vouchers: All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the project will be

clearly identified, readily accessible and to the maximum extent feasible, kept separate and apart from all other such documents.

4. Reports: The AGENCY will report to the STATE the progress of the project in such manner as the STATE may require. The AGENCY will also provide the STATE any information requested by the STATE regarding the project.
5. Financial Statements: The AGENCY will submit to the STATE, at such time as the STATE may require, such financial statements, data, records, contracts and other documents and items of any respect related to the project as may be requested by the STATE.
6. Right of Access to Records: The STATE will have full access to and right to examine all project records at all times, and all records of any nature which in any manner relate to the project or to this Agreement in any way.

M. Regulations: The STATE hereby obligates the AGENCY to comply with all state and federal laws, rules, regulations, and procedures applicable to this Agreement. The STATE, upon request, will furnish to the AGENCY a copy of any and all applicable state and federal laws, rules, regulations, and procedures.

- (1) Any user fee or charge to the public for access to any property or services provided through the funds made available under this agreement, if not prohibited by a federal, state or local law, must be applied for the maintenance and long term upkeep of the transportation enhancement project authorized by this agreement.
- (2) The AGENCY agrees that in the event it is determined the user fees have not been applied to long term upkeep of the transportation enhancement project, that federal funds expended on this project must be refunded to the FHWA and the

AGENCY will reimburse and pay to the STATE a sum of money equal to the total amount of state and federal funds expended under this agreement.

- N. **Point of Contact:** The applicable or appropriate division office of the Alabama Department of Transportation will be the lead agency for the STATE relative to the work under this agreement and will be the point of contact for the AGENCY.

PART THREE (3): MISCELLANEOUS PROVISIONS

- A. **Agency to Indemnify:** The AGENCY will be responsible at all times for this project and all of the work performed under this Agreement and especially the AGENCY will protect, defend, indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation, the officials, officers, employees, and agents of each, from and against any and all claims, actions, damages, loss, liabilities, including attorney's fees and expenses whatsoever or any amount paid in compromise thereof arising out of or in connection with the performance of the work under this Agreement and this project and from and against these at any time arising out of or in connection with the performed work and project.
- B. **Audit and Inspection:** The AGENCY will permit the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, to inspect, at any time, any and all vehicles and equipment utilized or used in performance of the project; records of all transportation services rendered by the AGENCY in the use of such vehicles and equipment; and any and all data and records which in any way relate to the project or to the accomplishment of the project. The AGENCY will also permit the above noted persons to audit the books, records and accounts of the AGENCY pertaining to the project at any and all

times, and the AGENCY will give its full cooperation to those persons or their authorized representatives, as applicable.

- C. Audit Requirements:** The AGENCY will comply with all audit requirements set forth in the Federal Office of Management and Budget (OMB) circular A-128 or A-133 whichever is applicable.
- D. Termination:** In the event the AGENCY fails at any time, in any manner, to comply with any provision, requirement, term or condition of this Agreement, such failure will constitute a default by the AGENCY under this Agreement. Any such default or defaults not corrected by the AGENCY within thirty (30) days following receipt of written notice from the STATE by certified or registered mail of such default or defaults, will be deemed a breach by the AGENCY of this Agreement, and the right on the part of the STATE to terminate the Agreement by giving ten (10) days written notice of termination. A waiver by the STATE of a default or defaults by the AGENCY will not constitute a waiver of subsequent default or defaults by the AGENCY. In addition, if funding for this project is terminated by FHWA, the STATE will have the right to terminate this Agreement by giving ten (10) days written notice of termination. Said notice will be mailed by certified or registered mail.
- E. Retention of Records:** The AGENCY will retain all books, records, and other documents relative to this Agreement for a minimum of three (3) years after project termination, expiration of federal interest, or close out, and the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to, and right to examine any of said materials at all reasonable times during said period.

- F. Performance:** The AGENCY will commence, carry on, and complete the project with all practical dispatch, in a sound, economical, and efficient manner.
- G. Equal Employment Opportunity:** The AGENCY will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The AGENCY will take affirmative action to insure that applicants for employment are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, or national origin. Such actions will include, but not be limited to the following: employment; upgrading; demotion; transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Furthermore, the STATE and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to, and right to examine any and all AGENCY materials for the purpose of monitoring the AGENCY'S compliance with the provisions of this section.
- H. Title VI – Civil Rights Act of 1964:** The AGENCY will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d.)et seq.), the regulations of USDOT issued thereunder (49 CFR, Subtitle A, Part 21), and the assurance by the AGENCY pursuant thereto. Furthermore, the STATE and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to, and right to examine any and all AGENCY materials which will permit them to monitor the AGENCY for compliance with the provisions of this section.
- I. Prohibited Interest:** No member, officer, or employee of the AGENCY during their tenure of employment, and for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds, profits, or benefits therefrom.

- J. Americans with Disabilities Act:** The AGENCY will comply with all requirements of The Americans with Disabilities Act of 1990 (ADA).
- K. Arbitration:** Following the utilization of voluntary alternative dispute resolution, if any dispute should remain, then the decision of the Transportation Director regarding the matter in issue or dispute shall be final and conclusive of all parties.
- L. Permission to Start Work:** The AGENCY will not proceed with the project work until the STATE gives written authorization for the AGENCY to proceed.
- M. Restrictions on Lobbying:** The prospective participant/recipient, by causing the execution of and the submission of this Federal contract, grant, loan, cooperative agreement, or other instrument as might be applicable under 31 U. S. C. §1352 and the person signing same for and on behalf of the prospective participant/recipient that:
- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an

employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under 31 U.S.C. § 1352, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- (3) The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under 31 U.S.C. § 1352, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, and that all such subrecipients shall certify and disclose accordingly.

- N. Other Applicable Regulations:** The AGENCY will comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act, 42 U.S.C. § 1857(h) as amended by 42 U.S.C. § 7401, et seq., Section 508 of the Federal Water Pollution Control Act, 33 U.S.C. § 1368, Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- O. Subcontracts:** The AGENCY will not enter into any subcontract without prior written consent of the STATE and will include in all subcontracts entered into pursuant to this Agreement all of the above clauses as required by the STATE.
- P. Exhibits M, N and O** are hereby attached to and made a part of this Agreement.
- Q. Agreement Change:** The terms of this Agreement may be modified by supplemental agreement duly executed by the parties hereto.
- R. Drug Free Workplace Act of 1988:** The AGENCY assures the STATE that it publishes a statement notifying employees of the policies in support of a drug free workplace; and establishes an ongoing drug-free awareness program.

- S. **Expiration:** This Agreement shall become null and void January 15, 2007, as to any work provided herein which has not been authorized by FHWA.
- T. **7/24th Law:** Nothing shall be construed under the terms of this Agreement by the AGENCY or the STATE that shall cause any conflict with Section 23-1-63, Code of Alabama, 1975.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by those officers, officials and persons duly authorized to execute same, and the Agreement is deemed to be dated and to be effective on the date hereinafter stated as the date of its approval by the Transportation Director of Alabama.

ATTEST:

City of Daphne, Alabama

By: _____
City Clerk (Signature)

By: _____
As Mayor (Signature)

Type Name of Clerk

Type Name of Mayor

APPROVED AS TO FORM:

By: _____
Jim R. Ippolito, Jr.
Chief Counsel
Alabama Department of Transportation

RECOMMENDED FOR APPROVAL:



R. F. Poiroux, Division Engineer

Robert J. Jilla
Multimodal Transportation Engineer

Ray D. Bass, Chief Engineer

The foregoing Agreement is hereby executed in the name of the State of Alabama and signed by the Transportation Director on this _____ day of _____, 200__.

STATE OF ALABAMA, ACTING BY AND THROUGH
THE ALABAMA DEPARTMENT OF TRANSPORTATION

D. J. McInnes, Transportation Director

CERTIFICATION

This certification is applicable to the instrument to which it is attached when directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative agreement, or other instrument as might be applicable under Section 1352, Title 3 1, U.S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 13 52, Title 3 1, U.S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 3 1, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$ 10,000 and not more than \$ 100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under Section 1352, Title 3 1, U.S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$ 100,000 and that all such subrecipients shall certify and disclose accordingly.

7/1/02

EXHIBIT N

FUNDS SHALL NOT BE CONSTITUTED AS A DEBT

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this agreement shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this agreement, be enacted, then the conflicting provision in the agreement shall be deemed null and void.

TERMINATION DUE TO INSUFFICIENT FUNDS

- a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.
- b. In the event of proration of the fund from which payment under this agreement is to be made, agreement will be subject to termination.

MEDIATION CLAUSE FOR STATE CONTRACTS

For any and all disputes arising under the terms of this contract, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation by and through the Attorney General's Office of Administrative hearings or where appropriate, private mediators.

EXHIBIT O
COOPERATIVE MAINTENANCE PROVISIONS

1. The STATE'S Division Office, Bureau of Maintenance, Landscape Architect, and in the case of interstate highways, the Federal Highway Administration, shall review and approve all final plans and specifications prior to advertisement for construction bids.
2. The AGENCY agrees to maintain the vegetative cover within the project boundaries by means of mowing with a flail or rotary mower and hand trimming such that a clean and attractive appearance is obtained. Mowing operations shall be conducted when the height of the vegetative cover (turf and ground cover) reaches 12 inches. Reschedule mowing operations in accordance with the planned frequency. In the event that shrubs and/or trees are planted within the area, trimming and weeding in and around the plant materials shall be done in conjunction with mowing to obtain a clean and attractive appearance. Clippings or other incidental debris (such as branches, trash, etc.) shall be removed if moundings of the clippings or other incidental debris occurs. Note: The AGENCY agrees to remove or cut to below 4 inches any vegetation that exceeds clear zone standards as defined in the AASHTO "Guide for Transportation Landscape and Environmental Design." For example: trees and shrubs whose ultimate trunk diameter exceeds 4 inches. The AGENCY will immediately remedy any and all clear zone and sight encroachments in accordance with AASHTO's "Transportation Landscape and Environmental Design Guide."
3. The AGENCY will see that adequate sight distances are maintained for maximum public safety; otherwise, the STATE reserves the right to remedy this situation in the most expedient manner.
4. The STATE is not responsible for the safety of the individuals involved or taking part in

- this work during maintenance operations. Signs indicating "MEN WORKING" can be obtained from the STATE prior to work and must be returned after completion of work.
5. If STATE construction (repair of drainage and traffic structures, crossovers and other minor construction) is done in the subject area, it will be the responsibility of the STATE to establish a stand of vegetative cover if deemed necessary by the STATE and then the AGENCY's responsibility to maintain the vegetative cover as stipulated herein.
 6. All work shall be subject to the inspection and approval of the STATE. A detailed description of the proposed work must accompany this and any associated proposal. The STATE does not grant applicant any right, title, or claim on any highway right-of-way.
 7. The AGENCY agrees to store no equipment, branches, mounds of clippings or plant debris of any kind or any other material on the shoulders of pavement and in the case of multi-lane highways, in the median strips. The pavement will be kept free from waste (clippings, mud and other debris) and equipment.
 8. The AGENCY shall be solely responsible for and hold harmless the STATE for any claim for damage done to existing private property, public utility, or the traveling public.
 9. All disturbed areas shall be topsoiled, and re-vegetated by the AGENCY in accordance with standard specifications of the STATE.
 10. In accomplishment of the work by the AGENCY, or its contractor, no drainage structures or channels will be changed or altered other than as shown on the project plans.
 11. Failure of the AGENCY to conform to the provisions of this Agreement will be cause to terminate this Agreement. Notification prior to termination will be made by the STATE.



**EASTERN
SHORE**
CHAMBER OF
COMMERCE

P.O. Drawer 310
Daphne, Alabama 36526-0310

Overlook
29750 Larry Dee Cawyer Drive
Daphne, Alabama
251.621.8222
FAX 251.621.8001

Downtown Fairhope
327 Fairhope Avenue
251.928.6387
FAX 251.928.6389

www.ESchamber.com
email: office@ESchamber.com



4-26-2005
WORK Session -
referred to
Finance Committee

April 4, 2005

Mayor Fred Small & City Council
City of Daphne
PO Box 400
Daphne, AL 36526

Dear Mayor Small & Honorable City Council,

The Eastern Shore Chamber of Commerce respectfully requests an additional \$5,000.00 to help fund a strategic plan for the Eastern Shore Chamber of Commerce.

With the tremendous growth of the Eastern Shore and the entire area, there is a need to gain direction for the entire Eastern Shore. The Chamber has contracted with First Community out of Atlanta to guide us through this process.

With your extra pledge, this will help write the next five years and allow you to have more extensive input into the ways the Eastern Shore Chamber of Commerce can work to benefit the area.

Thank you in advance for supporting the efforts of the Chamber to promote our area.

Respectfully yours,


Darrelyn J. Bender
President

THE EASTERN SHORE

Strategic Planning Timetable

February

- Enlist Strategic Planning Task Force “Inner Circle”
- Hold First Task Force Organization Meeting
- Develop the Strategic Plan Outline
- Identify Additional Task Force Members
- Enlist Next Task Force Circle

March

- Hold Second Task Force Meeting
- Develop the First Draft of the Strategic Plan
- Identify and Enlist Final Task Force Circle
- Hold Third Task Force Meeting
- Develop the Final Draft of the Strategic Plan

April

- Hold the Final Task Force Meeting
- Final Revisions to the Strategic Plan
- Task Force Approval of the Strategic Plan
- Presentation of Strategic Plan to Chamber Board of Directors
- Board Approval of the Strategic Plan



**Eastern Shore Chamber of Commerce
Group Listing by Rep Name**

Group Name: Strategic Plan Task Force

Representative	Company
<u>Strategic Plan Task Force</u>	
<i>Bailey, Owen</i>	<i>Thomas Hospital</i>
<i>Bassett, Charles E.</i>	<i>Bassett Engineers & Constructors, Inc.</i>
<i>Bender, Darrelyn</i>	<i>Creative Energy</i>
<i>Bridges, John</i>	<i>Advanced Payroll Solutions</i>
<i>Clark, David</i>	<i>Grand Hotel Marriott Resort, Golf Club & Spa</i>
<i>Corte, Danny</i>	<i>Individual</i>
<i>Cusa, Phil</i>	<i>Thomas Hospital</i>
<i>Delchamps, Randy</i>	<i>Randy Delchamps Real Estate & Dev. Co.</i>
<i>Dorough, Steve</i>	<i>First Community Development</i>
<i>Einfield, Heiko</i>	<i>Holiday Inn Express-Fairhope</i>
<i>Etwell, Ivy</i>	<i>P.J.'s Coffee and Wine Bar</i>
<i>Head, Jr., David H.</i>	<i>Head Companies, L.L.C.</i>
<i>Holcomb, Howard</i>	<i>Thomas Medical Center</i>
<i>Layfield, A.W.</i>	<i>ACO Employment Services</i>
<i>Meehan, Irene</i>	<i>Merril Lynch</i>
<i>Moore, Ray</i>	<i>Hutchinson, Moore & Rauch, LLC</i>
<i>Nichols, Sonny</i>	<i>Prudential Nichols Real Estate</i>
<i>Rosson, Tim</i>	<i>Compass Bank</i>
<i>Thomas, Larry</i>	<i>Thomas Roofing</i>
<i>Thompson, Terry</i>	<i>Terry Thompson Chevrolet-Oldsmobile</i>
<i>Walther, Jim</i>	<i>Fairhope Courier</i>

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Under State Contract
See State Bid
hist

* Equipment

- Monitors
- Central processor units (cpu's)
- Laptops
- Keyboards
- Televisions
- Printers
- Copiers Desktop and Floor model
- Telecommunications Equipment
- Non serialized peripherals

CRS will take most types of electronic equipment, however, this does not include white goods such as refrigerators, stoves, washers, and dryers.

*We would like at least a week notice. To schedule trucking.

*You call and schedule it at your convenience.

*The only charges would be as followed:

Trucking:

\$ 225.00 - maximum cost if City of Daphne is only pickup - City can piggyback (wait for pickup when surrounding locations request pickup)
Currently Creative Recycling has customers in Fairhope & Mobile

If I can further assist you please call me at 800 409-9068. Thank you for taking interest in Creative Recycling Systems.

Sincerely
Regina Leverett
Creative Recycling Systems



click icons above for more information

CREATIVE RECYCLING SYSTEMS, INC.



Switching Gears for a New Millenium

Community
Electronics
Recycling
Schedule

CREATIVE RECYCLING SYSTEMS - an exceptionally efficient, cost-effective way to electronic equipment, minimize liability risks, eliminate warehousing fees, ensure that proprie information is completely removed and save the planet.

Creative Recycling Systems, Inc. (CRS) was incorporated in 1994 with one overriding mand: provide private and public sector clients with electronic recycling solutions that represent a vi economical alternative to environmental contamination. From modest beginnings, we now m sophisticated facilities in the southeastern United States, designed to recycle and reuse an e array of electronic equipment in a manner that is economically feasible and environmentally Among the obsolete, surplus or end-of-life products we handle are:



- Computers (PCs and mainframes)
- Telecommunications Equipment (PBX, switching equipment, telephones, etc.)
- Banking and Financial Equipment (ATMs, POS, check processing, etc.)
- Consumer Electronic Equipment (computers, televisions, monitors, cell phones, etc.)
- Electronic Components (integrated circuits, resistors, capacitors, diodes, etc.)

Today Creative Recycling has attained a leadership position in the electronics recycling indu environmental expertise is constantly being sought out by government officials, academic re: and trade groups, and our staff members serve as board members of numerous national pro organizations.

Creative Recycling Systems, Inc.
PO Box 19120
Tampa, FL 33683-9120

813.621.2319
800.797.2061
Fax 813.626.1248
creative@crserecycling.com

Closest location is Tallahassee, FL - Pickups will be coordinated through this office for the Baldwin County Area. Pickups are already in process for Fairhope. Jim Kristof

jkristof@crserecycling.com

4/21/2005

http://crserecycling.com/p1_swch_grs.html

**Electronics
Recycling
Activities**

**Benefitting Others, Helping
the Environment ... and You!**

Everyone benefits when government agencies and private sector companies use the Federal Prison Industries (UNICOR) recycling program. UNICOR's inmate labor force is trained to provide recycling activities that are an asset to both public and private sectors, in protecting our environment. As a self-sustaining federal government corporation, all income earned by UNICOR is reinvested in the corporation's operations and programs.

We provide competitively priced electronic recycling activities that meet all federal, state and local regulations. If an item cannot be reused we demanufacture it into components that will be recycled. We make sure every part and component gets reused or recycled.

Upon request, UNICOR can provide complete documentation of the recycling process used on your electronic equipment.



In 1999, UNICOR's Electronic Recycling Program was the recipient of the White House Task Force "Closing the Circle Award" for recycling non-hazardous waste. In 2003, UNICOR's Elkton, OH facility was the recipient of the Waste/Pollution Prevention Award.

Recycling Benefits

Since UNICOR accepts various electronic items for recycling, we offer a wide variety of items for sale after we de-manufacture the electronic equipment.

Put old, broken or surplus computer or electronic equipment to good use—let UNICOR recycle it. We can arrange to pick up significant quantities. Your donation may even qualify for a tax deduction. We accept donations from public organizations, private companies and government agencies. Please contact UNICOR at 202 305-3768 or 202 305-3884. Visit our website at www.unicor.gov to find out more about how to take advantage of this opportunity.

Note: Item availability changes due to variety of items collected.

QUESTIONS

How does recycling benefit you?

ANSWERS

Federal Government agencies, as well as private companies are encouraged to be part of the environmental solution by reducing their trash sent to landfills, therefore saving money and potential environmental liabilities.



Recycle

UNICOR can find a use for your unwanted electronic equipment.



Recover

We can arrange to pick up your donation.



Redistribute

No part goes to waste. If we cannot recycle it we will break it down into useful components.



Resell

Our recycled electronic components are resold at competitive prices.



Reuse

Reuse of all recycled material benefits the customer, the recycling vendor and the earth.

Question: What type of material can be recycled?

Answer: UNICOR accepts most electronic items for recycling. If an item cannot be reused or made functional, we break it down into its component parts that are sold for other uses. Our goal is to make sure all residual materials are recycled or resold.

Question: Who can donate and who do I contact?

Answer: We accept donations from public agencies and private entities. Please contact UNICOR's Recycling Representatives at 202 305-3768, ckeidel@central.unicor.gov or 202 305-3884, vasmith@central.unicor.gov.

Question: Is the process documented?

Answer: Yes, UNICOR can provide cradle to grave documentation on recycled materials if required.

Question: Why recycle computers?

Answer: Computers contain many potentially hazardous materials (lead, mercury, cadmium, etc.) Landfilling your computer poses a threat to the environment, along with potential health concerns.

Question: Who can buy recycled materials and where can I see an inventory?

Answer: Public organizations, private companies and government agencies can purchase recycled materials. Call UNICOR at 202 305-3768, ckeidel@central.unicor.gov or 202 305-3884, vasmith@central.unicor.gov.

Question: How much does UNICOR's recycling program cost the public?

Answer: As a self-sustaining government-owned corporation, UNICOR receives no congressional appropriations for their operating funds. Therefore the sale of recycled components and materials fully fund this environmentally sound program.

TREASURER'S REPORT

As of April 2005

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	\$6,254,481.95
OPERATING ACCT	COMPASS	(\$435,160.05)
PAYROLL ACCT	COMPASS	(\$2,914.40)
MUNICIPAL COURT	COMPASS	\$187,040.31
		<u>\$6,003,447.81</u>
SPECIAL REVENUES FUND		
SAIL SITE	FIRST GULF	\$2,777.90
4 CENT GAS TAX	FIRST GULF	\$121,012.85
7 CENT GAS TAX	FIRST GULF	\$89,436.37
		<u>\$213,227.12</u>
CAPITAL PROJECTS FUND		
CDBG LOAN REPAY	COMPASS	\$5,861.64
CAPITAL GROWTH	SOUTHTRUST	\$1,906,721.26
97 WARRANT CONS	SOUTHTRUST	\$4,836.68
99 WARRANT CONS	REGIONS	\$810,213.13
2000 CONSTRUCTION	REGIONS	\$89,779.84
		<u>\$2,817,412.55</u>
DEBT SERVICE FUND		
DEBT SERVICE	SOUTHTRUST	\$966,781.00
		<u>\$10,000,868.48</u>

SALES & USE TAXES

ACTUAL COLLECTIONS

	1999	2000	2001	2002	2003	2004	2005
October	505,823.52	523,515.85	565,075.77	671,699.04	636,482.64	697,830.58	833,700.71
November	477,755.53	535,573.14	591,377.80	650,308.98	646,534.10	710,788.74	814,666.03
December	677,887.14	730,634.15	803,488.81	858,086.66	892,208.68	941,151.87	1,091,073.78
January	486,672.84	504,442.67	557,344.42	639,638.85	590,727.65	697,083.68	771,837.83
February	493,808.01	540,963.07	587,990.90	602,215.06	632,654.31	688,421.54	788,825.08
March	604,374.14	595,340.89	682,504.29	710,960.77	705,390.20	848,156.86	917,832.17
April	546,895.63	535,336.42	649,639.77	629,853.17	692,148.44	752,039.55	-
May	552,248.34	618,037.66	684,188.67	668,867.28	702,692.15	757,610.49	-
June	592,710.00	657,414.17	693,747.71	731,684.73	752,668.04	818,209.20	-
July	556,101.54	627,156.12	622,924.98	679,602.58	721,790.90	803,051.14	-
August	572,426.86	618,088.96	652,404.99	657,027.91	739,993.63	745,320.33	-
September	567,326.23	623,657.72	660,492.09	644,827.41	715,641.36	830,260.80	-
Totals	6,634,029.78	7,110,160.82	7,751,180.20	8,144,772.44	8,428,932.10	9,289,924.78	5,217,935.60

FY 2005 BUDGET/ACTUAL COMPARISONS

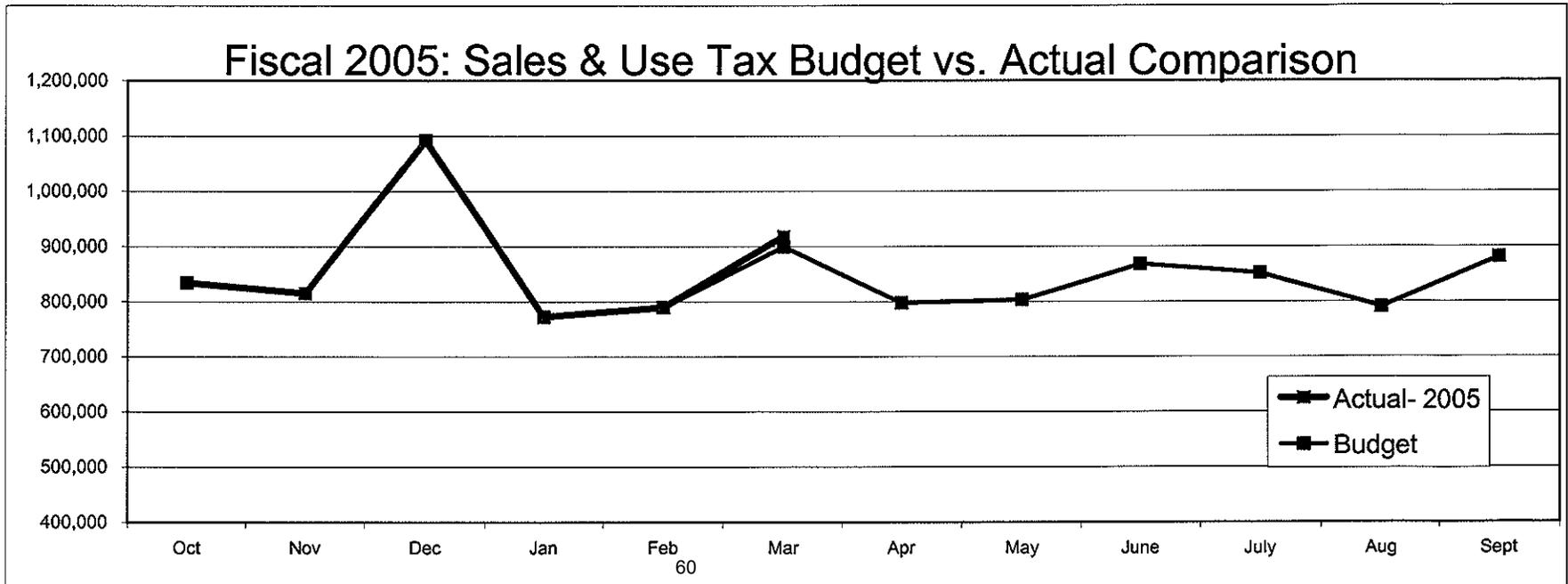
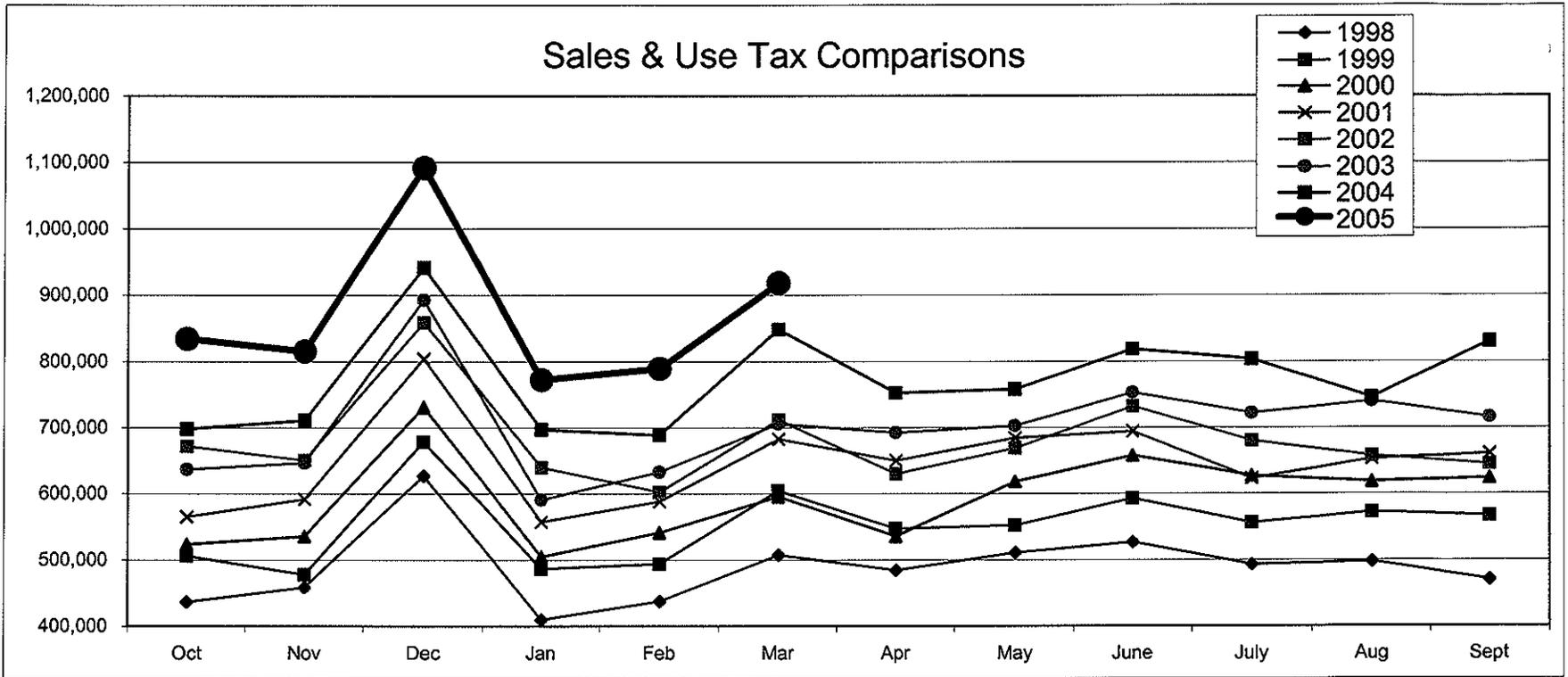
	Actual- 2005	Budget	Monthly Variance	YTD Variance	% of Budget
October	833,700.71	833,701	-	-	0.00%
November	814,666.03	814,666	-	-	0.00%
December	1,091,073.78	1,091,074	-	-	0.00%
January	771,837.83	771,838	-	-	0.00%
February	788,825.08	788,825	-	-	0.00%
March	917,832.17	899,046	18,785.90	18,785.90	2.09%
April	-	797,162	-	-	-
May	-	803,067	-	-	-
June	-	867,302	-	-	-
July	-	851,234	-	-	-
August	-	790,040	-	-	-
September	-	880,076	-	-	-
Totals	5,217,935.60	10,188,031	18,785.90		

FISCAL YEAR COMPARISONS

	<u>\$ Change</u>						<u>Percent Change</u>					
	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
October	17,692.33	41,559.92	106,623.27	(35,216.40)	61,347.94	135,870.13	3.50%	7.94%	18.87%	-5.24%	9.64%	19.47%
November	57,817.61	55,804.66	58,931.18	(3,774.88)	64,254.64	103,877.29	12.10%	10.42%	9.97%	-0.58%	9.94%	14.61%
December	52,747.01	72,854.66	54,597.85	34,122.02	48,943.19	149,921.91	7.78%	9.97%	6.80%	3.98%	5.49%	15.93%
January	17,769.83	52,901.75	82,294.43	(48,911.20)	106,356.03	74,754.15	3.65%	10.49%	14.77%	-7.65%	18.00%	10.72%
February	47,155.06	47,027.83	14,224.16	30,439.25	55,767.23	100,403.54	9.55%	8.69%	2.42%	5.05%	8.81%	14.58%
March	(9,033.25)	87,163.40	28,456.48	(5,570.57)	142,766.66	69,675.31	-1.49%	14.64%	4.17%	-0.78%	20.24%	8.21%
April	(11,559.21)	114,303.35	(19,786.60)	62,295.27	59,891.11	-	-2.11%	21.35%	-3.05%	9.89%	8.65%	-
May	65,789.32	66,151.01	(15,321.39)	33,824.87	54,918.34	-	11.91%	10.70%	-2.24%	5.06%	7.82%	-
June	64,704.17	36,333.54	37,937.02	20,983.31	65,541.16	-	10.92%	5.53%	5.47%	2.87%	8.71%	-
July	71,054.58	(4,231.14)	56,677.60	42,188.32	81,260.24	-	12.78%	-0.67%	9.10%	6.21%	11.26%	-
August	45,662.10	34,316.03	4,622.92	82,965.72	5,326.70	-	7.98%	5.55%	0.71%	12.63%	0.72%	-
September	56,331.49	36,834.37	(15,664.68)	70,813.95	114,619.44	-	9.93%	5.91%	-2.37%	10.98%	16.02%	-
Annual \$ Change	476,131.04	641,019.38	393,592.24	284,159.66	860,992.68	634,502.33	7.18%	9.02%	5.08%	3.49%	10.21%	

TOTAL collections: FY 04	9,289,925
TOTAL est. bdgt coll: FY 05	10,188,031
Budgeted Dollar Decrease 04/05	898,106
Budgeted Percent Decrease 04/05	9.67%

TOTAL collections: 3-31-05	5,217,936
Budgeted: 10-1-04 to 3-31-05	5,199,150
Actual Coll > (<) Budget, 3-31-05	18,786
% Over/(Under) Budget, 3-31-05	0.36%



Ad Valorem Taxes

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005*</u>	<u>2005- Budget</u>	<u>2005: Budget/ Actual Variance</u>
Property Taxes	1,996,746	2,130,635	2,254,739	2,508,168	2,472,132	2,775,000	(302,868)
Shares Taxes	29,688	29,881	30,090	30,316	30,543	31,000	(457)
Auto Taxes	369,493	385,623	384,801	396,865	193,487	330,000	(136,513)
	<u>2,395,927</u>	<u>2,546,138</u>	<u>2,669,631</u>	<u>2,935,349</u>	<u>2,696,162</u>	<u>3,136,000</u>	<u>(439,838)</u>

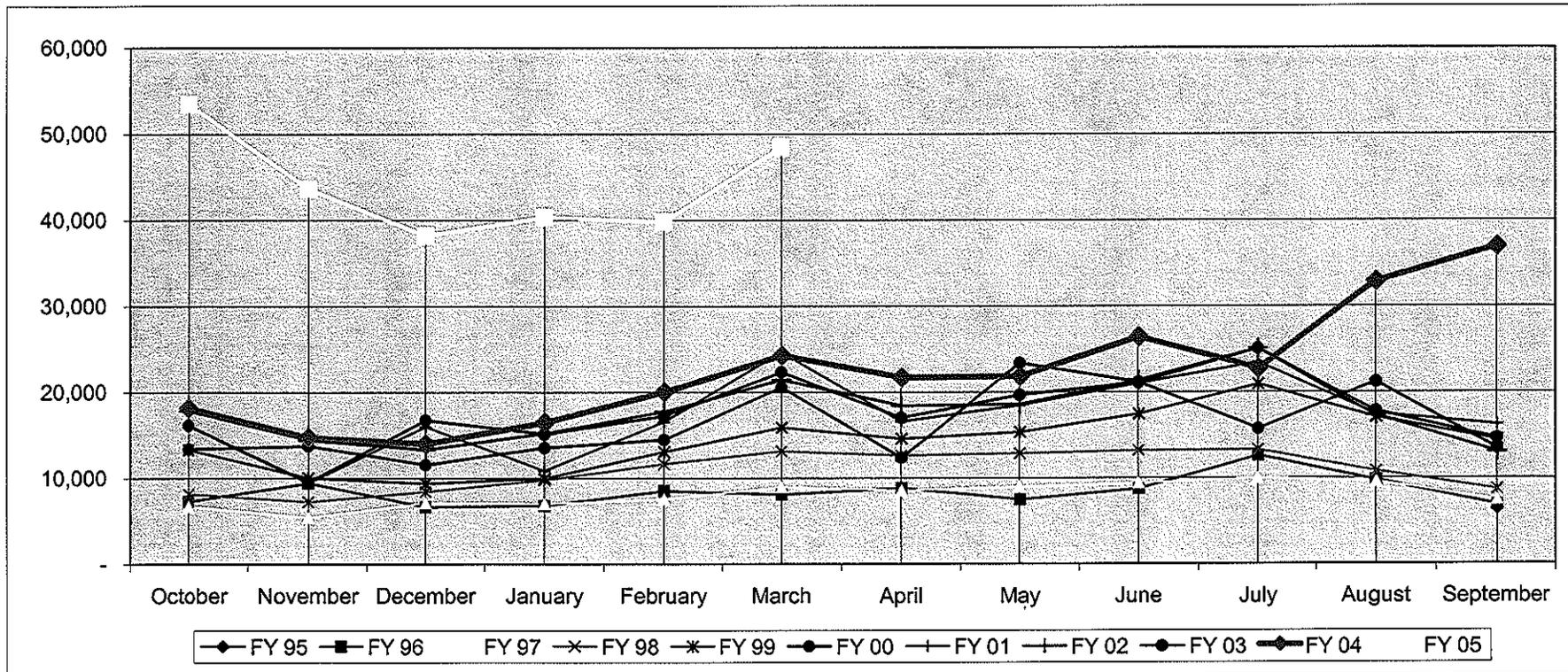
* As of 4-30-2005

	<u>4/30/2004</u>	<u>4/30/2005</u>	<u>Variance</u>	<u>% Inc/(Dec)</u>
Property Taxes	2,415,770	2,472,132	56,362	2.33%
Shares Taxes	30,316	30,543	227	0.75%
Auto Taxes	178,363	193,487	15,124	8.48%
	<u>2,624,449</u>	<u>2,696,162</u>	<u>71,713</u>	<u>2.73%</u>

Monthly Lodging Tax Collections

	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>
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
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
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
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
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
March		8,017.74	8,902.63	13,048.18	15,837.90	20,536.51	24,601.77	21,371.61	22,248.25	24,206.01	48,474.92
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	
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	
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	
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	
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	
September	<u>6,371.27</u>	<u>6,806.02</u>	<u>7,400.70</u>	<u>8,586.97</u>	<u>14,397.17</u>	<u>13,393.86</u>	<u>16,116.04</u>	<u>12,997.60</u>	<u>14,563.86</u>	<u>36,847.13</u>	
Total	6,371.27	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	263,948.49

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



NEW BUSINESSES FOR APRIL

Brick and Mortar Businesses (in the city)

SEAN Q FISK PA C	1
BLAKE & WHITE CPA	1
ALLEN, PETER J	1
MONETTES	1
SOUTHLAND PROPERTIES LLC	1
GARDEN RESTAURANT, THE	1
SOUTHERN STYLE LAWN CARE	1
FLOWERCITY OF EASTERN SHORE	1
HERTZ LOCAL EDITION	1
IN HOME COUNSELING SERVICE	1
M&E POWERWASH	1
FISH'N STIXX	1
	12

OUT OF CITY

TRANSCONTINENTAL SECURITY INC (TSI)	1
JAMES BONDS	1
ASPHALT SUPPLY LLC	1
WB'S REFRESHMENT CENTERS	1
CHP INDUSTRIAL & MARINE	1
LIFETOUCH NATIONAL SCHOOL STUDIOS INC	1
VIDEO SERVICE OF AMERICA	1
PGT INDUSTRIES INC	1
INFIRMARY HOME MEDICAL SERVICES INC	1
KILKPATRICK TURF EQUIPMENT INC	1
DEVINEY CONSTRUCTION CO	1
HOLLIS, HENRY	1
	12

Contractors

J P PAINTING	1
AIKEN DESIGN & CONSTRUCTION	1
ALL STAR SIGNS LLC	1
LANGLEY'S PAINTING	1
PITTMAN'S POWER WASHING SVC	1
NARROW GAP CONSTRUCTION LLC	1
STEPHEN L GEHRING CONSTRUCTION INC	1
BAY CITY CONSTRUCTION SERVICES LLC	1
HIMES INSULATION & CONSTRUCTION INC	1
DEES HEATING & AIR	1
JOHNSON'S SIDING INC	1
BAY CLEARING	1
COASTAL MECHANICAL LLC - ELECTRICAL	1
COASTAL MECHANICAL LLC - PLUMBING	1
COASTAL MECHANICAL LLC - HVAC	1
BARTLETT SERVICES	1

NEW BUSINESSES FOR APRIL

ROGERS, LAURA	1
ADVANCED ELECTRIC & CONTROLS	1
SOUTHERN COASTAL DEVELOPMENT GROUP LLC	1
BRYAN SEALCOATING & STRIPING INC	1
OLD TIMERS CONSTRUCTION CO	1
WEAVER, ALLEN	1
COXWELL, RANDALL	1
AMORE PLUMBING CO INC	1
	24

Insurance Companies

None	0
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TOTAL NEW BUSINESSES 48

Businesses Closed in the Month of March

Private Gallery	1
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Public Safety Committee

Tuesday, May 10, 2005

*Councilman Greg Burnam, Chairman
Councilman Gus Palumbo
Councilwoman Regina Landry
City Attorney Jay Ross
City Attorney Tim Fleming
Michele Hanson – Secretary*

*Police Chief David Carpenter
Captain David Wilson
Captain Randy Bishop
Captain Scott Taylor
Fire Chief Mund Hanson
PW Sup. Melvin McCarley*

Committee Members Attending:

Chairman Greg Burnam, Councilwoman Regina Landry, Councilman Gus Palumbo, Police Chief David Carpenter, Capt. Randy Bishop, Fire Chief Mund Hanson, City Attorney Tim Fleming, PW Superintendent Melvin McCarley and Michele Hanson, secretary.

Also Present: Mayor Fred Small, Councilwoman Cathy Barnette, Revenue Officer Joan Lindsey, Code Enforcement Officer Ed Kirby, PW Director Ken Eslava and Building Official Ronnie Phillips.

I. CALL TO ORDER

Mr. Burnam **convened** the meeting at 4:30 p.m.

II. PUBLIC PARTICIPATION

A. New Business

1. *Jimmy Cantrell/Johnny Sundie - MedStar*

Mr. Cantrell introduced himself and Johnnie Sundie to the committee. (*Johnny Sundie is the brother of the owner of MedStar, Ricky Sundie, who recently passed away*) Mr. Sundie stated he and Mr. Cantrell wanted to assure the committee and all public safety personnel that MedStar is still running and working together with them to ensure quality service throughout the county. Mayor Small thanked Mr. Sundie and Mr. Cantrell for the 2 units that stayed on scene the entire time during the murder investigation. Chief Carpenter stated that anytime SRT is activated, MedStar has a unit on stand by. Chief Hanson stated that MedStar not only assists the City with medical response, they also replenish any equipment used on our trucks that is used at a scene, which is a financial asset to us.

2. *Marcia Mathis - Speed Hump/Traffic Study on Lake Shore Drive*

Mr. Burnam reviewed the letter submitted by Ms. Mathis. The committee discussed the need for installing a speed hump at this location. Mr. McCarley stated he would look at the location and advised the committee.

3. *Mary Jo Stacey - Speed Hump/Traffic Study on Hope Drive*

Mr. Burnam reviewed the letter submitted by Ms. Stacey. The committee discussed where on Hope Drive she wanted the speed hump, the letter was not specific. Chief Carpenter stated he will have PD contact Ms. Stacey and work out something with her.

4. *Cathy Barnette - Speeding on College, Lea and Belrose*

Ms. Barnette addressed the committee about concerns of speeding on these streets and would like to know what she or the committee can do to reduce the speeds on these streets. Mr. McCarley stated that a traffic study was done sometime last year on Lea Avenue and the average speed was 27 mile per hour. Mayor Small suggested having patrol do speed maintenance in that area. Mr. Palumbo stated there is reluctance to install speed humps on major streets due to emergency vehicle response. Chief Carpenter stated he will have the speed trailer placed on these streets to help deter

speeding. He also advised he will have patrol work that area.

B. Old Business

III. APPROVAL OF MINUTES FROM PREVIOUS MEETING

Minutes from April 5, 2005 Meeting

<p><i>Motion by Gus Palumbo</i> to adopt the minutes as presented. <i>Seconded by Regina Landry.</i> The minutes were adopted without revision. <i>Motion carried.</i></p>
--

I. FIRE DEPARTMENT

A. New Business

1. Statistics for April 2005

Chief Hanson reviewed the stats for April. He stated the total calls were down from last month, however EMS calls were up. Mr. Burnam inquired about vehicle accidents Daphne responds to. Chief Hanson stated that any accident reported with injuries, the fire department will respond. If no injuries are reported, the department responds only if the police department needs assistance.

2. SAFER Grant

Chief Hanson reviewed additional information on the grant for the committee to review. He stated the grant application will open on May 31st and close on June 28th. Mr. Palumbo stated that this needed to be on the Council work session in June for discussion and on the June 20th council meeting for approval.

B. Old Business

II. POLICE DEPARTMENT

A. New Business

1. Statistics for March 2005

Chief Carpenter reviewed the stats for March. He stated that the detectives have been working around the clock on the murder case. He stated that we have a murder suspect that will be charged with capital murder, 2 others will be charged with conspiracy to commit murder and 1 with hindering prosecution. He discussed a rape that occurred, which was determined to be consensual between a 19 year old and a 15 year. He also stated that there has been an increase in B&E's this month.

2. Jail Inspection Report

Capt. Bishop reviewed the inspection report from the State and stated that no code violations were found. Theses inspections are done at random.

3. Monthly Jail Report

Capt. Bishop reviewed the monthly jail report. He stated that 195 inmates were processed in March.

B. Old Business

1. North Precinct

Chief Carpenter stated that Capt. Taylor received another preliminary drawing of the building and it should be ready by September.

III. CITY ATTORNEYS

A. New Business

1. Temporary Vendors Business License

Mr. Fleming reviewed the new ordinance with the committee. The committee discussed the changes to the ordinance. Mrs. Lindsey stated that in section 454329B the "one day @ \$100" is to be removed leaving "one month @ \$50" and in section 454329C the second column "\$500 and \$1,000" is to be removed. Mr. Burnam asked if this ordinance would apply to temporary vendors at the ball parks and the different events that the City has. Mrs. Lindsey stated this ordinance will cover those vendors.

Motion by Gus Palumbo to favorably recommend the Temporary Vendors License to the City Council.
Seconded by Regina Landry. **Motion carried.**

2. MOT/Schedule of Fines

Mr. Fleming submitted a draft of the MOT ordinance for committee review. He asked the committee to look over and advise him of any changes, additions, deletions and he will have a final draft at the June meeting.

A. Old Business

VII. OTHER BUSINESS

1. Santa Rosa and Main Street

Mr. Eslava stated that the 4-way stop at Santa Rosa was deemed by ALDOT as a interim measure to a long term solution, not permanent. ALDOT has stated that the 4 way stop is a good way to reduce the number of accidents at this intersection. In 2004, there were 14 accidents at the intersection. (Most were caused by eastbound traffic failing to yield the right of way to the northbound traffic) He further stated that as a trial basis, this intersection will become a 4-way stop beginning May 13th. The committee recommended to set the trial time for 6 months.

II. LEGISLATIVE ORDINANCE COMMITTEE

1. Commercial Permit Fee Increase

Mr. Phillips submitted a request to change the current ordinance regarding permits for plumbing, electrical and HVAC. He is requesting to change the ordinance to read "all mechanical, electrical and plumbing permits will be one percent of the sub-contractors total amount." Mr. Fleming will draft an ordinance to amend 2002-30 and will present at the June meeting.

IX. ADJOURN

There being no further business to discuss, Chairman Burnam **adjourned** the meeting at 6:20 p.m. The next regular scheduled meeting will be **Tuesday, June 7, 2005 at 4:30 p.m. at the Joseph H. Hall Justice Center.**

Respectfully submitted,

Daphne Public Safety Committee

DAPHNE POLICE DEPARTMENT CONDENSED ACTIVITY REPORT

Month of: **March 2005**

<p>Patrol Division: (Capt. Taylor)</p>	<p># Complaints.....1,018 # Misdemeanor Arrests.....89 # Felony Arrests.....8 # Citations.....209 # Alias Warrants.....33</p>	<p># Close Patrols.....67 # Warnings.....188 # Motorist Assists.....224 # Roadway Accidents.....69 # Private Property Accidents.....26</p>	<p># DUI's.....13</p>		
<p>Detective Division: (Lt. Bell) (Capt. Taylor)</p>	<p># New Cases Received.....50 # Previous Unsolved Cases Carried Over.....97 Highest Caseload.....147 #Cases Solved.....25 Resulting in Total Arrests.....22 Felonies.....17 Misdemeanors.....5</p>	<p>WARRANTS: Bettner Served.....24 Officer Served.....28 Recalls (Pd Fines).....25 Total Warrants Served.....77 CODE ENFORCEMENT: Warnings.....10 Citations.....5 Warning Compliance.....8 Follow-up.....23</p>	<p>DARE: # Hours Report Writing.....10 #Students Instructed SRO.....850 #Students Instructed DARE.....400 #Police Reports by SRO's.....6 #Arrests by SRO's.....2</p>		
<p>Support Services Division: (Capt. Bishop)</p>	<p>DISPATCH: Total Calls Dispatched.....431</p>	<p>JAIL: Total Arrestees Received & Processed.....195 Arrestees by Agency: Daphne PD.....129 BCSO.....16 Loxley PD.....24 Silverhill P.D.....11 Spanish Fort PD.....9 Trooper.....4 INS.....0 Other Agencies.....2</p>	<p><i>YTD</i> .. 1,131</p>	<p>Highest #.....43 Lowest #.....26 Meals Served.....2,755 Medical Costs.....1,688.86 Worker Inmate Hours.....274</p>	<p><i>YTD</i> N/A N/A ..12,224 .. 8,928.26 ... 2,357</p>
<p>Animal Control: (Capt. Wilson)</p>	<p># Complaints.....104 # Follow-Ups.....156 # Citations.....11 # Warnings.....14</p>	<p># Felines Captured.....11 # Canines Captured.....23 # Other Captured.....9</p>	<p># Returned to Owner.....20 # Adopted Out.....30 # Euthanized.....18</p>		
<p>Drug Report from Routine Patrol & Special Operations: (Capt. Wilson)</p>	<p># Misdemeanor Marijuana Arrests.....2 # Felony Marijuana Dealer Arrests.....0 # Controlled Substance Arrests.....0</p>	<p># Drug Paraphernalia Arrests.....1 # Vehicles Searched.....2 # Houses Searched.....1 Drug Interdiction/Vehicles Searched...20</p>	<p>Drugs Seized.....marijuana Money Seized.....0 Vehicles Seized.....0</p>		
<p>Crimes Reported This Month:</p>	<p>Arson.....0 Burglary - Residence.....1 Burglary - Business.....4 Burglary - Vehicle.....3 Criminal Mischief.....6 Domestic Disturbances.....27 Disorderly Conduct.....4 Felony Theft.....20 Misdemeanor Theft.....27 Felony Assault.....0 Misdemeanor Assault.....0</p>	<p>False Info to Law Enforcement.....1 Harassment.....8 Indecent Exposure.....0 Kidnapping.....0 Murder.....0 Menacing.....0 Public Intoxication.....2 Public Lewdness.....0 Receiving Stolen Property.....0 Robbery.....0 Reckless Endangerment.....0</p>	<p>Rape.....1 Resisting Arrest.....2 Suicide.....0 Attempted Suicide.....0 Other Death Investigations.....3 Sex Offender Notifications.....0 Theft of Services.....0 Unauthorized Use of Services.....2 White Collar Crimes.....6 Weapon Offenses.....1</p>		

Report Approved:

David Carpenter

David Carpenter , Chief of Police

**CITY OF DAPHNE
FIRE DEPARTMENT MONTHLY REPORT**

Report Period: April, 2005

	Current:	FY to Date:
Suppression:		
1-Fire/Explosion:		
10-Fire, Other	-	-
11-Structure Fire/Commercial	-	3
11-Structure Fires/Residential	1	14
12-Fire in Mobile Property used as fixed structure	-	-
13-Mobile Property (vehicle) Fire	-	14
14-Natural Vegetation Fire	-	18
15-Outside Rubbish Fire	1	5
16-Special Outside Fire	-	-
17-Cultivated Vegetable Crop Fire	-	-
2-Overpressure Rupture:	-	2
3-Rescue Call and Emergency Medical Service Incidents:	106	686
4-Hazardous Conditions (No fire):	3	34
5-Service Call:	8	105
6-Good Intent Call:	13	84
7-False Alarm & False Call:	3	61
8-Severe Weather & Natural Disaster:	-	-
9-Other Situation:	-	5
Total Emergency Calls:	118	881
Monthly Total Calls:	136	1031
Response Time:		
Highest:	15	18
Lowest:	1	1
Average (Minutes/Seconds) :	5/27	4/57
Miscellaneous Reports:		
Training Hours	902.76	2,435.32
Property Loss - \$	-	284,946
Fire Personnel Injuries by Fire/Civilian Injuries by Fire	1/-	1/3
Child Passenger Safety Seat Inspections/Installations	19	92
Fire Prevention Awareness/Education:		
Classes	2	78
Persons Attending	420	3,638
Bureau of Fire Prevention:		
Plan Reviews	10	58
Final/Certificate of Occupancy	1	1
General/Annual Inspections	130	1145
Business Licenses	2	22
Consultations	-	3
All Other/Misc. Activities	1	5
Total Activities:	144	1234

Authorized by:

A. Mund Hanson

A. Mund Hanson

Old Methodist Church Museum Of Daphne
Minutes March 7, 2005

The regular monthly meeting of the OMCM of Daphne was moved up a week to March 7, 2005.

The meeting was called to order by President Mickey Boykin.

ATTENDEES: Mickey Boykin, Al Guarcisco, Polly Gregorius, Pat Box, Patsy Lindsey, Tot Brantly, Yvonne Silcox, Camilla Bulter, Jeanne Nelson, Emily Hammond, Carolyn Hafner, Doris Allegri, Marjorie Waldrop, Candice Bishop, Helen Baroco

MINUTETES: Minutes were ready by the members and approved with the exception of the spelling of Baroco. Instead of Report of Standing: Committee was added to read Standing Committee: April was added a glass display and May would be Memorial Day.

TREASURER'S REPORT: Report given by Mickey Boykin. Balance on hand for the Friends of the Old Methodist Church Museum of Daphne Inc. was \$6514.75. February 2005 account for Old Methodist Church and Cemetery \$17035.51 with 6 books sold at \$180.00 balance \$17,229.26. We have sold 437 and 106 to sell to break even.

STANDING COMMITTEE: No report

EXHIBIT: Patsy Box reported about the doll exhibit. Carolyn Hafner's friend Carolyn Simms had her doll exhibit. Emily also said she had some dolls to exhibit.

PUBLICITY: Mickey got the doll exhibit in the newspapers. The pictures of the Pie Social did not turn out. Helen Baroco was still working on the circular that could be used to advertise the Museum and used as a hand out. It contains the history of the Museum..

SPECIAL EVENTS: Jodi hand delivered the advertisements of 250 copies for the Pie Social and made the programs. She was on channel TV 5 WKRG.

CEMETERY: Continuing to clean up and take care of the grave sites as reported by Doris Allegri and she wanted to thank the Baroco's for their help in fixing the broken grave sites.

VOLUNTEERS: We will be closed on Easter Sunday but would remain open for Good Friday. It was noted that Lucy Cunningham was having a problem with her ears.

UNFINISHED BUSINESS: Mickey had talked with Ken Eslava with Public Works and the grounds/renovations such as the windows would be an on going project. Mr. Eslava was informed about the history of the building and special care in replacing of the windows. They may be seeking or looking into getting grant money. It will be a long progressive process. Do we have a Termite bond?

SPECIAL TOURS: Al had a group coming Monday from Mercy Medical Study. They were interested in Daphne's history. Other tours Polly and Jeanne were going to meet with teachers.

JOHN DAVIS ESTATE: No report other than the project in their memory completed by Mickey.

WALDING PROPERTY: Mickey said all Mrs. Walding had was a plat.

REVIEW OF BY LAWS: No report

NEW BUSINESS:

Mickey reported our old computer does not work and we need to order our business stationery for the Museum. Patsy Box made motion that Mickey Boykin go to Staples and get the stationery. Yvonne Silcox seconded the motion. Motion carried.

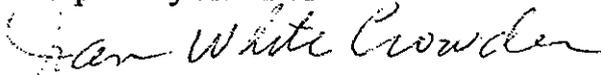
Yvonne mention the old printer and Jodi said we needed to get it fixed. Mickey and other said they had worked on it

Yvonne made motion, we get a new printer with scanner, discussion on floor to get or add a computer. Helen Baroco seconded the motion to get printer with scanner. Motion on the floor was about getting a new computer with printer and scanner not to cost more than \$1000.00. Al said we needed to get one with a high GPI and Dick Scott could help us on this. Jeanne Nelson and Candice Bishop would help in getting the price and motion was carried to purchase it.

ANNOUNCEMENT: Next meeting would be April 11, 2005.

There being no further business, the meeting was adjourned for March 7, 2005.

Respectfully submitted



Joan White Crowder, Secretary

OLD METHODIST CHURCH MUSEUM COMMITTEE MEMBERS

President- Mickey Boykin
207 Beall Ln.
Daphne, AL. 36526
Member-3 years
626-3275
E-Mail mboykin113@aol.com

Vice President-Tot Brantley
1505 3RD St
Daphne, Al. 36526
Member-3 years
626-2138

Secretary- Joan Crowder
601 Belrose Ave.
Daphne, Al. 36526
Member-3 years
626-9240

Treasurer-Pat Tippit
201 Potters Mill Ave.
Daphne, Al. 36526
Member-3 years
625-0111
E-Mail tptippit@earthlink.net

Doris Allegri
5 Audubon Pl.
Fairhope, Al. 36532
Member-3 years
928-0184

Betty Baker
P.O. Box 246
Daphne, AL. 36526
Member-3 years
626-2243
E-Mail jojacbaker@cs.com

Helen Baroco
P.O. Box 484
Daphne, Al. 36526
Member- 3 years
626-9746

Patsy Box
22208 Second St. N.
Silverhill, Al. 36576
Member-3 years
945-1795
E-Mail patntedbox@gulftel.com

Camilla Butler
P.O. Box 835
Daphne, Al. 36526
Member-3 years
626-2557

Kit Caffey
119 Laurel Pl.
Daphne, Al. 36526
Member-3 years
626-0053

Helen Callaway
706 Belrose Ave.
Daphne, Al. 36526
Member-3 years
626-2425/626-2181

Lucy Cunningham
103 Shirley Cir.
Daphne, Al. 36526
Member-3 years
625-4300
E-Mail kwcandlwc@earthlink.net

Dea Gay
1000 Captain O'Neal Dr.
Daphne, Al. 36526
Member-3 years
626-2574

Polly Gregorius
107 Lawson Rd.
Daphne, Al. 36526
Member-3 years
626-0323
E-Mail lgregorius1@excite.com

Alfred Guarisco
1109 Randall Ave.
Daphne, Al. 36526
Member-3 years
626-2729

Carolyn Hafner
106 Hanover Dr.
Daphne, Al. 36526
Member-3 years
626-4038

Emily Hammond
1304 Captain O'Neal Dr.
Daphne, Al. 36526
Member-3 years
626-3858

Patsy Lindsey
18 Blue Island Ave.
Fairhope, Al. 36532
Member-3 years
990-8313

Jeanne Nelson
1214 Randall Ave.
Daphne, Al. 36526
Member-3 years
626-9397

Margie Waldrop
605 Van Ave.
Daphne, Al. 36526
Member-3 years
621-8768
E-Mail porclaw@worldnet.att.net

Jean Yuille
1807 Yuille Ln.
Daphne, Al. 36526
Member-3 years
626-2867

Yvonne Silcox
10166 Highway 64
Daphne, Al. 36526
Member-3 years
626-4668

**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:

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF APRIL 28, 2005
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

SUMMARIZATION OF MINUTES:

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CALL TO ORDER:

The Chairman stated the number of members present constitutes a quorum and the regular meeting of the City of Daphne Planning Commission was called to order at 6:07 p.m.

CALL OF ROLL:

Members Present:

Larry Chason
Jeff Carrisco
Warren West, Vice Chairman
Ken Day, Chairman
John Coulter, Secretary
Cathy Barnette, Councilwoman
Ed Kirby

Members Present:

Fred Small, Mayor

Staff Present:

William H. Eady, Sr., Director of Community Development
Jan Dickson, Planning Coordinator
Helen Burdette, Administrative Assistant
Jay Ross, Attorney
Tim Fleming, Associate Attorney

The Chairman stated the first order of business is the call to order. Please let the record reflect that Mayor Small is absent. The next order of business is approval of the minutes of the March 24, 2005 regular meeting.

APPROVAL OF MINUTES:

The minutes of the March 24, 2005 regular meeting were considered for approval. A copy of the minutes was furnished previously to us. A revised copy was given to us prior to the meeting for review. Do any of the Commissioners have any questions or comments regarding the minutes?

Mr. Kirby stated I have not had a chance to review them so I will make a motion to table them until the next regular meeting.

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A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette *to table the minutes until the next regular meeting. The Motion carried unanimously.*

The Chairman stated the next order of business is site plan review for Hand Retail Building.

NEW BUSINESS:

SITE PLAN REVIEW:

File S05-06:

Site: Hand Retail Building

Location: U.S. Highway 98
Area: 1.78 Acres +
Owner: Tom Hand
Engineer: Frank Dagley & Associates - Frank Dagley

An introductory presentation was given by Mr. Frank Dagley, representing Frank Dagley & Associates. I represent Mr. Hand, the owner of Gold Mine Pawn Shop, requesting site plan review for the placement of a retail facility located on the Southeast side of U. S. Highway 98 immediately North of Gold Mine Pawn Shop. There were several problems discussed at the preliminary site preview meeting. One of which was the fire hydrant, and we will install the fire hydrant that is being required by Chip Martin, the Fire Marshal. There were some questions with regard to the septic tank. Mr. Rigas issued a statement which said the force main on the West side of U.S. Highway 98 would not have the capacity to accommodate the development so he said a septic tank would be allowed. All of the proposed accesses to the property will be submitted to the Department of Transportation for approval. I will be happy to answer any questions you may have.

Mr. West questioned whether or not drainage had been addressed on the site.

Mr. Dagley stated I feel like we have done our homework and that drainage on the site has been addressed.

The Chairman stated I want to clear something in my mind and make sure that it is stated on record. The fire hydrant for the site will be placed on the East side of U. S. Highway 98.

Mr. Dagley stated it will be located on the South limits of the parking lot that he will install.

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The Chairman stated there was some discussion about a fire hydrant on the West side of U. S. Highway 98.

Mr. Dagley stated there is a fire hydrant located on Ryan Avenue on the West side of U.S. Highway 98, but based on the fire marshal's interpretation it was not acceptable.

The Chairman stated do any of the Commissioners have any questions or comments. If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Kirby and **Seconded** by Mr. Coulter **to approve the Site Plan for Hand Retail Building. The Motion carried unanimously.**

The Chairman stated the next order of business is site plan review for Johnny Langenbach Building.

File S05-07:

Site: Johnny Langenbach Building

Location: Northeast Corner of Capital Drive and Rand Avenue

Area: 0.71 Acres \pm

Owner: Johnny Langenbach Construction Company

Engineer: Rester & Coleman Engineers - Richard Benham

An introductory presentation was given by Mr. Benham, representing Rester & Coleman Engineers, requesting site plan review for the placement of a construction office facility located Northeast Corner of Capital Drive and Rand Avenue. We are requesting to place an office building in an existing commercial subdivision located at the intersection of Rand Avenue and Public Works Drive. The storm water drainage is existing. We will have detention on the site as required. I will be happy to answer any questions you may have.

The Chairman stated this site is similar to the other developments in this area. Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. West and **Seconded** by Mr. Kirby **to approve the Site Plan for the Johnny Langenbach Building. The Motion carried unanimously.**

The Chairman stated the next order of business is site plan review for Regal-Brown, Inc. Warehouse.

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File S05-08:

Site: Regal-Brown, Inc. Warehouse

Location: 26974 Pollard Road
Area: 3.31 Acres +
Owner: Regal-Brown, Inc.
Engineer: Charles E. Bassett, P.E.

An introductory presentation was given by Mr. Bassett, representing Charles Bassett, P.E., requesting site plan review for the placement of warehouse facility located at 26974 Pollard Road. It was a relatively simple site plan, but one of the issues discussed was that a fire hydrant was not located within five hundred feet of all points of the building. We have made several attempts to meet with Mr. Martin and have been unsuccessful because his department is relocating their office building. We had an appointment today and he had to cancel because of an emergency so we have been unable to get a resolution as to what he would like. We have spoken to Mr. Eady and we would like to have the site plan approved subject to us meeting with Mr. Martin, the Fire Marshal, and doing whatever he takes to make him happy. If you cannot do that, then we need to withdraw it until the next meeting.

The Chairman stated I appreciate the effort that you are making, but of course, it is my understanding that we have a letter on file that says it is not in compliance with the fire codes. I would feel more comfortable if it were resolved before we act on it.

Mr. Coulter stated he had made a sincere effort to resolve the issue and as a registered engineer I trust his word that he will.

Mr. Chason asked are you sure that the fire hydrant is the only issue that you have. Does it have anything to do with sprinkling the building?

Mr. Bassett stated the only issue that was discussed last week and with Mr. Eady was the fire hydrant. Mr. Eady can provide you with more information.

Mr. Eady stated there is a fire hydrant located near by, but it is not close enough to serve the proposed building within five hundred feet at all points.

Mr. Bassett stated in reality the existing fire hydrant is five hundred and sixty-eight feet from the building. If we are going to have to put in another fire hydrant, we want to make sure we have it where he wants it.

Ms. Barnette stated Mr. Chairman, I just have a question. It seems as if in the past if there has been an outstanding problem, we have either denied it or asked them to withdraw. Particularly, when it is not in compliance with the fire department codes.

Ms. Barnette stated I do not want the project to be held up, but I think

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we need to be consistent. Mr. Eady is that not what we have done in the past? In my term, that is what we have done.

The Chairman stated again, we are making an attempt to try to get this resolved without ample facts available to us. We do not have all of the information we need to move forward particularly as it relates to safety. We need this from the fire marshal for the proposed action.

Mr. Bassett stated we will do whatever he requires us to do, but we have not been able to sit down with him and find out exactly what that is. There is a fire hydrant in the area, but the requirement is within five hundred feet so we just need to sit down with the fire marshal.

Mr. Chason asked if this is a problem, then how did the original building get built.

Mr. Eady stated the property was not in the city limits.

The Chairman stated do any of the Commissioners have any questions or comments. If there is no objection, the Chair will entertain a motion for the proposed action if you do not wish to withdraw it.

Mr. Coulter stated Mr. Bassett is a professional engineer in the State of Alabama and he has certain ethics to abide by so I do not have a problem with it.

Ms. Barnette stated I guess our problem is how we are going to go about this. It is not about Mr. Bassett or a certain project, but rather about the project scope. My concern is that we are charged with a task and we as a collective body need to decide how we are going to address it. We need to decide how we are going to make decisions to grant approval or special exceptions. We need to be consistent and we need to convey that to the public.

The Chairman stated I can appreciate your comments and I feel that way as well.

Mr. Eady stated Mr. Chairman we do not have to issue a certificate of occupancy until the fire hydrant is installed.

A Motion was made by Mr. Chason and *Seconded* by Mr. Coulter *to approve the Site Plan for Regal-Brown, Inc. Warehouse, subject to approval of the placement of the additional fire hydrant by Chip Martin, the Fire Marshal.*

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Upon roll call vote, the Motion failed.

Mr. Chason Aye

Mr. Carrisco *Nay*

Mr. West *Aye*

Mr. Day *Nay*

Mr. Coulter *Aye*

Ms. Barnette *Nay*

Mr. Kirby *Abstained*

Mr. Ross stated I think that it was three votes yes and three vote no and the abstention does not count either way, except to constitute the quorum. We have three for it, three opposed and it would normally be passed by a majority vote so my interpretation is that it did not pass.

The Chairman stated then we need to take a positive action on the matter.

Mr. Ross stated the motion was conditioned upon the fire hydrant failed so the site plan review was not passed. Therefore that constitutes denial and they will have to come again so the information can be presented. The Chairman stated the next order of business is site plan review for Rankin Doggett Metal Storage Building.

File S05-09:

Site: **Rankin Doggett Metal Storage Building**

Location: Southeast of Walmart and North of Parker Lane Extension
Area: 6.60 Acres +
Owner: Rankin Doggett
Engineer: Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Moore, representing Hutchinson, Moore & Rauch, requesting site plan review for the placement of storage facility located Southeast of Walmart immediately North of Parker Lane Extension. Mr. Doggett is currently a resident of Saraland, but owns some property there. He would like to place a storage building on the property for storing a tractor and a boat. The property is currently zoned, B-2, General Business. All of the utilities are available in this area. There is a fire hydrant adjacent to this site. I think the only problem was that the Commission was having some trouble getting to the site. He has a right of entry through Yancey Branch Woods until Mr. Vaughan completes the road Mr. Doggett accesses across one of the lots of the subdivision. I will be happy to answer any questions you may have.

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The Chairman stated do any of the Commissioners have any questions or comments. If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to approve the Site Plan for the Rankin Doggett Storage Building. The Motion carried unanimously.**

The Chairman stated the next order of business is final plat review for Tealwood Subdivision, Phase One.

FINAL PLAT REVIEW:

File SDF05-03:

Subdivision: Tealwood, Phase One

Location: On County Road 64 immediately East of Chamberlain Trace Subdivision

Area: 25.14 Acres \pm , (47) lots

Owner: YAI Development, L.L.C.

Engineer: Engineering Development Services - David Diehl

An introductory presentation was given by Mr. Diehl, representing Engineering Development Services, requesting final plat approval of a twenty-five acre subdivision consisting of forty-seven lots located on County Road 64 immediately East of Chamberlain Trace Subdivision. We obtained preliminary plat approval not quite one year ago. We have finished the improvements and now we are asking for final plat approval. I will be happy to answer any questions you may have.

Mr. West asked if this development is furnished by the Belforest Water Authority does it have adequate water pressure.

Mr. Diehl stated if you will remember last week at the work session we discussed this at length and this subdivision was submitted prior to that issue coming to the forefront. I do have a letter on file from the Belforest Water Authority stating there is adequate fire protection, but that is under their standards. I am not sure what the requirements are that we are supposed to follow. We are very close to a water tower so we do have adequate water pressure.

The Chairman stated it would certainly make sense that we would have to put you on notice.

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The Chairman stated do any of the Commissioners or Mr. Eady have any questions or comments.

Mr. Chason stated the detention pond discharges into the ditch located near this and Chamberlain Trace Subdivision runs through the development and ends in the Southwest corner. The ditch is full of debris and what I want to bring up in the work session is the drainage problem in this area. The storm water goes from here into Caney Creek and into Fish River. I am not an engineer, but the point that I want to make is they are affected by flooding, but do not have insurance for that. There were homes during this last rain that were flooded and had not been in the past. I suppose that was because there are a lot of new roof lines. My point is that we have a bathtub that we are trying to drain with a soda straw. I am not bringing this up because of Tealwood, but rather I think we need to discuss this before we approve other developments in this area. I think we have a real problem in this part of town and I think that something needs to be done. I am not saying this in opposition of your project because I applaud your efforts. I that the Planning Commission will discuss this at the next work session and make a recommendation to the City Council. If I was a person leaving in that part of town, I would have serious concerns about development in that area.

The Chairman stated do any of the Commissioners or Mr. Eady have any further questions or comments. If there is no objection, the Chair will entertain a motion.

A Motion was made by Mr. Kirby and *Seconded* by Mr. West *to grant Final Plat approval to Tealwood Subdivision, Phase One. The Motion carried unanimously.*

The Chairman stated the next order of business is final plat review for Bay Branch Villas, Phase 6B.

File SDF05-05:

Subdivision: Bay Branch Villas, Phase 6B

Location: South of Bay Branch Villas 6A & West of Bay Branch 5
Area: 70.51 Acres +, (136) lots
Owner: Bay Branch, L.L.C.
Engineer: Engineering Development Services - David Diehl

An introductory presentation was given by Mr. Diehl, representing

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Engineering Development Services, requesting final plat approval of a seventy-acre subdivision consisting of one hundred and thirty-six lots located South of Bay Branch Villas 6A and West of Bay Branch Five.

Mr. Diehl stated this is the last phase of Bay Branch. This phase will complete the development. All of the improvements are in place with the exception of the scope of work that is to be done on Highway 90. We have a bond in place for the completion of that work. I will be happy to answer any questions you may have.

The Chairman stated do any of the Commissioners or Mr. Eady have any questions or comments.

Mr. Coulter stated the water is provided by Loxley Water Authority. Do you have any idea what the water pressure is?

Mr. Diehl stated I do not. Here again this was one that was approved prior to that issue being raised.

Mr. Chason asked what the plans were for the large pile of top soil located on some of the lots.

Mr. Diehl stated I am not sure, but I think the builder for Adam Homes had made an agreement with the contractor to use some of the dirt to fill the lots. It is quite possible that they had finalized the agreement.

The Chairman stated do any of the Commissioners or Mr. Eady have any questions or comments. If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Chason and **Seconded** by Mr. Coulter **to grant Final Plat approval to Bay Branch Villas, Phase 6B. The Motion carried unanimously.**

The Chairman stated the next order of business is preliminary plat review for Yancey Branch Woods Subdivision, Unit II.

PRELIMINARY PLAT REVIEW:

File SDP05-08:

Subdivision: Yancey Branch Woods, Unit II

Location: Parker Lane Extension, North of Whispering Pines Road
Area: 4.45 Acres +, (14) lots
Owner: Friendly Development Corporation
Engineer: Hutchinson, Moore & Rauch - Ray Moore

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An introductory presentation was given by Mr. Moore, representing Hutchinson, Moore & Rauch, requesting preliminary plat approval of a four-acre subdivision consisting of fourteen lots located on Parker Lane Extension North of Whispering Pines Road. This development has been to the Commission in previous years. We are here mainly because the one year time frame has lapsed and we are here to seek approval. The detention is in place. There were some comments at the work session about cleaning out the detention pond. This will be done while completing construction of this phase.

The Chairman stated do any of the Commissioners or Mr. Eady have any questions or comments. The preliminary will be revised with the changes discussed during site preview and reviewed at the time of final plat approval. He opened the floor to public participation. With no adjacent property owners present, he closed public participation. If there is no objection, the Chair would entertain a motion.

A **Motion** was made by Mr. West and **Seconded** by Mr. Coulter **to approve the Preliminary Plat approval for Yancey Branch Woods Subdivision, Unit II. The Motion carried unanimously.**

The Chairman stated the next order of business is preliminary plat review for Cambron Subdivision.

File SDP05-09:

Subdivision: Cambron Subdivision

Location: Northwest side of Highway 31 North of Malbis
Area: 42 Acres +, (72) lots
Owner: Cambron Investments, LLC - Sonny Nichols
Engineer: Hutchinson, Moore & Rauch - Scott Hutchinson

An introductory presentation was given by Mr. Hutchinson, representing Hutchinson, Moore & Rauch, requesting preliminary plat approval of a forty-two acre subdivision consisting of seventy-two lots located on the Northwest side of Highway 31 North of Malbis. This is the first phase of Cambron Subdivision. I would like to tell you a brief background on the site for those new to the Planning Commission. A little over a year ago we came before you asking that the Planning Commission choose not to exercise their extraterritorial planning jurisdiction on this site, but after recent discussion with Mr. Ross and his firm there has been asked the question of whether or not a Planning Commission could really do

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that. Instead of there being a problem down the road we withdrew it from the County Planning Commission and submitted it to the City of Daphne.

Mr. Hutchinson stated Mr. West had a couple of questions at the work session. To answer one of them, Mr. West we did submit plans for a deceleration lane to the Department of Transportation for approval. The second concern was the water pressure for fire protection. Mr. Moore visited the site today with the Bay Minette Water Authority for the water pressure and it was determined that the flow was more than adequate for fire protection.

Mr. West asked is that the same standards that the City of Daphne Fire Department uses.

Mr. Hutchinson stated I may be wrong, but I do not know if Daphne has written standards.

Mr. West stated the City of Daphne said that they would provide to the Belforest Water Authority what their standards were in writing for the development located on Whispering Pines Road and County Road 13. In dealing with Bay Minette and Belforest Water Authorities, I think that we should provide them with a copy of what those standards are.

Mr. Hutchinson stated I agree with you Mr. West. I think that we need to know what those standards are so that we can show you that we meet them. Mr. Moore can you unofficially tell us what the results were?

Mr. Moore stated Belforest Water Authority just now obtained a copy of those standards after writing the City of Daphne and asking for the city ordinance. Essentially, what it says is for houses less than ten feet apart it requires fifteen hundred gallons per minute; from ten to thirty feet apart it requires it is a thousand gallons per minute; and for greater than thirty feet apart it requires seven hundred and fifty gallons per minute. The reference goes back to the 1999 Fire Code. This information is per an ordinance of the City of Daphne.

Mr. Eady stated the adjacent property owners have an inlet located on their property and they would like to request that the developer extend the pipe on the access to this property to accommodate the storm water at this inlet.

Mr. Hutchinson stated that would be no problem.

The Chairman asked if there was a common or recreational area.

Mr. Hutchinson stated there is a small area located near the detention area. The subdivision was originally submitted to Baldwin County which

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has no recreational area requirement so the common or recreational area for this site will be provided for in a revised preliminary plat to become part of phase one.

Mr. Hutchinson stated this property is within your extraterritorial planning jurisdiction, but located outside the city limits.

The Chairman stated do any of the Commissioners or Mr. Eady have any questions or comments. He opened the floor to public participation. With no adjacent property owners present, he closed public participation. If there is no objection, the Chair would entertain a motion.

Mr. West asked when will we see the changes we discussed.

Mr. Hutchinson stated Mr. West, we do have enough common area in this phase. We do not want to use the area around the detention pond so we are going to revise it, but we do meet the requirements.

A **Motion** was made by Mr. West and **Seconded** by Mr. Kirby **to approve the Preliminary Plat approval for Cambron Subdivision. The Motion carried unanimously.**

The Chairman stated the next order of business is preliminary/final plat review for Jordan Subdivision.

PRELIMINARY/FINAL REVIEW

File SDPF05-09

Subdivision: Jordan Subdivision

Location: West of U.S. Highway 98 immediately North of Thomas Hospital Facility on the North side of Jordan Road

Area: 1.26 Acres +, (3) lots

Owner: Leon and Justine Page

Engineer: Moore Surveying - Seth Moore

An introductory presentation was given by Mr. Moore, representing Moore Surveying, requesting preliminary/final plat approval of a one-point two six-acre subdivision consisting of three lots located West of U.S. Highway 98 immediately North of Thomas Hospital Facility on the North side of Jordan Road. This subdivision has a fire hydrant within eighty feet of the site. The power, water, gas, and telephone utilities are existing. For access to sanitary sewer the owner will have to install a force main along Jordan Road. I will be happy to answer any questions you may have.

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The Chairman referenced a letter given to the Commission from the attorney.

Mr. Ross stated this is a different subdivision, Mr. Chairman.

Mr. West stated I would like to add that at the site preview there was some discussion about defining the road or right-of-way.

Mr. Moore stated the road will be marked and the owner will incur the cost.

Mr. Kirby stated this proposal is submitted as a preliminary/final, but it requires improvement.

The Chairman stated it should be a preliminary rather than a preliminary/final. With that do any of the Commissioners or Mr. Eady have any questions or comments? He opened the floor to public participation. With no adjacent property owners present, he closed public participation. If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Kirby and **Seconded** by Mr. West **to grant Preliminary Plat approval to Jordan Subdivision. The Motion carried unanimously.**

The Chairman stated the application was submitted as a preliminary/final, but was approved as a preliminary. The next order of business is preliminary/final plat review for Wooten/Estes Subdivision.

File SDPF05-02

Subdivision: Wooten/Estes

Location: North side of U.S. Highway 90
Area: 25.72 Acres ±, (2) lots
Owner: James Wooten & William Estes
Engineer: Moore Surveying - Seth Moore

An introductory presentation was given by Mr. Moore, representing Moore Surveying, requesting preliminary/final plat approval of a twenty-five acre subdivision consisting of two lots located on the North side of U. S. Highway 90 East of Mobile Infirmary. This site is adjacent to the Harley Davidson property. This is going to be a five-acre lot with a remainder of approximately twenty-five acres.

The Chairman stated this is the site we reviewed last month on U.S. Highway 90 near the Harley Davidson site.

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Ms. Burnette stated I did not get that agenda change. I know where we are, but I did not get that change.

Ms. Burdette stated this item was added after site preview.

Mr. Moore stated I will be happy to answer any questions you may have.

Mr. West stated I thought we denied it.

Mr. Eady stated Mr. Chairman this subdivision came up the last time and I did recommend that it be denied until water and sanitary sewer can be placed on U. S. Highway 90. At that time they had made arrangements for Harley Davidson to tie into Lake Forest Subdivision. If they subdivided these lots we were going to have trouble because they did not have access to water and sanitary sewer. The purchaser came by to see me and they want to purchase the property because there is a lot of interest in this area West of Malbis. They do not expect to build the office building until 2006 or possibly 2007. This was the information that we brought to the work session. I have no problem with the lot. I have a problem with developing this area without water and sanitary sewer. In talking to Mr. Ross after the last meeting, he reminded me that I should have let it be approved, but one of us is more hard headed than the other one. So we recommend that you approve the subdivision because they will not develop it until some time later.

The Chairman asked so we are to ask on this as a preliminary/final.

Mr. Eady stated you are approving the subdividing of the lots.

The Chairman stated at this point we are just talking about the subdivision. At the time of the development of the site, they will have to come back before us. Do any of the Commissioners have any questions or comments? He opened the floor to public participation. With no adjacent property owners present, he closed public participation. If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. West and **Seconded** by Mr. Kirby **to grant Preliminary/Final Plat approval to Wooten/Estes Subdivision, the Resubdivision of Lot 2. The Motion carried unanimously.**

The Chairman stated the next order of business is a vacation of easement review for Bay Village Homeowner's Association.

PETITIONS:

VACATION OF EASEMENT:

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File VE05-01: Bay Village Homeowners' Association

Location: The request, if approved, would authorize the vacation of easement(s) as follows:

Commencing at a point on the Western right-of-way of U.S. Highway 98 (4 lanes) where it is intersected by the North line of Lot 2, Louis D' Olive Estate Division, Township 5 South, Range 2 East, Baldwin County, Alabama; run 89 degrees 55 minutes 42 seconds West along said North line of Lot 2, 805.98 feet; thence run North 00 degrees 56 minutes 45 seconds East 573.28 feet; thence run North 10 degrees 56 minutes 06 seconds West 301.29 feet to the point of beginning of the easement herein described; thence continue North 10 degrees 56 minutes 06 seconds West 400.00 feet; thence run South 54 degrees 18 minutes 53 seconds West 55.06 feet; thence run South 10 degrees 56 minutes 06 seconds East 359.70 feet; thence run South 81 degrees 54 minutes 23 seconds East 52.89 feet to the point of beginning and containing 0.436 acres, more or less.

Petitioner: Owner(s)
Engineer: Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Moore, representing Hutchinson, Moore & Rauch, and I am the representative for Bay Village Homeowners' Association. This is the area directly across from the Lake Forest Yacht Club. It is the triangular piece North of the Sea Cliff Condominium development. The homeowners' association is trying to or wants to sell this piece of property. All of the surveys that we have shows this area as an access and utility easement. In your packet you can see where all of the utility companies have signed off on the vacation of easement. I think basically what it boils down to is the first word there is access. In my opinion and from what I have heard from the association, the reason the easement was placed there was at the time Bay Village Condominiums the road that was constructed went all the way to the Lake Forest Yacht Club. When it was constructed there was not an easement along that roadway there, but now they and Sunset Bay Villas has an easement for access. The reason the access and utility easement was there was in case anyone came back to them and denied them access then they would have an alternative access to their site. You can see down at the bottom where it eventually stubs out by the pool in case they could not

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use the road on the Lake Forest Subdivision side. Initially, I think there was some correspondence back and forth between the attorneys and the City of Daphne several years ago with regard to the site, and I will let Mr. Ross comment on that. Again, all of the utility companies have been notified and concur with the vacation of easement. As far as the access, it is basically a private access for Bay Village Condominiums. I guess that I will stop there as to not confuse anyone. I will be happy to answer any questions you may have.

The Chairman stated it seems to be a pretty straightforward proposal. Do any of the Commissioners have any questions or comments? The action before this body is a recommendation to the City Council for the vacation of the easement. At this point, the Chair will open the floor to public participation for adjoining property owners or anyone who may have an interest in this. If you come to the microphone, then identify yourself for the record.

An adjacent property owner stated my name is Mr. Herndon Inge, a property owner of Sea Cliff North Condominiums and member of the property owners' association, a few years ago this same exact proposal came before this Commission and was voted down by the City Council. At that time all of the utility companies had signed off on it, but as I understand it the question was is the easement still necessary. According to the City Council minutes of two years ago the question was is the easement still needed for its original purpose? As you know Charlie Vaughan developed this and he thought at that time that it was necessary to have an access easement. It was a public access, as well as, a utility easement. It is still needed to maintain the bluff area adjacent to the Sea Cliff Condominiums. The access easement is not a private easement, but rather it is a public easement which included the adjoining landowner and that is us. Since I have been on the board of directors for the property owners' association, we have spent tens of thousands of dollars in maintaining that bluff. We need an access from below the bluff in order to maintain it. When this was presented the last time there was some discussion as to why the petition was filed to vacate the easement and the answer was for profit. It is for profit of the landowner or the petitioner. It is for a private purpose so they can sell it. They have a financial problem so they want to sell it, but this is a public easement. The easement has been maintained for the public, as well as, for us. Also, two years ago there were some concerns because our entrance enters into the same access road. Neither of these property needs additional traffic because it would be a traffic hazard so the property owners and the board of directors are requesting that the petition be denied.

Mr. Jim Pellam, a property owner of Sea Cliff North Condominiums, stated I am a retired civil engineer. He referenced the survey and commented on the numerous storm drain and utility items which had not been shown on the drawing. If the easement is vacated, then the utilities and storm water pipes which lie in this easement would not be maintained. The purpose of an easement is for maintaining the utilities; therefore, I do not think you would want to vacate the easement. The other thing that I

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would like to comment on is the instability of the bluff if the easement is vacated. The storm water that drains from Sea Cliff North condominiums on the bluff side or in the pipes located under the bluff.

Mr. Jim Pellam, a property owner of Sea Cliff North Condominiums, stated there is also a contribution from Sea Cliff South Condominiums. I would guess that it is more than fifty percent of the storm water. There is also a contribution from East Bay Condominiums.

Mr. Brice Cocke, a member of the board of directors for Lake Forest Subdivision, stated there is an access to the bluff at Sea Cliff Condominiums. There is storm water coming from your site onto other people's property. The board does not have a problem with the vacation of easement. The road that goes down to the yacht club, Yacht Club Drive, was taken into the City of Daphne several years ago as an alley way. At that time they resurfaced it down to the bottom and then by others all the way into Lake Forest Subdivision. We gave this easement to them being a good neighbor so they could use it. It is a fifty-foot right-of-way with thirty feet of pavement. I think the problem is that Sea Cliff does not want any more development, but I can assure you that I am going to have a lot more people than that coming to events that we are going to have at the yacht club.

An adjacent property owner commented on the existing drainage problems, instability of the bluff, existing traffic problem caused by a winding road with three ninety-degree angle turns.

Mr. Bart Cowart, maintenance for Sea Cliff North Condominiums, stated the eleven years that I have been there we have a problem with the bluff. We are not putting water on their land. God put water on their land. There is an area in here that was on the original plans when Diamond Head came in and developed this land which was called Bay Gum Swamp. The land naturally slopes that way. He discussed the storm water drainage and direction of flow for the Sea Cliff North, Sea Cliff South, East Bay, and Bay Village Condominiums in the area. He described for the Commission the additional measures that Sea Cliff North condominiums had implemented to assist in controlling the storm water in this area. The storm water drainage and erosion of the bluff have been a problem for eleven years. I am sure prior to that so I ask that you please do not approve the vacation of easement. Whoever builds on this land will know that sooner or later the bluff is going to blow out. The bluff is so unstable and we need the stability. The owners of Bay Village Condominiums need it also whether they realize it or not because it helps take their storm water to the bay.

The Chairman stated there are three others then we will close public participation.

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Mr. John Lacey, a property owner of Bay Village Condominiums, stated we do not have a problem, but if they do either us or the new owner would be happy to give them an easement in order for them to maintain the bluff. I think the real issue is that they do not want their view blocked. We have a dilapidated building. We have a useless piece of property, and it would be a shame to see it go to waste.

Mr. John Lacey, a property owner of Bay Village Condominiums, stated I think it is a win-win situation for everyone.

Mr. Bart Martin, a property owner of Bay Village Condominiums, stated I thought Mr. Inge would stay to see what the outcome was, but I guess he had something more pressing to do. Safety is really not an issue. We have a lot of activities that go on at the yacht club on a regular basis. If it was really an issue of safety, then we should bring in Sunset Bay Villas, Bay Village Condominiums, Sea Cliff Condominiums, and the Lake Forest Yacht Club and shut down the activities that go on down there. I would agree with John. The problem is these people do not want their view blocked and that is basically it.

Mr. Scott Cook, a property owner Sea Cliff North Condominiums, stated it is not a safety issue. Basically at the last meeting that took place you did not grant a variance for easement because you did not want to take the liability for a landslide.

The Chairman stated does anyone else have any comments. He closed public participation. Do any of the Commissioners have any questions or comments?

Mr. Moore stated in listening to Mr. Inge I understand the definition of access across the easement. We are not asking for a drainage easement to be vacated because there is not one there now. This is an access not a utility easement. We have spoken to Mr. Ken Eslava, the Public Works Director, regarding storm water drainage and this is something that will have to be addressed at the time of development. Mr. Pelham, Art Rigas, the Director of Utilities, has the plans in his office and his signed the vacation of easement indicating that there is no water and sanitary sewer located within the easement. I think I will stop there Mr. Chairman and you can ask Mr. Ross if he has any comments on the terms access. I think that is what is hanging everyone up. There again, we are going to take care of the drainage. That will be a given at that point.

The Chairman stated do any of the Commissioners have any further questions or comments? Do you have any comments Mr. Ross?

Mr. Ross stated not really, but this issue come up in the later part of 2002. I think the question at that time. I think that it is not any different today or it is whether or not the easement is public or private. Obviously and there are disputes to that, if it was a completely a private easement, the owner of the property would not have to come to the Planning Commission or the City Council to ask to vacate the easement. When my office looked at this and advised former Chairman Robert Segalla in

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December 2002, we struggled with whether or not it was a public or private easement.

Mr. Ross stated at that time, we opined that it was a public easement and by virtue of that opinion the City Council for whatever those reasons were for which are more distinctly stated in the minutes determined not to accept this issue. In the years since this date, I have had communication from a variety of lawyers and some have agreed with my opinion or rather that of my associate and some respectfully disagreed with whether it a public or private easement. I think whoever made the statement which I think it was Mr. Inge who is a lawyer that I happen to know from Mobile. The question is this a public or private easement? The only way to make that determination is to look at the language in the writings and from that they have to interpret what the parties meant back then in the late seventies and early eighties. Is the easement still necessary tonight is another question? You know it is one of those questions that people may differ on. My opinion was or rather Mr. Brent Day, my associate attorney's, opinion was and I was aware of his opinion is that he said it was a public easement. Other lawyers, for which I have had contact with have agreed and disagreed with this opinion. If we determine, this is a public easement, then the City Council upon recommendation of the Planning Commission to vacate it or not. If it is a private easement, then we do not have any say so in it either way. Of course, of the height issue we still have fifty feet rule that applies. If height is a problem, then the fifty-foot rule is still in effect. The Planning Commission knows that the City Council passed a moratorium recently not to allow any other structure in excess of fifty feet. It could have an impact down the road on how high these buildings are going to be. I have spoken with Mr. Moore and he said that height is not going to be a factor for the building they propose to construct on this property. It is not an easy answer as to whether or not it is public or private. I can stand to look at my opinion that I have read again this afternoon. It depends on what the Chair would like for me to do in regard to that.

The Chairman stated in the rationale of making a decision I think it is a pretty straightforward issue as to whether or not it is public or private. I have a letter from the Public Works Director of the City of Daphne, as well as, from the other utilities which states they do not have a problem with the vacation of easement. What I was looking for was a way to protect the public interest in that it is public or private.

Mr. Moore stated I have spoken with my client outside and we want to allow Sea Cliff North Condominiums to maintain the bluff. I think there is approximately twenty feet from this property to the bluff which is a pretty sizable area for maintaining the bluff. My client does not have a problem with granting them an easement to maintain the bluff. We do not

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want the bluff to be unstable. They have an access on the South end of the property and we would be willing to give them access on the North end in order to maintain the bluff.

Mr. Kirby stated I would tend to agree with you Mr. Chair. We have a letter from every entity which would have an interest in the easement.

Mr. Kirby stated we go by what the utility companies recommend and they have all consented to the vacation of the easement so I tend to concur with these letters. My opinion is if it is public and they have consented, then I do not have a problem with the vacation of easement.

Ms. Barnette stated I do have some questions about the previous legal issues which were discussed. I would have a personal preference to have the December 2002 legal opinion in front of me with the background on the issue. This would give us an opportunity to research to see whether all utilities are or are not displayed on the map.

The Chairman stated I can certainly agree that we need to see the opinion to familiarize ourselves with the information brought before the Commission from the attorney in December 2002. Do any of the Commissioners or Mr. Eady have any questions or comments? If there is no objection, the Chair will entertain a motion.

A Motion was made by Mr. Kirby **to favorably recommend to City Council the vacation of easement for Bay Village Homeowners' Association.**

The Motion failed due to the lack of a second.

A Motion was made by Ms. Barnette **to unfavorably recommend to City Council the vacation of easement for Bay Village Homeowners' Association due to the potential legal problems for the public easement.**

The Motion failed due to the lack of a second.

Mr. Chason stated there are two sides to a very convincing argument, but I think that I would like to have some more time to get some more information on whether or not it is private or public.

A Motion was made by Mr. Chason and **Seconded** by Ms. Barnette **to table the vacation of easement for Bay Village Homeowners' Association until the next regular meeting, thirty days, in order to give us the opportunity to review the matter further.**

Upon roll call vote, the Motion carried.

Mr. Chason Aye

Mr. Carrisco Aye

Mr. West Aye

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Mr. Day *Aye*
Mr. Coulter *Abstained*
Ms. Barnette *Aye*
Mr. Kirby *Aye*

Ms. Barnette asked if the next meeting was scheduled for May 26, 2005.

Mr. Eady stated if it is not acted on within thirty days, then it is automatically approved.

Ms. Barnette asked is that within the thirty days.

Mr. Ross stated let us find out when the next meeting is.

Mr. Moore stated Mr. Chairman, we will agree to waive the thirty-day rule.

The Chairman stated I see that we have two additional items on the agenda. The next order of business is an administrative presentation regarding the deed restricted buffer zone in Eagle Creek Subdivision.

ADMINISTRATIVE PRESENTATION:

An introductory presentation was given by Mr. Moore, representing Hutchinson, Moore & Rauch. Several years ago when Eagle Creek Subdivision, Phase One was approved and constructed, there was three point seven acres in the corner of the subdivision was preserved as a buffer zone. Basically, there was a control problem with erosion in that area. The plat that was recorded at that time refers to this area as a three hundred foot deed-restricted area. The present owner and I began looking at the deeds for this property and there was never anything on the deed that tells a person what they can or cannot do with that property. I guess basically we are here tonight to ask the Commission what we can do with the buffer area. The major concern at that time was safety and erosion, and there was no residential structure build on the property. What they want to do is to restrict a portion of the area, then fence and landscape it. Basically, this lot will always be tied to Lot 29 of the subdivision. We are here tonight to ask what we can do with the property. We will come back to you with the words that will restrict its use. They want to use it was storage for either a RV, boat, or something along those lines. There would not be anything commercial, residential, or livestock in this area. I will stop right there and answer any questions you may have.

Ms. Barnette stated the property is currently zoned R-3 and what you are saying is one hundred feet and forty feet buffer zones.

Mr. Chason asked what is on Lot 29 now.

Mr. Moore stated nothing. We have provided a twenty-five foot access

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF APRIL 28, 2005
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

SUMMARIZATION OF MINUTES:

THIS DOCUMENT IS A SUMMARIZATION OF THE MINUTES OF CITY OF DAPHNE PLANNING COMMISSION MEETING AND IS TO BE USED FOR REVIEW PURPOSES ONLY. THE OFFICIAL MINUTES OF THIS MEETING MAY BE OBTAINED IN THE CITY CLERK'S OFFICE UPON APPROVAL.

easement across it to the common area. Again, we do not want anything to be constructed on it. The property is zoned R-3.

The Chairman asked if what portion of Lot 29 was associated with the area.

Mr. Moore stated the entire piece is tied to Lot 29. We are going to establish a one hundred foot buffer zone between this property and the residential lots. This is not a part of the recreational area nor is it a part of Eagle Creek Subdivision, Phase One or Two. We know this area was set aside for the protection of this subdivision.

Mr. Chason stated it does not need to be done through some type of agreement because it could be severed by the next owner. The plat needs to be redone to tie the common area to Lot 29. I am concerned legally how you are going to make those assures for somebody that may own the property in the future.

Mr. Moore stated we can come back to this Commission with a resubdivision of Lot 29 and a plat which shows the setbacks.

Mr. Chason stated you need to show the uses for Lots 29A and 29B on the resubdivision.

Mr. Moore stated all of the other lots have covenants and Lot 29 is a part of the subdivision that adheres to those covenants. If it is made a part of the subdivision, then all of the restrictions become a part of this.

Ms. Barnette stated I think you are going to have to spell it out for Lots 29A and 29B so everyone on the other lots knows they have a buffer.

Mr. Moore stated we can rewrite it so that none of the residential covenants apply. Thank you for your assistance.

The Chairman stated the next order of business is the attorney's report.

ATTORNEY'S REPORT:

Mr. Ross, Attorney, stated we had the Seth Moore question with regard to Oak Knowle Subdivision. We will deal with that next month when you have a chance to read through it. Also, Mr. Chairman I will circulate if it is your pleasure the December 2002 opinion for the vacation of easement issue that we talked about earlier for Bay Village Condominiums.

The Chairman stated thank you.

ADJOURNMENT:

The Chairman stated do any of the Commissioners or Mr. Eady have any

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF APRIL 28, 2005
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

SUMMARIZATION OF MINUTES:

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questions or comments. If there is no objection, the Chair will entertain a motion to adjourn.

A **Motion** was made and **Seconded to adjourn. The Motion carried unanimously.**

There being no further business, the meeting was adjourned at 8:15 p.m.

Respectfully submitted by:

Jan Dickson, Planning Coordinator

APPROVED: May 26, 2005

Kenneth Day, Chairman

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF APRIL 28, 2005
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

SUMMARIZATION OF MINUTES:

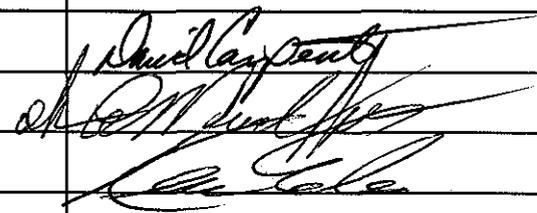
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**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

CITY OF DAPHNE

SPECIAL EVENTS PERMIT

ORGANIZATION:	<i>Jubilee Christian Center</i>
CONTACT PERSON:	<i>Cindy Latham</i>
ADDRESS:	<i>28186 B Highway 98 Daphne, AL 36526</i>
PHONE NUMBER: (HOME):	<i>645-0718</i>
PHONE NUMBER: (BUSINESS):	<i>621-1032 Cell# 391-1391</i>
DATE OF SPECIAL EVENT:	<i>June 18, 2005</i>
TYPE OF SPECIAL EVENT:	<i>Youth Out Reach</i>
APPROXIMATE # OF PEOPLE & CARS:	<i>100</i>
START TIME:	<i>2:00 AM</i>
STOP TIME:	<i>8:00 PM</i>
FACILITY/PARK TO BE USED:	<i>Alligator Alley</i>
SPECIAL REQUEST:	
APPROVAL	
CITY COUNCIL:	
POLICE: <i>Chief David Carpenter</i>	
FIRE: <i>Chief Mund Hanson</i>	
PUBLIC WORKS: <i>Ken Eslava</i>	
SPECIAL INSTRUCTIONS:	
DATE ROUTED:	<i>April 27, 2005</i>
NOTIFICATION OF APPROVAL:	

2005-26

case no.

ABC LICENSE ROUTING

DATE RECEIVED BY REVENUE DIV. 3-6-05 (initial) SWC
 DATE FORWARDED TO POLICE DEPT. 3-6-05 SWC
 DATE RECEIVED BY POLICE DEPT. 3-6-05 NAH
 DATE: APPROVED 4-29-2005 DISAPPROVED _____

POLICE DEPT. SIGNATURE [Signature]

DATE RETURNED TO REVENUE DIV. 5-02-05 SGJ
 DATE FORWARDED TO CITY CLERK _____
 DATE RECEIVED BY CITY CLERK 5-02-05 RH
 SCHEDULED DATE ON AGENDA May 17, 2005 RH

Council Action : _____ APPROVED _____ DISAPPROVED _____ TABLED

COMMENTS- _____

Rescheduled for Council Agenda Date _____

Council Action : _____ APPROVED _____ DISAPPROVED _____ TABLED

COMMENTS- _____

DATE RETURNED TO REVENUE DIV. _____

DATE RETURNED TO TAXPAYER OR TO ABC FIELD OFFICE _____ (per taxpayer request)

STATE OF ALABAMA, ALCOHOLIC BEVERAGE CONTROL BOARD, MONTGOMERY, ALABAMA

Date Refused
By

TYPE APPLICATION

Date Approved
By

040 - Retail Beer - (On or Off Premises)

Name of Applicant (s) WILL HUGHES CATERING & MARKET, INC.

Circle One: Ind. Part. Assoc. Corp. LLC

Name and address of individual, partners and members, association, corporate officers, etc.,:

Name	D.L. # Title	Date of Birth Place of Birth	Present Residence Address	Length at Residence
WILLIAM ASHLEY HUGHES	AL 6086094 President	09/04/76 MOBILE, AL	25963 OVERTON DR. DAPHNE, AL 36526	3 MONTHS
KELLY FLYNN HUGHES	LA 008171055 Vice-President	03/08/78 VANDERBURGH, IN	25963 OVERTON DR. DAPHNE, AL 36526	3 MONTHS

Corporate Information: INST #063072 Date 1/11/05 County BALDWIN
(Enter book and page or document info.) (Incorporation or Authority)

Trade Name WILL HUGHES CATERING & MARKET

Location 1716 MAIN ST. SUITE C DAPHNE, AL 36526 County BALDWIN

Mailing Address 1716 MAIN ST. SUITE C DAPHNE, AL 36526
(Include Street or Post Office Box Address, City, State, and Zip Code)

Previous Licensee Information Transferee

Licensee Name N/A Type N/A Year N/A

Trade Name N/A License Number N/A

Location (location transfer only) N/A

Has applicant complied with ABC Regulation # 20-X-5-14 regarding financial responsibility? Y N

Does the ABC Board have any actions pending against the current licensee? (If Yes, explain in Investigation Section) Y N

Has ANYONE, including manager or applicant, had a Federal/State permit or license suspended, revoked or declined? Y N

Has a liquor, wine, malt or brewed beverage license for these premises ever been denied, suspended or revoked? Y N

Are the applicant(s) named above, the only person(s), in any manner, interested in the business sought to be licensed? Y N

These premises are located in the: Corporate Limits Police Jurisdiction of DAPHNE, Alabama (Enter N/A if not located in either)

Are any of the applicants, whether individual, member of partnership or association, or officers and directors of corporation or the corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this Act? Y N

Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage or distilled liquors permit or license issued under authority of this Act? Y N

Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate of another licensee, or from any firm, association or corporation operating under or regulated by the authority of this Act? Y N

What is the applicants' primary source of funding? Loan Inheritance Individual(s) Business Other (explanation attached)

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of ANY law violation? Y N

(If Yes, explain in Investigation Section) Signature of applicant [Signature]

The undersigned agree, if a license is issued as herein above applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages. The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the Board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the licensed premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him in connection with said licensed premises. The undersigned hereby understands that should he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

STATE OF ALABAMA
COUNTY OF BALDWIN
Signed [Signature]
Title President Date 04/06/2005

The undersigned WILLIAM ASHLEY HUGHES, President of WILL HUGHES CATERING & MARKET, INC.

(Name of applicant or member if Partnership or Association of Name and Title of Officer, if a Corporation)
applicant for the Alcoholic Beverage license requested, hereby swears and affirms that he/she has read said application and all statements therein and the facts set forth are true and correct, and that the applicant is the only person interested in the business for which license is requested.

Sworn to and subscribed before me this 6th day of APRIL, 2005

[Signature] Signature of Notary Public
Notary Public, State at Large My commission expires
[Signature] Signature of Affiant
Business Phone (251) 454-5245 Home Phone (251) 625-0345

For Central Office Use Only License No. Date of Issue Amount of Fees Total

GENERAL APPLICATION INFORMATION

Contact Person: WILLIAM ASHLEY HUGHES

Phone Numbers: Home: (251) 625-0345 Business: (251) 454-5245

Fax: _____ Pager: _____ Other: _____

Internet/Web Address: _____ Email Address: _____

Does the premises have a fully equipped and operational kitchen? Y N NA

Does the establishment have restroom facilities? Y N

Is place of business habitually and principally used for providing food to the public? Y N Snacks Only NA

Are these premises equipped with services and facilities for on premise consumption of alcoholic beverages? Y N

Will this business be operated PRIMARILY as a package store? Y N

If a COMMON CARRIER, does each vehicle seat 10 or more persons? Y N NA

INVESTIGATION SECTION OF APPLICATION (To be completed by investigating ABC Agent)

Will applicant engage in the sale of tobacco products? Y N If yes, type of business: n/a

Number of tobacco vending machines present: n/a

Neighborhood Investigation waived in accordance with Application Guidelines

Building seating capacity 15 License premises includes patio area Y N

Building Dimensions: Length 37' Width 34' Square Footage 1250' Sales and Display Square Footage _____

License covers: Entire structure Portion of: Top Floor Bottom Floor Other _____

License Structure: One Story Two Story Multi-Story Single Structure Shopping Center Motel/Hotel

Structure Material: Wood Brick/Block Metal/Pre-Fab Other _____

Is location within city limits? Y N Police Protection: County City

Number of licenses issued in vicinity: 0 1-5 6-10 more than 10 Nearest: 30 FEET

Nearest: School Church Private Residence

within 2 blocks within 2 blocks within 2 blocks

within 1/2 mile within 1/2 mile within 1/2 mile

Exceeds Above Exceeds Above Exceeds Above

EXPLANATION OF LAW VIOLATIONS

List below the court records for law violations, if any, of each person interested in this application, including manager whether as a sole applicant, partner, officer, or member. (Do not include traffic violations, except DUI and Reckless Driving)

Name	Date	Violation	Jurisdiction	Disposition
I certify no member of this corporation has a criminal record.				

FILING FEE ACKNOWLEDGEMENT

In reference to ACT NO. 80-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.

Signature of Applicant: [Signature]

TRANSFER AGREEMENT License Type: _____ License # _____

I _____ This is not a License Transfer _____, as _____ holding current ABC License at _____ (Name) (Title)

this location, hereby authorize the ABC Board to transfer the license(s) to APPLICANT as appears on front of application, provided that this applicant obtains approval from the appropriate local governing body and meets all requirements of the ABC Board. I understand that I am responsible for the operation of this licensed establishment until the applicant obtains a re-issued license from the ABC Board. I also understand that if for any reason this transfer is not approved by the local governing body or the ABC Board, I must take over complete control, operation, and responsibility of these licensed premises. If I do not continue operation of this licensed establishment, I will relinquish my ABC License to the local ABC Board office, or local Agent.

Licensee _____ Date _____

Applicant _____ Date _____

(Note: If applicant or licensee is a partnership, ALL partners must sign this agreement)

LEASE/PROPERTY OWNERSHIP

If applicant OWNS property, is copy of recorded deed attached? Y N

If applicant has CONTRACT TO PURCHASE, is a copy of the recorded sales contract attached? Y N

If applicant is LEASING the property, is a copy of the lease agreement attached? Y N

A: Name of Property Owner/Lessor: DAPHNE LAND COMPANY Contact #: (251) 621-4140

B: What is the LESSOR'S primary business? REAL ESTATE INVESTMENT

C: Is LESSOR involved in any way with the Alcoholic Beverage business? Y N (If yes, explain on an attached sheet)

D: Is there any further interest in, or connection with, the licensee's business by the LESSOR? Y N (If yes, explain on an attached sheet)

Applicant attests to the truthfulness of the above responses. (Applicant's Initials) [Signature]

Agent/ID _____ Supervisor _____ (Review includes complete application packet)

AGENT: Application taken: 04/06/2005 Application/Investigation completed: / / Forwarded to D.O.: / /

LOCAL GOVERNMENT: Submitted: / / Received from: / / 104

SUPERVISOR: Received in District Office: / / Reviewed: / / Forwarded to C.O.: / /

2005-2a
case no.

ABC LICENSE ROUTING

		(initial)
DATE RECEIVED BY REVENUE DIV.	<u>3-6-05</u>	<u>SWC</u>
DATE FORWARDED TO POLICE DEPT.	<u>3-6-05</u>	<u>SWC</u>
DATE RECEIVED BY POLICE DEPT.	<u>3-6-05</u>	<u>NTH</u>
DATE: APPROVED <u>4-29-2005</u>	DISAPPROVED _____	

POLICE DEPT. SIGNATURE Daniel Bell

DATE RETURNED TO REVENUE DIV.	<u>5-2-05</u>	<u>SG</u>
DATE FORWARDED TO CITY CLERK	_____	_____
DATE RECEIVED BY CITY CLERK	<u>5-02-05</u>	<u>RH</u>
SCHEDULED DATE ON AGENDA	<u>5-17-05</u>	<u>RH</u>

Council Action : APPROVED DISAPPROVED TABLED

COMMENTS- _____

Rescheduled for Council Agenda Date _____

Council Action : APPROVED DISAPPROVED TABLED

COMMENTS- _____

DATE RETURNED TO REVENUE DIV. _____

DATE RETURNED TO TAXPAYER
OR TO ABC FIELD OFFICE _____ (per taxpayer request)

STATE OF ALABAMA, ALCOHOLIC BEVERAGE CONTROL BOARD, MONTGOMERY, ALABAMA

Date Refused: _____ Date Approved: _____
 By: _____ By: _____
TYPE APPLICATION
060 - Retail Table Wine - (On or Off Premises)

Name of Applicant (s) **WILL HUGHES CATERING & MARKET, INC.**
 Circle One: Ind. Part. Assoc. Corp. LLC

Name and address of individual, partners and members, association, corporate officers, etc.:

Name	D.L. # Title	Date of Birth Place of Birth	Present Residence Address	Length at Residence
WILLIAM ASHLEY HUGHES	AL 6086094 President	09/04/76 MOBILE, AL	25963 OVERTON DR. DAPHNE, AL 36526	3 MONTHS
KELLY FLYNN HUGHES	LA 008171055 Vice- President	03/08/78 VANDERBURGH, IN	25963 OVERTON DR. DAPHNE, AL 36526	3 MONTHS

Corporate Information: INST #063072 Date 1/11/05 County BALDWIN
 (Enter book and page or document info.) (Incorporation or Authority)
 Trade Name **WILL HUGHES CATERING & MARKET**
 Location 1716 MAIN ST. SUITE C DAPHNE, AL 36526 County BALDWIN
 Mailing Address 1716 MAIN ST. SUITE C DAPHNE, AL 36526
 (Include Street or Post Office Box Address, City, State, and Zip Code)

Previous Licensee Information Transferee

Licensee Name CHARLIE'S CAFE ON MAIN, INC. Type 020 Year 2004-2005
 Trade Name CHARLIE'S CAFE ON MAIN License Number 3029
 Location (location transfer only) N/A

Has applicant complied with ABC Regulation # 20-X-5-.14 regarding financial responsibility? Y N
 Does the ABC Board have any actions pending against the current licensee? (If Yes, explain in Investigation Section) Y N
 Has ANYONE, including manager or applicant, had a Federal/State permit or license suspended, revoked or declined? Y N
 Has a liquor, wine, malt or brewed beverage license for these premises ever been denied, suspended or revoked? Y N
 Are the applicant(s) named above, the only person(s), in any manner, interested in the business sought to be licensed? Y N
 These premises are located in the: Corporate Limits Police Jurisdiction of DAPHNE, Alabama (Enter N/A if not located in either)
 Are any of the applicants, whether individual, member of partnership or association, or officers and directors of corporation or the corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this Act? Y N
 Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage or distilled liquors permit or license issued under authority of this Act? Y N
 Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate of another licensee, or from any firm, association or corporation operating under or regulated by the authority of this Act? Y N
 What is the applicants' primary source of funding? Loan Inheritance Individual(s) Business Other (explanation attached)

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of ANY law violation? Y N
 (If Yes, explain in Investigation Section) Signature of applicant [Signature]

The undersigned agree, if a license is issued as herein above applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages. The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the Board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the licensed premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him in connection with said licensed premises. The undersigned hereby understands that should he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

STATE OF ALABAMA Signed [Signature]
 COUNTY OF BALDWIN Title President Date 04/06/2005

The undersigned WILLIAM ASHLEY HUGHES, President of WILL HUGHES CATERING & MARKET, INC.
 (Name of applicant or member if Partnership or Association of Name and Title of Officer, if a Corporation)

applicant for the Alcoholic Beverage license requested, hereby swears and affirms that he/she has read said application and all statements therein and the facts set forth are true and correct, and that the applicant is the only person interested in the business for which license is requested.

Sworn to and subscribed before me this 6th day of APRIL, 2005

[Signature] Signature of Notary Public
[Signature] Signature of Applicant

For Central Office Use Only License No. _____ Date of Issue _____ Amount of Fees _____

GENERAL APPLICATION INFORMATION

Contact Person: WILLIAM ASHLEY HUGHES

Phone Numbers: Home: (251) 625-0345 Business: (251) 454-5245

Fax: _____ Pager: _____ Other: _____

Internet/Web Address: _____ Email Address: _____

Does the premises have a fully equipped and operational kitchen? Y N NA

Does the establishment have restroom facilities? Y N

Is place of business habitually and principally used for providing food to the public? Y N Snacks Only NA

Are these premises equipped with services and facilities for on premise consumption of alcoholic beverages? Y N

Will this business be operated PRIMARILY as a package store? Y N

If a COMMON CARRIER, does each vehicle seat 10 or more persons? Y N NA

INVESTIGATION SECTION OF APPLICATION (to be completed by Investigating ABC Agent)

Will applicant engage in the sale of tobacco products? Y N if yes, type of business: n/a

Number of tobacco vending machines present: n/a

Neighborhood Investigation waived in accordance with Application Guidelines

Building seating capacity 15 License premises includes patio area Y N

Building Dimensions: Length 37' Width 34' Square Footage 1250' Sales and Display Square Footage _____

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License Structure: One Story Two Story Multi-Story Single Structure Shopping Center Motel/Hotel

Structure Material: Wood Brick/Block Metal/Pre-Fab Other _____

Is location within city limits? Y N Police Protection: County City

Number of licenses issued in vicinity: 0 1-5 6-10 more than 10 Nearest: 30 FEET

Nearest: School Church Private Residence

within 2 blocks within 2 blocks within 2 blocks
 within 1/2 mile within 1/2 mile within 1/2 mile
 Exceeds Above Exceeds Above Exceeds Above

EXPLANATION OF LAW VIOLATIONS

List below the court records for law violations, if any, of each person interested in this application, including manager whether as a sole applicant, partner, officer, or member. (Do not include traffic violations, except DUI and Reckless Driving)

Name	Date	Violation	Jurisdiction	Disposition
I certify no member of this corporation has a criminal record.				

FILING FEE ACKNOWLEDGEMENT

In reference to ACT NO. 80-529, I understand that if any application is denied or discontinued, I will not be refunded the filing fee required by this application.

Signature of Applicant: [Signature]

TRANSFER AGREEMENT License Type: _____ License # _____

I, _____ This is not a License Transfer _____, as _____, holding current ABC License at _____ (Name) _____ (Title)

this location, hereby authorize the ABC Board to transfer the license(s) to APPLICANT as appears on front of application, provided that this applicant obtains approval from the appropriate local governing body and meets all requirements of the ABC Board. I understand that I am responsible for the operation of this licensed establishment until the applicant obtains a re-issued license from the ABC Board. I also understand that if for any reason this transfer is not approved by the local governing body or the ABC Board, I must take over complete control, operation, and responsibility of these licensed premises. If I do not continue operation of this licensed establishment, I will relinquish my ABC License to the local ABC Board office, or local Agent.

Licensee _____ Date _____

Applicant _____ Date _____

(Note: If applicant or licensee is a partnership, ALL partners must sign this agreement)

LEASE/PROPERTY OWNERSHIP

If applicant OWNS property, is copy of recorded deed attached? Y N

If applicant has CONTRACT TO PURCHASE, is a copy of the recorded sales contract attached? Y N

If applicant is LEASING the property, is a copy of the lease agreement attached? Y N

A: Name of Property Owner/Lessor: DAPHNE LAND COMPANY Contact #: (251) 621-4140

B: What is the LESSOR'S primary business? REAL ESTATE INVESTMENT

C: Is LESSOR involved in any way with the Alcoholic Beverage business? Y N (if yes, explain on an attached sheet)

D: Is there any further interest in, or connection with, the licensee's business by the LESSOR? Y N (if yes, explain on an attached sheet)

Applicant attests to the truthfulness of the above responses. (Applicant's Initials) [Signature]

Agent/ID _____ Supervisor _____ (Review includes complete application packet)

AGENT: Application taken: 04/06/2005 Application/Investigation completed: / / Forwarded to D.O.: / /

LOCAL GOVERNMENT: Submitted: / / Received from: / /

SUPERVISOR: Received in District Office: / / Reviewed: / / 107 Forwarded to C.O.: / /

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

RESOLUTION 2005-34

Resolution Supporting the Proposed Northern By-Pass North of I-10 Between Highway 98 and Highway 181

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA AS FOLLOWS:**

SECTION I: That the Mayor and City Council fully support the proposed Northern By-Pass North of I-10 between Highway 98 and Highway 181.

SECTION II: That the City Clerk shall forward a certified copy of this Resolution to the Alabama Department of Transportation and State Representatives.

ADOPTED AND APPROVED ON THIS the 2nd day of May, 2005.

GREG BURNAM
COUNCIL PRESIDENT
Date & Time Signed:_____

FRED SMALL
MAYOR
Date & Time Signed:_____

ATTEST:

DAVID I. COHEN
CITY CLERK, MMC

**RESOLUTION 2005-
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:

***Kim Briley, Finance Director, Government Finance Officers
Association Conference, June 24-29, 2005, San Antonio, TX - \$210***

***Suzanne Henson, Sr. Accountant, Government Finance Officers
Association Conference, June 24-29, 2005, San Antonio, TX - \$210***

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 16th - - day of May, 2005.**

Greg Burnam
Council President
Date & Time Signed: _____

Fred Small
Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen, City Clerk MMC

Resolution 2005- 39

Agreement: Alabama Dept of Transportation
Bike/Pedestrian Facility and Sidewalks

WHEREAS, the City Council of the City of Daphne did heretofore submit an application to the Alabama Department of Transportation (ALDOT) for the construction of Bike/Pedestrian Sidewalks; and

WHEREAS, the City of Daphne has received notification from ALDOT that such grant application has been approved and accepted.

NOW, THEREFORE, be it resolved by the Mayor and City Council of the City of Daphne as follows:

- 1) The City shall enter into an agreement entitled "Bike/Pedestrian Facility and Sidewalks: Project STPTE-TE05(933)" with the State of Alabama acting by and through the Alabama Department of Transportation relating to a Transportation Enhancement project with partial funding by the Federal Highway Administration, which agreement is before this Council; AND
- 2) The Mayor is hereby authorized to execute such agreement for and on behalf of the City of Daphne; AND
- 3) The City Clerk is hereby authorized to attest such agreement and affix the Seal of the City of Daphne to the same.

BE IT FURHTER RESOLVED, that upon completion of the execution of the agreement by all parties, that a copy of such agreement shall be kept on file by the City of Daphne.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this 17th day of May, 2005.

Greg Burnam
Council President
Date & Time Signed: _____

Fred Small
Mayor
Date & Time Signed: _____

RESOLUTION 2005-39

ATTEST:I, the undersigned qualified and acting City Clerk of the City of Daphne, Alabama, do hereby certify that the above and foregoing is a true copy of a Resolution lawfully passed and adopted by the City Council of the City of Daphne, at the regular meeting held on the 17th day of May, 2005, and that such resolution is on file in the City Clerk's office.

David L. Cohen
City Clerk

RESOLUTION 2005 - 40

A RESOLUTION DECLARING CERTAIN PERSONAL PROPERTY SURPLUS AND AUTHORIZING THE MAYOR TO DISPOSE OF SUCH PROPERTY

WHEREAS, from time to time the Department Managers of the City of Daphne determine that environmentally sensitive electronic equipment (Computers, Monitors, Printers, Telecommunication Equipment, and other Interfacing Equipment) are no longer required for public or municipal purposes; and

WHEREAS, such electronic equipment is no longer functional/system compliant and/or beyond its useful life span; and

WHEREAS, costs associated with the disposition of such equipment will be offset by the increasing administrative costs required for maintaining such inventory.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Daphne that the following procedures will be used for the disposal of environmentally sensitive surplus electronic equipment:

1- Such Surplus Electronic Equipment that is recommended for disposal by Department Managers and approved by the Mayor is hereby declared to be surplus property. AND

2- The Mayor is authorized to dispose of such Surplus Electronic Equipment from time to time as he deems most appropriate. AND

3- The Mayor is authorized to enter into contracts for the disposition of all such Surplus Electronic Equipment for recycling or other purposes.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this 17th day of May, 2005.

Greg Burnam,
Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk MMC

**CITY OF DAPHNE
RESOLUTION NO: 2005-41**

**A RESOLUTION DISSOLVING PRIOR GRANTING OF “GRANDFATHER” STATUS
TO SNO BALL SHACK**

WHEREAS, the City Council of the City of Daphne, Alabama desires to promote the health, welfare and safety of the citizens of the City by establishing equal licensing criteria for all Temporary Vendors by equal taxation and licensing provisions within the City of Daphne; and,

WHEREAS, the City Council of the City of Daphne, Alabama has determined that the prior granting of “grandfather” status to the “Sno Ball Shack,” by a past administration was done for imminent and immediate aggrieved reasons presented by the owners thereof, thereby rendering said business not subject to the Business License Code Ordinance of the City of Daphne; and

WHEREAS, the City Council desires to amend its current business license code to fairly and conformly license and tax all Temporary Vendors doing business within the City of Daphne, the Council deems it necessary to rescind the previous granting of grandfathered status to the “Sno Ball Shack” and that such action will best serve the citizens and business owners of the City of Daphne by treating all business owners, temporary vendors and the like equally;

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

That the Memorandum dated January 21, 2001 directed to the Revenue Agent for the City of Daphne by former Mayor Harry Brown, declaring that the Sno Ball Shack, Tax I.D. #5352, owned by Mr. and Mrs. Eidie is grandfathered and not subject to the amended Business License Code Ordinance 2000-39, dated 12/18/00, be and is hereby rescinded and deemed for naught.

APPROVED AND ADOPTED this _____ day of _____, 2005.

GREG BURNAM,
COUNCIL PRESIDENT
Date & Time Signed: _____

FRED SMALL, MAYOR
Date & Time Signed: _____

ATTEST:

DAVID COHEN, CITY CLERK, MMC

RESOLUTION NO. 2005- 42
HORIZONTAL BALER W/CONVEYOR

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 \$7,500; and

WHEREAS, The City of Daphne acknowledges that the cost for the HORIZONTAL BALER W/CONVEYOR will exceed this amount; and

WHEREAS, Bids were solicited for the HORIZONTAL BALER W/CONVEYOR and no bids were received; and

WHEREAS, State of Alabama Bid Laws authorize the City to negotiate a contract when no bids are received; and

WHEREAS, the purchase of the HORIZONTAL BALER W/CONVEYOR has been negotiated and the lowest quote obtained was from International Baler Corporation; and

WHEREAS, Staff recommends the contract be awarded to International Baler Corporation in the amount of \$48,750.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, that the Mayor of the City of Daphne is hereby authorized to enter into a contract with International Baler Corporation for the purchase of the HORIZONTAL BALER W/CONVEYER for a total negotiated cost not to exceed \$ 48,750.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS 16th day of May, 2005.

Greg Burnam, Council President

Date & Time Signed:_____

Fred Small, Mayor

Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk MMC

RESOLUTION 2005 - 43

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE RECYCLING OF ELECTRONIC EQUIPMENT

WHEREAS, the City of Daphne Garbage/Recycling Department serves the citizens of Daphne by collecting and disposing of electronic equipment (Computers, Monitors, Printers, Telecommunication Equipment, and other Interfacing Equipment); and

WHEREAS, environmental issues are connected with the disposal of such electronic equipment and it is no longer environmentally safe and sound to dispose of such equipment at certain landfills; and

WHEREAS, the City of Daphne incurs landfill fees for such disposals and is liable for the disposal of electronic equipment at the proper landfill location; and

WHEREAS, certain recycling options are available for such equipment and the cost associated with such options will be offset by the cost currently incurred for the landfill disposal of such items.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Daphne that recycling options for such electronic equipment shall be explored and that the Mayor is further authorized to enter into a contract for the recycling of such electronic equipment.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this 16th day of May, 2005.

Greg Burnam, Council President
Date & Time Signed: _____

Fred Small, Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen, City Clerk MMC

ORDINANCE 2005- 24

An Ordinance Appropriating Funds

Eastern Shore Chamber of Commerce

WHEREAS, Ordinance 2004-31 approved and adopted the Fiscal Year 2005 Budget November 1, 2004; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2005 budget, the City Council has from time to time determined that certain additional appropriations are required and should be approved and made a part of the Fiscal Year 2005 budget; and

WHEREAS, all of the Eastern Shore is experiencing a tremendous growth in business and residential activity; and

WHEREAS, the City of Daphne recognizes the importance of a development plan for the Eastern Shore area.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that the Fiscal Year 2005 Budget is hereby amended to include a General Fund appropriation in the amount of \$ 5,000 to the Eastern Shore Chamber of Commerce for the purpose of participating in the 5-year Strategic Plan.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this _____ day of _____, 2005.

Greg Burnam, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk, MMC

**CITY OF DAPHNE
ORDINANCE NO.: 2005-25**

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SCHEDULE OF LICENSES AND FEES AMENDMENT

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WHEREAS, the City Council of the City of Daphne, Alabama hereto adopted Ordinance Number 2002-26 which provides a schedule of license fees and other requirements within the City, and;

WHEREAS, the City Council of the City of Daphne, Alabama has amended said Ordinance by virtue of that Ordinance No. 2004-16, amending certain portions of said Ordinance, and

WHEREAS, the City Council of the City of Daphne, Alabama wishes to amend certain portions of Ordinance Number 2002-26:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THAT ORDINANCE NO. 2002-26 SHALL BE AMENDED AS FOLLOWS:

SECTION I. AMENDMENT TO SECTION 22 OF ORDINANCE No. 2002-26

Section 22 of Ordinance 2002-26 entitled License Classifications is hereby amended to include the following:

CODE NAICS TITLE AND SUGGESTED LICENSE GROUPING SCHEDULE

<u>CODE NAICS</u>	<u>TITLE AND SUGGESTED LICENSE GROUPING</u>	<u>SCHEDULE</u>
454329	<i>Concession Stand (Food) Yearly License-</i> There shall be allowed no more than two (2) concession stands to be operated in front of any freestanding business provided that the owner or operator of the concession stand obtains written consent and permission from the business owner or operator. There shall be no more than 3 concessions stands to be operated in any strip mall or shopping mall provided, provided that said vendor shall first obtain written permission from the mall management office plus the owner/operator of the individual store in front of where the vendor will operate. In any event, said vendor shall comply with all local ordinances and state laws applicable to the operation of it's business and present proof of compliance prior to the issuance of the requested business license.	T

NAICS CODE	VENDOR DESCRIPTION	
454329 A, B & C	<i>Temporary Vendors (Less than 1 year) –</i>	W
	<p>(a) DEFINITION: Temporary Vendor shall mean any seller or provider of goods or services operating out of a non-permanent structure, or out of a trailer, vehicle, cart or other described apparatus capable of being transported from one location to another.</p> <p>(b) No temporary structure will be granted a full year license, and in no event shall a temporary license be granted for a period of time greater than 6 months in duration. There shall be allowed no more than two (2) concession/vendor stands allowed in front of any freestanding business provided that the owner or operator of the concession/vendor stand obtains prior written consent and permission from the business owner or operator. There shall be no more than 3 concession/vendor stands allowed in any strip mall or shopping mall. Said concession/vendor operator shall first obtain written permission from the mall management office plus the owner/operator of the individual store in front of where the vendor will operate.</p> <p>(c) All concession/vendor operators shall comply with all local ordinances and state laws applicable to the operation of it's business and present proof of compliance prior to the issuance of the requested business license.</p> <p>(d) All Temporary concession/vendor operators must obtain prior written approval from the City of Daphne Community Development Department and written permission from any store owner upon whose property said Vendor is to operate. In the event said vendor desires to set up in front of a store located in a strip mall or other similar style shopping center, said vendor shall first obtain written permission from the mall management office plus the owner/operator of the individual store where the operation will take place, in addition to compliance with any and all local ordinances and applicable state laws. Proof of such compliance must first be presented prior to the issuance of said requested license.</p> <p>(e) Signage for such temporary vendors shall be attached to the vendor's vehicle or trailer.</p>	

SECTION II. AMENDMENT TO SECTION 23 OF ORDINANCE NO. 2002-26

Section 23 of Ordinance 2002-26 License Fee Schedules is hereby amended to include the following:

Schedule "W" - Temporary Vendors

<u>NAICS CODE</u>	<u>DESCRIPTION</u>	<u>AMOUNT DUE</u>
454329 A	Commercial Promoted Special Events (i.e., Rodeo, Wrestling, Boat Show, Car Shows, etc.)*	
	One Day	\$250.00
	Two Days	\$350.00
	Three to seven days	\$500.00

* Each event requires separate license, limited to four (4) per calendar year.

454329 B	<p><i>Temporary Vendors</i> (Concession Stands, Food, Plants, Souvenir, etc.)</p> <p>(a) DEFINITION: Temporary Vendor shall mean any seller or provider of goods or services operating out of a non-permanent structure, or out of a trailer, vehicle, cart or other described apparatus capable of being transported from one location to another.</p> <p>(b) Each Temporary Vendor shall deposit against sales tax, the amount of \$100.00 (non-refundable) to the City in addition to the license fee prescribed herein, and for each solicitor or vendor, said deposit shall be credited to any sales tax owing, and subsequently returned to the licensee if the City determines that all sales tax due has been paid, or applied by the licensee as his or her deposit for licenses issued in future months.</p>	
	ONE MONTH	\$50.00
454329 C	Mardi Gras Parade Cart, Vendors (per cart)	\$250.00
	Mardi Gras Vendor Trailers, Tents, Street side (i.e., Food, Memorabilia, T-Shirts, etc)	\$500.00
	NOTE: Said business license shall be in lieu of any sales tax due, and shall be valid during the Mardi Gras parade	

	season.	
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- Each event requires separate license, limited to four (4) per calendar year.

SECTION III. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION IV. FULL FORCE AND EFFECT

All remaining provisions of Ordinance 2002-26 and all amendments thereto shall remain in full force and effect.

SECTION V. REPEALER

All other Ordinances or parts thereof conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

SECTION VI. EFFECTIVE DATE

The provisions of this ordinance shall become effective upon their approval and adoption by the City Council and publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ DAY OF _____, 2005.

 GREG BURNAM
 COUNCIL PRESIDENT
 DATE/TIME SIGNED: _____

 FRED SMALL, MAYOR
 DATE/TIME SIGNED: _____

ATTEST:

 DAVID COHEN, CITY CLERK, MMC