

CITY COUNCIL BUSINESS MEETING AGENDA
1705 MAIN STREET, DAPHNE, AL
JUNE 15, 2009
BUSINESS MEETING
6:30 P.M.

- 1. CALL TO ORDER**
- 2. ROLL CALL/INVOCATION**
PLEDGE OF ALLEGIANCE

APPROVE MINUTES: Council meeting minutes / June 1, 2009
Special Called Council meeting minutes / June 3, 2009
Special Called Council meeting minutes / June 5, 2009
Council Work Session minutes / June 8, 2009
Special Council meeting minutes / June 10, 2009

PRESENTATION: Proposed Tree Committee / Whitney Wingbermuehle

MOTION: To Rescind the Moratorium on Hiring City Employees and Directors

MOTION: Authorize the Mayor and Finance Director to work with Gardnyr Michael Capital to explore options, negotiate a potential tender offer, and report findings to the City Council for the 2002 Limited Obligation Revenue Warrants

4. REPORT STANDING COMMITTEES:

A. FINANCE COMMITTEE / Boulware

Review minutes / June 8th

a.) Bid Awards:

- 1.) Public Library Alterations & Additions / Thomas Construction / [Resolution 2009-53](#)
- 2.) Appoint Purchasing Agent – Library Alterations & Additions /
Cory Thomas Vice President of Thomas Construction or his designee / [Resolution 2009-54](#)
- 3.) Disaster Debris Disposal & Removal Services / Gulf Equipment Corp / d/b/a
Crowder Gulf / [Resolution 2009-55](#)

b.) Resolutions:

- 1.) Authorize Mayor to enter into a contract with Web Based Bidding – Bidbridge /
[Resolution 2009-56](#)
- 2.) American Red Cross Disaster Response Coordinator / [Resolution 2009-57](#)
- 3.) Family Promise of Baldwin County / [Resolution 2009-58](#)
- 4.) D.A.R.E. Board Representation / [Resolution 2009-59](#)
- 5.) Baldwin County Economic Development Alliance / [Resolution 2009-60](#)

c.) Ordinances:

- 1.) Appropriating Lodging Tax Funds – Scardamalia Building Improvements /
[Ordinance 2009-36](#)

d.) Financial Reports:

- 1.) Treasurers Report / May 31, 2009
- 2.) Summary of Revenues over Expenditures / April 30, 2009
- 3.) Sales & Use Tax Collections / April 30, 2009
- 4.) Lodging Tax Collections / April 30, 2009

- B. BUILDINGS & PROPERTY - Lake**
- C. PUBLIC SAFETY - Burnam**
- D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Palumbo**
- E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Yelding**

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

- A. Board of Zoning Adjustments – Jones**
 Review minutes / May 7th
 Review minutes / June 4th
- B. Downtown Redevelopment Authority - Barnette**
- C. Industrial Development Board – Yelding**
 Nomination: Douglas A. Bailey
- D. Library Board - Lake**
- E. Planning Commission – Barnette**
 Review minutes / April 23rd
 Review minutes / May 28th
 a.) Set Public Hearing date for **July 20, 2009** to consider an ordinance annexing AJD Family Limited Partners / Property located Southeast of the intersection of County Road 64 and Friendship Road / Present zoning is B-1, Professional Business / Requested zoning is B-2, General Business / Unanimous Unfavorable Recommendation from Planning Commission
- F. Recreation Board - Burnam**
- G. Utility Board - Scott**

6. REPORTS OF OFFICERS:

- A. Mayors Report**
 - a.) ABC License / New Haven Pizzas of Alabama / 020 – Restaurant Retail Liquor
 - b.) Special Events Permit / Uncorked Fine Wines / Wine Tasting Festival / October 31, 2009
 - c.) Authorize the Mayor to enter into a contract with The Church of His Holy Presence / To purchase and Maintain Additional Lighting at Civic Center
 - d.) Ordinance 2009-34 / NRCS Assistance / Appropriating Match
- B. City Attorney’s Report**
- C. Department Head Comments**

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) Appointing Director to Board of Directors of Renaissance Improvement District / Robert James. /Resolution 2009-52**
- b.) Bid Award: Daphne Public Library Alterations & Additions / Thomas Construction. /Resolution 2009-53**
- c.) Purchasing Agent Appointment: Daphne Public Library Alterations & Additions / Cory Thomas, Vice President of**

- d.) Bid Award: Disaster Debris Removal & Disposal Services...../Resolution 2009-55
- e.) Authorize the Mayor to Bid Through a Web Based Procurement Process & Authorize the Mayor to enter into a contract with Bidbridge, A Web Based Procurement Company...../Resolution 2009-56
- f.) American Red Cross: Baldwin County Coordinator...../Resolution 2009-57
- g.) Enter into a Service Agreement with Family Promise of Baldwin County...../Resolution 2009-58
- h.) Enter into a Service Agreement to Provide a D.A.R.E. Board Representative at the Conference in Orlando, FL July 21-23, 2009...../Resolution 2009-59
- i.) Baldwin County Economic Development Alliance Appropriation...../Resolution 2009-60

ORDINANCES:

2ND READ

- a.) Ordinance for Election and Appointment of City Officers And Council as Appointing Authority...../Ordinance 2009-32
- b.) Ordinance Requesting NRCS Assistance and Appropriating Match: March 25 – April 3, 2009 Rain Event...../Ordinance 2009-34
- c.) Amending Ordinance 2002-34: Garbage Collection...../Ordinance 2009-35
- d.) Lodging Tax Appropriation: Improvement to Richard Scardamalia Pavilion Building...../Ordinance 2009-36

9. COUNCIL COMMENTS

10. ADJOURN

WORK SESSION JULY 13TH

- 1. FINDINGS OF THE EASTERN SHORE CHAMBER BUSINESS TASK FORCE / CHAMBER OF COMMERCE

TENTATIVE WORK SESSION ITEMS

- 1. VISIONING PLAN
- 2. PROTOCOL FOR CHANGING SIGN ORDINANCE

**CITY OF DAPHNE
CITY COUNCIL MEETING**

ROLL CALL

CITY COUNCIL:

CALL VOTES

COUNCILMAN YELDING

PRESENT__ ABSENT__ _

COUNCILWOMAN BARNETTE

PRESENT__ ABSENT__

COUNCILMAN LAKE

PRESENT__ ABSENT__ _

COUNCILMAN BURNAM

PRESENT__ ABSENT__ _

COUNCILMAN SCOTT

PRESENT__ ABSENT__ _

COUNCILMAN BOULWARE

PRESENT__ ABSENT__ _

COUNCILMAN PALUMBO

PRESENT__ ABSENT__ _

MAYOR

MAYOR SMALL

PRESENT__ ABSENT__ _

CITY CLERK:

DAVID L. COHEN

PRESENT__ ABSENT__

CITY ATTORNEY:

CITY ATTORNEY JAY ROSS

PRESENT__ ABSENT

MINUTE NOTES:

**CITY COUNCIL MEETING
MINUTES**

NOTES:

COMMITTEE RECOMMENDATIONS

**JUNE 1, 2009
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

Council President Lake called the meeting to order at 6:30 P.M.

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Invocation was given by Mr. Bill Eady.

COUNCIL MEMBERS PRESENT: Bailey Yelding; Cathy Barnette; John Lake; Greg Burnam; Ron Scott; Derek Boulware.

ABSENT: August Palumbo.

Also present: Mayor Fred Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Erick Bussey, Attorney; Bill Eady, Public Works Director; David Carpenter, Police Chief; John Williams, Civic Center; James White, Fire Chief; David McKelroy, Recreation Director; Tonja Young, Library Director; Sgt. Robin Snider, D.A.R.E Officer; Richard Merchant, Building Official; Sharon Cureton, Human Resource Director; Adrienne Jones, Planning Director; Cornell Smith, Revenue Officer; Jane Robbins, Mayor's Assistant; Willie Robison, BZA.

Absent: Jay Ross, City Attorney; Kim Briley, Finance Director;

3. APPROVE MINUTES:

MOTION BY Councilman Burnam to adopt the Council Work Session minutes meeting held May 18, 2009. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt the Special Called Council meeting minutes meetings held May 20 and 27, 2009. *Seconded by Councilman Scott.*

Councilman Scott amended the May 27, 2009 minutes to change the second to the motion to adjourn from Councilman Scott to Councilman Yelding.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

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CITY COUNCIL MEETING
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CERTIFICATE OF RECOGNITION: Tommie Brock Conaway

Mayor Small read and presented the certificate to Mrs. Conaway.

CERTIFICATE OF RECOGNITION: Russell Beason / D.A.R.E. Youth Advisory Board Member

Mayor Small read and presented the certificate to Russell as Sgt. Robin Snyder looked on.

PROCLAMATION: Alabama Firefighters and Emergency Medical Personnel

Councilman Boulware read and presented the proclamation to Chief White along with firefighters Andy Ray, Joseph Staska and Brian Payne

MOTION: Moratorium on Hiring until July 7, 2009

MOTION BY Councilwoman Barnette to put a moratorium on city employee hiring, and hiring of directors until July 7, 2009. Seconded by Councilman Yelding.

Council discussed the motion.

Mayor Small gave comments regarding the motion.

Councilwoman Barnette called for the question.

AYE Yelding, Barnette, Boulware, Lake

NAY Burnam, Scott

MOTION CARRIED

A. FINANCE COMMITTEE – Boulware

No report.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake

No report.

C. PUBLIC SAFETY COMMITTEE – Burnam

The minutes for the May 1st meeting are in the packet. No council action is required.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo

The committee reviewed the verbiage of the burn ordinance, and has sent it to legal for to review.

Councilwoman Barnette asked that council be kept up to date regarding what grants have been applied for and received.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

The minutes for the April 24th meeting are in the packet along with the Beautification minutes from their May 1st meeting. The next meeting will be June 26th at 8:00 a.m. in the Council Chambers.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Ms. Jones

The minutes for the February 5th meeting are in the packet, and the next meeting will be June 4th at 6:00 p.m. with one item to consider.

B. Downtown Redevelopment Authority – Barnette

No report.

C. Industrial Development Board – Yelding

No report. They are still looking for members.

D. Library Board – Lake

No report. The next meeting is Thursday 4:00 p.m. at the Library.

E. Planning Commission – Barnette

The Site Review meeting will be June 17th, and the time has been permanently changed to 8:30 a.m. The Planning Commission meeting will be June 25th at 6:00 p.m.

F. Recreation Board – Burnam

The minutes for the May 13th meeting are in the packet. No report.

G. Utility Board – Scott

No report. The June 3rd meeting has been canceled due to a conflict with the Special Called Council meeting that night. The next meeting will be the last Wednesday in June at 5:00 p.m.

6. REPORTS OF THE OFFICERS:

A. Mayor's Report

a.) Letter to Daphne Utility / Fire Hydrants

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Mayor Small stated that Chief White did a survey and in 95% of cities utilities flushed and maintained the fire hydrants without a fee. He said that the letter should come from council since they approve the budget.

Council recommended including in the letter that they use the fire hydrants to flush their system.

MOTION BY Councilman Yelding to send the letter that is in the packet to Daphne utilities after restructuring by Councilman Scott. *Seconded by Councilwoman Barnette.*

Council did not vote on motion.

Mayor Small stated that he talked with Al Guarisco, and he suggested naming the May Day Park and Pier after Victor Guarisco since he was instrumental in getting the grant to do the park and pier. Mayor Small stated that he is going to talk with Victor's wife, and get back to them. He said that the family did not want something big, but he did have a love for the park and pier.

Mayor Small said that he received a letter for the city attorney along with letters from another attorney that has give the city the go ahead to get out bids to finish the parking area on the south and west side of city hall in order to get the outside complete. That should be taking place soon, as he will be giving it to finance to get the process started so that everything can get finished.

The city clerk pointed out to Council President Lake that council did not vote on the motion to send the letter to utilities.

MOTION BY Councilman Scott to authorize Council President Lake to send a letter regarding the maintenance of the fire hydrants to Daphne Utilities. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

B. City Attorney Report

No report.

C. Department Head Comments

Sharon Cureton - stated that Wednesday will be her last day with the city, and she thanked council members and the Mayor for allowing her the opportunity to serve her city over the past five years.

James White – Fire Chief - reminded everyone that hurricane season started today.

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David McKelroy – Recreation Director - reported that Art in the Park was Thursday from 10:00 a.m. – 1:00 p.m. at Lott Park. He thanked Daphne Utilities for cooking hot dogs, and that by 11:00 a.m. they had served 520 hot dogs, and served 700 snow cones. Wet & Wild will be June 17-24 at Lott Park. The summer clinic at the high school started today.

Tonja Young – Library Director – stated the Summer Reading program kicked off today, and she thanked the Recreation Department and the Teen Board for their help.

David Carpenter – Police Chief – thanked Mrs. Cureton for her service to the city, and stated that she worked well with the department heads. He said she will be missed.

7. PUBLIC PARTICIPATION

Mr. Kevin Spriggs – owner Eastern Shore Motel – complimented the mayor, and said that he has not seen any careless practices by the mayor. He is opposed Ordinance 2009-32.

Mr. Willie Williams – 1513 Pollard Road – spoke regarding the zoning behind Target asking council to take multi-family out of the zoning.

Mr. Willie Robison – 560 Stuart Street – gave kudos to Mr. Bill Eady for the fantastic job public works did in Lake Forest with the blowout. He also spoke regarding the reception for the return of the Honor Flight for the World War II veterans.

Andre Mitchell – 2105 Pollard Road – spoke regarding problems with the road washing out on Pollard Road.

Council President Lake asked that this be taken to the Public Works Committee.

Mr. Rod Drummond – 367 Ridgewood – asked about the motion for a moratorium. He and his wife agreed 110% with Mr. Spriggs comments about the mayor and council.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS:

- a.) May Day Park Public Boat Ramp Landing Area...../Resolution 2009-50

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2009-50. *Seconded by Councilman Burnam.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2009-50. *Seconded by Councilman Burnam.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCES:

2ND READ

a.) Appropriation: City Hall Building Maintenance. /Ordinance 2009-29

1ST READ

b.) Ordinance for Election and Appointment of City Officers
and Council as Appointing Authority. /Ordinance 2009-32

c.) Appropriation: Lodging Tax: May Day Boat Ramp Landing. . . . /Ordinance 2009-33

MOTION BY Councilwoman Barnette to suspend the rules to consider Ordinance 2009-33. *Seconded by Councilman Boulware.*

ROLL CALL VOTE

Yelding	Aye	Boulware	Aye
Barnette	Aye	Lake	Aye
Burnam	Aye		
Scott	Aye		

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

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MOTION BY Councilwoman Barnette to waive the reading of Ordinance 2009-33. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR NAY NONE PPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Ordinance 2009-33. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to waive the reading Ordinance 2009-29, *Seconded by Councilwoman Barnette .*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Boulware to adopt Ordinance 2009-29. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Councilman Scott asked the City Clerk to read Ordinance 2009-32.

The City Clerk read Ordinance 2009-32.

ORDINANCE 2009-32 WILL BE 2ND—READ AT THE JUNE 15TH COUNCIL MEETING.

8. COUNCIL COMMENTS

Councilwoman Barnette stated that Bay Rivers Art Guild has officially rescinded their request to lease the Nicholson Center. They will ask the city to continue to lease their current facility. Due to the economic climate they do not feel that it is wise to move forward at the current time.

Councilman Burnam thanked Mrs. Cureton for all that she has done for the city. They will miss her, and he wished her the best of luck. He is surprised that the ordinance and motion, the two controversial things on the agenda was not sent to a work session. It is obvious that the votes were already there. This is supposed to be a democratic body, but it is obvious that the votes were there and it was pushed through.

Councilman Scott counseled the council that to deliberate outside the council as a unit is not a fair way to represent the citizens of Daphne. He also thanked Mrs. Cureton for a great job. He stated that he, Mr. Burnam and Mrs. Barnette were there for the return of the Honor Flight and it was really super.

Councilman Boulware announced that the City of Daphne, the City of Fairhope and the City of Spanish Fort have agreed to come together and work together as a coalition specifically for the purpose of environmental and transportation infrastructure grants. On July 1st the City of Daphne will host a Town Hall meeting at the Civic Center, and all the elected officials from Washington, Montgomery and the County have been invited to speak on this coalition. There is a lot of money out there that these elected officials can send to the city, and if you collapse these towns into the Eastern Shore for the specific purpose of Federal, State and County support you have now increased your odds of being successful. The Town Hall meeting will be July 1st at 6:00 p.m. at the Daphne Civic Center.

Mayor Small thanked the Beason family, and especially Russell for his achievement. He thanked Sgt. Robin Snider and Officer Mike Williams for the great job they do in the schools, it does not go unrecognized. He mentioned that Sgt. Snider is the state coordinator of the D.A.R.E. organization. He appreciates the support from the citizens on the issue presented tonight. He stated that he is disappointed with the council, and he thought that they were working as a team.

Council President Lake thanked Mrs. Cureton for her service to the city, and all the programs she has implemented in the city. The city has lost a very valuable asset. He also thanked Councilman Boulware for pushing for the town meeting, and bringing the three cities together.

**JUNE 1, 2009
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DAPHNE, AL
6:30 P.M.**

MOTION BY Councilwoman Barnette to adjourn. *Seconded by Councilwoman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:22 P.M.

Respectfully submitted by,

David L. Cohen,
City Clerk, MMC

Certification by Presiding Officer:

John Lake,
Council President
Date & Time Signed: _____

**JUNE 3, 2009
SPECIAL CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:00 P.M.**

1. CALL TO ORDER

Council President Lake called the meeting to order at 6:00 p.m.

2. ROLL CALL

COUNCIL MEMBERS PRESENT: Bailey Yelding; Cathy Barnette; John Lake; Greg Burnam; Ron Scott
Derek Boulware.

ABSENT: August Palumbo

Also present: Mayor Small; David Cohen, City Clerk; Jay Ross, Attorney; Vickie Hinman, Human Resource;
Erick Bussey, Attorney; Buzz Jordan, Attorney; Brent Day, Attorney; Sandra Morse; Daphne Cotton, Court
Reporter.

Council discussed an emergency resolution to repair a garbage truck. They decided to call another Special
Council meeting to consider resolution 2009-51.

**MOTION BY Councilman Scott to call a Special Council meeting Friday, June 5, 2009 7:30 a.m. to
consider Resolution 2009-51. Seconded by Councilman Yelding.**

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Council President Lake reconvened the Special Called meeting from May 27, 2009 at 6:15 p.m..

Personnel Hearing

**MOTION BY Councilman Scott to enter into Executive Session for a Quasi Judicial Hearing, and the
meeting will last for 3 hours. Seconded by Councilwoman Barnette.**

The City Attorney certified that the stated reason is acceptable according to the Alabama Open Meetings Act.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Council entered into Executive Session at 6:26 p.m.

Mr. Ross came out of Executive Session several time to extend the session.

Council returned from Executive Session at 10:55 p.m.

**JUNE 3, 2009
SPECIAL CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:00 PM**

MOTION BY Councilman Scott to recess the Special Called Council meeting at 11:00 p.m., and reconvene the meeting for Sandra Morse on Wednesday, June 10, 2009 at 6:00 p.m. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

There being no further business to discuss the meeting adjourned at 11:00 p.m.

Respectfully submitted by,

David L. Cohen, City Clerk, MMC

Certification of Presiding Officer:

John Lake, Council President
Date & Time Signed: _____

**JUNE 5, 2009
SPECIAL CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
7:30 A.M.**

1. CALL TO ORDER

Council President Lake called the meeting to order at 7:30 a.m.

2. ROLL CALL

COUNCIL MEMBERS PRESENT: Cathy Barnette; John Lake; Greg Burnam; Ron Scott.

ABSENT: Bailey Yelding; Derek Boulware; August Palumbo.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Bill Eady, Public Works Director.

3. Resolution 2009-51 / Declaration of Emergency: Garbage Truck Repair

MOTION BY Councilman Scott to waive the reading of Resolution 2009-51. Seconded by Councilwoman Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2009-51. Seconded by Councilwoman Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

4. ADJOURN

MOTION BY Councilman Scott to adjourn. Seconded by Councilwoman Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 7:32 A.M.

Respectfully submitted by,

Certification of Presiding Officer:

David L. Cohen, City Clerk, MMC

John Lake, Council President Pro-tem
Date & Time Signed: _____

JUNE 8, 2009
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

1

COUNCIL MEMBERS PRESENT: Bailey Yelding; John Lake; Greg Burnam; Ron Scott; Derek Boulware; August Palumbo.

ABSENT: Cathy Barnette.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross; Bill Eady, Public Works Director; Denise Penry, Public Works.

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

1. NRCS FUNDING PROGRAM / ASHLEY CAMPBELL / ANDY JAMES / VOLKERT & ASSOCIATES

Mrs. Campbell explained that there were two projects that needed funding in Lake Forest. One on Worchester Drive, and the other is a utility easement slope project on County Road 13. The two projects total match is \$138,125. Mrs. Campbell stated that the state wants the city to sign a five year maintenance agreement.

Council was concerned about the five year maintenance agreement, and that if they repaired the project on Worchester Drive the city would be liable for further damage. Mr. James could not say for certain that the problem could be repaired permanently. Some of the council members felt it would not be prudent to repair the problem if it cannot be fixed permanently.

Mrs. Campbell asked council for direction on this issue.

Council President Lake asked that this be on Monday's council meeting agenda.

Councilman Scott wanted to say for the record that he is disappointed that the ordinance taking power away from the Mayor to hire directors is not on the agenda for discussion. Something as important as this should be on the work session agenda for discussion.

2. TECHNOLOGY INNOVATION CENTER / JOE BULLOCK / DARRELYN BENDER

Mr. Bullock explained the concept of the center saying that the mission of the center is to commercialize energy-related and ecologically beneficial technologies by partnering with entrepreneurs and other originators in creating new businesses that result in jobs that grow the economy and provide targeted returns to investors, originators and sponsors. He said that it is designed after a plan done in New Mexico which has been very successful. They have joined forces with the Industrial Development Boards in the surrounding cities, and with the Baldwin County Economic Development Alliance.

**JUNE 8, 2009
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

2

3. 5 YEAR CAPITAL PLAN FOR PUBIC WORKS

Council discussed the plan, and discussed leasing verses buying equipment. The Mayor and Mr. Eady stated that it would be cheaper to lease, because if it breaks down the company repairs or replaces the equipment. The equipment can be turned in at the end of the agreement and get new equipment. Also, if at anytime during the agreement the city finds that it can no longer afford to lease the equipment the city can get out of the lease for appropriated items.

Council discussed the need to meet to discuss the five year capital plan for the rest of the departments.

4. GARBAGE: GO TO ONCE A WEEK SERVICE / OR INCREASE FEES / OR SOME OF BOTH

Consensus of Council was that they did not want to increase fees, but were in favor of going to once a week garbage pickup.

Council President Lake asked that this be on Monday's council agenda.

5. ADJOURN

There being no further business to discuss the meeting adjourned at 8:20 p.m.

Respectfully submitted by,

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

Certification of Presiding Officer:

**John Lake
Council President**

Date & Time Signed: _____

**JUNE 10, 2009
SPECIAL CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:00 P.M.**

1. CALL TO ORDER

Council President Lake called the meeting to order at 6:20 p.m.

2. ROLL CALL

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

Also present: Mayor Small; Rebecca Hayes, Assistant City Clerk; Jay Ross, Attorney; Vickie Hinman, Interim Human Resource Director; Buzz Jordan, Attorney; Brent Day, Attorney; Sandra Morse; Daphne Cotton, Court Reporter; Tim Harrison, Attorney.

Absent: David Cohen, City Clerk.

Personnel Hearing

MOTION BY Councilwoman Barnette to enter into Executive Session for a Quasi Judicial Hearing, and the meeting will last for four hours. *Seconded by Councilwoman Barnette.*

The City Attorney certified that the stated reason is acceptable according to the Alabama Open Meetings Act.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Council entered into Executive Session at 6:21 p.m.

Council returned from Executive Session at 9:55 p.m.

MOTION BY Councilwoman Barnette to recess the Special Called Council meeting at 9:55 p.m., and reconvene the meeting for Sandra Morse on Wednesday, June 17, 2009 at 6:30 p.m. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

There being no further business to discuss the meeting adjourned at 10:00 p.m.

Respectfully submitted by,

Certification of Presiding Officer:

David L. Cohen, City Clerk, MMC

John Lake, Council President

Date & Time Signed: _____

MOTION TO BE MADE AT THE JUNE 15, 2009
CITY COUNCIL MEETING

Motion: Authorize the Mayor and Finance Director to work with Gardnyr Michael Capital to explore options, negotiate a potential tender offer, and report findings to the City Council for the 2002 Limited Obligation Revenue Warrants.

**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
June 8, 2009
4:00 P.M.

I. CALL TO ORDER/ROLL CALL

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

Also in attendance were Public Works Director Bill Eady, Interim Human Resources Director Vickie Hinman, HR Benefits Coordinator Sherree Hilburn, and Revenue Officer Cornell Smith.

Mayor Small arrived at 4:15 pm.

II. PUBLIC PARTICIPATION

Mr. Kevin Spriggs spoke concerning the increasing cost of recycling and though it is a good program he did not feel it is an economically feasible function at this time for the City of Daphne.

Mr. Scott spoke on his concerns on the recent Motion that passed placing a hiring freeze on certain positions and noted that he did not feel the process was open and questioned the validity of the Motion and proposed Ordinance. Mr. Scott noted this freeze could cause a hardship for the City if a critical position was vacant. Discussion continued that Human Resources did not have any input as to the hardship this freeze or change in process would have on the City.

III. HUMAN RESOURCES BUSINESS

Ms. Vickie Hinman presented a Human Resources department activity update in the Committee packet. Ms. Hinman discussed that there were 35 Human Resources Director applications received and that interviews have been completed and references made. Ms. Hinman noted a SAIL driver has been hired. Ms. Hinman discussed the upcoming annual Benefits Fair will be held July 29, 2009.

Ms. Hinman also discussed the Safety Committee's recommendation that the City have at least two employees certified as Playground Safety Inspectors. There is a course and exam offered by the National Playground Safety Institute September 21 -23, 2009, in Woodstock, Georgia at a cost of \$1,502 to send two employees to this training. The Mayor discussed that monies are available to cover this training and discussed the benefit the City would receive from having a certified inspector.

Ms. Sherree Hilburn reviewed the results of her in depth research on comparing other Medical and Dental Insurance companies with the City's current provider Blue Cross Blue Shield. ***The two companies compared are Local Government Health Insurance Plan and United Health Care:***

Local Government Health Insurance Plan:

Ms. Hilburn stated that although there appeared to be a lower cost with Local Government that there is at least a 7% increase in cost each year. With BCBS there is generally an increase every two years and with current education and safety training there has been a lower increase rate. Ms. Hilburn noted that there is a \$50/per employee application fee which would be a cost of approximately \$12,000 and that this is a non-refundable fee. The plan would also have a two year lock in. Ms. Hilburn outlined that with Local Government the employee would have to pay for their prescription up front and after they meet the \$200 deductible then they could be reimbursed. Ms. Hilburn emphasized that most City employees cannot afford to pay for their prescriptions and wait for a reimbursement .

United Healthcare:

United Healthcare has been unable to provide a quote. United Healthcare representative stated that typically a 30% savings when they separate the high claims. They have requested detail for higher claims and cannot quote without separating the high claims. Ms. Hilburn stated she had contacted some local physicians that several City employees use and the physician advised them that they were no longer accepting any new United Health patients which may result in patient having to pay cost up front or employee finding a new UHC Physician.

The Finance Committee recommended that this be forwarded to the Council Work Session and that Ms. Hilburn be present to discuss.

IV. ISSUES REQUIRING ACTION BY CITY COUNCIL

A. Appropriation Requests

GENERAL FUND REQUESTS:

1. American Red Cross – Baldwin County Disaster Response Coordinator - \$ 3 ,000

A request for \$4,500 was received from the American Red Cross. Discussion was made that the Red Cross assistance is crucial during hurricanes and emergency times and that even though this is a very needed service the current economy requires the City carefully monitor contributions. Discussion was made that some monies were still available for community contributions and that several request are still coming in. Mr. Scott recommended that \$3,000 be appropriated for this request.

Motion by Mr. Scott to recommend Council to enter into an agreement in the amount of \$3,000 with the American Red Cross for the Baldwin County Disaster Response Coordinator . Seconded by Mr. Yelding. All in favor.

2. Family Promise of Baldwin County - \$500

The Mayor and Mr. Scott discussed they were familiar with this organization and this is a real need for the community. The Mayor discussed that he was impressed that the staff for this organization were required to go through specific training. Mr. Yelding requested that Family Promise submit financial information detailing what donated monies are used for.

Motion by Mr. Scott to recommend Council to enter into an agreement in the amount of \$500 with the Family Promise of Baldwin County, Inc. pending the receipt of financial information. Seconded by Mr. Yelding. All in favor.

3. Fran Neumann, Artist for Daphne Bronze Statue in City Hall Water Fountain

The request from Ms. Neumann for reimbursement of Artist fees was discussed. Discussion was made that the statue was made in 2004 and the cost of construction was \$16,400. This Daphne Statue was donated to the City of Daphne. Discussion continued that Ms. Neumann was going to be paid by the Downtown Business Association but to date only \$2,197.22 has been paid so Ms. Neumann is now asking the City to pay her the remaining balance of \$13,102.48. Discussion was made that this request needs to go to a Council Work Session. Discussion followed that this is setting a precedence for other boards/authorities to make financial arrangements and then turn to the City to fulfill.

4. Russell Beason – State Youth Representative for DARE Board

A request for \$1,500 was made to allow Mr. Russell Beason, a Daphne High School student to represent the City of Daphne and the State of Alabama as a Youth Advisory Board Member for DARE at the DARE conference in Orlando, FL on July 21-23, 2009. Discussion was made that the monies need to be made to an organization. The Finance Committee requested Ms. Briley research how the monies could be appropriated.

Motion by Mr. Scott to recommend Council enter into an agreement in the amount of \$1,500 for representation at the DARE Conference in Orlando, FL on July 21-23, 2009. Seconded by Mr. Yelding. All in favor.

CAPITAL RESERVE FUND REQUESTS:

5. Trione Soccer & Football Complex Phase I Engineering

Discussion was made on engineering fees in the amount of \$49,313 for the Trione Soccer & Football Complex project. It was noted that all engineering costs must be submitted and approved before a project begins. Ms. Briley was asked to pull invoices paid to date on the design (\$20,000 previously approved).

LODGING TAX FUND REQUESTS:

6. Richard Scardamelia Pavilion Building Improvements - \$62,000

Mr. Richard Merchant, Building Inspector submitted quotes as requested by the Building and Properties Committee for repairs needed on the Richard Scardamelia Pavilion Building. Mr. Merchant recommended the low quote from MDH Construction Services in the amount of \$41,000. Ms. Henson noted that Mr. Merchant had also requested additional monies: \$12,000 for new carpet, \$5,000 contingencies monies for building repairs if internal wood damage is found, and \$4,000 for repair work to be done by City Building Maintenance crews (upgrading restrooms to ADA compliance and painting).

Motion by Mr. Scott to recommend Council adopt an ordinance appropriating \$62,000 for building improvements to the Richard Scardamelia Pavilion Building from the Lodging Tax Fund. Seconded by Mr. Yelding. All in favor.

B. Bids:

1. 2009-L DAPHNE PUBLIC LIBRARY ALTERATIONS & ADDITIONS

Jeff Hudson, Hatch Mott McDonald discussed that he recommended the low bidder, Thomas Construction and noted that the bid came in 13% below estimated project cost. Mr. Hudson also noted Hatch Mott had worked with Thomas Construction on a recent project and had good results. Mr. Hudson recommended approving all ten add alternates since the total project bid cost was below budget. Ms. Briley noted that total Architectural and Engineering cost for the project is \$110,000. Ms. Henson stated that Ms. Tonja Young had also requested an additions \$8,800 for equipment and furnishings for the new addition. Discussion continued that \$63,800 for equipment/furnishings was listed in the 5 year Capital Plan but since the bid came in below budget including some of these items and there were monies still available for the remaining request these items could be removed from the Capital Plan. Mr. Hudson discussed that there should be a tax savings of approximately \$30,000. Ms. Henson noted that there was a resolution in the packet appointing Thomas Construction as the purchasing agent and that it needed to be approved by Council in addition to the bid award.

Motion by Mr. Yelding to recommend to Council to adopt a resolution awarding bid 2009-L-DAPHNE PUBLIC LIBRARY ALTERATIONS & ADDITIONS to Thomas Construction in the amount of \$684,489 for the base bid and \$30,049 for Add Alternates for a total of \$714,535. Project Architectural/Engineering fees are not to exceed \$110,000 and additional furnishings needed in the amount of \$8,800 for a total project cost of \$833,338. Seconded by Mr. Scott. All in favor.

Motion by Mr. Yelding to recommend to Council to adopt a resolution appointing Cory Thomas, Vice President of Thomas Construction as the purchasing agent for purchases on the 2009-L-DAPHNE PUBLIC LIBRARY ALTERATIONS & ADDITIONS. Seconded by Mr. Scott. All in favor.

2. 2009-S-DISASTER DEBRIS DISPOSAL & REMOVAL SERVICES

Ms. Henson noted that 39 bid invitations were mailed/picked up, with 12 sealed bids received. Ms. Henson discussed that the bid just opened the same day and that Denise Penry, PW Accountant / EMA, and Melvin McCarley, PW Superintendent were still evaluating the bids. Ms. Henson noted that the bid tabulation she handed out was just one of the evaluation points... that the contractor's previous projects and their size and references were also a very important evaluation point. Ms. Henson stated that the current contract was extended to August 6, 2009 to allow time to award a new contract and that awarding a new contract is urgent since we are in Hurricane season. Ms. Henson requested that if the recommendation was submitted by Mr. Eady, PW Director before Wednesday if a Resolution could be put in the June 15, 2009 Council Packet and if not then the July 6, 2009 packet. The Finance Committee all agreed this contract award is urgent and the Resolution should be put before Council as soon as possible.

Bid recommendation will be reviewed by full Council to award the bid 2009-S-DISASTER DEBRIS DISPOSAL & REMOVAL SERVICES due to urgency to maintain a contract for Disaster Debris services.

C. Baldwin County Economic Development Alliance

Ms. Briley noted that an appropriation of \$10,000 has already been approved and that the Council now needs to adopt a Resolution authorizing the Mayor to enter into the contract with Baldwin County Economic Development Alliance.

Motion by Mr. Scott to recommend Council adopt a Resolution authorizing the Mayor to enter into a contract with the Baldwin County Economic Development Alliance in the amount of \$ 10,000 as previously appropriated. Seconded by Mr. Yelding. All in favor.

D. Authorize the Mayor to enter into contract with a web based procurement company

Ms. Henson discussed the online bidding process and reviewed terms and conditions of the company Bidbridge. Ms. Henson explained that the City still maintains total control of specifications of what is bid and awarding or rejecting the bids. Ms. Henson noted that she and the Mayor had met with Bidbridge representatives and the Mayor wanted to try the process to see if the City could obtain more competitive bids and save the City monies on these purchases. Ms. Henson explained the online process is similar to E-Bay in that the bidder watches the bidding process and continues to lower their bid (bidder cannot see amount they can only see what their ranking is to other bidders). Ms. Henson noted that there will be a public viewing of the bidding process at City Hall. Ms. Henson noted that the Governor of Alabama just signed the procedures put in place by Department of Public Examiners for the Reverse Auction process on May 21, 2009. Ms. Henson also noted that she had spoken with someone at the City of Prattville and they have used Bidbridge and the Reverse Auction bidding process and they were pleased with it. Ms. Henson noted that it would not be advantageous for all bids to be processed through the online process but large bids, particularly individual equipment purchases, would most likely be the ones that would be beneficial for the City.

Motion by Mr. Scott to recommend to Council to adopt a resolution authorizing the Mayor to enter into a contract with a Bidbridge, a web based procurement company. Seconded by Mr. Yelding. All in favor.

V. FINANCIAL REPORTS

A. Treasurer's Report: May 31, 2009

The Treasurer's Report totaling \$21,090,822.99 was presented.

Motion by Mr. Scott to accept the Treasurer's Report as of April 30, 2009, in the amount of \$21,090,822.99. Seconded by Mr. Yelding. All in favor.

B. Sales and Use Taxes: April 30, 2009

Sales and Use Tax Collected for March 2009	- \$ 823,173
Sales and Use Tax Budgeted for March 2009	- \$ 963,692
Under Budget (for March)	- \$ (140,518)

YTD Budget Collections Variance - Under Budget - \$ (676,259)

C. Lodging Tax Collections, April 30, 2009

The Lodging Tax Collections report shows \$44,277.75 collected for April 2009.

D. Summary Report: Revenues, Expenditures & Changes in Fund Balance – April 30, 2009

A Summary General Fund Statement of Revenues, Expenditures & Changes in Fund Balance as of April 30, 2009, was presented. The statement shows that revenues are currently over expenditures by \$83,380.

E. Report: New Business Licenses – May 2009

A report showing new businesses licensed in the City for the month of May was presented.

F. Bills Paid Reports – May 2009

The May Bills Paid Report was included in Packet #2.

VI. OLD BUSINESS

VII. ADJOURN

The meeting was adjourned at 5:40 p.m.

Fred Small

Mayor

Sharon Cureton

Human Resources Director



Sherree Hilburn

Payroll and Benefits
Coordinator

Vickie Hinman

Human Resources Assistant

The Jubilee City

June 4, 2009

HUMAN RESOURCES DEPARTMENT ACTIVITY UPDATE

Jobs Announced (Jan. to present)	Apps Received	Status
Human Resources Director	35	Applicants interviewed & references made. Hiring freeze by council.
SAIL Site Driver	17	Applicant hired.

Training

Leadership Academy

First Wednesday of every month 8-10 a.m. Jan-Dec, 2009

Leadership Academy Makeup Sessions (from missed 2008 sessions)

First Thursday of every month 8-10 a.m. March –August, 2009

June Make-up re-scheduled

Safety Meetings

Last Wednesday of every month 8:15 a.m. Jan-Dec, 2009

Recently Completed Projects

Completed quarterly random drug test – All negative results.

Human Resources Director last day June 3, 2009.

Letters sent to vendors for the Benefits Fair registration.

Temporary Summer jobs –High School teen-agers for Library and Coaches for Recreation Department summer camps.

Human Resources Department
P.O. Box 400 Daphne, Alabama 36526
Phone: (251) 621-3075⁸ Fax: (251) 621-4506

Upcoming Events and Projects

1. Processing bi-weekly employee evaluations
2. Planning for Benefits Fair July 29, 2009
3. Benefits Coordinator is researching insurance plans and costs for upcoming budget year. Department has not received all data from United Health insurance to date.
4. CPSI Inspectors Training

Please check out our website for updated information on training opportunities, job announcements, personnel policies and forms! www.daphneal.com/hr

Medical and Dental Insurance Quote Options

Local Government Health Insurance Plan – Plan Options of BCBS or United HealthCare. Once enrolled in LGHIP it is almost impossible to leave the plan due to buyout costs and contract provisions of not being eligible to enroll group with BCBS or UHC for period of two (2) years after ending LGHIP. The plan options offered by qualification are Preferred, Preferred in Transition, and Standard.

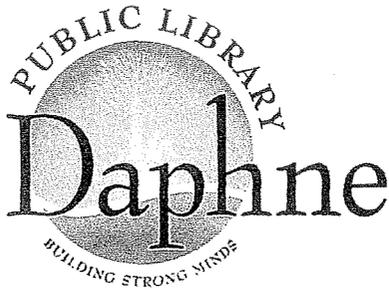
- Initial startup would be the **Standard Plan option for 2 years**. Depending on review of claims the option could be moved to the Preferred in Transition or Preferred option. This option may not change due to the Retiree percentage for the City of Daphne at the end of the 2 year period.
- **Application fee of \$50-per-employee** must be submitted with the group application package. Based on current medical insurance enrollment of 240 employees the **non-refundable** fee would be \$12,000. This fee covers the equity buy-in into the programs reserve, accumulated by existing units.
- Rate increase every year of at least 7%.
- Noted differences in LGHIP and current coverage are:

MEDICAL	LGHIP	CURRENT
Physician Co-Pay	\$30	\$20
Hospital Admission	\$100 deductible + \$50/day 2-5	\$200 deductible
Lab & routine testing	\$3 per test	None
Calendar Year Deductible	\$200/person up to 3/family	\$250/person up to 3/family
Out of Pocket	\$1000/person up to 3/family	\$400/person up to 3/family
Prescriptions*	80% of allowable amount	\$10, \$20 or \$35 Co-Pay
Total Cost – per family/mo	\$876	\$1018.81

*Employee must pay full cost at pharmacy and request reimbursement of 80% of allowable amount, subject to the \$200 per calendar year deductible. Claims Authorization Number is required.

United Health Care – this plan is a consumer driven plan with high deductibles and an optional GAP insurance plan available. The agent stated the plan typically has a savings of 30% but with the GAP insurance purchase (typically 10%) results in a saving of 20%. Quote information for the group has been provided with a request of detailed high claims being requested. Without this detailed claim information, which has been requested but not provided to date, the agent has been unable to provide a quote.

In contacting local physicians listed as providers for UHC, I learned some physicians are no longer taking new UHC patients. If the change is made to UHC, current patients using these physicians may not be accepted any longer. This may result in patient having to pay cost, submitting request to UHC for refund or finding a new UHC physician.



Daphne Public Library
2607 U.S. Highway 98
P.O. Box 1225
Daphne, AL 36526
(251) 621-2818

Date: June 2, 2009

To: Kim Briley, Daphne Finance Director
City of Daphne Finance Committee

Re: Daphne Library Addition Bids

After planning and review discussions with the Library Board, the Library Director, the Mayor, and the Finance Department concerning the library addition needed to better serve the citizens of Daphne, Architect Jeff Hudson of Hatch Mott McDonald prepared plans and accepted bids on Stage One of the planned library addition. Mr. Hudson's original estimate for this project (including staff work spaces, offices, and a public computer lab) was \$825,000. Based on the sealed bids submitted by eight construction companies on Thursday, May 28 of this year, the low bidder was Thomas Construction of Fairhope, Alabama. The bids submitted were as follows:

Base Bid:	\$ 684,489.00
<u>Ten Add Alternates:</u>	<u>\$ 30,049.00</u>
Total Construction Cost:	\$ 714, 538.00

Jeff Hudson has recommended using Thomas Construction, as the lowest bidder, for the construction of the Stage One Addition to the Daphne Public Library. He also stated that this would allow us to cover the base bid and all add alternates with a savings of 13%. I agree with the recommendation of Jeff Hudson to use Thomas Construction, pending approval of the Daphne Finance Committee and Mayor Small.

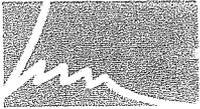
Sincerely,

Tonja Young
Daphne Public Library Director

est Architect/Engineering 714,538.00
110,000.00

824,538.00

31
Funds Available 847,000.00



Hatch Mott
MacDonald

incorporating:

Gatlin Hudson Architects P.O. Box 1290 805 Daphne Ave Daphne, AL 36526 T251.626.5514 F251.626.7321

June 2, 2009

City of Daphne Finance Committee

Re: Daphne Library Addition Bids

Bids were received on Thursday May 28th with the low bidder being Thomas Construction of Fairhope with a base bid price of:

\$ 684,489.00

The ten additive alternates from Thomas Construction totaled:

\$ 30,049.00.

The total construction cost with all alternates is:

\$ 714,538.00

The estimated budget was \$825,000.00, so we can recommend taking the base bid and all the additive alternates and the project will be 13% below budget.

Sincerely,

Jeff Hudson III
Hatch Mott MacDonald

BID TABULATION															
DAPHNE PUBLIC LIBRARY ALTERATIONS AND ADDITIONS															
Bid Date: May 28, 2009		Due: 2:00 p.m.		Daphne, Alabama		ARCHITECT: Hatch Mott MacDonald - #235694						Estimated Budget \$825,000			
CONTRACTORS	BASE BID	ENVELOPE CUTS	BASE BID TOTAL	ADD ALT. #1 Residential Appliances	ADD ALT. #2 (13) Shelving Units	ADD ALT. #3 (17) Shelving Units	ADD ALT. #4 (16) Carrel Units	ADD ALT. #5 Island Casework	ADD ALT. #6 Casework at Room #201	ADD ALT. #7 Modified Bitumen Roof	ADD ALT. #8 Work on Sheet E2.2 - Telcom	ADD ALT. #9 Hydraulic Elevator	ADD ALT. #10 A/V Work	Total	
Bayshore Construction	NO BID														
Case Construction	738,000.00	0.00	738,000.00	2,814.00	3,091.00	6,520.00	5,333.00	6,520.00	4,657.00	11,312.00	19,798.00	(9,765.00)	4,933.00	793,213.00	
Don Gordon Const.	723,400.00	0.00	723,400.00	2,100.00	4,200.00	5,200.00	5,000.00	5,700.00	4,350.00	11,400.00	20,000.00	(30,500.00)	3,900.00	754,750.00	
Gates Builders	789,890.00	0.00	789,890.00	2,200.00	2,100.00	2,300.00	5,200.00	6,100.00	4,550.00	2,694.00	30,240.00	(25,099.00)	5,699.00	825,874.00	
G. M. Stuart	NO BID														
M. W. Rogers Const.	NO BID														
Reed Construction	NO BID														
Stuart Contracting Co.	749,000.00	6,000.00	755,000.00	2,673.00	5,407.00	5,793.00	5,590.00	5,665.00	4,919.00	11,222.00	30,800.00	(23,000.00)	5,689.00	809,758.00	
Termac Construction	786,067.00	(18,000.00)	768,067.00	1,542.00	1,375.00	1,642.00	5,980.00	9,488.00	7,027.00	11,456.00	23,000.00	(11,666.00)	5,400.00	823,311.00	
Thomas Construction	694,489.00	(10,000.00)	684,489.00	1,200.00	1,800.00	2,400.00	4,600.00	4,200.00	2,500.00	2,464.00	18,000.00	(10,815.00)	3,700.00	714,538.00	
Trademark Construction	748,000.00	0.00	748,000.00	1,579.00	2,215.00	2,419.00	4,972.00	5,677.00	4,299.00	10,137.00	19,683.00	(8,930.00)	4,093.00	794,144.00	
Witherington Const.	NO BID														
Youngblood-Barrett Const.	719,332.00	0.00	719,332.00	2,805.00	2,399.00	3,038.00	5,190.00	5,661.00	4,312.00	12,310.00	28,283.00	(24,772.00)	7,605.00	766,163.00	

I certify that the above bids were received sealed and were publicly opened, read aloud at the time and place indicated and that this is a true and correct tabulation of all bids received for this project.

Suzanne

From: Hudson III, Jefferson B [jeff.hudson@hatchmott.com]
Sent: Tuesday, June 02, 2009 9:42 AM
To: hensonsm@bellsouth.net
Cc: Tonya Young; McCaughn, Forrest D
Subject: RE: Library Bid Numbers

Suzanne,

Here is our bid tab and letter of recommendation. I will bring originals to pass out to the Finance Committee.

Thanks.

Jeff

From: Suzanne Henson [mailto:hensonsm@bellsouth.net]
Sent: Monday, June 01, 2009 3:05 PM
To: Hudson III, Jefferson B
Subject: RE: Library Bid Numbers

Please send an official recommendation letter after you review... thanks

From: Hudson III, Jefferson B [mailto:jeff.hudson@hatchmott.com]
Sent: Thursday, May 28, 2009 3:08 PM
To: mayorsmall@bellsouth.net; Tonja Young
Cc: McCaughn, Forrest D; hensonsm@bellsouth.net
Subject: Library Bid Numbers

Got some good low numbers today:

Budget was:	825,000	
Base Bid	684,489	17% below budget
All Alternates	<u>30,049</u>	
Total w/all Alternates	714,538	13% below budget

You can get the base bid plus all the add alternates for the 714,538.

Thomas Construction of Fairhope is the low GC. They have just finish the renovation of Daphne High School Music Wing with us and did a good, fast, clean job.

We will check all the numbers and be ready for the next Finance Committee meeting.

Jeff Hudson III, RA
 SENIOR ASSOCIATE
Hatch Mott MacDonald
 Incorporating Gatlin Hudson Architects
 Daphne, Alabama
 T 251.626.5514
 F 251.626.7321

Suzanne

From: Hudson III, Jefferson B [jeff.hudson@hatchmott.com]

Sent: Friday, June 05, 2009 8:45 AM

Cc: McCaughn, Forrest D

Subject: RE: total Architect cost for Library

Suzanne,

The A/E fee is fixed with the exception of construction administration (CA) which is hourly, so I estimated it. Most of the reimbursable expenses are done but there could be more.

VE Fee	72,950
Civil Fee	8,500
CA is hourly	15,000 is an estimate
Reimbursable Exp.	12,000 9,800 to date, there may be more, better plug 12,000
	<u>110,000</u> - Architect Fees

There will also be a "tax savings" at the end of the project and the GC's estimate is <\$30,000>.

Any questions give me a call.

Jeff

From: Suzanne Henson [mailto:hensonsm@bellsouth.net]

Sent: Thursday, June 04, 2009 5:08 PM

To: Hudson III, Jefferson B

Subject: total Architect cost for Library

Jeff,

I am preparing the bid info for the Finance meeting and I need to list total project cost... please send me the total cost for architect services for the library project

thanks

Suzanne Henson

Sr. Accountant

City of Daphne

P. O. Box 400

Daphne, AL 36526

Phone: (251) 621-9000

Fax: (251) 626-3008

This email has been scanned by the MessageLabs Email Security System.
For more information please visit <http://www.messagelabs.com/email>

DAAPHNE PUBLIC WORKS

TO: FINANCE COMMITTEE
FROM: WILLIAM EADY SR., PUBLIC WORKS DIRECTOR
SUBJECT: BID RECOMMENDATION
#2009-S-DISASTER DEBRIS REMOVAL & DISPOSAL SERVICES
DATE: JUNE 10, 2009

The purpose of this bid is to establish a pre-event contract to remove as quickly as possible all hazards to life and property resulting from an emergency/hurricane/tornado/disaster affecting the City of Daphne. The bid opening was on June 8, 2009 at 11:30 a.m. in the Council Chambers. 12 bids were received.

We have reviewed the bids for completeness and fulfillment of the bid requirements. We evaluated the bidder's prior experience and equipment capabilities. We evaluated the overall pricing of debris removal, processing, and disposal as well as the cost of labor and equipment rates for emergency clearance.

After close analysis, we have determined that Crowder Gulf has met all City Bid requirements at the lowest total cost.

*Cc: Suzanne Henson, Senior Accountant
Kim Briley, Finance Director*

2009-S-DISASTER DEBRIS DISPOSAL & REMOVAL SERVICES

Name	2nd Round Asphalt Services	2nd Round SRS Inc	Crowder Gulf	1st Round Sycamore Const	1st Round JB Coxwell	3rd Round DRC	5th Round IED	1st Round Phillips & Jordan	1st Round Omni Pinnacle	2nd Round Bamaco Inc	1st Round Asplundh	4th Round D & J Enterprises
1 Mobilization From Public Property	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2 Haul to TDSRS From Private Property	\$ 6.00	\$ 4.94	\$ 6.70	\$ 10.00	\$ 9.95	\$ 6.88	\$ 5.85	\$ 7.75	\$ 8.25	\$ 5.80	\$ 8.49	\$ 6.75
3 Haul to TDSRS From Public Property	\$ 6.00	\$ 4.94	\$ 8.40	\$ 12.00	\$ 10.25	\$ 6.88	\$ 6.75	\$ 7.95	\$ 12.25	\$ 6.30	\$ 13.40	\$ 6.75
4 Haul to Final Disposal From TDSRS	\$ 6.00	\$ 5.90	\$ 8.40	\$ 12.00	\$ 10.90	\$ 7.24	\$ 5.85	\$ 7.75	\$ 9.25	\$ 7.90	\$ 11.90	\$ 6.75
5 Haul to Final Disposal	\$ 2.55	\$ 4.43	\$ 3.50	\$ 6.00	\$ 4.90	\$ 3.95	\$ 3.75	\$ 7.75	\$ 3.25	\$ 2.80	\$ 4.60	\$ 5.00
6 TDSRS Management	\$ 1.50	\$ 0.90	\$ 1.20	\$ 2.00	\$ -	\$ 1.00	\$ 1.00	\$ 2.25	\$ 0.75	\$ 2.80	\$ 3.50	\$ 1.80
7 Processing/Grinding Veg	\$ 1.60	\$ 1.95	\$ 2.75	\$ 4.50	\$ 3.00	\$ 2.42	\$ 2.40	\$ 1.70	\$ 2.50	\$ 1.78	\$ 1.25	\$ 1.95
8 Processing/Grinding C & D Processing/ Burning Veg	\$ 2.25	\$ 1.00	\$ 1.75	\$ 3.75	\$ 4.25	\$ 2.42	\$ 3.65	\$ 2.25	\$ 3.00	\$ 2.78	\$ 1.00	\$ 2.50
9 (Open Burning) Processing/ Burning Veg	\$ 1.00	\$ 1.00	\$ 1.20	\$ 4.00	\$ 1.90	\$ 0.75	\$ 2.00	\$ 0.95	\$ 1.50	\$ 0.78	\$ 0.85	\$ 1.50
10 (Air Curtain Incinerators)	\$ 1.25	\$ 1.75	\$ 2.00	\$ 3.00	\$ 2.00	\$ 1.25	\$ 2.50	\$ 3.50	\$ 2.00	\$ 1.40	\$ 2.15	\$ 1.65
11 Haul White Goods	\$ 12.00	\$ 45.00	\$ 30.00	\$ 30.00	\$ 10.00	\$ 30.00	\$ 15.00	\$ 55.00	\$ 45.00	\$ 45.00	\$ 100.00	\$ 75.00
12 Haul Haz Materials Freon Management &	\$ 5.00	\$ 37.00	\$ 2.00	\$ 55.00	\$ 4.00	\$ 5.95	\$ 35.00	\$ 18.00	\$ 6.00	\$ 1.66	\$ 100.00	\$ 15.00
13 Recycling	\$ 7.50	\$ 45.00	\$ 40.00	\$ 30.00	\$ 60.00	\$ 20.00	\$ 50.00	\$ 30.00	\$ 25.00	\$ 45.00	\$ 125.00	\$ 80.00
14 Dead Animal Collection	\$ 2.00	\$ 2.00	\$ 1.00	\$ 40.00	\$ 2.90	\$ 4.95	\$ 1.00	\$ 10.00	\$ 1.50	\$ 1.33	\$ 100.00	\$ 10.00
15 Stumps- 6" to 11.99"	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart
16 Stumps- 12" to 24"	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart	See Chart
17 Stumps- 24.1" to 47.99"	\$ 75.00	\$ 275.00	\$ 300.00	\$ 48.00	\$ 205.00	\$ 250.00	\$ 225.00	\$ 250.00	\$ 350.00	\$ 250.00	\$ 480.00	\$ 325.00
18 Stumps- 48" and greater	\$ 150.00	\$ 375.00	\$ 400.00	\$ 48.00	\$ 390.00	\$ 350.00	\$ 375.00	\$ 350.00	\$ 500.00	\$ 350.00	\$ 995.00	\$ 450.00
19 Hazardous limbs >2"	\$ 15.00	\$ 48.00	\$ 70.00	\$ 20.00	\$ 58.00	\$ 68.00	\$ 68.50	\$ 115.00	\$ 125.00	\$ 48.00	\$ 55.00	\$ 25.00
20 Hazardous trees 6"-12"	\$ 25.00	\$ 35.00	\$ 40.00	\$ 20.00	\$ 8.00	\$ 15.00	\$ 75.00	\$ 30.00	\$ 65.00	\$ 70.00	\$ 147.00	\$ 50.00
21 Hazardous trees 13"-24"	\$ 45.00	\$ 125.00	\$ 125.00	\$ 40.00	\$ 117.00	\$ 100.00	\$ 100.00	\$ 60.00	\$ 95.00	\$ 120.00	\$ 265.00	\$ 125.00
22 Hazardous trees 25"-36"	\$ 55.00	\$ 425.00	\$ 250.00	\$ 60.00	\$ 220.00	\$ 195.00	\$ 250.00	\$ 125.00	\$ 195.00	\$ 250.00	\$ 500.00	\$ 250.00
23 Hazardous trees 37"-48"	\$ 75.00	\$ 550.00	\$ 300.00	\$ 80.00	\$ 405.00	\$ 275.00	\$ 450.00	\$ 250.00	\$ 295.00	\$ 350.00	\$ 675.00	\$ 400.00
24 Hazardous trees >48"	\$ 125.00	\$ 700.00	\$ 400.00	\$ 100.00	\$ 470.00	\$ 350.00	\$ 500.00	\$ 350.00	\$ 395.00	\$ 450.00	\$ 1,280.00	\$ 500.00
25 Canals, Bayous and ditches	\$ 6.00	\$ 15.00	\$ 6.00	\$ 40.00	\$ 11.90	\$ 650.00	\$ 9.00	\$ 12.00	\$ 24.00	\$ 21.00	\$ 35.00	\$ 10.00
26 Bays and other open waters	\$ 450.00	\$ 9,500.00	\$ 50.00	\$ 5,000.00	NB	\$ 1,000.00	\$ 2,500.00	\$ 375.00	\$ 2,500.00	\$ 300.00	\$ 2,000.00	\$ 10,000.00
27 Boat removal	\$ 25.00	\$ 30.00	\$ 60.00	\$ 150.00	\$ 31.00	\$ 50.00	\$ 12.00	\$ 16.00	\$ 17.00	\$ 184.00	\$ 200.00	\$ 100.00
28 Emergency Road Clearance	Equip/Labor	Equip/Labor	Equip/Labor	Equip/Labor	Equip/Labor	Equip/Labor	Equip/Labor	Equip/Labor	Equip/Labor	Equip/Labor	Equip/Labor	Equip/Labor
29 Demolition of structures	\$ 1.50	\$ 1.25	\$ 2.00	\$ 3.00	\$ 2.90	\$ 2.00	\$ 4.24	\$ 7.00	\$ 3.25	\$ 1.20	\$ 5.00	\$ 8.00
30 Haz Waste Abatement Generators, light plants,												
31 Various equipment	10%	15%	15%	30%	10% NB		10%	20%	20% NB		NB	23%
N1 Additional over 30 m- TDSR	\$ 0.10	\$ 0.18	\$ 0.09	\$ 0.08	\$ 0.20	\$ 0.25	\$ 0.10	\$ 0.09	\$ 0.10	\$ 0.18	\$ 0.28	\$ 0.20
N2 Additional over 30 m- Final Cradle to grave- Vegetative	\$ 0.10	\$ 0.18	\$ 0.09	\$ 0.08	\$ 0.18	\$ 0.25	\$ 0.10	\$ 0.09	\$ 0.10	\$ 0.18	\$ 0.15	\$ 0.20
	\$ 9.74	\$ 8.90	\$ 11.53	\$ 18.00	\$ 14.18	\$ 11.29	\$ 10.19	\$ 13.64	\$ 12.31	\$ 11.08	\$ 14.39	\$ 11.75
Total 2-14	\$ 54.65	\$ 155.81	\$ 108.90	\$ 212.25	\$ 124.05	\$ 93.69	\$ 134.75	\$ 154.85	\$ 120.25	\$ 125.33	\$ 472.14	\$ 214.65
Total 17-24	\$ 565.00	\$ 2,533.00	\$ 1,885.00	\$ 416.00	\$ 1,873.00	\$ 1,603.00	\$ 2,043.50	\$ 1,530.00	\$ 2,020.00	\$ 1,888.00	\$ 4,397.00	\$ 2,125.00
Total 25-27	\$ 481.00	\$ 9,545.00	\$ 116.00	\$ 5,190.00	\$ 42.90	\$ 1,700.00	\$ 2,521.00	\$ 403.00	\$ 2,541.00	\$ 505.00	\$ 2,235.00	\$ 10,110.00
Total 29	\$ 1.50	\$ 1.25	\$ 2.00	\$ 3.00	\$ 2.90	\$ 2.00	\$ 4.24	\$ 7.00	\$ 3.25	\$ 1.20	\$ 5.00	\$ 8.00



American Red Cross

Alabama Gulf Coast Chapter

P.O. Box 1764
Mobile, AL 36633
www.redcrossalcoast.org

*FINACIS
Council*

Chapter Headquarters
853 Dauphin St.
Mobile, AL 36602
(251) 438-2571
Fax: (251) 436-7902

North Baldwin
Service Center
300 N. Hoyle Ave.
P.O. Box 75
Bay Minette, AL 36607
(251) 937-3801
Fax: (251) 937-0292

South Baldwin
Service Center
412 E. Laurel Ave.
Foley, AL 36536
(251) 943-3844
Fax: (251) 943-9049

DATE: May 12, 2009 MAY 19 2009
FROM: Diane Clewell, Baldwin County Director
TO: Mayor Fred Small and City Council
City of Daphne
SUBJECT: Baldwin County Disaster Response Coordinator

We are once again asking you, along with the Baldwin County Commission and the other municipalities in Baldwin County, to help us maintain the Disaster Response Coordinator position by entering into a contractual agreement with the Alabama Gulf Coast Chapter for the fiscal year. Your monies will be used for the position of Baldwin County Disaster Response Coordinator. We ask that the City of Daphne contribute \$4,500.00.



We need your financial support more than ever before because of the population growth in Baldwin County and our vulnerability to storm damage, which increases the potential need for American Red Cross services. As you know, we are solely funded by donations. The United Way of Baldwin County has been most supportive of American Red Cross, but the funding for this position comes exclusively from the Baldwin County Commission and some of the municipalities.

For your information, Red Cross in Baldwin County provided the following services during the past calendar year:

Armed Forces Emergency Services	70 families
Single Family Fire Response	56 families/\$27,763.80
Project SHARE	165 families/\$20,031.20

Also during 2008, American Red Cross volunteers contributed 4,912 hours for the benefit of our community.

Thank you for your consideration. Attached you will find the job description for the position, as well as a sample agreement. Please call me at 251-937-3801 if you have any questions or want further information.





American Red Cross

Alabama Gulf Coast Chapter

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**Contractual Agreement
Between
American Red Cross, Alabama Gulf Coast Chapter
And
City of Daphne**

Whereas, the Daphne City Council desires to provide certain public services to citizens and visitors to the City; and

Whereas, the American Red Cross can provide those services at less cost and in a more effective manner than the City can provide with City employees.

Now, therefore the Alabama Gulf Coast Chapter, American Red Cross and the City of Daphne agree as follows:

The American Red Cross agrees to provide the following services through the Disaster Specialist in Baldwin County.

- (1) Education for volunteers who want to do disaster work for American Red Cross, such as manning evacuation shelters, responding to single family disasters and multiple family disasters, i.e., apartment fires, tornado damage.
- (2) Educational programs for groups in order to apprise them of Red Cross Disaster Services and Disaster Preparedness.
- (3) Response to Baldwin County disasters (under Red Cross guidelines) and calling out volunteers to help with disasters as needed, twenty-four hours a day.

City of Daphne agrees to provide the sum of \$4,500 toward the funding of Disaster Services through the Baldwin County Disaster Specialist for fiscal year 2009-2010.

**American Red Cross
Alabama Gulf Coast Chapter**

City of Daphne

Leisle Mims, Executive Director

Honorable Fred Small, Mayor

Date

Date



Title	Coordinator, Response, Baldwin County
Chapter	Alabama Gulf Coast Chapter American Red Cross
City	Baldwin County
State	AL
Country	United States
Employment Status	Exempt
Full-Time / Part-Time	Full-Time
Reports To	Baldwin County Service Centers Director
Job Description	Ensure the uniform and efficient delivery of American Red Cross Disaster Relief Services, and provide backup support to Armed Forces Emergency Services and International Social Services and other community service outreach in Baldwin County. Execute disaster response and service delivery strategies; support and coordinate the response to Level I disasters in the county and the initiation of level II, III, IV and V disasters through close collaboration with the Chapter Director, Response Unit. Work closely with the Response Director to recruit, foster and develop relationships with various partners in the Baldwin County Area.

Major Responsibilities:

- In collaboration with the Chapter Response Unit, ensure that the Chapter Disaster Response Plan integrates with Baldwin County Emergency Management Plans.
- In accordance with national agreements, maintain close liaison and execute disaster response arrangements with voluntary organizations in the county. Work to improve these relationships as well as seek out new relationships with community agencies, volunteers and partners.
- Ensures provision of signed agreements, facilities, supplies, communications and personnel to respond to disasters in the chapter jurisdiction.
- Provides support to Coordinator of Disaster Volunteers to ensure the recruitment and training of adequate numbers of volunteers for local and national disaster operations.
- Develop and maintain effective relationships with government and community based organizations.
- Ensure the delivery of community disaster education programs within the county.
- Maintain membership in the DSHR system.
- Support chapter management in the accomplishment



PO Box 943
Robertsdale, AL 36567
Phone: 251-947-5641

familypromise@gulftel.com

May 20, 2009

Get on Time
Committee
Agenda

To Whom It May Concern:

I would like to take this opportunity to ask for your support for our first **Sausage Cook-off** to be held Sunday, July 12th 2009 at Oak Hollow Farms south of Fairhope. This event will directly benefit Family Promise of Baldwin County, Inc. We are a grassroots nonprofit organization that temporarily houses homeless families with children and helps equip them with the necessary tools and community networks to "get them back on their feet."

The **Sausage Cook-off** will be a family affair with good food and activities for the children. Businesses, groups and churches will be cooking recipes using sausage which will be available for tasting. Tickets (\$10) (Children under 6 are free) will be sold countywide. The money raised from this event will go directly to providing assistance to homeless families and overall operation of Family Promise – as we operate primarily on private donations and fundraising.

We would like to invite you to be a sponsor for this event. The attached proposal outlines the benefits of various sponsorship opportunities. We hope to have sponsors secured by July 1st, 2009 in order to effectively prepare the publicity and marketing materials included in the sponsorship package of your choice.

Family Promise of Baldwin County is a tax exempt organization per section 501(c) (3) of the Internal Revenue Code.

Thank you so much for your time and consideration to Family Promise of Baldwin County. Please contact me at 267-5319 if you have any questions. I look forward to hearing from you soon! Further information is enclosed but feel free to call or check www.familypromise.org for more information about our nation-wide program.

All donations are so appreciated!

Sincerely,

Jedey Simpson

Board Member, Family Promise of Baldwin County

Building community, strengthening lives.

Expenses for Russell Beason (Youth Advisory Board member for DARE)
to attend DARE Conference in Orlando, FL, July 21-23, 2009

Mileage: 1,000 miles @ .55 per mile =	\$550.00
Conference registration =	\$395.00
Hotel: 4 nights (July 20-23) @ \$123.20 per night =	\$492.80
Meals not with registration: 4 days @ \$15 per day =	<u>\$60.00</u>
<u>Total</u>	\$1,497.80

Daphne High School student Russell Beason, center, was selected to represent Alabama as a member of the Drug Abuse and Resistance Education Youth Advisory Board. Congratulating Beason are, from left, Daphne Principal Don Blanchard and DARE Sgt. Robin Snider, and from right, Daphne Mayor Fred Small and Daphne Police Chief David Carpenter.



Photo courtesy Tracy Bishop

DHS student selected for DARE board

► Local youth represents state as advocate for drug and alcohol prevention

By **LAUREN WOMACK**
Staff Reporter

Russell Beason of Daphne will represent the state of Alabama as a new member of the national Drug Abuse and Resistance Education Youth Advisory Board. The board, which includes one student from each state, gives students like Beason the oppor-

tunity to help lead the DARE America program and advise their communities on drug and alcohol prevention.

"We were looking for a student who is involved in the community, makes good grades, and stays out of trouble," Alabama DARE Coordinator and Daphne Police Sgt. Robin Snider said. "We were also looking for someone with skills in public speaking and writing, and Russell seemed to fit the role well."

Beason, 17, is the son of Larry and Colleen Beason and is a rising junior at Daphne High School. He said he is excited

about the position and looks forward to providing a good example for today's youth.

"Younger kids look to older high school students as role models," he said. "If they see 50 teens across the nation showing that drugs are bad, they will see that there is a way to avoid them."

All 50 board members will attend a convention July 20-24 in Orlando, Fla., where they will share ideas on how to promote a drug-free lifestyle.

Please see *Student* Page 4 ►

Student selected for DARE

► Continued from Page 1

Members will also be eligible for a \$20,000 DARE America scholarship upon graduation from high school.

Terry Wilhite, Baldwin County school system spokesperson, said Beason's prominent role in the DARE program would emphasize substance abuse prevention, especially within the local community.

"It's a big honor for Russell, but it's an even bigger honor for our school system," he said. "The success

of drug and alcohol prevention ultimately comes down to student involvement in the effort."

"The DARE program works to explain the effects that drugs can have on a person's life," Beason said. "I want to be a model for drug awareness."

Teachers with Daphne High's International Baccalaureate program and staff at the Daphne Public Library nominated Beason for the Youth Advisory Board. Librarian Louise Youngblood knows Beason through his in-

volvement in the library's Teen Advisory Board. She said she has "no doubt" that Beason will do well in his new position on the DARE Board.

"Wherever there has been a project or opportunity to serve the community, Russell has been right there," she said. "It was a delight for me to be able to recommend him for the DARE Youth Advisory Board."

For more information on the DARE program, visit the Web site at www.dare.com.

Suzanne

From: Kim Briley [kmbriley@bellsouth.net]
Sent: Thursday, May 28, 2009 1:37 PM
To: hensonsm@bellsouth.net
Subject: FW: BCEDA Investment

Finance Committee

From: Jane Robbins [mailto:mayorassist@bellsouth.net]
Sent: Thursday, May 28, 2009 1:01 PM
To: 'Kim Briley'
Subject: FW: BCEDA Investment

Kim,
I don't think this has gone before council and if not can you please place on the agenda for the next Finance Committee meeting so that it can go before council at last meeting in June.

Thanks.

Jane Robbins
Assistant to Mayor Small
321-9000

From: Robert Ingram [mailto:ringram@baldwineda.com]
Sent: Thursday, May 28, 2009 9:26 AM
To: Small, Hon Fred (Mayor); Small, Hon Fred (Mayor)
Cc: David Rauch; David Horton; Karen Glover; Bob Higgins
Subject: BCEDA Investment

\$10,000

Mayor, do you know if the \$10,000 annual funding for the Daphne Investment in the Alliance has been approved?

This is actually the 2008 commitment, I believe, which was billed in October of last year.

We are going into our slow season on cash flow and I will probably need to make arrangements borrow funds from our line of credit in June to cover payroll if we don't generate some cash pretty quick.

Please let me know if there is anything we do to do.

Thanks,
Robert

Robert Ingram
President/CEO
Baldwin County
Economic Development Alliance
251-947-5714

Suzanne

From: Richard Merchant [bldgofficial@bellsouth.net]
Sent: Monday, June 08, 2009 7:41 AM
To: hensonsm@bellsouth.net
Subject: RE: Bayfront building estimate

Suzanne, I would like to add \$5,000 to the contingency monies for unseen damage and \$4,000 for restroom upgrade to ADA compliance work to be done by the maintenance Department.

Thanks,

Richard Merchant
Building Official

From: Suzanne Henson [mailto:hensonsm@bellsouth.net]
Sent: Friday, June 05, 2009 4:11 PM
To: 'Richard Merchant'
Subject: Bayfront building estimate

Richard,
I received the quotes for the repairs to the Bayfront Pavilion building that were requested by the Buildings and Properties Committee. This is a reminder for you to send me the other repair cost (list below and return to me) so we can submit a total project cost to the Finance Committee:

- Bayfront Building Repair Estimate (low quote):..... \$41,000
- Contingency monies for building repairs if internal wood damage found: \$
- Repair work to be done by City Building Maintenance department: \$
- Carpet: not to exceed\$12,000
- \$

THanks!
Suzanne Henson
Sr. Accountant

City of Daphne
P. O. Box 400
Daphne, AL 36526
Phone: (251) 621-9000
Fax: (251) 626-3008

Repair Estimate	41,000
Contingency	5,000
City crews	4,000
Carpet	<u>12,000</u>
	62,000

MDH Construction Services,

8954 S. Lamhatty Ln.
 Daphne, Al. 36526
 Fax 251-621-1872
 Ph 251-379-4043

Estimate

Date	Estimate #
4/20/2009	91

Name / Address
The City of Daphne

Bayfront Building

			Project
Description	Qty	Cost	Total
Siding of 6600 Bayfront Park			
Fix any rotten wood and install 7 1/4 lap siding (concrete composite) over existing plywood siding. The entire building will have new weather barrier installed. We will flash and peal & stick all the deck areas to help with water intrusion. This includes weather taping the windows and adding new trim around all window and doors.		27,625.00	27,625.00
Paint for new siding. 2-Coats of Sherwin Williams premium paint. The material is already primed.		6,500.00	6,500.00
Repairs to front deck to fix hand rails.		625.00	625.00
Tear off old 2x4 on handicap deck and replace with new and add 2x2 spindle to bring the deck up to code. We will use the existing 4x4 on the deck.		3,750.00	3,750.00
Permit, dumping fees, portable toilet and scaffolding fees.		2,500.00	2,500.00
		Total	\$41,000.00

Phone #	Fax #	E-mail
251-379-4043	251-621-1872	Mikiesbeer@aol.com

TREASURER'S REPORT

As of May 31, 2009

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	\$13,172,451.00
OPERATING ACCT	COMPASS	(\$533,104.23)
PAYROLL ACCT	COMPASS	(\$12,378.80)
		<u>\$12,626,967.97</u>
AGENCY FUND		
MUNICIPAL COURT	COMPASS	\$336,723.24
SPECIAL REVENUES FUND		
SAIL SITE	RBC BANK	\$9,632.66
4 CENT GAS TAX	RBC BANK	\$234,742.99
7 CENT GAS TAX	RBC BANK	\$317,212.31
		<u>\$561,587.96</u>
CAPITAL PROJECTS FUND		
CAPITAL RESERVE	WACHOVIA	\$3,813,370.68
99 WARRANT CONS	REGIONS	\$12,681.78
2006 CONSTRUCTION	WACHOVIA	\$1,548,208.05
		<u>\$5,374,260.51</u>
DEBT SERVICE FUND		
DEBT SERVICE	WACHOVIA	\$1,785,293.75
2006 DEBT SERVICE	RBC BANK	\$405,989.56
		<u>\$2,191,283.31</u>
		<u>\$21,090,822.99</u>

SALES & USE TAXES

ACTUAL COLLECTIONS

	2003	2004	2005	2006	2007	2008	2009
October	636,482.64	697,830.58	833,700.71	932,634.66	944,542.36	867,190.18	806,503.85
November	646,534.10	710,788.74	814,666.03	901,512.38	918,837.95	915,890.97	801,075.91
December	892,208.68	941,151.87	1,091,073.78	1,168,443.68	1,182,584.39	1,120,005.09	1,078,330.45
January	590,727.65	697,083.68	771,837.83	887,468.11	914,876.33	822,020.87	755,541.41
February	632,654.31	688,421.54	788,825.08	878,123.66	877,975.60	865,625.83	748,620.87
March	705,390.20	848,156.86	917,832.17	1,081,774.83	1,071,598.38	998,616.04	863,535.78
April	692,148.44	752,039.55	863,144.81	968,760.72	960,140.54	963,691.85	823,173.33
May	702,692.15	757,610.49	867,446.44	1,000,424.48	1,021,498.14	957,167.20	-
June	752,668.04	818,209.20	982,863.46	1,024,091.07	1,066,433.92	997,274.15	-
July	721,790.90	803,051.14	908,576.13	941,407.68	993,216.66	888,690.34	-
August	739,993.63	745,320.33	869,818.11	950,539.01	954,421.57	964,626.26	-
September	715,641.36	830,260.80	998,476.08	967,616.16	965,107.35	919,923.79	-
Totals	8,428,932.10	9,289,924.78	10,708,260.63	11,702,796.44	11,871,233.19	11,280,722.57	5,876,781.60

FY 2009 BUDGET/ACTUAL COMPARISONS

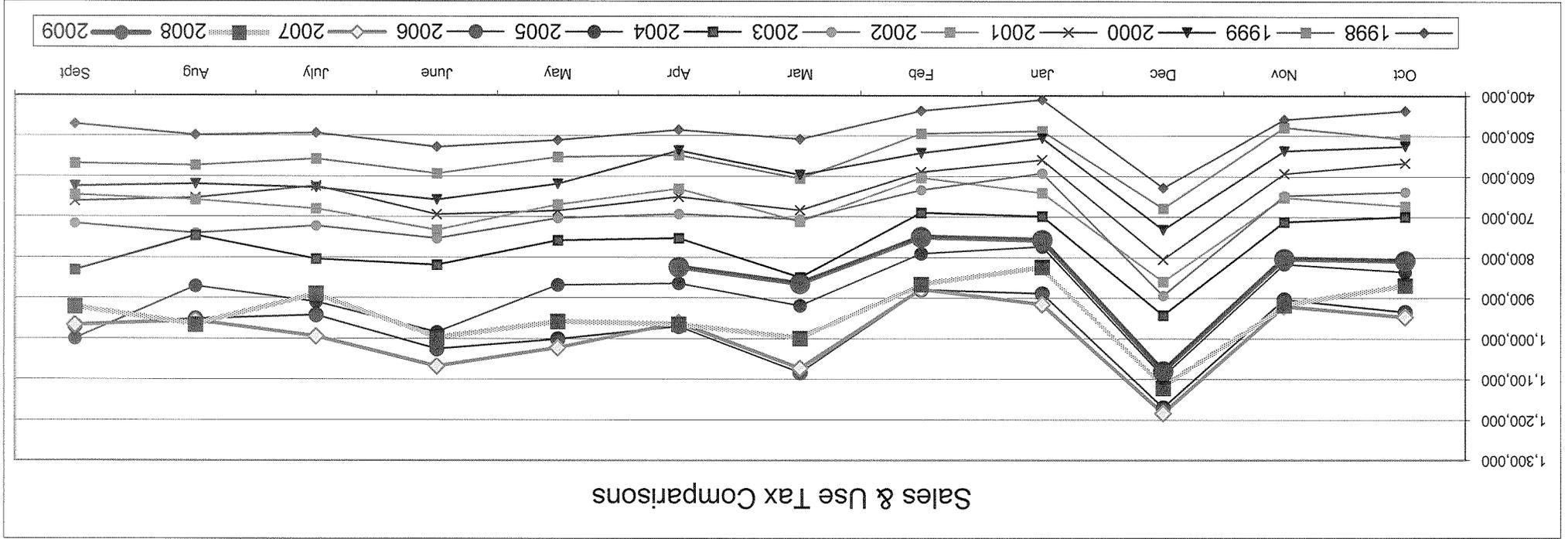
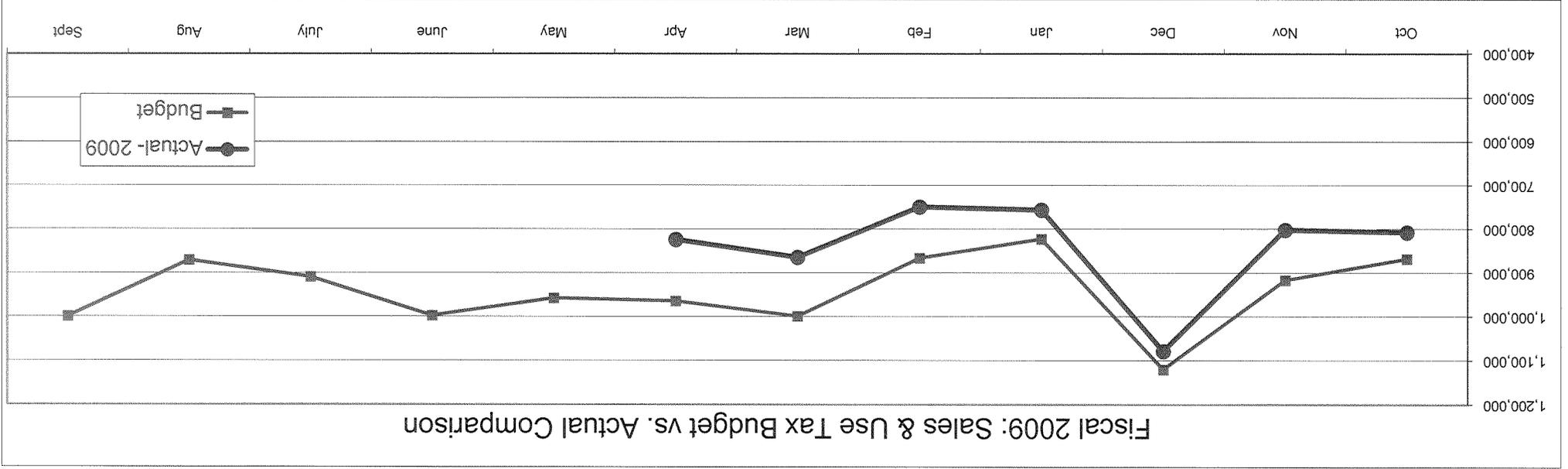
	Actual- 2009	Budget	Monthly Variance	YTD Variance	% of Budget
October	806,503.85	867,190	(60,686.33)	(60,686.33)	-7.00%
November	801,075.91	915,891	(114,815.06)	(175,501.39)	-12.54%
December	1,078,330.45	1,120,005	(41,674.64)	(217,176.03)	-3.72%
January	755,541.41	822,021	(66,479.46)	(283,655.49)	-8.09%
February	748,620.87	865,626	(117,004.96)	(400,660.45)	-13.52%
March	863,535.78	998,616	(135,080.26)	(535,740.71)	-13.53%
April	823,173.33	963,692	(140,518.52)	(676,259.23)	-14.58%
May	-	957,167	-	-	0.00%
June	-	997,274	-	-	0.00%
July	-	908,576	-	-	0.00%
August	-	869,818	-	-	0.00%
September	-	998,476	-	-	0.00%
Totals	5,876,781.60	11,284,353	(676,259.23)		

FISCAL YEAR COMPARISONS

	\$ Change						Percent Change					
	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009
October	61,347.94	135,870.13	98,933.95	11,907.70	(77,352.18)	(60,686.33)	9.64%	19.47%	11.87%	1.28%	-8.19%	-7.00%
November	64,254.64	103,877.29	86,846.35	17,325.57	(2,946.98)	(114,815.06)	9.94%	14.61%	10.66%	1.92%	-0.32%	-12.54%
December	48,943.19	149,921.91	77,369.90	14,140.71	(62,579.30)	(41,674.64)	5.49%	15.93%	7.09%	1.21%	-5.29%	-3.72%
January	106,356.03	74,754.15	115,630.28	27,408.22	(92,855.46)	(66,479.46)	18.00%	10.72%	14.98%	3.09%	-10.15%	-8.09%
February	55,767.23	100,403.54	89,298.58	(148.06)	(12,349.77)	(117,004.96)	8.81%	14.58%	11.32%	-0.02%	-1.41%	-13.52%
March	142,766.66	69,675.31	163,942.66	(10,176.45)	(72,982.34)	(135,080.26)	20.24%	8.21%	17.86%	-0.94%	-6.81%	-13.53%
April	59,891.11	111,105.26	105,615.91	(8,620.18)	3,551.31	(140,518.52)	8.65%	14.77%	12.24%	-0.89%	0.37%	-14.58%
May	54,918.34	109,835.95	132,978.04	21,073.66	(64,330.94)	-	7.82%	14.50%	15.33%	2.11%	-6.30%	-
June	65,541.16	164,654.26	41,227.61	42,342.85	(69,159.77)	-	8.71%	20.12%	4.19%	4.13%	-6.49%	-
July	81,260.24	105,524.99	32,831.55	51,808.98	(104,526.32)	-	11.26%	13.14%	3.61%	5.50%	-10.52%	-
August	5,326.70	124,497.78	80,720.90	3,882.56	10,204.69	-	0.72%	16.70%	9.28%	0.41%	1.07%	-
September	114,619.44	168,215.28	(30,859.92)	(2,508.81)	(45,183.56)	-	16.02%	20.26%	-3.09%	-0.26%	-4.68%	-
Annual \$ Change	860,992.68	1,418,335.85	994,535.81	168,436.75	(590,510.62)	(676,259.23)	10.21%	15.27%	9.29%	1.44%	-4.97%	

TOTAL collections: FY 08	11,280,723
TOTAL est. bdgt coll: FY 09	11,284,353
Budgeted Dollar Variance 08/09	3,630
Budgeted Percent Variance 08/09	0.03%

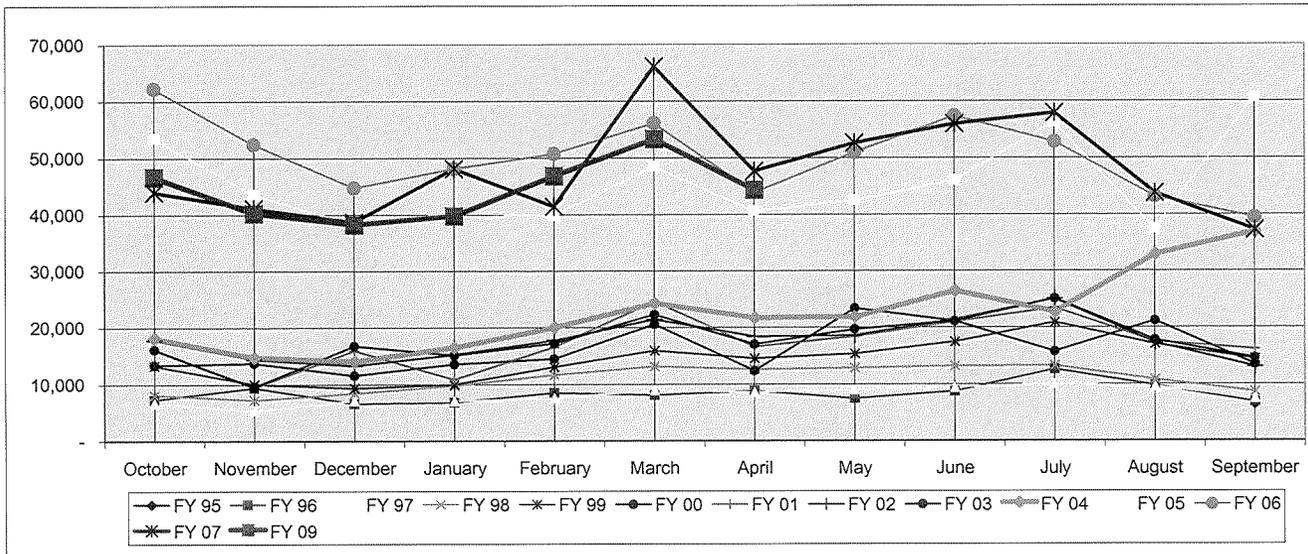
TOTAL collections: 4-30-09	5,876,782
Budgeted: 10-1-08 to 4-30-09	6,553,041
Actual Coll > (<) Budget, 4-30-09	(676,259)
% Over/(Under) Budget, 4-30-09	-10.32%



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>	<u>FY 06</u>	<u>FY 07</u>	<u>FY 08</u>	<u>FY 09</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	62,191.49	43,874.01	46,360.47	46,543.20	
November	9,371.57	5,419.99	7,156.30	9,963.87	13,712.88	9,378.73	14,346.00	9,488.82	14,652.46	43,652.17	52,326.23	41,028.15	42,599.84	40,178.69	
December	6,580.10	7,076.44	8,327.51	9,303.23	11,505.34	15,885.37	13,257.40	16,693.64	13,940.92	38,197.96	44,694.55	38,605.47	31,081.14	38,144.69	
January	6,765.39	6,990.72	9,704.80	9,934.03	13,517.89	10,802.39	15,150.55	15,089.26	16,416.20	40,334.81	48,014.80	48,012.19	45,607.80	39,706.04	
February	8,466.36	7,536.69	11,579.98	13,024.87	14,425.61	16,482.91	17,680.30	17,174.37	19,952.91	39,797.68	50,684.11	41,381.78	47,340.33	46,699.01	
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	56,076.62	66,060.49	53,123.15	53,230.85	
April	8,802.85	8,533.40	12,559.65	14,513.45	12,327.50	16,532.24	18,354.06	16,974.57	21,626.29	40,666.33	43,813.91	47,594.84	46,736.02	44,277.75	
May	7,427.26	8,958.97	12,786.85	15,280.40	23,309.92	18,386.51	18,526.24	19,610.83	21,785.09	42,479.97	50,871.74	52,564.61	46,145.12		
June	8,672.68	9,359.82	13,101.68	17,379.01	21,073.57	20,948.57	21,322.07	21,031.35	26,336.81	46,037.59	57,338.25	55,924.22	64,626.19		
July	12,568.56	9,975.46	13,200.77	20,840.98	15,680.49	23,389.72	25,013.71	25,026.81	22,654.15	56,266.23	52,752.31	57,842.80	62,035.23		
August	9,721.13	9,549.66	10,730.24	17,009.26	21,117.00	17,432.39	17,223.03	17,749.12	32,788.35	37,501.21	43,139.77	43,701.41	55,792.89		
September	6,371.27	6,806.02	7,400.70	8,586.97	14,397.17	13,393.86	16,116.04	12,997.60	14,563.86	36,847.13	60,635.33	39,398.90	37,180.99	49,698.91	
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	547,535.15	601,302.68	573,770.96	591,147.09	308,780.23

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



<u>FY 2009 Budget</u>	924,600
<u>% Budget Collected</u>	
<u>4/30/2009</u>	33%

GENERAL FUND

Summary Statement of Revenues, Expenditures, and
Changes in Fund Balance- Budgetary Basis
For the Month Ended April 30, 2009

with comparatives: 4-30-03; 4-30-04; 4-30-05; 4-30-06; 4-30-07; 4-30-08

	4/30/2003	4/30/2004	4/30/2005	4/30/2006	4/30/2007	4/30/2008	4/30/2009	Amended Budget	Budgetary Variance Over/(Under)	% Budget
Revenues										
Sales, Use, & luxury Taxes	4,334,760	4,828,853	5,491,702	6,137,862	6,198,708	5,895,366	5,367,502	11,896,353	(6,528,851)	-55%
Payment in Lieu of Taxes	101,089	153,981	114,384	165,926	235,545	236,833	235,022	2,035,000	(1,799,978)	-88%
Ad Valorem Taxes	2,377,534	2,624,449	2,696,162	2,971,734	3,475,582	3,520,438	4,272,464	3,981,000	291,464	7%
Licenses & Permits	1,386,105	1,512,049	1,511,657	1,714,258	1,895,655	2,065,837	1,570,898	2,078,575	(507,677)	-24%
Other Revenues	661,450	757,368	635,156	1,061,674	891,616	779,661	766,701	1,489,802	(723,101)	-49%
Total Revenues	8,860,937	9,876,700	10,449,062	12,051,454	12,697,106	12,498,135	12,212,587	21,480,730	(9,268,143)	-43%
Expenditures										
General Government										
Personnel	696,564	748,463	804,204	832,049	915,328	1,042,682	1,105,937	2,052,627	(946,690)	-46%
Operating	479,343	495,224	497,585	499,254	664,493	559,619	712,455	1,420,876	(708,421)	-50%
Capital	47,924	32,332	6,920	78,750	-	-	-	-	-	#DIV/0!
	1,223,831	1,276,019	1,308,709	1,410,054	1,579,822	1,602,301	1,818,393	3,473,503	(1,655,110)	-48%
Public Safety										
Personnel	2,046,801	2,149,883	2,206,291	2,460,354	2,896,570	3,877,836	4,030,582	7,383,808	(3,353,226)	-45%
Operating	432,824	465,051	478,128	632,720	730,039	816,822	680,479	1,315,942	(635,463)	-48%
Capital	250,613	162,143	-	13,405	116,356	56,044	71,708	91,428	(19,721)	-22%
	2,730,239	2,777,076	2,684,419	3,106,479	3,742,965	4,750,702	4,782,769	8,791,178	(4,008,409)	-46%
Public Works										
Personnel	956,555	993,587	1,027,636	1,061,625	1,317,370	1,210,218	1,302,000	2,459,890	(1,157,890)	-47%
Operating	515,465	559,063	652,510	677,468	738,212	683,650	690,717	1,472,972	(782,255)	-53%
Capital	78,189	27,552	24,770	347,848	95,925	11,062	7,533	80,350	(72,817)	-91%
	1,550,210	1,580,202	1,704,915	2,086,940	2,151,508	1,904,930	2,000,251	4,013,212	(2,012,961)	-50%
Parks & Recreation										
Personnel	428,535	456,299	497,258	508,610	531,080	688,222	687,433	1,340,009	(652,576)	-49%
Operating	264,224	322,094	346,943	284,316	329,031	353,707	309,693	577,422	(267,729)	-46%
Capital	22,695	9,513	31,194	10,500	256,357	200,000	194,595	200,000	(5,405)	-3%
	715,455	787,906	875,395	803,426	1,116,467	1,241,930	1,191,721	2,117,431	(925,710)	-44%
Total Departmental										
Personnel	4,128,456	4,348,232	4,535,390	4,862,638	5,660,348	6,818,958	7,125,953	13,236,334	(6,110,381)	-46%
Operating	1,691,857	1,841,431	1,975,165	2,093,758	2,461,775	2,413,799	2,393,345	4,787,212	(2,393,867)	-50%
Capital	399,422	231,540	62,884	450,503	468,638	267,106	273,836	371,778	(97,942)	-26%
	6,219,734	6,421,203	6,573,439	7,406,899	8,590,761	9,499,863	9,793,134	18,395,324	(8,602,190)	-47%
Other Financing Sources & Uses										
Debt Proceeds	273,480	-	-	-	-	-	-	-	-	-
Transfers to Debt Service	(1,589,518)	(1,050,151)	(1,289,144)	(1,218,551)	(1,902,949)	(1,920,638)	(2,096,532)	(2,610,186)	(513,654)	20%
Other Transfers & Uses	(274,910)	(401,644)	(253,410)	(133,537)	(177,948)	(264,729)	(239,541)	(754,490)	(514,949)	68%
Total Other Financing Sources/Uses	(1,590,948)	(1,451,795)	(1,542,554)	(1,352,088)	(2,080,897)	(2,185,367)	(2,336,073)	(3,364,676)	(1,028,603)	31%
Total Revenues Over Expenditures										
	1,050,255	2,003,702	2,333,069	3,292,466	2,025,448	812,905	83,380	(279,270)	362,650	
Unreserved Fund Balance, 10-01	2,386,488	3,825,172	4,106,801	5,968,130	8,298,621	10,050,583	10,441,934			
Unreserved Fund Balance, 4-30	3,436,743	5,828,874	6,439,869	9,260,596	10,324,069	10,863,488	10,525,314			

**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:

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MAY 7, 2009 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL

The Chairman stated the number of members present constituted a quorum and the regular meeting of the Board of Zoning Adjustment was called to order at 6:00 p.m. Let us have roll call.

Call of Roll:

Members Present:

Jeri Hargiss, Secretary
Frank Lamb
Glen Swaney
Willie Robison, Chairman
Billy Mayhand

Member Absent:

Barry Taylor
Jim Moss

Staff Present:

Adrienne D. Jones, Director of Community Development
Pat Houston, Recording Secretary
Tony Hoffman, BZA Attorney

The Chairman stated the next item on the agenda is the approval of the February 5th minutes. Has everyone read the minutes? The Chair will entertain a motion to approve the minutes as written.

Approval of Minutes:

The minutes of the February 5, 2009 meeting were considered for approval.

A **Motion** was made by **Mr. Mayhand** and **Seconded** by **Mr. Swaney** to **approve the minutes as written.**

Upon roll call vote, **the Motion carried, unanimously.**

New Business:

Appeal #2009-02 - AHEPA 310-XII, Inc.

The Chairman stated the first item on the agenda is Appeal #2009-02, AHEPA, a parking variance to allow the proposed senior apartment complex to be built to provide thirty-nine (39) parking spaces in lieu of the required fifty-two (52) which is located on south Pollard Road southwest of the intersection of County Road 64.

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MAY 7, 2009 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

The Chairman stated I am not going to put the cart before the horse tonight, Ms. Jones will you take us through this appeal.

Ms. Jones displayed a Power Point Presentation showing the proposed site and the property adjacent to the north, south and east as well as Pollard Road and AHEPA sites already built in Mobile. She stated before I began I would like to remind everyone to speak into their microphone. We have AHEPA, which is the American Hellenic Educational Progressive Association that is proposing an apartment complex on Pollard Road. Right now the property is zoned R-4, Multi-Family. Per the Land Use Ordinance what is required is one point five (1.5) parking spaces per unit and the applicant is requesting one parking space per unit, which gives a requirement of fifty-eight point five (58.5), and they are requesting to be allowed to do only thirty-nine (39) parking spaces. They also had a site plan application for consideration before the Planning Commission on April 23rd where the Commission tabled their application pending the outcome of your actions on tonight before proceeding any further. Approval would allow them to move forward, but denial would mean either the reduction in the size of their building, the reduction in the number of units or adding the number of parking spaces that are required. On screen is a copy of the site plan that was considered for approval and I also brought the big paper version in case anyone needed to take a look at them. This is a view of the building elevation. It is going to be a three story facility, again thirty-nine units.

Mr. Swaney stated what is the approximate square footage of those units?

Ms. Jones stated thirty-eight thousand four hundred and ninety two total.

Mr. Swaney stated of each unit.

Ms. Jones stated unit. I am sorry, that was the total of the building. We will have to ask them because I do not have that. This is the first floor, second floor and third floor. I also have information that was provided by the applicant and I will just flip through it. It is just mainly for your information and they will be able to explain more of it when they come up. This is a survey of parking spaces for AHEPA-310 apartments. I think you also have this in your packets. This information is from the City of Hoover, the applicant provided this to show you that some city ordinances allow one space per unit. These are seven AHEPA sites they have compiled which all assume reduced parking. I am not sure if they were by variance or whether by Ordinance. This one is in Mobile on Hillcrest Road, this one is in Saraland, another in Mobile, Bayou Batre, Semmes and I am not sure where this one is located, they will have to explain that one, I could not figure it out.

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MAY 7, 2009 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

Ms. Jones stated here is another on Demetropolis Road and Olympic Lane, which is another question mark as to the location or what city it is. This is what I am calling the findings table and I will not get into it right now, I will allow the applicants to make their presentation and afterwards we can start with the table if that is okay. That is all.

The Chairman stated is there anyone here to speak on behalf of the land developer and if you would state your name for the record?

Mr. Rigas stated my name is Art Rigas. I am with BES Engineers out of Fairhope. I did most of the engineering work on this project. I have with me two of the Architects from Tag Architects out of Mobile. They are the main architect designers on the project. The project as you know has thirty-nine units. It is a housing unit for the elderly. Their experience, as you can see by the table that was flashed before you a few minutes ago, is that ten similar projects have got the one to one or less parking ratio, either by variance or by actual approval of the local code. The site is a difficult site in that it is quite severely sloped from Pollard Road back to the drain about two thirds of the way back. There is quite a difference in elevation, and we took that into consideration in design by the layout of the parking to have the parking somewhat serpentine or wind down and parallel the main drives and the building with the existing contours. We took some special consideration because of the erosion potential on this site by, of course, designing an oversized detention pond on the downstream side, and also requiring the contractor to use solid sod to cover all the disturbed areas instead of planting seed and waiting for it to grow and planting more seed and more seed. Usually you can pay for sod after the second seeding and most all of the time you have to second seed. We also called for the parking in driveway to have an asphalt base, which is a three-inch thick asphalt base that you will build the project on so that you do not have material trucks and subcontractors coming in and rutting up the driveway after an enduring big rain. You will basically be able to build the project on an asphalt surface where the vehicles will be. Then pretty much after the project is complete you put a wearing surface on top of that about an inch and a half asphalt wearing surface on top of the black base, which gives you a smooth finished look without the nicks, bumps and cuts that you get during construction. The request is two-fold, I guess, in the sense that we are asking for it for two different reasons. One is the severity on the site. There is only so much space available for parking with the building. The back one third is really not usable because it is separated by that drain. The other is the experience factor the Architects and AHEPA have on the number of spaces they typically need. A number of their tenants do not require automobiles, and you may have noticed in mostly every one of the pictures there were an awful lot of empty spaces.

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MAY 7, 2009 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

Mr. Rigas stated we have got an alternate revision to add some places, if you are not willing to go along with the one to one. We can talk about that, but I want to answer any questions you might have before we got into that.

Mr. Swaney stated I have a question for you Mr. Rigas. You are showing a very sharp slope topographically in back of the unit. Is that a retention pond we see there?

Mr. Rigas stated the retention pond is right back in here. We put a double boxed culvert back here, and just off to one side of it is where the retention pond will be so that we can capture the run-off from the building and the parking lot totally.

Mr. Swaney stated does the retention pond pretty much follow the existing slope of the ground?

Mr. Rigas stated yes, sir. It runs north and south in this long dimension. Again the only place we could put a detention pond and still capture all of the building and parking lot run off was to put it on that side of the building.

Mr. Swaney stated the reason I asked the question was I am wondering can you get additional parking in the back.

Mr. Rigas stated the slopes pretty much prevent that. I do not know if you noticed, but you can see the contours right back there. This is a fire truck drawn in on a fire lane that the Fire Department asked for. You might get some overflow parking there, but you try not to block a fire lane. The slopes over here are quite severe and the slopes over here are quite severe so there is really no way to get back there to get much parking. We can tuck a few in here and there, but the site is heavily landscaped and of course, the more parking you put in the more run off you have and the less landscaping space you have. We would like to kind of keep the space open and still heavily landscape that area between the road and the building.

The Chairman stated Mr. Rigas I noticed from on your one and half to one survey that you had done that it has been proven that normally there is basically one vehicle per senior adult so only one parking space is needed.

Mr. Rigas stated Adrienne will you pop that table back up, please.

Mr. Mayhand stated when you say senior adult what age are you referring to? The minimum age.

Mr. Barr stated sixty two minimum. I am David Barr with The Architect Group.

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MAY 7, 2009 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

The Chairman stated could you speak into the microphone. This is being recorded and it is hard to pick it up sometimes. Thank you.

Mr. Barr stated minimum sixty two, but if you can see the bottom of the chart there, it says that ninety-seven percent of the tenants existing in the projects are over sixty-five. In fact, most of them are seventy and even eighty. The whole concept is that they will move there and be able to age in place. We want to keep them there as long as we can unless they have to go, and even of the ones that have cars there are very few that drive anymore. AHEPA provides transportation services. They are a non-profit group. They have a van that serves the project, which takes them to shopping and things like that and that is even less of a need for them to have a car.

Mr. Swaney stated going back to my original question. What is your average square footage of a unit?

Mr. Barr stated they are five hundred and forty square feet, they are one bedroom units and that is another thing, nobody can live with the tenants. They cannot have an adult child living with them, it is not allowed. There is only one tenant per apartment.

Mr. Swaney stated one tenant or one pair of tenants?

Mr. Barr stated there are almost no pairs because you know us guys we do not usually make it that long. I bet that they are ninety-five percent women in our apartments.

Mr. Swaney stated thank you.

Mr. Barr stated Adrienne can you pull back up, if it is okay, the Google Earths. I want to make sure that you realized that those are all projects with barely one space per unit, and you can see, especially with the one on the right that there is no parking dilemma at all. These are Google earth shots and they were probably taken at different times of the day, so I do not know when they were taken. I have been to the projects at different times of the morning, evening and even at holidays, and you would be amazed at how quiet it is, very little activity.

Mr. Swaney stated are there parking spaces dedicated to the employees?

Mr. Barr stated no sir, they have one manager per apartment and one maintenance person, and the maintenance person is not full-time, so there is not a staff.

Mr. Swaney stated okay.

The Chairman stated Mr. Lamb do you have a question?

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MAY 7, 2009 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

Mr. Lamb stated no, Ms. Jeri does.

Ms. Hargiss stated how many employees are basically on the property? Is there someone there at all times?

Mr. Barr stated there is a manager there during the day.

Ms. Hargiss stated during the day.

Mr. Barr stated she leaves in the evening and then there is one maintenance person.

Ms. Hargiss stated how many employees? Such as the varied maintenance persons and housekeepers.

Mr. Barr stated no, madam that is it because these are self sufficient. I mean you have to be self sufficient to be able to live here.

Ms Hargiss stated I visited one. I had an employee live in one of the properties over in Mobile and the people seemed very happy in there. In fact, I very impressed with it.

Mr. Barr stated thank you. It is a great program. It really is.

Ms. Hargiss stated I am concerned regarding parking for that many units as to what would be established. I noticed on all your properties it looks like you have gone down from what the original number was, and with that I can understand older people, but a sixty-two year old on up still drive quite a bit.

Mr. Barr stated oh yeah, the younger ones will drive quite a bit, but as they age in place they will not.

Ms. Hargiss stated I would still be concerned about enough parking especially for holidays and all because the highway there is very busy and dangerous. I certainly would not want to have to park on Pollard Road at a holiday time.

Mr. Barr stated yes, madam I understand your concern. My experience is that I have never been to a project where there was not one of the major bays empty. You can see on here as you get away from the front door it is almost empty. Everyone tends to want to get as close to the front door as they can, but this is just not even close to being a crowded situation. You know even if we had a perfectly flat site we would be asking you to do this because we hate to build an empty parking lot and that is what it will be. Right now we have got it landscaped and I would rather not have the run-off, and all of the other things that are related when you start paving things.

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
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Ms. Hargiss stated thank you.

Mr. Lamb stated the question that I have is that you have three plus acres of property and apparently there is a big drop off at the back. In the design of the project you have to take in many, many factors and I understand that, and one of those factors is parking. I do not know, but did it enter into your thinking that well we cannot get the parking in so we will just get a variance? You are asking for a thirty-three percent reduction in our requirement and that is an awful lot of reduction and also we have to look at it from the standpoint of precedent setting. Anytime you grant a variance the next person says well you granted them one why not us.

Mr. Barr stated well again I would refer you back to the Hoover Zoning Ordinance that we copied up there. I guess from experience they do not require but one space per unit for parking in these elderly projects. I do not want you to think that we are asking to do something that you would be the guinea pig because we do it all the time. Mobile has granted us variances and some of the projects we have done here were in the County so we did not have to request a variance.

Mr. Swaney stated I noticed that in your list of other properties only one has one parking space per unit. Is that correct?

Mr. Barr stated one actually had less than one. We generally put in another four or five more, but the more we do that the more we realize they are not being used and we can certainly do that here.

Mr. Swaney stated did I understand you to say that you could throw in another five parking spaces or so?

Mr. Barr stated I think we can. Art might know better.

Mr. Rigas stated yes, we could work in another five parking spaces fairly easy. It might push it a little bit to start getting crowded.

Mr. Swaney stated okay.

Mr. Barr stated that is what we can certainly do if it would help you feel better about it. We will do whatever we need to do.

The Chairman stated thank you. Does anyone else have any more questions for Mr. Rigas or Mr. Barr?

Ms. Jones stated I do. The depiction that we have in the book here shows that it could possibly be nine spaces. Have you looked at that again and reduced the number? If so, is there a reason why you think that you would not be able to do at least nine?

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Mr. Barr stated that is how many I thought we could get in. Sometimes the Civil Engineers do not go along with what I think.

Ms. Jones stated okay.

Mr. Rigas stated we could squeeze nine in, but it cuts down on the landscaping. If you say do it then we will have to do, but we would rather not.

Mr. Swaney stated what assurance would there be that this property would always remain or that these apartments would always remain AHEPA?

Mr. Barr stated these are actually funded by a grant by HUD and part of that grant is that for forty years they cannot transfer the property and even after that HUD will have to keep it sanctioned as such.

Mr Lamb stated Adrienne, where is the setback line? I noticed the setback goes straight through the parking. Is that okay?

Ms. Jones stated the parking can be within the setbacks.

The Chairman stated I want to go back to the beginning when you said this originally went to the Planning Commission and they ping ponged it back around the net to us. What was their exact reason for it? It was my understanding that it would go to the Planning Commission and they would either approve it based on the fact of saying you either add nine additional parking or you only reduce it down by five spaces so forth and so on is my understanding.

Ms. Jones stated what the Planning did was, well first let us back up a little bit. The apartment development is allowed by right in the R-4 zoning district. So the Planning Commission unless there are some extremely unusual circumstances does not have grounds to deny them. Basically, they are going to be approved one way or another, so in order for them to make their final decision and on the decision of the layout of the property because parking has such a big impact on this design. If they get this approved they are fine and they can go forth with the plans that we have, but if you deny them they are going to have to reduce the size of the building and that will change the site plan. The Planning Commission wants to make their decision when that is final and not based on a condition or contingency. So it was not that they were against the project it was just that they wanted to have a final approval on the parking before they granted approval.

Mr. Swaney stated in our recent seminar that your group presented it was stated that we could add conditions to our approval. So if this group wanted more parking spaces they could specify it, right?

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Ms. Jones stated yes.

Mr. Swaney stated I just wanted to make certain everybody knew that.

The Chairman stated if you added these additional parking spaces would you have to reduce the building or will the building still be the same? Will you have to reconfigure?

Mr. Rigas stated no, sir. The nine spaces or thereby somewhere in between will not effect the building. It will stay the same. I can understand the Planning Commission's position. They want to see a final site plan and the site plan cannot be finalized until we either get a variance or do not or some modification.

Mr. Barr stated we do not have the option to reduce the apartment count because HUD funded thirty-nine units and if we do not do thirty-nine units they will not finish the grant out.

Mr. Swaney stated okay.

Mr. Mayhand stated my concern is the forty years. I will not be here in forty years, but forty years is not a long time. If by chance this reverted back to HUD they would have an opportunity to make this just a regular apartment complex for low income housing or whatever which would change the age limit and the amount of people that would live there and quite a few other things.

Mr. Barr stated it actually will not revert back to HUD. It would become AHEPA without HUD. I do not totally understand how that works but I know we built some projects in Mobile in the early 80's when I was first, a little architect, and they were talking about they are getting ready to hit that forty year mark in about fifteen years and they were saying what they are planning to do with those is keep them just like they are. They are going to refinance them and what they will do with that is major improvement, but they will maintain the elderly. AHEPA is very committed to this project. AHEPA is a group of men within the Greek Church. It will always be something for the good of people or the elderly.

Mr. Mayhand stated okay.

The Chairman state the one that is out on Hillcrest you said was built in the early 80's.

Mr. Barr stated yes, sir early 80's.

The Chairman stated of course, nothing is forever. I mean you can put all kind of hoops to jump through on something, but still nothing is forever. Somewhere down the line somebody can change something.

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Mr. Barr stated sure. I tell you though if you go out to that project you would be amazed that they do an extremely good job of maintenance and upkeep. I mean the project looks as good today as it did the day it opened. I go out there from time to time. I am just amazed at how well they take care of their properties.

Mr. Mayhand stated will they have security?

Mr. Barr stated they have security in the sense that there is an electronic entrance system, cameras and things like that. There is not a security guard.

Mr. Mayhand stated so there is not a person that monitors the property or anything like that.

Mr. Barr stated no, sir.

The Chairman stated any other questions? Thank you, Mr. Barr. Thank you, Mr. Rigas. The Chairman opened the floor for public participation stating is there anyone here in opposition to or for this project. If so, please step forward and state you name and address for the record.

Ms. Brazelton stated my name is Hilda Brazelton and my house is north of this project. You spoke of a run-off, I live north.

The Chairman stated if you would madam, please address the Board.

Ms. Brazelton stated okay. My house is just north of this property, as a matter of fact, it adjoins it. At one time it was all owned by one person, my father-in-law. You spoke of a run-off. How is that going to affect my property?

Mr. Rigas stated the drainage in that area is from north to south. So it drains away from the property to the north. None of the water from this site will drain unto your property.

Ms. Brazelton stated I have another question. In times of high volume visitations, say Christmas, Mother's Day when occupants are more likely to have visitors and your parking lot fills up where is that overflow going?

The Chairman stated your house.

Ms. Brazelton stated well that is what we are trying to prevent you know, their parking in front of my house.

Mr. Lamb stated point well taken.

Mr. Barr stated in my experience we have never had that happen.

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Mr. Barr stated even on Mother's Day they have never had the problem. I would love to say that every sixty year old goes to visit their eighty-five year old mother, but it is not the problem that you think it might be. Believe me if there was a problem AHEPA would address it because they do not want to be the problem. They want to be the solution to housing the elderly.

The Chairman stated Ms. Brazelton, does that answer your question.

Mr. Rigas stated it is likely, if I might add that the people who live here will go to visit the younger relatives, as opposed to them coming to visit them here because of space.

Mr. Williams stated my name is Willie Williams. I am married to Sabrina Brazelton, part of the family who owns all of that. As I spoke with her and I am very familiar with this issue. If you all agree to do that I think the family, including her, wants a letter, a hard core letter because I had a similar situation in Fairhope. Like I told Mr. Rigas before goody, goody, I went through that and I had a hard core letter going over these issues. When the issue rose up I presented this letter and said I was going to court. The issue that brought about that the City came in there and fixed it. I think what the family wants, we do not want words, we want a hard core letter because I totally agree that thirty-eight spaces in that vicinity is totally wrong, that is a curb going around there. We already have a daycare center, Ms. Pat down the street that has that. If you are very familiar that, even in your own research that will become a public nuisance and even with their figures and they could be correct or whatever and that is good, I take folks at face value, but we want a letter from the owners that we do not want her family to come out there and see cars parked in front of their house or parked down the street. Because we are going to take pictures and go to court. We just want a firm written assurance that that is what it is going to be. Not no words, not nothing, but something in letter form. I think as you say that the Board is given that perimeter with conditions to give to the property owner and that is what Fairhope gave to me. I think the Mayor told me that was a good, smart move because people come in here and make findings and all kind of stuff and whatever this will take. All we are looking at is your concerns too which this is an awful small amount of spaces. I am very familiar, this is a fine group. I am done HUD Housing complaints. I went to one in Fairhope on Bishop Road. As a matter of fact the day I went there they did not have any parking. So we some hard fact conditions from the owners that we do not want the manager to come out here talking about I am sorry. I do not believe in sorry I believe in if you are going to keep it at thirty-nine parking spaces that is it. We do not want someone out there on that road parking. We do not want them pulling up in their driveway. If you have ever lived in that type of situation it is terrible.

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Mr. Swaney stated your total objection, I am trying to understand, or concern goes to the number of parking spaces.

Mr. Williams stated yes because it is zoned R-4 multi-family and I think the only situation this Board is dealing tonight is backing off the City rule. As a client of mine stated today this Board did his business like that. I am not going to name the business, and the same thing happened to his business, that they gave a variance to his next door occupant and he has been a constant bickering agreement with his next door neighbor because they are taking all his parking spaces at his business. His words were Willie explain it to them and I am going to explain it to them. When I first looked at the plans the other day after getting a certified letter, I looked at it and I consulted with a number of people and as you say that is something that you came up with as your rule. I do not care about Hoover, that is your rule and either you are going to go by your rule. If you are not because of some extenuating circumstances you want to reduce it I think the family, the property owner need to have a letter from the owners that this will not be a problem. Because of forty cars, if one, two or three park out there on the public right-of-way, or park in front of their house or park in their driveway or park in their yard they will have something that they were informed through the administrative process that this what they have, and no more. No excuses and no I am going to correct this. It is that they have a right to pursue financial gain. Now let us put it on the table because that is the only way to get anybody attention. Financial. So if you approve it at nine spaces or whatever below fifty eight they are to have a written letter, from the owner, stating that there will be no problems, that none of the high traffic times will not interfere with the neighbors, with the adjacent property owners nor with the traffic. I think that is fair.

The Chairman stated Mr. Williams I think the City of Daphne Police Department would have to handle that issue. Whatever it is that have to do. No parking signs and things of that nature on the right-of way, but to me personally I think that it would come under the City of Daphne Police Department.

Mr. Williams stated but that is a long ways around. Like I said if they have a letter they will have a lawsuit and get a court order. They will have to pay some money for the inconvenience of these folks. They do have that, but I am talking about that they will not have to deal with that because of the owner. If that becomes a problem they can get a lawyer. I know quite a bit of them that would definitely make a person pay for violating this and this is what we are looking at. These people, my in-laws, moved over here from Mobile and they have got a nice house there and they had to do a whole lot. It is zoned multi-family and they can move in, but we are hoping to deal with that.

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Mr. Williams stated but we are dealing with the backing off of the City rules and if they are going to back off the City rules then they need to have some written assurances that this will not infringe upon their property rights and this is a property right issue, and this is why we are all here, and I think they need to have that. The City of Fairhope gave one for my case and it turned out what I spoke about came true and the City of Fairhope pounded up and came in there and fixed the problem. Because they knew they were over the loggerhead because they approved the site plan. So this is what I am asking them for in the same conditions in this situation. It is up to them whether they want to go with the original fifty-eight that is the rule. We are talking about the rules or backing off the rules. If you are going to back off the rule let them get some written assurances because when you go to court before Judge Pardon he is going to say did not you have this explained to you that you thirty-eight, thirty-nine or forty-two parking spaces. That is it. Pay these folks their lawyer fees, their time and money and do not do this anymore. This is what we are looking at.

The Chairman stated Mr. Hoffman, with what Mr. Swaney said, you must have it in there that you have the caveat in there that you must have the additional nine spaces instead of wanting thirty-nine you would have to have forty-seven, but we do not have the authority to tell someone that they cannot park on the street, do we?

Mr. Hoffman stated I do not believe that this Board would have the authority to add a caveat to what third parties would. They would have the ability to condition the granting of the variance upon the terms that they deem fit.

The Chairman stated okay.

Mr. Barr stated we would be happy to if it would help. We could ask AHEPA or tell AHEPA that they need to write a letter to the City, you know, asking the City to enforce the no street parking. We also would be happy to put a sign up at the entrance to our property saying do not park on the street, if something like that would be of help. Sure.

Mr. Williams stated my situation again is like I said I have gone through this before. The City did it. It could be a law enforcement issue, but that is too long. I am just telling you the only thing that works is that the property owners are here and if that is not the case we are asking this Board to enforce their City rule. If there is going to be any kind of compromise, which I think that is a compromise to have some assurances for my family and for the property owners then we are asking that this Board enforce their rules. Simply put as that. We do not want the police, we do not want anyone, we would rather take it to court ourselves and enforce it. The police would come over there and all that is going to be is just paper shuffling.

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Mr. Williams stated if you were aware like the client I have who has been dealing with this type of stuff and the police for years every since this Board approved his neighbor. So we just want something that we can have as action, to me this is just a condition, and that is what they did. They required the owner of the property to provide a letter to the property owners stating that because of their reduction in the City property rules that we ask that they be allowed thirty-eight or whatever number of parking spaces you pick out, but that is it.

The Chairman stated Mr. Williams do you believe that if they were to have fifty-two parking spaces there would not be anyone parking on the street? Or would it still be a concern?

Mr. Williams stated I think the rules say fifty-eight. Yeah, I think it would end up not being a problem.

The Chairman stated if it got overcrowded and they parked on the street. All we are hearing tonight is a variance from the fifty-eight to thirty-nine or adding an additional nine making it forty-seven parking spaces there. Once again I would say that that would be a legal matter, and that is just strictly me speaking, that it would be a legal matter. They have already said that they would be willing to write a letter stating they would put signs out there, no parking on the streets, and they would write a letter to the City. I believe that is what Mr. Barr said that they would not have a problem writing a letter to the City. No matter what kind of laws you have some people feel like they are for everybody else except them. For some reason they feel like they apply to everybody else but them and you can have all kind of letters you want, but there may be someone that violates that. I think what Mr. Barr has said is that they are willing to write the letter. You have asked to have a letter written and he has said they are willing to write a letter and they are willing to put signs up out there that says no parking between the signs or whatever. I think that is what he has said.

Mr. Williams stated yeah, but as I stated I have went through this before with the City of Fairhope.

The Chairman stated yes, sir. You went through it in Fairhope.

Mr. Williams stated Fairhope said that they cannot get involved once they make their ruling and this is between adjacent property owners, this is a property right issue. All we are asking for is if this happens is that we can enforce our property rights. If the City is not going to go by their own rules and regulations then in the event of a compromise, and we have to exercise our property rights, that a letter be written to us so we can keep it in our file cabinet for any violations so we can just hand it over to our legal representation.

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Mr. Williams stated I have talked with them and they said this is the most acceptable way because the City is not involved. The only thing the City is involved with is enforcing the parking violation out on the street, but this is a property right matter dealing with neighbors and adjacent property owners that need it to be between them.

The Chairman stated yes, sir. Well my understanding is that they are asking for a variance tonight and not asking for off street or on street parking. They have already said would do exactly what you have asked to have done. I do not know whether they can do any more than exactly what you have asked to have done. They have said yes we will do that.

Mr. Williams stated I mean it is not going to the property owners, but to the City which is not involved in it. They do not own property in that area. They only deal with the right-of-way and like I said this is a property right issue. Ms. Brazelton lives next door, my wife and them have got an interest on the back side and like I say that needs to be addressed to us so our lawyers can look over it and it takes care of everything we need to have taken care of so we do not have any problems down the road.

The Chairman stated yes, sir, but that is not what we are here for tonight. We are here for the variance. Would they not have to address that to the Planning Commission when it goes before them?

Ms. Jones stated as our attorney has advised us a third party issue is not something that the Planning Commission or the Board of Zoning Adjustment has anything to do with.

The Chairman stated we have no jurisdiction over that. We do not. Property right issues are totally different.

Mr. Williams stated I mean.

The Chairman stated Mr. Williams to keep from bouncing this back and forth and going over it we have already gone over it about five times exactly. They have already said that they are willing to write the letter, they are willing to write it to the City. I do not know what more they can do should it be granted. I appreciate your time and we discussed this about five times and I appreciate your effort, but we do not have any jurisdiction over that. Is there anyone else that would like to address the Board?

Mr. Lamb stated I think what he is saying is if in the event the BZA granted a variance to the Ordinance that because there was a reduction in requirement for the parking spaces and in the event that because of an event happening at this certain facility if all the parking spaces were taken that the overflow then spilled into the street.

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Mr. Lamb stated then parking became an issue with an adjacent property owner that these owners want certain assurances from the developer that they would seek some just compensation for their inconvenience. Is that basically what you are saying?

Mr. Williams stated not just compensation. Like I said I have done this for a living. I have found out that letters, written agreements work better than words. Just plain and simple. I am in about three or four disagreements with HUD and different ones, and as I have gone to different seminars and things, as you have gone to, letters do better because when you can go back to the manager or whatever and tell them hey you agreed to this for them to get their release from additional parking we want to hold them to that. That will be up to them to say well we give you a free pass this time, but if there is another time then we have a right under Alabama law to suit them in case this gets to be a nuisance to us. Then we would use the Police record of the number of calls to say that this has become a nuisance and this is stipulated and that is what I got. My situation was about drainage and the City asked the developer next door to give me a letter about the drainage. So when it started raining and my property flooded I went back to the City with this letter and the City said oops we made a mistake and they went and got the money from somewhere and put in drainage to correct the problem because we had a letter stating from the folks. We went through the same mess about saying all of these goody, goody things but we had a letter in our hands stating to the fact to what they were doing. I do not think it would be no sweat off anybody back, if they are going to keep their word, we want it in writing.

Mr. Lamb stated I just want to make sure that you understand that if a car broke down and there are plenty of parking spaces available and somebody's car broke down and they parked in front of her house and a friend came and parked behind them and they called somebody else and she looks out and these cars are parked out there. Well those people are not even visiting this facility and there are plenty of parking spaces available I would not want that to enter into the difficulty she might have because they did not cause that because they are not visiting this facility. It is somebody else. I would see that this would come into play when every parking space is taken how ever many that is and then people begin to park down the street and that is the only time this would come into play.

Mr. Williams stated yes, I agree totally. I think they know the traffic pattern over there and this will not be about someone breaking down. What we are talking about is their making a request to reduce from your rules and we are saying okay if you grant them thirty-nine or forty-two and we have a Christmas and sixty cars show up over there well yes we have a right to call the police department, but we also have a right to keep down this back and forth.

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Mr. Williams stated you give us written assurance that this will not happen again. It will probably get a pass the first time because nobody is trying to be mean, but we want assurance that the second time we will take our legal remedy as in the case of any property owner to stop this because they asked to be reduced. If you passed fifty-eight parking spaces I can sit down right now because they are following the rules. Am I correct? But they are asking you to grant a variance and the property owners and the neighbors are saying no unless we have some written assurances that there are not going to be any problems. We do not want anything verbal. If I come back in two years I will not be able to find a recording of this. I want a letter addressed to the property owner so that they have got something in their file to come back with so in case the manager has gotten amnesia, hey, we do not want this to happen again then you know how this happen and they will get out there and make sure that once the thirty-nine are full then you need to go elsewhere and park. It will not be a problem.

The Chairman stated yes, sir Mr. Williams that is between you and the developer. We have no control over that. That is between you and the developer. I believe Mr. Barr has said that they would ask them to do that.

Mr. Swaney stated I believe has stated that AHEPA, he would ask AHEPA to do that.

The Chairman stated that is right, and AHEPA is the owner.

Mr. Swaney stated after the project is over the developer is out of it. Is he not?

Mr. Rigas stated that is correct.

The Chairman stated ask AHEPA to do that. That is all we can do.

Mr. Wiliams stated I totally understand Mr. Robison. They were talking to the City. I do not work for the City. My family is there and we want the letter written to us so we have it for our files and I think the City is going to say that they are not involved. Only thing they are involved with is up on the public right-of-way.

The Chairman stated yes, sir, but I believe Mr. Swaney has said that Mr. Barr has said that he would ask AHEPA to do that and AHEPA will be the owner. They will be the same as your next door neighbor being the owner of a house writing you a letter stating they would not do that. AHEPA is the same thing, they are the owner of the apartments. Thank you. We appreciate it.

Mr. Mayhand stated I would like to see a picture of this overhead.

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Mr. Mayhand stated do we have a picture of this? I believe there is on of the curvature of the street.

Mr. Lamb stated that is a ninety degree curve.

Ms. Hargiss stated that is right.

Mr. Mayhand stated that is not it. It is close, but that is not the one. The one at the top where the house is.

Ms. Jones stated I did not insert that one in here.

Mr. Mayhand stated you in the audience cannot see this, but if you can take a look at how narrow the street is already I have a concern that if we reduce the number of parking spaces, and I am not saying that they are or are not going to have an overflow, and I am just going on what I see, but if we reduce the number of parking spaces, and we have this small street, they are not going to park on the street. They are going to park in the yard of those people.

Mr. Lamb stated there is not much room in there.

Mr. Mayhand stated there is not much room at all, so if we reduce the number of spaces required we are inviting some potential issues. We are not just talking next week or next year, but forty years down the road as he so stated earlier. I would be a little hesitant in reducing it just because of that.

Mr. Lamb stated I would not want to live there.

Mr. Mayhand stated now if this street was wider and you had a parking area on the street I could see it, but right now I just have a problem with reducing it and knowing these people feel the way they do about an overflow.

The Chairman stated thank you. Anyone else?

Ms. Hargiss stated I am just concerned with what we will end up with as to how many spaces there will be for cars. You know that is a small property in a way. I do not know if they would reduce the amount of apartments or what.

A Motion was made by Mr. Swaney to approve the appeal as requested with the following caveats. Fifty parking spaces are provided and that the requested letter to the adjacent property owner be written by AHEPA indicating that there will be no problems parking and that there will also be extensive traffic signs installed limiting parking to the lot inside their property.

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Mr. Hoffman stated the City would be in charge of placing the street signs on the street. I do not know if we would be able to impose a condition on the City to post signs on the street.

Mr. Swaney stated I am sorry I did not hear you.

Mr. Hoffman stated this Board cannot impose conditions on the City as to them having to place certain signs in certain areas that would be something the City would have to determine on a safety basis.

Mr. Swaney stated I understand. So we can add the caveat that the letter is written by AHEPA and the fifty parking spaces be provided? Would you concur?

Mr. Hoffman stated well I do believe we can impose a caveat on the number of spaces.

Mr. Swaney stated well I believe actually we can according to the expert we just had in our recent seminar last week. He said it was backed up by legal opinion as I recall.

Mr. Hoffman stated no I said we can, but I do not believe that we can impose a property owner to write a separate letter that would create an issue of legality between the property owners outside of this forum.

Mr. Swaney stated okay.

Mr. Hoffman stated if that makes sense. In other word you would be requiring somebody to create something outside of this forum that would create a legal issue as between those parties.

Mr. Swaney stated I understand. So in your opinion we can add only the caveat on the number of parking spaces?

Mr. Hoffman stated the issue is the number of parking spaces, yes, in my opinion.

Mr. Swaney stated I will amend my motion.

An Amended Motion was made by Mr. Swaney and Seconded by Ms. Hargiss to approve the appeal with the following caveat. A total number of fifty parking spaces are to be provided for this complex at a ratio of one point one seven parking spaces per unit with no dedicated parking for any employees in lieu of the fifty-eight point five at a ratio of one point five parking spaces per unit as required by the Ordinance.

The Chairman stated can you read that back to us?

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Ms. Jones stated just for clarification. It sounds like you want to approve the variance for one point one seven spaces per unit in lieu of one point five per unit because fifty parking spaces would give you a ratio of one point one seven per unit.

Mr. Swaney stated if that is correct I will say yes.

Ms. Jones stated bottom line.

Mr. Swaney stated yes.

The Chairman stated the motion is that there will be fifty parking spaces instead of thirty-nine parking space. One point one seven per unit in lieu of one point five.

The Chairman stated Ms. Jones so that we have it exact would you read that back to us.

Ms. Jones stated I did not know I was going to have to read it back. Write this down.

Ms. Houston stated I have it on tape.

Ms. Jones stated you are proposing to approve fifty parking spaces in lieu of the required fifty-eight point five. In essence approving a ratio of one point one seven parking spaces per unit in lieu of the required one point five parking spaces per unit.

The Chairman stated we have a motion do I have a second.

Upon roll call vote, **the Motion is denied.**

Mr. Mayhand	Nay
Mr. Robison	Aye
Mr. Swaney	Aye
Mr. Lamb	Nay
Ms. Hargiss	Aye

The Chairman stated the appeal is denied because when you have five members it takes a super majority of four out of the five to approve.

Ms. Jones stated remember I am new at this so do we still need to make a motion on the original proposal.

Mr. Hoffman stated yes there still needs to be a motion as to the original appeal itself.

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The Chairman stated normally when there is a motion to amend you have to vote on the amended motion first which we just did. Now the original motion has to be voted upon.

Mr. Hoffman stated that is correct.

The Chairman stated so we just voted on the amended motion now we need to vote on the original motion.

Mr. Swaney stated that motions have to be made in a positive manner.

A **Motion** was made by **Mr. Swaney** and **Seconded** by **Mr. Mayhand** to **approve the appeal as requested.**

Upon roll call vote, **the Motion is denied.**

Mr. Mayhand	Nay
Mr. Robison	Nay
Mr. Swaney	Nay
Mr. Lamb	Nay
Ms. Hargiss	Nay

The Chairman stated the appeal fails and for a little clarification the reason the motion has to be presented in a positive manner is you always present a motion in the positive rather than the negative. I know it sounds funny where you make a motion to do something and then it is denied, but that is the way it must be done. I believe you have fifteen days to notify the Planning Department if you wish to appeal to the Circuit Court in writing. Notify the Planning Department within fifteen days in writing if you plan to appeal this decision. Thank you. We appreciate it.

Old Business

Election of Officers

The Chairman stated we have some old business to take care real quick. The election of officers. Do we have any nominations?

Mr. Lamb stated do we have a Vice Chairman?

The Chairman stated you are the Vice Chairman.

Mr. Lamb stated I just wanted to make sure you knew that.

The Chairman stated I will hear the nomination for the candidacy for Chairman.

Mr. Lamb stated would you consider being reappointed Mr. Chairman.

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The Chairman stated yes, if you would consider reappointing me.

Mr. Lamb stated if you agree would you agree to continue as Secretary?

Ms. Hargiss stated yes.

Mr. Lamb stated Mr. Mayhand would you agree to be the Vice Chairman?

Mr. Mayhand stated I agree.

A **Motion** was made by Mr. Lamb and **Seconded** by Mr. Swaney **that Mr. Robison remain as Chairman, Mr. Mayhand becomes Vice Chairman and Ms. Hargiss remain Secretary.**

The Motion carried unanimously.

There being no other business the meeting was adjourned.

Adjournment:

A **Motion** was made by **Mr. Lamb** and **Seconded** by **Ms. Hargiss** to adjourn.

The Motion carried unanimously.

There being no further business the meeting was adjourned at 7:10 p.m.

Respectfully submitted by:

Pat Houston, Recording Secretary

APPROVED: June 4, 2009

Willie Robison, Chairman

/ph

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The Chairman stated the number of members present constituted a quorum and the regular meeting of the Board of Zoning Adjustment was called to order at 6:00 p.m. Let us have roll call.

Call of Roll:

Members Present:

Jeri Hargiss, Secretary
Frank Lamb
Glen Swaney
Willie Robison, Chairman
Billy Mayhand
Barry Taylor
Jim Moss

Staff Present:

Adrienne D. Jones, Director of Community Development
Pat Houston, Recording Secretary
Tony Hoffman, BZA Attorney

The Chairman stated the next item on the agenda is the approval of the May 7th minutes. Has everyone read the minutes? The Chair will entertain a motion to approve the minutes as written.

Approval of Minutes:

The minutes of the May 7, 2009 meeting were considered for approval.

Mr. Lamb stated on page 13 it should be Judge Partin not Pardon, probably some of his people would like for him to do that, but it is Partin, and on page 16, middle of the second paragraph, it should read sue instead of suit.

The Chairman will entertain a motion to approve the minutes as corrected.

A **Motion** was made by **Mr. Swaney** and **Seconded** by **Mr. Lamb** to **approve the minutes as corrected.**

Upon roll call vote, **the Motion carried, unanimously.**

New Business:

Appeal #2009-03 - William Snyder

The Chairman stated next is new business on the agenda, Appeal #2009-03, William Snyder, a variance to allow the existing structure located

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at 108 Wildwood Circle, a residence, to remain and continue as an encroachment to the rear setback line by ten-feet. At this time, because Mr. Snyder and his wife, being personal friends of mine and he had previously talked to me about his appeal without realizing that I served on the BZA, he went into quite a bit of detail on it, so I feel it would only be proper for me to recuse myself and not participate in any of the discussion nor the voting in any way what so ever. So I turn the meeting over to Mr. Mayhand, the Vice Chairman, at this time.

The Vice Chairman stated Ms. Jones, would you like to abreast us on Appeal 2009-03 at this time?

Ms. Jones displayed a Power Point Presentation of 108 Wildwood Circle showing the ten-foot encroachment on the south side of the home. She stated on the screen you can see the subject property and on the south side is Lake Forest Golf Course. There are residences on both sides of the property and it is zoned R-3. I am showing you the west property line and the east side as well.

Mr. Lamb stated is that green arrow the encroachment?

Ms. Jones stated no, it is actually just showing you where the west property line is. One of my slides is out of order.

Mr. Lamb stated is the front part of the house encroaching?

Ms. Jones stated the front part of the house is fine, just the areas that are highlighted here in red are encroaching.

Mr. Lamb stated I have got you.

Ms. Jones stated the key point is that this is an existing residence and they are not proposing any additions and you do have precedence of approving something similar to this. There is a hardship, in that, it would be difficult to remove the encroachment, since it has been there for such a long time. It does not have any impact on the adjacent properties and I recommend approval.

The Vice Chairman stated is there anyone in the audience that would like to say anything? Would you like to add anything Mr. Madden?

Mr. Madden stated no.

The Vice Chairman stated do any of the Board members have any questions?

Mr. Swaney stated the home was constructed in 1989, I believe, according to the literature. Do you happen to know what the rear setback lines were at that point in time, Adrienne?

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Ms. Jones stated I think it is shown on one of our maps. I believe the rear setback was twenty-feet and do you want to know how much they are encroaching into it?

Mr. Swaney stated no, no, no. I was wondering back in 1988, 1989 what the setback lines were on it.

Ms. Jones stated they are still the same as they were. In Lake Forest we have a unique situation where we observe the property lines that were established by plat. So we have documents that tell us what the setbacks are for each unit in Lake Forest. So we observe those same setbacks now.

Mr. Lamb stated it is my understanding that Lake Forest setback lines are twenty-feet and they are encroaching ten-feet.

Ms. Jones stated that is correct.

Mr. Moss stated this was approved by the Lake Forest Board at the time. I checked with our Architectural Manager this afternoon and walked the property and it is as it has been. There are ten to fifteen cases and there is just no harm here. No harm, no foul, pardon me.

Mr. Lamb stated it is my understanding that back in 1989 this was in agreement with when the City of Daphne did not say to the Architectural Board you cannot approve variances.

Ms. Jones stated I am not sure. I do not have any documentation on establishing that precedent.

Mr. Lamb stated at the present time can the Lake Forest Architectural Board approve a variance, now that they are part of the City of Daphne, when they want to build on property?

Ms. Jones stated the variance approval process is vested in the Board of Zoning Adjustment. So whether their Architectural Review Committee is still granting them per their covenants, the best legal procedure to do for variance and the one that will stand in Court is one that is approved by the City of Daphne's Board of Zoning Adjustment.

Mr. Moss stated it still rests with the City. She is correct. It absolutely rests with the City now.

Ms. Jones stated absolutely. It is not shared. I will put it that way. Am I right, Mr. Hoffman?

Mr. Hoffman stated that is one hundred percent correct.

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The Vice Chairman stated are there any other questions or comments? If not, let the record show there is not any one present to speak in opposition of this appeal. The Vice Chairman will entertain a motion.

A Motion was made by Mr. Swaney and Seconded by Mr. Lamb to approve Appeal #2009-03, as requested. A variance to allow the existing structure located at 108 Wildwood Circle, a residence, to remain and continue as an encroachment to the rear setback line by ten-feet.

Upon roll call vote, the Motion carried with one ineligible vote.

Mr. Moss	Aye
Mr. Taylor	Aye
Mr. Mayhand	Aye
Mr. Swaney	Aye
Mr. Lamb	Aye
Ms. Hargiss	Aye

The Vice Chairman stated the appeal is granted and at this time I would like to turn the meeting back over to our Chairman.

The Chairman stated thank you, sir. The appeal has been granted Mr. Madden. As Mr. Snyder's representative you may pick up the variance after nine o'clock in the morning in the Community Development Department. Do you know where it is?

Mr. Madden stated no.

The Chairman stated it is in this building to the left behind the Receptionist desk after you walk in.

Mr. Hoffman stated Mr. Chairman, Mr. Moss was not eligible to vote during the last vote and if we could just have a recap of that vote, please.

The Chairman stated so we can have five ayes and no nays.

Mr. Hoffman stated correct.

Upon roll call vote, the Motion carried, unanimously.

Mr. Taylor	Aye
Mr. Mayhand	Aye
Mr. Swaney	Aye
Mr. Lamb	Aye
Ms. Hargiss	Aye

There being no other business the meeting was adjourned.

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Adjournment:

A Motion was made by Mr. Lamb and Seconded by Mr. Mayhand to adjourn.

The Motion carried unanimously.

There being no further business the meeting was adjourned at 6:12 p.m.

Respectfully submitted by:

Pat Houston, Recording Secretary

APPROVED: July 2, 2009

Willie Robison, Chairman

/ph

IDB NOMINATION

**104 Ferncliff Circle
District 6**

DOUGLAS A. BAILEY P.E.

PROJECT MANAGER

PRESENT PROFESSIONAL RESPONSIBILITY

Mr. Bailey serves as Project Manager/Engineer with over 16 years of experience. His primary areas of interest are site development and subdivision development and related infrastructure, roads, municipal water treatment and distribution, municipal wastewater treatment and collection and storm water management.

Mr. Bailey served as Project Manager for a variety of projects including commercial site plan designs, water and sewer infrastructure, grading and drainage, roadway, water treatment and distribution, wastewater treatment and collection, storm water control and discharge permitting. Mr. Bailey's construction administration experience includes the construction of water and sewer mains, water and wastewater treatment plant construction and renovations, sewage pumping stations, roadways, and numerous subdivisions and condominium developments throughout the Gulf Coast region.

EDUCATION

M.S. Civil Engineering (Environmental Engineering)
Auburn University, 1993

B.S. Civil Engineering
Auburn University, 1992

PROFESSIONAL REGISTRATION

Professional Engineer
AL #21541 - 1997
MS #13278 - 1997

PROFESSIONAL AFFILIATIONS

American Society of Civil Engineers
Alabama Water Environment Association
American Public Works Association
American Water Works Association

EXPERIENCE

Hutchinson, Moore & Rauch, LLC - April 2000 - Present
McCrary & Williams, Inc. - April 1999 - April 2000
The Sommerville Group, Inc. - August 1998 - April 1999
BCM Engineers - July 1994 - August 1998
McFadden Engineering - August 1993 - July 1994
BE&K Engineering - January 1989 - August 1991

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REGULAR MEETING OF APRIL 23, 2009
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

SUMMARIZATION OF MINUTES:

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CALL TO ORDER:

The number of members present constitutes a quorum and the regular meeting of the City of Daphne Planning Commission was called to order at 6:05 p.m.

CALL OF ROLL:

Members Present:

Fred Small, Mayor
Frank Martin, Secretary
Don Terry, Vice Chairman
Ed Kirby, Chairman
Larry Chason
Cathy Barnette, Councilwoman
Chief James "Bo" White

Members Absent:

Victoria Phelps
Joel Lemoine

*Fred Small, Mayor requested to be excused at 6:45 p.m.

Staff Present:

Adrienne D. Jones, Director of Community Development
Jan Dickson, Planning Coordinator
Nancy Anderson, GIS Manager
Ashley Campbell, the Environmental Programs Officer
Jay Ross, Attorney

Staff Absent:

Missty Gray, Attorney

Others Absent:

Rob McElroy, General Manager/Utilities Board of the City of Daphne
Danny Lyndall, Operations Manager/Utilities Board of the City of Daphne

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The first order of business is the call to order.

Chairman: Please let the record reflect Ms. Phelps and Mr. Lemoine are not present.

The next order of business is review of the minutes.

APPROVAL OF MINUTES:

The minutes of the March 26, 2009 regular meeting were considered for approval. A copy of the minutes was furnished to us previously. Do any of the Commissioners have any questions or comments?

Mr. Chason: I have a correction. I am listed as a member which is present at the regular Planning Commission meeting in March, and I was not present.

Chairman: If there are no further additions, deletions, or corrections at this time, the Chair will entertain a motion.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Chason **to approve the minutes of the March 26, 2009 regular meeting as amended. The Motion carried. Mr. Chason abstained.**

Chairman: What I am going to ask is for you to make a presentation so the public can understand each project. I will ask everyone that comes up to do that.

OLD BUSINESS:

The first order of business under old business is master plan review for the Springs @ Eastern Shore.

ADMINISTRATIVE PRESENTATION:

The next order of business is site plan review for the Springs @ Eastern Shore.

SITE PLAN REVIEW:

File S09-01:

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Site: Springs @ Eastern Shore

Zoning: R-4, High Density Multi-Family Residential

Location: Southeast of the intersection of U. S. Highway 98 and Johnson Road

Area: 20.31 Acres +

Owner: Big Sandy, L.L.C. - Richard Inge

Developer: Continental 249 Fund, L.L.C. - Steve Miller

Engineer: Hutchinson, Moore & Rauch - Scott Hutchinson

An introductory presentation was given by Mr. Scott Hutchinson, representing Hutchinson, Moore & Rauch, requesting master plan review for the Springs @ Eastern Shore. I am here with Jay Robertson with Hutchinson, Moore & Rauch. Previously we had asked to table the project in order to work out some property line issues. We are going to present two items tonight. One is the master plan for the site. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments?

Mr. Chason: I have a question. Right now are we just talking about the master plan or both?

Chairman: Right now all we are talking about is the master plan.

Mr. Chason: As far as the boundaries of the property, my concern is in the access to the North to Johnson Road.

Chairman: Do any of the Commissioners have any further questions or comments?

Mayor Small: I think with Mr. Chason's comments that I to have a problem with the access. The traffic which needs to travel south will have to exit and then do a U-turn. Since we are talking about the master plan, we have said all along that traffic really needed to exit onto Johnson Road near the traffic light.

Mr. Chason: What I would like to know is to what extent, have you tried to get a dedicated fifty-foot right-of-way out to Johnson Road?

Mr. Hutchinson: I have a letter from Mr. White-Spunner which is representing the property owners outlining the conditions for obtaining the easement of

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which we are still negotiating. We would like to ask for approval conditioned upon obtaining the easement and having the document recorded before we make application for a site disturbance permit.

Mr. Miller, Continental Properties, the developer: For clarification, we are not looking for a connection to Johnson Road. The apron shown on the plan is strictly for a Fire Department turn around. At one point we wanted to have an access to Johnson Road, but we have pulled that off of the table. There will be no access or no connectivity for any future development.

Mr. Chason: I am going to say that we have been talking about this for months. I am not going to favor the traffic exiting to the north, going up and turning back to the South. What I wanted to know tonight and we have brought this up a lot of times is about the connection. It would make more since to go out to Johnson Road at the traffic light.

Mr. Hutchinson: If we cannot make it happen how can you say that we cannot have only this access onto U. S. Highway 98.

Mr. Chason: Scott, I am going to say that it is a concern of mine. It did not make sense to me that the owners on the corner would not agree to that so I contacted them and talked to them myself. I disagree with the attitude that it is not going to happen.

Mr. Hutchinson: Did they tell you about the conditions for the connection?

Mr. Chason: They told me about the letter, and I would like to read the letter.

Mr. Hutchinson: The letter only addresses the conditions for the apron for the Fire Department. Let's talk about the turn around really quick. I understand your concerns, but the developer has agreed to pay for the upgrade to the traffic light as designed in the traffic plan. What you see has been reviewed after several meetings with the Alabama Department of Transportation. They were very clear about what would and would not be allowed there. People a lot smarter than us are looking at this and this is what they are requiring. We ask for a left turn/median cut and they denied that. I can appreciate your comments, but if you had a list of their requirements for the connection to Johnson Road you would understand.

Chairman: We do not have the Fire Department taken care of on the master plan so that it not done either.

Mr. Hutchinson: The only issue the Fire Department has is the easement at the stub out, and that is what we are trying to get now. What we are saying is that we will provide a copy of the recorded easement prior to the

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issuance of a site disturbance permit.

Chairman: Ms. Jones is that satisfactory to you?

Ms. Jones: If that is the only issues, then yes. He has stated that he will provide a copy of the recorded easement prior to the issuance of a site disturbance permit. Also, we have to have a preconstruction meeting for the project of which Chip, Ashley and everybody will be involved in the final review of the project anyway.

Ms. Barnette: I have some questions because I have a lot of concerns about the impact of the site. I recall that during the rezoning request that a connection was shown to Johnson Road. Is that not your recollection? We know about U. S. Highway 98 and the Alabama Department of Transportation was not going to allow a median cut, but I thought I recalled talking about having a secondary access at Johnson Road.

Mr. Hutchinson: It said proposed access to Johnson Road.

Ms. Barnette: Can you explain to us from the zoning amendment application to today what took that issue off the table for a favorable rezoning?

Mr. Hutchinson: My best answer is because of the requirements which must be met to obtain that easement.

Ms. Barnette: I am having a hard time being sympathetic I guess, but I am not hearing the problems with the property. I want to hear something that would make me feel more sympathetic.

Mr. Hutchinson: I have not been to in all of the meetings regarding this issue.

Mr. Miller: Every apartment complex we have has one access point to the development. At that point, what we were looking for was a temporary construction easement to Johnson Road. It is very unlikely that we would want another point of access.

Mr. Chason: I think Mr. Chairman that is just got through saying what they were looking for. They wanted a point of access onto Johnson Road. The question is how do you as members personally feel about limiting this project of two hundred and forty-unit to one access to U. S. Highway 98 which have to exit north and go up and make a U-turn. I can say right now from my prospective that access is absolutely critical.

Chairman: Do any of the Commissioners have any questions or comments? This presentation was for approval of the master plan.

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Ms. Barnette: For the record, it was shown on the master plan for rezoning and on the plat as a future road. It did not say for construction only. I do not see a problem with having another gated entrance.

Chairman: I think the problem is you cannot have another gate if it belongs to someone else.

Mr. Chason: I think in that regard that they have not tried to get access.

Mr. Hutchinson: Larry, that is not true.

Mr. Chason: That is what you just said.

Mr. Hutchinson: In the past that is what was talked about. The proposed easement to the North will not be asphalt.

Mr. Chason: Mr. Chairman, may I suggest that you make a proposal to them and ask them to respond to what their requirements are. I firmly believe you could work out a solution that would be satisfactory to you and to them when we have to review their parcel. Someday they are going to want to develop their land. We have to look at your site and know that their parcel is not going to be vacant forever. We need to know how that situation is going to work right there. That access to the back of their lot will give you an option to Johnson Road and one day County Road 13 in the name of good planning.

Mr. Hutchinson: That is a reasonable request. With that being said, we are here tonight with this request.

Mr. Chason: There is one more thing. Mr. Chairman has anyone been to that site in the past six weeks? Ashley, have you gone to the site? Have you written any comments since the last rain event?

Ms. Jones: You are talking a lot about site plan issues. If you want to combine the two, then make them the same during your discussion. Just state that you are talking about the master and the site plan.

Chairman: We are going to put the two together since you would like to table it anyway.

Ms. Campbell: I have been out there recently and talked to the contractor regarding the issues onsite. I have requested the issues be addressed prior to the issuance of the final certificate of occupancy. The site work looks better in some areas than it used to, but it still needs a lot of work.

Ms. Barnette: Did we get a response in our packet?

Ms. Campbell: I got a comment letter, but it really did not address my concerns.

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Chairman: Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion since we have a request to table this.

Ms. Barnette: Tonight we are moving forward with a proposed moratorium on R-4, High Density Multi-Family, zoning and so I guess that I will throw this out there to propose a reduction in the density requirement per acre.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Chason **to table the master and site plan for the Springs @ Eastern Shore. The Motion carried unanimously.**

The first order of business under new business is preliminary/final review for Sterling Acres.

NEW BUSINESS:

PRELIMINARY/FINAL PLAT REVIEW:

File SDPF09-05:

Subdivision: Sterling Acres

Zoning(s): R-1, Low Density Single Family Residential

Location: East of U. S. Highway 98 on the north side of Wilson Avenue
Area: 1.89 Acres +, (3) lots
Owner: James & Janice Royal Clarke, Geoffrey & Joyce Sterling
Royal, Tracey Lamont, and Patricia Haynie
Surveyor: Geo Surveying - Matt Kountz

An introductory presentation was given by Mr. Matt Kountz, representing Geo Surveying, requesting preliminary/final plat review of a one point eight nine acre subdivision consisting of three lots located east of U. S. Highway 98 on the north side of Wilson Avenue. I will be happy to answer any questions you may have. The original configuration three parcels into a three-lot subdivision with a thirty-foot private ingress and egress easement. We are asking for a waiver on the building setbacks for the second lot where the setback from the easement is required to be forty feet. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: I have a question or more of a clarification. We are able to grant a variance, but a waiver because it is a subdivision. Is that correct?

Ms. Jones: From my prospective, it is a matter of semantics. It is the same

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thing as a variance. A waiver is the same thing as a variance. If you want to call it a waiver and think of it as synonymous, then we can do that. It is the exact same thing.

Mr. Ross: A waiver and a variance would be the same thing for a subdivision.

Ms. Barnette: When you think of a variance it is granted by BZA.

Ms. Jones: Just to keep it separate, clean, nobody may be confused or think that we are crossing territories.

Ms. Barnette: That is why we have the legal right to grant this rather than sending it to BZA.

Ms. Jones: That is correct. Do the waiver first.

Chairman: 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 Ms. Barnette and **Seconded** by Mayor Small **to grant a waiver for Sterling Acres three lot subdivision zoned R-1 on Wilson Avenue. The Motion carried unanimously.**

Ms. Jones: Just for clarification, it is a waiver for the setback on lot two.

An **Amended Motion** was made by Ms. Barnette and **Seconded** by Mayor Small **to grant a waiver for Sterling Acres three-lot subdivision zoned R-1, Low Density Single Family Residential, on Wilson Avenue as clarified. The Motion carried unanimously.**

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Terry **to approve the preliminary/final plat for Sterling Acres Subdivision. The Motion carried unanimously.**

Chairman: The Mayor has asked to leave early so I am going to move the annexation to the next item on the agenda so we will have six members to vote on the project. The next order of business is annexation review for Swift Supply, Inc.

ANNEXATION REVIEW:

An introductory presentation was given by Mr. Hopper, the General Manager, requesting annexation of a ten-point seven-five acre parcel consisting of

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Lots 1, 2, and 3 of Milton Jones Commercial Park with B-2, General Business, zoning located on the North side of Milton Jones Road which is currently zoned B-1, Professional Business, in Baldwin County District 15. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

Mr. Chason: Mr. Chairman, I am going to abstain from the vote.

Ms. Barnette: There was a question as to whether or not a right-of-way was sufficient enough to constitute contiguity for annexation.

Chairman: Mr. Ross.

Mr. Ross: Well, the question is the right-of-way alone sufficient enough to constitute contiguity for annexation. I found out about the query last this afternoon. My initial response is that it is somewhat analogous to the long annexation lasso. The general Alabama law is a common border or a roadway is in itself is insufficient to establish contiguity. Touching has to be more than a common alley or roadway. There are a lot of Alabama law and Attorney General Opinions that opine that if you just have a common alley or roadway that is sufficient. I really need to look at it more carefully to make a reasonable determination. It looks to me as if it is suspect.

Chairman: That makes it a concern of everybody if the roadway does not make it contiguous.

Mr. Ross: If it is across the street from the roadway that is fine. If the property ends at a given point and only commonality is the road itself it is not sufficient for annexation by consent. I have not honestly studied it sufficient enough to give a firm answer.

Ms. Barnette: I apologize. I did not get it until last this afternoon.

Chairman: With that, I do not believe that we can vote to annex the property at this time.

Mr. Ross: I have not really thought it through Mr. Kirby. The Commission could legally give an affirmative or negative recommendation to the City Council and we could determine that at a later date or alternatively the Commission could table it and I could speak to the Community Development Director and come back with a recommendation. All you are doing is making a

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recommendation.

Ms. Jones: If you are inclined to make a favorable recommendation contingent upon the legal counsel making a determination. This is not the first time this has come up. I think it would only be fair to the applicant if you are inclined too. Hopefully, we will take care of it before it going to City Council.

Mayor Small: The applicant has been out there for a month and a half. From my understanding with have set a precedent by doing this before. The roadway distance is not quite that far.

Mr. Ross: I will be happy to look at it and give a response by Tuesday.

Ms. Jones: As long as we can have it before the City Council meeting.

Mr. Ross: That is fine.

Chairman: Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion. Do you want to do contingent upon the review of the City Attorney?

Mayor Small: The legal portion is going to be handled during City Council.

Mr. Ross: That is right.

Mayor Small: We are just sending a recommendation as to whether we would like to favorably annex the property or not.

Mr. Terry: Don't we need to tell the City Council that we were aware of this and were not trying to pull something over on them?

Mr. Ross: It was my anticipation to articulate this to the City Council this question and to give them my opinion on it when they vote.

Ms. Jones: They are already aware of this because an individual sent out an email to all of the City Council members.

A Motion was made by Mayor Small and **Seconded** by Mr. Terry **for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the annexation review for Swift Supply, Inc. located on Milton Jones Road with B-2, General Business, zoning.**

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Upon roll call vote, the Motion carried:

<i>Mayor Small</i>	<i>Aye</i>
<i>Mr. Martin</i>	<i>Aye</i>
<i>Mr. Terry</i>	<i>Aye</i>
<i>Mr. Kirby</i>	<i>Aye</i>
<i>Mr. Chason</i>	<i>Abstain</i>
<i>Ms. Barnette</i>	<i>Abstain</i>
<i>Chief White</i>	<i>Aye</i>

Mayor Small asked to be excused at 6:45 p.m.

The next order of business is site plan review for AHEPA-DAPHNE.

SITE PLAN REVIEW:

File S09-04:

Site: AHEPA-DAPHNE

Zoning: R-4, High Density Multi-Family Residential

Location: Southwest of the intersection of County Road 64 and Pollard Road

Area: 3.52 Acres +

Owner: Rebecca Canale

Applicant: AHEPA 310-12, Inc.

Architects: TAG Architects - David Barr

Engineer: BES Engineers - Don Bolton or Art Rigas

An introductory presentation was given by Mr. David Barr, representing the Architects Group, and Mr. Art Rigas, representing BES Engineers, requesting site plan review of an apartment complex facility located southwest of the intersection of County Road 64 and Pollard Road. The facility will consist of a thirty-nine one-bedroom unit facility for the elderly. We have similar developments in Mobile and Fairhope. We will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments?

Mr. Chason: I rode down to look at the site. From a business stand point, why did you choose this piece of property?

Mr. Barr: Because it is zoned for the use that we need.

Mr. Chason: Isn't the request for the parking spaces to be reduced directly

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related to the topography of the site?

Mr. Barr: Well, we have gotten a waiver on all of our projects. If you use Google Earth, you can look at the site that we have in Mobile.

Mr. Chason: How flat is the site?

Mr. Barr: It is flat mostly along the edges of the property.

Mr. Chason: My concern is water runs down hill, and we are building a large building and parking lot on a very steep slope. If you have engineered this and met our requirements ok, but I really have to say there has to be other sites that are appropriate as well. I just wanted to know what was the force behind this location.

Mr. Barr: It is fairly close to shopping, amenities, and family neighborhoods.

Ms. Barnette: I guess this is my concern as well. I am not comfortable for us to change or granting a waiver or variance on something that we are not allowed to do.

Ms. Jones: They have an application with the Board of Zoning Adjustments coming up in May in which they are requesting thirty-nine parking spaces instead of fifty-six.

Ms. Barnette: It may be something that we need to have more flexibility in our Ordinance, but right now we do not have that capability because variances are set to BZA. If there is a hardship because of the topography, then that needs to be determined by BZA. I am not comfortable granting site plan approval subject to it going to BZA.

Chairman: Thank you. Of course, I kind of feel the same way. A variance needs to be granted by the BZA, and it needs to be in hand before we go ahead with the site plan.

Mr. Rigas: The initial layout had the building more parallel to the road with a twenty-five foot retaining wall. We came up with a modification of that and added a loop in the parking.

Ms. Jones: Just as a point of clarification, tell us the number of units that are proposed and the density of the project.

Mr. Barr: We are proposing thirty-nine units or three-point five per acre of the site.

Ms. Jones: Not the number of parking spaces, but rather the number of units.

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Mr. Barr: Thirty-nine. We are proposing to have one parking space per unit.

Mr. Terry: Will tenants be allowed to having parking?

Mr. Barr: We have a survey of all projects.

Mr. Chason: If BZA has not approved the parking, then we cannot do anything at this time.

Ms. Jones: What I would like is to say whether or not you have a problem with density, landscaping, or any other problem with the project other than parking because your minutes are going to go in the BZA packet. I need to know if you are leaning toward or are you leaning away from it.

Ms. Barnette: I certainly do not want to sway BZA because that is their job.

Chairman: I feel kind of the same way. It is not up to us to help BZA make a decision.

Ms. Jones: No what I want is for them to be informed of if you like or do not like it. You do not have to say that you would or would not approve it.

Chairman: For the record, I would say that it would not be approved unless it had the proper number of parking spaces.

Ms. Jones: Thank you.

Chairman: At this point, that is all that we would have to say.

Mr. Chason: I would like to have them come back with a beautifully landscaped project, but because of this hillside, the removal of the trees, and the drainage structure it is going to be a bmp nightmare.

Mr. Rigas: There are some preventive measures that have been figured into the design which will limit the impact on the site during construction.

Chairman: Well, I see that we need to hold this until BZA acts on it.

Mr. Rigas: If you table it that would give us an opportunity to go to BZA on May 8, 2009 then there will be another work session prior to the Planning Commission meeting.

Chairman: Do any of the Commissioners have any further questions or comments? We do have a request to table so if there is no objection, the Chair will entertain a motion.

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A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Chason *to table the site plan for AHEPA-DAPHNE, pending a determination of the parking variance being granted by the Board of Zoning Adjustments. The Motion carried unanimously.*

The next order of business is site plan review for Olde Towne Cottages.

File S09-05:

Site: Olde Towne Cottages

Zoning: MU, Multi-Use

Location: Northwest of the intersection of Guarisco and Trione Street

Area: 0.45 Acre +

Owner: The Howard Company - Chason Wachter

Engineer: Jinright & Associates - Trey Jinright

An introductory presentation was given by Mr. Trey Jinright, representing Jinright & Associates, and Mr. Chason Wachter, the owner, requesting site plan review of a multi use development located northwest of the intersection of Guarisco and Trione Street. It is four units with one commercial building. I believe we have addressed all of the staff comments. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: Ms. Campbell, have your comments been addressed? Is it going to be a pervious or impervious surface?

Mr. Jinright: Impervious.

Ms. Campbell: I have a comment. The last time it said compacted and a gravel surface. That is why I asked that question.

Mr. Jinright: Technically, impervious can be either sod or sandbed.

Mr. Terry: Ms. Jones, you had a comment about the preliminary/final plat needs to be filed.

Ms. Jones: It has been.

Chairman: It is going to be three residential buildings and an office building. I do not think this is what we envisioned as a multi use designation. That is not important at this time. My question is I see lot lines.

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Mr. Jinright: No that is phase line for construction.

Chairman: You know what I am asking because it would not fit the definition of a subdivision later on.

Mr. Jinright: No sir. It is simply a phase line to be used for the purpose of construction.

Chairman: Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Terry and **Seconded** by Ms. Barnette **to approve the site plan for Olde Towne Cottages. The Motion carried unanimously.**

The next order of business is site plan review for Mystic Moon Pie.

File S09-06:

Site: Mystic Moon Pie

Zoning: C/I, Commercial/Industrial

Location: Northwest intersection of Stanton Road and Profit Drive

Area: 2.69 Acres +

Owner: Robert McAlister

Engineer: J. Martin Pitts

An introductory presentation was given by Mr. Martin Pitts, the engineer representing Mr. Robert McAlister, requesting site plan review of a general office building located southeast of the old Honda Dealership on U. S. Highway 98 on a two-point six nine-acre site. I have addressed all of the staff comments. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? There is common detention for that area and you no longer have a detention pond on this site.

Mr. Pitts: That is correct.

Chairman: You said that is it going to be an office building, and I am curious as to what Mystic Moon Pie will be.

Mr. Pitts: We will have development of suites in an office building.

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Chairman: I was curious as to make sure that whatever when there fit in that zone. That was my concern.

Ms. Jones: Just to clarify, Cornell in the Revenue Department always checks to make sure the proposed use of the tenant is allowed by the Zoning Ordinance. He always calls to ask if certain uses are allowed in certain zoning districts.

Mr. Terry: He did miss Big Daddy's didn't he?

Ms. Jones: We all missed Big Daddy's.

Mr. Terry: Not all of us.

Ms. Jones: Cornell did not miss it.

Chairman: Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Terry and **Seconded** by Ms. Barnette **to approve the site plan for Mystic Moon Pie. The Motion carried unanimously.**

The next order of business is site plan review for Jumpin Jax Family Fun Center.

File S09-07:

Site: Jumpin Jax Family Fun Center

Zoning: B-2, General Business

Location: Northwest of the intersection of U. S. Highway 90 and Renaissance Boulevard, Lot 21, Phase Three of the Renaissance Center Subdivision

Area: 2.19 Acres +

Owner: Renaissance Center, L.L.C. - Terry Ogletree

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Applicant: M & B Entertainment, Malbis, L.L.C. - Jaye Shirley
Engineer: Jinright & Associates - Trey Jinright

An introductory presentation was given by Mr. Trey Jinright, representing Jinright & Associates, requesting site plan review of a commercial facility located northwest of the intersection of U. S. Highway 90 and Renaissance Boulevard on Lot 21 of the Renaissance Center Subdivision, Phase Three. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? Where is the Director because I need to figure out about the approval of the streets?

Ms. Dickson: She will be right back.

Mr. Jinright: I can answer that. We came to the City about one year to ask for the approval to record the final plat. Everything has been done with the exception of the street trees, lighting and irrigation. We are unable to complete this task until power is installed and provided by Riveria Utilities.

Chairman: I do know that we have not inspected the streets yet. I just want to make sure this is not a problem.

Ms. Jones: It is not a problem. I just want to make sure that anyone who buys a lot in the subdivision is aware of that.

Ms. Barnette: Have you provided rendering of the building renovations?

Mr. Jinright: They have been provided. The architectural review committee for the Renaissance Center has approved the site plan.

Ms. Barnette: Have we done anything or just talked about metal buildings?

Chairman: We have just talked about it.

Ms. Jones: Like Trey said, they have an architectural committee review, and we do not have anything in place yet.

Ms. Barnette: We have our sidewalk down Renaissance Boulevard.

Chairman: Do any of the Commissioners have any further questions or comments?

If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Terry **to approve the**

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site plan for Jumpin Jax Family Fun Center. The Motion carried unanimously.

The next order of business is an administrative presentation of a moratorium on R-4, High Density Multi-Family Residential, and MU, Multi Use development.

ADMINISTRATIVE PRESENTATION:

An introductory presentation was given by Ms. Adrienne D. Jones, Director of Community Development, of a proposed moratorium on zoning requests for R-4, High Density Multi-Family Residential, or MU, Multi-Use, zoning designations.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: Would you just like for me to make a motion?

Ms. Jones: Yes.

A **Motion** was made by Ms. Barnette and **Seconded** by Chief White *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for a moratorium on zoning requests for R-4, High Density Multi-Family Residential, zoning or MU, Multi-Use, designations.*

Ms. Barnette: Is that it?

Ms. Jones: For a period of six months and Jan mentioned you may also have applications for annexations to come in to ask for R-4, High Density Multi-Family Residential.

An **Amended Motion** was made by Ms. Barnette and **Seconded** by Chief White *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for a moratorium on zoning or annexation requests for R-4, High Density Multi-Family Residential, or MU, Multi-Use, zoning designations for a period of six months. The Motion carried unanimously.*

Ms. Barnette: Mr. Chairman, I have mentioned that this may be coming forward from the Planning Commission to the City Council.

Mr. Ross: When will this be coming to the City Council?

Ms. Barnette: Yes sir. At the next City Council meeting.

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Mr. Terry: What about the two that we had done today?

Mr. Ross: The ones that you have already done. You cannot do that.

Ms. Dickson: Zoning amendment applications.

Chairman: They are already zoned. It would be for zoning and annexation applications.

The next order of business is public participation.

PUBLIC PARTICIPATION:

No participation.

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

ATTORNEY'S REPORT:

Mr. Ross, attorney: no report.

The next order of business is commissioner's comments.

COMMISSIONER'S COMMENTS:

Ms. Barnette: We are scheduled for the work session in May for the City Council to discuss the Land Use Ordinance. It is the second Monday in May 11, 2009 at 6:30 p.m. Monday immediately following Mother's Day.

The next order of business is the director's comments.

DIRECTOR'S COMMENTS:

Ms. Jones: You know that we have moved. You are welcome to come by, but just not soon. I would like for you to set a work session to finalize the Land Use Ordinance. I will email the draft City Council calendar that Becky has for next month so you can see what is available. I will also email you the email regarding the long lasso annexation.

ADJOURNMENT:

Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion to adjourn.

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

There being no further business, the meeting was adjourned at 7:15 p.m.

Respectfully submitted by:

Jan Dickson, Planning Coordinator

APPROVED: May 28, 2009

Ed Kirby, Chairman

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~~**CALL TO ORDER:**~~

The number of members present constitutes a quorum and the regular meeting of the City of Daphne Planning Commission was called to order at 6:00 p.m.

CALL OF ROLL:

Members Present:

Frank Martin, Secretary
Don Terry, Vice Chairman
Ed Kirby, Chairman
Larry Chason
Cathy Barnette, Councilwoman
Victoria Phelps

Members Absent:

Fred Small, Mayor
Joe Lemoine
Chief James "Bo" White

Staff Present:

Adrienne D. Jones, Director of Community Development
Jan Dickson, Planning Coordinator
Nancy Anderson, GIS Manager
Ashley Campbell, Environmental Programs Officer
Jay Ross, Attorney

Staff Absent:

Missty Gray, Attorney

Others Absent:

Rob McElroy, General Manager/Utilities Board of the City of Daphne
Danny Lyndall, Operations Manager/Utilities Board of the City of Daphne

The first order of business is the call to order.

Chairman: Please let the record reflect Ms. Phelps, Mr. Lemoine and Mayor Small are not present.

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The next order of business is review of the minutes.

APPROVAL OF MINUTES:

The minutes of the April 23, 2009 regular meeting were considered for approval. A copy of the minutes was furnished to us previously. Do any of the Commissioners have any questions or comments?

Mr. Chason: I have a correction. I am shown as the member which made the second to the approval of the April 23 regular Planning Commission minutes of which I abstained from the motion and did not make the second. I am not sure who did.

Chairman: If there are no further additions, deletions, or corrections at this time, the Chair will entertain a motion.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Terry **to approve the minutes of the April 23, 2009 regular meeting as amended. The Motion carried unanimously.**

Ms. Dickson: Do you know who made the second? May I change it to say you make the second Mr. Terry?

Mr. Terry: That is fine.

The next order of business is site plan review for AHEPA-DAPHNE.

OLD BUSINESS:

File S09-04:

Site: **AHEPA-DAPHNE**

Zoning: **R-4, High Density Multi-Family Residential**

Location: Southwest of the intersection of County Road 64 and Pollard Road

Area: 3.52 Acres +

Owner: Rebecca Canale

Applicant: AHEPA 310-12, Inc.

Architects: TAG Architects - David Barr

Engineer: BES Engineers - Don Bolton or Art Rigas

An introductory presentation was given by Mr. David Barr, representing

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the Architects Group, requesting site plan review of an apartment complex facility located southwest of the intersection of County Road 64 and Pollard Road. The facility will consist of a thirty-nine one-bedroom unit facility for the elderly. I will be happy to answer any questions you may have. At the work session, we talked about revising the plans to accommodate the required parking and landscape plan and we have.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: I would like a clarification on the staff report. Can we have Mr. Jones confirm that they have addressed the fire department issues and the utility department as well?

Ms. Jones: I talked to the Fire Marshal today and although they have designed the fire line to accommodate the fire hydrant, the revision to the plans to redesign the fire line that was not quite the way the Operations Director of the Utilities Board wanted it to be. Mr. Lyndall is out of town and may need the addition of a separate line on the north side of the property. He was ok with the location of the main and the back flow preventer being in or close to the right-of-way. They may need to have a separate water line to the north, but I cannot say for sure if they absolutely have to.

Mr. Barr: As of now, BES have fed the water line before you get to the back flow preventer so it is fed off of the main.

Chairman: That was the question that you could not have the back flow preventer in front of the fire hydrant.

Ms. Jones: The attempted to satisfy both entities. That was the comment from the work session, and they did provide a plan that did that. Mr. Jeff Logan which is not here did his best to satisfy both of them. I am just not absolutely sure whether or not he did that.

Mr. Barr: I understand that they are.

Chairman: Do any of the Commissioners have any questions or comments? If we do not have a definite answer, then I think we are at a quandry as to what to do.

Ms. Jones: It is not an issue that would cause the denial of application. It may be a situation where we need to have something in place prior to the issuance of the site disturbance permit.

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Chairman: This is something that has to be resolved before a permit can be issued.

Ms. Jones: Right.

Ms. Barnette: Mr. Chairman, I do not have a problem with that.

Chairman: We also have comments from site containment. Have all of your comments been addressed?

Ms. Campbell: I have not received a copy of the revised BMP plan of the wetland area. What is the size of the wetland area? This site will require the issuance of a Nationwide Permit from the Corps of Engineers prior to the commencement of work and the issuance of a site disturbance permit. This will require delineation and mitigation. This will require obtaining the Nationwide Permit prior to the issuance of the site disturbance permit.

Mr. Chason: I just wanted to know what is the size of the area that will be affected. I think it is less than one half acre.

Ms. Campbell: I am not aware that they have established that.

Mr. Barr: I think it was like point six four acres.

Ms. Phelps: I would like to know the number of parking spaces that are required and the age requirement for the facility.

Mr. Barr: The number of required parking spaces is fifty-eight. The age requirement for the facility is sixty-two years of age, and your income would have to be such that you would qualify for the reduced rate.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: Did we modify the tree removal plan? We talked about the landscape plan and the mitigation, but I did not see a revised landscape plan.

Ms. Jones: Mr. Strunk stopped by my office and talked about the landscape plan. He did provide a tree removal plan. I was satisfied with the information provided and the increased buffer provided on the north side of the property. The revised plans were distributed at the

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work session.

Chairman: How many trees will be removed?

Ms. Jones: Based on my calculations, it is one thirty-six, and I did not calculate all of them.

Ms. Barnette: Do we know how many they are removing?

Ms. Jones: One hundred and twenty-seven so the replacement is more along the lines of one-to-one.

Ms. Barnette: This is lower than we normally do.

Ms. Jones: We have approved two similar to this.

Chairman: Do any of the Commissioners have any further 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. Terry **to approve the site plan for AHEPA-DAPHNE, contingent upon compliance with the International Fire Code, Utility Board requirements and obtaining a Nationwide Permit from the Corps of Engineers prior to the issuance of a site disturbance permit. The Motion carried unanimously.**

The first order of business under new business is preliminary/final review for the replat of Lots 30 & 31, Beau Chene Subdivision.

NEW BUSINESS:

PRELIMINARY/FINAL PLAT REVIEW:

File SDPF09-07:

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Subdivision: Replat of Lots 30 & 31, Beau Chene

Zoning(s): Unzoned, Baldwin County District 7

Location: Northeast of the intersection of Rigsby Road and County Road 64

Area: 2.30 Acres +, (1) lots

Owner: South Malbis, L.L.C. - Jeff Thompson

Engineer: Jinright & Associates - Trey Jinright or Tim Douglas

An introductory presentation was given by Mr. Tim Douglas, representing Jinright & Associates, requesting preliminary/final plat review of a two-point three-acre subdivision consisting of one lot located northeast of the intersection of Rigsby Road and County Road 64. We are combining the original configuration of two lots into a one lot by removing the interior line and creating lot 30 and 30 A. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? So all we are doing is removing an interior lot line? Do these lots have drainage and utility easements?

Mr. Douglas: Yes.

Ms. Jones: It is not necessary to do a vacation of easement because these lots are located in the extraterritorial planning jurisdiction in unincorporated Baldwin County.

Chairman: 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 Ms. Barnette and **Seconded** by Mr. Terry **to approve the preliminary/final plat for the replat of Lots 30 & 31, Beau Chene Subdivision. The Motion carried unanimously.**

The next order of business is site plan review for Daphne Commercial Park, Phase One, Lot 5.

SITE PLAN REVIEW:

File S09-09:

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Site: Daphne Commercial Park, Phase One, Lot 5

Zoning: *C/I, Commercial/Industrial*

Location: Northwest of the intersection of Pollard and Whispering Pines Roads

Area: 0.63 Acres +

Owner: The Oxford Group - Rance Reehl

Engineer: Frank Dagley & Associates - Patrick Tolbert

An introductory presentation was given by Mr. Patrick Tolbert, representing Frank Dagley & Associates, requesting site plan review requesting for a commercial/office facility located Northwest of the intersection of Pollard and Whispering Pines. This building as the same as the others constructed by the owner, except the facade is a little different. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: Does the landscape plan comply with the City of Daphne Landscape and Tree Ordinance?

Ms. Jones: No, but the landscaping plan is consistent with the landscaping approved and installed by the owner for the existing buildings he has constructed in the subdivision.

Ms. Barnette: Can you tell us what the Oxford Group is and what they are doing? This is a commercial/industrial zone and there has been so confusion in the past about the use. We are not as concerned with what business will be there as we are if the use will comply with the Land Use and Development Ordinance.

Mr. Tolbert: This is a spec building and does not have a user at this time.

Mr. Chason: When this was developed, they were thinking in terms of something other than a commercial/industrial park.

Ms. Barnette: My follow up question would be Ms. Campbell, have you conducted an inspection of the detention pond and is it ok?

Ms. Campbell: The detention pond is not an issue.

Chairman: Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion.

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A **Motion** was made by Mr. Chason and **Seconded** by Mr. Terry **to approve the site plan for Daphne Commercial Park, Phase One, Lot 5. The Motion carried unanimously.**

The next order of business is site plan review for the Performing Arts Center for Bayside Academy.

File S09-10:

Site: Performing Arts Center for Bayside Academy

Zoning: R-1, Low Density Single Family Residential

Location: West of Old County Road, North of Dryer Avenue

Area: 20.79 Acres +

Owner: Bayside Academy - Tom Johnson

Architect: Knodel Associate Architects - Bruce Knodel

Engineer: Speaks & Associates - Jerry Luker

Ms. Barnette: Before you get started, I want to say for the record that I will be abstaining from the discussion and the voting.

Mr. Chason: I also will be abstaining.

An introductory presentation was given by Mr. Bruce Knodel, representing Knodel Associate Architects, and Mr. Jerry Luker, representing Speaks & Associates, requesting site plan review of a performing arts center for Bayside Academy located west of Old County Road north of Dryer Avenue. The configuration of the site and the footprint for the performing arts center is consistent with the master plan that was approved by the Planning Commission. This is a theater with a stage with four hundred to allow Bayside to have performances and at the same time teach the children how a theater actually functions. I will be happy to answer any questions you may have.

Chairman: In Mayor Small's absence, I have been asked to read his comment letter into the record. " Planning Commission Members, first let me send my apologies for not being at tonight's meeting. I do want to express my concern about one of the projects that will come before you tonight for Bayside.

Mr. Knodel: I saw in the e-mail that Ms. Jones sent out yesterday that Mr. Johnson, Headmaster of Bayside, sent correspondence that they will construct a masonry wall around the chillers on the south side of the existing building. This is great news, but we need to be sure that it is out of the sound proof block and will be high enough to muffle the noise that it produces now. I did not see anything in Ms. Jones notes

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about the sound proof wall around the new chiller pad to be constructed for the new building. This will be very important for the residents that will be affected on the southwest side of Belrose Ave. I still have concerns about the calculations for detention at the twenty-five year rate. As we discussed in the work section, these calculations should be based on an one hundred year flood event, because of the damage that has occurred within the stream at this time. I can assure you if there are problems with homeowners downstream they will look to the City for repairs. One last thing, building this building on the bluff will include the removal of all the trees and the natural beauty that Bayside is known for. There is always an option, and they still have the option of moving the sporting fields to the sports complex on County Road 64 and build the new building there. In doing this, Bayside would retain its natural beauty and its famous view of the bay. I ask that Chairman Ed Kirby have this read into the minutes on this date May 28, 2009, Fred Small, Mayor for the City of Daphne. Do any of the Commissioners have any questions or comments?

Ms. Phelps: For the use of the building you anticipate having four hundred seats.

Mr. Knodel: A performing arts facility with four hundred fixed seats.

Ms. Phelps: With four hundred fixed seats do think you have adequate parking to accommodate this facility?

Mr. Knodel: Mr. Johnson addressed that in his letter. At this time the performing arts functions are held in the gym, and all that is happening here is those functions would be relocated to the performing arts theater. To date, the parking has been adequate.

Ms. Phelps: Per the Mayor's letter have you looked at the concept of moving the building to another location?

Chairman: In the Mayor's letter, he had requested that consideration be given to relocating the facility to the property which you own on County Road 64.

Mr. Knodel: We placed the building as it was indicated on the master plan.

Ms. Phelps: But we are not moving it off of the bluff.

Mr. Knodel: We were not asked to do that. We were not asked to consider the relocation of the facility. The only trees which will be

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removed are located in the area where the Fire Marshal requested an access for a fire truck and/or emergency vehicle and in the footprint of the building. We have a limit of construction line because if you were to build below the line you may have failure on the bluff. Most of the trees are beyond that line.

Ms. Phelps: Ms. Campbell, are you satisfied with the design of the site?

Ms. Campbell: I have a letter to the Mayor and a memorandum of my comments. My concern is the existing erosion in the creek and gully. The engineer is satisfied that the designed will be able to handle the drainage. The storm water drainage is a private facility and will be located solely on their property. If there are any issues that may come from this site, Bayside will have to address them. In the past, we have had to address areas like this.

Mr. Knodel: Our civil engineer is here to address that, but I would like to touch on a couple of other things. To address the Mayor's comments, the existing building does not have sound control. Let me say this first. There is no such thing as a sound proof wall. There is a sound product provided into the construction of the wall which absorbs the sound. The new mechanical court yard will be lined with sound block and three of the walls will be twelve feet in height. On the south property line, the proposed structure will have sound block designed into that wall. Mr. Luker, the engineer, has changed the storm water drainage from a twenty-five year rain event to a ninety-year rain event design, but he has committed to revise the design to accommodate a one hundred rain event design. Mr. Luker is here to address any questions or comments you may have.

Mr. Luker: I work for a civil engineering firm. To clarify something that Mr. Knodel said, in our original design we had designed the storm water drainage for ninety percent of what would have been a one hundred year storm event. What we have done is provided a sketch to Ms. Jones as to what we would do for the additional detention. The design would put us past the design for a one hundred-year storm event. One other thing is we do not miss the point that this is not your everyday site.

Mr. Luker: We have spend a lot of time, a lot of care, and we have used our experience to do our very best for the design of this site. The amount of water that we will release from our storm water detention facility is twenty-five percent of what would have occurred in a ten-year storm. Our design along the access drive to the building will be a gabion wall with stone filled baskets with a natural design. It is actually two component system. If the storm water drainage

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system were to fail, the will would still be there because it would get its strength from the geo grid and the other materials. In addition, we are tying it into a slope with geo grid. It is a very conservative design. The storm water drainage from the private systems goes from this site to Belrose Avenue. What we are doing will not affect the property to the north because we are putting in less water into the system. That is the best that we know how to do with this site. If there are any other questions, I will be glad to address them.

Chairman: I am going to ask just one. I am familiar with gabion construction, but in the plans you provide details for a gabion dam in conjunction with your storm water drainage design. Can you describe for the Planning Commission the construction of your design in regard to the use of a gabion dam? Some of our members are not familiar with the use and design.

Ms. Phelps: I am.

Chairman: I know you are.

Mr. Luker: This is galvanized wire which is coated with a PVC coating. A gabion is basically a three by three-basket which is section off into different lengths. It can be anywhere from six to twelve feet in length. construction will be made of gabion and stone construction materials.

Mr. Martin: Is that what they use in Mobile? I know what it is.

Mr. Luker: This is not advertising, but the City of Mobile told us they wanted us to do a project and the gabion dam was used by the Royal Knight Lodge on U. S. Highway 90. That was the first place we used this material. We know Bayside is not your every day average site, and we have done everything using our experience to address the issues at the site. Mr. Luker: To address the Mayor's comments, if we had done our calculations in the normal manner, our storm water drainage would have met the design of a one hundred-year storm event. We wanted to put less water into that water way and that is why we have done it.

Mr. Luker: Ms. Campbell has requested that we repair the head wall near the bluff and at the time of the construction of the facility we will. The damage to the head wall occurred from the water at the top of the bank of the bluff eroding the soil from around the pipe and not from water going through the pipe. I think this will correct the problems that are there.

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Ms. Phelps: Described for the Commission the design of the gabion dam.

Mr. Luker: All of our construction for the gabion dam is made of stone. Of all else fails, the wall will remain standing.

Ms. Phelps: How high will the wall be?

Mr. Luker: It will be fifteen feet at the highest point, and one other thing about the way that we did the wall here by using the geo grid and tying it back that is where they get their strength.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Campbell: What is the size of the slope?

Mr. Luker: Generally, it is three-to-one. At the commencement of construction, I will try to have a presence on the site every day. One of the provisions we have made is each day the area that the construction crew works on will have to have bmps in place before they leave the site.

Ms. Campbell: What about the filtration?

Mr. Luker: No filtration because there is a small amount of paving.

Ms. Campbell: The character of the facility will be harmed by the removal of the significant trees located on the site.

Chairman: Please indulge me. I know this is a little unusual, but I would like to open the floor to public participation.

The adjacent property owners addressed the Commission to express their concerns regarding the proposed development and how it would impact their property.

An adjacent property owner, Ms. Jean-Marie McDonnell, expressed her concerns regarding the preservation of the archeological finds on the site, preservation of the bluff, environmental concerns, historical preservation, storm water drainage, and the recent sewage spills onto the beach near the bay.

An adjacent property owner, Mr. Donald Ouellette, questioned whether

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or not the parking was sufficient to accommodate the new facility.

The Commission addressed the concerns of the adjacent property owner and discussed at length its possible effect on the adjacent property.

Mr. Knodel: The function of the facility as a performing arts center does not require any additional parking.

Chairman: Well, I will ask the question. Are you aware of any sewage spill? Can you help me? How is sewer coming to this site now? Does it have a grinder pump?

Mr. Knodel: No sir. I am not. There is one on the South side of the property, and one on the North side of the property which splits and goes up the hill.

Chairman: On the plans you are just asked to verify the sewer connections or the line that you are going to tie into on the lift station.

Mr. Luker: The line is there. We are just telling the contractor that he has to locate it.

Do any of the Commissioners have any further questions or comments?
Ms. Campbell?

Ms. Campbell: I have not had an complaints on a sewage spill, but I have had complaints about the odor coming from the lift station.

Mr. Knodel: The lift station is located off campus.

Ms. Campbell: I have contacted Daphne Utilities.

Chairman: Do any of the Commissioners have any further questions or comments? 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. Terry and **Seconded** by Mr. Martin **to approve the site plan for Performing Arts Center for Bayside Academy.**

Upon roll call vote, **the Motion failed.**

Mr. Martin Aye

Mr. Terry Aye

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Mr. Kirby Aye

Mr. Chason Abstained

Ms. Barnette Abstained

Ms. Phelps Nay

Chairman: What did I have? I had three ayes, one nay and two abstentions.

Mr. Ross: It passes.

Chairman: It failed because you have to have the majority of what is here. I am going to put Mr. Ross on the spot now.

Mr. Ross: You have six votes and five for the quorum. In order for it to pass you would have to have a majority of the quorum so I think that it does need four affirmative votes.

Mr. Kirby: In other words, the motion failed. We need to express what those concerns were that caused the denial of the site plan.

Ms. Phelps: My concern is that really do not know anything the archeological possibilities. I do not think this project is in the best interest of the City of Daphne's Comprehensive Plan.

Mr. Knodel: I think we need to find out what it is that you would like for us to provide.

Ms. Phelps: Anything that we may need to take in consideration in the review and approval of this plan. Preservation of the natural bluff line, preservation of the significant trees, and maintain the characteristics of the nature land.

Mr. Ross: I am not telling anyone what to do, but based on the number of people that are here you may resubmit it again for next month. I do not know of any limitation on a site plan more than one time.

Ms. Phelps: I do not think that we have all of the answers to the question that we need to approve this site plan.

Mr. Knodel: Can someone give us a list of those things you would like for us to address in order to bring this site plan back before the Commission?

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Chairman: Obviously, there are three of us that do not have any concerns.

Mr. Knodel: Mr. Luker, just asked me if the City of Daphne had any data regarding the archeological concerns.

Ms. Jones: The first that I have heard of this was tonight so this is not something that we could have asked them to address. All of this has come about because of the information provided to you during public participation.

Mr. Luker: Does the City have any information on file regarding the sanitary sewer overflow?

Ms. Phelps: For the utility problems, our utility person is not here to answer those questions.

Mr. Luker: They can tell you whether or not they have the capacity to serve the site. We contact your staff prior to the meeting to ensure that we have addressed all of your concerns.

Ms. Phelps: I understand this is difficult, but based on what we have learned I personally cannot see this project moving forward tonight.

Chairman: Well, let me say this. I have been on the Planning Commission for a long time, and one of the previous projects either the education building or the proposed parking lot to the north raised concerns about the gulley. At that time, there were concerns addressed about archeologist artifacts being located in that stream. There may be some record of that in the Planning Commission minutes.

Ms. Jean-Marie McDonnell, an adjacent property owner: It was done for Bayside Academy at the request of the Historical Preservation Commission. It was never made public. There may have been some information in the newspaper.

Ms. Phelps: Do you know what year that was?

Ms. McDonnell: It was 1992. No. It was 2005.

Chairman: That discussion come up during the review of the proposed parking lot on the north side of the property.

Mr. Knodel: I will have to tell the master plan is not acceptable.

Chairman: I do not think that is correct. I do not think the master plan is being rejected. There are concerns that we need to have addressed. If you would like to bring it back, then you may have a

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better vote since there is only six Planning Commission members here.

Mr. Knodel: When can I tell them we will meet again?

Ms. Dickson: Do you mean site preview?

Chairman: Are you on there for next month?

Mr. Ross: That could be possible.

Chairman: My feeling is you may bring it back next month.

Ms. Phelps: Are you going to have the data by next month?

Ms. Jones: I am thinking as to what prospective to answer you from. It is not encumbered upon us to provide the documentation. It is encumbered upon them.

Ms. Dickson: Mr. Chairman, the next meeting is Wednesday, June 17, 2009.

Ms. Campbell: Back in 2005 when they were trying to fill and pipe that area for the construction of a parking lot. The Corps of Engineers may have a file on it. The site plan did not go forward, obviously. They had to apply for a permit to fill and pipe the area.

Chairman: I think it has to do with the proposed parking lot in 2005.

Ms. Dickson: It did. Remember they had not applied for a permit. They had presented to the Planning Commission for site plan review, but did not apply to the Corps of Engineers for a permit.

The next order of business is annexation review for AJD Family Limited Partnership.

ANNEXATION REVIEW:

An introductory presentation was given by Mr. Christopher Baker, representing Hutchinson, Moore & Rauch, requesting annexation of a ten-point eight four-acre parcel with B-2, General Business, zoning located Southeast of the intersection of County Road 64 and Friendship Road which is currently zoned B-1, Professional Business, and B-2, Local Business, in Baldwin County District 15. The owner of the subject property is AJD Family Limited Partnership. We have revised the drawing submitted with the annexation request to add an

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF MAY 28, 2009 DRAFT OF MINUTES
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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additional portion of property along County Road 64 to address your comments and concerns after the discussion with Ms. Missty Gray, City Attorney.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: I know we have asked for an Attorney General Opinion regarding annexation by long lasso that is why we asked for the revision to the drawing. We will getting a portion of a sixty-nine acre tract with B-1, Professional Business, zoning in Baldwin County District 15 and B-2, General Business, zoning in the City of Daphne with a complete subdivision layout and without a master plan.

Mr. Baker: May I approach and go over the Baldwin County District 15 zoning map with you? The property to the south in B-3, General Business, and B-2, Local Business, in Baldwin County District 15; across County Road 64 to the north is B-2, General Business, in the City of Daphne; and the other portion of this property is zoned R-2 B, Single Family Residential, B-1, Professional Business, and B-2, Local Business, in Baldwin County District 15.

Ms. Phelps: What is the intended use of the property which is going to be annexed into the City of Daphne?

Mr. Baker: A swim club has been discussed on the three-acre lot.

Ms. Barnette: Doesn't Ms. Defillipi own the three parcels adjacent to this property? I am concerned with the annexation by long lasso and that we may not be doing it right. We have annexed a couple of projects without definition. We have talked about going back to annexation property with R-1, Low Density Single Family Residential, zoning because the owner would have to ask for a zoning amendment and support the intended use of the property. Also, I have concerns about dividing a parcel without a master plan.

Mr. Chason: Who will provide utility service for the development?

Mr. Baker: Water and gas utilities will be provided by the Utilities Board of the City of Daphne, and water will be provided by the Belforest Water Authority.

Mr. Chason: Why aren't you requesting rezoning to B-3, General Business, in the Baldwin County District 15? Why aren't you annexing the entire sixty-nine acres into the City of Daphne?

Mr. Baker: The parcel is owned by Ms. Defillipi's family. It has been difficult to get the family to agree since they have no plans for the

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development of the land at this time.

Mr. Chason: This request makes me uneasy because not very much information was given and several months after we annex the property into the City of Daphne we will realize why.

Chairman: Did your client realize there are nonconforming signs on the strip of land?

Mr. Chason: I am not comfortable because a B-2, General Business, zoning district in the City of Daphne opens you up for anything to be developed on this parcel. You need guidance by providing a master plan and modifying it as needed.

Chairman: Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Chason and **Seconded** by Ms. Barnette **for the unfavorable recommendation by the Planning Commission to the City Council of Daphne for the annexation review for AJD Family Limited Partnership of a ten-point eight four-acre parcel located Southeast of the intersection of County Road 64 and Friendship Road with B-2, General Business, zoning.**

Upon roll call vote, **the Motion carried.**

Mr. Martin	Nay
Mr. Terry	Nay
Mr. Kirby	Nay
Mr. Chason	Nay
Ms. Barnette	Nay
Ms. Phelps	Nay

Mr. Baker: Would it be possible to withdraw the petition if we did not wish for it to be acted on?

Ms. Jones: You could withdraw it prior to action by the City Council by contacting the City Clerk.

The next order of business is public participation.

PUBLIC PARTICIPATION:

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No participation.

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

ATTORNEY'S REPORT:

Mr. Ross, attorney: no report.

The next order of business is commissioner's comments.

COMMISSIONER'S COMMENTS:

Chairman: We discussed at site preview changing the meeting time to 8:30 a.m. rather than 8:00 a.m. 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. Chason and **Seconded** by Mr. Terry **to change the time for site preview meetings from 8:00 a.m. to 8:30 a.m. The Motion carried unanimously.**

The next order of business is the director's comments.

DIRECTOR'S COMMENTS:

Ms. Jones: No comments.

The next order of business is an administration review for the Jubilee Square Retrofit Conceptual Plan for the City of Daphne.

ADMINISTRATIVE PRESENTATION:

An introductory power point presentation was given by Ms. Ashley Campbell, the Environmental Programs Manager, of the Jubilee Square Retrofit Conceptual Plan for the City of Daphne. I will be happy to answer any questions you may have.

Chairman: 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 Ms. Barnette and **Seconded** by Mr. Terry **for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the Jubilee Square Retrofit Conceptual Plan for the City of Daphne. The Motion carried unanimously.**

ADJOURNMENT:

Chairman: Do any of the Commissioners have any questions or comments?

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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 7:30 p.m.

Respectfully submitted by:

Jan Dickson, Planning Coordinator

APPROVED: June 25, 2009

Ed Kirby, Chairman

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MEMORANDUM

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: AJD Family Limited Partnership
Ms. Patsy Defillipi
Annexation Review
Date: June 10, 2009

PRESENT ZONING: B-1, Professional Business, in Baldwin County District 15

PROPOSED ZONING: B-2, General Business, City of Daphne

LOCATION: Southeast of the intersection of County Road 64 and Friendship Road

RECOMMENDATION: At the May 28, 2009, regular meeting of the City of Daphne Planning Commission, six members were present and the vote was unanimous for an **unfavorable recommendation** for the above-mentioned petition for annexation.

REFERENCE: Proposed Italian Settlement Subdivison

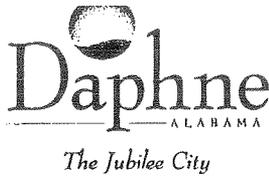
Upon receipt of said documentation, please place on the appropriate agenda for action by the City Council.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Community Development Staff Report
2. Request for Attorney General Opinion (Swift Supply, Inc.)
3. Petition
4. Legal description
5. Map of property
6. Draft of May 28, 2009 Minutes



Annexation Review: Italian Settlement

10.84 acres (originally proposed 10.49 acres)

Owner: ADJ Family Limited Partnership

Contiguous to Daphne Corporate Limits: Yes (County Road 64)

Existing Conditions: Undeveloped

Existing Zoning: B-1 Professional Business District—Baldwin County District 15
& B-2 Local Business District

Proposed Zoning: B-2 General Business

Surrounding Zonings/Uses: District 15 Baldwin County

North- (B-1) Existing residence

South-(B-3) Existing church

East- (B-1) Remaining AJD property - undeveloped

West-Friendship Road (A mix of commercial and residential uses on the west side of Friendship Road)

Existing Service Providers:

Utilities—Belforest Water

Electric—Riviera Utilities

Affected City Service Providers:

Fire Protection—Station 2 (North Main Street)

Police Protection—Police Beat 1

Sewer and Gas—Daphne Utilities

Baldwin County Schools—N/A



Community Development

On May 18th Daphne City Council will consider a Resolution to request an opinion from the Alabama Attorney General regarding whether or not the City may annex a parcel of land (which is similarly situated to this) contiguous to a City R.O.W. As this is similar in nature to the Swift Annexation petition, it may be handled in a similar manner. Therein Planning Commission made a favorable recommendation to the City Council on April 23rd. On May 4th the Council requested the City Attorney to draft a resolution requesting the Attorney General's Opinion of the matter.

DRAFT

May 7, 2009

VIA FACSIMILE AND FEDERAL EXPRESS

Ms. Brenda Smith
Chief, Opinions Division
Office of the Attorney General
11 S. Union Street
Montgomery, AL 36130

RE: CITY OF DAPHNE REQUEST FOR ATTORNEY GENERAL OPINION

Dear Ms. Smith:

On Monday, May 4, 2009, the Daphne City Council passed a resolution requesting an Attorney General's opinion regarding propriety of a proposed annexation of a certain parcel of real property into the City of Daphne.

By way of brief background, the City of Daphne, a class 8 municipality, accepted from the Baldwin County Commission by Quit Claim Deed a roadway as a public right-of-way for maintenance. The roadway is commonly known as *Milton Jones Road*. The acceptance occurred on February 2, 2009 by resolution of the City of Daphne. The road is approximately 60 feet wide, and approximately .99 miles in length. It is paved and is utilized by the public.

The City recently received a request for annexation by a landowner who owns a parcel of real property, which is approximately five (5) acres, adjacent to Milton Jones Road. The landowner desires to be annexed by the statutory method described in §11-42-20 *et. seq.*, Code of Alabama, 1975 (as amended). The only contiguity between the proposed parcel desiring annexation and the Daphne city limits is *Milton Jones Road*. The City is concerned that the proposed annexation of this parcel, if challenged, may be declared invalid under the "long lasso" theory of annexation. May the City annex the proposed parcel of real property by utilizing *Milton Jones Road* as the point of contiguity?

Ms. Brenda Smith
Page Two
May 7, 2009

The City of Daphne appreciates the Attorney General's office considering this request and attached please find the City of Daphne Resolution 2009-42 authorizing this request. Should your office have any further questions or need additional information concerning this inquiry, please feel free to contact the undersigned.

Respectfully submitted,

JAY M. ROSS
Attorney for the City of Daphne

JMR/pb

cc: Mayor Fred Small (via email only)
John Lake, Council President (via email only)
Council Members (via email only)
Adrienne Jones, Community Development Director (via email only)

STATE OF ALABAMA

COUNTY OF BALDWIN

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

(A.J.D. FAMILY LIMITED PARTNERSHIP)

The undersigned, Ms. Patsy Defilippi, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as a portion of Italian Settlement to be annexed into the City of Daphne, a municipal corporation incorporated under the laws of the State of Alabama, and submits the following in support of its petition:

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

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

3. **Owner:** The Petitioner, Ms. Patsy Defilippi as Manager, is the owner of the Property hereby sought to be annexed into the corporate limits of the City of Daphne.

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

B2 General Business

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

DATED this 17 day of April, 2009.

Respectfully submitted,

A.J.D. Family Limited Partnership
Name of Corporation

By: *Patsy DeFilippi*
Its: Manager

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that *Patsy DeFilippi* whose name as Manager of AJD Family Ltd Partner, an Alabama corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily on the day same bears date.

GIVEN under my hand and official seal on this the 17th day of April, 2009.

David Howard
NOTARY PUBLIC
My commission expires: NOTARY SEAL
NOTARY PUBLIC STATE OF ALABAMA
MY COMMISSION EXPIRES: Dec 22, 2011
BONDED THRU NOTARY PUBLIC UNDERWRITERS

AJD FAMILY LIMITED PARTNERSHIP
SOUTHEAST OF THE INTERSECTION OF
COUNTY ROAD 64 AND FRIENDSHIP ROAD

ANNEXATION

EXHIBIT "A"

LEGAL DESCRIPTION:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST; THENCE RUN N-89°39'12"-W, 1273.36 FEET TO A POINT; THENCE RUN S-00°22'22"-W, 39.50 FEET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64 AND THE POINT OF BEGINNING; THENCE CONTINUE S-00°22'22"-W, 15.00 FEET TO A POINT; THENCE RUN N-89°39'57"-W, 1149.56 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 170.00 FEET TO A POINT; THENCE RUN N-89°39'12"-W, 15.00 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 183.24 FEET TO A POINT; THENCE RUN S-89°34'56"-E, 90.22 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 1328.08 FEET TO A POINT; THENCE RUN S-89°28'24"-E, 39.78 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 250.00 FEET TO A POINT; THENCE RUN N-89°28'24"-W, 300.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF FRIENDSHIP ROAD; THENCE RUN N-00°15'00"-E, ALONG SAID EAST RIGHT-OF-WAY LINE 1775.61 FEET TO A POINT; THENCE RUN N-89°39'12"-W LEAVING SAID EAST RIGHT-OF-WAY LINE, 170.00 FEET TO A POINT; THENCE RUN N-00°15'00"-E, 170.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64; THENCE RUN S-89°39'57"-E ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1164.59 FEET TO THE POINT OF BEGINNING, CONTAINING 10.84 ACRES, MORE OR LESS.

**THE CITY OF DAPHNE
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The next order of business is annexation review for AJD Family Limited Partnership.

ANNEXATION REVIEW:

An introductory presentation was given by Mr. Christopher Baker, representing Hutchinson, Moore & Rauch, requesting annexation of a ten-point eight four-acre parcel with B-2, General Business, zoning located Southeast of the intersection of County Road 64 and Friendship Road which is currently zoned B-1, Professional Business, and B-2, Local Business, in Baldwin County District 15. The owner of the subject property is AJD Family Limited Partnership. We have revised the drawing submitted with the annexation request to add an additional portion of property along County Road 64 to address your comments and concerns after the discussion with Ms. Missty Gray, City Attorney.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: I know we have asked for an Attorney General Opinion regarding annexation by long lasso that is why we asked for the revision to the drawing. We will getting a portion of a sixty-nine acre tract with B-1, Professional Business, zoning in Baldwin County District 15 and B-2, General Business, zoning in the City of Daphne with a complete subdivision layout and without a master plan.

Mr. Baker: May I approach and go over the Baldwin County District 15 zoning map with you? The property to the south in B-3, General Business, and B-2, Local Business, in Baldwin County District 15; across County Road 64 to the north is B-2, General Business, in the City of Daphne; and the other portion of this property is zoned R-2 B, Single Family Residential, B-1, Professional Business, and B-2, Local Business, in Baldwin County District 15.

Ms. Phelps: What is the intended use of the property which is going to be annexed into the City of Daphne?

Mr. Baker: A swim club has been discussed on the three-acre lot.

Ms. Barnette: Doesn't Ms. Defillipi own the three parcels adjacent to this property? I am concerned with the annexation by long lasso and that we may not be doing it right.

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Mr. Chason: Who will provide utility service for the development?

Mr. Baker: Water and gas utilities will be provided by the Utilities Board of the City of Daphne, and water will be provided by the Belforest Water Authority.

Mr. Chason: Why aren't you requesting rezoning to B-3, General Business, in the Baldwin County District 15? Why aren't you annexing the entire sixty-nine acres into the City of Daphne?

Mr. Baker: The parcel is owned by Ms. Defillipi's family. It has been difficult to get the family to agree since they have no plans for the development of the land at this time.

Mr. Chason: This request makes me uneasy because not very much information was given and several months after we annex the property into the City of Daphne we will realize why.

Chairman: Did your client realize there are nonconforming signs on the strip of land?

Mr. Chason: I am not comfortable because a B-2, General Business, zoning district in the City of Daphne opens you up for anything to be developed on this parcel. You need guidance by providing a master plan and modifying it as needed.

Chairman: Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion.

A Motion was made by Mr. Chason and **Seconded** by Ms. Barnette **for the unfavorable recommendation by the Planning Commission to the City Council of Daphne for the annexation review for AJD Family Limited Partnership of a ten-point eight four-acre parcel located Southeast of the intersection of County Road 64 and Friendship Road with B-2, General Business, zoning.**

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Upon roll call vote, *the Motion carried.*

Mr. Martin	Nay
Mr. Terry	Nay
Mr. Kirby	Nay
Mr. Chason	Nay
Ms. Barnette	Nay
Ms. Phelps	Nay

Mr. Baker: Would it be possible to withdraw the petition if we did not wish for it to be acted on?

Ms. Jones: You could withdraw it prior to action by the City Council by contacting the City Clerk.

ORDINANCE NO. 2009-

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

**AJD Family Limited Partnership
(Property located on Southeast of the intersection of County Road 64 and Friendship
Road)**

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

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

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

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

WHEREAS, the Planning Commission of the City of Daphne, Alabama, at its regularly scheduled meeting of May 28, 2009, considered said petition and forwarded an unfavorable recommendation to the City Council of the City of Daphne, Alabama for said petition of annexation, and said property shall be zoned B-2, General Business – 10.84 Acres; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on July 20, 2009 concerning the petition for annexation; and,

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

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

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

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

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

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

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

“Exhibit A”

LEGAL DESCRIPTION:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST; THENCE RUN N-89°39'12"-W, 1273.36 FEET TO A POINT; THENCE RUN S-00°22'22"-W, 39.50 FEET, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64 AND THE POINT OF BEGINNING; THENCE CONTINUE S-00°22'22"-W, 15.00 FEET TO A POINT; THENCE RUN N-89°39'57"-W, 1149.56 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 170.00 FEET TO A POINT; THENCE RUN N-89°39'12"-W, 15.00 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 183.24 FEET TO A POINT; THENCE RUN S-89°34'56"-E, 90.22 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 1328.08 FEET TO A POINT; THENCE RUN S-89°28'24"-E, 39.78 FEET TO A POINT; THENCE RUN S-00°15'00"-W, 250.00 FEET TO A POINT; THENCE RUN N-89°28'24"-W, 300.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF FRIENDSHIP ROAD; THENCE RUN N-00°15'00"-E, ALONG SAID EAST RIGHT-OF-WAY LINE 1775.61 FEET TO A POINT; THENCE RUN N-89°39'12"-W LEAVING SAID EAST RIGHT-OF-WAY LINE, 170.00 FEET TO A POINT; THENCE RUN N-00°15'00"-E, 170.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF BALDWIN COUNTY HIGHWAY NUMBER 64; THENCE RUN S-89°39'57"-E ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1164.59 FEET TO THE POINT OF BEGINNING, CONTAINING 10.84 ACRES, MORE OR LESS.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this ____ day of _____, 2009.

John Lake
Council President
Date & Time Signed: _____

Fred Small
Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen
City Clerk, MMC

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

CASE NO. 2009-6

ABC LICENSE ROUTING

DATE RECEIVED BY REVENUE DIV. 5-15-09 (initial) KJ

DATE FORWARDED TO POLICE DEPT. 5-15-09 ICJ

DATE RECEIVED BY POLICE DEPT. 5/18/09 mtt

DATE: APPROVED DISAPPROVED

POLICE DEPT SIGNATURE [Signature]

DATE RETURNED TO REVENUE DIV. 6-8-09 KS

DATE FORWARDED TO CITY CLERK 6-8-09 KS

DATE RECEIVED BY CITY CLERK 6-8-09 RAH

SCHEDULED DATE ON AGENDA 6-15-09 RAH

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
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20090505113703681



Type License: 020 - RESTAURANT RETAIL LIQUOR State: County:
 Type License: State: County:
 Trade Name: OZIO Filing Fee:
 Applicant: NEW HAVEN PIZZAS OF ALABAMA LLC Transfer Fee: \$50.00
 Location Address: 697 US HWY 98 STES B AND C DAPHNE, AL 36526
 Mailing Address: 697 US HWY 98 STES B AND C DAPHNE, AL 36526
 County: BALDWIN Tobacco sales: NO Tobacco Vending Machines:
 Sale of Products Containing Ephedrine: NO Type Ownership: LLC
 Book, Page, or Document info: BOOK 6507 PAGE 1458 Do you sell Draft Beer: Y
 Date Incorporated: 03/19/2009 State incorporated: AL County Incorporated: MOBILE
 Date of Authority: 03/19/2009

Name: Title: Date and Place of Birth: Residence Address:

JAMES ERIC LEATH 8095934 - AL	MEMBER	08/26/1966 MOBILE AL	10137 EMMANUEL ST DAPHNE, AL 36526

Has applicant complied with financial responsibility ABC RR 20-X-5-.14? YES
 Does ABC have any actions pending against the current licensee? NO
 Has anyone, including manager or applicant, had a Federal/State permit or license suspended or revoked? NO
 Has a liquor, wine, malt or brewed license for these premises ever been denied, suspended, or revoked? NO
 Are the applicant(s) named above, the only person(s), in any manner interested in the business sought to be licensed? YES
 Are any of the applicants, whether individual, member of a partnership or association, or officers and directors of cooperation 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? NO
 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? NO
 Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate or other licensee, or from any firm, association or corporation operating under or regulated by the authority of this act? NO

Contact Person: JAMES LEATH
 Business Phone: 251-401-0183
 Fax:

Home Phone: 251-401-0183
 Cell Phone:
 E-mail:

PREVIOUS LICENSE INFORMATION:
 Trade Name: BRANDONS
 Applicant: APICIUS LLC

Previous License Number(s)
 License 1: 020-000973702-000
 License 2:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20090505113703681

If applicant is leasing the property, is a copy of the lease agreement attached? YES
Name of Property owner/lessor and phone number: VINCENT A OVERY SR AND LYNN M OVERY 251-802-0185
What is lessors primary business? PRINTING
Is lessor involved in any way with the alcoholic beverage business? NO
Is there any further interest, or connection with, the licensee's business by the lessor? NO

Does the premise have a fully equipped kitchen? YES
Is the business used to habitually and principally provide food to the public? YES
Does the establishment have restroom facilities? YES
Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? YES

Will the business be operated primarily as a package store? NO
Building Dimensions Square Footage: 3400 Display Square Footage:
Building seating capacity: 110 Does Licensed premises include a patio area? NO
License Structure: SHOPPING CENTER License covers: PORTION OF
Number of licenses in the vicinity: 3 Nearest: .25
Nearest school: 2 miles Nearest church: 4 blocks Nearest residence: 1 blocks
Location is within: CITY LIMITS Police protection: CITY

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(s)?

Name:	Violation & Date:	Arresting Agency:	Disposition:



STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD

ALCOHOL LICENSE APPLICATION

Confirmation Number: 20090505113703681



Initial each

EL

In reference to law violations, I attest to the truthfulness of the responses given within the application.

EL

In reference to the Lease/property ownership, I attest to the truthfulness of the responses given within the application.

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.

In reference to Special Retail or Special Events retail license, I agree to comply with all applicable laws and regulations concerning this class of license, and to observe the special terms and conditions as indicated within the application.

In reference to the Club Application information, I attest to the truthfulness of the responses given within the application.

EL

In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.

EL

In accordance with Alabama Rules & Regulations 20-X-5-.01(4), any social security number disclosed under this regulation shall be used for the purpose of investigation or verification by the ABC Board and shall not be a matter of public record.

EL

The undersigned agree, if a license is issued as herein 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 license premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him or her in connection with said licensed premises. The undersigned hereby understands that 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.

EL

I hereby swear and affirm that I have read the application and all statements therein and facts set forth are true and correct, and that the applicant is the only person interested in the business for which the license is required.

Applicant Name (print): James Eric Leath

Signature of Applicant: *[Signature]*

Notary Name (print): Charlotte M. Sernigan

Notary Signature: *[Signature]* Commission expires: 06/04/2012

Application Taken: 5/5/09 App. Inv. Completed:

Submitted to Local Government: 5/5/09

Received in District Office: Reviewed by Supervisor:

Forwarded to District Office:

Received from Local Government:

Forwarded to Central Office:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
 Confirmation Number: 20090505113703681



NOTICE OF TRANSFER OF ABC LICENSED BUSINESS

NOTE: A Copy of Operating Agreement Must be Attached To Application

CURRENT LICENSEE:
 APICIUS LLC
 Address: 687 US HWY 98
 DAPHNE, AL 36526
 Telephone: 251-990-0578

NEW APPLICANT:
 NEW HAVEN PIZZAS OF ALABAMA LLC
 Address: 697 US HWY 98
 DAPHNE, AL 36526
 Telephone: 251-401-0183

Current License No: 020-000973702-000

LICENSED PREMISES ADDRESS: 697 US HWY 98 DAPHNE, AL 36526

THE AFORENAMED HEREBY SERVE NOTICE TO THE ABC BOARD OF THE ATTACHED CONTRACTUAL AGREEMENT GOVERNING THE CONTINUATION OF SALES OF ALCOHOLIC BEVERAGES ON THE LICENSED PREMISES.

The Parties to this agreement hereby acknowledge and affirm that the New (Applicant) Licensee will, at all times, act as the AGENT for the Current (Named) Licensee, and the Current Licensee shall act as PRINCIPAL for the purposes of the attached Agreement. The Principal shall be bound by all acts and/or omissions of the Agent in the operation of the licensed premises.

The Current Licensee is now and shall remain liable for any violations of ABC Rules and Regulations or other Alabama Law for the duration of the attached Agreement; and, further, that the Current Licensee has the right and authority, under Alabama Law, to surrender the ABC License to the ABC Board at any time.

The parties acknowledge that the operation of the licensed premises shall remain subject to inspection by ABC Enforcement, and must comply with all State and Local regulations and Laws, and that the local ABC Enforcement District Office must be immediately notified of any change in the attached Agreement.

THE CURRENT LICENSE WILL NOT BE RENEWED.

WITNESS our hands and seals on this the 5th day of May, 20 09.

CURRENT LICENSEE (NAMED ON LICENSE)

NEW LICENSEE (APPLICANT)

Brandon Bter
 Print Name:
 Title: member LLC

James Eric Leath
 Print Name:
 Title: Sole Member

WITNESS: (By ABC Enforcement)
 Revised 9/08

Charlene J. Jorgensen

CITY OF DAPHNE SPECIAL EVENTS PERMIT

ORGANIZATION:	<i>Uncorked Fine Wines</i>
CONTACT PERSON:	<i>Keith Rector</i>
ADDRESS:	<i>1714 Main Street</i>
PHONE NUMBER: (HOME)	<i>625-2153</i>
PHONE NUMBER: (BUSINESS)	<i>625-8808</i>
CELL NUMBER:	
DATE OF SPECIAL EVENT:	<i>October 31, 2009</i> <i>Rain Date - November 1, 2009</i>
TYPE OF SPECIAL EVENT:	<i>Wine Tasting Festival</i>
APPROXIMATE # OF PEOPLE & CARS:	<i>2,000 People - 1,000 Cars</i>
START TIME:	<i>12:00 Noon</i>
STOP TIME:	<i>6:00 P.M.</i>
FACILITY/PARK TO BE USED:	<i>City Hall Lawn & Parking Lot</i>
SPECIAL REQUESTS:	<i>Street blocked off at each end of City Hall</i>
DATE APPLIED FOR PERMIT:	<i>May 21, 2009</i>
APPROVAL	
COUNCIL MEMBER:	
POLICE: Chief David Carpenter	<i>David Carpenter</i>
FIRE: Chief James White	<i>James White</i>
PUBLIC WORKS: Bill Eady	<i>William Eady Sr</i>
SPECIAL INSTRUCTIONS:	
DATE ROUTED:	<i>May 21, 2009</i>
NOTIFICATION OF APPROVAL:	

To: The Mayor's Office
Cc: City Council

From: Keith Rector (UnCorked Fine Wines)
Subject: *Wine Tasting Festival 2009*

Mr. Mayor, UnCorked Fine Wines would like to use the front of the Courthouse to host the first Mainstreet Daphne " *Wine Tasting Festival.*"

Date of Event: October 31st, Saturday (Rain Day November 1st, Sunday)

Time of Event: 12:00 – 6:00

Approx. # of people: 2,000 + for the first year

UnCorked Fine Wines will supply the following:

- Tents & Tables set up by Miller's Rental Service
- All Eleven Wine Distributors in Alabama will represent over 150 Wines for Tasting
- Special Tent set up for Wine purchases
- Special Tent set up for Silent Auction on Special Bottles of Wine – 60% of proceeds donated to Seeds, including Christ the King School & Bayside
- Police as required
- Proof of Age for Ticket Purchase and Wrist Bands provided at entrance
- Advertisement for Event in Local Papers and our Web. Site, Posters for Business Windows
- (1) Riedal Glass per person for Tasting

City Hall

We would ask that Main Street be blocked off at both ends of the Courthouse, same as the Mama Mia's Cook-off event.

I have spoken with Cathy Barnett concerning the Festival, she and others on the City Council believes this would be a great event to bring even more people Downtown to showcase the New Courthouse and our local Restaurants.

This event would pull people in from Mississippi, Panhandle of Florida, Mobile & Baldwin County.

We hope that you consider the use of the front of the Courthouse to host this Festival, who knows how big this event could grow into in the coming years.

Keith Rector

A handwritten signature in black ink that reads "Keith Rector". The signature is written in a cursive, slightly slanted style.

UnCorked Fine Wines

625-8808

**CONTRACT BETWEEN THE CITY OF DAPHNE CIVIC CENTER
AND THE CHURCH OF HIS HOLY PRESENCE
FOR THE PURCHASE AND MAINTENANCE OF ADDITIONAL LIGHTING**

RECITALS

THIS LIGHTING ADDITION AGREEMENT TO THE CITY OF DAPHNE CIVIC CENTER, hereinafter referred to as ("Agreement"), is made and entered into as of its adoption by the City Council of the City of Daphne, Alabama, on this the ____ day of _____, 2009, (the "Effective Date"), by and between THE CITY OF DAPHNE CIVIC CENTER (hereinafter called "**CIVIC CENTER**") an entity located at 2603 U. S. Highway 98, Daphne, Alabama, that is owned and operated by the CITY OF DAPHNE, ALABAMA, an Alabama municipal corporation, and THE CHURCH OF HIS PRESENCE AND/OR JOHN KILPATRICK MINISTRIES (hereinafter called "**THE CHURCH**"), a religious organization, P.O. Box 1250 Daphne, AL, 36526, and holding religious services/activities at 2603 U. S. Highway 98, Daphne, Alabama 36526. This agreement supersedes and replaces any existing agreement between the **CIVIC CENTER** and **THE CHURCH** to the extent such agreements relate to the addition to, purchase of, and maintenance of the lighting system used by **THE CHURCH** within the **CIVIC CENTER**.

WITNESSETH:

WHEREAS, THE CHURCH is a religious organization that leases space within the **CIVIC CENTER** to conduct religious ceremonies and/or activities; and

WHEREAS, THE CHURCH desires to add to the present lighting in the **CIVIC CENTER** so that it can properly videotape its services and project **THE CHURCH** pastors' image on a giant screen mounted on stage for the audience to see; and

WHEREAS, the current lighting equipment within the **CIVIC CENTER** is inadequate to enable **THE CHURCH** to videotape its services and illuminate its pastor due to the growing number of parishioners which causes many in the back of **THE CHURCH** to be unable to clearly see the pastor; and

NOW THEREFORE, for and in consideration of the mutual covenants and promises as are hereinafter set forth and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties, **CIVIC CENTER** and **THE CHURCH** hereby agree as follows:

SECTION 1

Definitions

- 1.1 The CIVIC CENTER/THE CHURCH Agreement** means the agreement entered into between the *CIVIC CENTER* and *THE CHURCH* whereby *THE CHURCH* has agreed to purchase additional dimmers for use within the *CIVIC CENTER* and/or additional electrical apparatus that is needed to control lighting within the *CIVIC CENTER* and will also pay the costs for a licensed electrician to run electrical wiring from the dimmer light location to the location of the new lights.
- 1.2 Dimmer** a device for controlling the amount of light from an electrical lighting unit.
- 1.3 Electrical Work** is labor that a licensed electrician performs by running electrical wiring from a dimmer rack locale to the location of new electrical lighting and the mounting and aiming of the new electrical lighting.
- 1.4 Maintenance** required labor in order to sustain the new equipment and/or keep in proper working condition the electrical lighting used by the *CIVIC CENTER* and/or tenants of the *CIVIC CENTER*.
- 1.5 Religious Services/Activities** a gathering of individuals for the purpose of observing a personal set or institutionalized system of beliefs, attitudes and practices towards a God and/or deity.

SECTION 2

The Church's Rights and Obligations

- 2.1 General Engagement:** *THE CHURCH* hereby engages the *CIVIC CENTER* and *THE CHURCH* hereby agrees to purchase additional dimmers and/or additional electrical lighting to allow *THE CHURCH* to add to the present lighting in the *CIVIC CENTER* so that they can properly videotape their worship services and/or allow the pastor's image to be projected on a giant screen to enable better visualization of his parishioners. *THE CHURCH* further agrees to pay for the services of a licensed electrician to install the electrical lighting from current dimmer rack mounting within the *CIVIC CENTER* to the locale of the new dimmers and/or needed electrical lighting.
- 2.2 Liability:** *THE CHURCH* assumes any and all liability resulting from or related to the addition of the dimmers and/or additional electrical lighting to the present electrical lighting at the *CIVIC CENTER* for the duration of *THE CHURCH'S* term as a tenant of the *CIVIC CENTER*.

2.3 Ownership: *THE CHURCH* shall be construed as the owner of each and every specific dimmer and/or additional electrical lighting unit resulting from this Agreement. Upon the installation of the dimmers and/or additional electrical lighting derived from this Agreement to the present electrical lighting at the *CIVIC CENTER*, *THE CHURCH* agrees to donate said dimmers and/or additional electrical lighting, in addition to all applicable operating equipment, to the *CIVIC CENTER*.

2.4 Dimmers and/or Additional Electrical Lighting to be Purchased: *THE CHURCH* hereby agrees to be responsible for all costs, sales, and/or use taxes involved in the purchase of twelve (12) Colortran I Series E Dual 20A 500us Dimmer Modules (24 Circuits), one (1) Lot Shipping to Jobsite, one (1) Lot System Design Drawings, and one (1) System Programming and Training Session. Said equipment shall be purchased by *THE CHURCH* from Main stage Theatrical Supply, Inc. located at 8761A Ely Road, Pensacola, Florida 32514.

SECTION 3

Compensation

3.1 Payment: Any and all costs, sales, and/or use taxes derived from the purchase of equipment from Mainstage Theatrical Supply, Inc. shall be due and payable by *THE CHURCH* upon receipt of shipment from Mainstage Theatrical Supply, Inc.

SECTION 4

Lighting and Electrical Work

4.1 Installation of Lighting and Electrical Work: *THE CHURCH* hereby agrees to employ Pensacola Lighting Company, LLC, located at 7424 Chimney Pines Drive, Pensacola, FL 32526, a licensed electrical contractor in the State of Alabama, possessing Occupational License No. 8366, for the installation of dimmers and/or electrical lighting as derived from this Agreement.

4.2 Scope of Work: To install a lighting rig with (20) 2000 watt stage lights; to install twenty (20) dedicated circuits to existing dimmer rack(s); light circuits shall be #10 gauge copper wire; and the electrical wiring shall be installed in steel conduit.

4.3 Payment: *THE CHURCH* agrees to compensate Pensacola Lighting Company, LLC, for all efforts undertaken to install the dimmers and/or additional needed electrical lighting.

4.4 Restoration: *THE CHURCH*, so long as they remain a tenant of the *CIVIC CENTER*, shall maintain liability for the cost(s) to restore the *CIVIC CENTER* to its original condition before the Agreement became effective should the dimmers and/or additional electrical lighting pursuant to this Agreement be required to be removed from the *CIVIC CENTER* for any reason the *CIVIC CENTER* is not liable.

SECTION 5

Civic Center Rights and Obligations

5.1 Compensation for Dimmers and/or Additional Electrical Equipment: The *CIVIC CENTER* possesses no liability to compensate electrical equipment suppliers and/or licensed electricians for the purchase and installation of electrical equipment pursuant to this Agreement. The *CIVIC CENTER* shall not reimburse nor act as a surety on behalf of *THE CHURCH* for the purchase and installation of electrical equipment pursuant to this Agreement.

5.2 Liability: The *CIVIC CENTER* disowns and disavows all liability for any injury to person, or property, or interest therein resulting in any way directly or indirectly from the purchase, installation, and maintenance of the dimmers and/or additional needed electrical lighting pursuant to this Agreement to the *CIVIC CENTER* so long as *THE CHURCH* is a tenant of the *CIVIC CENTER*. *THE CHURCH* hereby agrees to assume any and all liability resulting from the purchase, installation, and maintenance of the dimmers and/or additional needed electrical lighting pursuant to this Agreement for the period of time they remain a tenant of the *CIVIC CENTER*.

5.3 Ownership: The *CIVIC CENTER* agrees to assume ownership of the dimmers and any additional needed electrical lighting derived from this Agreement via donation from *THE CHURCH* once all dimmers and/or additional needed electrical lighting pursuant to this Agreement is installed and in proper working condition.

SECTION 6

Use of Lights

6.1 Use by Others: *THE CHURCH* and the *CIVIC CENTER* and/or any individual(s) or entity(ies) using space within the *CIVIC CENTER* may have use of the dimmers and/or additional needed electrical lighting derived from this Agreement as much and as long as they wish so long as the dimmers and/or additional needed electrical lighting are not re-aimed. The *CIVIC CENTER* hereby agrees to pay for the services of a lighting director to re-aim the dimmers or additional electrical lighting added to the *CIVIC CENTER* should the lights be re-aimed by anyone using space within the *CIVIC CENTER* to whom the *CIVIC CENTER* gives permission to re-aim the equipment. The *CIVIC CENTER* shall not be responsible for anyone using space within the *CIVIC CENTER* who re-aims the equipment without the permission of the *CIVIC CENTER*.

6.2 Rental: The *CIVIC CENTER* shall reserve the right to charge anyone using the dimmers and/or additional needed electrical lighting derived from this Agreement a reasonable fee for the use of said equipment and shall further reserve the right to charge *THE CHURCH* a reasonable fee should *THE CHURCH* not remain a tenant for a period of four (4) consecutive weeks.

SECTION 7

Maintenance

7.1 Maintenance: All dimmers and/or additional needed electrical lighting derived from this Agreement shall be maintained by *THE CHURCH* so long as they remain a tenant of the *CIVIC CENTER*. The *CIVIC CENTER* hereby agrees to assume all costs and expenses related to the maintenance of the dimmers and/or additional electrical lighting pursuant to this Agreement once *THE CHURCH* is no longer a tenant of the *CIVIC CENTER* for a period of four (4) consecutive weeks.

7.2 Use of Lift: The *CIVIC CENTER* agrees to provide *THE CHURCH* with an electric and/or hydraulic lift for the purpose of maintenance of the dimmers and/or additional electrical lighting pursuant to this Agreement at no additional costs.

SECTION 8

Term and Termination

8.1 Term: The term of this Agreement will commence on the Effective Date and will continue in effect for whatever length of time *THE CHURCH* is a tenant of the *CIVIC CENTER* for a period of four (4) consecutive weeks.

8.2 Termination: This Agreement may be terminated as follows:

- 1) By mutual agreement of the *CIVIC CENTER* and *THE CHURCH*; or
- 2) By either party, in the event of a breach of this Agreement by the other party which remains uncured, upon thirty (30) days prior written notice to the other party; or
- 3) By *CIVIC CENTER* immediately upon written notice to *THE CHURCH*, due to *THE CHURCH'S* failure to meet any of the purchase, maintenance, and installation requirements specified in this Agreement, or *THE CHURCH'S* inability to meet its obligations pursuant to this Agreement due to financial insolvency and/or bankruptcy.

SECTION 9

Relationship of the Parties

9.1 Relationship of the Parties: The relationship of *THE CHURCH* to the *CIVIC CENTER* is that of a Lessor and Lessee. Nothing contained herein shall create an employer-employee, principal-agent, or partnership relationship between *THE CHURCH* and the *CIVIC CENTER* or between any employee, agent or officer of the *CIVIC CENTER*. *THE CHURCH* shall not

exercise control or direction over the manner in which or to whom the *CIVIC CENTER* or any employee, agent or officer of the *CIVIC CENTER* allows to rent space within the *CIVIC CENTER*. Nothing contained herein shall interfere with the Lessor/Lessee relationship between *THE CHURCH* and the *CIVIC CENTER*.

9.2 Non-Disclosure: The *CIVIC CENTER* agrees not to disclose any proprietary or financial information regarding, without limitation, the terms of this Agreement or any information pertaining to the proprietary or financial information of *THE CHURCH*, to any other party except as may be specifically provided otherwise in this Agreement. The *CIVIC CENTER* will treat all information furnished by *THE CHURCH* as confidential and proprietary information. This Section shall survive termination of this Agreement.

9.3 Exclusivity: This Agreement is an exclusive arrangement. The *CIVIC CENTER* may lease space to other individuals or entities as the *CIVIC CENTER* determines including the use of the dimmers and/or additional needed lighting pursuant to this Agreement subject to the limitations of this Agreement.

SECTION 10

Construction of Agreement

10.1 Assignment: *THE CHURCH* may not assign any or all of its rights and responsibilities under this Agreement to any other party or entity, even if entity is controlling or controlled by, or under common control with *THE CHURCH* without prior written consent of the *CIVIC CENTER*, which consent will not be unreasonably withheld.

10.2 Amendments: This Agreement may be amended only by written agreement signed by the parties hereto.

10.3 Section Headings: The headings of sections in this Agreement are for reference only and shall not affect the meaning of this Agreement.

10.4 Entire Agreement: This Agreement, inclusive of any and all amendments, attachments and exhibits incorporated herein by reference, constitutes the entire understanding and agreement between the parties with regard to the subject matter hereof. No other prior or contemporaneous promise, obligation, statement or understanding between the parties, whether written or oral, shall be valid or binding.

10.5 Binding Effect: This Agreement shall be binding upon and inure to the benefit of each party hereto, and their successors and permitted assigns.

10.6 No Third Party Beneficiary Rights: No individual, entity, nor any other third party shall have any third party beneficiary rights under this Agreement.

10.7 Compliance with Terms: Failure to insist upon strict compliance with any of the terms or conditions of this Agreement shall not be deemed to be a waiver in the event of any future breach of any term or condition hereunder.

10.8 Severability: Should any provision (or part thereof) of this Agreement be held to be invalid and/or unenforceable, the remaining provisions shall remain in full force and effect.

10.9 Governing Law: This Agreement shall be governed by the laws of the State of Alabama, without giving effect to its conflicts of law provisions.

SECTION 11

Effective Date

11.1 Effective Date: This Agreement shall be in full force and effect upon its adoption by the City Council of the City of Daphne and any publication as required by law.

**JOHN MICHAEL KILPATRICK
ASSOCIATE PASTOR
CHURCH OF HIS HOLY PRESENCE**

Time & Date Signed: _____

**FRED SMALL
MAYOR
CITY OF DAPHNE, ALABAMA**

Time & Date Signed: _____

ATTEST:

**DAVID COHEN
CITY CLERK, MMC**

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

RESOLUTION 2009-52

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAPHNE
APPOINTING ONE (1) DIRECTOR TO THE BOARD OF DIRECTORS OF
RENAISSANCE IMPROVEMENT DISTRICT**

WHEREAS, the City Council (the “Council”) of the City of Daphne, Alabama, (the “City”), previously approved the formation of Renaissance Improvement District (the “District”), in accordance with Chapter 99A of Title 11 of the Code of Alabama (1975), as amended (the “Act”); and

WHEREAS, the City desires to appoint Robert James as a member of the District’s Board of Directors.

NOW, THEREFORE, be it resolved by the Council, as follows:

1. That Robert James is hereby appointed by the Council as a member of the District’s Board of Directors.

2. The term of Robert James shall begin immediately upon his appointment and shall end at 11:59 p.m. on June 5, 2012.

ADOPTED AND APPROVED ON THIS the _____ day of _____, 2009.

John Lake,
Council President
Date & Time Signed: _____

Fred Small,
Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen,
City Clerk, MMC

RESOLUTION 2009-53
2009-L-DAPHNE PUBLIC LIBRARY ALTERATIONS & ADDITIONS

WHEREAS, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

WHEREAS, the DAPHNE PUBLIC LIBRARY ALTERATIONS & ADDITIONS will exceed \$50,000; and

WHEREAS, the City of Daphne did receive and review bids for the DAPHNE PUBLIC LIBRARY ALTERATIONS & ADDITIONS and has determined that the bid as presented is reasonable; and

WHEREAS, staff recommends the bid for DAPHNE PUBLIC LIBRARY ALTERATIONS & ADDITIONS be awarded to Thomas Construction.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF DAPHNE,

- 1) Hereby accept the bid from Thomas Construction in the amount of \$714,538 to include base bid of \$684,489 and Add Alternates (#'s 1-10) in the amount of \$30,049 as specified in BID SPECIFICATION NO. 2009-L-DAPHNE PUBLIC LIBRARY ALTERATIONS & ADDITIONS; and.
- 2) Additional costs for furnishings in the in the amount of \$8,800; and
- 3) Architectural/Engineering services in the amount of \$110,000 are also approved.

Total project cost is \$833,338.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this ____ day of _____, 2009.

John Lake, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk MMC

DAMAGE SURVEY REPORT (DSR)
Emergency Watershed Protection Program - Recovery

<u>NRCS Entry Only</u>			
Eligible:	YES	<input type="checkbox"/>	NO <input type="checkbox"/>
Approved:	YES	<input type="checkbox"/>	NO <input type="checkbox"/>
Funding Priority Number (from Section 4)	2E		

Section 1A

Date of Report: May 26, 2009 Limited Resource Area: YES NO
DSR Number: Dap-09-001 Project Number: _____

Section 1B Sponsor Information

Sponsor Name: City of Daphne, Alabama (Ashley Campbell)
Address: P. O. Box 400
City/State/Zip: Daphne, Alabama 36526
Telephone Number: 251-621-3080 Fax: 251-621-3719

Section 1C Site Location Information

County: Baldwin State: Alabama Congressional District: 1st
Latitude: 30 38 53.6856 Longitude: -87 52 20.4348 Section: 33 Township: 4S Range: 2E
UTM Coordinates: _____
Drainage Name: D'Olive Creek Reach: Unnamed Tributary
Damage Description: Slope failure with loss of approximately 2000 cubic yards of material including riprap stabilized creekbed. Foundation Piles for existing home is approximately 20 yards from creek.

All answers in this Section must be YES in order to be eligible for EWP assistance.

Site Eligibility	YES	NO	Remarks
Damage was a result of a natural disaster?*	X		FEMA-1835-DR, Alabama Disaster Declaration
Recovery measures would be for runoff retardation or soil erosion prevention?*	X		
Threat to life and/or property?*	X		
Event caused a sudden impairment in the watershed?*	X		
Imminent threat was created by this event?*	X		
For structural repairs, not repaired twice within ten years?*	X		
Site Defensibility			
Economic, environmental, and social documentation adequate to warrant action (Go to pages 3, 4, 5 and 6***)	X		
Proposed action technically viable? (Go to Page 9 ***)	X		

Have all the appropriate steps been taken to ensure that all segments of the affected population have been informed of the EWP program and its possible effects? YES NO

Comments: _____

* Statutory

** Regulation

*** DSR Pages 3 through 6 and 9 are required to support the decisions recorded on this summary page. If additional space is needed on this or any other page in this form, add appropriate pages.

DSR NO: Dap-09-001
Section 1E Proposed Action

is the preferred alternative from Findings: Section 5A:

Total installation cost identified in this DSR: Section 3: \$182,500

Section 1F NRCS State Office Review and Approval

Reviewed By: _____ Date Reviewed: _____
State EWP Program Manager

Approved By: _____ Date Approved: _____
State Conservationist

PRIVACY ACT AND PUBLIC BURDEN STATEMENT

NOTE: The following statement is made in accordance with the Privacy Act of 1974, (5 U.S.C. 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is 7 CFR 624 (EWP) and Section 216 of the Flood Control Act of 1950, Public Law 81-516, 33 U.S.C. 701b-1; and Section 403 of the Agricultural Credit Act of 1978, Public Law 95334, as amended by Section 382, of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104-127, 16 U.S.C. 2203. EWP, through local sponsors, provides emergency measures for runoff retardation and erosion control to areas where a sudden impairment of a watershed threatens life or property. The Secretary of Agriculture has delegated the administration of EWP to the Chief or NRCS on state, tribal and private lands.

Signing this form indicates the sponsor concurs and agrees to provide the regional cost-share to implement the EWP recovery measure(s) determined eligible by NRCS under the terms and conditions of the program authority. Failure to provide a signature will result in the applicant being unable to apply for or receive a grant the applicable program authorities. Once signed by the sponsor, this information may not be provided to other agencies. IRS, Department of Justice, or other State or Federal Law Enforcement agencies, and in response to a court or administrative tribunal.

The provisions of criminal and civil fraud statutes, including 18 U.S.C. 286, 287, 371, 641, 651, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729 may also be applicable to the information provided. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0578-0030. The time required to complete this information collection is estimated to average 117/1.96 minutes/hours per response, including the time for reviewing instructions, searching existing data sources, field reviews, gathering, designing, and maintaining the data needed, and completing and reviewing the collection information.

USDA NONDISCRIMINATION STATEMENT

"The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.)

Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write USDA, Director of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-941 0 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

Civil Rights Statement of Assurance

The program or activities conducted under this agreement will be in compliance with the nondiscrimination provisions contained in the Titles VI and VII of the Civil Rights Act of 1964, as amended; the Civil Rights Restoration Act of 1987 (Public Law 100-259); and other nondiscrimination statutes: namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Amendments of 1972, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990. They will also be in accordance with regulations of the Secretary of Agriculture (7 CFR 15, 15a, and 15b), which provide that no person in the United States shall on the grounds of race, color, national origin, gender, religion, age or disability, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the U.S. Department of Agriculture or any agency thereof.

DAMAGE SURVEY REPORT (DSR)
Emergency Watershed Protection Program - Recovery

NRCS Entry Only			
Eligible:	YES	<input type="checkbox"/>	NO <input type="checkbox"/>
Approved:	YES	<input type="checkbox"/>	NO <input type="checkbox"/>
Funding Priority Number (from Section 4)	2E		

Section 1A

Date of Report: May 26, 2009 Limited Resource Area: YES NO
DSR Number: Dap-09-002 Project Number: _____

Section 1B Sponsor Information

Sponsor Name: City of Daphne, Alabama (Ashley Campbell)
Address: P. O. Box 400
City/State/Zip: Daphne, Alabama 36526
Telephone Number: 251-621-3080 Fax: 251-621-3719

Section 1C Site Location Information

County: Baldwin State: Alabama Congressional District: 1st
Latitude: 30.648518 Longitude: -87.866834 Section: 34 Township: 4S Range: 2E
UTM Coordinates: _____
Drainage Name: D'Olive Creek Reach: Unnamed Tributary
Damage Description: Failure of approximately 15' tall slope, Exposed Gas and Water mains.

All answers in this Section must be YES in order to be eligible for EWP assistance.

Site Eligibility	YES	NO	Remarks
Damage was a result of a natural disaster?*	X		FEMA-1835-DR, Alabama Disaster Declaration
Recovery measures would be for runoff retardation or soil erosion prevention?*	X		
Threat to life and/or property?*	X		
Event caused a sudden impairment in the watershed?*	X		
Imminent threat was created by this event?***	X		
For structural repairs, not repaired twice within ten years?***	X		
Site Defensibility			
Economic, environmental, and social documentation adequate to warrant action (Go to pages 3, 4, 5 and 6***)	X		
Proposed action technically viable? (Go to Page 9***)	X		

Have all the appropriate steps been taken to ensure that all segments of the affected population have been informed of the EWP program and its possible effects? YES NO

Comments: _____

Statutory
Regulation

* DSR Pages 3 through 6 and 9 are required to support the decisions recorded on this summary page. If additional space is needed on this or any other page in this form, use appropriate pages.

DSR NO: Dap-09-002
Section 1E Proposed Action

Describe the preferred alternative from Findings: Section 5A:

Total installation cost identified in this DSR: Section 3: \$190,000

Section 1F NRCS State Office Review and Approval

Reviewed By: _____ Date Reviewed: _____
State EWP Program Manager

Approved By: _____ Date Approved: _____
State Conservationist

PRIVACY ACT AND PUBLIC BURDEN STATEMENT

NOTE: The following statement is made in accordance with the Privacy Act of 1974, (5 U.S.C. 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is 7 CFR 624 (EWP) and Section 216 of the Flood Control Act of 1950, Public Law 81-516, 33 U.S.C. 701b-1; and Section 403 of the Agricultural Credit Act of 1978, Public Law 95-334, as amended by Section 382, of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104-127, 16 U.S.C. 2203. EWP, through local sponsors, provides emergency measures for runoff retardation and erosion control to areas where a sudden impairment of a watershed threatens life or property. The Secretary of Agriculture has delegated the administration of EWP to the Chief or NRCS on state, tribal and private lands.

Signing this form indicates the sponsor concurs and agrees to provide the regional cost-share to implement the EWP recovery measure(s) determined eligible by NRCS under the terms and conditions of the program authority. Failure to provide a signature will result in the applicant being unable to apply for or receive a grant the applicable program authorities. Once signed by the sponsor, this information may not be provided to other agencies, IRS, Department of Justice, or other State or Federal Law Enforcement agencies, and in response to a court or administrative tribunal.

The provisions of criminal and civil fraud statutes, including 18 U.S.C. 286, 287, 371, 641, 651, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729 may also be applicable to the information provided. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0578-0030. The time required to complete this information collection is estimated to average 117/1.96 minutes/hours per response, including the time for reviewing instructions, searching existing data sources, field reviews, gathering, designing, and maintaining the data needed, and completing and reviewing the collection information.

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Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write USDA, Director of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

Civil Rights Statement of Assurance

The program or activities conducted under this agreement will be in compliance with the nondiscrimination provisions contained in the Titles VI and VII of the Civil Rights Act of 1964, as amended; the Civil Rights Restoration Act of 1987 (Public Law 100-259); and other nondiscrimination statutes: namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Amendments of 1972, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990. They will also be in accordance with regulations of the Secretary of Agriculture (7 CFR 15, 15a, and 15b), which provide that no person in the United States shall on the grounds of race, color, national origin, gender, religion, age or disability, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the U.S. Department of Agriculture or any agency thereof.

RESOLUTION 2009-54

Purchasing Agent Appointment: Daphne Public Library Alterations & Additions

WHEREAS, the City of Daphne has obtained sealed bids and awarded the Daphne Public Library Alterations & Additions contract to Thomas Construction; and

WHEREAS, in order to take advantage of its tax exempt status, the City of Daphne elects to purchase any and all materials and supplies necessary for the Daphne Public Library Alterations & Additions project by appointing, Cory Thomas, Vice President of Thomas Construction or his as purchasing agent; and

WHEREAS, the amount of said purchases and the taxes that would have applied to said purchases will be deducted from the total Daphne Public Library alterations & additions project billing of Thomas Construction; and

WHEREAS, Thomas Construction will follow purchasing procedures prescribed by the City of Daphne for the purchase of materials and supplies to be utilized in the construction of the Daphne Public Library Alterations & Additions project.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, that the Mayor is authorized to enter into an agreement on behalf of the City of Daphne with Thomas Construction whereby Cory Thomas, Vice President, of Thomas Construction Inc. or his designee is designated as purchasing agent of the City of Daphne for the acquisition of materials and supplies to be utilized in the Daphne Public Library Alterations & Additions project.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this ____ day of _____, 2006.

John Lake, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk, MMC

**CITY OF DAPHNE
AND
THOMAS CONSTRUCTION**

AGREEMENT TO APPOINT SPECIAL PURCHASING AGENT

This agreement is made on the ____ day of _____, 2009, by and between the City of Daphne, Alabama, hereinafter referred to as "City" and Thomas Construction, hereinafter referred to as "Contractor".

WHEREAS, the City has heretofore accepted bids and awarded the bid for construction of the Daphne Public Library Alterations & Additions to Contractor; and

WHEREAS, the City wishes to take advantage of its tax-exempt status by electing to purchase any and all materials and supplies necessary for the Daphne Public Library Alterations & Additions project; and

WHEREAS, said purchases and the taxes which would have applied to said purchases will be deducted from Contractor's project billing.

NOW, THEREFORE, Cory Thomas, as Contractor Vice President, or his designee will act as purchasing agent for the City of Daphne for the purchase of materials and supplies to be used in the construction of the Daphne Public Library Alterations and Additions project. The agreement between the City and the Contractor in the capacity of special purchasing agent for the City is setforth as follows:

1. The City will provide the Contractor with specially numbered purchase orders. Purchase order forms as provided will be used.
2. The Contractor is responsible for said purchase orders issued on behalf of the City.
3. The City's Finance Department will maintain a purchase order log in which each purchase order number provided to the contractor is accounted for.
4. Purchases made by the Contractor with a City purchase order are tax exempt.
5. Upon purchase, the Contractor will forward a copy of the purchase order to the City of Daphne Finance Department.
6. The contractor shall require that the vendor submit invoices for such purchases payable in the following manner: "City of Daphne" or "Thomas Construction as purchasing agent for the City of Daphne".

Construction, Inc

7. Upon receipt of the approved invoice, the City will remit payment directly to the vendor.

8. The Contractor understands that items not purchased according to these procedures will be paid for by the Contractor and the Contractor will be liable for the payment of taxes on said purchases.

It is understood and agreed upon by the City and the Contractor that this is a binding legal agreement appointing Cory Thomas, Vice President of Thomas Construction, or his designee as purchasing agent for the City of Daphne for the acquisition of materials and supplies to be used for the construction of the Daphne Public Library Alterations & Additions project.

_____ Construction, Inc

BY: _____
ITS: Vice President

ATTEST

Name: _____
Title: _____

City of Daphne, Alabama

BY: _____
ITS: Mayor

ATTEST:

David L. Cohen, City Clerk, MMC

Resolution 2009-55

RESOLUTION: 2009-S-DISASTER DEBRIS REMOVAL & DISPOSAL SERVICES

WHEREAS, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

WHEREAS, the City of Daphne acknowledges that in the event of a natural disaster the cost for the DISASTER DEBRIS REMOVAL & DISPOSAL will exceed \$ 50,000; and

WHEREAS, the City of Daphne did receive and review bids for the DISASTER DEBRIS REMOVAL & DISPOSAL and has determined that the bid as presented is reasonable; and

WHEREAS, the City of Daphne acknowledges that in the event of a declared emergency disaster that FEMA Eligibility requirements will have to be met to receive any type of reimbursement and these requirements must be followed by the City and the awarded Contractor and his subcontractors; and

WHEREAS, staff recommends the bid for DISASTER DEBRIS REMOVAL & DISPOSAL be awarded to Gulf Equipment Corp d/b/a Crowder Gulf; and

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept the bid of Gulf Equipment Corp d/b/a Crowder Gulf for unit cost as attached herein and made a part hereof for BID SPECIFICATION NO. 2009-S-DISASTER DEBRIS REMOVAL & DISPOSAL SERVICES.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this ___ day of _____, 2009.

John Lake, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk MMC

RESOLUTION 2009 - 56

**A RESOLUTION AUTHORIZING THE MAYOR TO BID THROUGH A WEB BASED
PROCUREMENT PROCESS**

WHEREAS, the State of Alabama has approved Reverse Auction Purchases for soliciting competitive bids (Title 41, Chapter 16, Code of Alabama 1975); and

WHEREAS, the City of Daphne may benefit from the Reverse Auction bid process; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that the Mayor or his designee is authorized to enter into contract as required with Bidbridge, a Web Based Procurement company to facilitate the Reverse Auction Purchasing.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____day of _____, 2009.

John Lake, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk MMC

BIDBRIDGE, LLC
BUYER TERMS AND CONDITIONS
Bid Auction

READ THIS AGREEMENT ("AGREEMENT") CAREFULLY BEFORE SELECTING "ACCEPT" OR "DECLINE" BELOW. BY SELECTING THE "ACCEPT" BUTTON, YOU WILL BE PERMITTED TO UTILIZE THE BIDBRIDGE, LLC ("BIDBRIDGE") INTERNET-BASED STRATEGIC SOURCING SOLUTION ("SOLUTION") FOR THE PURPOSE OF CONDUCTING A ONE-TIME ON-LINE BIDDING EVENT. YOU WILL BE ALLOWED TO POST REQUESTS FOR INFORMATION AND QUOTATIONS AND TO SOLICIT AND RECEIVE BIDS AND PROPOSALS NECESSARY IN CONDUCTING THE ONLINE BIDDING EVENT. BY SELECTING THE "DECLINE" BUTTON BELOW, YOU WILL BE DENIED ACCESS TO THE SOLUTION.

BidBridge, LLC ("BIDBRIDGE") does not verify or validate any information provided or representations made by users on the Solution, and makes no warranty of any kind to you concerning any supplier or any goods or services offered by any supplier using the Solution. You acknowledge BIDBRIDGE, its employees, agents and partners make no warranty of any kind, either express or implied, regarding the quality, accuracy or validity of any data and information available on the Solution, or residing or passing through its network, other than information and data that is provided directly to you from BIDBRIDGE. You further acknowledge any agreement entered into by you for the purchase of goods or services from a participating supplier is an agreement solely with such supplier, and BIDBRIDGE is in no way a party to or responsible for the performance of such agreement. Therefore: 1) BIDBRIDGE DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, RELATING TO ANY TRANSACTION ENTERED INTO BETWEEN A PARTICIPATING PERSON OR ENTITY AND A SUPPLIER, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR INTENDED USE, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS; AND 2) BIDBRIDGE FURTHER DISCLAIMS ALL WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, CONCERNING INFORMATION SUPPLIED, OR REPRESENTATIONS MADE, BY ANY SUPPLIER, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION RELATING TO PRODUCT SUITABILITY, RELIABILITY, OR AVAILABILITY, TIMELINESS OF DELIVERY, OR THE TRUTHFULNESS OR ACCURACY OF ANY OTHER INFORMATION OR REPRESENTATION MADE OR SUPPLIED BY A SUPPLIER.

BY SELECTING THE "ACCEPT" BUTTON BELOW, AND BY SUBSEQUENTLY USING THE SOLUTION, YOU AGREE TO COMPLY WITH ALL TERMS AND CONDITIONS SET FORTH BELOW AND WITH ALL INSTRUCTIONS FOR USE POSTED ON THE SOLUTION.

1. **Utilization.** You are granted a one-time, non-transferable, non-exclusive right to access the Solution through BIDBRIDGE's website through the use of a password(s) and/or access code(s). Any subsequent rights to access the Solution will require you to accept a new "Buyer Agreement Terms and Conditions". BIDBRIDGE reserves the right to terminate your access to the Solution or any or all of its services at any time, if BIDBRIDGE shall determine, in its sole discretion, you have violated any term(s) of this Agreement with respect to your access to and use of the Solution. In the event of such termination BIDBRIDGE shall notify you immediately.

2. **Responsibilities of the Parties.** Subject to the terms and conditions of this Agreement, BIDBRIDGE will make available to you electronic access and use of the Solution, for you to conduct a one-time, online bidding event. BIDBRIDGE will also provide such other assistance in the way of online bidding event administration, support and service as are set forth on <http://www.bidbridge.net> and below. It is solely your responsibility when using the Solution to comply with all applicable local, state and federal statutes, ordinances, regulations, and policies governing the purchase of goods or services by you. BIDBRIDGE shall have no responsibility for ensuring that purchases of goods or services using this system will comply with such laws, ordinances, regulations, or policies. You the buyer, in using this electronic solution, have the responsibility for the procurement process including, but not limited to, the following:

- Accepting the terms and conditions of the agreement contained herein
- Determining your needs
- Preparation of Non-Supplier specific specifications in an electronic format
- Preparing and assuring the completeness of the solicitation for bids, quotes, or proposals
- Maintaining the security and integrity of the sealed or open bid procurement process with all suppliers
- Verifying funding availability
- Evaluating and selecting qualified suppliers to participate
- Viewing the event
- Selecting the best qualified bid or proposal
- Complying with all applicable legal requirements
- Establishing the terms and conditions of the contract between you and the supplier
- Assuring proper authorization to enter into a contract and the proper administration of any resulting contract
- Notifying BIDBRIDGE of award detail and purchase order information

In addition, buyer acknowledges that BidBridge's role for procurement activities will include but not be limited, to the following:

- Reviewing specification(s) for general acceptability by potential suppliers
- Verifying completion of bid package
- Advising buyer on supplier participation for each event
- Conducting Supplier tutorials on electronic bid event procedures
- Hosting the auction event
- Submitting reports and compilations for users as well as obtaining feedback from participants

3. **Conduit Services Only.** The Solution provides only a process conduit through which the following may take place: (a) you may communicate procurement needs to potential suppliers, (b) suppliers may respond to your requests for quotations, bids or proposals, (c) you may conduct online bidding events and (d) you may make an award of business to a participating supplier. Accordingly, BIDBRIDGE makes no representation of any kind concerning the reputation, reliability or any other matter concerning participating suppliers. BIDBRIDGE recommends that you conduct inquiries concerning the qualifications of suppliers.

4. **Supplier Representations and Warranties.** BIDBRIDGE does not verify or validate the information supplied or representations made by suppliers on the Solution, and makes no warranty of any kind to you concerning any supplier or any goods or services offered by any supplier using the Solution. BIDBRIDGE recommends you look to the supplier with respect to any supplier-related information, representations and warranties.
5. **Coded Access.** The Solution is available only to persons and entities who have read and agreed to the terms of this Agreement and who have been assigned access code(s) and/or password(s). You agree not to divulge your access codes or passwords to any other person or entity. BIDBRIDGE is not responsible for such unauthorized use of the Solution.
6. **Availability and Operation of the Solution.** While every effort will be made to keep the Solution operating during all scheduled hours of operation, no guarantee of uninterrupted operation can be given. You agree the services provided on the Solution are provided as is and neither you nor your business or agency will have any claim against BIDBRIDGE as a result of any non-availability of the Solution at a particular time(s) or any failure of the Solution to operate as intended.
7. **Sole Remedy.** If you are dissatisfied with the functionality of the Solution or the services BIDBRIDGE provides, your sole remedy is to cease using the Solution and/or services. YOU AGREE YOU HAVE, AND WILL HAVE, NO CLAIM OR RIGHT OF ACTION OF ANY KIND AGAINST BIDBRIDGE RELATED TO YOUR USE OF THE SOLUTION.
8. **Virus.** You hereby agree BIDBRIDGE will not be liable for any harm that may be caused by the inadvertent or deliberate transmission of any malicious computer software, or such other computer program transmitted through its website.
9. **Information You Provide.** You agree any information you provide about yourself or your organization or your agents when registering to participate in the Solution, is accurate, current and complete and you will maintain and update that information to ensure it remains as such. If BIDBRIDGE suffers any claim or incurs any liability as a result of information entered into the Solution by users of your account, you and your agency or business will indemnify BIDBRIDGE against such claim or liability including costs and attorneys fees incurred in defending against it.
10. **Security.** BIDBRIDGE uses industry-standard security measures to safeguard any information you may provide to us on our website. You, your organization and/or your agents have the responsibility to manage your internal security by safeguarding password(s) and establishing your own internal security procedures, as you would for paper-based procurements. If you have knowledge of any compromise in the security of the Solution, you agree to immediately report the same to BIDBRIDGE and a new password will be assigned for your use. BIDBRIDGE does not and cannot guarantee that information will remain secure.
- *11. **Fees.** There are no direct charges to you for use of the Solution. However, the design, maintenance and operation of the Solution requires substantial costs and investment incurred by BidBridge. Thus, a transaction fee based on the total final purchase price stated upon award will be charged to the awarded supplier. Said fee will be assessed to the awarded supplier at the rate of \$2,500 or three (3) percent of the awarded price, whichever is higher. All fees other than those associated with indefinite date, indefinite quantity bids (such as monthly, recurring service contracts) and construction and/or public works projects are to be paid to BIDBRIDGE by the

awarded supplier in the following manner: \$2,500 is due and payable with the issuance of a purchase order from the buying organization. The remaining balance due (if any) will be payable upon delivery of awarded item(s).

Construction and public works bids shall include the entire transaction fee. Payment on these bids is to be made in full to BIDBRIDGE upon supplier's receipt of initial progress, first percentage completion or mobilization payment.

IDIQ contracts (indefinite dates, indefinite quantities) and service bids resulting in monthly or recurring transactions will be billed quarterly on the estimated purchase amount, the initial quarterly billing due with the first shipment or performance. This agreement is binding on all renewable and/or evergreen/roll-over contracts until and unless such time buyer re-bids same in a manner consistent with acceptable procurement procedures.

Suppliers will insure this transaction fee is included in every bid they submit before or during an auction. In the event that the winning supplier in any online bidding event is the representative of any third party and you interact with such third party with respect to the consummation of the sale of the subject products and/or services, you will inform such third party of the supplier's obligation to pay the foregoing fee to BIDBRIDGE.

You further acknowledge as a Buyer utilizing the Solution for this designated electronic bid event with your specification(s) for a specific item(s) or service(s), that you will inform any awarded Supplier who has accepted similar terms and conditions for the same electronic bid event of their obligation to pay the transaction fee for this specific item or event regardless of any other form of procurement bidding or negotiations which you and any Supplier undertake.

Any and all subsequent orders resulting from this specific electronic bid for like equipment, services or materials are subject to these terms and conditions.

12. **Disclosures.** You acknowledge by using the Solution, you agree to provide to BIDBRIDGE accurate and complete information regarding: (a) the supplier chosen by you through any online bidding event conducted through the Solution, (b) the final price agreed upon between you and the chosen supplier with respect to any product or service purchased by you, and (c) the date payment (whether a payment in full or a partial or installment payment) is delivered to any supplier chosen by you through any online bidding event conducted on the Solution or through the Solution. You understand and acknowledge that you are to provide this information to BIDBRIDGE immediately upon becoming aware of such information, and that BIDBRIDGE relies upon your delivery of such information for the calculation and payment of its fees as set forth in Section 11.
13. **Privacy Policy.** You hereby acknowledge BIDBRIDGE has the right to monitor the Solution electronically from time to time and to disclose any information as necessary to satisfy any law, regulation or other government request, to operate its service properly, or to protect itself or its users. BIDBRIDGE reserves the right in its sole discretion to refuse to post or to remove any information or materials, in whole or in part.

The information we receive depends on what you do when visiting the Solution. If you visit the Solution to read or download information, we collect and store only the following information about you: the name of the domain, the host through which you access the Internet and the date and time you access the Solution. If you actively participate in using or providing any of the services offered through the Solution, we collect and store the personally identifiable information needed to

facilitate this participation (typically your name, agency or company name, mailing address, email address and telephone).

BIDBRIDGE reserves the right to maintain a Supplier and generic specification data base and interact with third parties regarding the use and disposition of such data bases. BIDBRIDGE will store actual auction data on a per event basis for a period of three years and offer, for an additional fee, to subsequently provide back-up of the data after this period. If you use a link to another website or to do business with another user of the Solution, you may be asked by the other user to provide certain confidential information. You agree not to hold BIDBRIDGE responsible for any loss or damage of any sort incurred as a result of any such disclosure to another user through the Solution. We do not control the collection or use of this information, and make no representations about the privacy policies of other sites.

14. **Reselling or Transfer.** You agree not to sell or transfer your right to use the Solution to anyone, and you will not allow your access code or password to be used by any other agency or unauthorized person. If the Solution is used by another person using your access code or password, you will be legally responsible for any contract or liability that may result from the use of your access code or password.
15. **Access to Internet.** You agree that in order to use the Solution you must: (a) provide your own access to the Internet, and (b) provide all equipment necessary for you to make the connection to the Internet. BIDBRIDGE is not responsible for the speed, reliability and/or quality of your connectivity to the Internet.
16. **Interference with Others.** You agree not to use the Solution in a manner that would restrict or inhibit any other party's use of such services.
17. **Links to Other Sites.** The Solution may link you to other sites on the Internet. These links are provided for your convenience but the sites to which the links connect are not under BIDBRIDGE's control. You understand and agree that the linking of the system to other sites does not mean that these sites are endorsed by BIDBRIDGE, and BIDBRIDGE is not responsible for the legality, accuracy or any other aspect of the operation or content of any sites to which links are provided.
18. **Copyright - How you May Use the Content of the Solution.** The content of the Solution (the "Content") is protected by intellectual property laws of both the United States and foreign jurisdictions. You may download, use, and copy the materials found on the Solution for your internal business use only, provided that all copies that you make of the material must bear any copyright, trademark, or other proprietary notice located on the Solution which pertains to the material being copied. This material is not for republication, except as authorized in this paragraph. You are not being granted a license under any copyright, trademark, patent, or other intellectual property right in the material or the services, processes, or technology described therein. All such rights are retained by BIDBRIDGE and/or any third party owner of such rights. You may not sell or modify the Content or reproduce, display, publicly perform, distribute, or otherwise use the Content in any way for any public or commercial purpose. The use of the Content on any other website or in a networked computer environment for any purpose is prohibited. None of the Content, including any software, may be reverse engineered, disassembled, decompiled, reproduced, transcribed, stored in a retrieval system, translated into any language or computer language, retransmitted in any form or by any means, resold, or redistributed without the prior written consent of BIDBRIDGE, except as described herein. Nothing

in this paragraph prohibits you from printing, using or reproducing any records or reports of your transactions using the Solution.

19. **Framed Links.** You may not create framed links to this Solution without express written permission from BIDBRIDGE.
20. **Modification.** BIDBRIDGE, in its sole discretion, has the right to modify this Agreement at any time. Any modification is effective upon either posting notice of such modification on BIDBRIDGE's website or upon notice by mail. Your continued use of the Solution following notice of any modification to this Agreement shall be conclusively deemed an acceptance of all such modifications.
21. **Non-Circumvention.** You agree you will not, directly or indirectly, take any action which circumvents or attempts to circumvent the intent or purpose of this Agreement. Further, you agree that once you as a buyer have submitted a request for quotations and made contact with or received a bid or proposal, from a supplier who has a signed supplier agreement for this specific event, you will not, directly or indirectly, enter into any agreement related to your quotations request for this specific event with such supplier outside the Solution to include paper bids or verbal negotiation which would result in the failure of the supplier to pay BIDBRIDGE the fee set out in Section 11 hereof.
22. **Governing Law.** This Agreement and the rights of the parties to this Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Kentucky, without regard to or application of its conflict of laws principles.
23. **Partial Enforceability.** If any provision of this Agreement, or the application of any provision to any person, entity or circumstance shall be held invalid, illegal or unenforceable, then the remainder of this Agreement, or the application of that provision to persons, entities or circumstances other than those with respect to which it is held invalid, illegal or unenforceable, shall not be affected thereby.
24. **Entire Agreement.** This Agreement represents the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous written or oral agreements, negotiations, correspondence, undertakings and communications between such parties representing such subject matter.
25. **No Consequential Damages.** Except as prohibited by law, each party hereto waives any right it may have to claim or recover any special, exemplary, punitive or consequential (including business interruption), or any damages other than, or in addition to, actual damages.
26. **Headings.** The headings in this Agreement have been included solely for ease of reference and shall not be considered in the interpretation or construction of this Agreement.

BY SELECTING "ACCEPT" BELOW, YOU ACKNOWLEDGE THAT YOU HAVE READ AND FULLY UNDERSTAND THE FOREGOING AND AGREE TO ABIDE BY ITS TERMS AND CONDITIONS IN THEIR ENTIRETY.

RESOLUTION 2009-57

**Fiscal 2009 American Red Cross:
Baldwin County Disaster Response Coordinator**

WHEREAS, the City Council of the City of Daphne recognizes the health, safety, and welfare benefits derived by the citizens of Daphne through the services performed by community agencies and the promotion of the City of Daphne fostered by community events; and

WHEREAS, the City of Daphne has made appropriations in its Fiscal 2009 Budget for the benefit of certain community agencies and events.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Daphne that the Mayor and City Clerk are hereby authorized to execute the agreements necessary for the City to make contributions in the amount of \$ 3,000 to the American Red Cross for the Baldwin County Disaster Response Coordinator with undesignated appropriations in the Fiscal Year 2009 Budget.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this _____ day of _____, 2009.

John Lake, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk, MMC

RESOLUTION 2009-58

Fiscal 2009 Family Promise of Baldwin County

WHEREAS, the City Council of the City of Daphne recognizes the health, safety, and welfare benefits derived by the citizens of Daphne through the services performed by community agencies and the promotion of the City of Daphne fostered by community events; and

WHEREAS, the City of Daphne has made appropriations in its Fiscal 2009 Budget for the benefit of certain community agencies and events.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Daphne that the Mayor and City Clerk are hereby authorized to execute the agreements necessary for the City to enter into a service agreement in the amount of \$ 500 with the Family Promise of Baldwin County with undesignated appropriations in the Fiscal Year 2009 Budget.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this _____ day of _____, 2009.

John Lake, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk, MMC

RESOLUTION 2009-59

Fiscal 2009 DARE Board Representation

WHEREAS, the City Council of the City of Daphne recognizes the health, safety, and welfare benefits derived by the citizens of Daphne through the services performed by community agencies and the promotion of the City of Daphne fostered by community events; and

WHEREAS, the City of Daphne has made appropriations in its Fiscal 2009 Budget for the benefit of certain community agencies and events.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Daphne that the Mayor and City Clerk are hereby authorized to execute the agreements necessary for the City to enter into a service agreement in the amount of \$ 1,498 in order to participate and provide a DARE Board representative at the conference in Orlando, Florida July 21-23, 2009. Such funding shall be provided with undesignated appropriations in the Fiscal Year 2009 Budget.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this _____ day of _____, 2009.

John Lake, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk, MMC

RESOLUTION 2009-60

Fiscal 2009 Baldwin County Economic Development Alliance

WHEREAS, the City Council of the City of Daphne recognizes the health, safety, and welfare benefits derived by the citizens of Daphne through the services performed by community agencies and the promotion of the City of Daphne fostered by community events, and strategic plans; and

WHEREAS, the City of Daphne has made appropriations in its Fiscal 2009 Budget for the benefit of certain community agencies and events; and

WHEREAS, the Baldwin County Economic Development Alliance is one such agency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Daphne that the Mayor and City Clerk are hereby authorized to execute the agreements necessary for the City to enter into a service agreement in the amount of \$10,000 with the Baldwin County Economic Development Alliance as appropriated in the Fiscal Year 2009 Budget.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this _____ day of _____, 2009.

John Lake, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk, MMC

CITY OF DAPHNE

ORDINANCE NO. 2009-32

AN ORDINANCE FOR ELECTION AND APPOINTMENT OF CITY OFFICERS AND COUNCIL AS APPOINTING AUTHORITY

WHEREAS, the City Council of the City of Daphne, heretofore, adopted various resolutions and ordinances vesting within the Mayor power of appointment for certain city employees, and to set the term of service, and;

WHEREAS, the City Council of the City of Daphne, believes it to be in the best interest of the City to amend said resolutions and ordinances to remove the appointing authority from the Mayor for certain employment positions and place it within the discretion of the City Council:

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

SECTION I: APPOINTING AUTHORITY

Pursuant to the authority granted to the City Council by laws of the State of Alabama and pursuant to and in furtherance of the procedures as established by the Personnel Handbook as originally established by Resolution 1994-39 and as amended by Resolution 1995-13, Resolution 1999-24, Resolution 1999-63, Ordinance 1997-31, Ordinance 1998-10, Ordinance 1999-08, Ordinance 2000-04, Ordinance 2009-11 and such other resolutions and ordinances that relate to the Personnel Policy and Procedures, it is hereby established that the City Council does exercise its appointing authority by electing to fulfill certain offices and setting terms of services, not to exceed the term of the Mayor. As appointing authority, the City Council, reserves the right to any hiring, firing and/or disciplinary action(s) and that all references made or referred to the Office of the Mayor in the Personnel Policy and Procedures manual, as amended, shall be amended to reflect that the Council shall exercise such authority. Such officers shall include City Clerk; Treasurer/Finance Director; Chief of Police; Fire Chief; Municipal Judge; City Prosecutor; City Attorney; Code Enforcement Officer; Planning Director; Public Works Director; Human Resource Director; Library Director; Recreation Director; Building Official; and Civic Center Director.

SECTION II: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held 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 portion hereof pertaining to the election and appointment of officers thereof, shall remain in full force and effect.

SECTION III: REPEALER

Any Resolution(s) or Ordinance(s) or parts of any Resolution(s) or Ordinance(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

SECTION IV: EFFECTIVE DATE

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

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA this _____ day of _____, 2009.

John Lake, Council President
Date & Time Signed: _____

Fred Small, Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen
City Clerk, MMC

Ordinance 2009-34

**An Ordinance Requesting NRCS Assistance and
Appropriating Match: March 25- April 3, 2009 Rain Event**

WHEREAS, the City of Daphne has heretofore requested financial assistance for projects totaling \$ 372,500 from the United States Department of Agriculture Natural Resources Conservation Service (NRCS); and

WHEREAS, such projects lead to the implementation of emergency recovery measures for runoff retardation and erosion prevention to relieve imminent hazards to life and property created by a natural disaster which causes a sudden impairment of a watershed; and

WHEREAS, the heavy rain event of March 25-April 3, 2009 resulted in accelerated erosions which in turn compromised property and the City's storm water structures; and

WHEREAS, in order to protect the watershed in the City of Daphne, it is necessary to undertake measures to protect the watershed outside of Daphne city limits; and

WHEREAS, the City of Daphne urgently needs to perform repairs at the following locations:

- DAP09001- Worchester Project
- DAP09002- CR13 Utility Easement Slope Project

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that:

- 1) The City of Daphne will make application for emergency drainage projects for the areas of Worchester and County Road 13 Utility Easement Slope ; and
- 2) The Mayor is hereby authorized to execute such application and, if funded, to also execute the required NRCS grant agreement and any other agreements necessary for the completion of these projects; and
- 3) Matching funds not to exceed \$ 138,125 are hereby appropriated; and
- 4) The City understands that although these projects are located outside of Daphne City Limits, upon receipt of federal funds, the City of Daphne will be responsible for maintenance of the sites for a period of 5 years for the Worchester Project and 10 years for the County Road 13 Utility Easement Slope Project.

APPROVED AND ADOPTED by the City Council of the City of Daphne this _____ day of _____, 2009.

John Lake, Council President
Date & Time Signed: _____

Fred Small, Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen, City Clerk, MMC

ORDINANCE 2009-35

**An Ordinance Amending Ordinance 2002-34:
Garbage Collection**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA THAT THE ABOVE ORDINANCE IS HEREBY AMENDED AS FOLLOWS:

SECTION I: Section V of Ordinance 2002-34 setting the frequency of collection as twice per week is hereby repealed and replaced by the following:

SECTION V: FREQUENCY OF COLLECTION

Garbage shall be picked up by the Contractor from each location once per week. All collection schedules are subject to change due to legal holidays and/or weather conditions. Persons desirous of garbage pickup shall call the Public Works Department of the City of Daphne to obtain a garbage collection schedule.

SECTION II: All other sections of Ordinance 2002-34 not amended herein shall remain in full force and effect.

SECTION III: EFFECTIVE DATE. This ordinance shall be in full force and effect upon its adoption and publication as provided herein.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE ALABAMA, this _____ day of _____, 2009

John Lake,
Council President
Date & Time Signed: _____

Fred Small,
Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen,
City Clerk, MMC

ORDINANCE 2009 - 36

**Lodging Tax Appropriation
Improvements to Richard Scardamalia Pavilion Building**

WHEREAS, Ordinance 2008-57 approved and adopted the Fiscal Year 2009 Budget on December 15 , 2008; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2009 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2009 budget; and

WHEREAS, Lodging Tax funds may be used for the purchase, development, and maintenance of beachfront property; and

WHEREAS, certain improvements are needed for the Richard Scardamalia Pavilion Building.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, that the Fiscal Year 2009 Budget is hereby amended to include a Lodging Tax appropriation in the amount of \$ 62,000 for building improvements to the Richard Scardamalia Pavilion Building.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this _____ day of _____ , 2009.

John Lake, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk MMC