

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

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

APPROVE MINUTES: Council meeting minutes / June 15, 2009
Special Called Council meeting minutes / June 17, 2009
Special Called Council meeting minutes / June 24, 2009
Special Council meeting minutes / July 1, 2009

PUBLIC HEARING: May Day Boat Landing

VETO OF ORDINANCE 2009-32 / Election and Appointment of City Officers and Returned to City Council for Consideration

4. REPORT STANDING COMMITTEES:

- A. FINANCE COMMITTEE / Boulware**
- B. BUILDINGS & PROPERTY - Lake**
Review minutes / June 5th
- C. PUBLIC SAFETY - Burnam**
Review minutes / June 10th
- 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**
Re-appoint Jeri Hargiss / Term expires July, 2012
- B. Downtown Redevelopment Authority - Barnette**
- C. Industrial Development Board – Yelding**
Re-appoint Harold “Pokey” Miller / Term expires December, 2014
- D. Library Board - Lake**
Appoint Andre LaPalme / Term expires September, 2011
- E. Planning Commission – Barnette**
Set Public Hearing Date for August 3, 2009 to consider an ordinance annexing Swift Supply, Inc. / Property located North of Milton Jones Road / Requested zoning B-2, General Business District
- F. Recreation Board - Burnam**
Re-appoint Ed Nelson / Term expires 2014
- G. Utility Board - Scott**

6. REPORTS OF OFFICERS:

A. *Mayors Report*

- a.) ABC License / Target / 050 – Retail Beer (Off Premises Only) / 070 – Retail Table Wine (Off Premises Only)
- b.) **MOTION:** To extend the weekend advertising for businesses to allow them to advertise every weekend through September 30, 2009
- c.) **MOTION:** To allow merchants at Jubilee Square to replace the city’s existing community banner Structure with Jubilee Square signage which will have to meet city sign ordinance guidelines
- d.) **MOTION:** To rename the entrance from Hwy 90 into Jubilee Square and a short section of North Main Street Jubilee Square Parkway
- e.) **MOTION:** To allow the Mayor to retain his own attorney
- f.) Easement for Thomas Medical Center

B. *City Attorney’s Report*

- a.) Report: Attorney General’s Opinion /Annexing Swift Supply, Inc
- b.) Employee Grievance Hearing

C. *Department Head Comments*

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) **Acceptance of Streets & Drainage / Located in the Renaissance Center Subdv., Phase Three...../Resolution 2009-61**
- b.) **Acceptance of Streets & Drainage / Located in the Caroline Woods Subdv., Phase One/Resolution 2009-62**
- c.) **Support Fire Department to seek a FEMA Fire Station Construction Grant...../Resolution 2009-63**

ORDINANCES:

2ND READ

- a.) **Ordinance Requesting NRCS Assistance and Appropriating Match: March 25 – April 3, 2009 Rain Event...../Ordinance 2009-34**
- b.) **Amending Ordinance 2002-34: Garbage Collection...../Ordinance 2009-35**

- c.) **Lodging Tax Appropriation: Improvement to Richard Scardamalia Pavilion Building. /Ordinance 2009-36**

1ST READ

- d.) **Adopt the 2006 International Fire Code with Amendments / Repeal 2005-07.Ordinance 2009-37**

9. COUNCIL COMMENTS

Family Promise Council Team for Sausage Cook-Off / John Lake

10. ADJOURN

WORK SESSION JULY 13TH

- 1. **FINDINGS OF THE EASTERN SHORE CHAMBER BUSINESS TASK FORCE / CHAMBER OF COMMERCE / MIKE MAXWELL**
- 2. **EMPLOYEE HEALTH INSURANCE**
- 3. **COACH VICKERY / SUMMER CAMP UPDATE**

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

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

1. CALL TO ORDER

Council President Lake reconvened the meeting from June 24, 2009 at 6:45 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; Erick Bussey, Attorney; Carol Cook, Court Reporter.

Absent: David Cohen, City Clerk.

Personnel Hearing

MOTION BY Councilman Scott to enter into Executive Session for a Quasi Judicial Hearing, and the meeting will last until 9:30 p.m. *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 6:47 p.m.

Mr. Jordan came out of Executive Session to extend the session until 10:00 p.m.

Mr. Ross came out of Executive Session to extend the meeting until 10:15 p.m.

Mr. Ross came out of Executive Session to extend the meeting for 15 more minutes.

Council returned from Executive Session at 10:30 p.m.

MOTION BY Councilman Scott to adjourn the Morse grievance personnel hearing, and have this on the agenda for the July 6, 2009 council meeting under the attorneys report to deliberate further, and determine what they are going to do. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

**JULY 1, 2009
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DAPHNE, AL
6:00 PM**

There being no further business to discuss the meeting adjourned at 10:35 p.m.

Respectfully submitted by,

David L. Cohen, City Clerk, MMC

Certification of Presiding Officer:

John Lake, Council President

Date & Time Signed: _____

**JUNE 15, 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; August Palumbo.

Also present: Mayor Fred Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Bill Eady, Public Works Director; Kim Briley, Finance Director David Carpenter, Police Chief; Deni Biggs, Interim Civic Center Director; James White, Fire Chief; David McKelroy, Recreation Director; Tonja Young, Library Director; Sgt. Robin Snider, D.A.R.E Officer; Ashley Campbell, Environmental Program Manager; Vickie Hinman, Interim Human Resource Director; Adrienne Jones, Planning Director; Suzanne Henson, Senior Accountant; Marshall Parsons, Horticulturalist; Denise Penry, Public Works; Scott Hutchinson, City Engineer; Willie Robison, BZA; Bob Segalla, Utility Board; Ron Allen, Library Board; Mickey Boykin, Daphne Museum Board; Tomasina Werner, Beautification Committee.

Absent: Richard Merchant, Building Official.

3.APPROVE MINUTES:

MOTION BY Councilwoman Barnette to adopt the Council meeting minutes meeting held June 1, 2009. *Seconded by Councilman Burnam.*

Councilman Scott asked that the minutes be amended under discussion of the motion to put a moratorium on city employee hiring to be amended from “Council discussed the motion” to Councilman Burnam and Councilman Scott discussed the motion in public.”

Councilwoman Barnette amended the motion. Seconded by Councilman Burnam.

VOTE ON AMENDMENT

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

VOTE ON MAIN MOTION

AYE Yelding, Barnette, Burnam, Scott, Boulware, Lake ABSTAIN Palumbo

NAY NONE OPPOSED MOTION CARRIED

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MOTION BY Councilwoman Barnette to adopt the Special Called Council meeting minutes meetings held June 3 and 5, 2009 with the amendment to the June 3, 2009 minutes that Council President Lake reconvened the meeting from the May 27, 2009 meeting. *Seconded by Councilman Boulware.*

AYE Yelding, Barnette, Burnam, Scott, Boulware, Lake

ABSTAIN Palumbo

NAY NONE OPPOSED

MOTION CARRIED

MOTION BY Councilman Yelding to adopt the Council Work Session minutes meeting held June 8, 2009. *Seconded by Councilman Scott.*

AYE Yelding, Burnam, Scott, Boulware, Palumbo, Lake

ABSTAIN Barnette

NAY NONE OPPOSED

MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt the Special Called Council meeting minutes meeting held June 10, 2009 with the amendment that Council President Lake reconvened the meeting at 6:20 p.m.. *Seconded by Councilman Boulware.*

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

PRESENTATION: Proposed Tree Committee / Whitney Wingbermuehle

Ms. Wingbermuehle stated that the goal of a Tree Board will be to serve as advocates for Daphne's Urban Forest, update existing ordinance and enforce it, increase tree canopy, improve overall forest health, resource inventory/assessment with records, sustainability, educate and foster citizens on tree care, maintain the Tree City USA standards, protect trees during construction and to choose trees with care from local growers that will thrive.

MOTION: To rescind the Moratorium on hiring city employees and Directors

Councilman Palumbo called Point of Order that this motion could not be brought back up except by a person that voted with the majority.

Council President Lake stated that due to the fact that this motion was brought up by a member who voted in the negative, he will have to rule it as out of order.

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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.

MOTION BY Councilman Yelding to 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. Seconded by Councilman Scott.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

- A. FINANCE COMMITTEE – Boulware**
Review minutes meeting held June 8th
 - a.) Treasurers Report**

MOTION BY Councilman Scott to accept the Treasurers Report ending May 31, 2009 with a balance of \$21,090,822.99. Seconded by Councilman Yelding.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

- b.) Summary of Revenues & Expenditures**
Revenues are currently over expenditures by \$83,380
 - c.) Sales Tax Collections for March, 2009**
Sales Tax Collections for March 2009 were \$823,173, and \$93,692 was budgeted. Collections were under budget \$140,518. Year-to-date budget collections are down \$676,259.
 - d.) Lodging Tax Collections for April 2009**
Lodging tax collected for April was \$44,277.75.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake
No report. The next meeting will be July 10th

C. PUBLIC SAFETY COMMITTEE – Burnam
No report.

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D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo

No report.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

No report.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Ms. Jones

The minutes for the May 7th and June 4th meetings are in the packet, and the next meeting will be July 2nd at 6:00 p.m.

B. Downtown Redevelopment Authority – Barnette

No report. Councilwoman Barnette stated that discussion still remains before the full council regarding what to do about the cost of the statue.

Council President Lake stated that it has been referred to Buildings and Property and the Finance Committee,

Councilwoman Barnette stated that Finance discussed it and sent it to the full council so Buildings and Property Committee can review it and that will just about cover everybody.

Councilman Scott stated that Mrs. Briley said that it does not have to be paid in one payment, and that it could be paid quarterly or two payments or whatever council decides. He said that the slippery slope is that they are going to be paying the obligation of an independently formed Downtown Redevelopment Board, but he thinks given the fact that the city is using it that they have a moral obligation to pay the artist. He said if it is alright they could pay half of it in fiscal 2009, and the balance in 2010.

Councilwoman Barnette asked if the Finance Committee was looking for it to go to a work session. If Buildings and Property has already seen it and sent it to Finance she does not want them to get stuck in a work session/committee lock.

Councilman Scott stated that since it is a slippery slope full council needed to have the ability to have input on it. He said that he has no problem bringing it up in that form at the next council meeting. He wanted to move forward.

Councilwoman Barnette said that she would like to see it put on the next council agenda.

Councilman Scott asked the Mayor to have someone from the Finance department to talk with the artist and tell her that the city understands their obligation, and explain the city's situation, and if she would be patient with them that they will pay half now and assuming it passes and half in October.

Mr. Ross asked will the whole matter, if it is payable or not let alone how it will be paid, come before the council.

Council President Lake stated that it will be on the next council agenda.

C. Industrial Development Board – Yelding
Nomination of Douglas A. Bailey to the board.

MOTION BY Councilman Yelding to appoint Douglas A. Bailey to the Industrial Development Board. Seconded by Councilwoman Barnette.

AYE	ALL IN FAVOR	NAY	NONE OPPOSED	MOTION CARRIED
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Councilwoman Barnette said that they need to have a discussion at some point, because IDB is 25 miles outside of the city limits, if they would like to have someone that lives outside of the city limits on the board. She asked the city clerk to check the legality of appointing someone outside the city limits.

D. Library Board – Lake

Tonja Young, Library Director reported that they have completed spending the 2009 LSTA grant for materials and equipment for the hearing and vision impaired.

E. Planning Commission – Barnette

The minutes for April 23rd and May 28th are in the packet. The request for setting a Public Hearing for AJD Family Limited Partners has been pulled by the owners. 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

No report..

G. Utility Board – Scott

No report. The next meeting will be a week from Wednesday at 5:00 p.m.

6. REPORTS OF THE OFFICERS:

A. *Mayor's Report*

a.) *ABC License / New Haven Pizzas of Alabama / 020 – Restaurant Retail Liquor*

MOTION BY Councilwoman Barnette to approve the ABC License for New Haven Pizzas of Alabama / 020 – Restaurant Retail Liquor. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

b.) *Special Events Permit / Uncorked Fine Wines / Wine Tasting Festival / October 31, 2009*

MOTION BY Councilwoman Barnette to approve the Special Events permit for Uncorked Fine Wines / Wine Tasting Festival / October 31, 2009. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Councilman Scott asked that someone report back to council regarding the event.

Council asked the Mayor to prepare a performance agreement for this event since it is on city property.

c.) *Authorize the Mayor to enter into a contract with the Church of His Holy Presence / To purchase and maintain additional lighting at the Civic Center*

MOTION BY Councilman Scott to authorize the Mayor to enter into a contract with The Church of His Holy Presence to purchase additional lighting at the Civic Center. *Seconded by Councilwoman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Mayor Small asked to get a ruling from the City Attorney regarding the motion made at the last meeting to put a hiring freeze of department heads to a certain date July 7th was that motion used to circumvent an ordinance or can you circumvent an ordinance and get around an ordinance by a motion like that since the ordinance is on there.

Mr. Ross said that in his opinion that the motion was not valid because you cannot amend an ordinance by a motion or resolution.

Mr. Cohen stated that he did not do a letter to her.

Councilwoman Barnette stated that the purpose of the letter, and the reason that the council was looking at it was to make sure that it was as unbiased as possible. So she would like to know what they are reviewing.

Mr. Cohen stated that she wanted to know how the city was contiguous to the property, and he explained to her that the county had deeded the city the right-of-way, and that was the city's nexus to being adjacent to the property owners, and being able to annex the property. She neither approved or disapproved of it.

C. Department Head Comments

James White – Fire Chief - stated that they are applying for a Fire Station grant with a July 10th deadline.

David McKelroy – Recreation Director - reported that. Wet & Wild will be Wednesday from 10 a.m.-1:00 p.m. and will conclude on the 24th at Lott Park. He invited everyone to Trione Park on June 26, 27 and 28 for softball tournaments. There are 63 teams, and 38 of them are registered from outside of our area some two hours away. He reminded everyone to come out for the July 4th fireworks display. He said that they have 400 parking places.

Adrienne Jones – Planning Director - addressed the issue of zoning on Pollard Road saying that the area was at one time zoned R-2. She has a signed map from 1977 where it was zoned R-2. and she has a signed map from 1988 that has the area as R-4, High Density Single and Multi Family Residential District, and a signed map from 2001 that has the area as R-4, High Density Single and Multi Family Residential District, and a signed map from 2009, approximately six months ago, with the area as R-4, High Density Single and Multi Family Residential District.

David Cohen – City Clerk – stated the Ashley Campbell has been successful in getting the permits to proceed with the boat ramp. They have all the permits that are necessary, and the next step will be site review, then the Planning Commission, and the Public Hearing on July 6th.

7. PUBLIC PARTICIPATION

Mr. Kevin Spriggs – Owner Eastern Shore Motel – spoke in opposition to a Tree Committee, and standing up for property owners rights.

Mr. David Preston – 500 Grant Street - spoke in favor of a Tree Board. He also spoke regarding AIG Baker, and the Wine Festival.

Mr. Chris Francis – Spanish Fort – business owner – spoke in favor of a Tree Board.

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Mr. Rod Drummond – 367 Ridgewood – stated that he was ashamed of the goings on at the council meetings, and is in favor of the Mayor.

Ms. Kelly Hughes – Member of S.E.E.D.S. Board of Directors – Chairman of Mama Mia Cook-Off - Voiced her concern about the Wine Tasting Festival approved by council saying that people will get it confused with the Mama Mia Cook-off, and that is their biggest fund raiser.

Mrs. Sherry Weller 506 Ridgewood Drive – opposed actions taken against the Mayor on June 1st.

Ms. Lynn Davis – 137 Rolling Hill Drive – spoke regarding the ordinance taking hiring powers away from the Mayor never being brought before any committee or work session.

Mrs. Mickey Boykin – Beall Lane – spoke in opposition to taking away the hiring powers of the Mayor.

Mr. Eddie Murphy – 103 Windsor Court – opposed to the garbage ordinance, and spoke regarding a drainage problem that has cost him money and wants the city to reimburse him.

Mr. Don Ouelette – Elizabeth Drive – opposed to actions taken against the Mayor.

Mr. Willie Williams – 1413 Pollard Road – spoke regarding a remark made by the Mayor at the last council meeting where he said that if council had to run at large some of them would not be here right now.

Ms. Martha Taylor – 810 Vine Street – spoke in support of the Mayor.

Mr. Larry Chason – 790 Daphne Avenue – spoke in support of the Mayor.

Mr. Willie Robison – 560 Stuart Street – commented on the remarks made by Mr. Williams. He stated that he was disappointed by the action taken against the Mayor.

Mr. Henry Lawson – 104 Booksetuh – spoke regarding ordinance 2009-34., and asked what will happen to Lake Forest if the water is not managed.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

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 Thomas Construction/Resolution 2009-54**
- 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**

MOTION BY Councilman Scott to waive the reading of Resolutions 2009-52, 2009-53, 2009-54, 2009-55, 2009-56, 2009-57, 2009-58, 2009-59, 2009-60.. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Councilwoman Barnette asked to table Resolution 2009-52 until the next meeting to give Mr. Ogletree a chance to find someone from Daphne to serve on the board. She said that there is not a board member from Daphne on the board, and she feels that someone from within the city limits of Daphne should be on the board.

MOTION BY Councilwoman Barnette to table Resolution 2009-52 until the next meeting. Seconded by Councilman Boulware.

Mr. Ogletree withdrew the request. He said that the request was filed by the district manager to add one more board member to try to get enough so that they could have a quorum. He said that he will see if he can find a Daphne resident. He said for the record Charles Patterson, who is on the board, does reside in Daphne. *Mr. Ogletree stated that he formally withdraws the request.*

MOTION BY Councilman Scott to adopt Resolutions 2009-53 and 2009-54. Seconded by Councilman Yelding.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2009-55. Seconded by Councilman Burnam.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Burnam to adopt Resolution 2009-56. Seconded by Councilwoman Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2009-57. Seconded by Councilman Boulware.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2009-58. Seconded by Councilwoman Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2009-59. Seconded by Councilman Yelding.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2009-60. *Seconded by Councilwoman Barnette.*

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

ORDINANCES:

2ND READ

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

1ST READ

- 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

MOTION BY Councilwoman Barnette to adopt Ordinance 2009-32. *Seconded by Councilman Palumbo.*

Discussion was held on the ordinance.

Councilman Palumbo called for a vote on the question.

AYE Yelding, Barnette, Boulware, Palumbo, Lake

NAY Burnam, Councilman Scott called for a Roll Call Vote

ROLL CALL VOTE

Yelding	Aye	Boulware	Aye
Barnette	Aye	Palumbo	Aye
Burnam	Nay	Lake	Aye
Scott	Nay		

AYE Yelding, Barnette, Boulware, Palumbo, Lake NAY Burnam, Scott

MOTION CARRIED

Councilman Burnam called point of order saying that the ordinance is written wrong. He stated that Code Enforcement Officer should have been taken out of the ordinance since that position is not a department head.

Mr. Ross stated that the ordinance passed with a vote of five to two, and the ordinance will have to be amended to take Code Enforcement Officer out of the ordinance.

ORDINANCES 2009-34, 2009-35 AND 2009-36 ARE 1ST READ.

8. COUNCIL COMMENTS

Councilwoman Barnette stated that the accusation of secret meetings is a scurrilous accusation. She said that her character stands for itself, and she has done nothing beyond reproach. She feels it is not right to personally attack the character of one another. Councilwoman Barnette stated that this is not a personal attack on the Mayor, nor is it a political attack on the Mayor. This ordinance does not change the day to day operation of the city. It allows the council to set the direction, and identify the people who are going to take the department heads into the city. Council has the legislative act, and the authority, per state code, and this just helps them as they are charged with the vision of Daphne appointing the proper directors with that vision into those positions. This does not affect any of the current employees, only future department heads. They do not answer to the city council, they still report and are managed by the Mayor. It changes very little other than the direction and the vision that those department heads bring to the City of Daphne. There are currently two department head openings so the timing was because those positions are open. This has been discussed by this body, less Mr. Boulware, in 2006 the same ordinance was presented in this council body. So the discussion of hiring and firing seems to come up during the hiring and firing of department heads, and that is just a point of fact. The Mayor is not on trial. He had a lot of comments at the last meeting about his job and performance, and the fact that he was elected. She does not think anyone is discounting the skills and assets that he brings to the city, but this is fully authorized by the city council to help put the leaders in place that run these departments, and they will answer to the Mayor who has been elected by the people. She stated that Chief White mentioned a grant for a fire station, and she is certainly going to lobby very heavily for that fire station to be put in Mr. Yelding's district or in district two. She does not support a modification to the recycling program. Councilwoman Barnette also spoke regarding signage saying that she does not feel that the, so called, blight in Daphne is due to the sign ordinance within city.

Councilman Burnam stated that on the agenda there was a motion to rescind the moratorium on hiring city employees and directors, and that agenda is approved by the Council President and removed here tonight at meeting time. He said if it was not going to be allowed to be discussed, he doesn't understand why it was ever allowed to be put on the agenda. He said that it goes through the Council President and the City Clerk's office, and he does not understand why discussion would not be allowed on an ordinance of the magnitude as Ordinance 2009-32 in order to get answers. He was

surprised because it goes through the Council President and City Clerk's office that the error regarding the Code Enforcement Officer was still in the ordinance. He said that that alone tells him that it was a done deal before it was printed.

Councilman Scott stated that he would like to make sure that he got this correct. Council President Lake wants the City of Daphne to believe that he got three independent telephone calls, that all of a sudden they all had the same idea, ghee why don't we take away the Mayor's power to hire department heads. So he got three independent people, and he does not think that they had ever talked with each other. At some point in time you have got to use common sense, and ask what are the facts. Tonight a lady made a presentation about a tree committee, and one of the council members said that needs to go to the Planning Commission, that's got to go there first, and then someone said that it needs to go to the Ordinance Committee, and then someone else said that it really needs to go to a work session too. So we are going to take away the Mayor's ability, we are going to change the way the City of Daphne runs. Number one, no one would discuss it, and number two you expect us to believe that everybody had the same idea at the same time, that stretches his ability to believe some things. At some point in time all the council has read the words of the oath of office, and he read the oath. We can disagree, and they have disagreed, but he has never been stonewalled. He has at least had people to engage him in conversation, and engage him in debate and exchange of ideas. He is disappointed in the council.

Councilman Boulware stated that they have been asked tonight about their decision process, and his decision to vote the way he did was based partially on some information that they, as a council, received during Executive Session. Partially. The reason why they can't go into that is a directive from the City Attorney, because the hearing is still ongoing that information is still held private. They cannot divulge those details about it. Part of his decision to vote the way he did was based on that information. He apologized to those who wanted to know more. He wished he could tell them more. He said that as soon as the hearing is over it will be made public. He said that you may look at the information and still say that you don't get it. Some of the council members have, and they do not see it the way that he does. Sometimes that is just the way it is. He knows the citizens expect them to act in a professional manner as their representatives, and he thinks that they all do both publicly and privately, and they have shown it. He will not engage in personal attacks on his fellow council members. He will not lower his standards. He thinks the citizens expect that from them. He wants the citizens to know that any decision he makes he stands behind, he makes it, it is his decision, and that decision is made in the best interest of the citizens of Daphne. It is the right decision. He mention again that the City of Daphne, the City of Fairhope and the City of Spanish Fort have all agreed that they are going to work together as a coalition specifically for the purpose of grant writing as it pertains to environmental and infrastructure. There are good things on the horizons.

Councilman Palumbo said that city council members are not only allowed by law, but encouraged to discuss the issues with each other, and some of the not so veiled accusations tonight about what goes on, those activities are done often. They receive phone calls from those same council members seeking support for measures or asking for advice. It is done all the time, it is not only legal, but it is

encouraged. When it comes to illegal meetings he says again put up or shut up. He ended by reading a sentence that comes out of a hand book for Mayors and council members prepared by the Alabama League of Municipalities and he quotes for those who seem think that council has usurped some authority “the council is the ultimate source of power in the mayor-city, city-town, and in its exercise of this power, the council determines the extent to which the governmental and corporate functions of the municipality are exercised.”

Mayor Small responded to Mr. William’s comments during Public Participation saying that he was referring to people who run at large, he was not talking about district people. He did mention though if the district people had to run at large is exactly what he said, but he is the only one that has to run at large within this city. He is elected by all the citizens of Daphne. That is exactly what he said. There was never intent of any racial slurs of any sort. He also addressed the quote from the AL League hand book saying that it is true that statement is in there, but the council needs to remember, as well, is that the power that they retain only happens between these two gavel droppings, and these called meetings. From then on council are regular citizens. He is empowered, and he is charged, and he is totally responsible for everything that goes on in this city day by day. Council’s constituents do not call them when they have a drainage problem they call him, and he takes care of all the problems. Any problem that any council member has ever had, and has called him about, he has handled, and handled professionally, and has tried to handle above and beyond to make sure that he took care of council’s constituents. So he is charged with that day to day. He thinks with this form of government there is a lot to work out to see what is going to happen, because things are running very smooth within this city. He thinks that some employees are upset to know that not only would council have the ability to hire them, but they would be their last resort upon termination. He thinks that needs to be worked out, because now council is a body that hears the termination from him. He would make one suggestion to council, and there again to, he feels like still what went on in the hearing, evidently, as one council member said he has poured salt into somebody’s wounds, he has done nothing wrong, he feels that he handled it very professionally, he thinks he handled it trying to keep the expense down, and with a very professional group of people to try to exonerate a certain person to make sure that the facts were right and correct. Could it have been changed a little bit, certainly it could have, could they have talked about this later on and said “we don’t like the way you did this, if you do this again we want to be notified or we want to have some things changed”, sure they could have, but none of council ever talked with him about this, except for one council member that walked up, shook his hand and instead of saying hey how are you doing today the first words he said were you sure did pour a lot of salt in peoples wounds last night. So remember council’s power is in between the gavel droppings. His power is 24/7. He will direct the staff. When the gavel is not dropped council will not direct the staff, and that is the way that it reads in state law, and that is the way he plans to carry on business day to day. He will still today say that he has run the city as a business, which he thinks is hard for the seven council members to do, because they loose sight of the facts, just as they have in employee measures. He thinks in that particular instance, in that case, council should appoint, probably a personnel board to hear those measures for them, so they do not get politicized, and they don’t get strayed from the facts, because he sees that happen too often. There again to, he is there to work with the council, and he will never give his city a black eye. He will continue working and take the high road and work as hard as he can for the citizens that elected him for the remainder of this term, and many more terms to come. So, he is disappointed, somewhat,

that none of council had the guts to talk with him about this, because usually they do, but there again to, he will work with them any way that he can. They can call him at any time, and he will be glad to answer their telephone calls, and he will be more than glad to go out and get the shovel, and clean their constituent's ditches out while they are not in session, and he is working.

Council President Lake said that he hopes they can look at way side signs, and put it on a fast track, because he thinks it will help some of the businesses. He thinks that Jubilee Square needs something done about it, and, perhaps, maybe even trying to put a sign out on the road that was previously approved. On the issue of ordinance 2009-32 he does not think of it as an issue of taking the Mayor's authority, he looks at it as improving communication. He does not look at running or directing the employees of this city or any department head as his job, because he thinks it is the Mayor's job, and for them to communicate with him on the issues. He thinks they will participate together, and he hopes that council will look at when they hired Mrs. Cureton. That was done with the Mayor sitting in on all the meetings and participating in the discussion. They worked together. He knows that the Mayor will work with them as he has in the past.

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 8:55 P.M.

Respectfully submitted by,

David L. Cohen,
City Clerk, MMC

Certification by Presiding Officer:

John Lake,
Council President
Date & Time Signed: _____

**JUNE 17, 2009
SPECIAL CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

Council President Lake reconvened the meeting from June 10, 2009 at 6:46 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; David Cohen, City Clerk; Jay Ross, Attorney; Vickie Hinman, Interim Human Resource Director; Buzz Jordan, Attorney; Brent Day, Attorney; Sandra Morse; Daphne Cotton, Court Reporter; Latina Harrison; Erick Bussey, Attorney.

Personnel Hearing

MOTION BY Councilman Burnam to enter into Executive Session for a Quasi Judicial Hearing, and the meeting will last until 9:30 p.m. *Seconded by Councilman Palumbo.*

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 6:48 p.m.

Council extended the Executive Session for two more hours.

Council returned from Executive Session at 10:30 p.m.

MOTION BY Councilwoman Barnette to recess the Special Called Council meeting at 10:30 p.m., and reconvene the meeting for Sandra Morse on Wednesday, June 24, 2009 at 6:30 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 10:32 p.m.

Respectfully submitted by,

Certification of Presiding Officer:

David L. Cohen, City Clerk, MMC

John Lake, Council President

Date & Time Signed: _____

**JUNE 24, 2009
SPECIAL CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

Council President Lake reconvened the meeting from June 17, 2009 at 6:45 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; David Cohen, City Clerk; Jay Ross, Attorney; Vickie Hinman, Interim Human Resource Director; Buzz Jordan, Attorney; Brent Day, Attorney; Sandra Morse; Carol Cook, Court Reporter.

Personnel Hearing

MOTION BY Councilman Burnam to enter into Executive Session for a Quasi Judicial Hearing, and the meeting will last until 9:00 p.m. *Seconded by Councilman Yelding.*

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 6:46 p.m.

Mr. Ross came out of Executive Session to extend the session 45 minutes.

Council returned from Executive Session at 10:14 p.m.

MOTION BY Councilman Scott to recess the Special Called Council meeting at 10:14 p.m., and reconvene the meeting for Sandra Morse on Wednesday, July 1, 2009 at 6:30 p.m. *Seconded by Councilman Palumbo.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

There being no further business to discuss the meeting adjourned at 10:15 p.m.

Respectfully submitted by,

Certification of Presiding Officer:

David L. Cohen, City Clerk, MMC

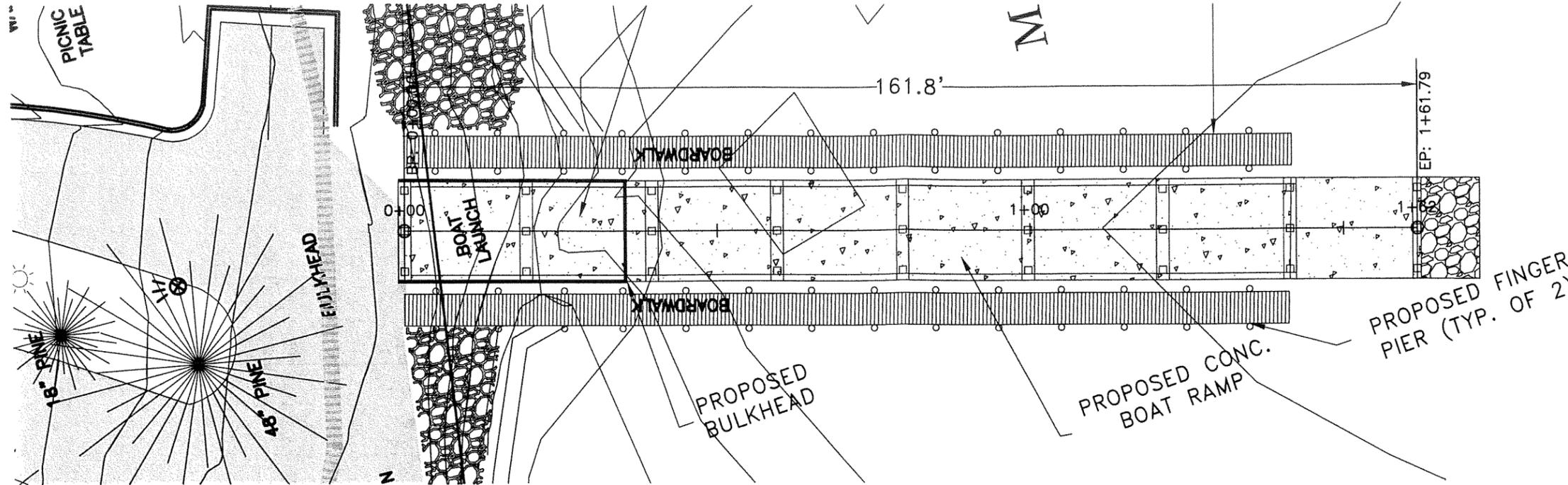
John Lake, Council President
Date & Time Signed: _____

**PUBLIC HEARING LIST
FOR COUNCIL MEETING**

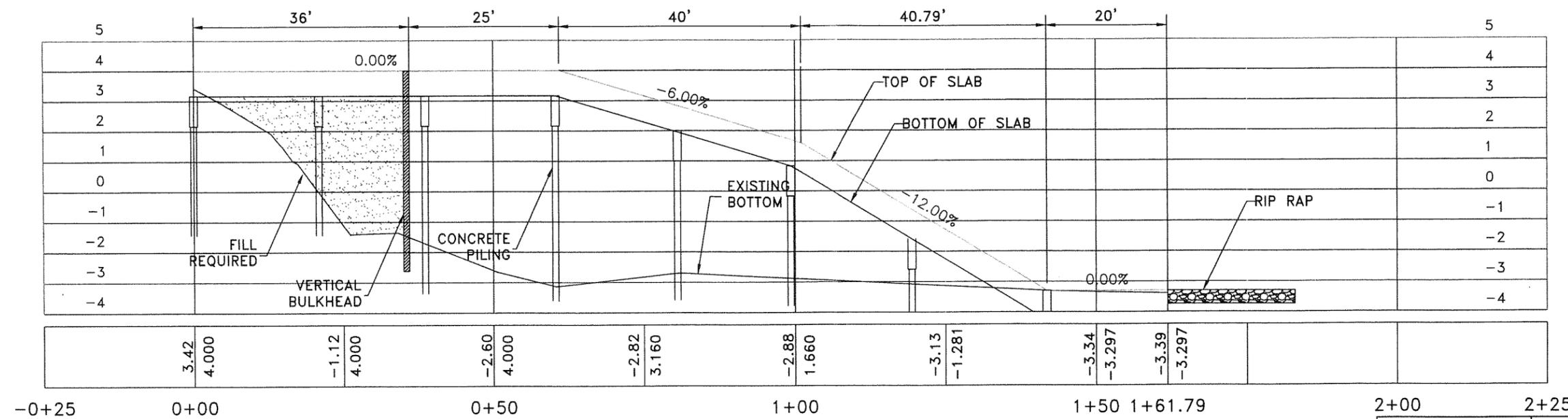
JULY 6, 2009

TO CONSIDER:

- 1.) May Day Boat Landing Ramp**



SCALE: 1" = 20'



	CITY OF DAPHNE PO BOX 400 DAPHNE, AL 36526
	MAYDAY PARK BOAT RAMP SITE PLAN BOAT RAMP
PROJECT NO: 09-4023-0003	DATE: JUNE 16, 2009

Revised 06-25-09
 pa meeting

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: _____

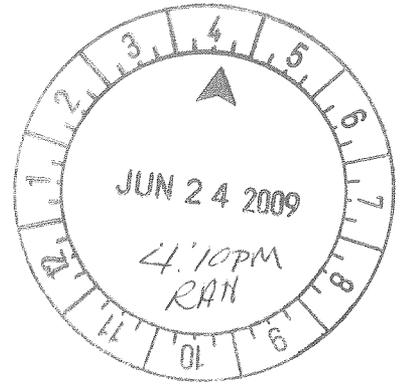
Fred Small, Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen
City Clerk, MMC



The Jubilee City



INTERNAL MEMORANDUM

TO: City Clerk

FROM: Mayor Fred Small 

DATE: June 24, 2009

SUBJECT: **ORDINANCE 2009-32**
Appointment of City Department Heads with Council as
the Appointing Authority

This stands as my notice to you stating my veto of above ordinance (ORDINANCE 2009-32). I object to this ordinance because the City Council has not the knowledge to resume the responsibility of such actions. The City Council works as a part-time legislative body and has no powers under the laws set forth within the State of Alabama to direct and or give direction to department heads and appointed officials (Police Chief, Fire Chief) of any kind within the City of Daphne.

I veto the above ordinance because of its content and question the legality as to a legislative body having the powers to hire such employees and be the employee's final body for grievances and the judicial hearings for terminations.

I veto the above said ordinance because this is a power of the Mayor's office not the legislative body and the Mayor is the only political member that the Citizens elected at large to handle the day to day operations of the City of Daphne and the only member to have hiring and firing powers for city department heads.

Page 2
Memorandum
Ordinance 2009-32
June 24, 2009

I veto this above said ordinance because of the options the legislative body will have to put unqualified personnel in these said positions and the ability to make these positions political to a point of instability thru all departments within the city.

I veto above said ordinance because the fact that I have done nothing wrong and have not been given any information to why the council wants to take these powers away from the Mayor's office. I have hired quality people as department heads and worked together with them to be able to accomplish running the city in the black for over four years while keeping a high level of service for the citizens of Daphne.

Now I would like to ask all Council Members to support me in this veto not as a rejection of the request, but because of the lack of time to provide proper planning which results in not spending the tax payer's money wisely and taking a chance of having an inferior product to offer.

**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

Buildings and Property Committee Minutes

Friday, June 5, 2009

10:00 a.m.

City of Daphne

Mayor's Conference Room

Committee

Councilman John Lake, Chairman

Mayor Fred Small

Councilman August A. Palumbo

Richard Merchant, Buildings Inspector

Frank Barnett, Maintenance Supervisor

Minutes

- A. Motion made to approve the minutes from the April meeting, motion was seconded. Minutes approved.
- B. DONATION OF PROPERTY IN LAKE FOREST – This property is located next to the FEMA buyout. We could leave the property just as it is, it would be good to have but committee doesn't feel like we should pay Lake Forest transfer fee of \$400 for property title. It could be used as a community and public area to be used by all property owners – an open green space. John Lake will get with Becky to send a letter to the owner with an affirmative response with the exception of paying the transfer fee.
- C. ELECTRONIC SIGNAGE FOR CIVIC CENTER – Mayor met with C.R.Signs, looked at structure. He checked with manufacturer for bottom and side support – they said not but our city folks can help – take the wall down – have it installed - then build back up – back side could say “Welcome to Daphne's Rose Garden”. Price was \$29,962.00 – believe we have \$39,000 appropriated.

Frank will get simple specs and we will get quotes on this. Mayor said we need to check amps – may need more, may need to have flags lighted from back side. Motion made to get specs together and out for bid and bring back to next meeting.

Library Sign – looked at samples, this would give us opportunity to advertise on Main Street as well. Send to Library Board for consideration. – Oval sample – we may could build our own base.

- D.** INVOICE FOR “DAPHNE” STATUE IN FOUNTAIN – This is for labor only (\$13,102.48) – needs to go before Finance Committee for next Monday.
- E.** DEDICATION PLAQUE FOR CITY HALL – Mayor’s idea is to place on the right hand side of the steps – construct a stand that it could sit on top of elevated.
- F.** NEW BUSINESS – Frank reported that the clock out front of City Hall that was donated by the Rotary Club was built before daylight savings time and we need to have an element installed to correct this – cost approximately \$395 to have installed – Public Works should have the money for this.

GRANTS FOR MUSEUM – There are possible grants available and Frank asked could David Cohen take care of looking into this. **John Lake will do a memo to David.**

BAYFRONT – Richard shared quotes for outside \$41,000, carpet \$12,000, underneath – pilings – cross ties \$5450 + \$200 marine treated, rock \$14,437. Mayor asked to get a quote on concrete for underneath as well. Inside repairs city can handle - \$5000 for upstairs bathroom. Motion was made to go to Finance for \$60,000 to take care of all of the above.

BUILDING/CONSTRUCTION UPDATE – Richard attached reports on monthly activity.

Public Safety Committee

Wednesday, June 10, 2009

Councilman Greg Burnam, Chairman
Councilman Gus Palumbo
Councilman Derek Boulware
Fire Chief James White
PW Sup. Bill Eady

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

Committee Members Attending:

Councilman Gus Palumbo, Councilman Derek Boulware, Chief James White, Mr. Bill Eady, Capt. Bell, Chief Carpenter.

CALL TO ORDER

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

PUBLIC PARTICIPATION –

A letter from Henry Lawson was presented. Mr. Eady explained after reading the letter that the Public Works Department cannot respond daily to pick up rubbish that Mr. Lawson sees on the side of the road in Lake Forest. They will have to wait until the weekly route for it to be picked up. Mr. Lawson also mentioned a speeding problem in which the Chief stated that we have officers doing D-runs in Lake Forest everyday but that we cannot spend all of our time in that one subdivision. In our studies we have found that and accidents that have happened in Lake Forest were not contributed by speeding, but by driver error. It would not be a benefit to lower the speed limit, people are still going to speed no matter what the speed limit is. Parking in the median was also a complaint from Mr. Lawson. It was discussed that there was no way to send an officer every time someone parked in the median. It was suggested that the people making the complaints should call the police department with the information on the vehicle in violation and the police department would dispatch an officer. Mr. Lawson also wanted metal stakes placed around the medians in Lake Forest. There are 96 or so turnarounds in Lake Forest and that cannot be done. Mr. Lawson or a citizen of Lake Forest would have to call with a specific complaint to Public Works and they would investigate the problem area. Chief Carpenter stated that it shouldn't be reported to Mr. Eady, they should call the police department. He stated that we work 24/7 and they should call when they witness median crossings. Mr. Eady stated that he did not have a Code Enforcement Officer, that there was only one that he knew of and that was Lonnie Jones at the police department. It was explained to Mr. Eady that a Code Enforcement Officer is not a sworn officer and that anyone in his department could be appointed by the mayor. Mr. Eady doesn't see how Tracey Miller would have time to address these complaints.

Max Cassady wants a speed hump placed on Bayhill Drive. He could not make the meeting but sent a letter with his request. Chief Carpenter stated that it was just a loop and shouldn't require a speed hump. Mr. Palumbo read from the letter where Mr. Cassady said his kids may run in the street and get hit due to speeding cars going around Bayhill Drive, he stated we cannot place speed humps just because people let their kids play in the street. Chief Carpenter stated that subdivisions should take on the responsibility of installing speed humps when they build a new subdivision. It is a major hindrance to the fire department and their large trucks. It was decided that a speed hump would not be placed on Bayhill Drive.

Dewayne Coley from Parks Department presented the parking lot plan for the Joe Patrick Louis Park in

Daphmont. The new parking for the park will be located in front of the park on Johnson Road. He just wanted the public safety committee to look at where the parking area was and to make sure that it would not be a danger by having to back out on Johnson Road. The committee did not think that the parking location would not be a problem.

Felicia Coker did not attend. She had requested a speed hump on Halls Lane.

APPROVAL OF MINUTES FROM PREVIOUS MEETING
Minutes from May 2009 Meeting

Mr. Boulware made a motion to approve the minutes. The motion was seconded by Mr. Palumbo . The motion passed.



FIRE DEPARTMENT

A. New Business

Statistics for April 2009 were reviewed. Applications open tomorrow for the fire station construction plan. You must already own the property. Chief needs to know what property we own so that he can write the narrative in the plan. Mr. Palumbo thought we were given some land out at Bellaton, but Chief White said he didn't think the mayor had it all worked out and finalized yet. Mr. Palumbo asked if Station 1 were a vacant lot, would it be big enough to build a station on that property. Chief White said no, but maybe the existing station could be remodeled with the funds. Chief Carpenter said that the volunteers own that property not the city. Chief White reminded them that the city does own the land down Stanton Road at the training facility. Mr. Palumbo suggested building it down by the animal shelter, but Mr. Eady reminded them that Percy Marino owns the corner at Johnson Road and Hwy 98.

Chief White added that they received another \$1,000 grant from Walmart.

B. Old Business

POLICE DEPARTMENT

A. New Business

- 1.** Statistics for April 2009 were reviewed. Chief Carpenter stated that the PD also received a \$1,000 grant from Walmart. We got a new patrol vehicle in, to replace the vehicle that was hit on Hwy 90 that the officer was involved in.

Captain Bell asked about the status of the crosswalk lights at Belrose Avenue. Mr. Eady said they had already painted the crosswalk stripes. The other three crosswalks were included in the five year plan. Mr. Palumbo asked Mr. Eady if he had gotten an estimate from ALDOT on doing the crosswalks and Mr. Eady had an estimate of \$25,000. Ron Scott asked Chief Carpenter about a noise complaint from a man that

lived on Ridgewood Dr. Chief advised Mr. Scott to advise the resident to contact Captain Bell or Lt. Hempfleng and we'll handle the problem as best as we can. We do have decibel meters that we can use for such problems. Mr. Palumbo asked for comprehensive costs on all crosswalks, and what if anything the state will put in. Mr. Palumbo asked Mr. Eady to get some prices on what the crosswalk at Belrose Dr. would cost and bring it back to the committee next month.

Old Business

OTHER BUSINESS

ADJOURN

There being no further business to discuss, Mr. Boulware adjourned the meeting at 5:45 p.m. The next meeting will be Wednesday, June 10, 2009 at 4:30 p.m. at City Hall Council Chambers.

Respectfully submitted,

Daphne Public Safety Committee

**CITY OF DAPHNE
FIRE DEPARTMENT MONTHLY REPORT**

Report Period: April 2009

	Current:	FY to Date:
Suppression:		
1-Fire/Explosion:	-	-
10-Fire, Other	0	9
11-Structure Fire/Commercial	0	1
11-Structure Fire/Residential	0	7
12-Fire in Mobile Property used as fixed structure	0	0
13-Mobile Property (vehicle) Fire	0	1
14-Natural Vegetation Fire	3	3
15-Outside Rubbish Fire	0	0
16-Special Outside Fire	0	0
17-Cultivated Vegetable Crop Fire	0	0
2-Overpressure Rupture:	0	0
3-Rescue Call and Emergency Medical Service Incidents:	127	453
4-Hazardous Conditions (No fire):	10	19
5-Service Call:	13	85
6-Good Intent Call:	10	40
7-False Alarm & False Call:	12	42
8-Severe Weather & Natural Disaster:	0	0
9-Other Situation:	1	2
Total Emergency Calls:	167	634
Monthly Total Calls:	170	1295
Response Time:		
Highest:	12	12
Lowest:	<1	<1
Average (Minutes/Seconds) :	<1/12	<1/12
Miscellaneous Reports:		
Training Hours	414.50	240.50
Property Loss - \$	0	\$759,500.00
Fire Personnel Injuries by Fire/Civilian Injuries by Fire	0	0
Advance Life Support Rescues	94	301
Number of Patients Treated	119	452
Child Passenger Safety Seat Inspections/Installations	10	29
Classes		
Classes	1	9
Persons Attending	3	343
Plan Reviews		
Plan Reviews	6	19
Final/Certificate of Occupancy	1	4
General/Annual Inspections	123	417
General/Re-Inspections (Violation Follow-up - Annual)	18	48
Business Licenses	6	22
Consultations-	0	0
All Other/Misc. Activities	0	1
Total Activities:	148	511

Authorized by:

James White

Chief James White

Daphne Police Department				Monthly Report			April 2009			
Patrol Division		Detective Division:		JAIL:			Animal Control		Crimes Reported This Month:	
(Capt. Bell/Lt. Hempfleng)		(Capt. Bell/Lt. Beedy)		(Capt. Taylor/Lt. Yelding)			(Capt. Taylor/ Lt. Yelding)			
						YTD				
# Complaints	965	# New Cases Received:	59	Total Arrestees Received & Processed:	180	1195			Arson	0
# Misd. Arrests	76	# Previous Unsolved Cases:	109	Arrestees by Agency:			#Complaints	54	Burglary – Commercial	0
# Felony Arrests	8	# Cases Solved:	44	Daphne PD	141	908	#Follow-ups	91	Burglary – Residence	3
DUI Arrests	20	Resulting in Total Arrests:	23	BCSO	2	27	#Citations	2	Burglary - Vehicle	1
Alias Warrant Arrests	25	Felonies:	20	Spanish Fort PD	33	197	#Warnings	14	Criminal Mischief	11
Citations	299	Misdemeanors:	3	Silverhill PD	3	54	#Felines Captured	31	Disorderly Conduct	2
Close Patrols	392	Houses Searched	0	Troopers	0	6	#Canines Captured	28	Domestic Disturbance	24
Warnings	119			Other Agencies	1	2	#Other Captured	9	False Info to Police	0
Motorist Assists	174						#Returned to Owner	17	Felony Assault	1
Roadway Accidents	37	Warrants:					#Adopted Out	36	Felony Theft	14
Private Property Accidents	15	Bettner Served	58				#Euthanized	14	Harassment	12
Traffic Homicide	0	Agency Assists	26	Highest	39				Identity Theft	4
		Recalls (Pd Fines)	46	Lowest	25				Indecent Exposure	1
DRUG REPORT		Total Warrants Served	130						Kidnapping	0
ROUTINE PATROL/SPECIAL OPS				Meals Served	2,718	18,840			Menacing	1
		Sex Offender:		Medical Cost	\$1,529.71	\$10,975.75			Misdemeanor Assault	1
# Misd. Marijuana Arrest	3	New Registration:	0	Worker Inmate Hours	584	4,190			Misdemeanor Theft	16
# Felony Marijuana Arrest	0	Contact Verification	0						Murder	0
# Controlled Substance Arrest:	2	Total # registered in Daphne	3						Other Death Investigations	2
# Drug Paraphernalia Arrest	0	DARE:							Public Intoxication	3
Vehicles Searched	49	# Hours Report Writing:	8						Public Lewdness	0
		# Students Instructed SRO	1,125						Receiving Stolen Property	0
Drugs Seized:	7	# Students Instructed DARE	800						Reckless Endangerment	1
Type: see below		# Police Reports by SRO	4						Resisting Arrest	0
Money Seized	0	# Arrest by SRO	4						Robbery	2
Vehicles Seized	0								Sex Crime Investigations	0
		CODE ENFORCEMENT:							Suicide	0
Commercial Vehicle Inspections	8	Warnings:	12						Suicide, attempted	3
		Citations	11						Theft of Services	0
		Warning Compliance	10						Unauthorized Use of Services	1
(marijuana x 2, clonazepam, morphine, suboxone, cocaine, amphetamine)		Follow – Up	7						Weapon Offenses	1
									White Collar Crimes	1
Approved by:				David Carpenter, Chief of Police						

**CITY COUNCIL MEETING
REPORTS OF SPECIAL COMMITTEES**

NOTES:

BOARD OF ZONING ADJUSTMENTS REPORT:

DOWNTOWN REDEVELOPMENT AUTHORITY REPORT:

INDUSTRIAL DEVELOPMENT BOARD:

LIBRARY BOARD:

PLANNING COMMISSION REPORT:

RECREATION BOARD REPORT:

UTILITY BOARD REPORT:

To: Fred Small, Mayor
From: Adrienne Jones, Director
Community Development
Subject: BZA Board Member Appointment
Date: June 23, 2009

MEMO

Ms. Jeri Hargiss, a regular board member of the BZA, appointment will expire in July, 2009.

Ms. Hargiss serves well on the BZA, and we greatly appreciate her time and effort.

I, respectfully request that she be re-appointed to her position on the Board.

cc: Becky, City Clerk's Office

**Daphne Public Library Board
June 4, 2009
Meeting Minutes**

In Attendance:

Library Director Tonja Young; Library Board Members Windrila Longmire, Gayle Robinson; Board Vice Chair Jan Blankenhorn; Board Chair Ron Allen.

1) Call to Order:

After a quorum was established, Library Board Chairman Ron Allen called the meeting to order at 4:17 pm.

2) Reading and Approval of the Minutes:

The minutes of the February, 2009 meeting were reviewed and approved. Motion made by Gayle, second by Windrila. Motion passed. There was no meeting in March due to a bad storm and in April there was no quorum. The May meeting was held in executive session to discuss the annual review of the Library Director.

3) Chairman's Update:

Ron resigned as Chairman of the Foundation and Jan became the new Chairman at the last meeting on April 27, 2009. Dee resigned from the Library Board to serve on the Foundation. Dee will serve as Treasurer and handle the Foundation's bank accounts. The next Foundation meeting will take place on June 22, 2009 at 4:30 pm.

Because Dee resigned from one board to serve on the other board, a replacement is needed to fill her seat. Andre LaPalme has been suggested because he has a continued interest in the library, works as the AP and IB English teacher at Daphne High School, and has almost earned his PhD. Jan made a motion to invite Mr. LaPalme to join the Library Board, which was seconded by Windrela. Motion passed. Ron will ask Andre to serve and if he agrees, Tonja will collect a short bio from him to present to the council.

4) Library Director's Report:

The Director stated that everything is going well with the library staff. The last of the LSTA grant funds have been expended on the ADA and audiovisual materials and aids.

Statistics were reported for the months of April and May.

The monthly report for April, 2009 was reviewed. April showed an overall increase of 3.25 % in circulation (with a total of 22,999 items circulating) and a small decrease of 6.47 % in patronage (with a total of 17,921 patrons) when compared to the same month in 2008. Interlibrary loans, cards issued, exams proctored, and items cataloged were all higher than in recent months. Other statistics for April, 2009 include:

Interlibrary Holds Loaned to Daphne = 1669
Interlibrary Holds Loaned from Daphne = 1455
New Patrons = 193
Volunteer Hours = 101.7
Book Shop Volunteer Hours = Not Reported
Exams Proctored = 16
Reference Questions: 689
Children's Programs Attendance = 370
Teen Programs Attendance = 12
Adult Programs Attendance = 125
Meeting Room Use = 570
New Items Cataloged = 564
Computer Users = 1293

The monthly report for May, 2009 was reviewed. April showed an overall increase of 9.45 % in circulation (with a total of 23,203 items circulating) and a small decrease of 1.46 % in patronage (with a total of 17,651 patrons) when compared to the same month in 2008. Other statistics for April, 2009 include:

Interlibrary Holds Loaned to Daphne = 1530
Interlibrary Holds Loaned from Daphne = 1292
New Patrons = 192
Volunteer Hours = 87.7
Book Shop Volunteer Hours = 268
Exams Proctored = 9
Reference Questions: 696
Children's Programs Attendance = 350
Teen Programs Attendance = 33
Adult Programs Attendance = 79

Meeting Room Use = 497
New Items Cataloged = 515
Computer Users = 1181

5) Public Participation

Kudos to the library and staff from Carol Simmons. Carol stated that she and Tonja had visited with the quilt guild to request a quilt to raffle for the Foundation Kick-Off in the Fall. Carol said the friends would pay for printing the raffle tickets.

6) Other Business

Tonja stated that the library addition bid chosen by the architect would go to the Finance Committee for approval on Monday at 4:00 pm, and then on to the council agenda.

The library has also completed spending on the 2009 LSTA Grant for ADA and visually impaired materials and aids.

7) Adjourned

The meeting was adjourned by Ron at 5:00 pm.

Respectfully submitted by T. Young, July 1, 2009

Resume'

Andre LaPalme
14501 Neal Road
Loxley, AL 36651

June, 2009

Andre LaPalme was born in Los Angeles, California, raised in upstate Michigan, and educated in Boston, Massachusetts and Lafayette, Louisiana. He has been happily married to Amy LaPalme since 1994. They have three children, ages 10, 8, and 6.

Andre earned a Bachelor's of English in 1989 and a Masters of Fine Arts in 1992. From 1995 – 2000, he worked on Creative Writing Doctoral Studies under the guidance of the Pulitzer Prize winning author, Ernest J. Gaines.

In the summer of 1990 and 1991, he biked across Europe—more than 7,000 miles total—through 15 different countries.

Currently, he teaches English at Daphne High School. His 2009 – 2010 schedule includes “Pre-IB” 10th grade English; Advanced 10th grade English; AP 11th grade English; AP 12th grade English; 12th grade IB English. Additionally, he works for the state of Alabama, teaching writing online through ACCESS, and every summer he works for the College Board as an Advanced Placement Literature reader.

In his spare time, he enjoys the outdoors, family time, reading, and writing where he is editing his wife's 325-page novel. Additionally, Andre is working on a Doctoral thesis—a collection of one-act plays all thematically related and set in the same upstate Michigan town.

Other hobbies include collecting metal lunchboxes and vintage rock and blues albums.

From: Tonja Young [tonjadpl@bellsouth.net]

Sent: Wednesday, June 17, 2009 9:05 AM

To: Becky Hayes; David Cohen; Fred Small; 'Ron Scott'; 'Bailey Yelding'; 'Cathy Barnette'; 'Derek Boulware'; 'Greg Burnam'; 'Gus Palumbo'; 'John Lake'

Cc: mayorassist@bellsouth.net; ronandbarballen@bellsouth.net

Subject: New Library Board Members

Attachments: Biography Andre LaPalme 09.doc

Ms. Dee Gambill has resigned the formal Library Board to serve as Treasurer of the Library Foundation set up to raise funds for future library building additions, etc. The Library Board discussed a candidate for the open position at the June Board Meeting and agreed to ask the individual to serve. The individual has stated that he would be delighted to serve and I am attaching a short resume for the Council.

The candidate is an AP and IB English teacher at the Daphne High School. He has nearly completed his PhD, is an author, and is in charge of the school newspaper. He has served as a volunteer with the children's and teen's library programs many times, from dressing as Santa for the preschool storytime to serving as a judge for the annual poetry contest. He has a great interest in the library, is a weekly visitor to the library, and supports the Friends Book Shop and book sales. He will be a good liaison to the local schools, keeping us better informed about local school needs. I also believe that he will have the best interest of the library and community in mind, helping us strive for the best quality library we can have.

The Board will meet again on Thursday, July 2, 2009 to complete the process and would like to have this matter added to the Council agenda for Monday, July 6, 2009.

Thank you for your consideration.

*Tonja Young
Library Director
Daphne Public Library
PO Box 1225
Daphne, AL 36526
251-621-2818, ext. 201*

SET PUBLIC HEARING DATE

FOR

AUGUST 3, 2009

Annexation: Swift Supply

Property located on the North side of Milton
Jones Road / Requested zoning B-2, General
Business District

To: Office of the City Clerk
From: Adrienne Jones,
Director of Community Development
Subject: Swift Supply, Inc.,
Mr. David Swift, President
Annexation Review
Date: April 29, 2009

MEMORANDUM

PRESENT ZONING: B-1, Professional Business, in
Baldwin County District 15

PROPOSED ZONING: B-2, General Business, City of
Daphne

LOCATION: North side of Milton Jones Road

RECOMMENDATION: At the April 23, 2009, regular
meeting of the City of Daphne
Planning Commission, six members
were present and the vote was four
ayes and two abstentions for the
above-mentioned petition for
annexation.

REFERENCE: Subdivision: Milton Jones Commercial
Park, Lots 1, 2, and 3

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

The ordinance for the annexation is being reviewed and
shall be prepared by the City Attorney's office and
forwarded to you by Wednesday, April 27, 2009.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Community Development Staff Report
2. Petition
3. Legal description
4. Map of property
5. Ordinance



The Jubilee City

Annexation Review: Swift Supply 10.76 acres 3 lots Milton Jones Road

Owner: Swift Supply Inc., David Swift

Contiguous to Daphne Corporate Limits: Yes (Milton Jones Road)

Existing Conditions: Lot 1-Swift Supply Business; Lots 2 and 3-Undeveloped

Existing Zoning: B-1 Professional Business District—Baldwin County District 15

Proposed Zoning: B-2 General Business

According to the Table of Permitted Uses, "lumber yards and building materials; need not be enclosed within a structure" is allowed in B-2 and C/I zoning districts by right.

Surrounding Zonings/Uses: District 15 Baldwin County

North- (R-2B) Single Family/Chamberlain Trace Unit 1

South-(E-R) Estate Residential/ Undeveloped

East- (B-1) Professional Business/Undeveloped

West-(R-4) Single Family/Chelcey Place Subdivision

Existing Service Providers:

Utilities—Belforest Water

Sewer—Individual Septic Tank (Baldwin County Health Department)

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

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**

(SWIFT SUPPLY INC.)

The undersigned, DAVID D. SWIFT, PRESIDENT, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as LOTS 1, 2, AND 3, MILTON JONES COMM PARK 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, DAVID D. SWIFT, SWIFT SUPPLY, 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:

B-2, 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 6TH day of MARCH,
2009.

Respectfully submitted,

Name of Corporation

By:

Its:

David D. Swift
President

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that DAVID D. SWIFT whose name as PRESIDENT of SWIFT SUPPLY, 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 6th day of March, 2009.

John B. Bredette (NOTARY SEAL)

NOTARY PUBLIC

My commission expires: 6/4/2012

SWIFT SUPPLY INC.

MILTON JONES ROAD COMMERCIAL PARK,
LOTS 1, 2, & 3
ANNEXTION
EXHIBIT "A"
LEGAL DESCRIPTION
(PROPERTY 10.75 ACRES)

LOT 1, 2, AND 3, MILTON JONES ROAD COMMERCIAL PARK AS RECORDED
IN THE BALDWIN COUNTY PROBATE COURT RECORDS, SLIDE 2111-B.

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2009-_____**

**AN ORDINANCE TO ANNEX PROPERTY
PROPERTY LOCATED ON THE NORTH SIDE OF MILTON JONES ROAD
SWIFT SUPPLY, INC.**

WHEREAS, on the 6th day of March, 2009, Swift Supply, Inc., being the owner of the real property herein described, did file with the City a petition asking that said real property be annexed into and become part of the City of Daphne, Alabama; and

WHEREAS, the Planning Commission of the City of Daphne, Alabama, at its regularly scheduled meeting of April 23, 2009, considered said petition and forwarded a favorable recommendation to the City Council of the City of Daphne, Alabama for said petition of annexation; and

WHEREAS, after proper publication a public hearing was held on August 3, 2009 by the City Council of the City of Daphne concerning said petition for annexation; and

WHEREAS, said petition did contain the signatures of all owners of the described real property and a map of said property showing its relationship to the corporate limits of the City of Daphne, Alabama; and

WHEREAS, the City Council of the City of Daphne after lawful notice and public hearing did determine it is in the public interest that said property be annexed into the City of Daphne, Alabama and it did further determine that all legal requirements for annexing said real property have been met pursuant to Sections 11-42-20 through 11-42-24, Code of Alabama, 1975;

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

SECTION ONE: ANNEXATION

The boundary lines of the City of Daphne, Alabama, be, and the same are hereby altered or rearranged as to include all of the territory hereto before encompassed by the corporate limits of the City of Daphne, Alabama and in addition thereto the following described territory, to-wit:

NAME:	SWIFT SUPPLY, INC.
DESCRIPTION:	LOT 1, 2 AND 3, MILTON JONES ROAD COMMERCIAL PARK AS RECORDED IN THE BALDWIN COUNTY PROBATE COURT RECORDS, SLIDE 2111-B.

Being contiguous to the Corporate Limits of the City of Daphne, Alabama and to be zoned B-2, General Business District.

SECTION TWO: PUBLICATION

This ordinance shall be published as provided by law, and a certified copy of the same shall be filed with the Probate Court of Baldwin County, Alabama.

APPROVED AND ADOPTED 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**

ATTEST:

**DAVID COHEN,
CITY CLERK, MMC**

From: David Cohen [daphnecc@bellsouth.net]
Sent: Wednesday, June 24, 2009 12:23 PM
To: Becky
Subject: Fw: Rec Board

----- Original Message -----

From: palumbo7@bellsouth.net
To: daphnecc@bellsouth.net
Cc: burnam4@bellsouth.net ; johnlake3@bellsouth.net
Sent: Tuesday, June 23, 2009 9:36 PM
Subject: Rec Board

David,

Mr. Ed Nelson's term as the Dist. 7 rep on the Recreation Board expires this month. He advised me that he would like to remain on the board. Please place a motion to re-appoint him for the new term (5 years) on next Monday's agenda under Rec Board report so Greg can make the motion. Thanks.

Gus
August A. Palumbo
Daphne City Council

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

CASE NO. 2009-7

ABC LICENSE ROUTING

DATE RECEIVED BY REVENUE DIV. 6-8-09 (initial) ws
DATE FORWARDED TO POLICE DEPT. 6-8-09 IC
DATE RECEIVED BY POLICE DEPT. 6/10/09 mt
DATE: APPROVED DISAPPROVED _____
POLICE DEPT SIGNATURE [Signature]
DATE RETURNED TO REVENUE DIV. 6-26-09 kr
DATE FORWARDED TO CITY CLERK 6-26-09 ws
DATE RECEIVED BY CITY CLERK 6-26-09 RHH
SCHEDULED DATE ON AGENDA 7-06-09 RHH

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)

*Need to Renew



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD

ALCOHOL LICENSE APPLICATION
Confirmation Number: 20090605164623706

Type License: 050 - RETAIL BEER (OFF PREMISES ONLY) State: \$100.00 County: \$50.00

Type License: 070 - RETAIL TABLE WINE (OFF PRMISES ONLY) State: \$150.00 County: \$75.00

Trade Name: TARGET STORE T1274 Filing Fee: \$100.00

Applicant: TARGET CORPORATION Transfer Fee:

Location Address: 1698 US HWY 98 DAPHNE, AL 36526

Mailing Address: 1000 NICOLLET MALL ; TPN0910 MINNEAPOLIS, MN 55403

County: BALDWIN Tobacco sales: NO Tobacco Vending Machines:

Sale of Products Containing Ephedrine: YES Type Ownership: CORPORATION

Book, Page, or Document info: MN CORP Do you sell Draft Beer: N

Date Incorporated: 03/17/1997 State incorporated: MN County Incorporated:

Date of Authority: 03/17/1997

Name: Title: Date and Place of Birth: Residence Address:

PATRICIA ALDEN JOHNSON E825015726615 - MN	VICE PRESIDENT	09/08/1962 LAKE IL	13543 WOODMERE CIRCLE EDEN PRAIRIE, MN 55346
TIMOTHY ROBERT BAER K131175519805 - MN	VICE PRESIDENT	07/06/1960 HENNEPIN MN	6201 BALDER LN EDINA, MN 55439

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: TAMMIE CORBIN

Business Phone: 251-621-3540

Fax:

Home Phone: 251-626-5037

Cell Phone:

E-mail: SALES.TAX@TARGET.COM

PREVIOUS LICENSE INFORMATION:

Trade Name:

Applicant:

Previous License Number(s)

License 1:

License 2:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20090605164623706



Initial each

Signature page

JMC
 JMC

In reference to law violations, I attest to the truthfulness of the responses given within the application.

In reference to the Lease/property ownership, I attest to the truthfulness of the responses given within the application.

JMC

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.

In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.

JMC

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.

JMC

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.

JMC

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): Tammie Corbin

Signature of Applicant: [Handwritten Signature]

Notary Name (print): Charlotte M. Jernigan

Notary Signature: [Handwritten Signature] Commission expires: 06/04/2012

Application Taken: 6/5/09 App. Inv. Completed:

Submitted to Local Government: 6/5/09

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
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20090605164623706



If applicant is leasing the property, is a copy of the lease agreement attached?
 Name of Property owner/lessor and phone number: TARGET CORPORATION 612-761-1010
 What is lessors primary business? TARGET STORES
 Is lessor involved in any way with the alcoholic beverage business? YES
 Is there any further interest, or connection with, the licensee's business by the lessor? NO

Does the premise have a fully equipped kitchen? NO
 Is the business used to habitually and principally provide food to the public? NO
 Does the establishment have restroom facilities? YES
 Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? NO

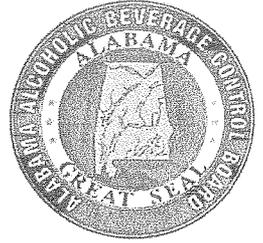
Will the business be operated primarily as a package store? NO
 Building Dimensions Square Footage: 12542 Display Square Footage:
 Building seating capacity: 0 Does Licensed premises include a patio area? NO
 License Structure: ONE STORY License covers: ENTIRE STRUCTURE
 Number of licenses in the vicinity: 10 Nearest: .5
 Nearest school: 3 miles Nearest church: 2 miles Nearest residence: 2 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: 20090605164623706



Private Clubs / Special Retail / or Special Events licenses ONLY

Private Club

Does the club charge and collect dues from elected members?

Number of paid up members:

Are meetings regularly held?

How often?

Is business conducted through officers regularly elected?

Are members admitted by written application, investigation, and ballot?

Has Agent verified membership applications for each member listed?

Has at least 10% of members listed been confirmed and highlighted?

Agent's Initials:

For what purpose is the club organized?

Does the property used, as well as the advantages, belong to all the members?

Do the operations of the club benefit any individual member(s), officer(s), director(s), agent(s), or employee(s) of the club rather than to benefit of the entire membership?

Special Retail

Is it for 30 days or less?

More than 30 days?

Franchisee or Concessionaire of above?

Other valid responsible organization:

Explanation:

Special Events / Special Retail (7 days or less)

Starting Date: Ending Date:

Special terms and conditions for special event/special retail:

Other Explanations

Is the lessor involved in any way with the alcohol beverage business?: **APPLICANT IS OWNER OF PROPERTY**

Proposed 50 Foot Easement

MERRITT BL

US HWY 98

Proposed 50 Foot Easement

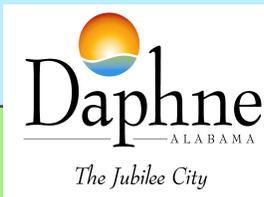
JORDAN RD

Marino Property

Thomas Medical

City Property

BAYFRONT PARK DR



The information contained in the data distributed by the City of Daphne is derived from a variety of public and private sources considered to be dependable, but the accuracy, completeness and currency thereof are not guaranteed. The City of Daphne makes no warranty, expressed or implied as to the accuracy, completeness, currency, reliability, suitability for any particular purpose of the information or data collected or generated from the City Geographic Information System. Acceptance of the City of Daphne or any agent, servant, or employee thereof assumes all liability associated with the use of the data, and assume no responsibility to maintain it in any manner or form. Any questions regarding zoning should be directed to the City of Daphne Planning Department-678-1845.

Map compiled by Nancy Anderson, GIS Manager, City of Daphne Community Development, July 2, 2009

HARBOR CV

MAIN ST

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

June 24, 2009

TROY KING
ATTORNEY GENERAL

500 DEXTER AVENUE
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable Jay M. Ross
Daphne City Attorney
Ross & Jordan
1111 Dauphin Street
Mobile, Alabama 36604-2511

Municipalities – Annexation – Roads,
Highways and Bridges – Mobile County

A city or town may not use “long lasso” annexation or public rights-of-way alone to create contiguity for purposes of annexation under section 11-42-21 of the Code of Alabama. Under the facts presented, the City of Daphne owns the roadway and is not merely using the public right-of-way to create contiguity.

Dear Mr. Ross:

This opinion of the Attorney General is issued in response to your request on behalf of the City of Daphne.

QUESTION

May the City of Daphne annex a parcel of real property that is adjacent and contiguous to a road that is owned by the city?

FACTS AND ANALYSIS

Your request states that Milton Jones Road, the road in question, is a public road owned by the City of Daphne. The road was accepted as a public road by the City of Daphne on February 2, 2009, by quit claim deed from the Baldwin County Commission. The city recently received a request for annexation by a landowner who owns a parcel of real estate that is adjacent to Milton Jones Road. The only contiguity between the proposed parcel and the City of Daphne is Milton Jones Road. The city is concerned that the proposed annexation might be challenged and declared invalid under the “long lasso” theory of annexation

and, thus, seeks this opinion to clarify that the use of the road in this circumstance is not a “long lasso” annexation.

A city or town may annex property by legislative act, by an election in accordance with section 11-42-2 of the Code, and by petition in accordance with section 11-42-21. ALA. Code § 11-42-2, 11-42-21 (1989). Another method of annexation is applicable only to cities with a population of 25,000 or more. ALA. CODE § 11-42-40 (1989). The “long lasso” method of annexation has been used in conjunction with section 11-42-21. This section states, in pertinent part, as follows:

Whenever all of the owners of property located and contained within an area *contiguous to the corporate limits of any incorporated municipality* located in the state of Alabama and such property does not lie within the corporate limits or police jurisdiction of any other municipality, shall sign and file a written petition with the city clerk of such municipality requesting that such property or territory be annexed to the said municipality; and the governing body of such municipality adopts an ordinance assenting to the annexation of said property to such municipality, the corporate limits of said municipality shall be extended and rearranged so as to embrace and include such property and such property or territory shall become a part of the corporate area of such municipality upon the date of publication of said ordinance.

ALA. CODE § 11-42-21 (2008) (emphasis added).

The “long lasso” method of annexation involves the annexation of property using public road rights-of-way to create contiguity and, in effect, avoid the requirement of a touching at some point. *City of Fultondale v. City of Birmingham*, 507 So. 2d 489 (Ala. 1987). The Alabama Supreme Court held, in the *City of Fultondale*, that the use of public road rights-of-way to create contiguity is unreasonable and invalid as a matter of law. *Id.* at 491. The Alabama Supreme Court has upheld other “corridor” annexations where public road rights-of-way were not used. *City of Dothan v. Dale County Comm’n*, 295 Ala. 131, 324 So. 2d 772 (1975). In the *Dothan* case, the corridor was a 350-foot strip of privately owned land that the landowner agreed to annex into the city to create contiguity to property that otherwise would not be contiguous to the City of Dothan.

In another case where public road rights-of-way were used, the corridor was substantially larger than the roadway, and the roadway was on only a part

Honorable Jay M. Ross
Page 3

of the corridor. *City of Prattville v. City of Millbrook*, 621 So. 2d 267 (Ala. 1993). The corridor in the *Millbrook* case was a county-owned railroad bed that also had a public roadway on part of the land, and the county agreed to the annexation of the county property to the City of Millbrook. *City of Prattville*, 621 So. 2d at 273. In the *Millbrook* case, the Court noted that a "significant part of the corridor, approximately three quarters of a mile, has no roadway on it at all." *Id.*

Based upon the case law, this Office has previously stated that a city or town may not use "long lasso" annexation or public rights-of-way to create contiguity for purposes of annexation. Opinion to Honorable Jack Hodges, Mayor, Town of Grant, dated June 24, 1998, A.G. No. 98-00170. The public right-of-way alone is not sufficient to create contiguity. *Id.* In the facts presented herein, the City of Daphne owns the roadway, and it is not merely using the public right-of way to create contiguity. Thus, it is the opinion of this Office that the proposed annexation does not involve the use of "long lasso" annexation.

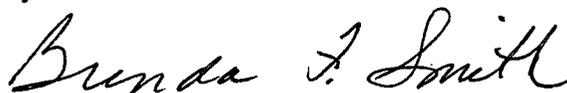
CONCLUSION

A city or town may not use "long lasso" annexation or public rights-of-way alone to create contiguity for purposes of annexation under section 11-42-21 of the Code of Alabama. Under the facts presented, the City of Daphne owns the roadway and is not merely using the public right-of-way to create contiguity.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Brenda F. Smith of my staff.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

TK/BFS
801803/132544

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

RESOLUTION 2009-61

**Acceptance of Streets and Drainage
Located in the Renaissance Center Subdivision, Phase Three**

Whereas, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval to Renaissance Center Subdivision, Phase Three on June 25, 2009, and the City of Daphne hereby recommends acceptance of said street(s) located in Renaissance Center Subdivision, Phase Three; and,

Whereas, an inspection was made by the Director of Community Development. All reports, as well as, all other related documents have been provided stating that said streets and storm water drainage have been installed in conformity with city standards; and,

Whereas, an inspection was made by the Director of the Division of Public Works, and has accepted said streets and storm water drainage of Renaissance Center Subdivision, Phase Three; and,

Whereas, the Utilities Board of the City of Daphne has accepted the utilities of Renaissance Center Subdivision, Phase Three; and,

Whereas, the developer has provided to the City a two-year construction warranty bond as required, and requests acceptance and dedication of the same for maintenance of said improvements as outlined in Article XVII, entitled Subdivision Review of the City of Daphne Land Use and Development Ordinance; and,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS, that Renaissance Center Subdivision, Phase Three according to the plat by Jinright & Associates as recorded in the Judge of Probate, Baldwin County, Alabama, and said street(s) being named Renaissance Boulevard is hereby accepted by the City of Daphne, Alabama as a city street for maintenance.

ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE _____ DAY OF _____, 2009.

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

JOHN LAKE
COUNCIL PRESIDENT
DATE AND TIME SIGNED: _____

FRED SMALL
MAYOR
DATE AND TIME SIGNED: _____

ATTEST:

DAVID L. COHEN, CITY CLERK, MMC

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

SUBDIVISION NAME: Renaissance Center Phase III

LOCATION: Highway 90, west of Highway 181

THIS ACCEPTANCE OF ROADS AND RIGHTS-OF-WAY is made this 4th day of June, 2009 by Renaissance Center, LLC, hereinafter called the Subdivider, owner of certain property located in Baldwin County, Alabama known as Renaissance Center III Subdivision to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

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

WHEREAS, the Subdivider does hereby agree to provide a Maintenance Bond, as outlined in Article XVII, entitled Subdivision Review, in an amount equal to ten (10) percent of the total street and drainage improvements (\$ 152,079.61) in the subdivision for a period of two (2) years after the date of their acceptance and dedication of the same to the City. Said bond shall be required by the City as a condition to the acceptance and dedication of any new roads or rights-of-way within the City; and,

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

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

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

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

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the recommendation of the City of Daphne Planning Commission at their regular meeting of June 25, 2009. That said subdivision according the plat recorded in the Judge of Probate, Baldwin County, Alabama and said streets being named Renaissance Boulevard and ~~Frederick Boulevard~~, linear feet 1609.45,

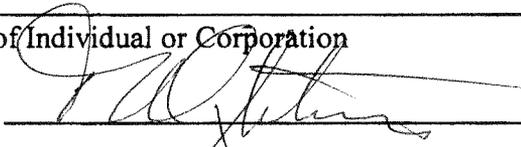
right-of-way in subdivision varies from a minimum of 60 feet to a maximum of eighty feet
are hereby accepted for maintenance by the City of Daphne, Alabama as a city street.

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

Respectfully submitted,

Renaissance Center, LLC

Name of Individual or Corporation

By: 

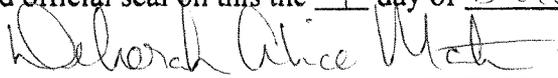
Managing Member

Its: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned Notary Public in and for said State and County, hereby certify that Terry Ouletrec whose name as MANAGER of Renaissance Center, LLC, an Alabama corporation or as owner of Renaissance Center Phwi 3 is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer or owner and with full authority, executed the same voluntarily on the day same bears date.

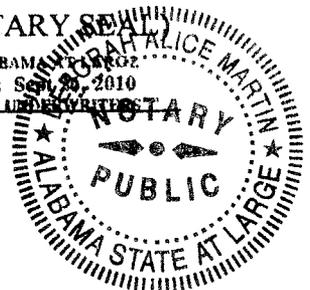
Given under my hand and official seal on this the 4 day of June, 2009



NOTARY PUBLIC

My commission expires:

NOTARY PUBLIC STATE OF ALABAMA
MY COMMISSION EXPIRES: SEP 29 2010
BONDED THROUGH NOTARY PUBLIC UNDERWRITERS



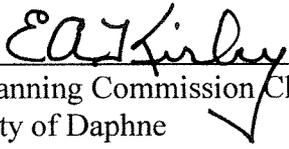
**CITY OF DAPHNE
PETITION FOR ACCEPTANCE
OF ROAD(S) AND/OR RIGHTS-OF-WAY**

Recommendation: *PC Recommended Approval on 6/25/09*



Adrienne D. Jones,
Director of Community Development
City of Daphne

Approval:



Planning Commission Chairman
City of Daphne

**MAINTENANCE
BOND**

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
Hartford, Connecticut 06183

Bond No.: 105258593

KNOWN ALL BY THESE PRESENTS: That we James Brothers Excavating, Inc., as Principal, and Travelers Casualty and Surety Company of America, a corporation organized and existing under the Laws of the State of Connecticut, as Surety, are held and firmly bound unto The City of Daphne, Alabama, as Obligee, in the total sum of One Hundred Fifty-Two Thousand, Seventy Nine Dollars and 61/100 U.S. Dollars (\$152,079.61) for the payment whereof said Principal and Surety bind themselves, jointly and severally, as provided herein.

WHEREAS, the Principal entered into a contract with the Obligee dated June 25, 2009 for The Renaissance Center Phase III ("Work").

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall maintain and remedy said Work free from defects in materials and workmanship for a period of 2 year(s) commencing on June 25, 2009 (the "Maintenance Period"), then this obligation shall be void; otherwise it shall remain in full force and effect.

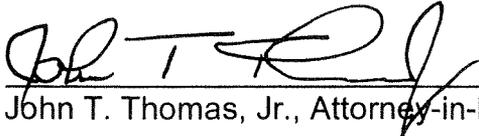
PROVIDED, HOWEVER, that any suit under this bond shall be commenced no later than one (1) year from the expiration date of the Maintenance Period; provided, however, that if this limitation is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law, and said period of limitation shall be deemed to have accrued and shall commence to run on the expiration date of the Maintenance Period.

SIGNED this 25th day of June, 2009.

James Brothers Excavating, Inc.
(Principal)

By: 

Travelers Casualty and Surety Company of America

By: 

John T. Thomas, Jr., Attorney-in-Fact



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 216738

Certificate No. 002846642

KNOW ALL MEN BY THESE PRESENTS: That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota...

Jim E. Mabrey, John T. Thomas, Jr., Maria A. Davison, and Vernon D. Harrison

of the City of Fairhope, State of Alabama, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons...

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 14th day of June, 2006.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
George W. Thompson, Senior Vice President

On this the 14th day of June, 2006, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal. My Commission expires the 30th day of June, 2011.



[Signature]
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

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

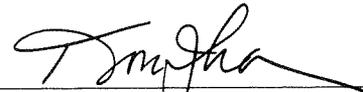
FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing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

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

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

I, Kori M. Johanson, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 25th day of June, 20 09


Kori M. Johanson, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

2-2815-D

CERTIFICATE OF OWNERSHIP AND DEDICATION
COUNTY OF BALDWIN
STATE OF ALABAMA

CERTIFICATION BY NOTARY PUBLIC
I, Debra M. McWhorter, Notary Public for the State of Alabama, do hereby certify that the foregoing plat of land and the instruments thereon are the true and correct copies of the original instruments as the same were presented to me for my notarial duties.

CERTIFICATE OF ENGINEER
I, John C. Jarrick, P.E., Licensed Professional Engineer in the State of Alabama, do hereby certify that the foregoing plat of land and the instruments thereon are the true and correct copies of the original instruments as the same were presented to me for my notarial duties.

CERTIFICATE OF APPROVAL BY THE CITY OF DAPHNE PLANNING COMMISSION
I, John C. Jarrick, P.E., do hereby certify that the foregoing plat of land and the instruments thereon are the true and correct copies of the original instruments as the same were presented to me for my notarial duties.

CERTIFICATE OF APPROVAL BY THE DIRECTOR OF COMMUNITY DEVELOPMENT
I, John C. Jarrick, P.E., do hereby certify that the foregoing plat of land and the instruments thereon are the true and correct copies of the original instruments as the same were presented to me for my notarial duties.

CERTIFICATE OF APPROVAL BY THE PUBLIC WORKS DIRECTOR
I, John C. Jarrick, P.E., do hereby certify that the foregoing plat of land and the instruments thereon are the true and correct copies of the original instruments as the same were presented to me for my notarial duties.

CERTIFICATE OF APPROVAL BY THE UTILITIES BOARD OF THE CITY OF DAPHNE
I, John C. Jarrick, P.E., do hereby certify that the foregoing plat of land and the instruments thereon are the true and correct copies of the original instruments as the same were presented to me for my notarial duties.

CERTIFICATE OF APPROVAL BY RIVERA UTILITIES
I, John C. Jarrick, P.E., do hereby certify that the foregoing plat of land and the instruments thereon are the true and correct copies of the original instruments as the same were presented to me for my notarial duties.

CERTIFICATE OF APPROVAL BY AT&T
I, John C. Jarrick, P.E., do hereby certify that the foregoing plat of land and the instruments thereon are the true and correct copies of the original instruments as the same were presented to me for my notarial duties.

CERTIFICATE OF FLOOD HAZARD ZONE
I, John C. Jarrick, P.E., do hereby certify that the foregoing plat of land and the instruments thereon are the true and correct copies of the original instruments as the same were presented to me for my notarial duties.

CERTIFICATE OF APPROVAL BY THE CITY OF DAPHNE
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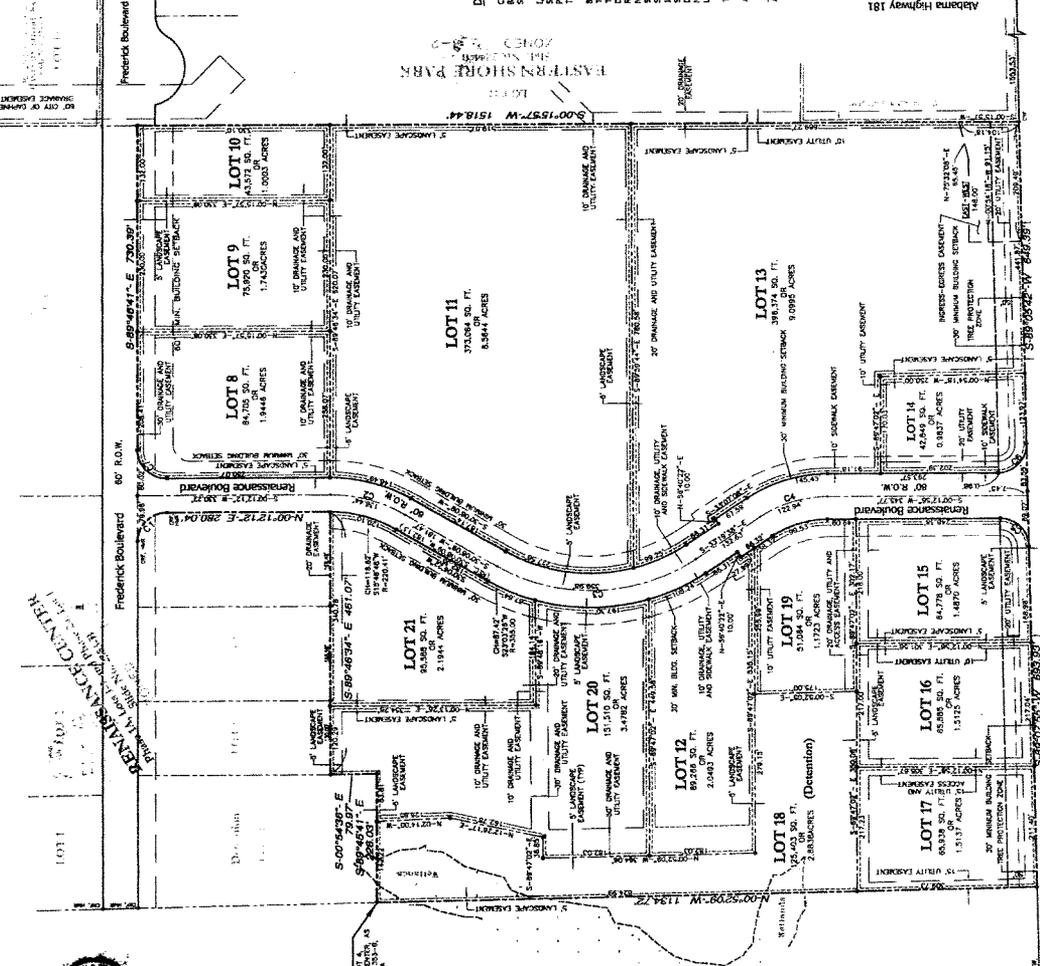
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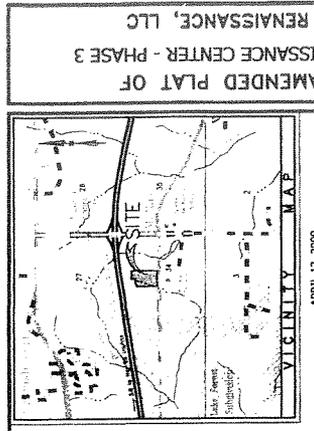
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AMENDED Renaissance Center PHASE THREE



CURVE DATA table with columns for Stationing, Curve Length, and Radius.



APRIL 13, 2009
OWNER/DEVELOPER
RENAISSANCE, LLC
2500 HIGHWAY 98
DAPHNE, ALABAMA 36522

ENGINEER
JOHN C. JARRICK, P.E.
A.L.A. LIC. NO. 25948
SURVEYOR
O. BURKE MAY, P.L.S.
A.L.A. LIC. NO. 24219

ZONING
B-2, GENERAL BUSINESS
UTILITIES
WATER, SEWER, GAS, DRAINAGE UTILITIES
ELECTRICITY, INVERTER UTILITIES
TELEPHONE, W/RT

SITE DATA
TOTAL AREA OF SITE = 42.136 ACRES
NUMBER OF LOTS = 14
TOTAL AREA OF LOT 10 = 0.887 ACRES
LINEAR FEET OF ROADWAY = 1,908.81 L.F.

DESCRIPTION OF PROPERTY
CITY OF DAPHNE
STATE OF ALABAMA

U.S. BURKE MAY, A SURVEYOR AND SURVEYOR IN THE STATE OF ALABAMA, HEREBY CERTIFY THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF THE SURVEYING AND MAPPING BOARD OF THE STATE OF ALABAMA.

SUBJECT'S CERTIFICATION
COUNTY OF BALDWIN
STATE OF ALABAMA

NOTES
1. ALL LOTS ARE TO BE CONVEYED TO THE CITY OF DAPHNE BY DEED.

2. ALL LOTS ARE TO BE CONVEYED TO THE CITY OF DAPHNE BY DEED.

3. ALL LOTS ARE TO BE CONVEYED TO THE CITY OF DAPHNE BY DEED.

4. ALL LOTS ARE TO BE CONVEYED TO THE CITY OF DAPHNE BY DEED.

5. ALL LOTS ARE TO BE CONVEYED TO THE CITY OF DAPHNE BY DEED.

6. ALL LOTS ARE TO BE CONVEYED TO THE CITY OF DAPHNE BY DEED.

7. ALL LOTS ARE TO BE CONVEYED TO THE CITY OF DAPHNE BY DEED.

RENAISSANCE CENTER - PHASE 3
AMENDED PLAT OF
RENAISSANCE, LLC

JOHN C. JARRICK & ASSOCIATES DEVELOPMENT ENGINEERS
7810 W. Highway 98, Suite 36533
Daphne, Alabama 36522
251.928.3643 (M)
251.928.3653 (F)

U A D E CONSULTING, LLC
111 P.O. Box 1191
Fishing Creek, Alabama 36533

DATE: APRIL 2009
DRAWN BY: JARR
CHECKED BY: JARR
SCALE: 1" = 100'

NO. 1
DATE: APRIL 2009
REVISION: 1. REVISED MAPS OF LOT 20 AND LOT 21
2. REVISED MAPS OF LOT 10 AND LOT 11
3. REVISED MAPS OF LOT 12, 13, 14, 15, 16, 17, 18, 19, 20 AND 21

1. THE SUBJECT PROPERTY IS WITHIN THE CITY LIMITS OF THE CITY OF DAPHNE.
2. THE EXTENSION ROAD SHALL BE FINISHED BY THE PROPERTY OWNER UNDER THE SUPERVISION OF THE CITY ENGINEER.
3. ALL LOTS SHALL BE CONVEYED TO THE CITY OF DAPHNE BY DEED.

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2. THE EXTENSION ROAD SHALL BE FINISHED BY THE PROPERTY OWNER UNDER THE SUPERVISION OF THE CITY ENGINEER.
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2. THE EXTENSION ROAD SHALL BE FINISHED BY THE PROPERTY OWNER UNDER THE SUPERVISION OF THE CITY ENGINEER.
3. ALL LOTS SHALL BE CONVEYED TO THE CITY OF DAPHNE BY DEED.

1. THE SUBJECT PROPERTY IS WITHIN THE CITY LIMITS OF THE CITY OF DAPHNE.
2. THE EXTENSION ROAD SHALL BE FINISHED BY THE PROPERTY OWNER UNDER THE SUPERVISION OF THE CITY ENGINEER.
3. ALL LOTS SHALL BE CONVEYED TO THE CITY OF DAPHNE BY DEED.

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Petition for Acceptance of Roads
and/or Rights of Way - Renaissance
Center, Phase Three
Date: June 29, 2009

MEMORANDUM

At the June 25, 2009 regular meeting of the City of Daphne Planning Commission six members were present and the vote carried unanimously for the favorable recommendation of the acceptance of the streets in the above captioned subdivision.

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

Thank you,
ADJ/jd

cc: file

enclosure

1. Petition
2. Maintenance Bond
3. Resolution
4. Map

RESOLUTION 2009-62

**Acceptance of Streets and Drainage
Located in the Caroline Woods Subdivision, Phase One**

Whereas, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval to Caroline Woods Subdivision, Phase One on June 25, 2009, and the City of Daphne hereby recommends acceptance of said street(s) located in Caroline Woods Subdivision, Phase One; and,

Whereas, an inspection was made by the Director of Community Development. All reports, as well as, all other related documents have been provided stating that said streets and storm water drainage have been installed in conformity with city standards; and,

Whereas, an inspection was made by the Director of the Division of Public Works, and has accepted said streets and storm water drainage of Caroline Woods Subdivision, Phase One; and,

Whereas, the Utilities Board of the City of Daphne has accepted the utilities of Caroline Woods Subdivision, Phase One; and,

Whereas, the developer has provided to the City a two-year construction warranty bond as required and requests acceptance and dedication of the same for maintenance of said improvements as outlined in Article XVII, entitled Subdivision Review of the City of Daphne Land Use and Development Ordinance; and,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS, that Caroline Woods Subdivision, Phase One according to the plat by Engineering Development Services as recorded in the Judge of Probate, Baldwin County, Alabama, and said street(s) being named Elise Court and American Way accepted by the City of Daphne, Alabama as a city street for maintenance.

ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE _____ DAY OF _____, 2009.

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

JOHN LAKE
COUNCIL PRESIDENT
DATE AND TIME SIGNED: _____

FRED SMALL
MAYOR
DATE AND TIME SIGNED: _____

ATTEST:

DAVID L. COHEN, CITY CLERK, MMC

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

SUBDIVISION NAME: CAROLINE WOODS PHASE ONE

LOCATION: North of MADISON PLACE PHASE TWO

THIS ACCEPTANCE OF ROADS AND RIGHTS-OF-WAY is made this 20th day of May, 2009 by A&B-10, LLC, hereinafter called the Subdivider, owner of certain property located in Baldwin County, Alabama known as CAROLINE WOODS PHASE ONE Subdivision to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

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

WHEREAS, the Subdivider does hereby agree to provide a Maintenance Bond, as outlined in Article XVII, entitled Subdivision Review, in an amount equal to ten (10) percent of the total street and drainage improvements (\$ 15,200.00 ^{DED}) in the subdivision for a period of two (2) years after the date of their acceptance and dedication of the same to the City. Said bond shall be required by the City as a condition to the acceptance and dedication of any new roads or rights-of-way within the City; and,

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

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

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

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

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the recommendation of the City of Daphne Planning Commission at their regular meeting of June 25, 2009. That said subdivision according the plat recorded in the Judge of Probate, Baldwin County, Alabama and said streets being named _____

ELISE COURT - 517 L.F, AMERICAN WAY - 200 L.F.

ROW WIDTH 50 FEET

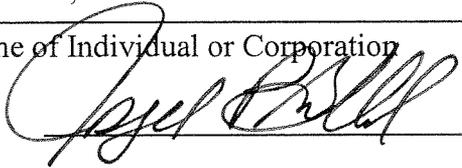
are hereby accepted for maintenance by the City of Daphne, Alabama as a city street.

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

Respectfully submitted,

A&B-10, LLC

Name of Individual or Corporation

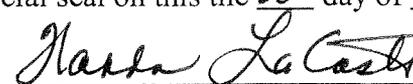
By: 

Its: MANAGER

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned Notary Public in and for said State and County, hereby certify that JOSEPH P. BULLOCK whose name as MANAGER of A+B-10, LLC, an Alabama corporation or as owner of MADISON PLACE PH 3-A is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer or owner and with full authority, executed the same voluntarily on the day same bears date.

Given under my hand and official seal on this the 20th day of May, 2009

 (NOTARY SEAL)
NOTARY PUBLIC

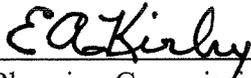
CITY OF DAPHNE
PETITION FOR ACCEPTANCE
OF ROAD(S) AND/OR RIGHTS-OF-WAY

Recommendation: *6/25/09 P.C. recommended Approval.*

 *6/29/09*

Director of Community Development
City of Daphne

Approval:



Planning Commission Chairman or Authorized Representative
City of Daphne ✓

MAINTENANCE BOND

BOND NUMBER 21BCSER4640

KNOW ALL MEN BY THESE PRESENTS, That we, Summit Industries, LLC
P. O. Box 1040, Magnolia Springs, AL 36555
(hereinafter called the Principal), and HARTFORD FIRE INSURANCE COMPANY (hereinafter called the Surety),
are held and firmly bound unto City of Daphne

(hereinafter called the Obligee), in the full and just sum of Fifteen Thousand Two Hundred & No/100
(\$15,200.00) Dollars,
lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves,
our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Principal has entered into a certain contract with City of Daphne (Owner) for
Roadway, Drainage, Water & Sanitary Sewer for Caroline Woods
(Previously Madison Place, Phase 3A)

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

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

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

Signed, sealed and delivered May 20, 2009

Witness as to

Principal

Marcia G. George

Virginia M. Byrd

Summit Industries, LLC

Sam Massyll, Jr. (Seal)

HARTFORD FIRE INSURANCE COMPANY

Charlene C. Stout (Seal)
Charlene C. Stout Attorney-in-fact

POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD

BOND, T-4

P.O. BOX 2103, 690 ASYLUM AVENUE
HARTFORD, CONNECTICUT 06115

call: 888-266-3488 or fax: 860-757-5835

Agency Code: 21-250403

KNOW ALL PERSONS BY THESE PRESENTS THAT:

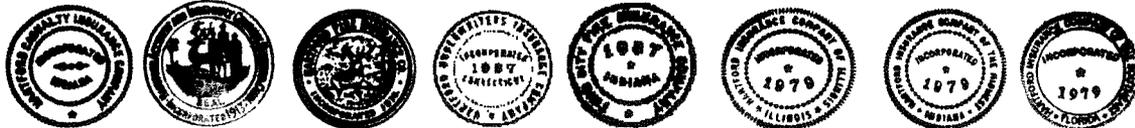
- Hartford Fire Insurance Company**, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company**, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company**, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company**, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company**, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois**, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest**, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast**, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of unlimited:**

*Gaylord C. Lyon, Jr., W.E. Cadden, Charlene C. Stout, Virginia M. Byrd, Rebecca Ward
Roland G. Fry, Jr., Erling Riis, III, J. William Goodloe, III, O.M. Otts, IV*
of
Mobile, AL

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

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on July 21, 2003 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Paul A. Bergholtz

Paul A. Bergholtz, Assistant Secretary

David T. Akers

David T. Akers, Assistant Vice President

STATE OF CONNECTICUT }
COUNTY OF HARTFORD } ss. Hartford

On this 4th day of August, 2004, before me personally came David T. Akers, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hampden, Commonwealth of Massachusetts; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

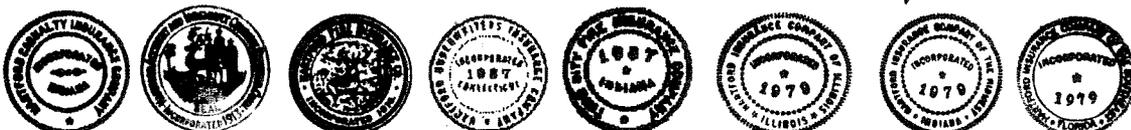
Scott E. Paseka

Scott E. Paseka
Notary Public

My Commission Expires October 31, 2007

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of *May 20, 2009*

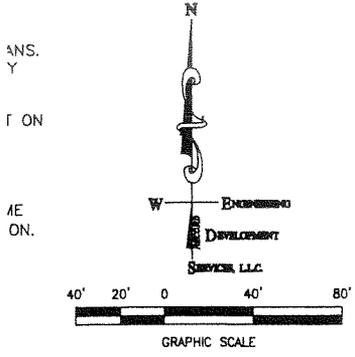
Signed and sealed at the City of Hartford.



Gary W. Stumper

Gary W. Stumper, Assistant Vice President

PROPERTY IS LOCATED IN FRACTIONAL SECTION 8 AND GRANT SECTION 19,
TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.



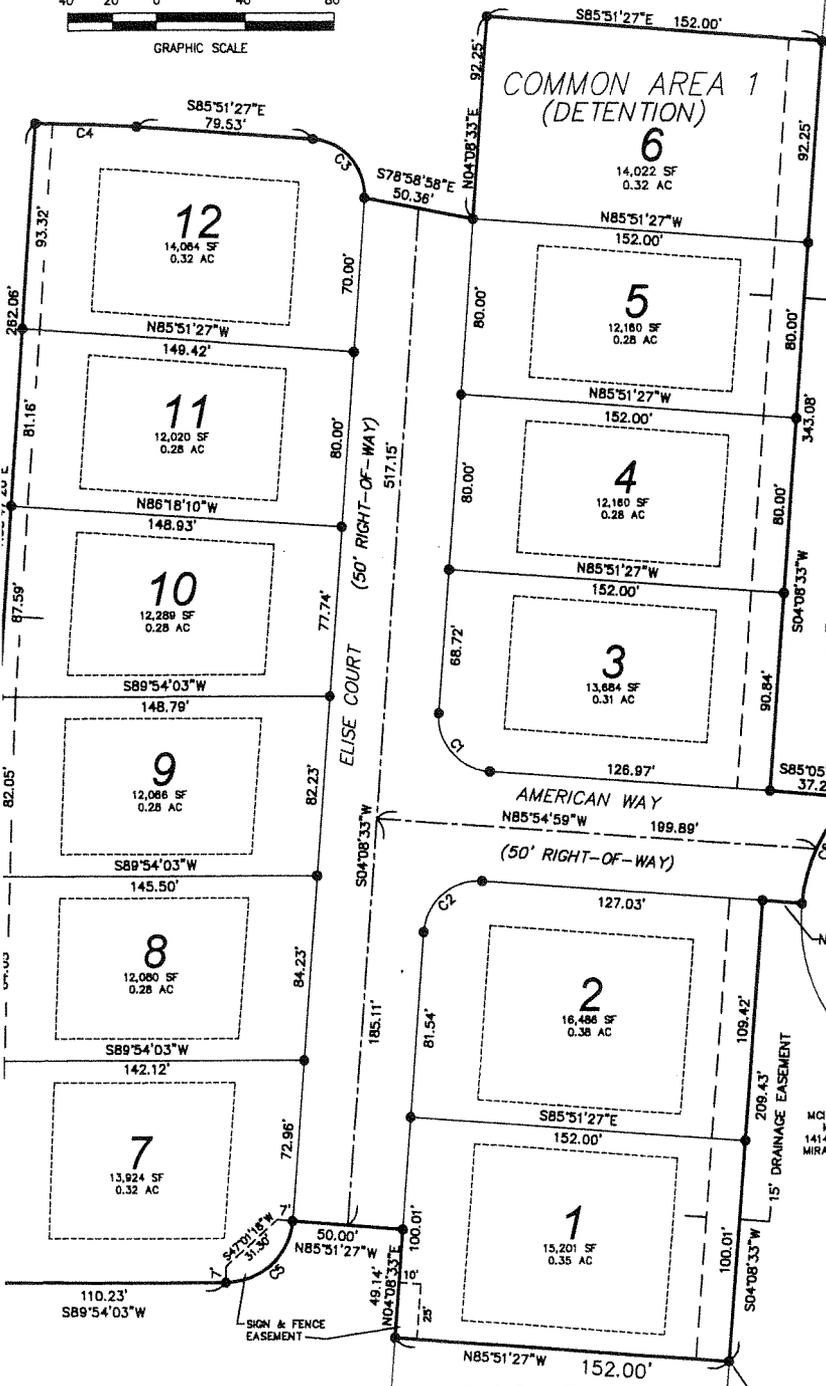
ZONED R-3
(RESIDENTIAL)

RAY, JAMES
P.O. BOX 9965
MOBILE, AL 36691
1.70 AC±
LOT 14

DAPHNE
COMMERCIAL PARK
PHASE ONE
SLIDE FILE 2075-C

ZONED C/1
(COMMERCIAL)

CURVE TABLE					
CURVE	LENGTH	RADIUS	TANGENT	CHORD	CHORD BRG
C1	39.30	25.00	25.03	35.37	S40°53'13"E
C2	39.24	25.00	24.97	35.34	S49°08'47"W
C3	39.27	25.00	25.00	35.36	N40°51'27"W
C4	45.51	614.76	22.77	45.50	N87°58'42"W
C5	44.90	30.00	27.86	40.83	N47°01'18"E
C6	54.36	80.00	28.28	53.32	S25°15'20"W



LOT 1

REEHL, WILLIAM RANCE
P.O. BOX 595
MONTROSE, AL 36559
1.00 AC±

DAPHNE COMMERCIAL PARK
SLIDE FILE 2223-E
ZONED C/1
(COMMERCIAL)

LOT 2

LOT 3

CAROLINE WOODS PHASE ONE

SINGLE FAMILY RESIDENTIAL

FINAL PLAT		
MAY 19, 2009 - SHEET 1 OF 1 SHEETS		
DESIGN	D.E.D.	SCALE 1"=40'
DRAWN	A.E.F.	PROJ. NO. 071108
ENG	J.N.E.	DWG NO. 0711108
PROJ MGR	J.G.A.	SHEET 1 of 1
SURVEYOR	C.M.A.	



engineering development services, llc
27154 pulford road • daphne, alabama 36528
(251) 828-2122 • fax (251) 828-8238

ASHLEY, JONATHAN A ETAL
ASHLEY, ASHLEY L
27269 ELISE CT
DAPHNE, AL 36528
0.30 AC±

POINT OF COMMENCEMENT
AND POINT OF BEGINNING
THE NORTHEAST CORNER OF LOT 94, MADISON
PLACE, PHASE TWO "AMENDED"

LOT 94

Madison Place
Phase 3A

RECEIVED
6/23/09

84

ZONED R-3
(RESIDENTIAL)

LOT 87

ELISE COURT

ANS.
Y
T ON
AE
ON.

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Petition for Acceptance of Roads
and/or Rights of Way - Caroline
Woods, Phase One
Date: June 29, 2009

MEMORANDUM

At the June 25, 2009 regular meeting of the City of Daphne Planning Commission six members were present and the vote carried unanimously for the favorable recommendation of the acceptance of the streets in the above captioned subdivision.

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

Thank you,
ADJ/jd

cc: file

enclosure

1. Petition
2. Maintenance Bond
3. Resolution
4. Map

**RESOLUTION 2009 - 63
SUPPORT FOR FIRE DEPARTMENT APPLYING FOR A
FEMA FIRE STATION CONSTRUCTION GRANT**

WHEREAS, the City Council of the City of Daphne recognizes the need for additional fire stations to serve its citizens; and

WHEREAS, the City of Daphne is committed to the health, safety and welfare of its citizens, and

WHEREAS, the goal of the City of Daphne is to provide more efficient fire protection, and quicker response time to emergencies.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA that it supports the Daphne Fire Department in its efforts to seek a FEMA Fire Station Construction Grant to construct a new fire station on US Highway 98 and Johnson Road.

APPROVED AND ADOPTED BY THE CITY COUNCIL, 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

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 ALABAMA, 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

ORDINANCE NO. 2009-37

FIRE PREVENTION CODE FOR THE CITY OF DAPHNE

**AN ORDINANCE TO REPEAL ORDINANCE NO. 2005-07 AND TO ADOPT
THE 2006 INTERNATIONAL FIRE CODE WITH AMENDMENTS THERETO
FOR THE CITY OF DAPHNE, ALABAMA**

WHEREAS, the International Fire Code 2006, copyright by the International Code Council, with amendments thereto, has heretofore been on file in the Office of the City Clerk of the City of Daphne, Alabama, pursuant to Resolution No. 2006-101 adopted by the City Council of the City of Daphne, Alabama, on the 2nd day of January, 2007,

WHEREAS, the City Council of Daphne, Alabama on the 2nd day of January, 2007 adopted Ordinance Number 2007-2, with amendments thereto, in an attempt to repeal Ordinance No. 2005-07, yet said Ordinance did not contain a proper repeal clause to effectuate the said repeal of Ordinance No. 2005-07; and

WHEREAS, the City Council of Daphne, Alabama, desires to officially adopt the 2006 International Fire Code with amendments.

SECTION 1: AMENDMENTS

A.

Section 101.1 of the International Fire Code shall be repealed in its entirety and a new section 101.1 shall be added to read as follows:

101.1 Title. These regulations shall be known as the Fire Code of Daphne, hereinafter referred to as “this code.”

B.

Section 103.1 of the International Fire Code shall be repealed in its entirety and a new section 103.1 shall be added to read as follows:

103.1 General. Bureau of Fire Prevention. There is hereby established a department to be called the Bureau of Fire Prevention and the person in charge shall be known in this Code as the Fire Code Official, who shall be the Fire Marshal of the City of Daphne. The function of the department shall be the implementation, administration and enforcement of the provisions of this code and amendments.

C.

Section 103.2 Appointment. Of the International Fire Code shall be removed in its entirety.

D.

Section 105.6.30 of the International Fire Code shall be repealed in its entirety and a new section 105.6.30 shall be added to read as follows.

Open Burning

No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained without a permit or other proper authorization.

No waste materials, rubbish, trees, bushes or brush cleared for construction or demolition of buildings or structures shall be disposed of by burning on the premises or in the immediate vicinity by the owner, the contractor, or any other person, unless a permit or other proper authorization has been obtained to burn said waste materials in an approved waste burner/incinerator.

The permit for each approved waste burner/incinerator shall be \$75.00

E.

Section 105.7.1 of the International Fire Code shall be repealed in its entirety and a new section 105.7.1 shall be added to read as follows:

Servicing Fixed Fire Extinguishing Systems

No person shall engage in the business of servicing or inspecting fixed fire extinguishing systems without obtaining a permit from the Bureau of Fire Prevention. The permit is good only for that calendar year of which it is issued.

No person shall service or inspect a fixed fire extinguishing system without obtaining a current City of Daphne business license.

No person shall be issued a permit to service or inspect fixed fire extinguishing equipment who does not possess a manufacturers certification for installation and servicing for the type system being installed and have a Certificate of Insurance, General Liability for \$ 1,000,000 with the City of Daphne, Bureau of Fire Prevention, P.O. Box 400, Daphne AL. 36526 listed as a Certificate Holder.

Any modifications made to a fixed system including adding additional flow points will require an installation permit.

A complete plan/drawing of the system and the devices that are being protected shall be submitted before a permit is issued and a copy shall be placed in the control box.

The technician who actually performs the work of servicing or inspecting the fixed fire extinguishing systems shall legibly sign and date the service

tag verifying that all work was done in compliance with current NFPA standards.

A permit is not required for follow up inspection or service, if a permit was received for that system in the same year. However a report shall be furnished to the Bureau of Fire Prevention upon completion of work being done.

The permit fee for servicing a fixed fire extinguisher system shall be \$75.00

Section 105.7.1.1

Fixed Fire Extinguishing Systems Installation

No person shall engage in the business of installing fixed fire extinguishing systems without obtaining a permit from the Bureau of Fire Prevention.

No person shall install a fixed fire extinguishing system without obtaining a current City of Daphne business license.

No person shall be issued a permit to install fixed fire extinguishing equipment who does not possess a manufacturers certification for installation and servicing for the type system being installed and have a Certificate of Insurance, General Liability for \$ 1,000,000 with the City of Daphne, Bureau of Fire Prevention, P.O. Box 400, Daphne AL. 36526 listed as a Certificate Holder.

Any modifications made to a fixed system including adding additional flow points will require an installation permit.

A complete plan/drawing of the system and the devices that are being protected shall be submitted before a permit is issued and a copy shall be placed in the control box.

The technician who actually performs the installation of the fixed fire extinguishing systems shall legibly sign and date the service tag verifying that all work was done in compliance with current NFPA standards.

The Fire Code Official shall require certain operational tests upon final inspection.

The permit fee for each fire extinguisher system installation shall be \$75.00

F.

Section 105.7.4 of the International Fire Code shall be repealed in its entirety and a new section 105.7.4 shall read as follows:

Servicing Fire Alarm Systems

No person shall engage in the business of servicing fire alarm systems without obtaining a permit from the Fire Code Official. The permit is good only for that calendar year of which it is issued. There is excepted from the requirements of Section 105.7.4 installations of the following types:

- (1) One and two family dwellings
- (2) Any buildings with single station detectors only.
- (3) Owners of buildings may maintain their own systems as long as their maintenance person is certified by the manufacturer of the installed equipment or has National Institute for Certification in Engineering Technologies (NICET) level II in fire alarms.

No person shall be issued a permit to modify, repair, test or service fire alarm systems who does not possess a State of Alabama Fire Alarm Permit issued by the State Fire Marshals office.

A service tag or sticker shall be required to be installed by the permitted alarm servicing individual or company at the control panel of each fire alarm system, stating the company's name, address, phone number, name of the technician performing the service, date and the type of service performed.

The permit fee to service a fire alarm system shall be \$75.00

Section 105.7.4.1

Fire Alarm System Installation

No person shall install a fire alarm system without having the plans reviewed by the Fire Code Official before commencing any part of the work. No person shall commence working on a fire alarm system without first obtaining a permit from the Bureau of Fire Prevention.

There is excepted from the requirements of this Section 105.7.4.1 installations in any building with single station detectors only.

Installer must possess a State Fire Alarm Permit issued by the State Fire Marshals office.

Any person or entity who designs fire alarm systems must possess a State Fire Alarm Permit issued by the State Fire Marshals office.

Licensed electricians may pull wire, mount ancillary equipment, and connect the main power to the control panel after a permit has been issued; but no one other than a qualified fire alarm installer shall be allowed to make any other connections inside the control panel.

A certified fire sprinkler installer may install devices integral to the operation of the fire sprinkler system, but shall not make and connections to the fire alarm system.

Upon final inspection, the NFPA Fire Alarm System Record of Completion form must be properly filled out and submitted to the Fire Code Official and a fire alarm system test must be performed in the presence of the Fire Code Official.

All fire alarm circuit disconnecting means shall have a red marking and shall be identified as "Fire Alarm".

Fire Alarm Control Units (FACU) will be located at the entrance of the building or provide an annunciator panel at the entrance and also indicate the location of the main panel.

The permit fee for installing a fire alarm system shall be \$75.00

G.

Section 105.7.5 of the International Fire Code shall be repealed in its entirety and a new section 105.7.5 shall be added to read as follows:

Fire Pumps Installation

Any person who installs fire pumps must be licensed by the Alabama State Fire Marshal's Office and approved by the Fire Code Official.

No person shall install a fire pump without first obtaining a permit from the Bureau of Fire Prevention.

Installer must possess a current City of Daphne business license and have a Certificate of Insurance, General Liability for \$1,000,000 with the City of Daphne, Bureau of Fire Prevention, P.O. Box 400, Daphne AL. 36526 listed as a Certificate Holder.

Installer must have fire pump plans reviewed by the Fire Code Official before commencing installation.

All testing of the fire pump shall comply with NFPA 25. The Fire Code Official may require certain operational test upon final inspection.

The permit fee to install a fire pump shall be \$75.00

Section 105.7.5.1 shall be added to read as follows:

Servicing Fire Pumps

Any person who services, test or inspects fire pumps must be licensed by the Alabama State Fire Marshal's Office and approved by the Fire Code Official.

No person shall service, test or inspect a fire pump without first obtaining a permit from the Bureau of Fire Prevention.

The Person/Business who obtains the permit must possess a current City of Daphne business license and have a Certificate of Insurance, General Liability for \$1,000,000 with the City of Daphne, Bureau of Fire Prevention, P.O. Box 400, Daphne AL. 36526 listed as a Certificate Holder

The permit fee to service, test or inspect a fire pump shall be \$75.00

H.

Section 105.7.14 shall be added to read as follows:

Portable Fire Extinguisher Service

No person shall engage in the business of servicing portable fire extinguishers without obtaining a permit from the Bureau of Fire Prevention. The permit is good only for that calendar year of which it is issued.

No person shall service portable fire extinguishers without obtaining a current City of Daphne business license.

No person shall be issued a permit to service a portable fire extinguisher that does not possess a manufacturer's service manual for the type of extinguisher being serviced, and have the proper training. They shall have a Certificate of Insurance, General Liability for \$1,000,000 with the City of Daphne, Bureau of Fire Prevention, P.O. Box 400 Daphne, AL 36526 listed as a Certificate Holder.

The technician who actually performs the work of servicing the portable fire extinguishers shall legibly sign and date the service tag verifying that all work was done in compliance with current NFPA standards.

The annual permit fee for portable fire extinguisher service shall be \$75.00

I.

Section 105.7.15 shall be added to read as follows:

Servicing Fire Sprinkler Systems

No person shall service or inspect an automatic fire sprinkler system without obtaining a permit from the Bureau of Fire Prevention.

Any person who services or maintains fire sprinkler systems must be certified by the Alabama State Fire Marshal's Office, and have a Certificate of Insurance, General Liability for \$1,000,000 with the City of Daphne, Bureau of Fire Prevention, P.O. Box 400, Daphne AL. 36526 listed as a Certificate Holder.

No person shall perform maintenance or testing on fire sprinkler systems unless that person is certified by the Alabama State Fire Marshal's office and approved by the Fire Code Official.

Installer must possess a current City of Daphne business license.

The permit fee for servicing a fire sprinkler system shall be \$75.00

The permit is good only for that calendar year of which it is issued.

Section 105.7.15.1

Install Automatic Fire Sprinkler Systems

No person shall install, modify or repair an automatic fire sprinkler system without obtaining a permit from the Bureau of Fire Prevention.

Any person who installs or maintains fire sprinkler systems (hereinafter called in Section 402.35 "installer") must be certified by the Alabama State Fire Marshal's Office, and have a Certificate of Insurance, General Liability for \$1,000,000 with the City of Daphne, Bureau of Fire Prevention, P.O. Box 400, Daphne AL. 36526 listed as a Certificate Holder.

Installer must possess a current City of Daphne business license.

Installer must have sprinkler plans reviewed by the Fire Code Official before commencing installation.

Upon final inspection, the National Fire Protection Association (NFPA) Contractor's Material and Test Certificate for Aboveground Piping must be properly completed and submitted to the Bureau of Fire Prevention.

The Fire Code Official shall be present during the final inspection of the sprinkler system.

Relocating more than three (3) sprinkler heads in an existing fire sprinkler system shall require a permit from the Bureau of Fire Prevention.

The permit fee for each automatic fire sprinkler system installation shall be \$75.00

J.

Section 105.7.16 shall be added to read as follows:

Additional Permits

Where work for which a permit is required by this code commences prior to obtaining said permit, the permit fee herein specified shall be doubled.

It shall be required that a copy of all annual or semi-annual inspection reports be submitted to the Bureau of Fire Prevention with any and all deficiencies clearly noted.

All checks and money orders shall be made out to the City of Daphne.

All certifications whether they are manufacture or NICET must be current and not have expired.

General requirements for a permit are as followed:

1. Current city of Daphne Business license.
2. Current one million dollar (\$1,000,000) general liability insurance policy with the City of Daphne listed as a certificate holder, P.O. Box 400 Daphne AL 36526.
3. Approved by the Fire Code Official.
4. Current Training certificates.
5. Permit fee of \$75.00

K.

Section 307.2.1 of the International Fire Code shall be repealed in its entirety and a new section 307.2.1 shall read as follows:

Authorization.

Open burning shall only be allowed once a calendar month per address/ location during the months that outdoor burning is allowed by the State Air Quality Agencies. A permit must be obtained before any burning starts and all provisions of the burn permit shall be followed.

L.

Section 307.4.1 of the International Fire Code shall be repealed in its entirety and a new section 307.4.1 shall read as follows:

Bonfires.

A bonfire shall not be conducted within 50 feet (15 240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 50 feet (15 240 mm) of a structure shall be eliminated prior to ignition. Bonfire permits shall

only be issued to organizations (Churches, Schools, and other Civic Groups) not to private individuals.

M.

Section 503.2.5 of the International Fire Code shall be repealed in its entirety and a new section 503.2.5 shall read as follows:

Dead ends.

Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) in length shall be provided with an approved area for turning around fire apparatus per the provisions in accordance with Appendix D, Table D103.4. and figure D103.1.

N.

Section 505.1 of the International Fire Code that reads “Numbers shall be a minimum of 4 inches high with a minimum stroke width of 0.5 inches” shall be repealed and shall read “numbers shall be a minimum of 5 inches high with a minimum stroke of 0.5 inches”.

O.

Section 506.1 of the International Fire Code shall be repealed in its entirety and a new section 506.1 shall read as follows:

Key boxes. Key boxes shall be installed in all buildings having an automatic fire sprinkler system, fire alarm system or any alarm that generates a fire department response. The Fire Code Official shall also have the authority to require a key box to be installed in an accessible location where access to or within a structure or area is difficult because of security. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the Fire Code Official.

P.

508.5.7 Hydrant Outlet Location shall be added to read as follows:

Hydrants shall be installed with the center of the outlet cap nut at least 18 inches above the adjoining final grade.

Q.

Section 905.3.1 of the International Fire Code shall be repealed in its entirety and a new section 905.3.1 shall read as follows:

Building height.

Class III standpipe systems shall be installed throughout buildings where the floor level of the highest story is located more than 30 feet (9144 mm) above the lowest level of the fire department vehicle access, or where the floor level of the lowest story is located more than 30 feet (9144 mm) below the highest level of fire department vehicle access. A class I,

Manual Wet, standpipe system shall be installed in building where the floor level of the highest story is located more than 20 feet above the lowest level of the fire department vehicle access.

R.

Section 906 Portable Fire Extinguishers,
906.1 "Exception" shall be removed in its entirety.

S.

Section 1007.6.3 Two-way communication shall be repealed in its entirety and a new section 1007.6.3 shall read as follows:

Two-way communication

Areas of refuge shall be provided with a two-way communication system between the area of refuge and a central control point. The area of refuge shall also have controlled access to a public telephone system. Location of the central control point shall be approved by the fire department. The two-way communication system shall include both audible and visible signals.

SECTION 2: PROCEDURES FOR VIOLATION OF MUNICIPAL ORDINANCES

Any person found violating this Ordinance shall be subject to a fine as adopted by the City of Daphne Procedures for Violation of Municipal Ordinances, Ordinance No. 2005-55 and Ordinance No. 2007-31 and/or its amendments or updated Ordinance in the effect of at the time of the offence.

SECTION 3: ORDINANCES REPEALED

Ordinance 2005-07 shall be repealed in its entirety, replaced with the provisions of this Ordinance. All other ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECETION 4: SEVERABILITY

If any provision of this Ordinance is held to be invalid or unenforceable for any reason, such holding shall not in any way effect the remaining portions hereof, which shall remain in full force and effect.

SECTION 5: EFFECTIVE DATE

This Ordinance shall be in full force and 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.

ADOPTED AND APPROVED 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