

CITY COUNCIL BUSINESS MEETING AGENDA
1705 MAIN STREET, DAPHNE, AL
JULY 19, 2010
BUSINESS MEETING
6:30 P.M.

- 1. CALL TO ORDER**
- 2. ROLL CALL/INVOCATION /
PLEDGE OF ALLEGIANCE**
- 3. APPROVE MINUTES:** Council meeting minutes / July 6, 2010
Work Session Minutes / July 12, 2010

PRESENTATION: Baldwin County School Board

PUBLIC HEARINGS:

- 1.) Rezone: Dale Family / East of U.S. Highway
98, North of Dale Road / R-2, Medium
Density Single Family District to B-2,
General Business District / Ordinance 2010-39**
- 2.) Annexation: Dale Family / East of U.S. Highway
98, North of Dale Road / Present
Zoning: RTF-4, Residential Single
Family District, in Baldwin County /
Requested Zoning: B-2, General
Business District / Ordinance 2010-40**
- 3.) Annexation: Luther & Sharon Milstead /
Northeast of Pollard & Well
Road / Present Zoning: RSF-2,
Single Family District, in Baldwin
County District 15 / Requested
Zoning: B-2, General Business
District / Ordinance 2010-41**

4. REPORT STANDING COMMITTEES:

A. FINANCE COMMITTEE / Boulware

Review minutes / July 12th

1.) Ordinances:

- a.) Windsor Drive/Court / Ordinance 2010-43
- b.) Civic Center/Bay Front Park Tables / Ordinance 2010-44
- c.) NRCS Grant Match / Ordinance 2010-45

2.) Resolutions:

- a.) Bid Award: NRCS Along C&C Utility Easement / Resolution 2010-71
- b.) Bid Award: NRCS Worchester Loop / Resolution 2010-72
- c.) Declare City Vehicles & Equipment Surplus / Resolution 2010-73
- d.) Declare City Equipment Surplus for Donation / Resolution 2010-74

3.) Financial Reports:

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

B. BUILDINGS & PROPERTY - Lake

Review minutes / July 6th

C. PUBLIC SAFETY - Burnam

Review minutes / July 14th

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Palumbo

Review minutes / June 9th

E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Yelding

Review minutes / May 28th

Review minutes / June 25th

MOTION: To conduct a traffic study to determine the need for a traffic signal at Randall Avenue & Highway 98 and Seaciff & Highway 98, and contact ALDOT regarding traffic signals at these locations.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Jones

Review minutes / July 1st

B. Downtown Redevelopment Authority – Barnette

C. Industrial Development Board – Yelding

D. Library Board – Lake

E. Planning Commission – Barnette

Review minutes / April 22nd

Review minutes / June 24th

F. Recreation Board - Burnam

G. Utility Board - Scott

6. REPORTS OF OFFICERS:

A. Mayor’s Report

B. City Attorney’s Report

C. Department Head Comments

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

a.) Acceptance of Donation of Property / Carolyn M. Meador/Resolution 2010-69

b.) Drainage Easement Agreement / Elite Development. /Resolution 2010-70

c.) Bid Award / NRCS Along C&C Utility Easement. /Resolution 2010-71

- d.) Bid Award: NRCS Worchester Loop...../Resolution 2010-72
- e.) Declare City Vehicles & Equipment Surplus...../Resolution 2010-73
- f.) Declare City Equipment Surplus for Donation...../Resolution 2010-74

ORDINANCES:

2ND READ

- a.) Amending the Personnel Handbook / Exposure Control Plan...../Ordinance 2010-38

1ST READ

- b.) Rezone: Dale Family / R-2 to B-2...../Ordinance 2010-39
- c.) Annexation: Dale Family / East Side of US Hwy 98
North of Dale Road...../Ordinance 2010-40
- d.) Annexation: Luther & Sharon Milstead / Northeast of
Pollard Road and Well Road...../Ordinance 2010-41
- e.) Capital Reserve Appropriation: Whispering Pines Road-Phase I
Acquiring Right-of-Way for Round-About...../Ordinance 2010-42
- f.) Windsor Drive/Court...../Ordinance 2010-43
- g.) Civic Center/Bay Front Park Tables...../Ordinance 2010-44
- h.) NRCS Grant Match...../Ordinance 2010-45
- i.) Establish Penalties and Enforcement Procedures for Violating
Municipal Ordinances...../Ordinance 2010-46
- j.) Amending Ordinance 1995-08 Allowing An Expedited Process
Of Solicitor License Granting...../Ordinance 2010-47
- k.) Garbage Personnel & Operating Through September 2010...../Ordinance 2010-48

9. COUNCIL COMMENTS

10. ADJOURN

**CITY OF DAPHNE
CITY COUNCIL MEETING**

ROLL CALL

CITY COUNCIL:

CALL VOTES

COUNCILMAN YELDING

PRESENT__ ABSENT__ __

COUNCILWOMAN BARNETTE

PRESENT__ ABSENT__

COUNCILMAN LAKE

PRESENT__ ABSENT__ __

COUNCILMAN BURNAM

PRESENT__ ABSENT__ __

COUNCILMAN SCOTT

PRESENT__ ABSENT__ __

COUNCILMAN BOULWARE

PRESENT__ ABSENT__ __

COUNCILMAN PALUMBO

PRESENT__ ABSENT__ __

MAYOR

MAYOR SMALL

PRESENT__ ABSENT__ __

CITY CLERK:

DAVID L. COHEN

PRESENT__ ABSENT__

CITY ATTORNEY:

CITY ATTORNEY JAY ROSS

PRESENT__ ABSENT

MINUTE NOTES:

**CITY COUNCIL MEETING
MINUTES**

NOTES:

COMMITTEE RECOMMENDATIONS

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6:30 P.M.**

1. CALL TO ORDER

Council President Palumbo called the meeting to order at 6:37 p.m.

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Invocation was given by Councilman Lake.

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

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Melvin McCarley, Interim Public Works Director; Margaret Thigpen, Civic Center Director; Kim Briley, Finance Director; Vickie Hinman, Human Resource Director; James White, Fire Chief; David Carpenter, Police Chief; David McKelroy, Recreation Director; Adrienne Jones, Planning Director; Richard Merchant, Building Official; Tonja Young, Library Director; Jane Robins, Mayor's Assistant; Scott Hutchinson, City Engineer; Joe Lemoine, Planning Commission; Richard Johnson, new incoming Public Works Director; Al Guarisco, Village Point Foundation.

3. APPROVE MINUTES

MOTION BY Councilman Burnam to adopt the Council meeting minutes meeting held June 21, 2010 with amending the Mayor's comments on page two in the motion to adopt the Work Session minutes meeting held June 14, 2010 to delete the duplication of the sentence "Mayor Small said that if someone has two 96 gallon cans, and no recycle cans he thinks that that person should endure an extra landfill charge, and to delete "Mayor Small stated that recycling is free, but it will cost you more if you want to only put garbage out. Councilwoman Barnette stated that she is willing to look at a proposal for that." *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt the Special Called Council meeting minutes meeting held June 30, 2010. *Seconded by Council Scott.*

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

NAY NONE OPPOSED MOTION CARRIED

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SWEARING IN: Will be later in the meeting

PRESENTATION: Tiger II Planning Grants Program / Adrienne Jones / **Resolution 2010-68**

The grant is available through the US Department of Housing & Urban Development and the Department of Transportation. There is \$75 million available in grant funding for planning activities and projects. The City of Daphne, Baldwin County, Spanish Fort and Fairhope have been in collaboration with HMR, WAS and Neil Schafer in coordinating efforts to see how much money the city can get, and which projects they can have funded. Thus far, there are four projects that have been proposed. They are not set in stone. 1.) They have proposed storm water management regulations, and they are aware that they have a water shed management plan already in its final leg of review that has been done by Thompson Engineering. They are not looking to duplicate that work, but more or less take some action step that has been proposed in that plan, and carry it out. 2.) Identifying future transportation corridors. 3.) Development of alternative transportation plan to include developing a regional trail system. Bike trails, pedestrian trails and paths, and also examining the BRATS transit system and its future needs. 4.) Development of County Road 13 access management plan. That would be similar to the plan that was developed for Highway 181 which was a collaboration between Alabama Department of Transportation, Spanish Fort, City of Daphne and City of Fairhope. The proposed project that had the most attention was the storm water management, and that is the one that needs to be worked on the most. The upcoming deadline is July 23rd, and that is for the pre-application. She presented Resolution 2010-68 which will give council approval for the pre-application. Thus far the city's anticipated cost is \$18,900, but there is a possibility that the region could be classified as rural, and that there will be no financial match required.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE – Boulware

No report. The next meeting will be July 12th at 4:00 p.m.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake

The minutes for the June 11th meeting are in the packet. The committee will be referring to the Finance Committee replacing the table legs on the tables at the Civic Center. This will be a two year plan to replace the table legs. The two year plan will come in under \$10,000. This is cheaper than replacing the tables. This will be a savings of \$30,000. They are also doing some renovation to the Green Room which is about \$1,500. The committee has referred to council a Drainage Easement for Caroline Woods that is in the council packet. The day and time for the meeting has changed to the first Monday of the month at 5:00 p.m.

C. PUBLIC SAFETY COMMITTEE – Burnam

No report. The next meeting will be July 14th at 4:30 p.m.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo

No report. The next meeting will be July 14th after the Public Safety meeting.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

The Public Works Committee meeting will have to be permanently rescheduled because of Mr. Lake's work schedule.

MOTION BY Councilman Lake to permanently reschedule the Public Works Committee meeting to the 3rd Monday of the month at 5:30 p.m. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Councilman Yelding stated that new the Public Works Director is now in place and introduced Mr. Richard Johnson as the new Director. He said that Mr. Johnson did a great job of selling himself during the interviews.

Councilman Boulware asked Mr. Scott Hutchinson, City Engineer, for an update on Whispering Pines Road.

Mr. Hutchinson stated that they are putting the wearing surface down, and there are a few rough places that need to be fixed. They are riding it tomorrow with a testing lab to find the areas that need to be fixed. They are waiting to start the round-about.

Council asked Mr. Hutchinson questions regarding the cost of the round-about verses a traffic signal.

Councilwoman Barnette said that there are not any more big bins for recycling, and she wanted to know if they were going to be ordering any more.

Mayor Small said that they had a few to start with, and they went very quickly. He said that Tracey Miller is applying for a grant to get some large blue containers at this time.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Mrs. Jones

The minutes for the May 6th and May 17th Special Called meetings are in the packet. There will not be a meeting in August.

Councilwoman Barnette asked if they have given any more thought to the Attorney General's Opinion, and reframing the question or how they were going to utilize that ambiguous answer on the TimberCreek issues.

Mr. Ross stated that they will allow for some clarification. He said that he is going to meet with Mrs. Jones to try to re-focus the question to see if they can get a more defined answer.

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B. Downtown Redevelopment Authority – Barnette

Councilwoman Barnette stated that they are trying to set up a meeting for the fourth Monday of the month around 5:15 p.m. She will have that confirmed for the next meeting.

C. Industrial Development Board – Yelding

No report.

D. Library Board – Lake

There was not a meeting in June due to a lack of a quorum. The July meeting has been rescheduled for July 15th. The reading awards will be presented tomorrow at 2:00 p.m. at the Library.

Sculpture Donation to Library

MOTION BY Councilman Lake to authorize the Mayor to sign an agreement accepting the donation of a sculpture to the Library, valued amount \$75,000, by Ms. Deedee Morrison. *Seconded by Councilman Burnam.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

E. Planning Commission – Barnette

The minutes for the May 27th meeting are in the packet. The Site Review meeting is Wednesday, July 14th in the Council Chambers at 8:30 a.m. The regularly scheduled Planning Commission meeting will be Thursday, July 22nd at 6:00 p.m. She reported that Mrs. Jones sent a note to the Chairman that the Land Use Ordinance is not on the Work Session for July, because there are a few changes and tweaks they would like to finalize, and they feel that it will take another 45 minutes to and hour of the council's time to respond to the comments that have already been made, and have those changes to the council.

Council President Palumbo asked Mrs. Jones if council would receive the information on the additional district before the August work session.

Mrs. Jones stated that she hoped they would have all that information together before for discussion at the August work session.

Councilwoman Barnette stated that the Planning Commission did not send forward a favorable recommendation for the changes for the outdoor amusement, and stand alone ice vending machines. There needed to be some changes so they have not made a favorable recommendation to the council on those portions of the amendment based on the dialogue that council had given back, and so they need another meeting to get that finalized to send back to council. So she thinks Mrs. Jones was requesting that they not do Land Use this month, and that they give all that back with adequate time for the council, and she thinks they could have it that Friday or Monday after the July 22nd meeting. This would give a good two weeks review before council would meet for the work session.

Council President Palumbo asked if it was the intent to incorporate it into the ordinance to be adopted by council.

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Councilwoman Barnette stated absolutely. She asked if the Mayor wanted to announce the new appointment of a new Planning Commission member.

Mayor Small stated that he has appointed Mr. Don Gibson to the Planning Commission

F. Recreation Board – Burnam

No report. The board will meet tomorrow.

G. Utility Board – Scott

The minutes for the May 26th meeting are in the packet. The next meeting will be the last Wednesday of the month.

6. REPORTS OF THE OFFICERS:

A. Mayor's Report

Mayor Small stated that there was a motion that needed to be made during the Buildings and Property report for acceptance of a drainage easement for Caroline Woods.

MOTION BY Councilman Lake to authorize the Mayor to enter into an agreement for a drainage and utility easement with Elite Development. *Seconded by Councilwoman Barnette.*

Council President Palumbo asked the City Attorney if a resolution was needed to accept the drainage easement, and asked if he had reviewed the agreement.

Mr. Ross stated that Missty Grey from his office prepared the easement agreement, but he would recommend that it come back before council for a formal ratification acceptance.

Mayor Small stated that this came through the Planning Commission, and the Planning Commission gave this an unanimous favorable recommendation to move this forward for approvable.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Special Events Permit / S.E.E.D.S. / Mama Mia Cook Off / November 13, 2010 / @City Hall

MOTION BY Councilman Scott to approve the Special Events Permit for S.E.E.D.S. Mama Mia Cook Off to be held November 12, 2010 at City Hall. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

B. City Attorney Report

Mr. Ross stated that he has information on a particular matter for any council member who would like to receive additional information as he gets it in to let him know.

Council President Palumbo stated that they did receive correspondence directly from AMIC about reimbursement on a previous personnel litigation.

Mr. Ross said he remembers it just summing up the aggregate dollars that were spent to defend that case. Most of it was paid by them, that would include both attorney fees to their office, which was turned back over to the city of \$60,000, and the rest of it is what they spent.

C. Department Head Comments

James White – Fire Chief – reported that they held a boot drive for Muscular Dystrophy over the weekend, and collected \$200. They are selling T-shirts for Breast Cancer Awareness for \$10.00 from the Fire Department that will run through September. There was a house fire a couple of weekends ago in TimberCreek at 5:30 a.m., but by the time it was called in the fire was already out the roof and windows, and the house was a total lose. The fire was caused by a malfunction of a microwave. The residents were not at home at the time of the fire. The response time was very quick from the Fire Department.

Councilwoman Barnette asked for an update on the City of Daphne's oil spill efforts, and where they stand. She knows that they executed the agreement, but she knew they were going to make some modifications she asked for an update of where they are.

Chief White stated that Mr. Martin was handling the oil spill for the city, and he would have to give the update.

Councilwoman Barnette stated that she would like the council to consider having a public meeting to answer questions about the City of Daphne's efforts regarding the oil spill. She thinks there are a lot of questions, and there might be folks that would like to get questions answered.

Councilman Scott stated that he participated in a meeting at Ono Island with the Property Owners Association, and there were probably 200-300 people there, and they had representatives from BP. He said that the county would be glad to help put a meeting together.

Mayor Small stated that a couple of weeks ago the National Guard was in town to help fill out claims, and that was stipulated by the Governor. They had a follow up the following week in the council chambers that was advertised, and they had the Chamber of Commerce, the CORP, Small Business Administration and tried to follow up with anyone else that had any claims. He hopes to follow up on that probably in another month or so. As far as Daphne's readiness to deal with the oil spill they are still standing fully ready. The boom that is out is staged it is not deployed. At this particular time there is not any oil in the bay, so to speak, and they are standing behind and working with Mayor Jones to try to get some type of skimming operation set up in the mouth of Mobile Bay that would help everyone, because they were not very successful in getting that operation going. It appears that it is moving forward. To this date the city has everything that has been ordered which includes a little over 10,000 linear feet of absorbent boom, all

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the ropes, the weights, etc. that they will need to operate. Right now they are checking the boom that is staged with the Rescue Squad in the air boat approximately three days a week to make sure it is in the right place. Mayor Small has ordered an additional 3,000 linear feet of boom to stage and protect Campbell Swamp, because that is one area that was not in the ACP. They have had aerial photographs taken of all the beach front and residence beaches all the way to the city limits. They are displayed behind the receptionist's desk out front. Citizens can obtain a copy of the photo of their property by asking the receptionist. There is also a book at the receptionist desk that contains updates from Unified Command. There is a link on the city's website to the county's website where they can obtain the same updates. The bottom line is the city is ready to fight any type of oil that comes onshore especially if it is surface. The water columns will be very hard to fight, because you cannot see it until it gets there. They have bought netting so if they see it they can go out and scoop it up. This is all bought with funds from a grant they did with BP. He feels that if they can fight this at the mouth of Mobile Bay, and in the bay itself then the city will be on the good side of this, and they will not have to use any of this equipment. The number one priority at this time is to make sure that they have some type of skimming operation out there that can be ramped up very quickly like some type of barge platform that can be worked from, and where they can add boats to it fairly quickly, and that can be turned into a 24 hour a day seven day a week operation.

Council President Palumbo asked if the city has a grant pending from BP.

Mayor Small stated that they do, and he is actually in discussion with the governor's office right now with what he thinks is some \$200,000 for additional skimming, and putting that toward a unified skimming operation in Mobile Bay. He would be giving that up in order to try to help unify skimming operations in Mobile Bay if they can set up something that appears to be an operation that they can get oil up quickly if oil comes into Mobile Bay.

David McKelroy – Recreation Director – reported that registration for Fall Sports (Youth Football, Soccer & Cheerleading) will be held at the Recreation Department the next three (3) Saturdays from 10 to noon. Dixie Boys baseball 14 year old team won district tournament and will participate in the State tournament in Scottsboro starting July 16th. He thanked Brad Bass for coaching the team. Brad was a 2000 graduate of DHS, and played baseball at DHS. Brad has no children and has been a coach the past two years. He announced that Megan White has taken a new job in Missouri, and her last day will be July 9th. He thanked her for her three years of service, and wished her well and said she would be missed.

Margaret Thigpen – Civic Center Director – reported that there will be a meeting tomorrow for the Taste of the Eastern Shore, and ticket will go on sale for that event.

Council discussed with Mrs. Hinman, Human Resource Director, whether there was a moratorium on hiring. Council President Palumbo asked the City Clerk to research this to see what form council action was taken.

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7. PUBLIC PARTICIPATION

Mr. Don Ouellette – 7720 Elizabeth Drive – spoke regarding air quality with the oil spill.

Mrs. Toni Fassbender – Eastern Shore Toyota – spoke regarding the sign ordinance.

Mr. Scott Albrecht – Fire House Subs – Malbis – spoke regarding the sign ordinance.

Mr. Kevin Spriggs – Eastern Shore Motel – spoke regarding the sign ordinance.

Mr. Rod Drummond – Ridgewood Drive – stated that next Tuesday is election day, and encouraged everyone to vote.

Mr. Joe Lemoine – 7742 Avery Lane – spoke regarding Dick’s Sporting Goods coming to Daphne.

SWEARING IN IF POLICE OFFICERS: Dale Linder and Garret Roebuck

Judge Doyle swore in officers Dale Linder and Garret Roebuck as their wives held the Bible, and Mayor Small and Chief Carpenter looked on.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS:

- a.) Extension of Promotional Weekends for Advertising. /Resolution 2010-65
- b.) Authorize the City Attorney to Begin Condemnation Proceedings. /Resolution 2010-66
- c.) Acceptance of Donation of Property / Whispering Pines & County Road 13 / Richard Higbee. /Resolution 2010-67
- d.) Tiger II Planning Grant Program /Resolution 2010-68

MOTION BY Councilwoman Barnette to waive the reading of Resolutions 2010-65, 2010-66, 2010-67 and 2010-68. Seconded by Councilman Lake.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2010-65. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2010-67. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2010-68. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2010-66. *Seconded by Councilman Boulware.*

AYE NONE IN FAVOR NAY Yelding, Barnette, Lake, Burnam, Scott, Boulware, Palumbo

MOTION FAILS

Councilman Scott asked that an ordinance be prepared for the next council meeting to authorize the Mayor to make an offer for the northwest corner property for the round-about not to exceed \$6,200.

Council President Palumbo asked the City Clerk to see that the ordinance is prepared for the next meeting.

ORDINANCES:

1ST READ

a.) Amending the Personnel Handbook / Exposure Control Plan. /Ordinance 2010-38

ORDINANCE 2010-38 WAS MADE A 1ST READ.

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8. COUNCIL COMMENTS

Mayor Small announced that there will be a fish fry and yard sale in front of Fastimes on Saturday to raise money for the Daphne High School Lady Trojans Softball Team to attend softball camp at the University of Alabama in Tuscaloosa. The sale starts at 7:00 a.m., and lunch will be at 11:00 a.m. He stated that the fireworks display was great, and thanked the Fire Department, Public Works Department and Recreation Department for their help in making it a success. He said this is a nice location with easy in and out.

Councilwoman Barnette stated that she hopes they move forward with public meeting regarding the oil spill. Mr. Ouellette's comments about public concern is valid, because there is a lot of misinformation about air quality, water quality and dispersant use. There was an important meeting tonight with Dr. Rick Yacht, a marine toxicologist, regarding the use of dispersants and how they work and don't work within the water column. She said there is a lot of information out there, and the more they continue to pull it together for folks the easier it will be, and she thinks as a body they are a fairly trusted source of information. Regarding Mr. Lemoine's question about Dick's Sporting Goods sometimes things filters through before the council hears it. There is potential of Dick's Sporting Goods, who is on the Planning Commission meeting this month, to take the location where Academy was going to locate. This has not gone through Site Review yet. This is a national chain, actually larger than Academy, and has done some community activities, support and even paid for a school program in Colorado for a school team. So they look to be good corporate citizens. Potentially, the work they did with the sign ordinance and the overlay district for the Jubilee Square did assist to bring that type of merchant, and obviously a recognized need for that that type of business within the community. She said that at the last meeting she was going to be researching availability or applicability and legality of golf cart usage within the City of Daphne. The City Clerk has researched that with the attorney's office, and it is not legal within the State Code. So they may want to discuss through the local legislative delegation whether something like that could be done. She knows that Gulf Shores and Orange Beach is interested, and the City of Fairhope attempted to pass it, and all finding out one at a time that it is not something that they have the legal right to do. So for future debate she would like the council to discuss it or start it in Public Safety and decide whether or not it come s back to council. She thinks the council has a tough job trying to balance what the needs of the merchants are verses maintaining community aesthetics. She does support the current sign ordinance. She thinks they have tried to show flexibility through the use of overlay districts, and expansion of signs through promotional advertising. Regardless of what they do with the sign ordinance, she does not want to see them get into a debate phase during public participation. They need to hear comments, and technically she does not think they are there to respond to public participation unless it is a quick answer so that they do not end up in a debate. She wants citizens to come to the podium and feel comfortable that their comments are going to be heard, and not attacked. Whether or not they agree with them is irrelevant, and she thinks they did not do a great job with that tonight as a body. She thinks that they all need to remember that there are work session items, and they as a body have struggled with the sign ordinance, and their spirited debate on that topic, and the work session is the place for it.

Councilman Lake said that he has heard good things about Dick's Sporting Goods in Mississippi, and he found out about it in the Press-Register. He said that the fireworks were impressive, and well done. He said that the Police Department did a good job handling traffic.

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Councilman Scott stated that he also found out about Dick’s Sporting Goods from the newspaper.

Councilman Boulware asked everyone to remember to vote. He commented on the vote for the resolution to condemn property saying that so often they do things because they are legally allowed to do things, and they get blinders on. It is natural, because they are so focused on making something happen. He thinks that what people saw tonight was an example of this council realizing that they are still representatives of the people, and that there is a gray area not everything is black and white.

Council President Palumbo stated concerning the public hearing for the oil spill that this is the legislative body, and he thinks this is a matter for administration to call a meeting. It’s a more proper meeting, and it can be conducted by one person, and he thinks that council should attend the meeting. He does not think having a special council meeting is necessarily the vehicle to do that. He responded to Mrs. Barnette’s comment regarding public participation saying that the only personal attack made was on him, and he was not going to let those words be twisted. He thinks he made his point with the photographs. He said that they hear about the business people, and how not having the signs, and personally he has never driven by a two foot yellow gorilla and said oh let me stop and buy a \$50,000 automobile. He does not know that that works. He said that people in historic Malbis bought their property and built their homes before that business district even existed, and the city has been glad to take their tax money since day one. Those homeowners that have their biggest investment in their homes are owed an obligation by the city so that they do not build a \$200,000 - \$300,000 home, and have to look out their window and see a two story fire hydrant. That is why they have these ordinances. He said if you go to other districts in the city, and there were other businesses that would put up two story inflatable advertisements they would not have heard the comments that were heard tonight. But, it seems like one area of the city is fair game, and the residents of that particular district do not get the same respect as in other areas, and that is a little perturbing to him, and as long as he is on the council he is going to stand up for those folks.

10. ADJOURN

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

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:33 P.M.

Respectfully submitted by,

David L. Cohen,
City Clerk

Certification by Presiding Officer:

August A. Palumbo,
Council President

JULY 12, 2010
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

1

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

ABSENT: Bailey Yelding .

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Kim Briley, Finance Director; Margaret Thigpen, Civic Center Director; Richard Johnson, new incoming Public Works Director; Scott Hutchinson, City Engineer.

Council President Palumbo called the meeting to order at 6:40 p.m.

1. CIVIC CENTER FEES / MARGARET THIGPEN

Mrs. Thigpen discussed with council the proposed rate changes for the Civic Center and Bay Front Park. (*Proposed changes are spread out in these minutes*) Mrs. Thigpen stated that Mr. Lake asked that the entire ordinance be presented to the Buildings & Property Committee when finished.

Councilman Palumbo stated that the ordinance will either go back to Buildings & Property or will be on the council meeting agenda for Monday.

2. RECYCLING

Council discussed the future of recycling. Funds will run out at the end of July. Recycling is funded through the end of the year, but the positions are not funded through the end of the year. Council will have to give the Mayor the authority to terminate the positions.

Council asked Mayor Small to get with the new Public Works Director, Richard Johnson, to come up with a plan to recommend to the Finance Committee, and if they cannot come up with a plan then they will have no choice but to terminate the positions.

3. FUTURE ROAD PROJECTS

Councilman Boulware made a power point presentation of suggested improvements to Lake Forest.

Council discussed the money that was available \$1.8 million.

Mayor Small suggested doing a bond issue for \$30 million to put utilities underground, pave roads and curb and gutter the streets, and assess the residents through ad valorem . He estimated that it would cost each resident \$8,000 over the next 30 years. He said that the residents would have to be in harmony with this plan.

Councilwoman Barnette stated that curb and gutter is a must. There is no option, because of the MS4 penalties. They need to start this, but they cannot do the whole project.

Councilman Palumbo stated that TimberCreek needs work also.

**JULY 12, 2010
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

2

They may need to allocate more money to the fund. It was also suggested to apply for grants to help with projects.

Mrs. Briley, Finance Director, reminded council that they will not have \$1.8 million until they adopt the 2010 budget.

Council President Palumbo stated that they will have the \$1 million from the Service Road.

Mayor Small reminded council that there were other capital projects to be done. He said that he feels that they just need to pave and not do curb and gutter, because it would not be fair to the rest of the city. He said are you going to curb and gutter every time you repave a street? He thinks that people would like to have underground utilities.

Council President Palumbo asked that council be given an estimate of doing one mile of roads with curb and gutter and an estimate without curb and gutter, and they will move forward from there.

Mayor Small stated that he has met with the new Public Works Director, and they both feel that a new Right-of-Way ordinance is on the top of the list.

Council asked the Mayor to update the cost of the road priority list and bring it to the Buildings & Property Committee, because costs have probably gone up.

4. ADJOURN

There being no further business to discuss the meeting adjourned at 8:45 p.m.

Respectfully submitted by,

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

Certification of Presiding Officer:

**August A. Palumbo,
Council President**

DAPHNE CIVIC CENTER RATES

MEETING ROOM	SQ.FT.	Rental Area	Rates
Entire Facility	-	Base Rental	\$1,250.00
		Cleaning	\$375.00
		Hourly rate	\$20.00
		Extra Cleaning fee for groups 500+	\$300.00
Exhibit Hall w/stage	11,800	Base Rental	\$565.00
		Cleaning	\$250.00
		Hourly rate	\$20.00
Exhibit Hall w/stage, 2 Dressing Rms	-	Base Rental	\$690.00
		Cleaning	\$250.00
		Hourly rate	\$20.00
The Wisteria Reception Area North Gallery	4,900	Base Rental	\$345.00
		Cleaning	\$250.00
		Hourly rate	\$20.00
North Gallery	1,200+	Base Rental	\$65.00
		Cleaning	\$65.00
		Hourly rate	\$20.00
South Gallery	1,200+	Base Rental	\$65.00
		Cleaning	\$65.00
		Hourly rate	\$20.00
The Willow	1505	Base Rental	\$125.00 \$190.00
		Cleaning	\$125.00
		Hourly rate	\$20.00
Kitchen Full Service	-	Base Rental	\$190.00 \$220.00
		Cleaning	\$65.00 \$100.00
		Hourly rate	\$20.00
Kitchen Service Only	-	Base rental	\$95.00 \$100.00
		Cleaning	\$65.00
		Hourly rate	\$20.00
Kitchen & Service Area	-	Base Rental	\$220.00
		Cleaning	\$65.00
		Hourly rate	\$20.00
Greenroom	384	Base Rental	\$190.00 \$250.00
		Cleaning Greenroom	\$65.00 \$100.00
		Hourly rate	\$20.00
Greenroom/DR 2	-	Base Rental	\$250.00 \$300.00
		Cleaning	\$125.00
		Hourly rate	\$20.00
Greenroom/DR 2 & Stage	-	Base Rental	\$345.00 \$375.00
		Cleaning	\$250.00

		Hourly rate	\$20.00
Greenroom/DR 1,2 & Stage	-	Base Rental	\$375.00 \$425.00
		Cleaning	\$250.00
		Hourly rate	\$20.00
*Concession Area		Flat Rate	\$125.00
		Cleaning	\$35.00
Parking Lot	-	Per displayed vehicle	\$25.00
4 hour minimum for all meeting rooms			
Cleaning Fee Mandatory			

BAYFRONT PAVILION RATES

MEETING ROOM	SQ.FT.	Rental Area	Rates
			\$375.00
Entire Facility	-	Base Rental	\$475.00
		Hourly rate	\$15.00 \$20.00
The Sunset		Base Rental	\$250.00 \$300.00
		Hourly Rate	\$15.00 \$20.00
The Jubilee		Base Rental	100.00 \$150.00
		Hourly Rate	\$15.00 \$20.00
The Kitchen		Base Rental	\$30.00 \$40.00
	-	Hourly Rate	\$15.00 \$20.00
Cleaning (Optional)			\$200.00
Holidays		Hourly Rate	\$37.50 \$50.00
4 hour minimum for all Meeting Rooms			

PUBLIC HEARING LIST:

JULY 19, 2010

- 1.) Rezone: Dale Family / East of U.S. Highway 98, North of Dale Road / R-2, Medium Density Single Family District to B-2, General Business District**

- 2.) Annexation: Dale Family / East of U.S. Highway 98, North of Dale Road / Present Zoning: RTF-4, Residential Single Family District, in Baldwin County / Requested Zoning: B-2, General Business District**

- 3.) Annexation: Luther & Sharon Milstead / Northeast of Pollard & Well Road / Present Zoning: RSF-2, Single Family District, in Baldwin County District 15 / Requested Zoning: B-2, General Business District**

MEMORANDUM

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Dale Family
Authorized Agent: Ms. Velma Dale Jackson
Zoning Amendment Review
Date: June 2, 2010

PRESENT ZONING: R-2, Medium Density Single Family District, City of Daphne

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

LOCATION: East of U.S. Highway 98, north of Dale Road

RECOMMENDATION: At the May 27, 2010, regular meeting of the City of Daphne Planning Commission, six members were present and the vote was unanimous for a *favorable recommendation* for the above-mentioned zoning amendment with B-2 zoning.

Upon receipt of said documentation, please prepare an ordinance and place on the appropriate City Council agenda to set the public hearing for to set the public hearing for the first meeting date in July 2010.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Petition
2. Legal description
3. Map of property
4. Adjacent property owners' list

THE CITY OF DAPHNE
PLANNING DEPARTMENT
APPLICATION FOR ZONING AMENDMENT

Application Number: Z10-01 Date Plat Submitted: April 27, 2010
Date Presented: May 27, 2010

Name of Owner: Velma D. Jackson, et al. (See attached Order)

Address: P. O. Box 757 Montrose, Alabama 36559 Telephone# 251-209-6592
(Street or P.O. Box) (City) (State) (Zip Code)

Name of Authorized Agent, if other than owner: Velma D. Jackson (See attached Order)

Address: _____ Telephone# _____
(Street or P.O. Box) (City) (State) (Zip Code)

Subdivision: _____

Lot(s): _____ Unit _____

- Two (2) copies of legal description of the subject property.
- N/A Two (2) copies of subdivision plat or site plan drawn to scale, (28" x 36").
- List of the names and mailing addresses for the adjacent property owners (Date Submitted: 04/27/2010).

Meeting Dates:

Planning Commission: May 27, 2010

City Council: _____

Reason(s) for requesting the Zoning Amendment:

Uniform zoning of the subject property under the B-2 designation is consistent with the master plan for zoning along U.S. Highway 98 and of similar property and is the appropriate designation for the highest and best use of the subject property.

Velma D. Jackson
SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

(Application for a Zoning Amendment information shall be that of the owner of the subject property).

APPLICATION FOR ZONING AMENDMENT

STATE OF ALABAMA)
COUNTY OF BALDWIN)
CITY OF DAPHNE)

This is to certify that I (we) the undersigned am the owner(s) of said property and do hereby request the City of Daphne to grant a Zoning Amendment for said property for the reasons outlined herein:

1) Description of property for which amendment is requested:

- a) Address See attached survey plat.
- b) Name of Subdivision _____
- c) Lot numbers involved in change Parcel 43-09-28-0-000-050.0
- d) Total acreage of change 22.64 15±
- e) Recorded in Map Book _____ Page _____
- f) Owned in whole by the undersigned? Part. See Order attached hereto.
- g) If owned in part, name(s) of co-owner(s):
See Order attached hereto.

2) Zoning change requested:

2/3 zoned Medium Density Single Family Residential (R-2) and ~~1/3 zoned Residential~~

- a) Present classification of property Two-Family District (RTF-4 (County))
- b) Reclassification desired General Business (B-2)
- c) Character of neighborhood General Business + Residential

3) Certifications:

- a) Owner's Name Velma D. Jackson
- b) Address P. O. Box 757, Montrose, Alabama 36559
- c) Telephone Number 251-209-6592
- d) Date April 27, 2010

Velma D. Jackson
Signature of Property Owner

Signature of Property Owner

AGREEMENT

...ALLOWING THE CITY OF DAPHNE TO POST PUBLIC NOTICE SIGNS ON THE PROPERTY FOR WHICH AN APPLICATION FOR A ZONING AMENDMENT HAS BEEN SUBMITTED TO THE CITY COUNCIL.

I hereby agree to allow the City of Daphne to post on my property, for which an application for a zoning amendment has been submitted to the City Council, a sign or sign(s) notifying the general public of said request. I understand the City of Daphne shall erect and maintain said sign(s) for the prescribed period of time and remove the same.

4-8-10
Date

Velma D. Jackson
Signature of Property Owner

EXHIBIT A

TO

APPLICATION FOR ZONING AMENDMENT

(Dale Family)

That portion of the hereafter described property presently within the municipal boundaries of the City of Daphne, which is substantially identified as tax parcel 05-43-09-2-000-050.000, consisting of approximately the north 2/3 (15 acres ±) of the following described property: Commencing at the Northwest corner of Section 29, Township 5 South, Range 2 East, Baldwin County, Alabama; thence run South, 2153.48 feet to a point; thence run East, 1367.70 feet to a point on the East right-of-way of U.S. Highway Number 98 and the Point of Beginning; thence run S-89 46'47"-E, leaving said East right-of-way of U.S. Highway Number 98, 1138.44 feet to a point; thence run S-00 19'15"-E, 210.00 feet to a point; thence run S-00 21'05"-W, 208.77 feet to a point; thence run S-89 24'17"-W, 61.91 feet to a point; thence run S-03 05'08"-E, 159.87 feet to a point; thence run N-89 42'29"-E, 271.63 feet to a point on the West right-of-way of Dale Road; thence run S-00 50'47"-E along said West right-of-way of Dale Road, 97.59 feet to a point on the North right-of-way of Dale Road; thence run S-33 34'09"-W along said North right-of-way of Dale Road, 44.06 feet to a point; thence run S-78 34'09"-W along said North right-of-way of Dale Road, 487.00 feet to a point; thence run N-01 25'51 "-W, leaving said North right-of-way of Dale Road, 300.28 feet to a point; thence run S-86 58'25"-W, 146.90 feet to a point; thence run S-01 25'51"-E, 300.28 feet to a point on said North right-of-way of Dale Road; thence run S-89 27'14"-W along said North right-of-way of Dale Road, 110.77 feet to a point; thence run S-64 08'24"-W along said North right-of-way of Dale Road, 601.02 feet to a point of intersection of said North right-of-way of Dale Road and said East right-of-way of U.S. Highway Number 98; thence run N-44 15'36"-W along the said East right-of-way of U.S. Highway Number 98, 69.28 feet to a point; thence run Northwesterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8484.37 feet, a delta angle of 05 17'02", a chord of which bears N-01 56'47"-W, 782.18 feet, an arc distance of 782.46 feet to a point; thence run S-89 18'16"-E along said East right-of-way of U.S. Highway Number 98, 10.00

feet to a point; thence run Northeasterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8474.37 feet, a delta angle of 01 42'30", a chord of which bears N-01 33'00"-E, 252.68 feet, an arc distance of 252.69 feet to the Point of Beginning; containing 22.64 acres, more or less.

00015212.WPDver2

Velma Dale Jackson
Zoning Amendment
Adjacent Property Owners' List

Ms. Toni White
P. O. Box 3165
Daphne, Alabama 36526

Ms. Sylvia Dennis
P. O. Box 176
Daphne, Alabama 36526

Ms. Grace B. Nye
P. O. Box 176
Daphne, Alabama 36526

Mr. and Mrs. Elisha Brown
P. O. Box 176
Daphne, Alabama 36526

Mr. and Mrs. Calloway Bender
333 Montgomery Street
Prichard, Alabama 36610

Ms. Inell Mosley
236 Meaher Street
Prichard, Alabama 36610

Mr. Willie Thicklen
P. O. Box 191
Montrose, Alabama 36559

Ms. Angela J. Osburn
P. O. Box 126
Montrose, Alabama 36559

Mr. and Mrs. Michael Oliver
814 Pinewood Court
Daphne, Alabama 36526

Ms. Joy C. Lenz
754 Washington Drive
Fairhope, Alabama 36532

Ms. Virginia Lee Thomas
2646 Mayfair Lane
York, Pennsylvania 17408-9065

Mr. and Mrs. James E. Nero
P. O. Box 202
Montrose, Alabama 36559

Mr. and Mrs. Earnest Valrie
P. O. Box 127
Montrose, Alabama 36559

Mr. Terrance L. Parker
P. O. Box 371
Montrose, Alabama 36559

Mr. James Nero
P. O. Box 202
Montrose, Alabama 36559

Mr. and Mrs. James E. Nero
P. O. Box 202
Montrose, Alabama 36559

Ms. Berta Mae Parker
P. O. Box 52
Montrose, Alabama 36559

Ms. Theresa Y. Taylor
5504 Windel Drive
Mobile, Alabama 36693

Ms. Annie Louis Crum
P. O. Box 2392
Daphne, Alabama 36526

Honours-Rock Creek Golf Course, L.L.C.
1960 Stonegate Drive
Birmingham, Alabama 35242

ORDINANCE NO. 2010 - 39

Ordinance to Rezone Property Located East of U.S. 98 Hwy. and North of Dale Road (15 Acres) Dale Family

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-2 Medium Density, Single Family District, to a B-2 General Business District, to said property is located East of U.S. 98 Hwy., North of Dale Road, being more particularly described as follows:

Legal Description:

That portion of the hereafter described property presently within the municipal boundaries of the City of Daphne, which is substantially identified as tax parcel 05-43-09-2-000-050.000, consisting of approximately the north 2/3 (15 acres ±) of the following described property: Commencing at the Northwest corner of Section 29, Township 5 South, Range 2 East, Baldwin County, Alabama; thence run South, 2153.48 feet to a point; thence run East, 1367.70 feet to a point on the East right-of-way of U.S. Highway Number 98 and the Point of Beginning; thence run S-89 46'47"-E, leaving said East right-of-way of U.S. Highway Number 98, 1138.44 feet to a point; thence run S-00 19'15"-E, 210.00 feet to a point; thence run S-00 21'05"-W, 208.77 feet to a point; thence run S-89 24'17"-W, 61.91 feet to a point; thence run S-03 05'08"-E, 159.87 feet to a point; thence run N-89 42'29"-E, 271.63 feet to a point on the West right-of-way of Dale Road; thence run S-00 50'47"-E along said West right-of-way of Dale Road, 97.59 feet to a point on the North right-of-way of Dale Road; thence run S-33 34'09"-W along said North right-of-way of Dale Road, 44.06 feet to a point; thence run S-78 34'09"-W along said North right-of-way of Dale Road, 487.00 feet to a point; thence run N-01 25'51 "-W, leaving said North right-of-way of Dale Road, 300.28 feet to a point; thence run S-86 58'25"-W, 146.90 feet to a point; thence run S-01 25'51"-E, 300.28 feet to a point on said North right-of-way of Dale Road; thence run S-89 27'14"-W along said North right-of-way of Dale Road, 110.77 feet to a point; thence run S-64 08'24"-W along said North right-of-way of Dale Road, 601.02 feet to a point of intersection of said North right-of-way of Dale Road and said East right-of-way of U.S. Highway Number 98; thence run N-44 15'36"-W along the said East right-of-way of U.S. Highway Number 98, 69.28 feet to a point; thence run Northwesterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8484.37 feet, a delta angle of 05 17'02", a chord of which bears N-01 56'47"-W, 782.18 feet, an arc distance of 782.46 feet to a point; thence run S-89 18'16"-E along said East right-of-way of U.S. Highway Number 98, 10.00 feet to a point; thence run Northeasterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8474.37 feet, a delta angle of 01 42'30", a chord of which bears N-01 33'00"-E, 252.68 feet, an arc distance of 252.69 feet to the Point of Beginning; containing 22.64 acres, more or less.

WHEREAS, the Planning Commission of the City of Daphne on May 27, 2010 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, July 19, 2010 concerning the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that said property described above is hereby rezoned from R-2 Medium Density, Single Family District, to a B-2 General Business District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA,
THIS ____ day of _____, 2010.

August A. Palumbo, Council President
Date & Time Signed: _____

Fred Small, Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen
City Clerk, MMC

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Dale Family
Authorized Agent:
Ms. Velma Dale Jackson
Annexation Review
Date: June 2, 2010

MEMORANDUM

PRESENT ZONING: RTF-4, Residential Single Family District, in Baldwin County District 16

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

LOCATION: East of U.S. Highway 98, north of Dale Road

RECOMMENDATION: At the May 27, 2010, regular meeting of the City of Daphne Planning Commission, six members were present and the vote was unanimous for a *favorable recommendation* for the above-mentioned petition for annexation with B-2 zoning.

Upon receipt of said documentation, please prepare an ordinance and place on the appropriate City Council agenda to set the public hearing to set the public hearing for the first meeting date in July 2010.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Petition
2. Legal description
3. Map of property

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

(_____)

The undersigned, Velma D. Jackson, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as Bailey Dale property 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, Velma D. Jackson, is the owner of the Property hereby sought to be annexed into the corporate limits of the City of Daphne. (See Exhibit "C" attached.)

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:

Request that the property be zoned B-2 (General Business District)

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 8 day of April,
2010.

Respectfully submitted,

Velma D. Jackson
~~Name of Corporation~~

By: Authorized Agent

Its: _____

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that Velma D. Jackson whose name as _____ of _____, 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 8th day of April, 2010.

Janya R. Hill (NOTARY SEAL)
NOTARY PUBLIC
My commission expires: 10/01/2011

EXHIBIT A

TO

PETITION FOR ANNEXATION OF CERTAIN PROPERTY
INTO THE CORPORATE LIMITS OF THE
MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA
(Dale Family)

That portion of the hereafter described property not presently within the municipal boundaries of the City of Daphne, which is substantially identified as tax parcel 05-43-09-29-0-000-004.000 and tax parcel 05-43-09-29-0-000-002.000, consisting of approximately the south 1/3 (7.6 acres ±) of the following described property: Commencing at the Northwest corner of Section 29, Township 5 South, Range 2 East, Baldwin County, Alabama; thence run South, 2153.48 feet to a point; thence run East, 1367.70 feet to a point on the East right-of-way of U.S. Highway Number 98 and the Point of Beginning; thence run S-89 46'47"-E, leaving said East right-of-way of U.S. Highway Number 98, 1138.44 feet to a point; thence run S-00 19'15"-E, 210.00 feet to a point; thence run S-00 21'05"-W, 208.77 feet to a point; thence run S-89 24'17"-W, 61.91 feet to a point; thence run S-03 05'08"-E, 159.87 feet to a point; thence run N-89 42'29"-E, 271.63 feet to a point on the West right-of-way of Dale Road; thence run S-00 50'47"-E along said West right-of-way of Dale Road, 97.59 feet to a point on the North right-of-way of Dale Road; thence run S-33 34'09"-W along said North right-of-way of Dale Road, 44.06 feet to a point; thence run S-78 34'09"-W along said North right-of-way of Dale Road, 487.00 feet to a point; thence run N-01 25'51 "-W, leaving said North right-of-way of Dale Road, 300.28 feet to a point; thence run S-86 58'25"-W, 146.90 feet to a point; thence run S-01 25'51"-E, 300.28 feet to a point on said North right-of-way of Dale Road; thence run S-89 27'14"-W along said North right-of-way of Dale Road, 110.77 feet to a point; thence run S-64 08'24"-W along said North right-of-way of Dale Road, 601.02 feet to a point of intersection of said North right-of-way of Dale Road and said East right-of-way of U.S. Highway Number 98; thence run N-44 15'36"-W along the said East right-of-way of U.S. Highway Number 98, 69.28 feet to a point; thence run Northwesterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8484.37 feet, a delta angle of 05 17'02", a chord of which bears N-01 56'47"-W, 782.18 feet, an arc distance

of 782.46 feet to a point; thence run S-89 18'16"-E along said East right-of-way of U.S. Highway Number 98, 10.00 feet to a point; thence run Northeasterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8474.37 feet, a delta angle of 01 42'30", a chord of which bears N-01 33'00"-E, 252.68 feet, an arc distance of 252.69 feet to the Point of Beginning; containing 22.64 acres, more or less.

00015173.WPDver2

ORDINANCE NO. 2010-40

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

**Dale Family Property
(Located on the East Side of U.S. Hwy. 98 North of Dale Road)**

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

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

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

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

WHEREAS, said petition has been presented to the Planning Commission of the City of Daphne on May 27, 2010 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned B-2, General Business**; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on July 19, 2010 concerning the petition for annexation; and,

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

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

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

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

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

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

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

"Exhibit A"

LEGAL DESCRIPTION:

That portion of the hereafter described property not presently within the municipal boundaries of the City of Daphne, which is substantially identified as tax parcel 05-43-09-29-0-000-004.000 and tax parcel 05-43-09-29-0-000-002.000, consisting of approximately the south 1/3 (7.6 acres ±) of the following described property: Commencing at the Northwest corner of Section 29, Township 5 South, Range 2 East, Baldwin County, Alabama; thence run South, 2153.48 feet to a point; thence run East, 1367.70 feet to a point on the East right-of-way of U.S. Highway Number 98 and the Point of Beginning; thence run S-89 46'47"-E, leaving said East right-of-way of U.S. Highway Number 98, 1138.44 feet to a point; thence run S-00 19'15"-E, 210.00 feet to a point; thence run S-00 21'05"-W, 208.77 feet to a point; thence run S-89 24'17"-W, 61.91 feet to a point; thence run S-03 05'08"-E, 159.87 feet to a point; thence run N-89 42'29"-E, 271.63 feet to a point on the West right-of-way of Dale Road; thence run S-00 50'47"-E along said West right-of-way of Dale Road, 97.59 feet to a point on the North right-of-way of Dale Road; thence run S-33 34'09"-W along said North right-of-way of Dale Road, 44.06 feet to a point; thence run S-78 34'09"-W along said North right-of-way of Dale Road, 487.00 feet to a point; thence run N-01 25'51 "-W, leaving said North right-of-way of Dale Road, 300.28 feet to a point; thence run S-86 58'25"-W, 146.90 feet to a point; thence run S-01 25'51"-E, 300.28 feet to a point on said North right-of-way of Dale Road; thence run S-89 27'14"-W along said North right-of-way of Dale Road, 110.77 feet to a point; thence run S-64 08'24"-W along said North right-of-way of Dale Road, 601.02 feet to a point of intersection of said North right-of-way of Dale Road and said East right-of-way of U.S. Highway Number 98; thence run N-44 15'36"-W along the said East right-of-way of U.S. Highway Number 98, 69.28 feet to a point; thence run Northwesterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8484.37 feet, a delta angle of 05 17'02", a chord of which bears N-01 56'47"-W, 782.18 feet, an arc distance of 782.46 feet to a point; thence run S-89 18'16"-E along said East right-of-way of U.S. Highway Number 98, 10.00 feet to a point; thence run Northeasterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8474.37 feet, a delta angle of 01 42'30", a chord of which bears N-01 33'00"-E, 252.68 feet, an arc distance of 252.69 feet to the Point of Beginning; containing 22.64 acres, more or less.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA on this ____ day of _____, 2010.

August A. Palumbo,
Council President

Fred Small,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

MEMORANDUM

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: Mr. Luther & Ms. Sharon Milstead
Authorized Agent(s):
Mr. Rob McElroy, General Manager of
the Utilities Board of the City of
Daphne or Mr. Danny Lyndall,
Operations Manager of the
Utilities Board of the City of Daphne
Annexation Review
Date: June 2, 2010

PRESENT ZONING: RSF-2, Single Family District, in
Baldwin County District 15

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

LOCATION: Northeast of Pollard and Well Road

RECOMMENDATION: At the May 27, 2010, regular meeting
of the City of Daphne Planning
Commission, six members were present
and the vote was unanimous for a
favorable recommendation for the
above-mentioned petition for
annexation with B-2 zoning.

Upon receipt of said documentation, please prepare an ordinance and place on the appropriate City Council agenda to set the public hearing for the first meeting date in July 2010.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Petition
2. Legal description
3. Map of property

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

The undersigned, Luther and Sharon Milstead, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as WELL ROAD (9.5 ACRES) 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, Luther and Sharon Milstead, 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 ZONING REQUESTED FOR THE CONSTRUCTION OF WAREHOUSE /
OFFICE SPACE AND OUTSIDE MATERIAL STORAGE WITH PROPER
SCREENING

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 27th day of May, 2010.

Respectfully submitted,

By: Luther Milslead

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that Luther Milslead whose name 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 27th day of May, 2010.

Lori M. Scharle (NOTARY SEAL)
Notary Public

My Commission Expires: July 3, 2010

Shawn R. Milslead

Cedric D. Goodloe
CEDRIC D. GOODLOE
Notary Public, Mobile Co., AL
My Commission Expires January 30, 2011

LUTHER AND SHARON MILSTEAD

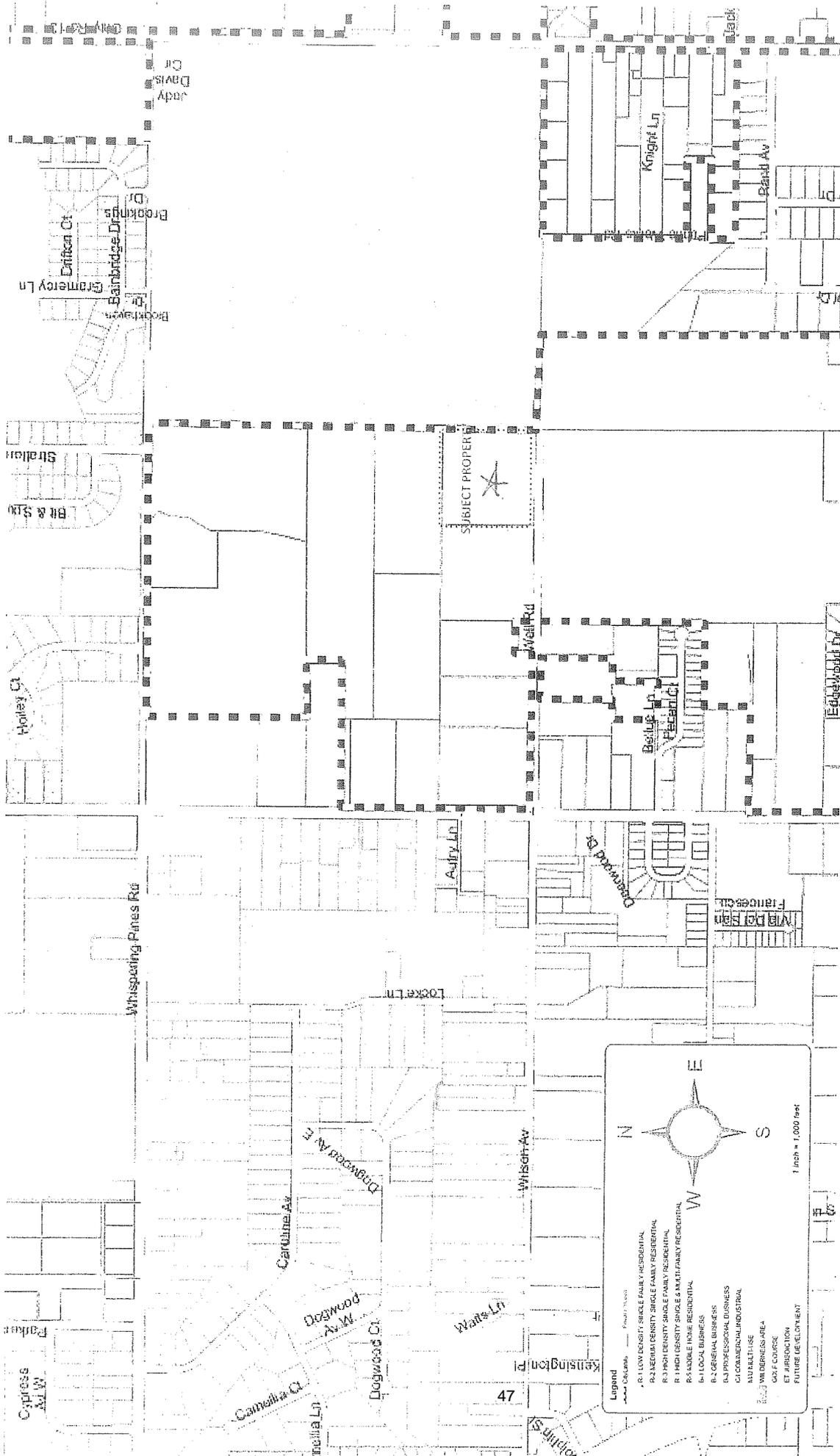
ANNEXATION REVIEW

WELL ROAD PROPERTY (9.5 ACRES)

EXHIBIT "A"

Commencing at the **Northwest** corner of **Section 16, Township 5 South, Range 2 East, Baldwin County, Alabama**, run thence **South 00 degrees 05 minutes 12 seconds East** along the **West** boundary of said section 16, a distance of **1997.95 feet** to a point; thence run **North 89 degrees 57 minutes 04 seconds East, 1325.25 feet** to a crimp top iron pin; thence run **South 89 degrees 56 minutes 28 seconds East, 662.58 feet** to a capped iron pin for the **POINT OF BEGINNING**; thence continue **South 89 degrees 56 minutes 28 seconds East 662.98 feet** to an old axle corner; thence run **South 00 degrees 09 minutes 20 seconds West, 625.94 feet** to a capped iron pin on the **North right-of-way line of Well Road**; thence run **South 89 degrees 59 minutes 11 seconds West** along said right-of-way line, **661.30 feet** to a capped iron pin; thence run **North 00 degrees 00 minutes 07 seconds East, 627.77 feet** to the **POINT OF BEGINNING**.

EXHIBIT "B" - City of Daphne Zoning LUTHER & SHARON MILSTEAD ANNEXATION REVIEW (UTILITIES BOARD)



Legend

- R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
- R-2 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL
- R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL
- R-4 ADULT HOME RESIDENTIAL
- B-1 LOCAL BUSINESS
- B-2 GENERAL BUSINESS
- B-3 PROFESSIONAL BUSINESS
- C-1 COMMERCIAL INDUSTRIAL
- AU-1 RECREATION USE
- CT-1 CONVENTION CENTER
- F-1 FUTURE DEVELOPMENT

1 inch = 1,000 feet

ORDINANCE NO. 2010-41

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

**Mr. Luther & Ms. Sharon Milstead Property
(Located on the Northeast of Pollard Road and Well Road (9.5 Acres))**

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

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

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

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

WHEREAS, said petition has been presented to the Planning Commission of the City of Daphne on May 27, 2010 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned B-2, General Business**; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on July 19, 2010 concerning the petition for annexation; and,

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

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

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

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

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

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

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

“Exhibit A”

LEGAL DESCRIPTION:

Commencing at the Northwest corner of Section 16, Township 5 South, Range 2 East, Baldwin County, Alabama, run thence South 00 degrees 05 minutes 12 seconds East along the West boundary of said section 16, a distance of 1997.95 feet to a point; thence run North 89 degrees 57 minutes 04 seconds East, 1325.25 feet to a crimp top iron pin; thence run South 89 degrees 56 minutes 28 seconds East, 662.58 feet to a capped iron pin for the POINT OF BEGINNING; thence continue South 89 degrees 56 minutes 28 seconds East 662.98 feet to an old axle corner; thence run South 00 degrees 09 minutes 20 seconds West, 625.94 feet to a capped iron pin on the North right-of-way line of Well Road; thence run South 89 degrees 59 minutes 11 seconds West along said right-of-way line, 661.30 feet to a capped iron pin; thence run North 00 degrees 00 minutes 07 seconds East, 627.77 feet to the POINT OF BEGINNING.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this _____ day of _____, 2010.

August A. Palumbo,
Council President

Fred Small,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

**CITY COUNCIL MEETING
STANDING COMMITTEE RECOMMENDATIONS:**

FINANCE COMMITTEE REPORT

BUILDINGS & PROPERTY COMMITTEE REPORT

PLANNING/ZONING/CODE ENFORCEMENT COMMITTEE REPORT

PUBLIC SAFETY/ORDINANCE COMMITTEE REPORT

PUBLIC WORKS/BEAUTIFICATION/MUSEUM COMMITTEE REPORT

CITY OF DAPHNE
FINANCE COMMITTEE MINUTES
July 12, 2010
4:00 P.M.

I. CALL TO ORDER/ROLL CALL

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

Councilman Bailey Yelding was absent.

Also in attendance were Mayor Fred Small, Human Resources Director Vickie Hinman, Civic Center Director Margaret Thigpen, and Environmental Programs Manager Ashley Campbell.

II. PUBLIC PARTICIPATION

Mr. Greg and Mrs. Cathy MacMullin addressed the Committee about the estimated \$2,000 in damage done to their 2006 Nissan Armada while they were parked in the City Hall parking lot while attending the National Day of Prayer event. (A limb apparently fell on the car.) As discussed at the last Finance Committee meeting, the City's insurance has denied payment under Section 11-47-190 of Alabama Code which states: "No city or town shall be liable for damages or injury done or wrong suffered by any person or corporation, unless such injury or wrong done or suffered through the neglect or carelessness or failure to remedy some defect in the streets, alleys, public ways or building after the same had been called to the attention of the council or other governing body after the same had existed for such an unreasonable length of time as to raise a presumption of knowledge of such defect on the part of the council or other governing body."

Mr. MacMullin presented a sequence of events and pictures of his damaged vehicle. He noted that he is frustrated with the City's response and asked the City to pay for the repairs. Discussion continued that Ms. MacMullin had left the scene, but returned later that day to report the incident. Mr. Boulware stated that at the last Committee meeting, they agreed to rely on the insurance company's decision and made no recommendation to the Council. Mr. Scott asked staff to talk to the insurance adjuster again.

After contacting the City's Insurance agent, Robbie Robertson, for further evaluation (per the request of the Finance Committee) the agent responded as follows: "the City's liability lies with the City being negligent and since the tree has not been reported or found to be decayed then the City is not negligent nor liable for this damage.

Motion by Mr. Boulware to recommend full Council review of the \$2,000 damage claim by Mr. Greg and Mrs. Cathy MacMullin and the City's Insurance Company's response. Seconded by Mr. Scott. Motion carried.

III. HUMAN RESOURCES BUSINESS

Ms. Vickie Hinman, Human Resources Director, presented the Human Resources activity update. Positions filled include Events Assistant, Court Magistrate, Public Works Director, and PSW, Sr. (Parks). Applications are being reviewed for a Mechanic position; and interviews are being held for two PSW (Parks) and Recreation Program Coordinator.

Fire Battalion Chief, Kenneth Hanak, has inspected all AED's for the Safety Committee and is requesting that all batteries be replaced. All employees in Public Works participated in an on-line defensive driving course and are now certified.

Projects for Human Resources Department completed include a written test for Communications Officer, new employee orientation on July 21, and working on the departmental budget for 2011.

IV. ISSUES REQUIRING ACTION BY CITY COUNCIL

A. Appropriation Requests

1. Windsor Drive Drainage Improvements - \$11,000

Ms. Ashley Campbell presented a request for additional funds for Windsor Court/Drive drainage repairs. She noted that \$45,000 has been appropriated, but an additional \$11,000 is needed. This is due to several factors including: construction surveillance and geotechnical were not included; the original proposal included Public Works doing some of the work but after further evaluation it was determined that the job is too big for the City to do internally. Quotes for the project came in approximately \$2,000 over the engineer's estimate; and there is a recommended alternate to retrofit an inlet on Windsor Court in the amount of \$3,445. Quotes from three companies were presented and Mr. Tim Lawley with HMR recommended the low bid of \$43,649 including the add alternate, from James Brothers be accepted. Ms. Campbell noted that there is still a legal issue involving the easement on this project that has not been resolved.

Motion by Mr. Scott to recommend Council adopt an ordinance appropriating an additional \$11,000 for the Windsor Court/Drive drainage repairs and award the job, including the add alternative, to James Brothers Excavating in the amount of \$43,649. Seconded by Mr. Boulware. Motion carried.

2. Civic Center / Bayfront Tables Leg Replacement - \$10,125

Ms. Margaret Thigpen presented pricing to replace the legs on 127 tables at the Civic Center and Bayfront. She reported that the tables are ten years old and that the spring loaded legs have sprung and need replacing. Ms. Thigpen noted that this should allow another ten years use of the tables. Ms. Thigpen noted she will be requesting for the remainder of the table legs to be replaced in the FY2011 budget.

Motion by Mr. Scott to recommend Council adopt an ordinance appropriating \$10,125 to purchase table leg replacements for 127 tables at the Civic Center / Bayfront. Seconded by Mr. Boulware. Motion carried.

B. Bids

1. 2010-Q-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION ALONG C&C UTILITY EASEMENT, NRCS DAP-09-002, Agreement No 69-4101-10

Four bid packages were picked up and two bids were received. Mr. Andy James with Volkert noted that the bids came in under estimate and recommended the low bid of \$102,692 from Southern Excavating LLC be accepted.

2. 2010-R-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION AT 111 WORCHESTER LOOP, NRCS DAP-09-001, Agreement No 69-4101-10

Four bid packages were picked up and two bids were received. Mr. James noted that this bid also came in under the estimate and recommended that the low bid of \$109,441.61 from North State Environmental be accepted.

It was discussed that these are NRCS grant projects with a 75/25 split. They have to be completed by September 22, 2010 or the City will lose the grants. In the event of a hurricane, an extension may be granted, but not for any other reason. It was also noted that the easement needed for Worchester Loop needs to be completed before the bids are awarded. Ms. Campbell stated that they hope to have that completed by Wednesday.

Motion by Mr. Scott to recommend Council adopt resolutions awarding the following bids:

1. 2010-Q-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION ALONG C&C UTILITY EASEMENT, NRCS DAP-09-002, Agreement No 69-4101-10 to Southern Excavating LLC in the amount of \$102,262.

2. 2010-R-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION AT 111 WORCHESTER LOOP, NRCS DAP-09-001, Agreement No 69-4101-10 to North State Environmental in the amount of \$109,441.61.

Seconded by Mr. Boulware. Motion carried.

C. Declare City Property Surplus

Ms. Henson presented one recreation and two recycling vehicles and miscellaneous equipment from the Civic Center for surplus. Mr. Scott noted he would like to know what amount has been collected from surplus sales for the last two years. Another surplus list of Phoenix Cutters / Equipment (Jaws of Life) from the Fire Department that they wish to donate to another, smaller fire department was also presented. Mr. Scott stated that he would like to know what the City has collected from surplus sales this year.

(The equipment is requested to be donated to Lottie Volunteer Fire Department in north Alabama).

(Surplus Sale collections for FY08 were \$30,348 / previous Surplus sale in October 2009 - \$25,581 / and collections for the last sale May 2010 was \$18,954)

Motion by Mr. Scott to recommend Council adopt a resolution declaring the listed property surplus and authorizing the Mayor to dispose of such equipment and to direct the donation of the Phoenix Cutters / Equipment from the fire department. Seconded by Mr. Boulware. Motion carried.

V. CURRENT BUSINESS

A. Fiscal Year 2009 Audit

Ms. Briley stated that the auditors could not be at this meeting, but will be here next month. She noted that the City received another unqualified opinion with no exceptions for FY 2009.

B. Zydeco Music Festival Comparison

A comparative on Zydeco revenues versus expenses for the years 2005 through 2010 was presented. It was noted that although the event did not break even and expenses exceed revenues this year by \$5,664, the difference is much less this year than previous years. Ms. Thigpen noted there were several circumstances that she felt affected the event, two were marketing for the event was done later than usual and they were competing with another event that weekend. Ms. Thigpen stated that she is currently reviewing the Zydeco Festival and believes they need to increase advertising and marketing in order to increase ticket sales.

VI. FINANCIAL REPORTS

A. Treasurer's Report: June 30, 2010

The Treasurer's Report totaling \$20,127,252.96 was presented.

Motion by Mr. Scott to accept the Treasurer's Report as of June 30, 2010, in the amount of \$20,127,252.96. Seconded by Mr. Boulware. Motion carried.

B. Sales and Use Taxes: May 31, 2010

Sales and Use Tax Collected for May 2010	- \$ 862,254
Sales and Use Tax Budgeted for May 2010	- \$ <u>793,355</u>
Over Budget (for May)	- \$ 68,899

YTD Budget Collections Variance – Over Budget - \$ 176,492

C. Lodging Tax Collections, May 31, 2010

The Lodging Tax Collections report shows \$66,820.96 collected for May 2010.

D. Report: New Business Licenses – June 2010

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

E. Bills Paid Reports – June 2010

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

VII. ADJOURN

The meeting was adjourned at 4:58 p.m.



ALABAMA MUNICIPAL INSURANCE CORPORATION

110 NORTH RIPLEY STREET • MONTGOMERY, AL 36104
PHONE: 334-386-3863 • FAX: 334-386-3873 • TOLL FREE: 1-866-239-AMIC (2642)
WWW.AMICENTRAL.ORG

May 21, 2010

Greg and Cathy McMullen
10077 Landsdale Dr.
Daphne, AL 36526

Re:

Insured: City of Daphne
Claimant: McMullen
Claim Number: 030479JL
Loss Date: May 6, 2019

Dear Mr. and Mrs. McMullen:

On May 6, 2010 you filed a claim against the City of Daphne for damages to your 2006 Nissan Armada which had been struck by a limb that fell from a tree located on the grounds of City Hall. You submitted two estimates which total \$2,015.56 and \$2,277.27. The Public Works Department reports that they had no record of any request for service to check or cut this particular tree.

Section 11-47-190, Alabama Code (1975) states: "No city or town shall be liable for damages or injury done or wrong suffered by any person or corporation, unless such injury or wrong done or suffered through the neglect or carelessness or failure to remedy some defect in the streets, alleys, public ways or building after the same had been called to the attention of the council or other governing body after the same had existed for such an unreasonable length of time as to raise a presumption of knowledge of such defect on the part of the council or other governing body."

Since the City of Daphne had no notice of any defect regarding the tree prior to the incident where the limb fell on your car, we must respectfully deny liability for the damages asserted in your claim.

Sincerely,

ALABAMA MUNICIPAL INSURANCE CORPORATION

Jennifer Long
Claims Adjuster

Cc: Lisa White, City Clerk
JL/jra

Fred Small
Mayor
Vickie Hinman
Human Resources Director



Sherree Hilburn
Payroll and Benefits Coordinator

Michele Hanson
Human Resources Assistant

The Jubilee City

July 8, 2010

HUMAN RESOURCES DEPARTMENT ACTIVITY UPDATE

Jobs Announced	Apps Received	Status
Events Assistant	43	Date of Hire – June 24, 2010
Court Magistrate	113	Date of Hire – July 15, 2010
Public Works Director	40	Date of Hire – July 19, 2010
PSW, Sr. (Parks)	1	Promotion: July 1, 2010
PSW (Parks) (2)	3	Interviewing
Mechanic	11	Applications being reviewed
Recreation Program Coordinator	4	Interviewing

Safety Committee Meeting:

- Fire Battalion Chief, Kenneth Hanak, inspected all AED's, requesting batteries be replaced. (Ten AED's with each requiring 10 batteries.)
- All employees in Public Works participated in an on-line defensive driving course and are certified.
- In July, Committee members will report any additional funds needed for 2011 safety training/supplies budget.

Next meeting will be July 28, 2010 at 8:15 a.m.

Department Projects:

- Communications Officer - Written Test (33) – July 12, 2010
- New Employee Orientation – July 21, 2010
- Department budget for 2011
- Ongoing processing of FMLA, performance evaluations, payroll change notices

Human Resources Department
P.O. Box 400 Daphne, Alabama 36526
Phone: (251) 621-3075 Fax: (251) 621-4506

Windsor Drive Court
Drainage Improvements

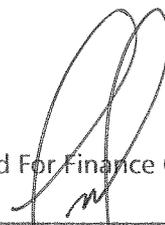
Request For Additional Funds

Windsor Drive Study Phase 1	Appropriation Increases	0.00
Windsor Drive Study Phase 2		5,000.00
Total		6,000.00
Original Project Cost		35,020.00
Original Engineering		3,000.00
Total		38,020.00
Original Project & Engineering		38,020.00
Windsor Drive Study Phase 1 & 2		6,000.00
Total		44,020.00
Original Appropriation		45,000.00
New Appropriation Request		
Original Project Cost		38,021.00
Alternate Windsor Court		3,445.00
Original Engineering		3,000.00
Original Windsor Drive Study Phase 1&2		6,000.00
Construction Surveillance		2,500.00
Geotechnical		750.00
New Total		53,716.00
Increase in Appropriation		8,716.00



Request \$10,000

Approved For Finance Comm. Agenda



Signature
6-30-10

Date

ORDINANCE 2010-11

WINDSOR COURT/DRIVE DRAINAGE REPAIRS

WHEREAS, Ordinance 2009-52 approved and adopted the Fiscal Year 2010 Budget on October 19, 2009; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2010 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2010 budget; and

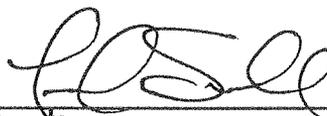
WHEREAS, certain drainage repairs are necessary on Windsor Court/Drive for the safety of citizens and their property.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that: the Fiscal Year 2010 Budget is hereby amended to include a General Fund appropriation for an amount not to exceed \$45,000 for drainage repairs for Windsor Court/Drive.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this 1st day of March, 2010.

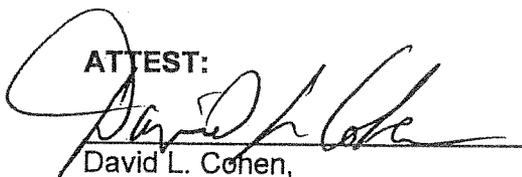


**August Palumbo,
Council President**



**Fred Small,
Mayor**

ATTEST:



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



ENGINEERING COST ESTIMATE

Owner: City of Daphne

Project: Lake Forest Drainage (Windsor Entrance)

Date: April 27, 2010

ITEM #	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
BASE BID					
1	MOBILIZATION / DEMOBILIZATION	LS	1		\$ 2,500.00
2	S-INLET	EA	4	\$ 3,000.00	\$ 12,000.00
3	15" RCP	LF	30	\$ 40.00	\$ 1,200.00
4	18" RCP	LF	30	\$ 40.00	\$ 1,200.00
5	CONNECT INLET TO EXISTING STORM DRAIN	EA	2	\$ 800.00	\$ 1,600.00
6	SOLID SOD	SY	100	\$ 6.00	\$ 600.00
7	ASPHALT MILLING	SY	550	\$ 6.00	\$ 3,300.00
8	CRUSHED AGGREGATE BASE, 6" THICK (825-B)	SY	37	\$ 14.00	\$ 518.00
9	CONNECT TO EXISTING INLET	EA	1	\$ 500.00	\$ 500.00
10	SEED & MULCH	LS	1		\$ 300.00
11	CURB INLET	EA	1	\$ 3,000.00	\$ 3,000.00
12	22" X 13" RCAP	LF	30	\$ 40.00	\$ 1,200.00
13	REMOVE CONCRETE GUTTER	LF	25	\$ 6.00	\$ 150.00
14	REPLACE CONCRETE GUTTER	LF	25	\$ 13.00	\$ 325.00
15	REMOVE ASPHALT WING SECTION	LF	35	\$ 6.00	\$ 210.00
16	REPLACE ASPHALT WING SECTION	LF	35	\$ 13.00	\$ 455.00
17	RELOCATE 2" GAS LINE	LS	1	\$ 500.00	\$ 500.00
18	SAWCUT AND REMOVE ASPHALT PAVEMENT	SY	35	\$ 5.00	\$ 175.00
19	ASPHALT WEARING SURFACE (1.5" THICK)	SY	585	\$ 12.00	\$ 7,020.00
20	ASPHALT BASE LAYER (2" THICK)	SY	37	\$ 14.00	\$ 518.00
21	SELECT FILL	CY	40	\$ 10.00	\$ 400.00
22	#57 STONE (6" THICK)	TON	10	\$ 35.00	\$ 350.00
TOTAL AMOUNT BASE BID					\$ 38,021.00
ADDITIVE ALTERNATE 1					
1A	DEMOLITION & REPLACEMENT S-INLET	EA	1	\$ 2,000.00	\$ 2,000.00
2A	SAWCUT & REMOVE ASPHALT PAVEMENT	SY	85	\$ 5.00	\$ 425.00
3A	ASPHALT WEARING SURFACE (1.5" THICK)	SY	85	\$ 12.00	\$ 1,020.00
TOTAL AMOUNT ADDITIVE ALTERNATE 1					\$ 3,445.00
TOTAL AMOUNT BASE BID + ADDITIVE ALTERNATE 1					\$ 41,466.00



HUTCHINSON, MOORE & RAUCH, LLC
ENGINEERS ♦ SURVEYORS ♦ LAND PLANNERS

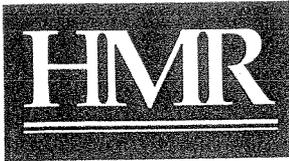
ENGINEERING COST ESTIMATE

Owner: City of Daphne

Project: Lake Forest Drainage (Windsor Entrance)

Date: February 5, 2010

ITEM #	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
1	MOBILIZATION / DEMOBILIZATION	LS	1		\$ 2,500.00
2	S-INLET	EA	5	\$ 3,000.00	\$ 15,000.00
3	18" RCP	LF	96	\$ 40.00	\$ 3,840.00
4	CONNECT INLET TO EXISTING STORM DRAIN	EA	2	\$ 800.00	\$ 1,600.00
5	SOLID SOD	SY	50	\$ 6.00	\$ 300.00
6	ASPHALT PAVING	SY	550	\$ 10.00	\$ 5,500.00
7	ASPHALT MILLING	SY	480	\$ 6.00	\$ 2,880.00
8	CRUSHED AGGREGATE BASE (825-B)	TONS	40	\$ 40.00	\$ 1,600.00
9	CONNECT TO EXISTING INLET	EA	1	\$ 500.00	\$ 500.00
10	SEED & MULCH	LS	1		\$ 300.00
11	REPAIR CURB SECTION	EA	2	\$ 500.00	\$ 1,000.00
12	ENGINEERING SERVICES	LS	1		\$ 3,000.00
TOTAL AMOUNT					\$ 38,020.00



HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127
Daphne, Alabama 36526

Telephone: (251) 626-2626
Fax: (251) 626-6934

June 24, 2010

Mrs. Ashley Campbell
City of Daphne
Post Office Box 400
Daphne, AL 36526

RE: Lake Forest Drainage
(Windsor Entrance)

Dear Ashley,

As requested, the costs for all Engineering Services associated with the above referenced project are as follows:

Phase 1 Drainage Study	\$1,000.00
Phase 2 Drainage Study	\$5,000.00
Engineering Design, Plans, Specs, etc.	\$3,000.00
Construction Surveillance	\$2,500.00 <i>(Hourly Not To Exceed)</i>
Geotechnical Testing	<u>\$750.00</u>
Total	\$12,250.00

If you have any questions or need additional information, please contact me at 626.2626.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC

Timothy D. Lawley, P.E.
Project Manager

/blg
D2500\3437\10.215



HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127
Daphne, Alabama 36526

Telephone: (251) 626-2626
Fax: (251) 626-6934

June 24, 2010

Mayor Fred Small
City of Daphne
Post Office 400
Daphne, Alabama 36526

COPY

RE: Lake Forest Drainage
(Windsor Entrance)

Dear Mayor Small:

Enclosed is the Tabulation of Bids received June 23, 2010 for the subject project.

Based on the current budget of \$38,000± for construction of this project, we recommend that you award the Base Contract to Asphalt Services at their submitted lowest bid of \$38,772.25.

In the event that additional funds become available and the Base Contract and Additive Alternate #1 are going to be awarded, we recommend that you award the Contract to James Brothers Excavating at their lowest submitted bid of \$43,649.00.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC

Timothy D. Lawley, P.E.
Project Manager

c: Suzanne Henson

\blg
02500\3437\10.216

CITY OF DAPHNE
LAKE FOREST DRAINAGE (WINDSOR ENTRANCE)
JUNE 23, 2010



Hutchinson, Moore & Rauch, LLC
Engineers ♦ Surveyors ♦ Land Planners

ITEM#	DESCRIPTION	UNIT	QTY	BIDDER #1 ASPHALT SERVICES		BIDDER #2 JAMES BROTHERS EXCAVATING		BIDDER #3 AMMONS & BLACKMON			
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT		
1	MOBILIZATION/DEMobilIZATION	LS	1		2,000.00		3,500.00		3,940.00		
2	INLETS, TYPE S	EA	4	3,200.00	12,800.00	2,800.00	11,200.00	3,220.00	12,880.00		
3	15" RCP	LF	30	28.00	840.00	28.50	855.00	29.75	892.50		
4	18" RCP	LF	30	31.00	930.00	30.50	915.00	31.40	942.00		
5	CONNECT INLET TO EXISTING STORM DRAIN	EA	2	600.00	1,200.00	500.00	1,000.00	736.00	1,472.00		
6	SOLID SODDING, ST. AUGUSTINE	SY	100	8.00	800.00	5.00	500.00	6.30	630.00		
7	MILLING (2"-3" THICK)	SY	550	8.00	4,400.00	5.00	2,750.00	15.00	8,250.00		
8	CRUSHED AGGREGATE BASE COURSE, 6" THICK (825-B)	SY	37	12.00	444.00	15.00	555.00	20.25	749.25		
9	CONNECT TO EXISTING INLET	EA	1	600.00	600.00	750.00	750.00	350.00	350.00		
10	SEEDING & MULCHING	ACRE	0.5	2,200.00	1,100.00	1,500.00	750.00	2,000.00	1,000.00		
11	INLET, TYPE CURB	EA	1	2,800.00	2,800.00	2,200.00	2,200.00	2,750.00	2,750.00		
12	22" X 13" RCAP	LF	30	39.00	1,170.00	45.00	1,350.00	44.80	1,344.00		
13	REMOVE CONCRETE GUTTER	LF	25	4.00	100.00	10.00	250.00	6.00	150.00		
14	CONCRETE GUTTER	LF	25	25.00	625.00	20.00	500.00	34.25	856.25		
15	REMOVE ASPHALT WING SECTION	LF	35	3.00	105.00	10.00	350.00	5.50	192.50		
16	ASPHALT WING SECTION	LF	35	18.00	630.00	25.00	875.00	47.14	1,649.90		
17	RELOCATE 2" GAS LINE (PAID DIRECTLY TO DAPHNE UTILITIES)	LS	1		500.00		500.00		500.00		
18	SAWCUT AND REMOVE ASPHALT PAVEMENT	SY	35	10.00	350.00	5.00	175.00	12.60	441.00		
19	BITUMINOUS CONCRETE WEARING SURFACE (1.5" THICK)	SY	585	8.15	4,767.75	11.00	6,435.00	12.40	7,254.00		
20	BITUMINOUS CONCRETE BASE COURSE (2" THICK)	SY	37	16.50	610.50	17.00	629.00	24.75	915.75		
21	BORROW EXCAVATION (SELECT FILL)	CY	40	8.00	320.00	15.00	600.00	12.00	480.00		
22	#57 STONE (6" THICK)	TON	10	48.00	480.00	65.00	650.00	57.80	578.00		
23	TRAFFIC CONTROL	LS	1		1,200.00		2,000.00		3,000.00		
				TOTAL AMOUNT BASE BID		\$ 38,772.25		\$ 39,289.00		\$ 51,217.15	

CITY OF DAPHNE
LAKE FOREST DRAINAGE (WINDSOR ENTRANCE)
JUNE 23, 2010

ITEM#	DESCRIPTION	UNIT	QTY	BIDDER #1 ASPHALT SERVICES		BIDDER #2 JAMES BROTHERS EXCAVATING		BIDDER #3 AMMONS & BLACKMON	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
ADDITIVE ALTERNATE 1									
1A	DEMOLITION & REPLACEMENT S-INLET	EA	1	3,800.00	\$ 3,800.00		\$ 3,000.00		\$ 1,250.00
2A	SAWCUT & REMOVE ASPHALT PAVEMENT	SY	85	10.00	\$ 850.00		\$ 425.00		\$ 5.40
3A	BITUMINOUS CONCRETE WEARING SURFACE (1.5" THICK)	SY	85	8.15	\$ 692.75		\$ 935.00		\$ 12.40
TOTAL AMOUNT BASE BID + ADDITIVE ALTERNATE 1				\$	44,115.00		\$ 43,649.00		\$ 53,980.15
							\$ 4,360.00		

We hereby certify this to be a true and correct tabulation on the above named project.


Timothy D. Lawley, P.E.
Project Manager

Hutchinson, Moore & Rauch, LLC



2010

Venue	Total # of Tables	2010 Need	Leg Replacement	New Table
Civic Center			\$75.00 a set	\$169.00/229.00
72" Rounds	70	50	\$3,750.00	\$11,450.00
8 Feet	105	40	\$3,000.00	\$6,760.00
Total	175	90	\$6,750.00	\$18,210.00
Bayfront			\$75.00 a set	\$169.00/229.00
60" Rounds	34	26	\$2,700.00	\$8,244.00
8 Feet	3	3	\$225.00	\$507.00
6 Feet	8	8	\$450.00	\$1,352.00
Total	45	37	\$3,375.00	\$10,103.00

2011

Venue	Total # of Tables	2011 Need	Leg Replacement	New Table
Civic Center			\$75.00 a set	\$169.00/229.00
72" Rounds	20	20	\$1,500.00	\$4,580.00
8 Feet	65	65	\$4,875.00	\$10,985.00
Total	85	85	\$6,375.00	\$15,565.00
Bayfront			\$75.00 a set	\$169.00/229.00
60" Rounds	8	8	\$600.00	\$1,832.00
8 Feet	0	0	\$0.00	\$0.00
6 Feet	0	0	\$0.00	\$0.00
Total	8	8	\$600.00	\$1,832.00

**Buildings & Property Committee Meeting
Tuesday, July 6, 2010 5:00 PM
Daphne City Hall**

Committee

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

Page 2
Buildings & Property Committee Meeting Minutes
July 6, 2010

Meador Property - Ashley Campbell gave update on this property. Misty Gray with Ross, Jordan and Gray (city attorney) performed a title search which was clear and prepared a resolution and warranty deed to accept this property. It has a \$12,000 value and Ashley is asking for council's approval to accept the donation of this property located at 136 Caroline Avenue. **Motion: John Lake made motion that this go to council for approval at the July 19th council meeting.**

Civic Center – Margaret Thigpen, Director, reported an event cancellation because of the oil spill. The organization, 2010 Open Spear Fishing Rodeo, is asking for a refund of their deposit which is \$340. **Motion: John Lake made motion that the committee refund this group their deposit of \$340 for rental of Bayfront.**

* { Margaret reported at the last meeting that the legs on the tables at Civic Center were coming apart and would need replacing. She distributed (attached) a breakdown of costs related to repairing and replacing the legs on the tables. \$10,000 for leg replacement only for a total of 127 tables. **Motion: John Lake made motion to take this request to the Finance Committee for consideration as there are no funds in the Civic Center budget to take care of the expense.**

Margaret reported on the revenue for Civic Center and Bayfront. Year End numbers projected for Civic Center is \$283,744 and \$56,343 for Bayfront. YTD is down for Civic Center for several reasons. Attendance for Zydeco was down, the economy in general and also some Mardi Gras groups that normally have dances at Civic Center did not happen. YTD is up for Bayfront and can be attributed to the "face lift" the facility has had this year and its affordability. Additional work is to be done on Bayfront (painting, window treatment). The Mayor asked Richard to get prices on replacing the windows at Bayfront – the view is beautiful and if there were windows that did not fog up because of air on inside and heat from outside people would be

Suzanne

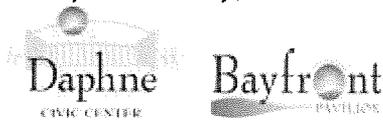
From: Kim Briley [kmbriley@bellsouth.net]
Sent: Wednesday, July 07, 2010 11:31 AM
To: hensonsm@bellsouth.net
Subject: FW: Finance Agenda

They discussed this last night-- for the Finance Agenda

From: CCDirector [mailto:ccdirc@bellsouth.net]
Sent: Wednesday, July 07, 2010 10:49 AM
To: 'Kim Briley'
Subject: RE: Finance Agenda

See the attached and the highlighted area which totals \$10,125.00.

Margaret Thiipen, Director



daphneciviccenter.org
daphnebayfrontpark.org
251-626-5300

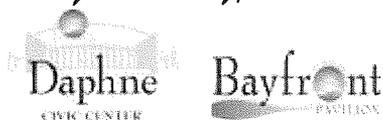
From: Kim Briley [mailto:kmbriley@bellsouth.net]
Sent: Wednesday, July 07, 2010 10:42 AM
To: 'CCDirector'
Subject: RE: Finance Agenda

No \$ amount was discussed... how much?

From: CCDirector [mailto:ccdirc@bellsouth.net]
Sent: Wednesday, July 07, 2010 10:20 AM
To: 'Kim Briley'
Subject: Finance Agenda

Last night in Buildings and Property a motion was made and passed that the Civic Center & Bayfront Table leg project needed to be taken to finance. Who do I need to ask to put this on the agenda for Monday?

Margaret Thiipen, Director



daphneciviccenter.org
daphnebayfrontpark.org
251-626-5300



Volkert, Inc.

316 South McKenzie Street
Foley, AL 36535

Office 251.968.7551
Fax 251.968.2318
foley@volkert.com

www.volkert.com

July 6, 2010

NRCS Stream Restorations, Agreement No. 69-4101-10
DSR No. DAP-09-002
Contract No. 968511.10

Honorable Fred Small
Mayor
City of Daphne
1705 Main Street
Daphne, Alabama 36526

Subject: Recommendation of Bid Award "Easement Project" Stream Restoration

Dear Mayor Small:

Enclosed please find the original envelopes, bid documents, and prequalification statements for the above referenced project. After reviewing the submitted proposals, we recommend that the project be awarded to Southern Excavating, LLC, a Contractor who is licensed to do business in the State of Alabama, with a bid of \$102,692.00.

If you have any questions or comments, please call at your convenience.

Sincerely,

VOLKERT & ASSOCIATES, INC.

Andrew E. James, P.E.
Project Manager

CC: Suzanne Henson, file

Enclosures: Enclosed Bid Documents, Prequalification Statement
P:\Projects\968511 D'Olive Tributary\SPECS\Letter of Recommendation 7-6-10.doc

Office Locations:

Birmingham, Foley, Huntsville, Mobile, Alabama • Gainesville, Orlando, Pensacola, Tampa, Florida • Atlanta, Georgia
Collinsville, Illinois • Baton Rouge, Slidell, Louisiana • Biloxi, Mississippi • Jefferson City, Missouri • Raleigh, North Carolina
Chattanooga, Tennessee • Alexandria, Virginia • Washington, D.C.



CITY OF DAPHNE
2010-Q-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION ALONG C&C UTILITY EASEMENT
DAP-09-002

Date: July 1, 2010
 Time: 2:00pm
 Place: City of Daphne Council Chambers/Executive Chamber Engineer's Estimate: \$150,000

Present: Andy James, Volkert Engineering
Suzanne Henson, Sr. Accountant, City of Daphne

4 Bid Packages were picked up and 2 Bids were received

BIDDERS NAME	CONTRACTOR LICENSE #	BID BOND	ADDENDA ALL	PREQUALIFICATION PACKAGE	LUMP SUM BID AMOUNT
Southern Excavating	41375	X	X	X	102,692.00
North State Environmental	44069	X	X	X	119,520.92

Tabulated By: Andy James
 Witnessed By: Suzanne Henson



Volkert, Inc.

316 South McKenzie Street
Foley, AL 36535

Office 251.968.7551
Fax 251.968.2318
foley@volkert.com

July 6, 2010

www.volkert.com

**NRCS Stream Restorations, Agreement No. 69-4101-10
DSR No. DAP-09-001
Contract No. 968510.10**

Honorable Fred Small
Mayor
City of Daphne
1705 Main Street
Daphne, Alabama 36526

Subject: Recommendation of Bid Award "Phelps Project" Stream Restoration

Dear Mayor Small:

Enclosed please find the original envelopes, bid documents, and prequalification statements for the above referenced project. After reviewing the submitted proposals, we recommend that the project be awarded to North State Environmental, Inc., a Contractor who is licensed to do business in the State of Alabama, with a bid of \$109,441.61.

If you have any questions or comments, please call at your convenience.

Sincerely,

VOLKERT & ASSOCIATES, INC.

Andrew E. James, P.E.
Project Manager

CC: Suzanne Henson, file

Enclosures: Enclosed Bid Documents, Prequalification Statement
P:\Projects\968510 D'Olive Tributary\SPECIFICATIONS\Letter of Recommendation 7-6-10.doc

Office Locations:

Birmingham, Foley, Huntsville, Mobile, Alabama • Gainesville, Orlando, Pensacola, Tampa, Florida • Atlanta, Georgia
Collinsville, Illinois • Baton Rouge, Slidell, Louisiana • Biloxi, Mississippi • Jefferson City, Missouri • Raleigh, North Carolina
Chattanooga, Tennessee • Alexandria, Virginia • Washington, D.C.



CITY OF DAPHNE
2010-R-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION AT 111 WORCHESTER LOOP
DAP-09-001
Project 968510.10

Date: July 1, 2010 Engineer's Estimate: \$150,000
Time: 2:00pm
Place: City of Daph Finance

Present: Andy James, Volkert Engineering
Suzanne Henson, Sr. Accountant, City of Daphne

4 Bid Packages were picked up and 2 Bids were received

BIDDERS NAME	CONTRACTOR LICENSE #	BID BOND	ADDENDA ALL	PREQUALIFICATION PACKAGE	LUMP SUM BID AMOUNT
Southern Excavating	41375	X	X	X	128,719.75
North State Environmental	44069	X	X	X	109,441.61

Tabulated By: Andy James
Witnessed By: Suzanne Henson

RESOLUTION 2010 -

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

WHEREAS, the Department Heads of the City of Daphne have determined that the items listed below are no longer required for public or municipal purposes; and

WHEREAS, the items listed below are recommended for disposal.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Daphne that

- 1- The property listed below is hereby declared to be surplus property, and

DEPT	TAG/VEH#	DESCRIPTION	VIN # / SERIAL #
Recreation	213	1991 GMC PU TS 10803	1GTCS14Z3M8538821
Recycling	776	2000 MACK RECYCLE TRUCK	VG6BA09C2YB702299
Recycling	81	1997 FORD F800 TRK GARBAGE	1FDXF80E7VVA33106
Civic Center		Misc Planters & Plants	
Civic Center		Misc Vacuum Cleaners	
Civic Center		(10) Red Vinyl Chairs	
Civic Center		Modular Furniture and cocktail tables	

- 2- The Mayor is authorized to advertise and accept bids through Govdeals.com as contracted for the sale of such personal property, and
- 3- The Mayor is authorized to sell said property to the highest bidder and deposit any and all proceeds to the General Fund. The Mayor is further authorized to direct the disposition of any property which is not claimed by any bidder.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this _____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk CMC

RESOLUTION 2010 -

A RESOLUTION DECLARING CERTAIN PERSONAL PROPERTY SURPLUS AND AUTHORIZING DISPOSITION

WHEREAS, the City of Daphne Fire Department has determined that the Phoenix Cutters/Equipment (Jaws of Life) are no longer required for public or municipal purposes; and

WHEREAS, the Phoenix Cutters/Equipment (Jaws of Life) that was previously utilized in the City's Fire Department is no longer used by City; and

WHEREAS, the Phoenix Cutters/Equipment (Jaws of Life) has been recommended for surplus; and

WHEREAS, the Lottie Volunteer Fire Department has a need for this equipment

WHEREAS, this Phoenix Cutters/Equipment (Jaws of Life) will be donated "AS IS" and without warranty of any kind, express, or implied, and recipient will release, acquit, and hold the City harmless for any and all claims for damages, causes of action, for any purpose;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Daphne that

- 1- The following property is hereby declared to be surplus:
 - Phoenix Cutter – SN:4241
 - Phoenix Hose Reel – SN: 56164
 - Phoenix Long Ram
 - Phoenix Manifold
 - Phoenix Power Units: SN: 87011404 / 91030158 / 96010804
 - Phoenix Short Ram – SN: 48007
 - Phoenix Spreader – SN: 6245
 - Phoenix Spreader/Cutter – SN: 8040R

and

- 2- The Mayor is authorized to direct the donation of the above listed property to the Lottie Volunteer Fire Department.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this ____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk CMC

CIVIC CENTER EVENT: ZYDECO MUSIC FESTIVAL COMPARISON

	2005 ZYDECO	2006 ZYDECO	2007 COMBINED	2008 COMBINED	2009 FRIDAY	2009 SATURDAY & SUNDAY	2009 COMBINED	2010 FRIDAY	2010 SATURDAY	2010 COMBINED
Revenue:										
Tickets Sales (1002 sold...2008@ \$15; 1171 sold 2009 @ \$15; 727 sold 2010 @ \$20)	11,935.00	14,520.00	15,210.00	15,030.00	7,890.00	9,675.00	17,565.00	6,020.00	8,520.00	14,540.00
Sponsors	10,895.00	26,000.00	14,878.00	12,386.00	4,250.00	4,250.00	8,500.00	4,750.00	4,750.00	9,500.00
Grant - State of AL	-	-	1,500.00	-	-	-	-	-	-	-
Booth Rental	2,035.00	-	3,800.00	4,900.00	2,900.00	2,900.00	5,800.00	-	-	-
Equipment Rental	180.00	-	75.00	225.00	162.50	162.50	325.00	-	-	-
Concessions/Carnival Rides	2,896.86	667.00	378.00	-	-	-	-	-	-	-
Donations & Contribution	-	21.00	-	-	-	-	-	-	-	-
T-Shirt - (\$15), Towel, Hat & Bead Sales	1,506.00	2,248.95	3,130.30	4,490.00	1,717.50	1,717.50	3,435.00	591.00	570.00	1,161.00
Total Revenue	29,447.86	43,456.95	38,971.30	37,031.00	16,920.00	18,705.00	35,625.00	11,361.00	13,840.00	25,201.00
Expenses:										
City Labor (overtime, medicare, social security, retirement)	(4,260.28)	(4,732.21)	(13,168.21)	(12,387.56)	(2,268.34)	(9,564.00)	(11,832.34)	(2,103.36)	(2,355.42)	(4,458.78)
Contracted Services - Labor	(195.84)	(1,347.76)	-	(1,746.24)	(775.20)	(775.20)	(1,550.40)	(292.40)	(523.60)	(816.00)
Contracted Services - Audio	(5,800.00)	(7,250.00)	(6,900.00)	(8,032.00)	(2,500.00)	(5,000.00)	(7,500.00)	(2,500.00)	(2,500.00)	(5,000.00)
Contracted Services - Bands	(26,509.45)	(20,425.00)	(24,500.00)	(32,100.00)	(6,600.00)	(22,525.00)	(29,125.00)	(7,225.00)	(7,125.00)	(14,350.00)
Contracted Services - Dance Instruction	(2,375.00)	(2,925.00)	(2,200.00)	-	-	-	-	(158.00)	(158.00)	(316.00)
Hotels for Bands/Dance Instruction	-	-	(4,237.92)	(3,421.44)	(609.87)	(2,336.98)	(2,946.85)	(711.00)	(948.00)	(1,659.00)
Clown (182079-54440)	(17,784.23)	(7,525.81)	(12,712.67)	(11,577.20)	(5,660.64)	(5,660.64)	(11,321.28)	(1,081.25)	(1,081.25)	(2,162.50)
Promotional Advertising	-	-	-	(200.00)	-	(100.00)	(100.00)	-	-	-
Food (lunches for inmates)	-	-	(1,626.54)	(161.00)	-	(492.15)	(984.29)	-	-	-
Dumpsters & Portables	-	(926.56)	-	(1,753.34)	-	-	-	-	-	-
Concession Supplies (Drinks, chips, candy, plates, & bowls)	-	(1,611.93)	(7,594.88)	(7,733.85)	(4,198.34)	(4,198.34)	(8,396.67)	-	-	-
Rental (PODS, dance floor, tents, generators, rugs, & helium tan	-	(5,270.92)	(3,643.50)	(4,843.25)	(1,662.50)	(1,662.50)	(3,325.00)	-	-	-
T-Shirts	(5,249.66)	-	(1,438.53)	(2,434.60)	(185.07)	(185.07)	(370.13)	(1,051.70)	(1,051.70)	(2,103.40)
Beads, Rack Cards, Wrist Bands, Mask, Bags, Tissue, Sponsor	-	-	-	-	-	-	-	-	-	-
Total Expenses	(62,174.46)	(52,015.19)	(78,022.05)	(86,390.48)	(24,952.09)	(52,499.86)	(77,451.96)	(15,122.71)	(15,742.97)	(30,865.68)
Income Over/(Under) Expenses	(32,726.60)	(8,558.24)	(39,050.75)	(49,359.48)	(8,032.09)	(33,794.86)	(41,826.96)	(3,761.71)	(1,902.97)	(5,664.68)

TREASURER'S REPORT

As of June 30, 2010

TO: FINANCE COMMITTEE

FROM: KIMBERLY BRILEY, FINANCE DIRECTOR/TREASURER

<u>ACCT TITLE</u>	<u>BANK</u>	<u>BALANCE</u>
GENERAL FUND & ENTERPRISE FUNDS		
MMA ACCT	COMPASS	\$12,966,000.53
OPERATING ACCT	COMPASS	(\$396,615.88)
PAYROLL ACCT	COMPASS	(\$3,792.48)
		<u>\$12,565,592.17</u>
AGENCY FUNDS		
MUNICIPAL COURT	COMPASS	\$325,677.33
SPECIAL REVENUE FUNDS		
SAIL SITE	RBC BANK	\$4,620.70
4 CENT GAS TAX	RBC BANK	\$290,695.11
7 CENT GAS TAX	RBC BANK	\$327,370.41
		<u>\$622,686.22</u>
CAPITAL PROJECT FUNDS		
CAPITAL RESERVE	WACHOVIA	\$3,350,120.27
99 WARRANT CONS	REGIONS	\$1,335.13
2006 CONSTRUCTION	WACHOVIA	\$864,842.39
		<u>\$4,216,297.79</u>
DEBT SERVICE FUNDS		
DEBT SERVICE	WACHOVIA	\$1,438,847.63
2006 DEBT SERVICE	RBC BANK	\$958,151.82
		<u>\$2,396,999.45</u>
		<u>\$20,127,252.96</u>

SALES & USE TAXES

ACTUAL COLLECTIONS

	2003	2004	2005	2006	2007	2008	2009	2010	Actual- 2010	Budget	Monthlv Variance	YTD Variance	% of Budget
October	636,482.64	697,830.58	833,700.71	932,634.66	944,542.36	867,190.18	806,503.85	764,641.13	764,641.13	752,167	12,473.91	12,473.91	1.66%
November	646,534.10	710,798.74	814,666.03	901,512.38	918,837.95	915,890.97	801,075.91	761,955.37	761,955.37	755,932	6,023.04	18,496.95	0.80%
December	892,208.68	941,151.87	1,091,073.78	1,168,443.68	1,182,594.39	1,120,005.09	1,078,330.45	1,004,037.20	1,004,037.20	1,009,741	(5,703.96)	12,792.99	-0.56%
January	590,727.65	697,083.68	771,837.83	887,468.11	914,876.33	822,020.87	755,541.41	723,504.28	723,504.28	726,313	(2,808.27)	9,884.72	-0.39%
February	632,654.31	688,421.54	788,825.08	878,123.66	877,975.60	865,623.83	748,620.87	733,335.60	733,335.60	718,521	14,814.39	24,799.11	2.06%
March	705,390.20	848,156.86	917,832.17	1,081,774.83	1,071,598.38	998,616.04	863,535.78	916,657.55	916,657.55	855,846	60,811.23	85,610.34	7.11%
April	692,148.44	752,039.55	863,144.81	968,760.72	960,140.54	963,691.85	823,173.33	809,588.73	809,588.73	787,606	21,982.29	107,592.63	2.79%
May	702,692.15	757,610.49	867,446.44	1,000,424.48	1,021,498.14	957,167.20	829,099.81	862,254.54	862,254.54	793,355	68,899.39	176,492.02	8.68%
June	752,668.04	818,209.20	982,863.46	1,024,091.07	1,066,433.92	997,274.15	868,309.52	-	846,847	-	-	-	-
July	721,790.90	803,051.14	906,576.13	941,407.68	993,216.66	888,690.34	808,113.93	-	831,158	-	-	-	-
August	739,993.63	745,320.33	869,818.11	950,539.01	954,421.57	964,626.26	831,984.35	-	771,407	-	-	-	-
September	715,641.36	830,260.80	998,476.08	967,616.16	965,107.35	918,551.15	825,257.74	-	859,320	-	-	-	-
Totals	8,428,932.10	9,289,924.78	10,708,260.63	11,702,796.44	11,871,233.19	11,279,349.93	10,039,546.95	6,575,974.40	6,575,974.40	9,708,213	176,492.02		

FY 2010 BUDGET/ACTUAL COMPARISONS

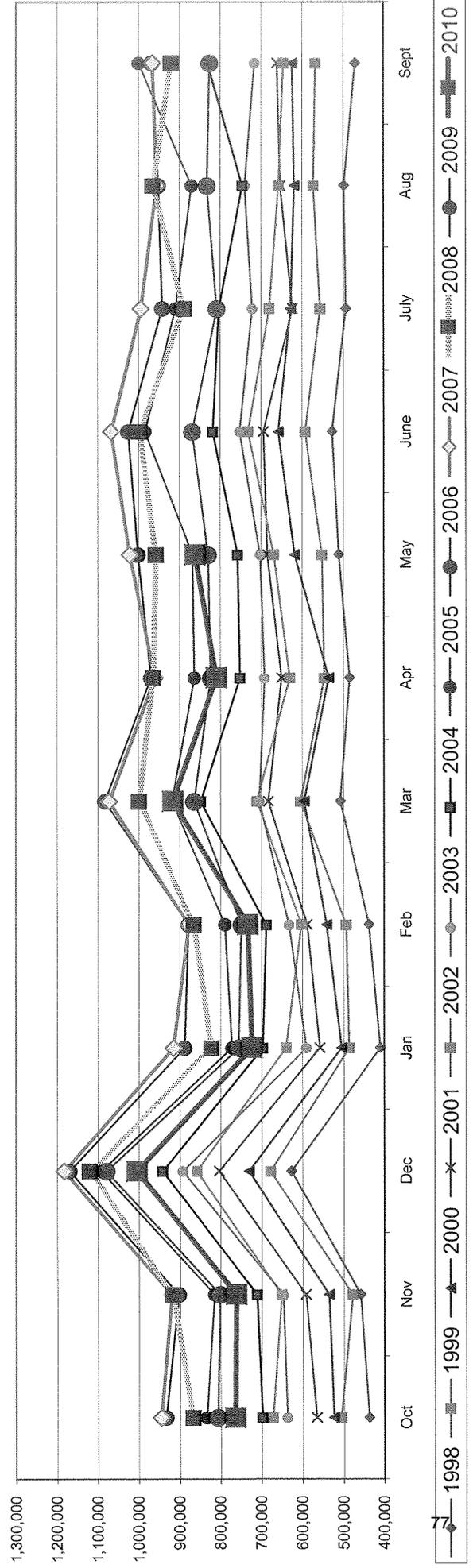
FISCAL YEAR COMPARISONS

	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2003-2010	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
October	61,347.94	135,870.13	98,933.95	11,907.70	(77,352.18)	(60,686.33)	(41,862.72)	(41,862.72)	19.47%	11.87%	1.28%	-8.19%	-7.00%	-5.19%
November	64,254.64	103,877.29	86,846.35	17,325.57	(2,946.98)	(114,815.06)	(39,120.54)	(39,120.54)	14.61%	10.66%	1.92%	-0.32%	-12.54%	-4.88%
December	48,943.19	149,921.91	77,369.90	14,140.71	(62,579.30)	(41,674.64)	(74,293.25)	(74,293.25)	15.93%	7.09%	1.21%	-5.29%	-3.72%	-8.89%
January	106,356.03	74,754.15	115,630.28	27,408.22	(92,855.46)	(66,479.46)	(32,037.13)	(32,037.13)	10.72%	14.98%	3.09%	-10.15%	-8.09%	-4.24%
February	55,767.23	100,403.54	89,298.58	(148.06)	(12,349.77)	(117,004.96)	(15,285.27)	(15,285.27)	14.58%	11.32%	-0.02%	-1.41%	-13.52%	-2.04%
March	142,766.66	69,675.31	163,942.66	(10,176.45)	(72,982.34)	(135,080.26)	53,121.77	53,121.77	8.21%	17.86%	-0.94%	-6.81%	-13.53%	6.15%
April	59,891.11	111,105.26	105,615.91	(8,620.18)	3,551.31	(140,518.52)	(13,584.60)	(13,584.60)	14.77%	12.24%	-0.89%	0.37%	-14.58%	-1.65%
May	54,918.34	109,835.95	132,978.04	21,073.66	(64,330.94)	(128,067.39)	33,154.73	33,154.73	14.50%	15.33%	2.11%	-6.30%	-13.38%	4.00%
June	65,541.16	164,654.26	41,227.61	42,342.85	(69,159.77)	(128,964.63)	-	-	20.12%	4.19%	4.13%	-6.49%	-12.93%	-
July	81,260.24	105,524.99	32,831.55	51,808.98	(104,526.32)	(80,576.41)	-	-	13.14%	3.61%	5.50%	-10.52%	-9.07%	-
August	5,326.70	124,497.78	80,720.90	3,882.56	(104,526.32)	(132,641.91)	-	-	16.70%	9.28%	0.41%	1.07%	-13.75%	-
September	114,619.44	168,215.28	(30,859.92)	(2,508.81)	(46,556.20)	(93,293.41)	-	-	20.26%	-3.09%	-0.26%	-4.82%	-10.16%	-
Annual \$ Change	860,992.68	1,418,335.85	994,535.81	168,436.75	(591,883.26)	(1,239,802.98)	(129,907.01)	(129,907.01)	15.27%	9.29%	1.44%	-4.99%	-10.99%	

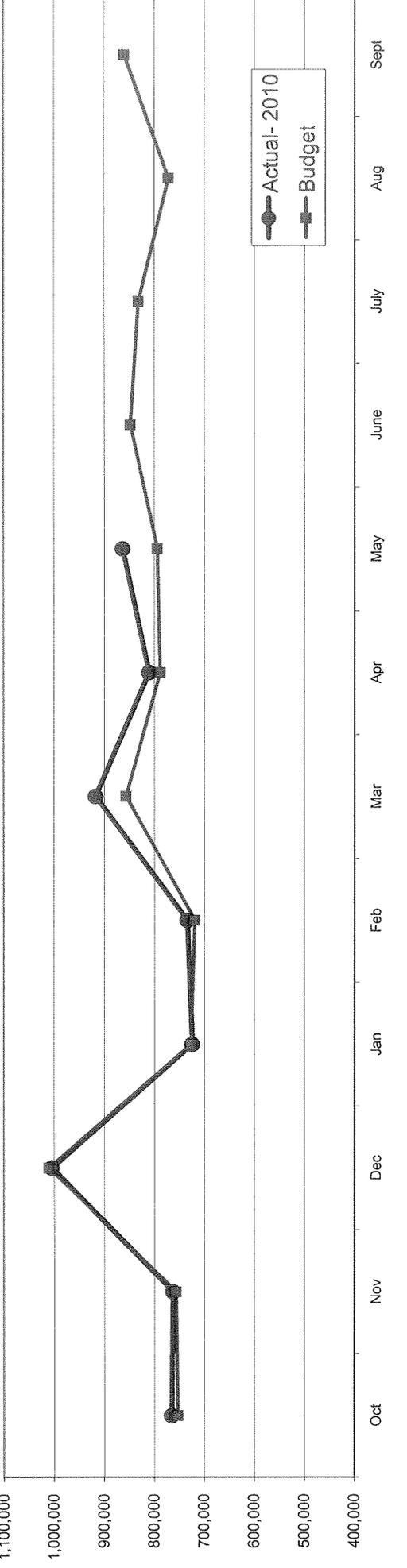
TOTAL collections: FY 09	10,039,547
TOTAL est. bdgt coll: FY 10	9,708,213
Budgeted Dollar Variance 08/09	(331,334)
Budgeted Percent Variance 08/09	-3.30%

TOTAL collections: 5-31-10	6,575,974
Budgeted: 10-1-09 to 5-31-10	6,399,482
Actual Coll-< Budget, 5-31-10	176,492
% Over/(Under) Budget, 5-31-10	2.76%

Sales & Use Tax Comparisons



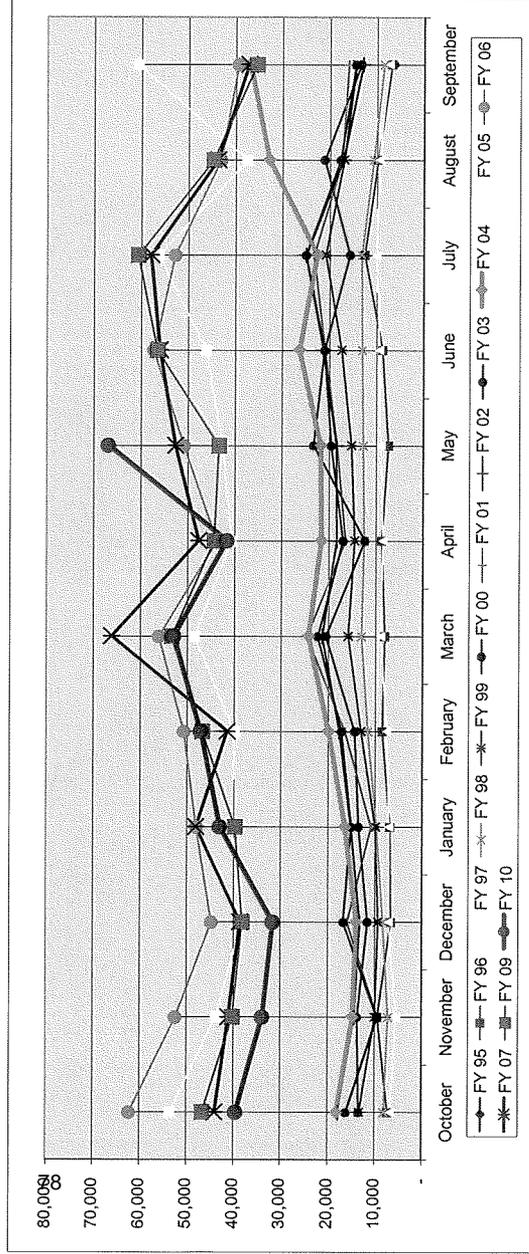
Fiscal 2010: Sales & Use Tax Budget vs. Actual Comparison



Monthly Lodging Tax Collections

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10
October	7,228.60	6,701.69	8,042.55	13,241.96	13,344.97	16,021.98	17,757.16	18,110.90	16,103.81	18,110.90	53,490.95	62,191.49	43,874.01	46,360.47	46,543.20	39,405.56
November	9,371.57	5,419.99	7,156.30	9,963.87	9,378.73	9,378.73	14,346.00	14,652.46	9,488.82	14,652.46	43,652.17	52,326.23	41,028.15	42,599.84	40,178.69	33,763.37
December	6,580.10	7,076.44	8,327.51	9,303.23	11,505.34	15,885.37	13,257.40	13,940.92	16,693.64	13,940.92	38,197.96	44,694.55	38,605.47	31,081.14	38,144.69	31,571.38
January	6,765.39	6,990.72	9,704.80	9,934.03	13,517.89	10,802.39	15,150.55	16,416.20	15,089.26	16,416.20	40,334.81	48,014.80	48,012.19	45,607.80	39,706.04	42,883.70
February	8,466.36	7,536.69	11,579.98	13,024.87	14,425.61	16,482.91	17,680.30	17,174.37	17,174.37	19,952.91	39,797.68	50,684.11	41,381.78	47,340.33	46,699.01	46,998.32
March	8,017.74	8,902.63	13,048.18	15,837.90	20,536.51	24,601.77	21,371.61	24,206.01	22,248.25	24,206.01	48,474.92	56,076.02	66,060.49	53,123.15	53,230.65	52,771.52
April	8,802.85	8,533.40	12,559.65	14,513.45	12,327.50	16,532.24	18,354.06	21,626.29	16,974.57	21,626.29	40,666.33	43,813.91	47,594.84	46,736.02	44,277.75	41,531.05
May	7,427.26	8,958.97	12,786.85	15,280.40	23,309.92	18,386.51	18,526.24	21,785.09	19,610.83	21,785.09	42,479.97	50,871.74	52,564.61	46,145.12	43,293.74	66,820.96
June	12,568.56	9,359.82	13,101.68	17,379.01	21,073.57	20,948.57	21,322.07	26,336.81	21,031.35	26,336.81	46,037.59	57,338.25	55,924.22	64,626.19	56,494.11	60,619.78
July	8,672.68	9,975.46	13,200.77	20,840.98	15,680.49	23,389.72	25,013.71	22,654.15	25,026.81	22,654.15	56,266.23	52,752.31	57,842.80	62,035.23	60,619.78	60,619.78
August	9,721.13	9,549.66	10,730.24	17,009.26	21,117.00	17,432.39	17,223.03	32,788.35	17,749.12	32,788.35	37,501.21	43,139.77	43,701.41	55,792.89	44,636.82	44,636.82
September	6,371.27	6,806.02	7,400.70	8,586.97	14,397.17	13,393.86	16,116.04	12,997.80	14,563.86	36,847.13	60,635.33	39,398.90	37,180.99	49,698.91	35,430.62	35,430.62
Total	6,371.27	100,428.26	96,406.17	128,825.48	170,726.13	193,945.54	205,978.62	212,999.73	211,754.69	269,317.22	547,535.15	601,302.88	573,770.96	591,147.09	549,255.30	355,745.86

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



FY 2010 Budget
545,000
% Budget Collected,
5/31/2010
65%

NEW BUSINESSES

June-10

CITY LIMITS		CONTRACTORS	
OCD SERVICES	1	J&D CONSTRUCTION	1
ONIN STAFFING	1	CLEAN IMAGE PRO WASH	1
ARBORS BY THE BAY	1	HUGHLEY ELECTRICAL	1
THE PARLOR	1	BIG K HOUSE MOVERS & LEVELERS	1
CLEAR IMAGE	1	DUANE CARNOVALE REPAIR SERVICE	1
DAVID A HORTON ATTORNEY	1	FLUID FLOORS, INC	1
DAPHNE COMPUTER CLINIC	1	ALL SAFE TECHNOLOGIES, LLC	1
LEGACY STUDIOS	1	SHEWMAKER CONSTRUCTION	1
JUBILEE DENTISTRY, LLC	1	TOTAL CONTRACTORS	8
TOTAL CITY LIMITS	9		
OUTSIDE CITY LIMITS		INSURANCE COMPANIES	
MACQUARIE EQUIPMENT FUNDING	1	NATIONAL INTERSTATE INS CO	1
PIEDMONT NATIONAL	1	TOTAL INSURANCE	1
SERVPRO OF SOUTH ALABAMA	1	TOTAL NEW BUSINESSES	37
CONSTRUCTIVE PLAYTHINGS LLC	1	CLOSED BUSINESSES IN DAPHNE	
DIXIE DATA BUSINESS PRODUCTS	1	US GOLF	1
CHRYSLER GROUP GLOBAL ELECTRIC MOTORCARS LLC	1	TOTAL CLOSED BUSINESSES IN DAPHNE	1
APPLIED AIR ENGINEERING, INC	1		
KLS MARTIN L.P.	1		
WYETH LLC	1		
SEITON, KELLI	1		
HOMEFILTERS.COM	1		
PRESSURE WASHING BY MICHAEL	1		
CHIPPENHOOK SERVICES LLC	1		
CRITICAL COMPONENTS INC	1		
ESTES TECH OF MO	1		
PLAYTIME PLAYGROUND EQUIPMENT	1		
THE NRA FOUNDATION, INC	1		
VERIZON BUSINESS PURCHASING, INC	1		
VADIUM GROUP CORP	1		
TOTAL OUTSIDE CITY LIMITS	19		

Buildings & Property Committee Meeting
Tuesday, July 6, 2010 5:00 PM
Daphne City Hall

Committee

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

Committee Minutes (Summary)

Present: Councilman John Lake, Mayor Fred Small, Frank Barnett, Maintenance Supervisor, Margaret Thigpen, Civic Center Director, Jane Robbins, Al Guarisco, Ashley Campbell, Richard Merchant, Building Inspection Department.

Meeting began around 5:20 pm.

Minutes from June Meeting: Motion made to approve minutes from June Meeting. Approved.

Nicholson Center – Kathy Ebbitt, citizen, presented ideas for the use of the Nicholson Center owned by the City. After discussing with several people in this area it has been suggested that Daphne form a theater group and they could hold their productions at the Nicholson Center. It could be similar to Theatre 98 in Fairhope. It could be available for a children’s theater program. If the city could donate the use of the building until the Board could get its feet on the ground and then perhaps at some point pay the city for the use of the building.

Kathy also mentioned that a local college would be interested in holding classes there as well.

Ed Beck, citizen, lives behind the building and is interested in preserving this historical building and making sure it is used for the community. Mr. Beck asked the city had any plans of getting rid of this facility and John Lake said he couldn’t imagine why the city would do that because it is such an asset.

Mr. Beck said there are so many people that walk in that area daily and suggested that we put an arboretum or perhaps a community garden similar to what other cities are doing.

Mayor Small asked her to put together a comprehensive plan, ideas, task force, etc. and bring back to the committee for review.

Meador Property - Ashley Campbell gave update on this property. Misty Gray with Ross, Jordan and Gray (city attorney) performed a title search which was clear and prepared a resolution and warranty deed to accept this property. It has a \$12,000 value and Ashley is asking for council's approval to accept the donation of this property located at 136 Caroline Avenue. **Motion: John Lake made motion that this go to council for approval at the July 19th council meeting.**

Civic Center – Margaret Thigpen, Director, reported an event cancellation because of the oil spill. The organization, 2010 Open Spear Fishing Rodeo, is asking for a refund of their deposit which is \$340. **Motion: John Lake made motion that the committee refund this group their deposit of \$340 for rental of Bayfront.**

Margaret reported at the last meeting that the legs on the tables at Civic Center were coming apart and would need replacing. She distributed (attached) a breakdown of costs related to repairing and replacing the legs on the tables. \$10,000 for leg replacement only for a total of 127 tables. **Motion: John Lake made motion to take this request to the Finance Committee for consideration as there are no funds in the Civic Center budget to take care of the expense.**

Margaret reported on the revenue for Civic Center and Bayfront. Year End numbers projected for Civic Center is \$283,744 and \$56,343 for Bayfront. YTD is down for Civic Center for several reasons. Attendance for Zydeco was down, the economy in general and also some Mardi Gras groups that normally have dances at Civic Center did not happen. YTD is up for Bayfront and can be attributed to the "face lift" the facility has had this year and its affordability. Additional work is to be done on Bayfront (painting, window treatment). The Mayor **asked Richard to get prices on replacing the windows at Bayfront – the view is beautiful and if there were windows that did not fog up because of air on inside and heat from outside people would be able to see the beautiful view.**

Margaret distributed the section of the Civic Center Ordinance that addresses the fees for Civic Center and Bayfront. She asked that these proposed changes go before council for approval as soon as possible. Bookings are being made already in 2011 and we are leaving money on the table so to speak. She would like to go before the work session next week in hopes of getting approval for price changes on July 19th council meeting.

Proposed Sign for Civic Center – Frank Barnett distributed three quotes – he still is waiting on additional specs from one of the sign companies. He will have his recommendation at the next meeting.

Building Inspection Monthly Reports – June reports show 80 permits for the month, had 4 new residential starts for the month. For July already have 3 new residential starts ready to permit. Reports distributed.

Al Guarisco asked for some work to be done at the Bache court – some resurfacings of the court, some umbrellas or protective covering from the heat and asked about playing under the pavilion at Bayfront – it is just one morning per week. The Mayor asked Frank to look into repairing the surface, putting down in-door out-door carpet, some bleachers/seating and a cover over the area and report back what the costs would be.

Meeting Adjourned 6:15 p.m.

Public Safety Committee

Wednesday, July 14, 2010

Councilman Greg Burnam, Chairman
Councilman Gus Palumbo
Councilman Derek Boulware
Fire Chief James White
PW Sup. Interim Melvin McCarley

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

Committee Members Attending:

Councilman Greg Burnam, Councilman Derek Boulware, Councilman Gus Palumbo, Chief David Carpenter, Lt. Jud Beedy, Chief James White, Public Works Interim Melvin McCarley.

CALL TO ORDER

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

PUBLIC PARTICIPATION –

Cheri Forte of 1260 Patrick Street in Potter's Mill and secretary of the Potter's Mill Homeowners Association was in attendance and passed out a memorandum for record to all in attendance (attached). Her concern was the removal of the stop sign in Potter's Mill after last month's PSC meeting. Her concern was "what were they to do about speeding in Potters Mill"? She stated that the stop sign had helped and that we removed it after the June 9th PSC meeting. We explained to her that Lisa Martin was in attendance last month complaining that the sign was an eyesore and was visible from her bay window. Captain Bell agreed with her after visiting the site of the sign and it was unanimously voted to remove the sign. Mr. Shebert, who is the chairman of the Potters Mill Homeowners Association and lives at 1261 Frances Street, stated that it is not a neighborhood issue but a Public Safety issue. He doesn't think that the sign should have ever been removed just because of one homeowner complaint. Councilman Burnam asked Ms. Forte if traffic had increased since last month's removal of the stop sign. She stated that since school is out for the summer that traffic has actually decreased but that when it started back up they would be in the same predicament. Ms. Westbrook, who lives at 412 Potters Mill Avenue, stated that teenagers are home for the summer and speeding through the neighborhood. Ms. Forte stated that the petition that was signed some years ago petitioning for a stop sign was signed by all in Potters Mill for a stop sign to be on the main thoroughfare. Melvin McCarley said that anywhere you place another stop sign Potters Mill Avenue, it will be right in front of someone's house just like the location of the first stop sign. It's just the way the streets and property are laid out. Ms. Forte asked about a speed hump and Chief White stated that they are not liked by Public Safety due to hampering response time and he also stated that once a car travels over a speed hump they are going to speed up again on the other side to make up for lost time. Melvin said that the cost of a concrete speed hump is about \$6000 and a rubber speed hump is approximately \$2500. Mr. Shebert said he was not sure about speed humps being placed in Potters Mill because they are not attractive. His thoughts were that a stop sign would be more attractive to the neighborhood. Ms. Forte said that our stop sign was unsightly and that the HOA could buy a decorative one if the Public Safety Committee approves it. Melvin said new federal regulations will not allow the smaller signs any longer. Melvin stated he would work with them on placing the sign on a decorative post. Councilman Boulware made a motion that he was in agreement to place the stop sign back on Potters Mill Avenue. Councilman Palumbo seconded and Councilman Burnam voted "nay". The HOA will buy the sign and post and Public Works will install for them.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Minutes from June 2010 Meeting – approved minutes for the month of June 2010. Councilman Burnam made a motion to approve the minutes with a few minor changes. Councilman Boulware seconded. The motion passed.



FIRE DEPARTMENT

- A. **New Business** –Chief White passed out flyers for the “Tournament of Hoses” softball tournament that they are sponsoring September 18, 2010. He advised that the department made \$4200 on the boot drive. Chief went over the stats and answered a few questions on the house fire in Timbercreek.

- B. **Old Business**

POLICE DEPARTMENT

- A. **New Business** – Chief Carpenter went over the stats and D runs. He informed all present that he has started the budget process. He also let them know that the Crown Vics are no longer available and that Captain Bell had been looking at the Tahoe’s in Hoover, Alabama. He advised that he might even purchase some of their used Tahoe’s that they are getting rid of and that they come fully equipped. Councilman Palumbo questioned the speed counters giving high readings on roads that are nearly impossible to reach those speeds and Lt. Beedy explained that dual axle vehicles or trailers will give that false reading.

- B. **Old Business**

OTHER BUSINESS

ADJOURN

There being no further business to discuss, Mr. Burnam adjourned the meeting at 5:45 p.m. The next meeting will be Wednesday, August 11, 2010 at 4:30 p.m. at City Hall Council Chambers.

Respectfully submitted,
Daphne Public Safety Committee

**Potter's Mill Owners Association
P.O. Box 2746
Daphne, Al 365236**

MEMORANDIUM FOR THE RECORD
JULY 14, 2010 DAPHNE TRAFFIC SAFETY COMMITTEE MEETING

I am writing this memo to set the record straight.

When I appeared before the Traffic Safety Committee it was not as a individual, but as an officer of the Potter's Mill Homeowners Association. The official minutes of previous meetings of the Traffic Safety Committee refer to me as simply "a homeowner in Potter's Mill."

The Potter's Mill Homeowners Association has worked for three years to find a solution to reduce speeding through our community. The first successful action was to reduce the speed limit from 30 to 25 MPH. Later, a traffic study proved that there was still a problem of excessive speeding through our community.

Solutions considered by the Traffic Safety Committee were: speed bump/humps, 3-Way Stop Signs, and increased patrols.

After considerable discussion, the Traffic Safety Committee decided that the least costly and most effective solution was the placement of 3-Way Stop Signs at the intersection of Potter's Mill Ave. and Patrick St. The signs were installed on December 21, 2009 and achieved the goal to slow traffic. Increased patrols in our community also helped slow speeders.

To our total amazement, the 3-Way Stop Signs were removed without warning on June 10, 2010. After several phone calls to find out why, we were told by Captain Bell that the signs were removed at the request of the Mayor. Later we learned that one homeowner in Potter's Mill appeared before the Traffic Safety Committee June 9, 2010, and was unhappy that the sign was in her "front yard." It wasn't "in" her front yard, but on the parking strip in front of her house. She acknowledged that the signs were effective. She just doesn't want them in front of her house. The official minutes of that meeting further state that Captain Bell looked at the sign and said "it was unsightly." The Traffic Safety Committee voted unanimously to remove the signs. It is unbelievable that traffic safety signs can be ordered removed simply because they are "unsightly."

This committee approved a traffic study to document there was a problem. The initial solution of 3-Way Stop signs satisfied our requirements and solved the problem.

We, the homeowners association, are truly astonished that one unhappy homeowner can override three years of going through the proper channels that came up with a solution to the documented problem. With the removal of the Stop signs, the problem is back again! The only solution now is for the Traffic Safety Committee to approve a speed table/bump/hump on Potter's Mill Ave. We trust you will act on this as quickly as you acted to remove the stop signs.

Cheri Forte
Secretary, Potter's Mill Owners Association

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

	Current:	FY to Date:
Suppression:		
1-Fire/Explosion:	-	-
10-Fire, Other	1	3
11-Structure Fire/Commercial	1	4
11-Structure Fire/Residential	3	12
12-Fire in Mobile Property used as fixed structure	0	0
13-Mobile Property (vehicle) Fire	2	8
14-Natural Vegetation Fire	0	6
15-Outside Rubbish Fire	0	2
16-Special Outside Fire	0	4
17-Cultivated Vegetable Crop Fire	0	0
2-Overpressure Rupture:	0	1
3-Rescue Call and Emergency Medical Service Incidents:	155	749
4-Hazardous Conditions (No fire):	2	11
5-Service Call:	19	127
6-Good Intent Call:	15	82
7-False Alarm & False Call:	18	77
8-Severe Weather & Natural Disaster:	1	1
9-Other Situation:	0	0
Total Emergency Calls:	217	1067
Monthly Total Calls:	224	1109
Highest:		
	13	13
Lowest:		
	<1	<1
Average (Minutes/Seconds) :		
	4:49	4:49
Miscellaneous Reports:		
Training Hours	66.50	1014.50
Property Loss - \$	7275.00	223,792
Fire Personnel Injuries by Fire/Civilian Injuries by Fire	0	0
Advance Life Support Rescues	98	430
Number of Patients Treated	158	722
Child Passenger Safety Seat Inspections/Installations	21	76
Classes		
	4	16
Persons Attending		
	1356	2069
Plan Reviews		
	3	13
Final/Certificate of Occupancy		
	0	1
General/Annual Inspections		
	2	60
General/Re-Inspections (Violation Follow-up - Annual)		
	19	44
Business Licenses		
	5	22
Consultations-		
	0	0
All Other/Misc. Activities		
	0	0
Total Activities:	79	540

Authorized by:

James White

Chief James White

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	1,041	# New Cases Received:	71	Total Arrestees Received & Processed:	226	1,552			Arson	0
# Misd. Arrests	62	# Previous Unsolved Cases:	168	Arrestees by Agency:			#Complaints	67	Burglary – Commercial	1
# Felony Arrests	9	# Cases Solved:	49	Daphne PD	134	991	#Follow-ups	96	Burglary – Residence	9
DUI Arrests	13	Resulting in Total Arrests:	12	BCSO	12	144	#Citations	3	Burglary - Vehicle	2
Alias Warrant Arrests	33	Felonies:	10	Spanish Fort PD	64	321	#Warnings	12	Criminal Mischief	11
Citations	394	Misdemeanors:	2	Silverhill PD	8	67	#Felines Captured	41	Disorderly Conduct	1
Close Patrols	479	Houses Searched	0	Troopers	8	27	#Canines Captured	40	Domestic Disturbance	13
Warnings	50			Other Agencies	0	2	#Other Captured	11	False Info to Police	2
Motorist Assists	220						#Returned to Owner	19	Felony Assault	0
Roadway Accidents	68	Warrants:					#Adopted Out	15	Felony Theft	20
Private Property Accidents	12	Bettner Served	49				#Euthanized	30	Harassment	7
Traffic Homicide	0	Agency Assists	17	Highest	43				Identity Theft	3
		Recalls (Pd Fines)	18	Lowest	29				Indecent Exposure	0
DRUG REPORT		Total Warrants Served	84						Kidnapping	0
ROUTINE PATROL/SPECIAL OPS				Meals Served	3,024	21,940			Menacing	1
		Sex Offender:		Medical Cost	\$2,392.03	\$21,869.69			Misdemeanor Assault	3
# Misd. Marijuana Arrest	1	New Registration:	1	Worker Inmate Hours	1,010	6,881			Misdemeanor Theft	24
# Felony Marijuana Arrest	3	Contact Verification	2						Murder	0
# Controlled Substance Arrest:	0	Total # registered in Daphne	3						Other Death Investigations	2
# Drug Paraphernalia Arrest	0	DARE:							Public Intoxication	0
Vehicles Searched	31	# Hours Report Writing:	3						Public Lewdness	0
		# Students Instructed SRO	1,400						Receiving Stolen Property	0
Drugs Seized:	0	# Students Instructed DARE	50						Reckless Endangerment	0
Type:	0	# Police Reports by SRO	1						Resisting Arrest	0
Money Seized	0	# Arrest by SRO	1						Robbery	0
Vehicles Seized	0								Sex Crime Investigations	0
		CODE ENFORCEMENT:							Suicide	0
Commercial Vehicle Inspections	5	Warnings:	9						Suicide, attempted	4
		Citations	4						Theft of Services	0
		Warning Compliance	17						Unauthorized Use of Services	0
		Follow – Up	27						Weapon Offenses	0
									White Collar Crimes	4

<i>Approved by:</i>				<i>David Carpenter, Chief of Police</i>						

Ordinance Committee

*Wednesday, June 9, 2010
City Hall Council Chambers
5:30 p.m.*

*Councilman Greg Burnam
Councilman Gus Palumbo
Councilman Derek Boulware*

I. CALL TO ORDER/MEMBERS PRESENT

Members Present: Greg Burnam, Gus Palumbo, and Derek Boulware

Others Present: David Cohen, Rick Yelding, and Danny Bell

II. PUBLIC PARTICIPATION

None

III. ORDINANCE REVIEW/DISCUSSION

a. Court Fines

Motion by Mr. Boulware Seconded by Mr. Burnam To add failure to restrain dogs to page 21 of the propose MOT. Ordinance.

ALL IN FAVOR NONE OPPOSED MOTION CARRIED

b. Animal Control

The committee reviewed proposed ordinance and asked that it be brought back to ordinance committee next month.

IV. OTHER BUSINESS

None

V. ADJOURN

Motion by Mr. Boulware Seconded by Mr. Burnam To adjourn at 6:20 P.M.

ALL IN FAVOR NONE OPPOSED MOTION CARRIED

CITY OF DAPHNE
PUBLIC WORKS COMMITTEE MEETING
Time: 8:00 AM on May 28, 2010
Location: City Hall Council Chambers

CHAIRMAN - Councilman Bailey Yelding, District 1
Councilwoman Cathy Barnette, District 2
Councilman John Lake, District 3

I. CALL TO ORDER

The January meeting of the Public Works Committee was called to order at 8:05 a.m.

Present: Councilman Bailey Yelding, Councilman John Lake, Mayor Fred Small, William H. Eady, Sr.–Public Works Director, Melvin McCarley–PW Superintendent, Tracey Miller–Solid Waste Coordinator, Jaye Robertson–HMR, Tim Lawley–HMR, Larry Hoover–Team Green Recycling, Jason Hoover–Team Green Recycling, Dorothy Morrison–DBC

II. PUBLIC PARTICIPATION & CORRESPONDENCE

- A. **Work Request Report** – April 2010 reports reviewed. Councilman Lake commented that the report shows the age of our current fleet. Street light repairs – Should look into solar powered street lights and have battery that would hold lights for 4 days. UV lighting could save on utility bills.
- B. **Vehicle/Equipment Maintenance Report** – April 2010 reports reviewed.
- C. **Correspondence** – Ronny Champion Baldwin Press – May 5, 2010
- D. **Correspondence** – Candice Bishop Baldwin Press – April 26, 2010
- E. **Public Participation** – Cooper Smith @ 27608 Cahaba Drive (Sehoy Subdivision) Mr. Cooper Smith appeared before the committee to request a turn lane at the entrance of Sehoy Subdivision due to increased traffic on CR13. Councilman Yelding stated that a traffic study would need to be conducted. Mr. Smith stated that he is a safety person. It is his opinion that someone will probably killed if something is not done. Councilman Lake asked if a traffic study has been completed. Mayor Small stated that if the county opens up CR13, that would result in two lanes. Tiawasse Trace put their turn lane in when they did the resurfacing. Mayor Small would like to see a caution light put in. Mr. Smith stated that anything that the committee could do would be appreciated. Mr. Eady said that he would look at the location. There are 2-3 problems. French Settlement not requesting to put in two exits; second problem is a sight problem coming over the hill; and long-range, a traffic light will be needed. They are so close that there is not enough room for turn lanes.
- F. **Public Participation** – Frances Harold (Victoria Square Subdivision) appeared before the committee to request sidewalks in her subdivision. Residents have to cross 4 lanes to get to sidewalks. Elise Mead has lived in Victoria Square for 10 years and agrees with Frances. The speed limit has been decreased, but there are a lot of kids that play in the subdivision. Mayor Small requested that the engineers check into costs and feasibility. The problem is usually that we don't have enough right-of-way. Councilman Lake suggested that the engineers look at putting a barrier in. Councilman Yelding stated that we need to determine first if there is adequate right-of-way.

III. OLD BUSINESS

- A. **Minutes** – April 23, 2010 **Councilman Lake made a motion to accept the minutes, motion seconded by Councilman Yelding.**
- B. **Mosquito Reports** – May 2010. Councilman Yelding asked about the tracking system used on the mosquito truck. He wanted to know if there was one on the street sweeper. Mayor Small recommended that a device be installed so we can track where it goes. Councilman Lake commented that Sea Cliff is still not being sprayed for mosquitoes.

Melvin replied that some streets cannot be sprayed because of allergic reactions. Councilman Lake requested a report on that.

IV. NEW BUSINESS

- A. Mr. Eady reported that a principal at one of Daphne's schools called and stated that they were having a problem with buses turning right off Whispering Pines Road. They requested a sensor on the road because buses are not permitted to turn right on red lights. Councilman Yelding asked what the sensor would do. Councilman Lake said that right now we really need to decide if this is a "want" or a "need". Mayor Small added that the county is getting ready to do some work. We need to get with them on this before school starts back up in August.
- B. Mr. Eady reported that Mr Lett's property has been flooding @ highway 64. We need to lower the east pipe going into the Sugar Kettle Restaurant. This can be handled by Public Works. Councilman Yelding stated that he has been requesting help for this for quite a while. Mr. Eady said that if Public Works does the work, the cost would be low. It would cost about \$12,000 if a contractor was hired to do the work.

V. DIRECTOR'S REPORT

- A. Whispering Pines – Loop Installation. Mr Eady handed out a progress report on the Whispering Pines project. He asked if there were any questions for Jaye. He stated that the contractors are doing a good job.
- B. Work will start on Captain O'Neal project on Tuesday.
- C. Denise and 10 Public Works employees attended a training class yesterday.
- D. Public Works Day – We had a very good turnout for the event. 1,000-1,200 people attended. Look forward to doing it again next year.

VI. SOLID WASTE AUTHORITY

- A. Team Green Recycling – Larry Hoover has had several conversations with the landfill to take all the recycling out of its garbage. He stated that he was here today to see how they can take over recycling. He discussed a Work Lease Agreement, curbside pickup (charge the City a fee) and/or pick up truck and pay a percentage. Councilman Yelding suggested that he put together some options for the City to review. He will follow-up with Public Works when he has options prepared.

VII. MUSEUM COMMITTEE

- A. Minutes – April 12, 2010

VIII. BEAUTIFICATION COMMITTEE

- A. Minutes – May 7, 2010
- B. Top 10 list –
- C. DBC Update – Dorothy Morrison wanted to know how and when we are going to get the rest of the tree cut down at Centennial Park. Mayor Small said that we need to get the stump removed so we can move forward with the gazebo. Councilman Lake commented that it would be nice to use the wood from the tree to make a bench. Mayor Small said that he would see to it that the tree stump is removed. **Councilman Lake made a motion that a study be done for the building of a gazebo; motion seconded by Councilman Yelding.**
- D. Dorothy stated that the flags will be up before July 4th.

IX. ENGINEER REPORT

- A. **HMR Update** – None
- B. **Volkert Update** – None

V. **FUTURE BUSINESS**

A. Next Meeting – June 25, 2010

XI. **ADJOURNMENT**

The meeting adjourned at 9:05AM. **Councilman Lake made a motion to adjourn. Motion seconded by Councilman Yelding.**

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**CITY OF DAPHNE
PUBLIC WORKS COMMITTEE MEETING**

Time: 8:00 AM on June 25, 2010

Location: City Hall Council Chambers

CHAIRMAN - Councilman Bailey Yelding, District 1

Councilwoman Cathy Barnette, District 2

Councilman John Lake, District 3

I. CALL TO ORDER

The January meeting of the Public Works Committee was called to order at 8:05 a.m.

Present: Councilman Bailey Yelding, Councilman John Lake, Mayor Fred Small, Melvin McCarley–PW Superintendent, Tracey Miller–Solid Waste Coordinator, Jaye Robertson–HMR, Tim Lawley-HMR, Dorothy Morrison-DBC

II. PUBLIC PARTICIPATION & CORRESPONDENCE

- A. **Work Request Report** – May 2010 reports reviewed.
- B. **Vehicle/Equipment Maintenance Report** – May 2010 reports reviewed. Non-routine maintenance is down. YTD numbers are not being reported. Sandi to get with Duke to ensure that YTD numbers are included in the future.
- C. **Correspondence** – None
- D. **Public Participation** – None

III. OLD BUSINESS

- A. **Minutes** – May 28, 2010 **Councilman Lake made a motion to accept the minutes, motion seconded by Councilman Yelding.**
- B. **Mosquito Reports** – May/May 2010. Melvin spoke with Margie Bellue about spraying in apartment complexes and condos. They were not being sprayed due to allergies. She has been instructed to include these in her spraying route. Sea Cliff condos have been sprayed several times since the previous meeting.

IV. NEW BUSINESS

- A. Mayor Small would like to see a tracking device installed on the street sweeper similar to the tracking system on the mosquito truck. Sandi commented that there is a tracking system on the street sweeper and she will start getting these reports from the street department.
- B. **Oil Spill Classes** – 18 additional employees completed Oil Spill training class. One or two more classes and all of Public Work’s employees will be trained.
- C. **Ridgewood Drive Drainage Repairs** – proposal is included in packet. Estimated costs per HMR. Engineers passed out maps. Mayor Small to review.
- D. **Randall Avenue Sidewalks** – See engineering report.
- E. Councilman Lake commented that the condo association is going to submit a petition asking for a stop light at Yacht Club Drive and Academy Drive and Hwy 98. It was brought up at the condo association meeting last month. They are sending out a petition letter for everyone to sign and they are going to send it to the Mayor. Mayor Small commented that this is a terrible intersection. Another intersection that needs to be looked at is Randall Avenue and Hwy 98. The state highway told them that they could not do it. Mayor Small stated that the state would have to do it because it is a state highway. It may be a situation where we have to go in with them 50/50. Another thing to look at is that we need to continue on with Windsor Drive out to Hwy 98. Councilman Lake said another option to look at would be to bring Windsor Drive all the way out to Academy Drive. There was some debate as to whether the City still maintains the ROW there. Councilman Lake suggested that we swap some of the ROW from Academy Drive with the ROW on

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Windsor Drive. He suggested that we get the engineers to take a look at it. Mayor Small said that we need to check with the state about putting a light at Academy Drive and Yacht Club Drive. Councilman Lake requested that the City write a letter to the highway department and suggest a traffic signal at the intersection at Yacht Club Drive. Mayor Small stated that Melvin will need to get a traffic study conducted first. Once we get that traffic study, then we can get that to ALDOT. Then ALDOT can make a determination. **Motion made by Councilman Lake to conduct traffic study and contact ALDOT regarding a traffic signal at this location. Motion seconded by Councilman Yelding.**

V. DIRECTOR'S REPORT

- A. Mosquito Spraying – Sea Cliff and other complexes. Spraying is being done in complexes.
- B. Flashing Safety Light – CR13 @ Sehay. Melvin McCarley reported that a light has been placed on the NB side per the committee's recommendation.

VI. SOLID WASTE AUTHORITY

- A.

VII. MUSEUM COMMITTEE

- A. Minutes – May 10, 2010

VIII. BEAUTIFICATION COMMITTEE

- A. Minutes – June 5, 2010
- B. Top 10 list – June 2010
- C. DBC Update –

IX. ENGINEER REPORT

- A. **HMR Update** – Randall Avenue Sidewalks. Jaye reported on pricing estimates for project. Pricing included in packet. Construction cost estimated at \$200,000-\$215,000. Testing cost estimated at \$4,200. Survey, design and construction surveillance cost estimated at \$32,000. Mayor Small stated that we need a traffic light at that location. Councilman Yelding commented that the City should be designed for the safety of its citizens. Tim Lawley said that it would tie in with Lenny's and extend north on the Southbound side. We will require more easement. There are large oak trees and a ditch to consider. HMR is proposing 6' sidewalks, but we may need to go with 5'. Melvin McCarley commented that a lot of people walk and job along that stretch of road. Jaye stated that there is a 40' ROW. Need to do something about that. There will need to be some drainage work and pipes put in. Mayor Small stated that we should look into doing the work in-house. Mayor Small stated that he would like to see the worksheet that Jaye used to arrive at these numbers. He added that the City had been doing a good job putting in sidewalks for a while, and we need to get back on that and continue putting in sidewalks. Councilman Lake stated that every year there should be money budgeted for at least one mile of sidewalks. Councilman Lake would like to see a sidewalk put in the median from Windsor to Ridgewood just to show which it would be like. All the trees wouldn't have to be cut down. Mayor Small stated that the bond issue needs to be revisited. Everybody in Lake Forest wants underground utilities and curbing. It would take an estimated \$8,000 per household in tax dollars to satisfy bond. That's the only way to resolve it. Mayor Small said that it would require a vote of the POA. Councilman Lake said to pick a high volume area where people will see the benefits and that might change their attitudes. There is a lot of foot traffic on that road.

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- B. **HMR Update** – Canterbury / CR 13. Waiting on bid through ALDOT. That is the hold up. Should be ready to move forward next month. Councilman Yelding asked if a ditch/drainage on the south side was in the plans. Need to extend pipes.
- C. **HMR Update** – Whispering Pines Paving. Working on last section. The road will be open this weekend for the tournaments. Next the will start smoothing out the surface and start working on the round-a-bout. Riviera moved their poles.
- D. **Volkert Update** – None

V. FUTURE BUSINESS

- A. Next Meeting – August 15, 2010
- B. **Motion made by councilman Lake to change meeting date to third Monday of the month at 5:30 PM. Motion seconded by Councilman Yelding.**

XI. ADJOURNMENT

The meeting adjourned at 9:05AM. **Councilman Lake made a motion to adjourn. Motion seconded by Councilman Yelding.**

**CITY COUNCIL MEETING
REPORTS OF SPECIAL COMMITTEES**

NOTES:

BOARD OF ZONING ADJUSTMENTS REPORT:

DOWNTOWN REDEVELOPMENT AUTHORITY REPORT:

INDUSTRIAL DEVELOPMENT BOARD:

LIBRARY BOARD:

PLANNING COMMISSION REPORT:

RECREATION BOARD REPORT:

UTILITY BOARD REPORT:

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JULY 1, 2010 - 6:00 P.M. DRAFT
COUNCIL CHAMBERS, CITY HALL**

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

Call of Roll:

Members Present:

Willie Robison, Chairman
Jeri Hargiss, Secretary
Glen Swaney
Jim Moss
Frank Lamb

Members Absent:

Billy Mayhand, Vice Chairman
Barry Taylor

Staff Present:

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

The Chairman stated there are five members present tonight so who will be voting? The vote must be made in the affirmative and it will take four affirmative votes for the appeal to pass. Is that correct?

Ms. Houston stated that is correct.

The Chairman stated next item on the agenda is the approval of the May 6th, 2010 meeting minutes. If you all have read the minutes, the Chair will entertain a motion to approve the minutes as written.

Approval of Minutes:

The minutes of the May 6, 2010 meeting were considered for approval.

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

Upon roll call vote.

Mr. Moss	Abstained
Mr. Robison	Aye
Mr. Lamb	Abstained
Mr. Swaney	Aye
Ms. Hargiss	Aye

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Due to the absence of the fourth Board member present at this meeting the approval of the May 6, 2010 minutes will be carried over to the next meeting.

The Chairman stated next is the approval of the May 17th, 2010 Special Call meeting minutes.

Due to the absence of the fourth Board member present at this meeting the approval of the May 17, 2010 minutes will be carried over to the next meeting.

New Business:

Appeal #2010-07 J. Wayne & Carole S. Jones

The Chairman stated next is new business on the agenda, Appeal #2010-07 J. Wayne & Carole S. Jones a variance to allow the construction of a roof over an existing deck creating an encroachment of 10.5 feet into the established 35 feet rear yard setback. The property is located at 501 Cedar Circle in The Cedars Subdivision and it is in an R-1, Low Density Single Family Residential Zone. Ms. Jones, if you would please take us through this?

Ms. Jones displayed a Power Point Presentation of 501 Cedar Circle showing the existing rear deck and the front, side and rear of the house. Ms. Jones stated the subject property is located at the intersection of Cedar Circle and Santa Rosa in the Cedars Subdivision. This view shows you the existing deck with what I call a canopy. This shows Lot 2, 9 and 11 are all corner lots in this subdivision. The application states that the fact that this is a corner lot creates an inherent hardship. I wanted to show you that there are other lots in the subdivision that would also be encumbered by setbacks similar to Lot 9. This is the plot plan for the subject property. It shows you that the front setback is thirty five-feet, the side from Santa Rosa is thirty five-feet, the rear adjacent to Lot 10 is forty-feet, and the north side is fifteen-feet adjacent to Lot 8. This is a rendering that I prepared hopefully trying to show you highlighting the area of the existing variance that was approved in 1987. It allowed a three-foot encroachment into the rear setback. It also highlights, if you can see, the area where the current deck is, and that area already encroaches into the rear setback, but a patio can encroach into the setback as long as it is not covered. This is a chart that I prepared showing the comparable lots, 2, 9 and 11 and also the far right column shows you the buildable areas that I calculated after the setbacks were taken. Lot 2 has 11,625 square feet of buildable area, Lot 9 as it was originally designed had 11,200 square feet of buildable area, Lot 9 after the 1987 variance buildable area was increased to 11,620 square feet, and Lot 11 which is the corner lot, I think on Old County Road and Santa Rosa, has 13,125 square feet of buildable area. Like

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the applicant stated Lot 9 in its original configuration did have a difference in buildable area than the others.

Ms. Jones stated but once the variance was approved in 1987 that difference was basically eliminated. So in conclusion as I already stated the applicant states that the corner lot is inherently adversely affected by the setbacks that are imposed. The three-foot variance approved in 1987 sought to cure that hardship and that inadequacy between the corner lots. Currently I cannot see where a hardship exists with the property, and that is my presentation.

The Chairman stated okay. I notice when you were talking you said Santa Rosa and Old County Road. There are one or two lots or if you want to say there is a house directly behind them on Santa Rosa and then I think it is a little bit farther down to Old County Road to where you turn to go into Mercy Medical or back into Bayhill Subdivision.

Ms. Jones stated that is Lot 11.

The Chairman stated that is directly behind them.

Ms. Jones stated this is directly adjacent to them headed towards Old County Road. So Lot 11 is the corner lot at the intersection of Santa Rosa and Old County Road. It has the largest buildable area of the three corner lots and I think that it is currently undeveloped.

The Chairman stated okay.

Mr. Swaney stated there are about four lots on Old County Road still undeveloped by the original Bayhill Incorporated Group. Sold but not developed. I make the point that the variance you mentioned earlier was really granted by the Bayhill Incorporated Architectural Board rather than the City.

Ms. Jones stated actually you have two letters in your packet. One is from Bayhill, but the other is from the City of Daphne Board of Adjustment at that time.

Mr. Swaney stated I stand correct. I did not see that one.

Ms. Jones stated they are right next to one another in the packet.

The Chairman stated anyone else have any questions for Ms. Jones? Are Mr. & Mrs. Jones here?

Ms. Jones stated yes they are.

The Chairman stated would you like to address the Board on the issue? If you would, please come to the microphone, state your name, and speak clearly because this is being recorded.

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Ms. Jones stated I am Carole Jones and my husband is not here. Due to a recent spinal fusion he is unable to be here tonight. We have talked to everybody on our street, the people behind us.

Ms. Jones stated the people across the street and everybody thought it actually would improve our property and thereby improve their property. I told them that this meeting would be here tonight if anybody had any objections and they could certainly come and voice those. All we are seeking to do is just to extend our roof out exactly like it is over the part that you can see. There is sort of a little open thing that we have tried to block and that west sun is just real bright into our great room. We would just like to extend the roof out and it would just help us with cooling that room and just making it a little bit more usable. The deck is really not very usable because it is so hot out there most of the time.

The Chairman stated okay. Does anyone have any questions for Ms. Jones?

Mr. Swaney stated you just plan to put a roof over it? You do not plan to enclose it?

Ms. Jones stated we thought that we would just put mesh screen up just because of mosquitoes and stuff, but not like a room, room. Not like glass or wood or anything like that.

Mr. Swaney stated I understand. Thank you.

Ms. Jones stated any other questions for me?

The Chairman stated thank you. Ms. Jones. Adrienne. I noticed in your report that you were talking that it could not be seen, but the roof can be seen from the street. I was out there and that is the only place where I could see the roof, and that was across from on the school property, Daphne Elementary property, looking across Santa Rosa, that was the only place I could see because behind them on Santa Rosa there are bushes and trees. A kind of buffer type. So as far as I could tell it would basically only be seen from Santa Rosa and it looked as if the crepe myrtle went a little high so you would not be able to see it at all from Santa Rosa.

Ms. Jones stated that is correct.

The Chairman stated I noticed that in your report you said there is not a hardship, a land hardship. I understand that, but you left some wiggle room in your staff report as to the encroachment. The only reason why it comes under that setback is by adding a roof on it makes it part of the structure.

Ms. Jones stated that is correct.

The Chairman stated okay. Anyone else have any questions or comments?

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Mr. Lamb stated it slipped by mind. What is the rear setback?

Ms. Jones stated thirty seven-feet.

Ms. Jones stated it is thirty seven-feet as approved in 1987 in the Board of Zoning Adjustment action.

Mr. Lamb stated in an R-1 what is the rear setback?

Mr. Moss stated it is forty. A three-foot variance.

Ms. Jones stated right.

Mr. Moss stated that is to the edge of the deck right?

Mr. Swaney stated actually.

Mr. Moss stated the three-foot variance was for this deck we are talking about.

Ms. Jones stated no. I think, and Ms. Jones you will have to correct me if I am wrong or right, you did an expansion that already went across the three-foot setback, it was a part of the house and not the deck?

Ms. Jones stated we have not done an expansion, but the original house was three-feet because the lot of only one hundred and ten-feet deep so we had to change our house plans somewhat anyway to accommodate on the lot, but then so we have not done any kind of expansion, that is original what is built there now is original.

Ms. Jones stated right. So this would be the three-feet.

Mr. Swaney stated the plot plan clearly shows that the thirty seven-foot goes to the back of the existing house, I believe, and not the deck.

Ms. Jones stated that is right. Correct. The deck can encroach into the setback as long as it is not covered. So what they have here in their plot plan from 1987 is consistent with the variance that was already approved.

Mr. Lamb stated I know it is not their intention to enclose, but sometimes in the future if they ever sell the property then the next owners might enclose it. Then that becomes part of the entire house and now you have a non-conforming structure in an R-1 because they can enclose and not come for a building permit.

Ms. Jones stated that is true.

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Mr. Lamb stated it already has got a roof on it so oh well why do not we just enclose it. So they go out there and start enclosing it and if nobody says anything, and they do not want to apply for a building permit then the next thing you have a non-conforming structure in an R-1.

Ms. Jones stated well technically if the Board approves the variance that is requested tonight someone could come in and get a building permit to enclose the whole area off as a room. They could do that because your variance would have allowed the encroachment.

The Chairman stated I have a question and I probably am just thinking out loud. Ms. Jones you said to block the sun out. It is so hot out on the deck that it really is not enjoyable. What about if a canopy comes out over it? Would that be enclosing the roof or would that just be a semi-umbrella type?

Mr. Moss stated a roll out canopy. Is that what you are talking about?

The Chairman stated yes, the roll out type canopy where you roll it out and roll it back.

Ms. Jones stated I do not think so. It would not be attached to the structure.

Mr. Moss stated I do not think that would be considered a structure.

Ms. Jones stated now an extension of the roof would be a permanent extension.

The Chairman stated right. It would bring the roof out over it. It would not just be laying a roof over the top of the trellis that is there.

Ms. Jones stated that is correct.

The Chairman stated okay.

Mr. Moss stated our Ms. Jones. When you said however if this is considered the following conditions would be appropriate, no other variances shall be allowed. The encroachment should be as per the staff rendering only. However, if it is allowed she could not enclose it, but the next owner possibly could.

Ms. Jones stated actually she could enclose it if she wanted to. Anybody subsequent to your action could enclose it.

Mr. Moss stated could we not put conditions on this. Can we make a conditional variance?

Ms. Jones stated but why would you?

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Mr. Moss stated that is what it looks like you might be saying here. If considered, there would be some conditions. Is that what you are saying?

Ms. Jones stated what I am saying is covering a deck seems to be a minor issue. It does not create any impact on the neighbors.

Ms. Jones stated there is already a fence up. The only place you would see it would be from Santa Rosa, as Mr. Robison said. So if you wanted to allow the roof to be extended what difference would it make if it was extended for just the patio or for another room. The impact would still be the same.

The Chairman stated in your report you said cannot come back before us and that would be for a variance on the encroachment only.

Ms. Jones stated on the entire lot.

The Chairman stated on the entire lot of being an encroachment of the setback.

Ms. Jones stated right. Because the lot would be pretty much built to maximum capacity. There is already a pool out there and you have the driveways and the front yard is being protected and that is what you can see from the larger viewing area. I think that and the side from Santa Rosa would be the two areas that you would want to protect. So an encroachment in the rear you can consider if you want to.

Mr. Swaney stated I have to admit to being a little bit confused. In answer to the question, can we approve this subject to no enclosure of the roofed deck?

Ms. Jones stated I do not think so. I think that if you wanted to approve it then it would not matter if they wanted it to be for a deck or for another room. I do not think that it would be substantially any different. So you could if you wanted to, but I do not think that would amount to much in protecting the rest of the area.

Mr. Swaney stated well actually what we would be doing then is improving on the variance instead of a thirty seven-foot rear setback variance we would be approving something like a twenty seven-foot setback variance I would guess.

Mr. Lamb stated twenty five-foot. You have reduced it from forty to twenty five, reduced it fifteen-feet.

Ms. Jones stated if you consider the conditions that I listed then it would only be for that deck area. It would only be for this deck area, not the full extent of the back of the house, only for this area.

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The Chairman stated Ms. Jones do you have a power point of the conditions that you say are in our book?

Mr. Lamb stated that is the rendering.

Ms. Jones stated correct, it is the rendering in your book. If approved tonight the condition that you would possibly place would be for an encroachment for this area to be covered only, not saying that you would give a ten-foot variance that would run all the way up here. Mr. Cowart stated can I say something?

The Chairman stated if you would let Ms. Jones finish.

Ms. Jones stated I know there is a pool in this area, but in the event that the pool was removed then you would not be able to expand any farther than the deck.

Mr. Moss stated it would be restrained to the deck area only. Is that correct?

Ms. Jones stated that is correct.

The Chairman stated okay. Yes sir, please state your name.

Mr. Cowart stated Bart Cowart. I have been friends with them for all of twenty three, twenty four years or something like that. Originally I built the house years ago. Could not the condition be that the roof can be allowed with non-heating and cooled and pretty well cure the deal of, as far as, windows? If windows and things were put in at a later date even without a building permit it would be illegal and the City could make them remove it could they not?

The Chairman stated yes.

Mr. Cowart stated if it was just a condition that allowed the roof non-heated and cooled or worded right, I do not know exactly how to word it, but conditioned as non-heated or cooled.

Mr. Moss stated that what I was getting at when I asked her and she said if considered there would be conditions to be appropriate and that is when it could be appropriate. No climate control.

Mr. Cowart stated yea.

Mr. Moss stated no HVAC, climate control or whatever. It is kind of foolish to enclose it if you cannot heat it or cool it.

Mr. Coward stated yea. I mean all they are wanting is to be able to set out there and enjoy it in the evenings without getting eaten up by mosquitoes and all. That would be one condition that would keep

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somebody from it or at least without ever coming back before you again.

Mr. Lamb stated the main issue I have is trying to maintain the integrity of an R-1 zone. If we continue to grant variances pretty soon we do not have R-1 anymore. You have everybody can come get a variance and what was R-1 is now really R-3 because we have allowed so many variances in the depth of a lot. So I do not want to derogate the integrity of an R-1 classification that is the main issue I have. It is not forty-feet it is twenty two-feet now.

The Chairman stated the part about the heat and the sun in the afternoon there are things that can be put on your doors that will keep the heat out, but you would still have the light that comes in and would be able to enjoy the afternoon light or whatever and not be extremely hot in there. I have the same concern as Mr. Lamb. We are either going to be a City that governs variances or we are going to be a City that is governed by variances. We have to be very careful when variances are granted, especially this much of a setback going from forty-feet all the way down to twenty five now. Any other questions?

Mr. Moss stated it is still permissible for a roll out awning that is not considered a roof?

Ms. Jones stated I do not think that is considered to be attached to the structure.

Ms. Jones stated is it not twenty seven that it would be considered to be now? It was forty and we set it back three so that made it thirty seven and so we are asking for ten.

Ms. Jones stated that would be twenty seven-feet as opposed to forty.

Ms. Jones stated right.

The Chairman stated maybe I am wrong, but I am looking at the rendering and it is showing twenty five-feet from the deck to back there.

Ms. Jones stated right. That is my rendering of it.

Ms. Jones stated up to the fence.

The Chairman stated so originally it was forty-feet.

Ms. Jones stated originally forty.

The Chairman stated and as Mr. Swaney stated Bayhill granted the original three-feet.

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Mr. Swaney stated I guess, but according to Adrienne both Bayhill and the City granted three-feet.

Mr. Moss stated there is a letter in here from the City.

The Chairman stated okay. Any other comments? Any other questions?

Ms. Jones stated the measurement is to the fence. The fence is inside the property line. It is not on line.

Ms. Jones stated I used the plot plan that you guys gave us and I kind of did measurements. Rough measurements on my own.

Mr. Hoffman stated Mr. Chairman would you have the gentleman state his name again for the record I do not think Ms. Houston got it.

The Chairman stated sir, if you do not mind state your name again.

Mr. Cowart stated Bart Cowart. B-a-r-t C-o-w-a-r-t.

The Chairman stated thank you, Ms. Jones. The Chair will entertain a motion and the motion must be made in the affirmative.

A Motion was made by Mr. Moss and Seconded by Ms. Hargiss to approve Appeal #2010-07, J. Wayne & Carole S. Jones, for a variance to allow the construction of a roof over an existing deck creating an encroachment of 10.5 feet into the established thirty five-foot rear yard setback line.

Upon roll call vote, **the motion carried.**

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

The Chairman stated the appeal is granted you can go by the Community Development Department in the morning around 9:00 a.m. and pick up your paperwork.

Ms. Jones stated at that time may I pick up the building permit?

Ms. Houston stated yes.

Adjournment:

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

The Motion carried unanimously.

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There being no further business the meeting was adjourned at 6:25 p.m.

Respectfully submitted by:

Pat Houston, Recording Secretary

APPROVED:

Willie Robison, Chairman

/ph

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF APRIL 22, 2010
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

CALL TO ORDER:

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

CALL OF ROLL:

Members Present:

Fred Small, Mayor
Joe Lemoine
Frank Martin, Secretary
Victoria Phelps
Larry Chason, Acting Chairman
Cathy Barnette, Councilwoman
Chief James "Bo" White

Members Absent:

Ed Kirby, Chairman

Staff Present:

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

* Ms. Campbell arrived during the presentation of Caroline Woods Subdivision.

Staff Absent:

Missty Gray, Attorney
Erick Bussey, Associate Attorney

Others Absent:

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

The first order of business is the call to order.

Mr. Chason: Please let the record reflect Mr. Kirby is not present.

The next order of business is approval of the minutes.

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APPROVAL OF MINUTES:

The minutes of the March 25, 2010 regular meeting were considered for approval.

Mr. Chason: A copy of the minutes was furnished to us previously. Do any of the Commissioners have any questions or comments? If there are no additions, deletions, or corrections at this time, the Chair will entertain a motion.

A **Motion** was made by Ms. Barnette and **Seconded** by Mayor Small **to approve the minutes of the March 25, 2010 regular meeting, as submitted. The Motion carried unanimously.**

The next order of business under old business is preliminary/final plat review for the TimberCreek Golf Course Subdivision.

OLD BUSINESS:

PRELIMINARY/FINAL PLAT REVIEW:

File SDPF10-04:

Subdivision: TimberCreek Golf Course

Zoning(s): B-2, General Business

Location: On the North and South side of TimberCreek Boulevard

Area: 240.40 Acres \pm , (5) lots

Owner: TimberCreek Investments, L.L.C. - Larry Waldrep, Manager

Engineer: Rester & Coleman Engineers - Joel Coleman

Mr. Chason: We will have Commission comments, and then we will open the floor for public participation. Do any of the Commissioners have any questions or comments?

Ms. Barnette: At the site preview meeting we asked if they would consider creating a conservation easement. I wondered if any further thought had been given to making Magnolia Pines an easement?

Mr. Chason: Who is here tonight to speak about the development?

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Mr. Waldrep: My name is Larry Waldrep. I am the manager for TimberCreek Investments. Some weeks back we were looking at creating a conservation easement. We have been speaking with North American Land Trust which will meet with us next week. We will be looking at that to see if it will be financially beneficial to us.

Mr. Chason: Mr. Waldrep, while you have the floor, last time Mr. Joel Coleman was here to speak.

Mr. Waldrep: Joel is here.

An introductory presentation was given by Mr. Joel Coleman, representing Rester & Coleman Engineers, requesting preliminary/final plat review of an eleven-point four seven-acre subdivision consisting of two lots located on the south side of TimberCreek Boulevard three hundred and fifty-five feet West of Green Court. On behalf of the owner, TimberCreek Investments, I am here to answer any questions regarding the things we discussed at the site preview meeting.

Mr. Chason: I think we want to have on the record what the application is and what you are asking for.

Mr. Coleman: The application is for the subdivision of the golf course. The subdivision of the eighteen holes with their respective parcels with one out parcel remaining.

Mr. Chason: Do any of the Commissioners have any questions or comments?

Ms. Barnette: The issue that has stuck with me since the work session is the illegal subdivision. We brought that section of the Ordinance up as well. I would like to discuss the fact this has been an illegal subdivision because the property has been conveyed, and the subdivision was not approved by the Planning Commission.

Mr. Coleman: Right. The application is presented in a format tonight to request approval of the subdivision.

Mr. Chason: Since we are going to have plenty of time for the Planning Commission to comment, we could move up into public hearing portion of this. We can let the people who are here speak on this matter speak, and that may raise new questions for us to ask. Since this is the second time, we have had a public hearing on this, I would ask that those of you which are here to speak listen to what others have to say. If your opinion has already been stated, then we really only need to hear this one time. If you have something new to add that is fine. We appreciate you coming, but the Planning Commission's opinion cannot be based on the number of people for or against a project.

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Mr. Chason: If you do have something to add, then we would like to hear your questions and comments. We will try to get you the answers you are looking for. Can I please see the hands of the number of people who wish to speak tonight? That is great. If you change your mind, and you would like to comment we will be glad to get you in. Mr. O'Hare.

Mr. O'Hare: Thank you, Mr. Chason for the opportunity to speak. I do not intend to repeat arguments which have already been made. I believe the Planning Commission is right. It has broad powers to look at the Planning Ordinance to see if this subdivision fits its long term vision for the City of Daphne. You do have the discretion to deny the subdivision. We are very pleased to hear that the owner is considering converting it to a conservation easement. We had not heard that before. Perhaps the subdivision could be denied until we have a more firm commitment. What most of this was about is the City of Daphne had this listed on a map as golf course/recreation for a long time although it has been zoned B-2. Maybe the Planning Commission can consider a zoning designation or classification that is for a recreation area or for a golf course. That is certainly something that would be of interest to the City because it is important to have the green belt. That is really all I have to say. I thank you for the time and consideration you have given to this issue.

Mr. Chason: You are welcome. Is there anyone else who wishes to speak?

Ms. Boltz: My name is Patty Boltz. We have been living here for five years. My mother lives in Florida in a very large development community. I have seen it in the last twenty years go dramatically downhill since a commercial development was put in front of her subdivision. In my teens it was one of the most prime places to be. The developer came in and developed Walgreens and doctor's offices, and you lost the stellar development feeling. The property value began to go down. One of the biggest concerns I have as a resident of our development is that is what I will see if the entire area of Magnolia Pines Golf Course is made into a commercial development, then those who can will leave TimberCreek Subdivision. TimberCreek Subdivision for more than fifteen years has been able to maintain property values for a development as old as it is. It is hard to maintain that status. People tend to want to be where all of the new building is taking place. They have maintained the community. Property values have held their own or gone up. It is a nice community to be in, and it is one that people want to be in. My biggest concern is that will change. I have personally purchased commercial property on Alabama Highway 181. I had hoped to stay in TimberCreek. I would love for them to create a conservation easement. I think the rest of TimberCreek would as well. I do not know what the tax implications are for the developer or if that is something that would help them.

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Ms. Boltz: As a business owner on Highway 181 and as a resident of TimberCreek Subdivision with young children, I dread the fact that property will be taken away.

Mr. Chason: Is there anyone else which would like to speak to this application?

Mr. Boltz: My name is Mark Boltz. When we moved here in 2005, this was a twenty-seven-hole golf course, and we were told it was to remain that way permanently. I am very disappointed about the plan that is now before you to develop the lower half as commercial. As many of you may be familiar with, Baldwin County just killed the plan to construct the service road at Interstate 10. I have not seen the plans, and I am not sure if there are any. I think that is very likely. Occupancy vacancies are very high at the Eastern Shore Centre and the Jubilee Shopping Center. There is no demand for that to be commercial. The effect is going to be detrimental to the residents there.

Mr. Chason: Is there anyone else?

Mr. Waldrep: I would like to remind the Planning Commission that the entire course is zoned commercial and has been since we brought it into the City. We could have applied for a permit for the other eighteen, but we put a conservation easement on it. The commercial zoning has been in place since the year 2000. You bought your house in 2005 and that was zoned commercial by the City Council in 2000. We have not changed any zoning, and we are not asking to change any zoning. All we did is we have sold two-thirds of our property and have retained one-third. We are leasing the remainder for five years. At that time, we will determine what we are going to do with this property. Again, it has been in place since the year 2000, and we have not affected it. If you change the zoning of the property, it destroys some of the value of the conservation easement. It works against the conservation easement. I know that he is determined, but I do not know if he understands the tax implication and the way a conservation easement works. It has to have the proper value. Again, Ms. Barnette, you have mentioned we have made an illegal subdivision, but we intended to have a plat approved before the sale on March 1, 2010. We tried to do that in February. I do not remember the dates, but this is the fifth trip that I have made to get this done. As I said before, we are not doing anything different from what we have done before since the year 2000. I do not know where the rumors are coming from that we are planning to develop that next week. If we were planning to develop, then we would have to come back to this Board for a submission of a change from where we are now. As I said before all we did was we sold two-thirds of our land and retained the portion that the conservation easement was not on. If we were going to change that wouldn't we have to come back here, and then anyone would be able to comment on that?

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Ms. Boltz: I have lived on the boulevard so it is not affecting me persay. It would indirectly if that were going to go commercial. Do the seventy or sixty something people it would affect know when they bought their house that it was zoned commercial?

Mr. Chason: Ms. Boltz, you will need to direct your questions to us.

Ms. Boltz: I am sorry, but he looked at me.

Mr. Waldrep: I did. I apologize. I was not a part of that procedure, but it was commercial the day it was brought into the City.

Mr. Chason: Mr. Waldrep, may I ask you something? You said you had a meeting that may have an impact on the decision or may bring us closer to being able to make a decision by knowing what your future plans are.

Mr. Waldrep: We have a meeting, but it will be very difficult for us to reach a decision in that meeting. The establishment of a conservation easement is a long drawn out process. It is very expensive for us because it costs a lot of money to do one. We would not have a decision next week. There is no reason for us to table this. All we are doing is splitting this property into two pieces. It is five parcels because of the roads. All we are doing is there is a twenty-seven-hole golf course. We have sold eighteen holes, and we are retaining nine.

Mr. Chason: Mr. Waldrep, if you wanted to wait to see what is the outcome of the meeting is, then we would not be back here in a week. We would be back here in a month.

Mr. Waldrep: All that I am trying to tell you is that we are going to meet to discuss it, but I cannot give you a guarantee.

Mr. Chason: Ok. Is there anyone else that would like to speak to this application? If not, we will close the public hearing. Do any of the Commissioners have any questions or comments?

Chief White: I understand emotions in this situation are high, but I am not aware of any legal reason to deny it.

Mr. Chason: We will let everyone go ahead and speak. We will let anyone on the Commission who wants to continue speak, and then we will work toward that. Anyone else have any comments?

Ms. Barnette: Mr. Chairman, I would like to address my concerns. I guess the issues I see with the approval of the subdivision is that Section 11-4, Daphne Land Use Ordinance, does not allow the conveyance of the property without the approval of the Planning Commission.

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Ms. Barnette: We also have Section 11-1, which states the development should have a master plan in order to protect the health, safety and welfare of the community, the development and the public. Our water pollution sections are Section 18-2 and 18-6, a subdivision should not be approved until adequate storm water and/or flood water runoff has been addressed. This is an impaired watershed so the lack of the knowledge of what the master plan is for the development directly affects the water quality within an impaired watershed. Those are some of the concerns that I have as to why, legally, this subdivision should be denied.

Mr. Chason: Anyone else?

Ms. Barnette: Mr. Chairman, I have one more comment. The other comment I have is there is a penalty although it is small for an illegal subdivision. I would like to encourage the Mayor who has the power to impose that penalty on them.

Mr. Chason: Joel, I wanted to go over that again. You have presented a lot of plats to this Planning Commission. Would you not agree that anytime you brought a subdivision plat that on the plat you would show your drainage structures, and you would tell us exactly how you plan to handle storm water runoff? I did not see that in this.

Mr. Coleman: All of the structures are in for the use that it is now. Everyone is speculating on a commercial site. We would have to come in with a plan for you to review at that time. I am getting confused. If there was a change in use to commercial, then they would have to provide a plan to the City of Daphne for review at that time. If there is not a change of use, then I would not submit a grading and drainage plan.

Mr. Chason: Well, I do not think you think you can argue that by dividing the parcel into portions in which you have a seventy-acre portion along a state highway, you would have concerns. At this point, you do not know if that will be one hundred and fifty small lots or what. It could be, and we are about to take the next step. Do you have any opinion on how that will be handled?

Mr. Coleman: I would have to say if the property were to be rezoned and become a residential subdivision, then it would be my responsibility to devise a drainage plan which would meet your storm water ordinance. It is my opinion that if there is no change in use, then I do not see the need for the submission of a drainage plan because it is already in place. However, if they do anything with that property, they would have to come back to you with a plan for you and the Public Works Department to review. You would look at it to decide whether or not it would be approved at that time. If there were any problems, then they would be addressed.

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Ms. Barnette: Mr. Chairman, I think my concern or my rebuttal for the lack of a better word is it came in under the Baldwin County regulations and the storm water drainage calculations for TimberCreek are inadequate within that development. It is an impaired watershed with a specific restoration plan that is being created and finalized. There are five bodies of water within this impaired watershed. You say we do not need to look at storm water drainage. I feel like we do have a responsibility to at the subdivision level because it is a part of what our Ordinance requires because of its association with the previous development and its effect on downstream. The Planning Commission has to look at the future development and growth based on the information that they have. We have very quantifiable data that this is an impaired watershed with inadequate drainage as it is today. To move forward without tomorrow would be irresponsible on our part.

Mr. Coleman: I agree. That is a good question, but again you are looking at this as a possible use of the property. They have not submitted anything to change the use. If you deny this, you have the same drainage problems. If you approve this, you have the same drainage problems. If they change the use, they would have to come to you with a subdivision plat at that time. You would have new installation going on which would suggest they would provide to you a storm water drainage to accommodate the development at that time. If a change in use is being done, it is the engineer's responsibility to come up with a storm water management plan to address more than what is obviously there. It would be my responsibility to submit those plans, and your responsibility to review those plans.

Ms. Barnette: I am sorry, but just one more comment, and the only other comment I guess I will say. At all of the land use law updates and continuing education classes we have done they have told us to address things as early in the process as possible. At the subdivision level if we know we have a problem, then we should address them at that point. If we don't, then we move onto the next phase of the development with the expectations you would move forward with a site plan and a development plan. You would incur the cost of doing all of the things on the site checklist. You would not be aware at the subdivision of all of the problems that would be associated with it. It is always I was not aware this was a problem. I have spent thousands and thousands of dollars on engineering plans and architectural drawings. We have been taught to address things early on.

Mr. Coleman: I will agree with that, but how are you going to address that now?

Mr. Chason: I can answer that. I think you are going to have to assume the worst. I think we need to address it before we approve a plat and put this one step closer to becoming whatever it could be a shopping complex or an automobile dealer. I think at the meeting we recall taking place a year or two ago regarding some of the changes that will be taking place.

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Mr. Chason: There was a plan for an interchange and a hospital expansion on the table. There are some things that have come into those positions which are now gone. I understand you are saying we are not changing anything, but I think from my personal prospective we have a plat with no topographic or contour information. We do not have any information regarding the existing drainage system and how overburdened that may be. I play golf out there, and I have seen places that do erode in heavy rains. How stable that is I do not know. Mr. Waldrep wants to go forward so we are going forward. To me, there is information that we need to take the next step in the process. Those are questions that I personally want answered. It may not lead to an ultimate denial, but in my mind I am not ready to take the next step.

Mr. Coleman: I understand, but typically we address drainage when there is a change in use.

Ms. Phelps: Just to be clear, I echo those same concerns with this development. If we move forward with not knowing, the worst case scenario is that all types of businesses will be backed up to residential homes. I cannot believe that it is in the best general welfare for the development. I think we need to figure it out now.

Mr. Chason: Also, I would have to say if this property is under a five-year lease, then what is the hurry? You cannot change it unless both parties agree to terminate the lease. I will say if I lived there, then the fear of the unknown is a real problem. If these people have to deal with this for the next five years, then what is the value of what they have? How will it be impacted by this? The answer to that question is I do not know. For this or any other application for anyone in the City if we are going to throw it into, the I do not know category, then there are some questions that need to be asked and answered. Do any of the Commissioners have any questions or comments? I'm sorry.

Mayor Small: If I could Mr. Chairman, I would like to ask Mr. Waldrep a question or two. I would like to move back a few days or back to last week when the service road was proposed. If the service road would have gone through that would have raised the property values in that particular area of your property. The higher the value of the property makes it a lot more appealing for the dedication of a conservation easement.

Mr. Waldrep: Absolutely. There is access to the property now.

Mayor Small: That was the next question. You still have access to that property now.

Mr. Waldrep: That is my understanding. There is a county road that stops at our property.

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Mayor Small: I am not sure what we are asking, but Mr. Chason hit on it briefly, especially for the property owners who abut this property which have found out the nine-hole golf course is zoned B-2. We do not know what is going to happen to it. The sooner we know what is going to happen to it, then we can move forward with a lot of things which would increase the value of the property there, as well as, the prosperity that has shut some things down.

Mr. Waldrep: Mayor Small, again that zoning category has been in place since 2000. We placed the conservation easement on the other eighteen hole golf course in 2006. No one seemed to have a problem when we did that. Like I said before, it has been there. For any home that was sold from 2000 to 2006, it was disclosed to the buyer because the property was zoned B-2 at that time. Like I said before it was there.

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

*A Motion was made by Ms. Barnette and **Seconded** by Ms. Phelps to deny the preliminary/final plat for TimberCreek Golf Course Subdivision based on the noncompliance with the following sections of the Daphne Land Use Ordinance: Minimum Standards and Required Improvements, Suitability of Land, Section 11-1, which requires the denial of a subdivision if it is not in the best interest of the public due to the lack of the submittal of a master and storm water drainage plan; Minimum Standards-Penalties, Section 11-4, the subdivision of land without the approval of a subdivision; Drainage-General, Section 18-2, Drainage-Effect on Downstream; and Section 18-6, a subdivision cannot be approved if it has not made adequate provisions for storm water drainage or flood water runoff since this is an impaired watershed. The Motion carried. Chief White opposed.*

The next order of business is master plan review for Caroline Woods Subdivision.

Mr. Chason: I am going to change the agenda to hear administrative presentation items.

The next order of business under new business is an administrative presentation for Persinger Automotive.

NEW BUSINESS:

ADMINISTRATIVE PRESENTATION:

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An introductory presentation was given by Mr. Daniel Persinger, representing Persinger Automotive, requesting approval of the placement of a manufactured office building on Lot 2, Darring Business Subdivision located northwest of the intersection of U.S. Highway 98 and Van Buren Street to be used as a used automobile sales facility. Basically, we are going to be doing the exact same thing that was there before. The landscaping is still there.

Mr. Chason: I seem to recall a concern about landscaping. Are you going to upgrade what was there before?

Mr. Persinger: It is the location of the non-developed café and a car lot.

Ms. Barnette: I think we required additional landscaping for what was at this location previously.

Mayor Small: It is going to require skirting around the bottom, and the addition of some plants to dress it up.

Ms. Barnette: I think what the Mayor is saying is it requires the gap to be filled.

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

A Motion was made by Ms. Barnette and *Seconded* by Mr. Lemoine to approve the administrative presentation for the placement of a manufactured office on Lot 2 of Darring Business Subdivision located northwest of the intersection of U.S. Highway 98 and Van Buren Street to be used as a used automobile sales facility, contingent the placement upon additional landscaping. The Motion carried unanimously.

The next order of business is an administrative presentation for Engineering Development Services, requesting street acceptance of French Settlement Road Extension No. 2 "known as Felicity Lane Extension," French Settlement Road Extension No. 1, the southeast corner of Phase 1B and French Settlement Boulevard and all streets contained within French Settlement Subdivision, Phase 1B.

Mr. Chason: The next item on the agenda is for French Settlement Subdivision a project I am associated with. Please let the record reflect I will go ahead and conduct this part of the meeting, but I will not be participating in any discussion or voting on this matter.

An introductory presentation was given by Mr. Jason Estes, representing Engineering Development Services, requesting street acceptance of French Settlement Subdivision, Phases 1A & B. If you will recall, we constructed French Settlement Road Extension No. 2 located south of French Settlement Subdivision, Phase 1A "known as Felicity Lane Extension."

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Mr. Estes: In Phase 1B, we removed the existing asphalt and replaced it on all streets contained within French Settlement Subdivision, Phase 1B, and constructed French Settlement Road Extension No. 1, at the southeast corner of Phase 1B and French Settlement Boulevard. The only question we had at the site preview meeting is we requested to replace the maintenance bond with a letter of credit for the financial guarantee for the streets. The other thing brought up at the meeting was the removal of the culvert at the entrance on County Road 13. It has been removed. Riprap has been placed in the detention pond as requested by Ms. Campbell.

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

A Motion was made by Ms. Barnette and Seconded by Ms. Phelps for the affirmative recommendation by the Planning Commission to the City Council of Daphne for street acceptance of French Settlement Road Extension No. 2 located south of French Settlement Subdivision, Phase 1A "known as Felicity Lane Extension," with the acceptance of a letter for credit in lieu of a maintenance bond for the financial guarantee for the streets. The Motion carried. Mr. Chason abstained.

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

A Motion was made by Ms. Barnette and Seconded by Ms. Phelps for the affirmative recommendation by the Planning Commission to the City Council of Daphne for street acceptance of French Settlement Road Extension No. 1, at the southeast corner of Phase 1B and French Settlement Boulevard, and all streets contained within French Settlement Subdivision, Phase One B, with the acceptance of a letter for credit in lieu of a maintenance bond for the financial guarantee for the streets. The Motion carried. Mr. Chason abstained.

OLD BUSINESS:

CAROLINE WOODS SUBDIVISION, PHASE TWO:

The next order of business under old business is master plan review for Caroline Woods Subdivision, Phase Two.

MASTER PLAN:

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services, requesting master plan review for Caroline Woods Subdivision. We are not changing the original master plan which was approved for Madison Place Subdivision, Phase 3A, 3B and 4. The roads are exactly the same for this development. We are simply changing the phase lines and the name of the subdivision to Caroline Woods, Phase Two. I will be happy to answer any questions you have.

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Ms. Phelps: I have a question about the drainage going to the west?

Mr. Chason: Is that shown on the master plan? We have three agenda items. Mr. Diehl, help me out. Does the master plan show any drainage?

Mr. Diehl: No sir?

Ms. Phelps: Ok. Then I will wait.

Mr. Lemoine: With regard to the streets, you start the street in the other phase so what is your plan for the balance of it?

Mr. Diehl: In the first phase of the development, only a small portion of those two streets will be constructed.

Mr. Lemoine: From a fire and safety issue, is that a problem? I know the fire marshal signed off, but I do not know if that was explained to him. Once you get back there, there is not way to get out.

Mr. Diehl: Yes sir. We will have a temporary cul-de-sac there.

Mr. Lemoine: Do you plan to construct a temporary construction entrance onto American Way to direct traffic away from Avery Lane?

Mr. Diehl: That is already a travel way.

Mr. Lemoine: The only other comment I have is I know the common area provided may comply with the regulations, but it is very limited. I would have thought the common area would have been for recreational purposes and would not have included a detention pond.

Mr. Diehl: There is common area for detention and for recreation that meets the requirements. The detention pond does not count as common area.

Mr. Chason: Do any of the Commissioners have any questions or comments? Do we do public participation on a master plan?

Ms. Dickson: No.

Mr. Ross: I would say that Mr. A.J. Cooper, representing Earth, Inc., which would like to speak. The property in question or a substantial portion of it is in a legal dispute in Baldwin County Circuit Court. I think Mr. Cooper is here to articulate on behalf of Earth, Inc. his opposition to the approval of the master plan and preliminary plat? It may be appropriate to hear from him in these rather unusual circumstances.

Mr. Chason: At the advice of counsel, we will allow Mr. Cooper to address this Commission:

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Mr. Cooper: Presented documents and minutes relative to his presentation and court case against Elite Development, L.L.C. The last time we were here there was a question as to whether or not the records supported the association, and so we have taken the time to put together a calendar which is key to the documents that you have. The negotiations were an effort to satisfy the City's desire to have an exit from this development through Tallent Lane. It was to establish a walking community, for traffic management, and to support the plan that was forthcoming. Referenced the January proposal for rezoning for Elite Development from R-3 to R-4. The rezoning was denied because there was no exit to the north. There was an exchange from Mr. Kirby, reading from the minutes, regarding the existing traffic problem. It will continue if there are more phases having only one access. He questioned whether or not the pending litigation had been resolved. He then stated he would like to see the development have another access for a construction entrance and a connection to Tallent Lane. If that is not possible, then I would like for the development to put up a bond. Then we move forward to May. There was a contract signed by Elite Development which proposed a swap of property to obtain the ingress and egress onto Tallent Lane. On the 22nd, Elite came here and they said on the record they had access onto Tallent Lane. The next thing that happened is the Planning Commission approved the master plan with the connection to Tallent Lane. On July 2, there was a public hearing with the City Council regarding the rezoning of the property, and the map filed with probate court shows Tallent Lane as the exit. Then we come to July 24th, the developer asked to revise the plan for Madison Plan Subdivision and what do they say? They say they were not able to reach an agreement. They signed the agreement with the belief they had a connection to Tallent Lane. The next thing that happened is Engineering Development Services submitted a plat for preliminary plat review.

Mr. Ross: Was that in 2008 or 2009?

Mr. Cooper: In 2008. On October 7, they changed the ownership of Phase 3 to A & B, L.L.C. Elite really did not own it. A & B, L.L.C. owned it. In the meantime, we filed a lis pendens in Circuit Court. On October 22nd, Mr. John Avent came to get preliminary plat approval. He again represented that it was owned by Elite Development. We have several concerns with this project. One is we have filed a lis pendens on this property. Part of that filing includes the entrance and exit that goes out American Way. We may lose or win this court case, but what the lis pendens says is there is a litigation going on. If they happen to win this case, then the streets shown on this plan would belong to Earth, Inc. The next thing we believe to happen is the Mayor's idea to have the ingress and egress to Tallent Lane is the best thing for this community. We submit the way to get from here to there is to not to continue giving Elite Development everything they want. You have to close your eyes for a second and imagine what is the future Daphne Sports Complex going to be like at nine o'clock at night after a Daphne and Fairhope football game and where is that traffic going. It is going to be a mess going from the Daphne Sports Complex to American Way.

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Mr. Cooper: There was some concern about the American Way commercial area and what are the folks located there are going to think. Mr. Rance Reehl, the developer, came and said not a problem. Fifteen of the eighteen property owners said it was ok. Rance owns fifteen of the lots. He did not go to ask the business people who are leasing the lots what did they think. One of the business owners came and said to the Planning Commission, I do not know of any other commercial area which has residential traffic running through it. The response that Mr. Reehl had was that it was approved. We think the answer to this is for the Planning Commission to down zone this property to R-3. At the time of the up zoning you were not given the correct facts. At the very least, I would like to suggest that the approval is tabled until after the litigation is resolved because of the inherent liability the City would take on. I appreciate your courtesy and attention.

Mr. Chason: They have given their presentation. You have been given an opportunity to present stuff. This will be interesting to look at, but I cannot comprehend this much information. I tried to follow you, but what I think what we need to do is to address your comments first. When we go back to the beginning, then we will be done with your comments. I want to start by addressing my notes because I tried to follow you. I want to make sure it is clear or at least I want to explain what I think I remember because I was here. I believe you started off by saying something about the Mayor and Tallent Lane being a construction entrance. The minutes say that.

Mr. Cooper: The minutes say that and more. Let me just remind you.

Mr. Chason: Mr. Cooper, we are never going to get finished. I feel like you are used to arguing with the Judge and a jury and you are talking about matters of law.

Mr. Cooper: I am here because I would like to see the developer work out another access for the purpose of construction traffic and a connection to Tallent Lane.

Mr. Chason: Let me finish, everyone else can talk, and then we will get out of here. We will cover it all. A construction entrance is a temporary entrance and exit. I think you by definition see that it is a temporary thing. I do not follow you there. Also, I am interested in what you said about multi use. What percentage of your dispute has to do with the property that we are talking about? All we are talking about is what is inside the boundaries of this subdivision. What portion of it is what we are considering?

Mr. Ross: Mr. Chairman, not to make it more or less complicated. Only to answer your question please allow me to show you a map of what I believe is the area subject to the lis pendens. It is highlighted in yellow. What I would like to tell the Commission is that lawsuit is pending in court there are collateral issues involved. The essence of the lawsuit is whether or not there was an agreement in 2008.

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Mr. Ross: Mr. Cooper said there was, but the opposing side says there was. This is the real legal issue surrounding this subdivision. The other issue is and you will like this in the case similar to TimberCreek is whether or not the contract with Earth, Inc. and Elite Development, L.L.C. is a valid contract because the subdivision has not occurred. There is a 2009 Court of Appeals case which says that the property has not been subdivided the contractual agreement may be void as a matter of law. They argued it in front of Judge Floyd, and it is my understanding there may be a determination as of tomorrow with regard to the granting or denying of the summary motion. If the summary judgement is granted Mr. Avent and others will own the property, but if not the case continues further. I will just pass this around. This is what I am told is the property in question.

Ms. Phelps: I have one question for Mr. Ross.

Mr. Ross: Yes ma'am.

Ms. Phelps: Do you recommend tabling this tonight?

Mr. Ross: Well, if you table it tonight, then it may end next week, two weeks or more, and that is not counting an appeal. It may continue for another year and a half. If you grant the request today and Earth, Inc. wins the case, then the activity tonight would be of no merit.

Ms. Phelps: You mean it would become null and void.

Mr. Ross: It would become null and void unless Mr. Curtis wants to keep it. If he did, we would have to take it, review it, and make changes to the rules and regulations if he wanted to.

Mr. Chason: This area is what we are considering tonight. We are not talking about any of this.

Mr. Ross: My point if Mr. Curtis, Mr. Cooper's client, were to win the case, the subdivision has occurred based on an application by an owner which really is not the owner. If Mr. Curtis wins the case, then he is the owner of the property. If he loses the case, then Mr. Avent and whoever else owns the property.

Mr. Chason: We are only talking about the portion in yellow.

Mr. Ross: If I understood it correctly, it is the area in yellow. The engineers could comment, but that is my understanding.

Mr. Chason: Is that your understanding, Mr. Cooper?

Mr. Cooper: It covers that part for sure. It is also that portion of Tallent Lane, and the acreage which is Mr. Curtis' property.

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Mr. Chason: I have tried to keep it confined. I do not think the Commission needs to be confused by an issue where we are considering a portion of that. To me, you are telling me there is a cloud over a portion of Phase Three. Mr. Diehl, are we looking at phase two or phases two and three? Are you doing anything with phase three?

Mr. Diehl: No. We are only showing that because we are changing the phase names.

Mr. Chason: But that comes back to us at a later date.

Mr. Diehl: We will come back with phases A, B, C, and D.

Ms. Phelps: But they have to be approved as phases.

Mr. Chason: Anything we do will not be affected by this lawsuit.

Mr. Ross: If they lose, things will move right on along.

Mr. Chason: Win or lose the court decision will not take into consideration what Daphne Planning Commission does tonight are they?

Mr. Ross: No. It will not.

Mr. Chason: We are just doing what we have to do.

Mr. Ross: The City is not a party to this lawsuit either. It has not been enjoined by either party.

Mr. Chason: Not to confuse the issue, but I do not understand why phase two is not a part of your complaint.

Mr. Cooper: As I understand, it is. If you see those lots, they are affected by the streets and the curb cut there. In the Land Use Ordinance, Section 18-37 says the effective acreage for a project is not limited to a fractional part of the total concept, rather if a project is developed in phases of small plats, the total acreage of the conceptual project shall be considered. What that says in this case is you cannot take a piece of the property and say there is a problem with it, but the rest is ok.

Mr. Chason: If you cannot give me a yes or no answer, then I understand. Let me tell you something Mr. Cooper, if you win your lawsuit, they can still do Phase Two, A, B, C, and D.

Mr. Cooper: I do not think so. I think we will own that property.

Mr. Chason: Not according to the map we saw.

Mr. Diehl: The first three phases that we are going to do which is going to take years this will not even touch it. I have been involved in this from the very beginning.

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Mr. Diehl: I guess my opinion is when someone comes to you with a subdivision and someone else says I own it, Baldwin County's position is well good luck in court. If later on you prove you really do own it, then it would all be void. The Planning Commission reviews the plan on its merit. We have worked hard on the Madison Place Subdivision and with the Madison Place Property Owners' Association. We have tried to accommodate them by trying to keep the traffic out of their subdivision and providing a construction entrance. I do take this a little bit personal. We are asking the Planning Commission approval of the master plan.

Ms. Phelps: Do you have to have this approved tonight or can you wait until it is resolved?

Mr. Ross: If we postponed it to the next meeting, I know the court would have ruled. I could work with Mr. Cooper and the other parties to see where the conflict arises. That might help to clarify this mass of information which is hard to digest while you are sitting up here conducting a meeting. You can also vote it up or vote it down. Mr. Cooper and I have been talking about it. I do not see any liability for the City if you grant the subdivision approval tonight. If Mr. Cooper's client wins, then arguably it is void.

Mr. Chason: I do not see how us turning it down would affect it. You may see it differently. I did scan some of it, and one of the solutions suggested is to down zone the property.

Mr. Ross: That is not before us tonight nor has there been a request to rezone it anyway.

Ms. Phelps: There is a cloud over that portion of the master plan. If they make a decision, then we have that answer and we can move forward with it. That would be my opinion.

Mr. Ross: It is not going to hurt anything to wait it out thirty days.

Mr. Diehl: I have dealt with a couple different attorneys for Mr. Curtis and whatever we have come up with has not been to his satisfaction. Thirty days will not make a difference. You will be in the same boat. If I thought it would help I would.

Ms. Phelps: We have been sitting here many times, but this is the first time we have heard there is a pending court case.

Mr. Ross: If the court rules there will be prima facie or an appealable order. If you rule tonight, the City will not be affected either way.

Mr. Chason: You have been here several times. Is all of this because of no activity and you had to reapply?

Mr. Diehl: For this phase here, we had to change the name of the subdivision and the phase lines.

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Mr. Chason: I would like to clear my head of this. This application has nothing to do with Tallent Lane.

Mr. Diehl: We were actually denied the request because of the connection to Tallent Lane. We worked very hard to get another access. There is a lot of information in front of you, but I would like you to consider this plan. We can change whatever you need to change in order to approve it. We would ask that you vote on this request tonight.

Mr. Chason: You do have several things on the master plan. Do any of the Commissioners have any questions or comments on the master plan?

Mr. Cooper: I will just say this.

Mr. Chason: Mr. Cooper, we cannot sit here and rule on evidence. This is a subdivision application. He has made an application, and he has asked us to rule on it. We have given you an opportunity to present your information. Now let it fall where it falls. Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion on the master plan.

A Motion was made by Ms. Phelps and Seconded by Mr. Martin to approve the master plan for Caroline Woods Subdivision, Phase Two. The Motion carried. Ms. Barnette abstained.

The next order of business is preliminary plat review for Caroline Woods Subdivision, Phase Two.

PRELIMINARY PLAT REVIEW:

File SDP10-01:

Subdivision: Caroline Woods, Phase Two

Zoning(s): R-4, High Density Single Family Residential

Location: Northeast of the intersection of Parker Lane and Whispering Pines Road, North of Madison Place Subdivision and West of Daphne Commercial Park, Phase Two

Area: 13.27 Acres \pm , (55) lots

Owner: Elite Development, L.L.C. - Clarence Burke

Engineer: Engineering Development Services - David Diehl

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services, requesting preliminary plat review of a thirteen-point two seven-acre subdivision consisting of fifty-five lots located on northeast of the intersection of Parker Lane and Whispering Pines Road. This is simply an application for Caroline Woods Subdivision, Phase Two.

Mr. Chason: So what I have is you are seeking approval for Phase 2A.

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An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services, requesting to obtain a permanent drainage easement from the City of Daphne to Elite Development, L.L.C., the owner of Caroline Woods Subdivision, Phase Two, for the purpose of the installation of a drainage pipe to control the storm water located at the southwest corner of subdivision entering onto the Daphne Sports Complex property. Basically, this is where all of the water is directed onto the City's property. We are asking for an easement on the City's property to do this.

Mr. Chason: Is this a permanent or a temporary easement?

Mr. Diehl: A permanent easement.

Mayor Small: They will have the right to go onto the property to do the work.

Mr. Chason: Is that what the City wants? That is Jay's thought, but if it was temporary it could be moved in the future if it needed to. You can have a temporary easement.

Mr. Ross: You can and it could lapse at a certain period of time.

Mr. Diehl: It can be temporary. It will go to the Building and Grounds Committee.

Ms. Jones: It will go to the Building and Properties Committee for a recommendation to the City Council.

Mr. Diehl: It can be whatever you want it to be.

Mr. Chason: Would you have a problem with a temporary easement? It would be a temporary easement to carry the water until such time the City develops the plans for the Daphne Sports Complex. If the easement is not working for them, then they can move them. You may be working with the Board of Directors and the Property Owners' Association.

Mayor Small: This easement will be granted to Elite Development. Are you going to transfer ownership?

Mr. Diehl: It would be transferred to the Property Owners' Association for maintenance.

Mayor Small: The POA is not going to want that pipe to take care of.

Mr. Chason: They will have to at some point if it is transferred to them. We will have the agreement they are the responsible party until such time they turn it over to them unless the POA makes a bad judgement and takes it too soon. If they take it, then it is theirs. I have heard the argument to allow them to let them go forward until the City does something permanent.

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Mr. Diehl: We are asking for approval of all four phases of Caroline Woods Subdivision, Phase Two.

Ms. Phelps: I would like to have one qualifier put on that section that is draining onto the City's property that the developer would assist with the drainage cost incurred by the City.

Mr. Bullock: I am Joe Bullock with Engineering Development Services. The drainage is currently located in this area. What we will be doing is collecting that water so it is not going over the bluff and piping it onto the City property. We will be working with Ms. Campbell to manage that water. We have also gotten with the City's engineer regarding that proposed development so it will concur with our design.

Ms. Phelps: HMR approves of this?

Mr. Bullock: They have issued a letter to the City.

Ms. Phelps: I would like to see the language that says you will assist with that cost so that it is not totally incurred by the City.

Mr. Bullock: What we are doing is confining the storm water drainage to one location so it is easy and convenient for the City to pick it up. Where it goes today is where it will continue to go.

Ms. Phelps: What if the system fails?

Mr. Bullock: If it fails, then we are liable for that.

Ms. Phelps: That is my concern.

Mr. Bullock: If it does, then the liability will fall onto us and the developer of that property.

Chairman: He opened the floor to public participation. With no adjacent property owners present, he closed public participation. Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

A Motion was made by Mayor Small and Seconded by Mr. Lemoine to approve the preliminary plat for Caroline Woods Subdivision, Phase Two. The Motion carried. Ms. Barnette abstained.

The next order of business is a request to obtain a request for a permanent easement from the City of Daphne Sports Complex for Caroline Woods Subdivision, Phase Two.

REQUEST FOR PERMANENT DRAINAGE EASEMENT - CITY OF DAPHNE:

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Mr. Diehl: Basically, I do not know how to word it, but you are giving us permission to construct a drainage structure on the City's property to put the storm water out there.

Mr. Ross: You can work on the wording, but that is pretty much it.

Mr. Lemoine: I would want to know that every homeowner in there knows that is going to be a part of their responsibility if the developer turns it over.

Mr. Chason: That was the reason for the agreement. It very clearly tells you at the bottom you are taking over the responsibility.

Mr. Lemoine: I understand that, but the pipe is not on the subdivision property. It is located on the City's property, and you are asking the residents of the subdivision to take over that responsibility.

Mr. Chason: You are right that would be done with the agreement.

Mr. Lemoine: I would say they will have to maintain it as long as they own it, but when water leaves the property it is somebody else's responsibility.

Mr. Chason: You have to do it.

Mr. Lemoine: I look at my subdivision. There is a tremendous amount of storm water runoff that goes onto the next property owner.

Mr. Chason: To take it one step further. I think their concern was terminating it at that bluff. The purpose of the easement is to take the water away from the bluff so we would have control of it.

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

Ms. Jones: Just for a point of clarification, this is a recommendation to the City Council.

*A Motion was made by Mayor Small and **Seconded** by Mr. Lemoine for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the request for the temporary easement for drainage easement from the City of Daphne to Elite Development, L.L.C., the owner of Caroline Woods Subdivision, Phase Two, for the purpose of the installation of a drainage pipe to control the storm water located at the southwest corner of subdivision entering onto the Daphne Sports Complex property. The Motion carried. Mr. Lemoine opposed. Ms. Barnette abstained.*

The next order of business is public participation.

PUBLIC PARTICIPATION:

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Mr. Chason: Is there anyone who would like to address the Planning Commission?

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

ATTORNEY'S REPORT:

Mr. Ross: No report at this time.

The next order of business is commissioner's comments.

COMMISSIONER'S COMMENTS:

Mr. Chason: Do any of the Commissioners have any questions or comments?

Ms. Barnette: I would like to address the ice vending machine in front of Daphne Utilities and how did it get there?

Mayor Small: There is also one in front of Veteran's Pointe.

Ms. Barnette: I would like to see the Mayor pursue the enforcement of the section of the Land Use and Development Ordinance with regard to the illegal subdivision by TimberCreek Investments.

Mayor Small: We did not enforce the penalty section for the illegal subdivision on Wilson Avenue for Mr. Efraim, Efraim Subdivision. Mr. Efraim sold a piece of property to Ms. Harris and Ms. White. It wasn't until Ms. White could not get a building permit that he had to come to the Planning Commission for subdivision approval. We did not impose a penalty on him.

Mr. Chason: He was just a citizen, and this is a developer. In this case, I would like to see the Ordinance enforced.

Ms. Barnette: I would like to encourage Community Development to come up with a zoning designation suitable for outdoor recreation and golf courses.

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

DIRECTOR'S COMMENTS:

Ms. Jones: No comments.

ADJOURNMENT:

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

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

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There being no further business, the meeting was adjourned at 7:44 p.m.

Respectfully submitted by:

Jan Dickson

Jan Dickson, Planning Coordinator

APPROVED: May 27, 2010

L. E. Chason

Mr. Chason, Acting Chairman

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DRAFT OF MINUTES:

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CALL TO ORDER:

The number of members present constitutes a quorum and the regular meeting of the City of Daphne Planning Commission was called to order at 6:03 p.m.

CALL OF ROLL:

Members Present:

*Fred Small, Mayor
Ed Kirby, Chairman
Larry Chason
Victoria Phelps
Cathy Barnette, Councilwoman
Chief James "Bo" White

*Mayor Small arrived at 6:08 p.m.

Members Absent:

Joe Lemoine
Frank Martin, Secretary
Dan Gibson

Staff Present:

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

Staff Absent:

Misty Gray, Attorney
Erick Bussey, Associate Attorney
Ashley Campbell, Environmental Programs Manager

Others Absent:

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

The first order of business is the call to order.

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Chairman: Please let the record reflect Mr. Lemoine, Mr. Martin and Mr. Gibson are not present.

The next order of business is approval of the minutes.

APPROVAL OF MINUTES:

The minutes of the May 27, 2010 regular meeting were considered for approval.

Chairman: A copy of the minutes was furnished to us previously. Do any of the Commissioners have any questions or comments? If there are no additions, deletions, or corrections at this time, the Chair will entertain a motion.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Chason to **approve the minutes of the May 27, 2010 regular meeting, as submitted. The Motion carried. Chief White abstained due to his absence at the meeting.**

The next order of business under new business is an administrative presentation of a revised master plan for St. Augustine Subdivision.

NEW BUSINESS:

ADMINISTRATIVE PRESENTATION:

Chairman: I am going to ask Mr. Ross a question. Do we need six people in order to review a master plan?

Mr. Ross: Ms. Jones asked me that question earlier today, and the answer is yes. I believe we do.

Ms. Jones: Mayor Small is supposed to be on his way so do you want to skip this item and come back to it?

Chairman: We can do that and wait for him to arrive so I will let you go first.

The next order of business is an administrative presentation for proposed amendments to the Daphne Land Use and Development Ordinance.

An introductory presentation was given by Ms. Adrienne Jones, the Director of Community Development, of the proposed amendments to the

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Daphne Land Use and Development Ordinance regarding stand-alone ice vending machine regulations. I presented to you a draft at the last Planning Commission meeting. I have given you an updated copy in your report of the proposed language for the stand-alone ice vending machine. We have talked about it, and some very good points were brought up such as a suggestion to broaden the category to catch other uses which may be similar in nature to this. We need to come up with a title. Mr. Kirby's suggestion is to call it self service ice vending units and similar uses. We also talked about the following: the size being relevant and proportional to the property, aesthetics, technical definition for control, and compatibility to its surroundings. There are a few things I would like to go over tonight. One of which is the applicable zoning district they would be located in. I am proposing the units be located in a B-2, General Business, zoning district with Planning Commission approval, in a C/I, Commercial/Industrial, zone by right, and prohibited in an overlay district. I spoke with some of the members, and they were in favor of having the prohibition in the Olde Towne Daphne District.

Chairman: The other districts consist of a park and a shopping center and so people may tend to look for this type of facility in that area. All of those districts consist of B-2, General Business, zoning and would require a site plan review. Do any of the Commissioners have any questions or comments?

Ms. Barnette: I am comfortable with that. They would have to do a site plan which would include landscaping. I agree that I do not think the Old Towne Daphne District would be appropriate.

Chairman: The other thing we talked about is the proportion of the unit relative to the site since they are locating them at existing businesses or shopping centers.

Mr. Chason: I think somewhere in the regulations, aesthetically pleasing means the developer/owner has to establish or define an area or boundaries in which the unit will be located and provide improvements to that area.

Ms. Phelps: They will have to define the perimeter.

Mr. Chason: The setbacks would be established from the boundaries defined.

Ms. Phelps: They are placing these units in existing business parking lots, and now the business may not be in compliance with the parking

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requirements. In my opinion, they should be located at and are only be compatible in a C/I, Commercial/Industrial, zone or at a gas station.

Ms. Barnette: In the Table of Permitted Uses we do not address a B-1, Local Business, or B-3, Professional Business, zone. So does that mean they are prohibited or are we going to do them by Planning Commission approval?

Chairman: The table lists the units as being allowed in two zones, but in all of the other zones it would be prohibited.

Ms. Jones: If it is not listed as being approved a certain way in the Table of Permitted Uses, then we would consider them to be prohibited. My understanding is we are looking for a recommendation to the City Council.

Ms. Jones: We are going to have to take this through the process, and we will need to have a public meeting on it. This presentation is for you to tell me what you want it so I can finalize it, then we will have the hearing next month.

Mayor Small: Are you going to require setbacks? I think you can make something aesthetically pleasing so it goes along with a business.

Mr. Chason: Is there anything in the regulations that would require a copy of the elevations?

Chairman: If you required site plan review, a copy of an elevation is required.

Ms. Phelps: This is an ancillary building so what would prohibit us from having a setback from the property line like the five feet we just did for accessory buildings.

Mayor Small: The five-foot setback was for an accessory building in a residential zone.

Chairman: Do any of the Commissioners have any questions or comments? Is everyone comfortable with the ice vending machine proposal?

Ms. Phelps: Will we see this in its final form?

Chairman: It is coming back to us next month. Ms. Jones? If there are no further questions, then we will return to the order of the agenda.

The next order of business is an administrative presentation of a revised master plan for St. Augustine Subdivision.

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services, requesting a master plan revision for St. Augustine Subdivision. The subject property is

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located northeast of County Road 64 on Rigsby Road of the City of Daphne extraterritorial jurisdiction in Baldwin County District 15. You may remember this subdivision being approved by you as a standard subdivision with typical lot sizes and common area. The owner constructed the infrastructure and detention pond for St. Augustine Subdivision, Phase One and then the development kind of froze.

Mr. Diehl: What we have is a developer which would like to revive the development by doing something different by creating a clutter development with sixty percent of common area. In this development we are trying to make sure that every lot backs up to the lake, a common area or a landscape buffer. We are proposing to make all of the common area interconnected. At the suggestion of the Baldwin County Planning staff, we are only installing a sidewalk on one side of the street. We are going to relocate the sidewalk intended for the other side of the street throughout the common areas. We are installing a nature trail around the lake and leaving the common areas as multipurpose. We are examining the drainage design, the impact on traffic, and the water pressure for this development. We are reducing the linear feet of the streets by three thousand feet, the impervious area will be reduced by four acres, and the amount of open space has almost tripled. We are also adding a landscape buffer along Rigsby Road. In the Baldwin County regulations they have buffering requirements depending what type of property you are adjacent to. On the north side of the property we are required to put a forty-foot buffer. With that I or the engineer will be happy to answer any questions you may have.

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

Chief White: You will require a six-foot privacy fence on each lot. Will the property owner be able to grow shrubbery along that fence?

Mr. Diehl: We will probably limit the height of that too. We do not want you to be in the common area and feel like you are boxed in.

Ms. Barnette: I like the plan a lot. It is the type of development we have been talking about. I just have one concern. I would like to see a note added to the master plan to say that this area will remain common area just in case the land adjacent to the subdivision is developed.

Mr. Diehl: This property will go before Baldwin County Planning Commission on July 1, 2010 for rezoning to a PRD. Once that plan is approved, that will be the zoning for this property, and the property to the right will be forever common area.

Mr. Chason: I have two questions. Is there a temporary turn around proposed made of shell or rock at the end of these streets?

Mr. Diehl: There will be.

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Mr. Chason: Since the detention is in already. I wondered if there was supposed to be something in here about the detention maintenance agreement.

Ms. Barnette: We are not giving site plan approval. This is a master plan.

Ms. Jones: That will be done during subdivision review. We want them to certify that the existing detention is installed correctly.

Mr. Chason: The other thing is so we know who to call if something is wrong. Other than that I think it is a great development.

Ms. Phelps: What size buffer will be required against the power utility easement?

Mr. Diehl: None. I think we have twenty-five feet.

Ms. Phelps: I would like to commend you on the creativity.

Chairman: I only have one question. Since all of the streets and sewer taps are in, are you going to have to go back and tear up the streets to get the additional sewer taps in?

Mr. Diehl: Baldwin County has not accepted the street yet. If we do have to dig up the streets to install utilities, they will not accept a patch job.

Ms. Phelps: Will the property owners be responsible for maintaining the common areas?

Mr. Diehl: Yes.

Mr. Chason: This does not have anything to do with Mr. Diehl's application. I think the idea Baldwin County has to modify the setbacks if the utility company cannot certify fire flow is something we need to look at.

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

A **Motion** was made by Ms. Barnette and **Seconded** by Ms. Phelps **to approve the revised master plan for St. Augustine Subdivision. The Motion carried unanimously.**

Ms. Phelps: Before we go on, I would like to make one more comment. I think we need to add some safety requirements or reflectors to the ice vending machines.

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The next order of business is an administrative presentation for proposed amendments to the Daphne Land Use and Development Ordinance. An introductory presentation was given by Ms. Adrienne Jones, the Director of Community Development, of the proposed amendments to the Daphne Land Use and Development Ordinance regarding creating a C-2, Outdoor Amusement, zoning district. I added club house, bar and ancillary uses under golf courses to be proposed in a C-2 zone only. We will revise the setbacks for the front and the side with a lesser value if it is adjoining or commercial use.

Mr. Chason: This is to be used only for future applications. Is that right? There is nothing which is pro-actively going to be rezoned? Is that correct?

Ms. Jones: I would say no.

Mr. Chason: Can we be specific about the fact that we see this as a tool to identify recreation areas in the future?

Mr. Ross: What does the City Council want to do Ms. Barnette? I mentioned last week there is some Alabama Law which says you may be able to rezone existing property. Whether or not it is successful on this fact or not, I do not know. There is existing law that says that.

Ms. Barnette: I do not think the City Council is proposing to do that.

Mr. Chason: For me it would be an important point. I would hate to think we are going through this exercise to go and apply that.

Chairman: I agree with you, Larry.

Mr. Chason: We are getting lawsuits in the mail, and it is getting kind of old. I personally would not want to know that I was voting for an open invitation for that process Jay was speaking of. I certainly think it would not be well received by people that already have property zoned and are satisfied with that zoning. That would just open Pandora's box.

Chairman: That would be just stepping off of the deep end.

Ms. Barnette: This is just something we have been talking about so we can identify it and zone it properly.

Mr. Chason: For me, it will have say that our recommendation is for future uses.

Ms. Jones: That can be in your motion.

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Chairman: For my recommendation, it would have to say it would go forward without any administrative rezoning.

Mr. Chason: The City Council can do whatever they want to do. I think it should be our recommendation from the stand point of planning and zoning, we do not need to go through the rezoning of property without following the steps we have always done.

Ms. Barnette: I just have two more questions. Why didn't we include shooting ranges in the Table of Permitted Uses?

Chairman: It is against the law to shoot a gun inside of the city limits.

Ms. Barnette: Ok. What about boat launches or something of that nature?

Ms. Jones: A marina is permitted in B-2 with Planning Commission approval and C/I by right.

Ms. Barnette: A marina is bigger, but I am talking about a boat launch like May Day Park.

Chairman: That is public, but it is not zoned anyway. Lake Forest Yacht Club is a private boat launch.

Ms. Jones: Boat docks and recreational uses would be permitted in all zones, but B-1 and C/I by right.

Ms. Barnette: That is fine. I just thought of that.

Chairman: That is zoned R-3 in Lake Forest. It could be included, but I just do not know where it would be.

Ms. Barnette: Arguable you could say Campbell Swamp was one because it was proposed to be a park. It was a proposal.

Ms. Phelps: They would have to rezone the property.

Chairman: Do you want to take them out of all of the residential and business zones and let them be only in C-2? The existing ones would then be nonconforming.

Mr. Chason: Then you make the existing ones legal nonconforming.

Ms. Barnette: Or they could be by right or approval in some of the other zones.

Ms. Phelps: Then the existing ones would be grandfathered.

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF JUNE 24, 2010 DRAFT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

DRAFT OF MINUTES:

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

Mr. Chason: I think you would want to leave that up to the developer to decide if they want to dedicate a lot of his development for recreational and amusement.

Chairman: Let me just throw Lake Forest Yacht Club out there for discussion. It is zoned R-3, and it is a use of the Lake Forest Property Owners' Association. That property would have to be rezoned for the new owner to operate it as a business. Would you want it to be B-2 or C-2?

Ms. Jones: Are you saying we will be removing by right in all zones and only have the use in C-2 or would it be by Planning Commission approval?

Chairman: You can do that. You want to change all of the ones listed by right to Planning Commission approval.

Ms. Jones: That is for a boat launch and a marina?

The next order of business is public participation.

PUBLIC PARTICIPATION:

Chairman: Is there anyone who would like to address the Planning Commission?

Mr. Ouellette, President of the Madison Place Property Owner's Association: I remember when we were trying to annex some property into the City of Daphne. It was turned down because the people voted against it. I can remember two things being said about why they did not want to come into the city. One of the reasons they did not want to come in is they could go into their back yard and shoot deer. If their trailer were to burn down, they would like to be able to replace it. I remember the Mayor saying in order for that to happen we would have to let them do that. I am not sure if that is going to happen or not. That was talked about. If that happens, there will be shooting in the city limits and some other things.

Chairman: For that to happen, we would have to create a separate designation for the rural agricultural property.

Mr. Chason: I think the problem was it was not the zoning did not control whether or not it was done. It was the city ordinance.

Mr. Ouellette: If you annex them and allow it, then it starts.

Ms. Barnette: There is no effort right now to do the annexation.

**THE CITY OF DAPHNE
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Mr. Ouellette: Well, I just thought I heard that.

Ms. Phelps: That would be a good comment if that were indeed to happen and we decided to move forward with it.

Mrs. Ouellette: I have a question about these vending machines. Are they going to be attached to the ground so they are safe during hurricanes or will they be able to move?

Ms. Barnette: I do not think we know the answer to that. That may be something we need to add.

Chairman: The thing is the machines we are talking about are larger and heavier than a regular ice machine which is not fastened down. I am not sure the vending machine is fastened down.

Ms. Jones: Because it is not a building, the building code does not regulate it.

A resident of TimberCreek addressed the Commission to question the addition of the C-1 and C-2 zoning designation and the status of the adoption of the proposed zoning map.

Ms. Barnette: Would you like me to explain it? C-2 is a new proposed zoning designation. It would not be on the zoning map as a designation because there is no C-2 zone yet. It is a proposed zone with proposed uses. That is what we are working on now. It will be a proposed ordinance and City Council can do with it what they want to.

The resident of TimberCreek asked if the property to the west of TimberCreek had plans for a residential development.

Ms. Jones: If they were proposing a new residential development that was not zoned appropriately, they would have to go through the zoning process. I have not received any plans for that.

A resident of TimberCreek asked if the City Council or the Planning Commission had any involvement with Woodrow Lane as far as Green Court being used as a cut through for TimberCreek Subdivision.

Ms. Barnette: Mr. Chairman, I recommend that he bring that to the Public Safety Committee so the police and fire department can review it and make a recommendation to the City Council. From the City's prospective, I am not sure this is something we would want to be happening. You can also call your Councilman, Mr. Palumbo. He is on the Public Safety Committee, and he could help you move it along.

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

ATTORNEY'S REPORT:

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF JUNE 24, 2010 DRAFT
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Mr. Ross: I guess the only thing I need to tell you is about the TimberCreek lawsuit has been filed and AMIC, the insurance company, has it. They are going to assign it to Andy Rutens law firm. I will keep you updated on that. It will probably pick up speed rather quickly. That is my report, Mr. Chairman.

Ms. Barnette: May I ask a question? Was the Planning Commission named individually?

Mr. Ross: They were not named individually. It was addressed as the City of Daphne Planning Commission as an entity. It contained no individual quote allegations. If you do not have a copy, then I will be happy to email that to you.

Ms. Barnette and Mr. Chason: We have it.

The next order of business is commissioner's comments.

COMMISSIONER'S COMMENTS:

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

Ms. Barnette: I have to put Ms. Jones on the spot I guess. Ms. Phelps asked whether or not the sign at the skating rink was a conforming sign or not because it has advertising on it.

Ms. Jones: I have no idea. When did you ask me about it?

Ms. Barnette: At the last meeting.

Chairman: Technically it is a conforming sign.

Ms. Barnette: Even if it has advertising on it?

Chairman: That is what a sign is for. A business sign is a business sign. The City does not delineate content.

Ms. Phelps: I hate to disagree with you, but we do not have any other signs like this one across the City.

Chairman: I understand.

Ms. Phelps: It is not content. It is the Pepsi logo on top.

Ms. Jones: Is it outside of the maximum requirements?

Chairman: No.

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
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Ms. Jones: It is that it just says Pepsi.

Chairman: It is not even the full size.

Ms. Barnette: I am just asking.

Ms. Jones: Lonnie Jones, the Code Enforcement Officer, enforces the Sign Ordinance so I would not have approved it one way or another.

Ms. Phelps: Maybe he is not aware of it.

Ms. Jones: He has been coached by the King.

Chairman: If I was still working here and the sign had come to me, I could not have turned it down. We do not regulate content.

Ms. Phelps: What is the City's next sidewalk or CDBG grant after the sewer grant? As the Planning Commission, we should be making recommendations to the City Council.

Ms. Jones: Who is the grant administrator or who is it that pursues grants?

Chairman: I thought it was David Cohen, the City Clerk.

Ms. Jones: I thought it was David Cohen too.

Ms. Barnette: Officially, it is not. Police and Fire do their own. We have been talking about giving David that position.

Ms. Jones: At this point, I do not know about it unless I am at a meeting and the information comes up. There is a meeting next week that is going to talk about a grant.

Ms. Phelps: You cannot pursue a grant until the other project is complete. We need to be thinking about what project we are going to pursue next.

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

DIRECTOR'S COMMENTS:

Ms. Jones: Next Wednesday, June 30, 2010 there is a meeting for the City of Daphne, City of Fairhope, City of Spanish Fort and Baldwin County regarding a Tiger II Grant.

Ms. Jones: It is a collaboration where the cities are trying to work together to get grant for an access management plan on County Road 13, and a watershed management plan and an alternate transportation mode.

**THE CITY OF DAPHNE
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If any of you would like to come, it is next Wednesday at 10:30 a.m. in the executive chambers or council chambers.

Ms. Phelps: One more thing I need to mention. Thompson Engineering is going to have their water shed plan public participation meeting at Five Rivers on Tuesday, June 29, 2010 at 6:00 p.m. This will be their public presentation to the public, and the meeting to receive comments.

Ms. Jones: Have they advertised it in the newspaper?

Mrs. Ouellette: The advertisement was in the newspaper.

Ms. Jones: One more thing, at the last work session where Mr. Kirby and I went over the proposed ordinance with the City Council. Everything went well, but there was one comment that Councilman Scott made about the number of proposed parking spaces for hotels and motels. Right now we are proposing two spaces instead of one or one point five, and he just wanted to let you know he is not in favor of that.

Chairman: He asked the question why two.

Ms. Barnette: It was a good question. We are requiring more permeable parking. The question is where we want to look at defining that or not.

Ms. Phelps: There is a difference between a hotel and motel.

Ms. Jones: He made the comment about making all of the existing hotels and motels not conforming.

Ms. Barnette: His question is should it be one point five. It was a valid question because we did not want more permeable parking, but here we are requiring it.

Ms. Jones: From all that we have had to discuss, we have only had some minor comments.

ADJOURNMENT:

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

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

There being no further business, the meeting was adjourned at 7:16 p.m.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
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Respectfully submitted by:

Jan Dickson, Planning Coordinator

APPROVED: July 22, 2010

Ed Kirby, Chairman

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
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**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

CITY OF DAPHNE

RESOLUTION NO.: 2010-69

=====

WHEREAS, Carolyn M. Meador hereby desires to grant, bargain, convey, and donate to the City of Daphne a certain parcel of real property and;

WHEREAS, the City of Daphne hereby accepts the herein described real property and;

WHEREAS, the City of Daphne recognizes that the total appraised value of said property according to appraisal performed by David D. Williams Appraisal Company, dated March 4, 2010, is \$12,000.00, and;

WHEREAS, said property is located within the corporate limits of the City of Daphne, Baldwin County, Alabama and is described as follows:

Lot 136, Whispering Pines, according to plat thereof recorded in the Office of the Judge of Probate, Baldwin County, Alabama in Map Book 7, Page 84.

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA that the above described property is hereby accepted.

ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE ____ DAY OF _____, 2010.

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

**GUS PALUMBO
COUNCIL PRESIDENT**

**FRED SMALL
MAYOR**

ATTEST:

DAVID L. COHEN, CITY CLERK, MMC

STATE OF ALABAMA)
COUNTY OF BALDWIN)

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS that **CAROLYN M. MEADOR**, a married woman, the Grantor, for and in consideration of her charitable gift to the Grantee and value to the community and other good and valuable consideration hereby acknowledged to received by the Grantor from said gift to the **CITY OF DAPHNE, ALABAMA**, an Alabama Municipal Corporation, the Grantee, does hereby **GRANT, BARGAIN AND CONVEY** unto the said Grantee, its heirs and assigns, subject to the provisions hereinafter contained, all that real property in the County of Baldwin, State of Alabama, described as follows:

Lot 136, Whispering Pines, according to plat thereof recorded in the Office of the Judge of Probate, Baldwin County, Alabama, in Map Book 7, Page 84.

EXCEPTING THEREFROM all interest in and to all oil, gas and other minerals in, on and/or under said property and all rights in connection therewith that have not been previously granted or reserved by others.

SUBJECT TO THE FOLLOWING:

1. Any and all easements, rights-of-way or restrictive covenants affecting the above described real property according to the records of the Office of the Judge of Probate of Baldwin County, Alabama.

GRANTOR DOES HEREBY REPRESENT AND COVENANT THAT THE HEREIN DESCRIBED REAL PROPERTY DOES NOT CONSTITUTE HOMESTEAD PROPERTY WITHIN THE MEANING OF TITLE 6-10-3, CODE OF ALABAMA, (1975).

Together with all and singular the rights, privileges, tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining; **TO HAVE AND TO HOLD** the same unto the said Grantee, and to its heirs and assigns, forever.

This conveyance is made subject to restrictive covenants and easements applicable to said property of record in the said Probate Court records.

And, except as to the above, and the taxes hereafter falling due, the said Grantor, for herself and for her heirs and assigns, hereby covenants with the Grantee that she is seized of an indefeasible estate in fee simple in and to said property, that said property is free and clear of all encumbrances and that she does hereby **WARRANT AND WILL**

FOREVER DEFEND the title to said property, and the possession thereof, unto the said Grantee, its heirs and assigns, against the lawful claims of all persons, whomsoever.

IN WITNESS WHEREOF, the said Grantor have hereunto set her hand and seal this the _____ day of _____, 2010.

_____(SEAL)
CAROLYN M. MEADOR, Grantor

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

I, the undersigned Notary Public, in and for said State and County, hereby certify that **CAROLYN M. MEADOR**, Grantor herein, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the content of said conveyance, she executed the same voluntarily on the day same bears date.

Given under my hand and seal this the _____ day of _____, 2010.

NOTARY PUBLIC
Commission Expires:

**GRANTEE'S ADDRESS:
CITY OF DAPHNE, ALABAMA
P.O. BOX 400
DAPHNE, ALABAMA 36526**

**THIS INSTRUMENT PREPARED BY:
MISSTY C. GRAY
ROSS, JORDAN & GRAY, P.C.
P.O. BOX 210
MOBILE, ALABAMA 36601
(251) 432-5400
(251) 432-5445 facsimile**

CITY OF DAPHNE

RESOLUTION NO.: 2010-70



WHEREAS, Elite Development, L.L.C. hereby desires to grant, bargain, convey, and donate to the City of Daphne a certain parcel of real property for use as a Drainage and Utility Easement, and;

WHEREAS, the City of Daphne hereby accepts the herein described real property for said Drainage and Utility Easement, and;

WHEREAS, said property is located within the corporate limits of the City of Daphne, Baldwin County, Alabama and is described as follows:

20' DRAINAGE EASEMENT, more particularly described as follows: Commence at an iron pin marker at the Southwest Corner of Lot 27 of the Northern Division of Jackson's Oak Subdivision, as shown on map or plat thereof recorded at Map Book 3, Page 28, and Page 29, and also, Map Book 4, Page 36 and Page 37, Probate Records, Baldwin County, Alabama, and run thence South 00 degrees 07 minutes 50 seconds West, for a distance of 1319.47 feet; thence run South 00 degrees 12 minutes 17 seconds West, for a distance of 83.16 feet for a Point of Beginning; continue thence South 00 degrees 12 minutes 17 seconds West, for a distance of 22.28 feet; thence run South 64 degrees 02 minutes 00 seconds West, for a distance of 98.02 feet; thence run North 25 degrees 58 minutes 00 seconds West, for a distance of 20.00 feet; thence run North 64 degrees 02 minutes 00 seconds East, for a distance of 107.85 feet to the Point of Beginning. Tract contains 0.05 acres, more or less.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA that the above described property is hereby accepted for Drainage and Utility Easement.

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

**AUGUST PALUMBO
COUNCIL PRESIDENT**

**FRED SMALL
MAYOR**

ATTEST:

DAVID L. COHEN, CITY CLERK, MMC

Resolution 2010-71

2010-Q-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION ALONG C&C UTILITY EASEMENT, NRCS DAP-09-002, Agreement No 69-4101-102010

WHEREAS, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

WHEREAS, the City of Daphne acknowledges that D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION ALONG C&C UTILITY EASEMENT, NRCS DAP-09-002, Agreement No 69-4101-10 will exceed \$50,000; and

WHEREAS, Bids were solicited for the D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION ALONG C&C UTILITY EASEMENT, NRCS DAP-09-002, Agreement No 69-4101-10; and

WHEREAS, staff recommends the award of the bid for D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION ALONG C&C UTILITY EASEMENT, NRCS DAP-09-002, Agreement No 69-4101-10 be awarded to Southern Excavating LLC.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept and award the contract to from Southern Excavating LLC in the amount of \$102,692 for the D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION ALONG C&C UTILITY EASEMENT, NRCS DAP-09-002, Agreement No 69-4101-10.

APPROVED AND ADOPTED by the City Council of the City of Daphne this _____ day of _____, 2010.

August Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

Resolution 2010-72

2010-R-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION AT 111 WORCHESTER LOOP, NRCS DAP-09-001, Agreement No 69-4101-10

WHEREAS, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

WHEREAS, the City of Daphne acknowledges that 2010-R-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION AT 111 WORCHESTER LOOP, NRCS DAP-09-001, Agreement No 69-4101-10 will exceed \$50,000; and

WHEREAS, Bids were solicited for the 2010-R-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION AT 111 WORCHESTER LOOP, NRCS DAP-09-001, Agreement No 69-4101-10 ; and

WHEREAS, staff recommends the award of the bid for 2010-R-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION AT 111 WORCHESTER LOOP, NRCS DAP-09-001, Agreement No 69-4101-10 be awarded to North State Environmental.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept and award the contract to North State Environmental in the amount of \$109,441.61 for the 2010-R-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION AT 111 WORCHESTER LOOP, NRCS DAP-09-001, Agreement No 69-4101-10.

APPROVED AND ADOPTED by the City Council of the City of Daphne this _____ day of _____, 2010.

August Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

RESOLUTION 2010-73

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

WHEREAS, the Department Heads of the City of Daphne have determined that the items listed below are no longer required for public or municipal purposes; and

WHEREAS, the items listed below are recommended for disposal.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Daphne that

- 1- The property listed below is hereby declared to be surplus property, and

DEPT	TAG/VEH#	DESCRIPTION	VIN # / SERIAL #
Recreation	213	1991 GMC PU TS 10803	1GTCS14Z3M8538821
Recycling	776	2000 MACK RECYCLE TRUCK	VG6BA09C2YB702299
Recycling	81	1997 FORD F800 TRK GARBAGE	1FDXF80E7VVA33106
Civic Center		Misc Planters & Plants	
Civic Center		Misc Vacuum Cleaners	
Civic Center		(10) Red Vinyl Chairs	
Civic Center		Modular Furniture and cocktail tables	

- 2- The Mayor is authorized to advertise and accept bids through Govdeals.com as contracted for the sale of such personal property, and

- 3- The Mayor is authorized to sell said property to the highest bidder and deposit any and all proceeds to the General Fund. The Mayor is further authorized to direct the disposition of any property which is not claimed by any bidder.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this _____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

RESOLUTION 2010 -74

A RESOLUTION DECLARING CERTAIN PERSONAL PROPERTY SURPLUS AND AUTHORIZING DISPOSITION

WHEREAS, the City of Daphne Fire Department has determined that the Phoenix Cutters/Equipment (Jaws of Life) are no longer required for public or municipal purposes; and

WHEREAS, the Phoenix Cutters/Equipment (Jaws of Life) that was previously utilized in the City's Fire Department is no longer used by City; and

WHEREAS, the Phoenix Cutters/Equipment (Jaws of Life) has been recommended for surplus; and

WHEREAS, the Lottie Volunteer Fire Department has a need for this equipment

WHEREAS, this Phoenix Cutters/Equipment (Jaws of Life) will be donated "AS IS" and without warranty of any kind, express, or implied, and recipient will release, acquit, and hold the City harmless for any and all claims for damages, causes of action, for any purpose;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Daphne that

1- The following property is hereby declared to be surplus:

- Phoenix Cutter – SN:4241
- Phoenix Hose Reel – SN: 56164
- Phoenix Long Ram
- Phoenix Manifold
- Phoenix Power Units: SN: 87011404 / 91030158 / 96010804
- Phoenix Short Ram – SN: 48007
- Phoenix Spreader – SN: 6245
- Phoenix Spreader/Cutter – SN: 8040R

and

2- The Mayor is authorized to direct the donation of the above listed property to the Lottie Volunteer Fire Department.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this ____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

**CITY OF DAPHNE
ORDINANCE NO.: 2010-38**

**A ORDINANCE TO AMEND CERTAIN
PERSONNEL POLICIES AND PROCEDURES
RELATED TO EXPOSURE CONTROL TO EMPLOYEES**

WHEREAS, the City Council of the City of Daphne, Alabama, did heretofore adopt Ordinance 2009-11 “The Employee Handbook” and subsequent revisions thereto; and

WHEREAS, the Public Safety Committee of the City of Daphne, Alabama at their regular meeting held on May 12, 2010, recommended favorably to the City Council of the City of Daphne to adopt the City of Daphne Exposure Control Plan; and

WHEREAS, the Exposure Control Plan establishes guidelines to help the worker prevent exposure incidents, identify workers prone to exposures, and implement procedures and practices that will promote a safe workplace; and

WHEREAS, the City Council of the City of Daphne, Alabama, has determined that it is in the best interest of the City Employee to provide all City of Daphne employees with information required to prevent the transmission of infectious disease in the workplace; and

WHEREAS, the City’s goal of this document is to reduce a significant risk of infection by either minimizing or eliminating the occupational exposure to blood borne pathogens and other infectious materials.

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

SECTION ONE: EXHIBIT A (CITY OF DAPHNE EXPOSURE CONTROL PLAN)

Adopt the City of Daphne Exposure Control Plan which is attached as Exhibit A.

SECTION TWO: SEVERABILITY

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

SECTION THREE: REPEALER

All ordinances or parts thereof in conflict with the provisions of this Ordinance, to the extent they conflict, shall be and are hereby repealed.

SECTION FOUR: EFFECTIVE DATE

This ordinance shall take effect upon its adoption and publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ DAY OF _____, 2010.

**CITY OF DAPHNE
AN ALABAMA CORPORATION**

**AUGUST A. PALUMBO,
COUNCIL PRESIDENT**

**FRED SMALL
MAYOR**

ATTEST:

**DAVID COHEN,
CITY CLERK, MMC**

CITY OF DAPHNE EXPOSURE CONTROL PLAN

Subject: Exposure Control Plan

Purpose: This document establishes guidelines to help the worker prevent exposure incidents, identify workers prone to exposures, and implement procedures and practices that will promote a safe workplace.

I. Scope

This plan is to provide all City of Daphne employees with information required to prevent the transmission of infectious disease in the workplace. The goal of this document is to reduce a significant risk of infection by either minimizing or eliminating the occupational exposure to blood borne pathogens and other infectious materials.

II. Exposure Determination

An exposure is contact with blood, body fluids, tissue on airborne droplets by direct or indirect contact, chemicals.

III. Methods of Compliance

A. Universal Precautions - (a concept for infection control which considers blood and body fluids to pose a risk for transmission of blood borne infectious diseases) shall be observed when employees are exposed to blood or other potentially infectious or hazardous materials or equipment. Documented exposures to infectious diseases have not resulted from nasal secretions, septum, sweat, tears, urine, or vomit. Since any body fluid can transmit infectious diseases if it contains trace amounts of blood, employees are directed to treat **ALL** body fluids as infectious substances.

B. Standard Operating Procedures and Work Practices - shall be re-evaluated, updated, and replaced on an annual basis or as need to ensure effectiveness as related to possible exposures.

C. Handwashing

1. Hand washing facilities are provided at all city buildings. When hand washing facilities are not immediately available, antiseptic hand cleaner and towels shall be utilized.

2. Hands and other skin surfaces must be washed thoroughly as soon as possible if contaminated with a potentially infectious or hazardous material to which universal precautions apply. Hands should be washed after gloves are removed even though gloves appear intact. Hand washing should be completed using appropriate facilities such as a utility sink or restroom sinks. *Hands **will not** be washed in sinks where food preparation occurs.*

3. Handwashing should be done with soap and warm water working up a lather, rubbing your hands together for at least 10 to 15 seconds. Hands should then be rinsed and dried with a disposable paper towel/towelett. The paper towel should be used to turn off the faucets. The towel will be discarded in a lined waste container in the restroom. When antiseptic cleaner is used at a scene, employees must wash their hands again where possible using the above procedures.
4. *All employees shall wash their hands after using or cleaning restroom facilities and **before** any food is prepared or kitchenware is handled. This applies to all employees and the hand washing procedure above should be followed.*

D. Personal Hygiene

1. Eating, drinking, smoking, using of smokeless tobacco, or applying lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.

E. Personal Protective Equipment (PPE)

1. Employees at risk will be provided with the minimum PPE such as disposable gloves, hepa-filter mask, eye protection. If major volumes of blood are present, the employee should avoid all contact with the blood and should don more protective clothing.
2. Disposable gloves must be worn when employees can anticipate hand contact with blood or other potentially infectious materials (e.g. when involved in emergency patient care). Where multiple patients are involved, the employee shall change gloves when moving to a different patient.
3. The employee must use PPE at all potentially hazardous areas. This should only be done when in the employee's professional judgment deems necessary. When the employee makes this judgment, the circumstances shall be investigated and documented to determine whether changes can be made to prevent such occurrences in the future.
4. Contaminated disposable items (e.g. gloves) must be disposed of in an approved container. For large volumes of contaminated materials (e.g. clothing), the materials should be placed in biohazard bags located at Fire Station #2. When there are bodily fluids in the roadway that may occur at an accident scene, the fluid should be flooded with bleach and washed out of the roadway. Contact the Fire Department for cleanup.
5. Laundering of Clothing and Cleaning of PPE
 - A. Uniforms issued to employees and non-uniform clothing worn by volunteering and other employees **are not considered protective**

clothing. Contaminated uniform and non-uniform items should be handled by personnel wearing gloves and bagged in a leak proof plastic bag that is marked with a warning label. Soiled items may be decontaminated by laundering according to the manufacture's instructions. A mild solution of bleach should be added to the wash. All items to be cleaned at a designated area to be determined by Supervisors.

- B. Boots and leather items may be scrub brushed with soap and hot water to remove the contamination. Once the item(s) has been cleaned, it should be placed in a well ventilated area to dry. The floor should then be cleaned using a bleach solution and the remaining liquid rinsed down the sanitary drain in the floor.
- C. Employees whose uniform or other clothing is contaminated by a potentially infectious material shall change from the contaminated uniform or clothing into clean clothing as soon as possible. The contaminated clothing should be laundered per item # 6A described above.
- D. Employees are directed to avoid handling personal items such as combs and pens while wearing contaminated gloves. Contaminated gloves should be removed as soon as possible and properly disposed of and the employee should wash hands as soon as possible as outlined above.
- E. Resuscitation Equipment: Employees will not give direct mouth to mouth resuscitation to a non-breathing victim. Airway and BVM equipment will be utilized.
- F. Durable equipment (such as face masks, etc.) must be thoroughly washed and cleaned with an approved disinfectant after each use. This will be done in accordance with item # 6B above.

6. Housekeeping.

- A. All equipment and work areas shall be cleaned and decontaminated after contact with blood or potentially infectious material. The area shall be cleaned with an appropriate disinfectant as soon as possible.

F. Hepatitis B.

- 1. Hepatitis B vaccinations will be made available to all employees and volunteers who can possibly have an occupational exposure. The offer of the vaccination will be made after receiving training regarding Hepatitis B. Employees may choose to decline the series of vaccinations by signing a waiver. This waiver shall include this statement 'the potential risks

associated with contracting Hepatitis B have been explained and are understood by the employee'.

2. Employees who have previously received the complete Hepatitis B series, or who have received antibody testing proving to be immune to Hepatitis B, or the vaccine is for medical reasons shall not be required to receive the series.
3. Any employee who initially declines the series may at a later date decide to accept the vaccination and will be allowed to receive the series at that time.

G. Tuberculosis.

1. In the event a worker tests positive for TB, a chest x-ray will be done within 48 hours of the positive skin test.
2. Annually the worker(s) testing positive will be required to fill out the questionnaire provided which will be kept on file in lieu of annual testing. If a worker(s) chest x-ray is positive, medication and treatment will be provided to the employee at no charge to the employee.

H. Significant Exposure.

- 1) A significant exposure occurs when blood or other potentially infectious materials air borne or bloodborne come into direct contact with eyes, nose, mouth, into an open cut, or by needle puncture or exposure to potentially infectious airborne pathogens.
- 2) If an employee experiences a significant exposure, or experiences a situation where a significant exposure is likely to have occurred, the employee shall report the incident to the supervisor within as soon as possible after the incident. The employee shall complete a report describing the incident completely and an Accident Investigation form with the Supervisor. The Supervisor will complete the required Notice of Injury forms and send to the Human Resources Department.
- 3) The employee shall receive medical treatment as required for a medical examination and all follow-up treatment will remain confidential.
- 4) When applicable the source of exposure shall be located and tested as soon as possible.
- 5) The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained. If the employee consents to baseline blood collection but does not consent to Hepatitis B or HIV testing, then the sample shall be preserved for at least 90 days. If the

employee elects to have the baseline sample tested within the 90 day period, then the testing shall be done as soon as feasible after the request.

- 6) Counseling shall be provided for the exposed employee when medically indicated as recommended by the U.S. Public Health Service. Included should counseling and evaluation of the illnesses.

H. Definitions.

- 1) Blood - The familiar red fluid in the body that contains [white](#) and [red blood cells](#), [platelets](#).

- 2) Body Fluid with Visible blood - Some infections that can be transmitted through contact with blood and body fluids include: [HIV](#), [Hepatitis A](#), [B](#), [C](#), Staph and Strep infections, Gastroenteritis-salmonella, and shigella, Pneumonia, Syphilis, TB, Malaria, Measles, Chicken Pox, Herpes, Urinary tract infections, and Blood infections. The greatest risks are from HIV and Hepatitis B and C.

- 3) Internal Body Fluids - A natural bodily fluid or secretion of fluid such as blood, semen, or saliva.

- 4) Vaginal Secretions: Vaginal discharge refers to secretions from the [vagina](#). Such discharge can vary in: Consistency (thick, pasty, thin); Color (clear, cloudy); Smell (normal, odorless, bad odor)

- 5) Chemical – A substance or agent which may cause an adverse effect or effects to biological systems.

- 6) Feces – Bodily waste.

- 7) Smoke – Breathing in the harmful gases, vapors, and particulate matter contained in smoke.

- 8) Unknown Substance – A solid or liquid in state of matter that cannot be identified.

- 9) Inhalation – The act of taking a substance into the body by breathing.

I. Training.

1. Training shall be provided by the City of Daphne to all employees with the potential for occupational exposure. This training shall be conducted on an annual basis and new employees shall be offered this training as soon after being hired as feasible.

J. Record Keeping.

1. Medical Records.

- A. Medical Records are confidential and are not released without an employee's expressed written consent to any person within or outside the department, except as required by law. Medical records shall be kept locked in a secure area.
- B. Medical records must include a copy of the employee's Hepatitis B vaccination record including the dates of vaccination or copies of the refusal forms.
- C. Medical records will be maintained in a file separate from the employee's personnel file. Medical records will be maintained according to the State of Alabama Archives Records Dispositions Authority.

2. Training Records.

- A. The Human Resources Department will keep a record of all training provided its personnel. The training records will include the dates and content of the training and a roster of employees in attendance. The records will be maintained for a minimum of three years from the date of training.

K. Responsibility.

- 1. Employees:
 - A. It is the responsibility of the employee to be aware of the types of exposures related to his/her job. The employee is responsible for participating in training provided by the department and for using PPE provided by the Department as necessary.
- 2. Supervisors:
 - A. It is the supervisor's responsibility to monitor the activity of employees determined to be at risk to ascertain that the provisions of this policy are followed.
 - B. Any supervisor observing an infraction of this policy or observing a potentially hazardous condition involving blood or other potentially hazardous materials must report that condition to his or her supervisor.
 - C. Supervisors are also responsible for maintaining the appropriate level of personal protective equipment.
- 3. Department Administration:
 - A. It is the responsibility of the Department Administration to provide Personal protective equipment to those employees with potential occupational exposure.

- B. The Human Resources Department shall review the exposure control plan annually. The exposure control plan shall be available to all employees and shall be posted in a conspicuous location within the Department.
- C. The Human Resources Department will ensure that each significant exposure could have been avoided and an evaluation of the circumstances will be conducted to determine if policies, procedures, or protective equipment should be changed or amended to avoid future incidents.
- D. The Human Resources Department will ensure that training to all Employees with occupational exposure is completed annually.
- E. The Department Administration will be responsible for maintaining all medical and training records in the required manner.

By order of:

ORDINANCE NO. 2010 - 39

**Ordinance to Rezone Property Located East of U.S. 98 Hwy. and North of Dale Road
(15 Acres)
Dale Family**

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-2 Medium Density, Single Family District, to a B-2 General Business District, to said property is located East of U.S. 98 Hwy., North of Dale Road, being more particularly described as follows:

Legal Description:

That portion of the hereafter described property presently within the municipal boundaries of the City of Daphne, which is substantially identified as tax parcel 05-43-09-2-000-050.000, consisting of approximately the north 2/3 (15 acres ±) of the following described property: Commencing at the Northwest corner of Section 29, Township 5 South, Range 2 East, Baldwin County, Alabama; thence run South, 2153.48 feet to a point; thence run East, 1367.70 feet to a point on the East right-of-way of U.S. Highway Number 98 and the Point of Beginning; thence run S-89 46'47"-E, leaving said East right-of-way of U.S. Highway Number 98, 1138.44 feet to a point; thence run S-00 19'15"-E, 210.00 feet to a point; thence run S-00 21'05"-W, 208.77 feet to a point; thence run S-89 24'17"-W, 61.91 feet to a point; thence run S-03 05'08"-E, 159.87 feet to a point; thence run N-89 42'29"-E, 271.63 feet to a point on the West right-of-way of Dale Road; thence run S-00 50'47"-E along said West right-of-way of Dale Road, 97.59 feet to a point on the North right-of-way of Dale Road; thence run S-33 34'09"-W along said North right-of-way of Dale Road, 44.06 feet to a point; thence run S-78 34'09"-W along said North right-of-way of Dale Road, 487.00 feet to a point; thence run N-01 25'51 "-W, leaving said North right-of-way of Dale Road, 300.28 feet to a point; thence run S-86 58'25"-W, 146.90 feet to a point; thence run S-01 25'51"-E, 300.28 feet to a point on said North right-of-way of Dale Road; thence run S-89 27'14"-W along said North right-of-way of Dale Road, 110.77 feet to a point; thence run S-64 08'24"-W along said North right-of-way of Dale Road, 601.02 feet to a point of intersection of said North right-of-way of Dale Road and said East right-of-way of U.S. Highway Number 98; thence run N-44 15'36"-W along the said East right-of-way of U.S. Highway Number 98, 69.28 feet to a point; thence run Northwesterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8484.37 feet, a delta angle of 05 17'02", a chord of which bears N-01 56'47"-W, 782.18 feet, an arc distance of 782.46 feet to a point; thence run S-89 18'16"-E along said East right-of-way of U.S. Highway Number 98, 10.00 feet to a point; thence run Northeasterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8474.37 feet, a delta angle of 01 42'30", a chord of which bears N-01 33'00"-E, 252.68 feet, an arc distance of 252.69 feet to the Point of Beginning; containing 22.64 acres, more or less.

WHEREAS, the Planning Commission of the City of Daphne on May 27, 2010 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, July 19, 2010 concerning the requested rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, that said property described above is hereby rezoned from R-2 Medium Density, Single Family District, to a B-2 General Business District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA,
THIS ____ day of _____, 2010.

August A. Palumbo, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen
City Clerk, MMC

EXHIBIT A

TO

APPLICATION FOR ZONING AMENDMENT

(Dale Family)

That portion of the hereafter described property presently within the municipal boundaries of the City of Daphne, which is substantially identified as tax parcel 05-43-09-2-000-050.000, consisting of approximately the north 2/3 (15 acres ±) of the following described property: Commencing at the Northwest corner of Section 29, Township 5 South, Range 2 East, Baldwin County, Alabama; thence run South, 2153.48 feet to a point; thence run East, 1367.70 feet to a point on the East right-of-way of U.S. Highway Number 98 and the Point of Beginning; thence run S-89 46'47"-E, leaving said East right-of-way of U.S. Highway Number 98, 1138.44 feet to a point; thence run S-00 19'15"-E, 210.00 feet to a point; thence run S-00 21'05"-W, 208.77 feet to a point; thence run S-89 24'17"-W, 61.91 feet to a point; thence run S-03 05'08"-E, 159.87 feet to a point; thence run N-89 42'29"-E, 271.63 feet to a point on the West right-of-way of Dale Road; thence run S-00 50'47"-E along said West right-of-way of Dale Road, 97.59 feet to a point on the North right-of-way of Dale Road; thence run S-33 34'09"-W along said North right-of-way of Dale Road, 44.06 feet to a point; thence run S-78 34'09"-W along said North right-of-way of Dale Road, 487.00 feet to a point; thence run N-01 25'51 "-W, leaving said North right-of-way of Dale Road, 300.28 feet to a point; thence run S-86 58'25"-W, 146.90 feet to a point; thence run S-01 25'51"-E, 300.28 feet to a point on said North right-of-way of Dale Road; thence run S-89 27'14"-W along said North right-of-way of Dale Road, 110.77 feet to a point; thence run S-64 08'24"-W along said North right-of-way of Dale Road, 601.02 feet to a point of intersection of said North right-of-way of Dale Road and said East right-of-way of U.S. Highway Number 98; thence run N-44 15'36"-W along the said East right-of-way of U.S. Highway Number 98, 69.28 feet to a point; thence run Northwesterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8484.37 feet, a delta angle of 05 17'02", a chord of which bears N-01 56'47"-W, 782.18 feet, an arc distance of 782.46 feet to a point; thence run S-89 18'16"-E along said East right-of-way of U.S. Highway Number 98, 10.00

feet to a point; thence run Northeasterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8474.37 feet, a delta angle of 01 42'30", a chord of which bears N-01 33'00"-E, 252.68 feet, an arc distance of 252.69 feet to the Point of Beginning; containing 22.64 acres, more or less.

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ORDINANCE NO. 2010-40

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

**Dale Family Property
(Located on the East Side of U.S. Hwy. 98 North of Dale Road)**

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

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

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

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

WHEREAS, said petition has been presented to the Planning Commission of the City of Daphne on May 27, 2010 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned B-2, General Business**; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on July 19, 2010 concerning the petition for annexation; and,

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

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

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

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

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

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

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

“Exhibit A”

LEGAL DESCRIPTION:

That portion of the hereafter described property not presently within the municipal boundaries of the City of Daphne, which is substantially identified as tax parcel 05-43-09-29-0-000-004.000 and tax parcel 05-43-09-29-0-000-002.000, consisting of approximately the south 1/3 (7.6 acres ±) of the following described property: Commencing at the Northwest corner of Section 29, Township 5 South, Range 2 East, Baldwin County, Alabama; thence run South, 2153.48 feet to a point; thence run East, 1367.70 feet to a point on the East right-of-way of U.S. Highway Number 98 and the Point of Beginning; thence run S-89 46'47"-E, leaving said East right-of-way of U.S. Highway Number 98, 1138.44 feet to a point; thence run S-00 19'15"-E, 210.00 feet to a point; thence run S-00 21'05"-W, 208.77 feet to a point; thence run S-89 24'17"-W, 61.91 feet to a point; thence run S-03 05'08"-E, 159.87 feet to a point; thence run N-89 42'29"-E, 271.63 feet to a point on the West right-of-way of Dale Road; thence run S-00 50'47"-E along said West right-of-way of Dale Road, 97.59 feet to a point on the North right-of-way of Dale Road; thence run S-33 34'09"-W along said North right-of-way of Dale Road, 44.06 feet to a point; thence run S-78 34'09"-W along said North right-of-way of Dale Road, 487.00 feet to a point; thence run N-01 25'51 "-W, leaving said North right-of-way of Dale Road, 300.28 feet to a point; thence run S-86 58'25"-W, 146.90 feet to a point; thence run S-01 25'51"-E, 300.28 feet to a point on said North right-of-way of Dale Road; thence run S-89 27'14"-W along said North right-of-way of Dale Road, 110.77 feet to a point; thence run S-64 08'24"-W along said North right-of-way of Dale Road and said East right-of-way of U.S. Highway Number 98; thence run N-44 15'36"-W along the said East right-of-way of U.S. Highway Number 98, 69.28 feet to a point; thence run Northwesterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8484.37 feet, a delta angle of 05 17'02", a chord of which bears N-01 56'47"-W, 782.18 feet, an arc distance of 782.46 feet to a point; thence run S-89 18'16"-E along said East right-of-way of U.S. Highway Number 98, 10.00 feet to a point; thence run Northeasterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8474.37 feet, a delta angle of 01 42'30", a chord of which bears N-01 33'00"-E, 252.68 feet, an arc distance of 252.69 feet to the Point of Beginning; containing 22.64 acres, more or less.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA** on this _____ day of _____, 2010.

**August A. Palumbo,
Council President**

**Fred Small,
Mayor**

ATTEST:

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

EXHIBIT A

TO

PETITION FOR ANNEXATION OF CERTAIN PROPERTY
INTO THE CORPORATE LIMITS OF THE
MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA
(Dale Family)

That portion of the hereafter described property not presently within the municipal boundaries of the City of Daphne, which is substantially identified as tax parcel 05-43-09-29-0-000-004.000 and tax parcel 05-43-09-29-0-000-002.000, consisting of approximately the south 1/3 (7.6 acres ±) of the following described property: Commencing at the Northwest corner of Section 29, Township 5 South, Range 2 East, Baldwin County, Alabama; thence run South, 2153.48 feet to a point; thence run East, 1367.70 feet to a point on the East right-of-way of U.S. Highway Number 98 and the Point of Beginning; thence run S-89 46'47"-E, leaving said East right-of-way of U.S. Highway Number 98, 1138.44 feet to a point; thence run S-00 19'15"-E, 210.00 feet to a point; thence run S-00 21'05"-W, 208.77 feet to a point; thence run S-89 24'17"-W, 61.91 feet to a point; thence run S-03 05'08"-E, 159.87 feet to a point; thence run N-89 42'29"-E, 271.63 feet to a point on the West right-of-way of Dale Road; thence run S-00 50'47"-E along said West right-of-way of Dale Road, 97.59 feet to a point on the North right-of-way of Dale Road; thence run S-33 34'09"-W along said North right-of-way of Dale Road, 44.06 feet to a point; thence run S-78 34'09"-W along said North right-of-way of Dale Road, 487.00 feet to a point; thence run N-01 25'51 "-W, leaving said North right-of-way of Dale Road, 300.28 feet to a point; thence run S-86 58'25"-W, 146.90 feet to a point; thence run S-01 25'51"-E, 300.28 feet to a point on said North right-of-way of Dale Road; thence run S-89 27'14"-W along said North right-of-way of Dale Road, 110.77 feet to a point; thence run S-64 08'24"-W along said North right-of-way of Dale Road, 601.02 feet to a point of intersection of said North right-of-way of Dale Road and said East right-of-way of U.S. Highway Number 98; thence run N-44 15'36"-W along the said East right-of-way of U.S. Highway Number 98, 69.28 feet to a point; thence run Northwesterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8484.37 feet, a delta angle of 05 17'02", a chord of which bears N-01 56'47"-W, 782.18 feet, an arc distance

of 782.46 feet to a point; thence run S-89 18'16"-E along said East right-of-way of U.S. Highway Number 98, 10.00 feet to a point; thence run Northeasterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8474.37 feet, a delta angle of 01 42'30", a chord of which bears N-01 33'00"-E, 252.68 feet, an arc distance of 252.69 feet to the Point of Beginning; containing 22.64 acres, more or less.

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ORDINANCE NO. 2010-41

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

**Mr. Luther & Ms. Sharon Milstead Property
(Located on the Northeast of Pollard Road and Well Road (9.5 Acres))**

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

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

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

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

WHEREAS, said petition has been presented to the Planning Commission of the City of Daphne on May 27, 2010 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned B-2, General Business**; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on July 19, 2010 concerning the petition for annexation; and,

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

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

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

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

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

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

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

“Exhibit A”

LEGAL DESCRIPTION:

Commencing at the Northwest corner of Section 16, Township 5 South, Range 2 East, Baldwin County, Alabama, run thence South 00 degrees 05 minutes 12 seconds East along the West boundary of said section 16, a distance of 1997.95 feet to a point; thence run North 89 degrees 57 minutes 04 seconds East, 1325.25 feet to a crimp top iron pin; thence run South 89 degrees 56 minutes 28 seconds East, 662.58 feet to a capped iron pin for the POINT OF BEGINNING; thence continue South 89 degrees 56 minutes 28 seconds East 662.98 feet to an old axle corner; thence run South 00 degrees 09 minutes 20 seconds West, 625.94 feet to a capped iron pin on the North right-of-way line of Well Road; thence run South 89 degrees 59 minutes 11 seconds West along said right-of-way line, 661.30 feet to a capped iron pin; thence run North 00 degrees 00 minutes 07 seconds East, 627.77 feet to the POINT OF BEGINNING.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this ____ day of _____, 2010.

August A. Palumbo,
Council President

Fred Small,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

LUTHER AND SHARON MILSTEAD

ANNEXATION REVIEW

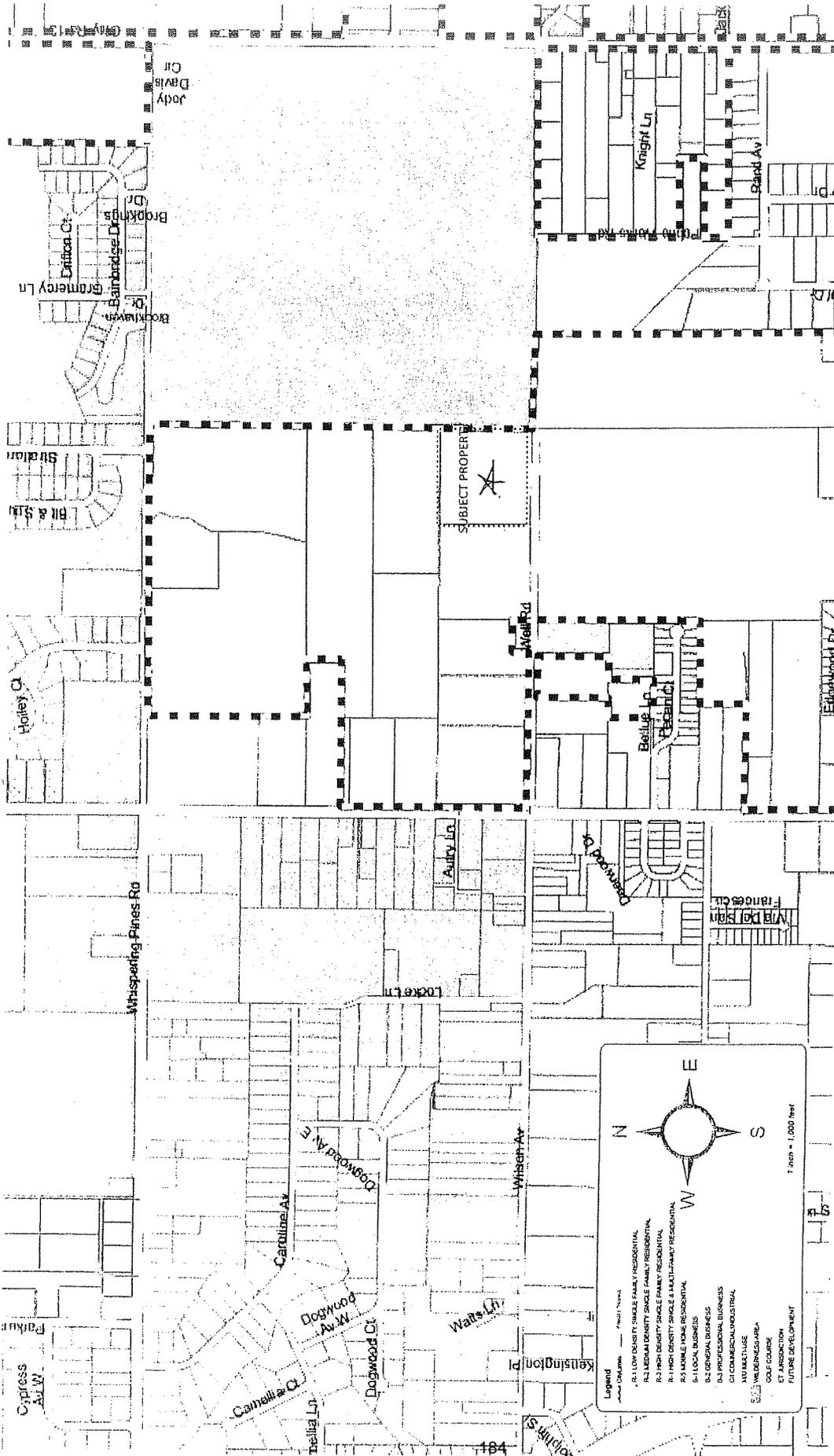
WELL ROAD PROPERTY (9.5 ACRES)

EXHIBIT "A"

Commencing at the **Northwest** corner of **Section 16, Township 5 South, Range 2 East, Baldwin County, Alabama**, run thence **South 00 degrees 05 minutes 12 seconds East** along the **West** boundary of said **section 16**, a distance of **1997.95 feet** to a point; thence run **North 89 degrees 57 minutes 04 seconds East, 1325.25 feet** to a crimp top iron pin; thence run **South 89 degrees 56 minutes 28 seconds East, 662.58 feet** to a capped iron pin for the **POINT OF BEGINNING**; thence continue **South 89 degrees 56 minutes 28 seconds East 662.98 feet** to an old axle corner; thence run **South 00 degrees 09 minutes 20 seconds West, 625.94 feet** to a capped iron pin on the **North** right-of-way line of **Well Road**; thence run **South 89 degrees 59 minutes 11 seconds West** along said right-of-way line, **661.30 feet** to a capped iron pin; thence run **North 00 degrees 00 minutes 07 seconds East, 627.77 feet** to the **POINT OF BEGINNING**.

EXHIBIT "B" - City of Daphne Zoning (UTILITIES BOARD)

LUTHER & SHARON MILSTEAD ANNEXATION REVIEW



ORDINANCE 2010-42

**Capital Reserve Appropriation
Whispering Pines Road-Phase I:
Acquiring Right-of-Way for Round-About**

WHEREAS, Ordinance 2009-52 approved and adopted the Fiscal Year 2010 Budget on October 19, 2009; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2010 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2010 budget; and

WHEREAS, City Council did heretofore approve the resurfacing of Whispering Pines Road; and

WHEREAS, such project includes the construction of a round-about at the northwest corner of the Whispering Pines/ Pollard Road intersection; and

WHEREAS, such round-about includes areas which are not a part of the City's right-of-way; and

WHEREAS, a certain property owner (Mr. Orrie Smith) is requiring payment from the City for his property which is needed for the round-about; and

WHEREAS, the cost of such acquisition is not to exceed \$ 6,200.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that the Fiscal Year 2010 Budget is hereby amended to include a Capital Reserve appropriation in the amount of \$ 6,200 for the acquisition of certain land required for the construction of a round-about at the corner of Whispering Pines and Pollard Road and the Mayor is hereby authorized to make such offer to the property owner and to execute any and all documents to that effect.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

ORDINANCE 2010-43

WINDSOR COURT/DRIVE DRAINAGE REPAIRS

WHEREAS, Ordinance 2009-52 approved and adopted the Fiscal Year 2010 Budget on October 19, 2009; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2010 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2010 budget; and

WHEREAS, certain drainage repairs on Windsor Court/Drive were previously funded by Ordinance 2010-11; and.

WHEREAS, after final quotes were received including Additive Alternate #1, funds in addition to the \$45,000 initially appropriated are needed to complete the project pending resolution of all easement issues; and

WHEREAS, James Brothers Excavating submitted the lowest quote of \$43,649 and total engineering cost is \$12,250.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that:

1. the Fiscal Year 2010 Budget is hereby amended to include an additional General Fund appropriation for an amount not to exceed \$11,000 for drainage repairs for Windsor Court/Drive upon resolution of all easement issues; and
2. the contract be awarded to James Brothers Excavating in the amount of \$43,649.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2010.

August Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

ORDINANCE 2010-44

Civic Center Table Leg Replacement

WHEREAS, Ordinance 2009-52 approved and adopted the Fiscal Year 2010 Budget on October 19, 2009; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2010 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2010 budget; and

WHEREAS, the adopted budget did not include an appropriation for Table Leg Replacements for 127 tables (90 for Civic Center and 37 for Bayfront); and

WHEREAS, the replacement of table legs versus the purchase of new tables will be the most cost effective means of providing tables for events:

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that: the Fiscal Year 2010 Budget is hereby amended to include an appropriation in the amount of \$ 10,125: \$6,750 for Civic Center tables and \$3,375 for Bayfront tables.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2010.

August Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

ORDINANCE 2010-45

NRCS PROJECTS:

2010-Q-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION ALONG C&C UTILITY EASEMENT, NRCS DAP-09-002, Agreement No 69-4101-10

2010-R-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION AT 111 WORCHESTER LOOP, NRCS DAP-09-001, Agreement No 69-4101-10

WHEREAS, Ordinance 2009-52 approved and adopted the Fiscal Year 2010 Budget on October 19, 2009; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2010 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2010 budget; and

WHEREAS, the City of Daphne received financial assistance from the United States Department of Agriculture Natural Resources Conservation Service (NRCS) for implementing emergency recovery measures for runoff retardation and erosion prevention to relieve imminent hazards to life and property created by a natural disaster that causes a sudden impairment of a watershed; and

WHEREAS, two projects meeting the NRCS requirements are:

1. 2010-Q-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION ALONG C&C UTILITY EASEMENT, NRCS DAP-09-002, Agreement No 69-4101-10 (\$102,692 + Engineering \$43,430).
2. 2010-R-D'OLIVE TRIBUTARY STREAM RESTORATION AND STREAMBANK STABILIZATION AT 111 WORCHESTER LOOP, NRCS DAP-09-001, Agreement No 69-4101-10 (\$109,441.61 + Engineering \$42,900); and

WHEREAS, NRCS requires a City of Daphne match of 25% for the NRCS Agreement No. 69-4101-10 .

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that: the Fiscal Year 2010 Budget is hereby amended to include a General Fund appropriation for an amount not to exceed \$80,000 for stream restoration for the two D'Olive Tributary Streambank Stabilization projects and the Mayor is hereby authorized to execute any and all documents relative to these grant projects.

APPROVED AND ADOPTED by the City Council of the City of Daphne this _____ day of _____, 2010.

August Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC

CITY OF DAPHNE

ORDINANCE NO. 2010 -46

**AN ORDINANCE TO REPEAL ORDINANCE NO. 2005-55
AND TO ESTABLISH PENALTIES AND ENFORCEMENT
PROCEDURES FOR VIOLATION OF MUNICIPAL ORDINANCES**

WHEREAS, the City Council of the City of Daphne, Alabama desires to promote the health, safety, and welfare of the citizens of Daphne, Alabama; and

WHEREAS, the City Council of Daphne, Alabama passed Ordinance Number 2005-55 setting forth a schedule of fines for certain offenses which may be paid without the necessity of appearing before the Municipal Court of Daphne, Alabama, and that such a need still exists for the City; and

WHEREAS, said schedule of fines necessitates the inclusion of the offense of speeding in a school zone and open container violation; and

WHEREAS, prior ordinances so establishing said schedule of offenses have been amended from time to time and ordinance numbers subject to the schedule of fines have changed through amendments and repeals to such an extent that a reorganization of this Ordinance is called for in order to remove confusion in the citation of ordinance numbers; and

WHEREAS, the City Council of the City of Daphne, Alabama, desires to establish a new Ordinance setting forth the ordinances subject to fines payable without mandatory court appearance;

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

SECTION I: PENALTY AND ENFORCEMENT PROCEDURES

(a) Except as otherwise provided by separate ordinance, any person, firm or corporation committing an offense within the corporate limits of the City or within the police jurisdiction thereof which is in violation of an ordinance of the City now existing or hereafter enacted shall, upon conviction, be punishable by a fine not to exceed five hundred dollars (\$500.00).

(b) In addition thereto, any person so convicted may be imprisoned or sentenced to hard labor for the City for a period not exceeding six (6) months, at the discretion of the Court

c) Except where otherwise provided, every day any violation of such code or any other ordinance of the City or such rule, regulation or Order shall continue shall constitute a separate offense.

SECTION II: VIOLATIONS SUBJECT TO MUNICIPAL OFFENSE TICKET

(a) Violations of the following municipal ordinances, as may be amended from time to time shall be punished by the issuance of a municipal offense ticket as set out further herein:

1965-10, 1980-03, 1982-01, 1987-10, 1989-04, 1990-28, 1990-29, 1990-31, 1995-08
1997-03, 1997-27, 2002-26, 2003-03, 2003-11, 2003-17, 2004-10

SECTION III: ADOPTION OF APPENDIX “B” OF RULE 20 OF THE ALABAMA RULES OF JUDICIAL ADMINISTRATION AND SCHEDULE OF FINES FOR CITY OF DAPHNE

(a) The following Schedule of Fines is hereby established by the City pursuant to ordinances of the City of Daphne and Rule 20 of the Alabama Rules of Judicial Administration. The City of Daphne hereby adopts and incorporates, in whole, Appendix “B” of Rule 20 of the Alabama Rules of Judicial Administration and the same shall apply in municipal-ordinance violation cases or cases charging the violation of a rule or regulation promulgated by a state agency or department and incorporated by municipal ordinance.

(b) In addition to the fines so established, the defendant shall pay, in addition to such fine amount, any court costs which are in effect at the time such violation occurs. If the defendant elects to plead guilty before a magistrate to a violation of any of the listed municipal laws for which there is a fine set forth in this Section, the fine plus the applicable court costs shall apply in such case. In lieu of appearing before a magistrate, the defendant may sign a guilty plea and waiver of trial provision on the municipal offense ticket, and deliver the amount of the fine plus applicable court costs to the Clerk of the Municipal Court or mail such amount to the Clerk of the Municipal Court at 1502 Highway 98, Daphne, Alabama, 36526. In the event the defendant elects to be tried by the Municipal Court, then the defendant shall be subject to such fine and punishment as expressed in Section I of this Ordinance.

(c) The offense of speeding in a school zone is hereby included in the Schedule of Fines as permitted by the laws of the State of Alabama.

[SEE ATTACHED SCHEDULE OF FINES]

**SECTION IV: PROCEDURE FOR ISSUANCE OF MUNICIPAL OFFENSE
TICKET AND DISPOSITION OF CHARGE**

a) When any officer, inspector, investigator, auditor or other employee of the City, designated by the City code, ordinance or appointment by the Mayor, as an enforcement officer finds any violation or violations of the provision of the municipal law which he is authorized and required to enforce, the City employee may issue, on forms provided by the City, a municipal offense ticket and deliver to the person, firm, or corporation in violation of such municipal law.

The municipal offense ticket shall direct the person or a representative of the firm or corporation, whichever the case may be, to appear in the Municipal Court of the City at a time and on a date stated therein to answer the charge or charges for violating such municipal law, which violation shall be stated in the municipal offense ticket. However, in the alternative, if the violation is the first violation of such municipal law by the person, firm, or corporation cited, or if Section III provides a scheduled fine for a second or third offense, then such person, firm, or corporation, may, in lieu of appearing in the Municipal Court pursuant to the municipal offense ticket, pay the appropriate fine and court costs pursuant to the terms stated in Section III and on the municipal offense ticket, in addition to either of the following:

(1) Appearing in person before a magistrate, signing the plea of guilty and waiver of trial provision on the ticket or on a form provided by the Magistrate and paying the fine and court costs, provided that the Magistrate retains a copy of the ticket or such other form; or

(2) Signing the guilty plea and waiver of trial provisions on the ticket and mailing the ticket in the amount of the fine and court costs to the Clerk of the Court. Remittance by mail of the fine and costs constitutes a guilty plea and waiver of trial, whether or not the guilty plea and waiver of trial provisions on the ticket are signed by the defendant. Should the amount tendered be insufficient, such money received by the Magistrate or Clerk shall be considered to be a partial payment of the lawful penalty, applied by the Clerk to the fines and costs, and disbursed as required by law. The Clerk may give notice of such insufficiency, and a supplemental summons or warrant of arrest shall be issued for the offender's

arrest, and judgment shall be entered by the Magistrate of Court for the balance of the penalty due.

(b) If any person, firm or corporation, so cited shall fail to appear in the Municipal Court of the City at the time and place stated in any municipal offense ticket duly issued or fails to pay the appropriate fine set forth on the municipal offense ticket as set forth herein, the officer, inspector, investigator, auditor or other employee of the City issuing such citation is hereby authorized and directed to swear out a warrant or execute an affidavit or complaint charging such person, firm or corporation with a violation of the municipal law or laws, listed on such municipal offense ticket.

(c) The officers, inspectors, investigators, auditors, or other employees of the City, designated by law as enforcement officers and authorized to issue the municipal offense tickets as herein provided, are hereby further authorized to swear out warrants or execute affidavits or complaints charging such person(s), firm, or corporation within a violation of municipal law without having first issued a municipal offense ticket for such violation.

SECTION V: PENALTIES FOR SUBSEQUENT OFFENSES, FAILURE TO APPEAR, ETC.

(a) Any person, firm or corporation, receiving a subsequent (second, third or more) municipal offense ticket for violation of a municipal law or laws for which there is no scheduled fine for subsequent (second, third or more) offense, and anyone failing to appear in Municipal court, or otherwise failing to settle the matter by payment of the applicable fine and court cost prior to the date stated on the municipal offense ticket shall be punished as provided in Section I of this Ordinance, or by community service for a period not exceeding six (6) months, or by both such fine and imprisonment and/or community service, at the discretion of the judge, unless otherwise prohibited by state law.

(b) For purposes of this section, the term subsequent (second, third, or more) offense shall mean the committing of an offense involving the same offense for which the defendant has been previously issued a municipal offense ticket within three (3) years of the earlier offense.

SECTION VI: REPEALER

Ordinance No. 2005-55 and the Schedule of Fines established by the same are hereby repealed in their entirety.

SECTION VII: SEVERABILITY

The provisions of the Ordinance shall supersede any conflict provisions of any other ordinances or resolutions previously adopted which pertain to the establishment of fines and penalties for violations of a job classification and pay plan. Should any provision of this Ordinance be declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect notwithstanding such invalidity.

SECTION VIII: EFFECTIVE DATE

This Ordinance shall be in full force and effect upon its adoption by the City Council of the City of Daphne, and publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, ON THIS THE _____ DAY OF _____, 2010.

**AUGUST PALUMBO
COUNCIL PRESIDENT**

**FRED SMALL
MAYOR**

ATTEST:

**DAVID COHEN
CITY CLERK, MMC**

Appendix B. Supreme Court's Extended Schedule of Fines

FEDERAL MOTOR CARRIER Offense Scheduled Fine
 SAFETY REGULATIONS:
 Regulation No.: 49 C.F.R.:

I. Mechanical Defects

393.11	Failing to equip vehicle with required lights and reflectors	\$50
393.19(a)	Failing to equip vehicle with turn signals	\$25
393.24(b)	Failing to equip bus, truck, or truck tractor with two headlamps	\$25
393.25(f)	Failing to equip vehicle with operative stop lamps	\$25
393.30	Failing to cover storage battery	\$50
393.33	Failing to place electrical wires properly	\$25
393.42(a)	Failing to equip vehicle with required brakes	\$25
393.45(a)(4)	Failing to secure brake hose or tubing against chafing, kinking, or other mechanical damage	\$25
393.46(b)	Failing to prevent leaks, constrictions, or other defects in brake hose or tubing connections	\$25
393.47	Failing to equip vehicle with adequate brake linings	\$25
393.48(b)	Failing to equip vehicle with operative brakes (i.e., devices to use when brakes do not work)	\$50
393.51(a)	Failing to equip brake system with warning device	\$25
393.52(a)(1)	Failing to have proper braking force	\$50
393.60(a)	Failing to conform to glazing windshield requirements	\$50

393.65(b)	Failing to place fuel system in right place	\$50
393.65(c)	Failing to securely attach fuel tank to motor vehicle	\$50
393.67(c)(1)(iii)	Failing to equip fuel tank with securely fitted cap	\$25
393.67(d)(2)	Failing to equip vehicle with fuel tank free of leaks	\$50
393.70(b)(1)(i)	Failing to mount lower half of fifth wheel securely on a truck-tractor or converter dolly	\$50
393.70(b)(1)(ii)	Failing to mount upper half of fifth wheel securely on a truck-tractor or converter dolly	\$50
393.75(a)	Failing to place proper tires on vehicle	\$50
393.78(a)	Failing to place proper windshield wipers on vehicle	\$50
393.80(a)	Failing to place proper rearview mirrors on vehicle	\$50
393.83(a)	Operating vehicle with improperly located exhaust system	\$50
393.83(c)	Gasoline-powered bus with exhaust discharging more than 6' forward of the rearmost part of bus	\$50
393.83(d)(1)	Diesel-powered bus with exhaust discharging more than 15' forward of the rearmost part of the bus	\$50
393.83(e)	Truck or truck-tractor with exhaust not discharging at rear of cab	\$50
393.86(a)	Failing to install bumpers or devices for rear-end protection	\$50
393.87	Failing to place red flag on projecting loads	\$50
393.92	Failing to post emergency door signs in bus	\$25
393.93(a)(1)	Failing to equip vehicle with seat belt for driver (buses)	\$25

393.93(b)(1)	Failing to equip vehicle with seat belt for driver (trucks/truck-trailers)	\$25
393.95(a)	Failing to equip vehicle with emergency equipment	\$50
393.100(a)	Failing to secure cargo properly	\$50
393.106(a)(1)	Failing to provide headerboard for vehicle	\$25
II. Trucking Offenses		
172.205(a)	Offering, transporting, transferring, or delivering hazardous waste without proper manifest	\$200
172.205(c)	Failing to have hazardous-waste manifest copy dated and signed by carrier and shipper	\$150
172.332(a)	Failing to display ID number on placard in conformance with requirements	\$150
172.332(b)	Failing to display orange ID panel in conformance with requirements	\$150
172.336(b)	Failing to properly display ID number for hazardous material in hazardous class not requiring placards	\$200
172.502(a)(1)	Placarding a vehicle that is not transporting a hazardous material	\$50
173.33(a)(1)	Transporting hazardous material in unauthorized cargo tank	\$500
177.801	Transporting or accepting shipment of hazardous material not in proper condition for transportation	\$500
177.817(a)	Transporting shipment of hazardous material without properly prepared shipping papers	\$150
177.817(e)	Failing to maintain proper accessibility of shipping papers	\$150
177.823(a)	Failing to placard motor vehicle	\$200
177.870(b)	Transporting unauthorized hazardous	\$500

material in a passenger-carrying vehicle

III. Driver Qualifications

391.11(b)(5) Using driver without current valid operator's license/permit \$100

391.41(a) Failure of driver to possess medical examiner's certificate \$25

IV. Driving of Motor Vehicles

392.3 Driver operating vehicle while ill or fatigued \$50

392.9(a)(1) Driver operating vehicle with an unsafe load \$50

392.14 Driver operating vehicle without caution during bad weather \$50

392.16 Driver failing to use seat belt \$25

392.60(a) Transporting unauthorized passengers \$25

V. Hours of Service

395.3(a)(1) Requiring or permitting driver to drive more than 10 hours following 8 consecutive hours off duty \$100

395.3(a)(2) Requiring or permitting driver to drive after having been on duty 15 hours following 8 consecutive hours off duty \$100

395.3(b)(1) Driving after having been on duty 60 hours in 7 consecutive days \$100

395.3(b)(2) Driving after having been on duty 70 hours in 8 consecutive days \$100

395.8(a) Driver's record of duty status required \$50

395.13(c)(1)(i) Allowing a driver out of service to operate vehicle \$50

VI. Inspection and Maintenance

396.7(a)	Operating a vehicle that is in an unsafe condition	\$50
396.11(c)(1)	Failing to certify that repairs were made or were not necessary	\$10
396.11	Failing to carry copy of last vehicle inspection report on vehicle to the power unit	\$10
396.13(c)	Failing to require driver to sign vehicle inspection report	\$10
397.19(a)(1)	Failing to furnish copy of Part 397 Rules to driver of vehicle containing Division 1.1, 1.2, or 1.3 explosive materials	\$100
SMOKING IN A PUBLIC PLACE: Offense Scheduled Fine		
Code Section:		
22-15A-4	Smoking in a Public Place	\$25

SCHEDULE OF FINES

RULE 20 ARJA

SCHEDULE A

<i>OFFENSE</i>	<i>FINE</i>		
Driving on Wrong Side of Road	\$30.00		
Failure to Dim headlights	\$10.00		
Failure to Stop at Railroad Crossing	\$10.00		
Failure to Use Child Restraint	\$25.00		
Failure to Wear Safety Belt	\$10.00		
Failure to Yield Right-of-Way	\$20.00		
Following too Closely	\$20.00		
Improper Backing	\$20.00		
Improper Brakes	\$20.00		
Improper Lights	\$20.00		
Improper Muffler	\$10.00		
Improper or No Rearview Mirror	\$20.00		
Improper Passing	\$20.00		
Improper Signal	\$10.00		
Expired Tag	\$25.00		
Improper Tires	\$20.00		
Improper Turn	\$20.00		
Improper Window Tinting	\$20.00		
No Helmet (Motorcycle Rider)	\$10.00		
Operating Motor Vehicle W/O a D.L.	\$25.00	*	
Running Red Light	\$20.00		
Running Stop Sign	\$20.00		
Speeding <25 MPH over Posted Speed Limit	\$20.00		
25 or > 25 over Posted Speed Limit	\$40.00		
Speeding in a Construction Zone: <25 MPH over Posted Speed Limit	\$40.00		
25 or > 25 over Posted Speed Limit	\$80.00		
Speeding in a Construction Zone: <25 MPH over Posted Speed Limit			
25 or > 25 over Posted Speed Limit			
Speeding in a School Zone	Mandatory Court Appearance		
Stopping on Highway	\$30.00		
Violating D. L. Restriction or Endorsement	\$10.00	*	
Allowing a Child Under the Age of 16 to Operate a Vehicle	\$50.00		

Shifting Load	\$25.00
Spilling Load	\$25.00
No Red or Orange Flag or Red Light or Amber Strobe	\$20.00
Unattended Motor Vehicle	\$25.00
Driving upon Sidewalk	\$20.00
Obstructing Driver's View	\$20.00
Coasting	\$20.00
Following Emergency Vehicle	\$50.00
Crossing a Fire Hose	\$50.00
Littering Highway	\$100.00
Improper Use of Clearly Indicated Divided Highway	\$30.00
Failure to Yield to Emergency Vehicle	\$50.00
Improper Stopping or Parking on or in Highway (General)	\$30.00
Improper Stopping, Standing, or Parking Outside of Business or Residence	\$30.00
Improper Stopping, Standing, or Parking in Specified Places	\$30.00
Blocking Highway	\$30.00
Parking More Than 18 Inches from Curb	\$30.00
Hitchhiking	\$10.00
Improper Tag Classification	\$25.00
Switched Personalized License Plates	\$100.00
Overweight/Overheight/Overlength Truck	\$100.00
No Permit (Oversized Width, Height, Length)	\$100.00
Refusal to weigh	\$300.00
Casting a Light from a Public Road (Nuisance Spotighting)	\$100.00
Open Container	\$25.00

No Court Cost

***Does Not Include \$50.00 Fee for Driver's License
Penalty**

* The Schedule of Fines for Traffic Infractions established by Rule 20 (A), Alabama Rules of Judicial Administration, shall apply if the defendant in a municipal court case elects to plead guilty before a Magistrate to one of the traffic offenses listed in the schedule. This schedule does not limit fine amounts for cases adjudicated by the Judge in Court.

**CITY OF DAPHNE
ORDINANCE NO. 47**

**AN ORDINANCE TO AMEND ORDINANCE NO. 1995-08 ALLOWING AN
EXPEDITED PROCESS OF SOLICITOR LICENSE GRANTING**

WHEREAS, on April 17, 1995, the City of Daphne, Alabama, enacted Ordinance No. 1995-08 for the purpose of identifying and licensing solicitors within the City of Daphne and its police jurisdiction; and

WHEREAS, the City Council determines it to be within the health, safety, and welfare to allow for a more expedited process of solicitor licensing within the City;

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

SECTION I: GENERAL PROVISIONS

That Section 2 of Ordinance 1995-08 is hereby deleted in its entirety and is amended and replaced as follows:

That before such license may be issued, applicant for such license shall provide complete information concerning the applicant and the business represented including, but not limited to: goods to be sold, description of vehicle, employer's name and address, record of any convictions of any law violation, identifying pictures, finger printing, and any other information which may be required by the Chief of Police or his designee.

Said license shall be issued subject to the provisions of this Ordinance and inquiry of pertinent information to be made by the Mayor, Chief of Police, or their designee after receipt of an application.

SECTION II: ORDINANCES AMENDED

That all other provisions of Ordinance 1995-08 not specifically repealed herein, be and are hereby reaffirmed and all other ordinances and parts of ordinances in conflict with the provisions of this Ordinance be and are likewise repealed.

SECTION III: CONFLICT WITH OTHER ORDINANCES

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

SECTION IV: 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 V: EFFECTIVE DATE

This Ordinance shall be in full force and effect after adoption by the City Council and publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ DAY OF _____, 2010.

**AUGUST A. PALUMBO,
CITY COUNCIL PRESIDENT**

**FRED SMALL,
MAYOR**

ATTEST:

**DAVID COHEN,
CITY CLERK, MMC**

ORDINANCE 2010-48

GARBAGE PERSONNEL & OPERATING - THROUGH SEPTEMBER 2010

WHEREAS, Ordinance 2009-52 approved and adopted the Fiscal Year 2010 Budget on October 19, 2009; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2010 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2010 budget; and

WHEREAS, the garbage budget was cut in the anticipation of a reduction in costs when services were decreased to one day per week; and

WHEREAS, personnel remain in place and a full year of a reduction in operating costs has not yet been realized.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that: the Fiscal Year 2010 Budget is hereby amended to include a General Fund appropriation in the amount of \$ 75,000 for personnel (\$50,000) and related operating requirements (\$25,000) required by the Garbage Department through Fiscal 2010.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2010.

August A. Palumbo, Council President

Fred Small, Mayor

ATTEST:

David L. Cohen, City Clerk MMC