

**CITY COUNCIL BUSINESS MEETING AGENDA**  
**1705 MAIN STREET, DAPHNE, AL**  
**AUGUST 2, 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 19, 2010

**PRESENTATION:** Recycle Contest Awards

**CHANGE:** September 6, 2010 Council Meeting Date / Labor Day

**MOTION:** The Daphne City Council accepts the resignation of Councilman Greg Burnam, effective July 31, 2010, and declares the District 4 council seat open

**SET INTERVIEW DATE:** District #4 Council Seat

**4. REPORT STANDING COMMITTEES:**

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

**5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:**

- A. Board of Zoning Adjustments – Jones**
- B. Downtown Redevelopment Authority – Barnette**
- C. Industrial Development Board – Yelding**
- D. Library Board – Lake**
- E. Planning Commission – Barnette**  
Set Public Hearing Date to consider: Revisions to the Zoning Map
- F. Recreation Board -**
- G. Utility Board - Scott**  
Review minutes / June 30<sup>th</sup>

**6. REPORTS OF OFFICERS:**

- A. Mayor's Report**
  - a.) Parade Permit / 2<sup>nd</sup> Annual Miles for Maggie / 5K Charity Run/Walk / April 16, 2011
- B. City Attorney's Report**
- C. Department Head Comments**

**7. PUBLIC PARTICIPATION:**

**8. RESOLUTIONS & ORDINANCES:**

**RESOLUTIONS:**

- a.) Acceptance of Donation of Property / White-Spunner ...../Resolution 2010-75
- b.) Revisions to Street Map. .... /Resolution 2010-76

**ORDINANCES:**

**2<sup>ND</sup> READ**

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

**1<sup>ST</sup> READ**

- k.) Amend Ordinance 2008-21 / Civic Center Rates. .... /Ordinance 2010-49
- l.) Amend Ordinance 2008-50 / Bayfront Park Rental Rates. .... /Ordinance 2010-50

**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

**JULY 6, 2010  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
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 Mr. Willie Robison.

**COUNCIL MEMBERS PRESENT:** Bailey Yelding; Cathy Barnette; John Lake; Greg Burnam arrived at 7:10 p.m.; Ron Scott; Derek Boulware; August Palumbo.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Erick Bussey, Attorney; Richard Johnson, 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; Adrienne Jones, Planning Director; Anne Morris, Reference Librarian; Jane Robins, Mayor's Assistant; Mary Jenson, Seniors Center; Chip Martin, Fire Inspector; Ashley Campbell, Environmental Programs Manager; Joe Lemoine, Planning Commission; Victoria Phelps, Planning Commission; Willie Robison, BZA; Al Guarisco, Village Point Foundation; Bob Segalla, Utility Board; Danny Lyndall, Daphne Utilities; Denise D'Oliveira, SE.E.D.S.; Tracy Roberts, Baldwin County Board of Education; Dr. Alan Lee, Superintendent of Baldwin County Board of Education;

Absent: Jay Ross, City Attorney; David McKelroy, Recreation Director; Richard Merchant, Building Official; Tonja Young, Library Director;

**3. APPROVE MINUTES**

**MOTION BY Councilwoman Barnette to adopt the Council meeting minutes meeting held July 6, 2010 with correcting the spelling of Dr. Ricki Ott's name under council comments. *Seconded by Councilman Yelding.***

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

**MOTION BY Councilwoman Barnette to adopt the Council Work Session meeting minutes meeting held July 12, 2010. *Seconded by Council Scott.***

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

**NAY NONE OPPOSED                      MOTION CARRIED**

**JULY 6, 2010  
CITY COUNCIL MEETING  
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DAPHNE, AL  
6:30 P.M.**

**PRESENTATION:** Baldwin County Board of Education / Tracy Roberts

Mrs. Roberts introduced the new Baldwin County Board of Education Superintendent Dr. Alan Lee.

*Mayor Small* asked council to call an Executive Session to brief council on a personnel matter at this time.

**MOTION BY Councilwoman Barnette to suspend the rules to consider entering into Executive Session to discuss the good name and character of an employee. *Seconded by Councilman Scott.***

**The City Attorney certified that this was a valid reason to enter into Executive Session according the Open Meetings Act.**

**ROLL CALL VOTE**

|                 |            |                 |            |
|-----------------|------------|-----------------|------------|
| <b>Yelding</b>  | <b>Aye</b> | <b>Scott</b>    | <b>Aye</b> |
| <b>Barnette</b> | <b>Aye</b> | <b>Boulware</b> | <b>Aye</b> |
| <b>Lake</b>     | <b>Aye</b> | <b>Palumbo</b>  | <b>Aye</b> |
| <b>Burnam</b>   | <b>Aye</b> |                 |            |

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

**MOTION BY Councilman Scott to enter into Executive Session to discuss the good name and character of an employee, and the session will last 10 minutes. *Seconded by Councilwoman Barnette.***

**The City Attorney certified that this was a valid reason to enter into Executive Session according the Open Meetings Act.**

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

*Council entered into Executive Session at 6:45 p.m.*

*Council returned from Executive session at 6:55 p.m.*

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

**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 District 16 / Requested Zoning: B-2, General Business District / Ordinance 2010-40**

Mrs. Velma Jackson gave the presentation on both the rezoning and annexation requests.

Councilwoman Barnette stated that these received a unanimous favorable recommendation from the Planning Commission. The comment, however, was that this would be required, if rezoned, at Site Review for some type of buffer that has been required in other areas, because although it fronts Hwy. 98, and that is obviously suitable for a B-2 zoning, it is also part of a residential community, and so they need to make sure they protect the integrity of the residential community. That was discussed as part of the favorable recommendation.

**Public Hearing for rezoning: Dale Family Property**

*Council President Palumbo* opened the Public Hearing at 7:02 p.m.

No one spoke for or against the proposed rezoning.

*Council President Palumbo* closed the Public Hearing at 7:03 p.m.

**Public Hearing for annexation of Dale Family Property**

*Council President Palumbo* opened the Public Hearing at 7:03 p.m.

No one spoke for or against the proposed annexation.

*Council President Palumbo* closed the Public Hearing at 7:04 p.m.

- 3.) **Annexation: Luther & Sharon Milstead / Northeast of Pollard Road & Well Road / Present Zoning: RSF-2, Single Family District, in Baldwin County District 15 / Requested Zoning: B-2, General Business District / Ordinance 2010-41**

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Mr. Danny Lyndall, Daphne Utilities, gave the presentation.

Councilwoman Barnette stated that this was a unanimous favorable recommendation from the Planning Commission. The items discussed on this issue that would need to be addressed at Site Review to come forward would be that Wilson Avenue is a residential street and they do not want to see the utility trucks going through so they would need to post some type of “Not a Through Street” or “No Truck Traffic” signs up. The Utility Board at the Planning Commission meeting acknowledged the sensitivity of that area, and had no problem at least for directing their policy so that Wilson will not be affected by that as they continue to grow. There are also some road paving improvements and things that need to be done on that road as well.

Council President Palumbo opened the Public Hearing at 7:06 p.m.

No one spoke for or against the proposed annexation.

Council President Palumbo closed the Public Hearing at 7:07 p.m.

**4. REPORT OF STANDING COMMITTEES:**

**A. FINANCE COMMITTEE** – Boulware  
The minutes for the July 12<sup>th</sup> meeting are in the packet.

**Treasurers Report**

**MOTION BY Councilman Scott to accept the Treasurers Report ending May 31, 2010, with a balance of \$20,127,252.96. Seconded by Councilwoman Barnette.**

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

**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 - \$ 793,355  
Over Budget (for May) - \$ 68,899

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

**Lodging Tax Collections, May 31, 2010**

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

The next meeting will be August 9<sup>th</sup> at 4:00 p.m.

**B. BUILDINGS AND PROPERTY COMMITTEE** – Lake  
The minutes for the July 6<sup>th</sup> meeting are in the packet. The ordinance appropriating the funds for to replace the table legs at the Civic Center is in the packet.

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**C. PUBLIC SAFETY COMMITTEE – Burnam**

The minutes for the July 14<sup>th</sup> meeting are in the packet. No other report.

**D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo**

The committee met to consider several ordinances: Revised Animal Control ordinance, and a revision to the MOT ordinance and a revision to the Soliciting ordinance are on the agenda as a first read tonight.

**E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding**

The minutes for the May 28<sup>th</sup> and June 25<sup>th</sup> meetings are in the packet.

*Councilman Burnam arrived at 7:10 p.m.*

MOTION BY Councilman Yelding 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 intersections. Seconded by Councilwoman Barnette.

Mayor Small stated that one thing they need to do is to agree that if the intersections show that they do need traffic signals that the city is willing to pay half the cost with ALDOT which will be \$120,000 if it is both. This has to be done now before they study it. The city has to sign an agreement saying that if it does show by their standards that traffic signals are needed the city will follow through with the money.

Councilman Yelding said in light of this he thinks this should go to a work session.

Council President Palumbo stated that the Public Works Department can conduct a preliminary traffic study without ALDOT, and they do not have to agree to anything, and they can see what that study comes back with first. They do it in Public Safety all the time. That is one consideration. This would give the traffic count and give time to bring it to a work session as far as the expenditure.

Councilman Yelding stated that he will get with the Public Works Director, and work toward that.

Councilman Lake asked that they look at the accident rate at the Seaciff intersection.

Council President Palumbo stated that the Randall intersection has been discussed by the Public Safety Committee, and the committee has not been in favor of a traffic signal, because it is located too close to the next traffic light which is located several hundred feet away. When you put signal lights too close together you are actually creating an increased hazard. He said he is not giving a scientific answer to a traffic study, but it has been before Public Safety, and they have not done traffic studies because of that fact. Traffic engineers do not recommend that you put signal lights that close to each other.

Chief Carpenter said that he thinks Public Works has already done a traffic study for Randall Avenue, but he is not sure about Sea Cliff.

Councilman Yelding stated that to expedite the matter he will get with the Public Works Director, and they will do the leg work, and bring a full report back to council.

*Councilman Yelding withdrew his motion. Councilwoman Barnette withdrew her second.*

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**5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:**

**A. Board of Zoning Adjustments – Mrs. Jones**

The minutes for the July 1<sup>st</sup> meeting are in the packet. There will not be a meeting in August.

**B. Downtown Redevelopment Authority – Barnette**

There will be a meeting on July 26<sup>th</sup> at 5:15 p.m.

Council President Palumbo asked Councilwoman Barnette to find out how much funds are available for DRA and report to council.

**C. Industrial Development Board – Yelding**

No report.

**D. Library Board – Lake**

The kickoff for the summer reading program in June had 1,000 plus visitors, and the weekly program had an average of 300 people participating in the program.

**E. Planning Commission – Barnette**

The minutes for the April 22<sup>nd</sup> and June 24<sup>th</sup> meetings are in the packet. The Planning Commission meeting is Thursday at 6:00 p.m. in the council chambers. She hopes that they will have the requested elements from the council on the outdoor district, the vending machines as well as the other requested documents for the Land Use Ordinance, and that they might be able to go through those changes for the August council work session.

Council President Palumbo asked the City Clerk to place the Land Use Ordinance on the August work session agenda.

**F. Recreation Board – Burnam**

No report.

**G. Utility Board – Scott**

The next meeting will be Wednesday, July 28<sup>th</sup> in the council chambers. Councilman Scott stated that the board thanked the council for their continued support, and that there would be no problem putting information about recycling in with the utility bills.

**6. REPORTS OF THE OFFICERS:**

***A. Mayor's Report***

Mayor Small asked Mrs. Ashley Campbell to give an update on an NRCS project. This project is under a very tight time restraint, and they need to move forward with this. She will fill council in to see if council will approve moving forward.

Mrs. Campbell stated that what they are currently doing is trying to work on the easement for the project, and during the creation of the easement they were informed that the White Spinner group would like to

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donate the half acre of property that they were talking about doing the work on to the city with a quick deed process to allow the city to own the property. Therefore, do the project and maintain it, and have a long term tie to it, and with a maintenance agreement. One reason that they are kind of favorable for this is under the D'Olive Watershed Management Plan one of the things that they recommend is the city moving forward with taking in land donations, and actually restoring them and preserving them. This land donation would be a good move on that aspect. They cannot move forward until they have a decision on this, and they have to have a decision in a very timely manner. There is a Volkert consultant present, and also Matt White with White Spinner if council has any questions. They were working on an easement to do the project, and during that time frame they discovered that White Spinner would like to donate the property, and they are here to bring that to council and to ask council to make a motion to allow them to move forward with an appraisal and a quick deed transfer of the land to the City of Daphne. They have already spent over \$30,000 on the project, and this agreement would be necessary to move forward. They feel it is a great project, and as a city they are under the MS-4 Program which is the regulatory program for storm water. The city is responsible for these areas, and addressing them, and getting the sediment loads under control. It is a duty and responsibility of the city. She said if council does move forward with a motion to do this they would probably need a special called council meeting to approve the warranty deed, acceptance by the city, and they would need that probably by at the beginning of next week.

Council President Palumbo stated that by state code on a purchase they are required to have an appraisal, he asked what about a donation of property?

Mr. Bussey stated that it is his understanding that for a donation of property there is no state law mandating an appraisal, but certainly if it is the will of the council to go forward with an appraisal there is nothing wrong with that.

Councilwoman Barnette stated that she spoke with Mrs. Briley, since there has been confusion, because all of the property that the city has accepted whether donation or purchase has always had an appraisal. It is Mrs. Briley's opinion that they do and should have an appraisal for financial due diligence which if they do the appraisal, as she understands, there is still money in the budget from this project that came in under budget, so they would not need to appropriate any additional funds, but they would need to hold a special council meeting, and perhaps she would propose next Monday night.

Council President Palumbo asked the size of the property.

Mrs. Campbell stated one half acre.

Council President Palumbo asked when is the completion date?

Councilwoman Barnette stated September 22<sup>nd</sup> is when it is supposed to be complete.

Mrs. Campbell stated that they have a deadline of receiving the easement or warranty deed by August 2<sup>nd</sup>, and that would be the latest time they could receive it, and still move forward, and stay within time frame.

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Mr. Andrew James stated that the contractor is very eager to come here, and he had an excellent qualification packet, and really wants to show the city his capabilities, and when they brought to his attention that their time constraint was getting tighter and tighter he relayed to them that if push came to shove he could attempt to condense the project, and get it done much faster. Because it is going to be working in a stream, and anytime it rains they have to shut down and pull out, and do preventative measures so that can delay them one to two days every time they have to do that. So they want to try to provide that contractor with as much time as they possibly can. That being said, the August 2<sup>nd</sup> date that they came up with was to provide them with ample time to obtain all their bonding, and to provide them and Volkert time to go over the project in depth prior to them actually getting on site and breaking ground just to make sure everyone is on the same page.

Council President Palumbo stated that this will be on the August 2<sup>nd</sup> agenda, and reminded Mrs. Campbell that the documents need to be in the City Clerks office by 5:00 p.m. Wednesday before the council meeting, and if there is a problem and you need a couple of extra days to get in touch with him, and he will try to accommodate.

Council President Palumbo stated that one thing that needs to be pointed out is that when the city takes the property the proposal by the property owner was for the city to do permanent maintenance. He said that he is no expert in this field, but he understands that this is highly unusual, and in fact it is unusual to go out for a five year agreement, but NRCS is requiring at least five, but it is highly unusual to go out on a permanent basis. By taking ownership, he wanted to point out, that they are taking on permanent responsibility, and in the future should that portion blow out again at whatever point they have that responsibility. He asked Mrs. Campbell if that was correct?

Mrs. Campbell stated that is correct, but they city owns the property, and it is much easier to get funding through a grant process to repair city property than it is for private property.

Councilwoman Barnette stated that she knows that all of the council received a copy of the D'Olive Water Management Plan, and she is going to be referring to this document a lot in the near future, because it greatly affects the City of Daphne as a whole. The Watershed Management Plan highlights this area as one of the most jeopardized, most sensitive areas in the watershed. So ownership of this property goes a long way to addressing some of the sedimentation issues that they are seeing in the watershed. So although, yes, sometimes they don't always want a permanent easement it is the city's responsibility, and they are going to be the permittee holders on this. New water quality monitoring regulations are coming with the MS-4 permits. This is the city's responsibility whether they are the land owner with a five year agreement or they are the land owner on a permanent drainage easement this is now the city's responsibility regardless of NRCS, this is becoming the city's responsibility. She said they really don't have a choice, they do but they don't, because it is going to be mandated in the near future so they might as well be proactive and take ownership of it. Luckily for the city White Spinner is donating the property not asking for fair market value or any cost. She thinks they are trying to be a good neighbor in that regard. The city has a lot of watershed repairs that need to happen, and this is a good step in helping them start to accomplish management objectives that bring funding for the city.

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Councilman Scott stated that he feels that it is the will of the council that they go forward with this, and if they can do it without calling a special called meeting that is great. He said he knows that Mrs. Campbell and Volkert has been working hard through a variety of reasons that have brought them to this point.

Mrs. Campbell stated that this is a very complicated process, and to do the easement they had to come back and ask for additional funding, and it is just a big circular process. She said that if she could have had this all done before now it would be. She said that she and Mr. James have worked and worked on this, and they have tried their best to have it here in a timely manner, but some things can't happen until the engineering is finalized, and once you finalize the engineering then you know what easements you need, and all that was put in a very short time frame, and they have been working very hard, and she apologized having to be here to ask for this, but she does not believe she could have been here faster than they are.

Mayor Small stated that they cannot move forward with this project until NRCS gives them the ok to move forward so they have to start at that date, and they only give them a short time frame to get a lot done. Mayor Small asked the Fire Marshall, Chip Martin, the city's incident commander with the Deep Water Horizon event to give an update on the oil spill.

Mr. Martin reported that there will be a community information meeting tomorrow evening here at City Hall in the council chambers at 6:30 p.m. There will be representatives from the Baldwin County Emergency Management Agency, BP, Alabama Department of Environmental Management, Alabama Department of Public Health, EPA, National Parks Service, U.S. Fish and Wildlife Agency and the Coast Guard. Each one will give a small presentation and address questions from the public. They will be able to update on a state wide and area level.

Mayor Small stated that Dr. Lee, the new Superintendent of schools, will be the guest speaker for Coffee with the Mayor next Thursday morning at 8:30 p.m.

***B. City Attorney Report***

No report.

***C. Department Head Comments***

***Margaret Thigpen – Civic Center Director*** – reported that tickets for the Taste of the Eastern Shore have gone on sell. The event is scheduled for August 21<sup>st</sup>. The next TOES meeting will be July 28<sup>th</sup>.

***Richard Johnson – Public Works Director*** – said that he has no official report, but he is glad to be here. It has been a very busy day, and he has met a lot of folks. He is as excited as he can be, and he has hit the ground running, and hopefully, they will be wide open from this point on.

**7. PUBLIC PARTICIPATION**

No one from the public spoke.

**8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS**

**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

**MOTION BY Councilman Scott to waive the reading of Resolutions 2010-69, 2010-70, 2010-71, 2010-72, 2010-73 and 2010-74. Seconded by *Councilwoman Barnette*.**

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

**MOTION BY Councilman Scott to adopt Resolution 2010-69, 2010-70 and 2010-71. *Seconded by Councilman Yelding*.**

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

**MOTION BY Councilman Scott to adopt Resolution 2010-73 and 2010-74. *Seconded by Councilwoman Barnette*.**

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

**MOTION CARRIED**

**MOTION BY Councilwoman Barnette to amend Resolution 2010-72 to include in the fourth Whereas the phrase: “contingent upon the execution of an easement agreement or donation of property.” *Secoded by Councilman Scott.***

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

**MOTION BY Councilwoman Barnette to adopt Resolution 2010-72 as amended. *Secoded by Councilman Yelding.***

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

**ORDINANCES:**

**2<sup>ND</sup> READ**

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

**1<sup>ST</sup> 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

MOTION BY Councilman Burnam to waive the reading of Ordinance 2010-38. *Seconded by Councilman Scott.*

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

MOTION BY Councilwoman Barnette to adopt Ordinance 2010-38. *Seconded by Councilman Scott.*

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

**MOTION CARRIED**

**ORDINANCES 2010-39, 2010-40, 2010-41, 2010-42, 2010-43, 2010-44, 2010-45, 2010-46, 2010-47 AND 2010-48 WERE MADE 1<sup>ST</sup> READ.**

**8. COUNCIL COMMENTS**

*Councilwoman Barnette* thanked Mr. Burnam for his 14 years of service on the council, and said that she would miss him. She said that the city as a whole has appreciated his service.

*Councilman Lake* said that he has personally enjoyed sitting by Mr. Burnam for the past 14 years. He said that he has always respected his opinions, and the way he handled things. He asked council to look at funding for the Library. He thanked Ashley Campbell for all she does with erosion for the city, and that she does not get enough thanks for what she does. He said that it is a high pressure job, and thanked her again.

*Councilman Burnam* stated that he appreciated the comments. He said that it has been a lot of fun, very rewarding, and an eye opening experience. He said that he tried to come up with a closing speech, and the honest truth is that he would not know where to begin or end it. So the easiest and best way for him to say it would be to thank what every citizen of Daphne does for the city, the department heads, the employees and his fellow council members, what they do just looks easy, obviously the City Clerk and his office, City Attorney and Mayor. He will miss everyone, but he is not going anywhere they will still see him just not on the dais with council.

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

*Councilman Scott* thanked Mr. Burnam for his service, and he has really enjoyed it. He encouraged everyone to come out tomorrow night for the community meeting. He thinks they will find it very informative, and they will have an opportunity to ask questions.

*Councilman Boulware* also thanked Mr. Burnam for his public service, and that is no little thing. He said that so often good public servants are lumped in with the bad ones, and it is unfortunate, but he thinks that Mr. Burnam has demonstrated the best qualities that they look for in a public servant. They are selflessness and a desire to help the community that he lives in. He has been a real example for him in his first term on council, and he can't thank him enough for being that example, and for what he has done for each and everyone in Daphne.

*Council President Palumbo* thanked Mr. Burnam. He said that 14 years is a long time to do anything. He knew Mr. Burnam before he decided to run for council, and he recalled when he told him his was thinking about running for office Mr. Burnam asked him if he had lost his mind, but he did not totally discourage him from running, and he appreciates that fact. He said there were times where they were comrades in arms on issues, and they have certainly had disagreements, but through it all they remained friends. Certainly like all council members they respect each other. He wanted to let everybody know that Mr. Burnam served as Council President for a long time longer than he would want to serve as president. It is a lot different being president from being just a member of council, and he did that for a long period of time. It is a lot of extra work, and he did that for four years, and he thanked him for that also. He wished him the best of luck.

Mayor Small read and presented to Councilman Burnam a certificate of appreciation in recognition of his 14 years of service to the City of Daphne, and as well presented to him his portrait as council and his daughter Sara looked on.

**10. ADJOURN**

**MOTION BY Councilwoman Barnette to adjourn. *Seconded by Councilman Lake.***

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

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:05 P.M.**

Respectfully submitted by,

\_\_\_\_\_  
David L. Cohen,  
City Clerk

Certification by Presiding Officer:

\_\_\_\_\_  
August A. Palumbo,  
Council President

**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 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:**

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**SET A PUBLIC HEARING DATE**

**??????????**

**(Whatever date Council reschedules the September 6th meeting to)**

**TO CONSIDER:**

- 1. Revision of Zoning Map**

To: Office of the City Clerk  
From: Adrienne D. Jones,  
Director of Community Development  
Subject: Revised City of Daphne Zoning Map  
Date: July 23, 2010

MEMORANDUM

At the July 22, 2010 regular meeting of the City of Daphne Planning Commission eight members were present and the vote carried unanimously for a favorable recommendation of the acceptance and amendment thereof to correctly reflect the zoning of the parcels and districts and the removal the golf course designation.

Please prepare an ordinance and place on the appropriate agenda for action by the City Council.

Thank you,  
ADJ/jd

cc: file

**CITY OF DAPHNE, ALABAMA**  
**ORDINANCE NO. 2010-**

---

**Zoning District Map**  
**Revision to Appendix H of the City of Daphne**  
**Land Use and Development Ordinance**

**WHEREAS**, the Planning Commission of the City of Daphne, Alabama at their regular meeting held on July 22, 2010 , favorably recommended to the City Council of the City of Daphne certain amendments to the Zoning District Map approved and adopted by the Daphne Land Use and Development Ordinance No. 2002-22, referenced in Appendix H "Exhibit A" thereof and amended by Ordinance No. 2003-06, Ordinance No. 2005-11, Ordinance No. 2005-42, Ordinance No. 2006-24, Ordinance No. 2006-73, Ordinance No. 2007-15, Ordinance 2007-48 and Ordinance 2008-56, Ordinance 2009-19, Ordinance 2009-60; and

**WHEREAS**, said amendments are necessary due to various rezoning and annexation requests which have been approved since the adoption of Ordinance No. 2002-22, Ordinance 2003-06, Ordinance No. 2005-11, Ordinance No. 2005-42, Ordinance No. 2006-24, Ordinance No. 2006-73, Ordinance No. 2007-15, Ordinance 2007-48, Ordinance 2008-56, Ordinance 2009-19 and Ordinance No. 2009-60; and

**WHEREAS**, due notice of said proposed zoning map amendments has been provided to the public as required by law through publication and open display at the City of Daphne Public Library and City Hall; and

**WHEREAS**, a public hearing regarding the proposed Zoning District Map amendments was held by the City Council on September 7, 2010; and

**WHEREAS**, the City Council of the City of Daphne after due consideration and upon recommendation of the Planning Commission believe it in the best interest of the health, safety and welfare of the citizens of the City of Daphne to amend said Zoning District Map as recommended; and

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

**SECTION I: ZONING DISTRICT MAP**

The Zoning District Map referenced hereto as Exhibit "A" shall be the official zoning map of the City of Daphne, Alabama and shall be further designated in Appendix H of Exhibit "A" of the City of Daphne Land Use and Development Ordinance, as set forth in Ordinance No. 2002-22 and its amendments.

**SECTION II: REPEALER**

Ordinances No. 2002-22, Appendix H "Exhibit A", 2003-06, 2005-11, 2005-42, 2006-24, 2006-73, 2007-15, 2007-48, 2008-56, 2009-19 and 2009-60 are specifically repealed and any Ordinance(s), parts of Ordinance(s) or Resolution(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

**SECTION III: EFFECTIVE DATE**

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,  
ALABAMA ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.**

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**AUGUST A. PALUMBO,  
COUNCIL PRESIDENT**

---

**FRED SMALL,  
MAYOR**

**ATTEST:**

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**DAVID L. COHEN,  
CITY CLERK, MMC**



# Daphne Utilities

## APPROVED MINUTES

### Utilities Board Meeting

City of Daphne Council Chambers ♦ June 30, 2010 ♦ 5:00 p.m.

#### I. CALL TO ORDER

The June 30, 2010 regular Board meeting for the Utilities Board of the City of Daphne was held and called to order by Chairman Robert Segalla, at 5:05 p.m.

#### II. ROLL CALL

**Members Present:** Robert Segalla, Chairman  
Ron Scott, Vice Chairman  
Fred Small, Mayor – 5:05 pm  
Fenton E. Jenkins  
Lon Johnston, Secretary Treasurer

**Others Absent:**

**Others Present:** Jerry Speegle – Board Attorney  
Rob McElroy – General Manager  
Danny Lyndall – Operations Manager  
Teresa Logiotatos – Finance Manager  
Deloris Brown – Human Resources Manager  
Lori Scharles – Executive Assistant  
Tammy Canupp – Administrative Services Supervisor  
Melinda Immel – Volkert & Associates  
Doug Bailey – HMR

**Others Absent:** Drew Klumpp – Administrative Services Manager

#### III. PLEDGE OF ALLEGIANCE

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

#### IV. APPROVAL OF MINUTES

a. **Utilities Board Minutes from May 26, 2010:**

The Chairman inquired if there were any corrections noted for the Minutes from the May 26, 2010, Utilities Board meeting. No corrections, additions and/or deletions were noted.

**MOTION BY Mayor Fred Small to approve the Minutes for May 26, 2010; Seconded by Ron Scott.**

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

#### V. Old Business

a. **Central Services Building (Property Investigation) – Update**

Danny Lyndall advised the Board that the July 19, 2010, City Council meeting will be the first read of the Ordinance for Annexation on the subject project whereby a presentation will be given as well as public comments taken. He stated the second read by the Council will be August 2<sup>nd</sup>, anticipating approval of the Annexation to move forward with the purchase of the property.

- b. **Spanish Fort Sewer Franchise issues** – no current information was reported.
- c. **19 Acres - Daphne Utilities property**  
Jerry Speegle reported that he has spoken with Daphne City Attorney Jay Ross to advise him of the intentions of the Board; he stated that Mr. Ross is discussing with the City Council and/or the Mayor as to what type of transaction would be successful in acquiring grant funds.
- d. **Items in Abeyance:**
  - 1. **Gas Franchise Agreement** – No current information was reported.
  - 2. **Sewer Only Cutoff Policy** – Tammy Canupp advised that no new cutoffs have taken place. Mr. Speegle stated that after his letters were received many of the customers came in to bring their account current.

**VI. New Business**

**VII. BOARD ATTORNEY’S REPORT**

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

**VIII. FINANCIAL REPORT**

Teresa Logiotatos reviewed for the Board that the financials are on target with revenue and slightly under on expenses due to capital items. She reported that next year’s budget process will be upcoming. She answered Mr. Johnston’s inquiry of any anticipated surprises by recapping that the impact fee are still in decline and will be budgeted in the same manner.

**IX. GENERAL MANAGER’S REPORT**

a. **GM Report**

Mr. McElroy reiterated for the Board the INC. Magazine Winning Workplaces award. Mr. Scott requested Melinda Immel to explain how winning awards assists in the positive feedback on grant application processes.

b. **Operations Report**

Danny Lyndall pointed out for the Board the progress on the headworks upgrade project.

Melinda Immel of Volkert & Associates updated the Board of the postponement of the bid for the biosolids facilities project.

Doug Bailey from HMR updated the Board on the Highway 64 South Sewer (Behind Target).

**X. Board Action – None**

**XI. PUBLIC PARTICIPATION – None**

**XII. BOARD COMMENTS – None**

**XIII. ADJOURNMENT–**

**MOTION BY Mayor Small to adjourn the meeting. Seconded by Lon Johnston.**

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

The meeting adjourned at 5:21 p.m.

**CITY COUNCIL MEETING  
MAYOR'S REPORT**

**NOTES:**

# CITY OF DAPHNE PARADE PERMIT

|                                            |                                                 |
|--------------------------------------------|-------------------------------------------------|
| <b>ORGANIZATION:</b>                       | <i>2<sup>nd</sup> Annual Miles for Maggie</i>   |
| <b>CONTACT PERSON:</b>                     | <i>Haleigh Waltman</i>                          |
| <b>ADDRESS:</b>                            | <i>2071 Seacliff North<br/>Daphne, Al 36526</i> |
| <b>PHONE NUMBER (HOME):</b>                | <i>251-422-0244</i>                             |
| <b>PHONE NUMBER (BUSINESS):</b>            | <i>251-432-2703</i>                             |
| <b>TYPE OF PARADE:</b>                     | <i>5K Charity Run/Walk</i>                      |
| <b>DATE OF PARADE:</b>                     | <i>April 16, 2011</i>                           |
| <b>ROUTE TO BE TRAVELED:</b>               | <i>See map</i>                                  |
| <b>APPROXIMATE # OF PEOPLE &amp; CARS:</b> | <i>200</i>                                      |
| <b>START TIME:</b>                         | <i>8:30 am</i>                                  |
| <b>STOP TIME:</b>                          | <i>10:30 am</i>                                 |
| <b>ASSEMBLY AREA/STREET:</b>               | <i>Lott Park Downtown Daphne</i>                |
| <b>ASSEMBLY TIME:</b>                      | <i>7:00 am</i>                                  |
| <b>SPECIAL REQUEST:</b>                    |                                                 |
| <b>APPROVAL</b>                            |                                                 |
| <b>POLICE: Chief David Carpenter:</b>      | <i>David Carpenter</i>                          |
| <b>FIRE: Chief James White</b>             | <i>James White</i>                              |
| <b>PUBLIC WORKS: Richard Johnson</b>       | <i>Richard Johnson</i>                          |
| <b>CITY COUNCIL: 8/02/10</b>               |                                                 |
| <b>SPECIAL INSTRUCTIONS:</b>               |                                                 |
| <b>DATE ROUTED:</b>                        | <i>7/12/10</i>                                  |
| <b>NOTIFICATION OF APPROVAL:</b>           |                                                 |

**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.: 2010-75**

=====

**WHEREAS**, B. White-Spunner, Rollins Tindell, Jr., Jay-E, L.L.C., John White-Spunner, Marl M. Cummings, III, Robert Sean Coley, Mary Anne Ball, Kara Coley Coats, and AIRP, L.L.C., collectively as owners of the herein described real property, hereby desires to grant, bargain, convey, and donate to the City of Daphne certain parcels 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 the appraisal of Hamilton J. Boudreaux, III, dated July 27, 2010 is \$70,000.00 and;

**WHEREAS**, said property is located within the corporate limits of the City of Daphne, Baldwin County, Alabama and is described as follows:

BEING A PART OF A PARCEL NORTH OF LAKE FOREST, UNIT 24 AND 25, ACCORDING TO A DEED THEREOF, AS RECORDED IN REAL PROPERTY BOOK 545, PAGES 1577-1584, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, AND LYING WITHIN THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 4 SOUTH, RANGE 2 EAST, ST. STEPHENS MERIDIAN, BALDWIN COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF LOT 84, AND ON THE NORTH BOUNDARY LINE OF LAKE FOREST, UNIT 25, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 8, PAGE 86, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN NORTH 41° 13' 26" WEST ALONG SAID NORTH LINE FOR 149.85 FEET; THENCE RUN NORTH 61° 29' 59" WEST ALONG SAID NORTH LINE FOR 69.50 FEET TO A POINT AT THE NORTHWEST CORNER OF SAID LAKE FOREST, UNIT 25, AND ALSO BEING THE NORTHEAST CORNER OF LAKE FOREST, UNIT 24, ACCORDING TO THE PLAT THEREOF, AS RECORDED ON SLIDE 731 B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN NORTH 39° 40' 28" WEST ALONG THE NORTH BOUNDARY LINE OF SAID LAKE FOREST, UNIT 24 , FOR 30.40 FEET; THENCE RUN NORTH 40° 58' 37" EAST FOR 17.39 FEET; THENCE RUN SOUTH 74° 15' 04" EAST FOR 88.45 FEET; THENCE RUN SOUTH 61° 27' 49" EAST FOR 64.92 FEET; THENCE RUN SOUTH 55° 13' 47" EAST FOR 83.14 FEET; THENCE RUN SOUTH 69° 48' 50" EAST FOR 53.46 FEET; THENCE RUN SOUTH 17° 11' 17" WEST FOR 40.74 FEET TO THE NORTH LINE OF SAID LAKE FOREST, UNIT 25; THENCE RUN SOUTH 74° 21' 49" WEST ALONG SAID NORTH LINE FOR 83.86 FEET TO THE POINT OF BEGINNING.

THE PROPERTY DESCRIBED ABOVE CONTAINS 0.40 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.

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

\_\_\_\_\_  
**AUGUST PALUMBO  
COUNCIL PRESIDENT  
Date & Time Signed: \_\_\_\_\_**

\_\_\_\_\_  
**FRED SMALL  
MAYOR  
Date & Time Signed: \_\_\_\_\_**

**ATTEST:**

\_\_\_\_\_  
**DAVID L. COHEN, CITY CLERK, MMC**

REAL PROPERTY APPRAISAL REPORT

Prepared for

CITY OF DAPHNE

By

Hamilton J. Boudreaux, III  
State Certified General Real Property Appraiser  
Alabama License Number: G00055  
**For Volkert**

Division: City of Daphne  
Project Number: NRCS Project #69-4101-9-04  
Tract Number: White-Spunner Parcel PPIN  
099372  
County: Baldwin

Property Owner(s): Jay Whitespunner ETAL  
Address of Owner(s): P.O. Box 7475, Mobile, AL 36670  
Property Address: Hwy 90 & CR 13 , Daphne  
Contact Person(s): Matt White  
Telephone Number(s): 251-471-1000  
Effective Date of Appraisal: July 24, 2010  
Date of Report: July 27, 2010

**Please Note: (Rev. 04/07)**

This report is intended for use by the *City of Daphne* and was developed with consideration for *CITY OF DAPHNE'S* assignment requirements. This report is not intended for any other use or user not specifically described herein.

The **Uniform Act(\*) and Title 49, Code of Federal Regulations, Part 24** set the requirements for appraisal and appraisal review in support of Federal and federally-assisted acquisition(s) of real property for government projects. This appraisal has been prepared in accordance with these requirements which are intended to be consistent with the **Uniform Standards of Professional Appraisal Practice (USPAP)**. It should be noted that in accordance with **49 CFR - §24.103(b)**; the appraiser, in developing the fair market value of a property before a proposed acquisition, is instructed to disregard any decrease or increase in the market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. Additionally, the appraiser is instructed to value any remainder property as if the planned project is complete as of the effective date of appraisal. These instructions are *legal requirements* which can be construed to create hypothetical conditions as defined in **USPAP Standards Rule 1-2(g)** and are noted here in accordance with **USPAP Standards Rule 2-2(b)(x)**. The imposition of these hypothetical conditions might necessarily affect the assignment results.

**Uniform Standards of Professional Appraisal Practice (USPAP)**

This written real property appraisal report was developed in substantial compliance with Standards Rule 1 of the **Uniform Standards of Professional Appraisal Practice (USPAP)**. It is being reported as a "Summary Report" in accordance with Rule 2-2(b) of the **Uniform Standards of Professional Appraisal Practice (USPAP)**.

**Appraiser Comments:** I have been in contact with ALDOT personnel who have stated that the I-10 CR 13 interchange is scheduled to be built, despite plan changes and delays. Due to this interchange project it is likely that the zoning would change from R-3 to B-2 or B-3.

(\*) - Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

July 27, 2010

Ashley Campbell, CPESC  
Environmental Programs Manager  
City of Daphne  
P.O. Box 400  
Daphne, AL 36526

Re: Project Number: NRCS Project #69-4101-9-04  
Tract Number: White-Spinner Parcel PPIN 099372  
County: Baldwin

In compliance with your request for an appraisal of the subject Right-of-Way tract, I have made a personal inspection of the property and a search of the market for comparable market data. Contact with the owner was by the following checked option.

- The owner was contacted by N/A on N/A. On N/A, the owner N/A the property with me.
- Owner's representative, Matt White was contacted on July 22, 2010. On July 24, 2010, the Owner's representative declined an offer to inspect the subject property with me.
- I was unable to contact the owner; however, a certified letter was sent to the owner's last known address with return receipt requested. Two (2) weeks were allowed for a reply. A copy of the certified letter is attached.
- N/A

Submitted herewith is my report which contains the supporting pertinent site and market data gathered and compiled in my investigation and analyses.

As a result of this report, my opinion of the market value of the captioned property as of July 24, 2010 is as follows:

|                                                  |              |
|--------------------------------------------------|--------------|
| Fair Market Value Before the Acquisition:        | \$13,825,000 |
| Fair Market Value After the Acquisition:         | \$13,755,000 |
| Indicated Fair Market Value for the Acquisition: | \$70,000     |

This report does not employ the use of a Master File for data common to all appraisals for the referenced project. A project Master File, when used, is to be considered a part of the addenda of each included report.

Respectfully submitted,



Hamilton J. Boudreaux, III  
State Certified General Real Property Appraiser  
Alabama License No. G00055

Electronic Signature:

Hamilton J.  
Boudreaux, III

Digitally signed by Hamilton J. Boudreaux, III  
DN: cn=Hamilton J. Boudreaux, III, c=US,  
o=Boudreaux & Assoc., email=hamiltonb@msn.com  
Reason: I am the author of this document  
Date: 2010.07.27 08:44:40 -06'00'

APPRAISAL REPORT SUMMARY

OWNER: Jay Whitespunner ETAL  
 ADDRESS: P.O. Box 7475  
 CITY / STATE: Mobile, AL 36670

PROJECT NO: NRCS Project #69-4101-9-04  
 COUNTY: Baldwin  
 TRACT NO.: White-Spunner Parcel PPIN  
 099372

|                              |                             |                            |
|------------------------------|-----------------------------|----------------------------|
| <i>APPRAISED AREA BEFORE</i> | <i>APPRAISED AREA AFTER</i> | <i>AREA TO BE ACQUIRED</i> |
| 79.000 Acres                 | 78.600 Acres                | 0.400 Acres                |

|                                            |              |                    |              |
|--------------------------------------------|--------------|--------------------|--------------|
| VALUE BEFORE TAKING                        |              | VALUE AFTER TAKING |              |
| Land: =                                    | \$13,825,000 | Land: =            | \$13,755,000 |
| Improvements: =                            | \$0          | Improvements: =    | \$0          |
| Total =                                    | \$13,825,000 | Total =            | \$13,755,000 |
| DIFFERENCE BETWEEN BEFORE AND AFTER VALUES |              |                    | \$70,000     |

VALUATION OF PORTION TO BE ACQUIRED

|                    | Size    | Unit Value   | Total    |
|--------------------|---------|--------------|----------|
| 1. Land            | .400 Ac | \$175,000/Ac | \$70,000 |
| Temporary Easement | .000 Ac | \$175,000/Ac | \$0      |
| Permanent Easement | .000 Ac | \$175,000/Ac | \$0      |
| Total              |         |              | \$70,000 |

2. Improvements on Land to Be Acquired:

N/A

Total Value of Acquired Improvements: = \$0

3. Estimated Damages to Remaining Property:

Land:

Improvements

Gross Damages: \$0

4. Less Estimated Specific Benefits to Remaining Property:

Total Benefits: Direct access to new interchange \$0

5. Indicated Net Damage to Remainder: \$0

6. Total Value of Portion Acquired: \$70,000

7. Remarks: (Special assumptions, limiting conditions, and/or hypothetical conditions that affect the analyses, opinions, and conclusions, found in this report.) **I have been in contact with ALDOT personnel who have stated that the I-10 CR 13 interchange is scheduled to be built, despite plan changes and delays. Due to this interchange project it is likely that the zoning would change from R-3 to B-2 or B-3. Property to the east is currently zoned B-3. Other than the zoning change this is an "AS IS" appraisal report. The interchange is planned and scheduled, but not yet built.**

Effective Date of Appraisal: July 24, 2010

FA-4 (Rev. 4/07)

**Purpose of Appraisal:** The purpose of the appraisal is to estimate the fair market value of the subject property both before and after the acquisition of a portion of the property by the City of Daphne for environmental protection use, taking into consideration the legally compensable damages and/or enhancement resulting from the taking as determined by the laws of the State of Alabama.

**Scope of Work:** (To Be Developed Jointly By City of Daphne and Appraiser)

CITY OF DAPHNE Statement: In properly preparing this provided form appraisal report, the appraiser is expected to: 1) develop a working knowledge of the subject market area and to be familiar with current property values based on a review & analysis of recent comparable sales activity which is to be documented in this report or in his/her masterfile; 2) personally inspect the appraised property and the highway map and construction plans depicting the proposed acquisition; 3) provide an adequate scope of work statement which defines the appraisal problem to be solved and addresses the extent of the inspection and description of the neighborhood and proposed project area; the extent of the subject property inspection; and the level of detail of the description of the physical characteristics of the property being appraised and any remainder property; & 4) report his/her analysis, opinions, and conclusions in this provided form appraisal report. The proper preparation of this form appraisal report will satisfy the definition of "appraisal" in the URA and specific rule requirements in §24.103(a)2) and §24.103(b).

**Scope of the Appraisal**

The scope of the appraisal is intended to "summarize sufficient information to disclose to the client and any intended users of the appraisal the scope of work used to develop the appraisal." This section is required to prepare a report in accordance with the *Uniform Standards of Professional Appraisal Practice* of the Appraisal Foundation, as adopted by the Alabama Real Estate Appraisers Board. In order to prepare appraisal reports on the subject properties the following steps were involved:

1. The properties were visually inspected on dates identified in the individual reports. The appraiser, Hamilton J. Boudreaux, III was accompanied by either owners, or owner's representatives as identified in the reports.
2. Regional, county, city, and neighborhood data was based on information available in the library of Boudreaux & Associates. Individual sources are available upon request.
3. The individual subject property data is based upon the appraiser's inspection, public sources, and furnished surveys prepared by Volkert. Site data collected from public sources included Tax Records Maps and legal descriptions, as recorded in Probate Records, furnished surveys, flood hazard maps, and USGS topo maps. Drawings prepared by the appraiser are based upon the appraiser's inspections, and ARE NOT SURVEYS. Where present, they are included to assist the reader in visualizing the subject property. Due diligence was undertaken in order to achieve a reasonable degree of accuracy, but the appraiser is not trained in civil engineering and no representations are made regarding the accuracy of the drawings.
4. An analysis was made of the data collected in the above steps to determine the Highest and Best Use of the individual properties.
5. Market data was collected from the appraiser's files, the office files of the appraiser, other local appraisers, local brokers, and persons knowledgeable of the subject properties, and area. Search of Baldwin County Multiple Listing Service sources included three years. The appraiser subscribes to MMT Data service which provides computerized access to all recorded transactions in Baldwin County linked to tax assessor's information. This service began in August 2000 and is updated monthly. Data search criterion included: vacant land and improved sales within 5 miles of the project that have occurred within the last three years.
6. Data collected was from sources believed to be reliable, and verification included interviews with knowledgeable participants who are named, as well as search of the public records.
7. After assembly and analysis of the data defined in this scope, the final estimates of market value were made. See **Valuation Process** which follows.
8. The final valuations, and all significant opinions of value are those of Hamilton Boudreaux, III who is solely responsible for the work product.
9. Report was prepared on ALDOT specified forms and delivered to the City of Daphne office.

Property Rights Appraised: Unencumbered Fee Simple Title

**Definition of Market Value:** The price the property would bring when offered for sale by a willing seller who is not forced to sell and which is sought by a willing buyer who is not required to buy, after due consideration of all the elements affecting value. (Code of Alabama §18-1A-172)

Five (5) Year Delineation of Title: No changes in title

| Grantor | Grantee | Date | Book | Page | Consideration | Verification |
|---------|---------|------|------|------|---------------|--------------|
|---------|---------|------|------|------|---------------|--------------|

Date(s) Subject Inspected: July 24, 2010

Tax Assessment Data: Assessment sheets in Addendum

COUNTY TAX I.D. NO.: 32-08-33-0-001-018.012      ANNUAL TAXES \$153.24  
APPRAISED VALUE FOR TAX PURPOSES \$1,975,000      ASSESSED VALUE \$3,380

Zoning: R-3 I have been in contact with ALDOT Flood Hazard: X  
personnel who have stated that the I-10 CR 13 Flood Map: 01003C0413K Dated June 17, 2002  
interchange is scheduled to be built, despite plan  
changes and delays. Due to this interchange project it  
is likely that the zoning would change from R-3 to B-2  
or B-3.

Utilities Available to Site:

Public Sewerage: Yes    Public Water: Yes    Electricity: Yes    Natural Gas: No  
Water Well: No    Septic System: No    Telephone: Yes    Cable TV: No  
Other:

Description of any On-Site Septic/Water System(s): (Capacities, areas, depths, equipment, piping, adequacies, etc.)

None.

FA-5: (Rev. 2/05)

Present Use: (Brief description of how site is presently used to benefit owner)

Vacant land held for investment/development.

Description of Proposed Acquisition: (Factual Physical data needed to locate & describe the proposed acquisition along with comments on any noted encumbrances)

The portion to be acquired contains 0.400 Acres. This is an irregular area along the southern boundary. (see R/W Map).

There are no improvements located in the portion to be acquired.

**Personal Property/Specialty Items Being Acquired or Damaged By Proposed Acquisition:**(List & Identify all non-usual/customary items of personal property; also, any specialty items such as merchantable timber, crops, minerals, etc.)

**On-Site Meeting w/CITY OF DAPHNE Relocation Person(s):**  REQUIRED  NOT REQUIRED

**Date(s) Of Required Meeting(s):**

**Attendee(s):**

**Items of Personal Property:**

| <i>Item #</i> | <i>Brief Description</i> | <i>Owner</i> |
|---------------|--------------------------|--------------|
|---------------|--------------------------|--------------|

**Appraiser Comments: Appraiser Comments: Vacant land. No personal property.**

**Personal Property** - In accordance with the final rule issued on January 4, 2005 (effective 2/3/05) revising title 49 CFR Part 24 [ § 24.103(a) – rule and Appendix A ] the appraiser must now identify items in the appraisal report considered to be "real property" as well as those considered to be "personal property." Accordingly, for each tract assignment involving structures to be acquired, the appraiser will be required to coordinate an "on-site" meeting with appropriate Department (Division) relocation staff personnel in order to accommodate this requirement; unless informed in writing on a per tract basis by Department (Division) personnel that it has been determined such a required meeting is not necessary. It is the intent of the Department that the appraiser will be informed of each required realty vs. personalty meeting prior to executing a Work Authorization Order. The results of these meetings are to be included in the appraisal report(s) and will serve as guides in this area for the balance of the acquisition process. If needed, legal counsel is to be consulted when there are questions as to the status of a given item.

FA-5A  
Property Plat:



FA-6 : (Rev. 2/05)

Explanation of considered *Highest & Best Use* (Before Taking): This would be the potentially marketable use that is maximally productive (results in the highest value). With the criteria being that use which is reasonably probable, physically possible, legally permissible, and economically feasible. (More than a statement of the appraiser's opinion, describe in the depth and detail required by its significance to the appraisal). Attach additional pages if necessary.

Physically Possible: The subject parcel contains 79.000 Acres. This parcel is vacant land located on Highway 90 and CR 13. There are residential subdivisions to the south and west of this parcel. A large number of uses are possible for this parcel.

Legally Permissible: The subject property is zoned R-3 by the City of Daphne. A large range of potential uses are permitted, including further subdivision. It is likely that a zoning change would be issued for this parcel, as it is located on the proposed and scheduled I-10 CR 13 interchange. Residential use on such a parcel would not be practical, or typical.

Economically Feasible: Economically feasible uses for this property would be intensive commercial use, due to location on the scheduled I-10 interchange.

Maximally Productive: subdivision and commercial use.

FA-7 : (Rev. 2/05)

## THE VALUATION PROCESS

The subjects of this appraisal assignment are varied and range from improved commercial and residential sites to vacant sites. The valuation process will involve measuring the market value of properties, before and after the acquisition by the City of Daphne.

The extent of the appraisal process is varied depending on the amount of acquisition and the property type. The Before and After Format (Standard Form), will be used on those partial acquisitions that require an after valuation so that the effects of the acquisitions on the remainders can be measured.

The Before and After Format is designed for a complete appraisal of the entire larger parcel as it exists before the acquisition, including land improvements and employing all appropriate approaches to value. When the acquisition is partial, a value after the acquisition will be needed to estimate total just compensation. The market value of the remainder value before and after the acquisition is needed to test for severance damage. If the market value of the remainder is less than the market value of the remainder before the acquisition, then severance damage exists. Just compensation is the difference in the market value of the whole larger parcel before the acquisition, less the market value of the remainder after the acquisition.

The Sales Comparison Approach involves comparing recent sales of similar properties in the same or competing neighborhoods to the property being appraised and making adjustments of major "market recognizable" differences. Adjustments are made to some unit of comparison which is typically the sale price per building square foot. However, other units of comparison can be used depending on what the market is recognizing for a property of the type being appraised.

The final value estimate is made based on a correlation of the applicable approaches which reconciles the relative strengths and weaknesses of the applicable approaches. The appraiser can then select the most effective valuation procedure and base the value estimate on that one approach or he may select two approaches as being value and arrive at a value conclusion in between the two.

The site value is estimated separately from the value of the improvements. The valuation methodology is the sales comparison approach whereby comparable sales are adjusted to reflect the physical characteristics of the site. The site is appraised as though it were vacant and available to be improved to its highest and best use as of the date of the appraisal.

The sum of the part taken and severance damage (if any) comprises the total just compensation for the acquisition.

**Standard Declaration of Jurisdictional Exception To  
The Uniform Standards of Professional Appraisal Practice**

In conformity with the requirements of USPAP Standards Rule 2-1(a),(b),(c), the following is a list of references to those specific laws and regulations that may be interpreted to prescribe methods and procedures of appraisal and appraisal reporting contrary to that required by USPAP. Application of the Jurisdictional Exception Rule of USPAP is hereby declared.

**1) Linking Estimate of Value to Specific Exposure Time –**

USPAP Standards Rule 1-2(c) & 2-2(a)(v) & 2-2(b)(v) and clarifying comments contained in SMT-6 require the declaration of a market exposure time. Under Federal appraisal standards, "exposure time" statements are not permitted to appear in appraisal reports prepared for governmental acquisitions. Therefore, pursuant to the authority conveyed to City of Daphne through Alabama Code, Sec. 23-1-21.2, all real property appraisals prepared for the City of Daphne, whether by staff employees or contracted fee appraisers, shall invoke a Jurisdictional Exception to the requirements of USPAP 2-2(a)(v) and 2-2(b)(v) in order to maintain compliance with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended, 42 U.S.C §4601, et seq., found at 49 C.F.R. Part 24.103 and stated with specificity in *"The Uniform Appraisal Standards for Federal Land Acquisitions"*, Section A-9, Page 13.

FA-7B : (Rev 2/05)

## REGIONAL ANALYSIS

### Physical Environment

The Mobile metropolitan area is composed of both Mobile and Baldwin Counties. The two counties are located in Southwest Alabama and are separated by Mobile Bay, the Alabama River and the Mobile River. On the West, Mobile County is bordered by the State of Mississippi, on the North, the Alabama County of Washington, on the East by Baldwin County, and on the South by the Gulf of Mexico. Baldwin County is bordered on the West by Mobile County, on the North by the counties of Clarke and Monroe, on the East the Florida state line, and on the South by the Gulf of Mexico. Both counties encompass islands at their southern extremities; Mobile--Dauphin Island, and Baldwin--Pleasure Island. The two county area consists of a total of 2,855 square miles with the dominant urban area being the Port City of Mobile. The city covers 141.9 square miles. It is located on the Mobile River at its entrance to Mobile Bay, 31 miles north of the Gulf of Mexico.

Topography for the area is generally flat to gently rolling hills. Coastal regions, and the Mobile River Delta includes areas of significant wetland habitat, resources which enhance the area's viability for tourism. Elevation in the county ranges from sea level along the coast to about 340 feet above sea level near Citronelle in the northern part of the county.<sup>1</sup>

#### Climate

The average climate in the metropolitan area is 67.5° degrees. The January average is 49.9°F and the July average is 82.3 °F. The average rainfall, of 63.9 inches, makes the area one of the wettest in the U.S. Mild prevailing winds from the South at an average of 9.1 miles per hour help to create a tropical type of climate, with an average growing season of 274 days.

#### Transportation System

The two county area is serviced by a mature transportation system that provides access throughout the country by highway, railroad, air and water. Interstate 65, which originates in Mobile, runs north to Chicago and Interstate 10 extends from Mobile west to San Diego and east to Jacksonville, Florida. In addition, there are five Federal highways and a total of 3,434 miles of State and County roads available for intra and inter county use.

Mobile is served by 36.5 mile channel with a 45 foot depth, is the deep-water outlet for the Tennessee-Tombigbee Waterway and the Warrior-Tombigbee and Coosa-Alabama Rivers. The Alabama State Docks is the major port facility with 37 berths.

#### Traffic, Street, Parking Problems

Due to a poorly developed, and under used public transportation system, most people rely on private cars for transportation. Many roads, notably Airport Blvd. and Dauphin Street become extremely congested at rush hour times.

#### Utilities

Alabama Power provides electricity by coal burning turbine generators in the Barry Steam Plant located in Bucks Alabama. Water and sewer service are provided by Public Utility Boards, or private individually owned wells and treatment facilities. The Mobile Water and Sewer Board have significant storage and treatment facilities in place. Drinking water is provided by treated reservoir water, stored in Big Creek Lake. Other municipal areas with water service tend to use treated ground water supplies. Areas without public service use private wells and septic tank systems.

#### Land Use

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<sup>1</sup>Data Source: *Soil Survey of Mobile County* prepared by United States Department of Agriculture Soil Conservation Service

The two county metropolitan area consists of a total of 1,882,841 acres, with Baldwin the largest county in the State, 14% larger than Mobile County. Seven percent of the two county land area is urban, 20% agricultural, 59% forest, 10% wetlands, and 4% water.

#### Recreation

The area offers a wide range of outdoor recreation activities from swimming off miles of white Gulf beaches, to boating, water skiing, fishing, hunting, camping, golf, tennis, etc. Cultural and fine arts activities are available to the public through various organizations and schools located in the urban areas (predominantly the City of Mobile).

### Economic Trends

#### Employment

The Mobile Metropolitan Statistical Area has experienced economic cycles that have tended to be more moderate in amplitude and duration than many sections of the USA. However, the Mobile MSA grew at a faster rate than did the State of Alabama overall from 1990-1995\*.

If unemployment rates are used as a prime indicator, the Mobile area economy as well as the state-wide economy remain somewhat behind the rest of the country. Despite some improvement, total unemployment levels for the Mobile MSA are expected to continue to exceed those for all of Alabama.

The annual average total civilian labor force rose in the Mobile area from 271,000 in 2000 to 273,200 in 2003. The increase in available labor rose the unemployment rate from 4.9% in 2000 to 6.2% in 2003. While manufacturing, construction, transportation, wholesale and retail trade and finance showed a decline in employment, Services employment increased from 67,000 to 86,000 and Government employment increased from 35,900 to 36,100.

Agriculture and Forestry in Mobile County are major contributors to the area's economy. The largest contributor is non-agricultural business. The relative leading economic sectors based upon relative employment levels are indicated in the following tables for the two county area.

#### **2009 Mobile MSA Economic Index Base**

Total Non-Agricultural Employment (in 1,000's)

|                                             |      |
|---------------------------------------------|------|
| Manufacturing                               | 20.8 |
| Construction                                | 15.7 |
| Transportation, communication and utilities | 9.1  |
| Wholesale and retail trade                  | 40.7 |
| Finance, Insurance, Real Estate             | 7.0  |
| Services                                    | 86.9 |
| Government                                  | 36.1 |

Sources: Mobile Chamber of Commerce, U.S. Dept. of Labor  
\*U.S. Bureau of Census, Alabama State Employment Service

### Governmental Forces

#### Governmental Services

The City of Mobile is the county seat for Mobile County. Bay Minette is the county Seat of Baldwin County. City services available to the subject property include: Fire and Emergency Medical (911) service; City Police and County Sheriff protection; garbage collection; municipal water and sewer service.

#### Public Education

The public school system of each county is administered by an elected Board of Commissioners. During the past decade, the public educational programs and teaching facilities of both counties did not

progress to the same degree as systems in some other areas of the country. As a result, the public school system was supplemented by an expansion of the private and parochial school systems. This situation has been widely recognized by the citizenry of the area and steps are being taken to improve the competency of the teaching staffs, strengthen educational programs, and up-grade the physical facilities. The area has two technical institutions and trade schools, two junior colleges, and three four-year institutions of higher education.

These schools are major contributors to the Mobile metropolitan area's economy, and to the resident's quality of life. Over 76.7% of the area's population who are age twenty-five and over have completed high school, and 18.6% have graduated from a four-year college.

#### Health Care

Medical services in the Mobile MSA are provided by ten hospitals that include one teaching hospital, the University of South Alabama Medical Center, which receives public funding. In addition, area residents have available a wide range of conveniently located medical centers, clinics, laboratories, rehabilitation and therapy centers, nursing homes, and other medical facilities

### Social Forces

#### Population Trends

Mobile and Baldwin Counties have a total population of approximately 493,084 persons according to estimates by the Center for Business and Economic Research of the University of South Alabama. As noted earlier, the major concentration of people is within the City of Mobile, with a population of over 200,000. Mobile County, although geographically smaller than Baldwin, has a population of nearly 400,000

The population figures since 1980 for Mobile County and the City of Mobile are shown in Table 1:

**TABLE 1**

| Area           | 1980    | 1990    | 2000    | 2010 Estimated |
|----------------|---------|---------|---------|----------------|
| Mobile County  | 364,980 | 378,643 | 399,843 | 410,500        |
| City of Mobile | 200,479 | 196,278 | 198,915 | 198,983        |
| Baldwin County | 78,556  | 98,380  | 140,415 | 158,944        |
| Total MA       | 443,536 | 476,923 | 540,258 | 569,524        |

#### Population of Mobile

Sources: Population and Income Projections for Municipalities in Mobile County and Baldwin County, Center for Business and Economic Research, University of South Alabama.; 2000 U.S. Census.

#### Summary

In summary, the two county Mobile Metropolitan area has a strong stable agricultural base, a significant summer tourism business developing on Pleasure Island in Baldwin County, and a generally improving basic economy with substantial job creation in recent years.

The Mobile economy has traditionally operated within narrower ranges than that of the economy of the southeast region. Rates of growth have traditionally been slower, and rates of decline have been correspondingly lower. The Alabama Development Office's Annual Report shows Mobile Economic review for 1985-2002 as follows: There has been an increase of 227 new industrial companies, 799 expansions of existing companies, \$7.93 billion in capital investment reported from these new and expanded industries, and 27,437 new jobs as a result of these new and expanding industries.

### NEIGHBORHOOD ANALYSIS – DAPHNE

Analysis of a neighborhood begins at the margins of the subject property and extends to a logical boundary that defines a general area having an impact on the subject. This area of influence is generally referred to as a neighborhood. A neighborhood is defined as "a group of complementary land

uses."<sup>2</sup> A district is defined as "a type of neighborhood that is characterized by homogeneous land use."<sup>3</sup> Therefore the identification of a property's neighborhood depends substantially on the size and use of the existing or proposed improvements. Identifying relationships between the present or intended use of a property and its "neighborhood" can often prove difficult, especially if the use is of a regional scope. As a result of these factors it seems to be useful to consider the subject neighborhood in two distinct ways, the economic neighborhood and the physical neighborhood.

The "economic" neighborhood is that area on which the subject depends for its economic viability and within which it must compete for both tenants or potential purchasers. Generally the economic neighborhood for a relative large, single tenant industrial facility similar to the subject is fairly broad and considers the characteristics and economic needs of the population that would most likely consider leasing or purchasing it. Such an analysis requires careful delineation of the tendencies and requirements of the population and relates these needs to the physical and locational characteristics of the property under analysis. In considering the subject improvements relative to the factors noted above it is the appraiser's opinion that its economic neighborhood would be all of Mobile County.

In order to identify the subject's "physical" neighborhood, the areas surrounding the subject are observed as to transportation facilities, zoning, land uses, and how these factors relate to the subject.

Most important of the neighborhood elements having a potential impact on the subject property are those in the immediate vicinity and the transportation system providing access in and out of the neighborhood. For the most part, this system provides a basic framework for defining the subject's neighborhood, although several major land uses also constitute key elements in its delineation.

#### Transportation

Most important of the neighborhood elements having a potential impact on the subject property are those in the immediate vicinity and the transportation system providing access in and out of the neighborhood. For the most part, this system provides a basic framework for defining the subject's neighborhood, although several major land uses also constitute key elements in its delineation. Highway 31 and I-10 are the main roadways in and out of the area. The subject property is located in the eastern shore portion of Baldwin County, in an area that is currently developing with residential subdivisions, and commercial retail developments to support the growing residential population.

#### Land Usage

There is significant single family residential and new commercial development in the areas around the subject project.

#### Growth Trends

In the immediate subject neighborhood there is mixed use of single family residential and commercial properties.

#### Neighborhood Life Cycle

A neighborhood life cycle usually consists of the following stages:

1. Growth... a period during which the neighborhood gains public favor and acceptance;
2. Stability... a period of equilibrium without marked gains or losses;
3. Decline... a period of diminished demand;
4. Revitalization... a period of renewal, modernization and increasing demand.

In the appraiser's opinion the subject neighborhood's life cycle is currently in a period lying between continued growth and stability.

<sup>2</sup> The Appraisal of Real Estate, American Institute of Real Estate Appraisers, Ninth Edition, Page 161

<sup>3</sup> *Ibid.*, Page 161

**Demographics**

|                                                | <b>Daphne, AL 36526</b> | <b>National Average</b> |
|------------------------------------------------|-------------------------|-------------------------|
| Population of Daphne                           | 22083                   | 11535                   |
| Median Age                                     | 36.3 years              | 37.47 years             |
| Median Household Income                        | \$52463                 | \$42350.95              |
| Percentage of Single Households                | 34.7%                   | 41.53%                  |
| Percentage of Married Households               | 65.3%                   | 58.46%                  |
| Percentage Families (households with children) | 30.1%                   | 24.32%                  |
| Average Household Size                         | 2.55 people             | 2.57 people             |
| Percentage College or Better                   | 35.2%                   | 20.14%                  |
| Percentage White Collar                        | 65.4%                   | 47.14%                  |

**Cost of Living**

|                                               | <b>Daphne, AL 36526</b> | <b>National Average</b> |
|-----------------------------------------------|-------------------------|-------------------------|
| Cost of Living Index                          | 89.7                    | 99.52                   |
| Average Yearly Utility Cost                   | 3538                    | 3196.27                 |
| Average Household Total Consumer Expenditures | \$49155 per year        | \$41075.28 per year     |
| Average Household Education Expenditures      | \$506 per year          | \$450.93 per year       |
| Average Household Entertainment Expenditures  | \$2628 per year         | \$2207.08 per year      |
| Average Household Transportation Expenditures | \$1901 per year         | \$1563.85 per year      |
| Average Household Retail Expenditures         | \$22681 per year        | \$18600.46 per year     |
| Average Household Non-Retail Expenditures     | \$26474 per year        | \$22474.81 per year     |

**Quality of Life**

|                                 | <b>Daphne, AL 36526</b> | <b>National Average</b> |
|---------------------------------|-------------------------|-------------------------|
| Average Winter High Temperature | 49.7 degrees            | 41.29 degrees           |
| Average Winter Low Temperature  | 40.3 degrees            | 22.88 degrees           |
| Average Summer High Temperature | 90.3 degrees            | 86.56 degrees           |
| Average Summer Low Temperature  | 66.9 degrees            | 62.35 degrees           |
| Average Annual Precipitation    | 67.6 inches             | 38.69 inches            |
| Air Quality Index               | 39                      | 44.59                   |
| Total Crime Index               | 2.7                     | 3.60                    |
| Personal Crime Index            | 2                       | 3.43                    |
| Culture Index                   | 106                     | 93.65                   |

Information from realestate.yahoo.com

**Zoning**

I have been in contact with ALDOT personnel who have stated that the I-10 CR 13 interchange is scheduled to be built, despite plan changes and delays. Due to this interchange project it is likely that the zoning would change from R-3 to B-2 or B-3, as the residential zoning would not be appropriate. The area to the east of the subject property is located in Baldwin County Zoning District 15.

**Time Adjustment and Market Conditions**

Historically, prices have increased in the subject's immediate area, especially within the last few years. With the construction of the Eastern Shore Centre and Eastern Shore Park projects, demand in the immediate area has increased along with prices. However, as evidenced by a slowdown in recent residential sales in this area and discussions with local Real Estate Professionals, the residential and commercial market has leveled off and prices are not increasing as quickly as they were previously. In order to account for the increase in values over the time spanned by the comparable sales, but also acknowledge that the market has leveled, the appraiser has concluded an annual increase in overall property values of 0% per year to be appropriate to apply to the land sales which will be used in estimating the site values of the subject parcel.

This correction in the real estate markets was a precipitating factor in the financial meltdown that is still happening.

A zero time adjustment was used in this report, as the data continues to suggest that the correction is still occurring.

STATE OF ALABAMA  
COUNTY OF BALDWIN

**DEED**

KNOW ALL MEN BY THESE PRESENTS that B. WHITE-SPUNNER, a married person, ROLLINS TINDELL, JR., a married person, JAY-E, L.L.C., an Alabama limited liability company, JOHN WHITE-SPUNNER, a married person, MARL M. CUMMINGS, III, a married person, ROBERT SEAN COLEY, a married person, MARY ANNE BALL, a married person, KARA COLEY COATS, a married person, and AIRP, L.L.C., an Alabama limited liability company (the "GRANTORS"), for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration hereby acknowledged to have been paid to the said GRANTORS by the CITY OF DAPHNE, an Alabama municipal corporation, (the "GRANTEE"), do hereby GRANT, BARGAIN, SELL and CONVEY unto the said GRANTEE, its successors and assigns, Subject To:

1. the liens of the City of Daphne, the County of Baldwin, and the State of Alabama for taxes for the current tax year;
2. all easement and rights-of-way of record as such are recorded in the Office of the Judge of Probate of Baldwin County, Alabama; and all recorded or unrecorded utility easements, rights-of-way, or other encumbrances obvious from an inspection of the property;
3. the reservation by the GRANTORS for themselves, their successors and/or assigns, the right to use the property hereinafter described, for drainage of the property of GRANTORS which is not inconsistent with GRANTEE's drainage purposes and which will not disturb or interrupt the use of drainage by the said GRANTEE;
4. the GRANTEE, by the acceptance of this deed, agrees that the GRANTEE will at its sole expense maintain the drainage on the property hereinafter described in accordance with good engineering practices in the same manner and fashion as it

maintains the drainage of adjoining property and the GRANTEE shall not allow refuse, debris, vegetation, or other obstructions to accumulate or collect in or on the property hereinafter described; and

5. The prior reservations of any and all interest in and to any and all oil, gas or other minerals in, on or under said property that are located below 500 feet or more below the surface of the ground, which were reserved by Richard C. Luce, predecessor in title;

all of that real property in the County of Baldwin, State of Alabama, described as follows:

BEING A PART OF A PARCEL NORTH OF LAKE FOREST, UNIT 24 AND 25, ACCORDING TO A DEED THEREOF, AS RECORDED IN REAL PROPERTY BOOK 545, PAGES 1577-1584, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, AND LYING WITHIN THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 4 SOUTH, RANGE 2 EAST, ST. STEPHENS MERIDIAN, BALDWIN COUNTY, ALABAMA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF LOT 84, AND ON THE NORTH BOUNDARY LINE OF LAKE FOREST, UNIT 25, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN MAP BOOK 8, PAGE 86, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN NORTH 41° 13' 26" WEST ALONG SAID NORTH LINE FOR 149.85 FEET; THENCE RUN NORTH 61° 29' 59" WEST ALONG SAID NORTH LINE FOR 69.50 FEET TO A POINT AT THE NORTHWEST CORNER OF SAID LAKE FOREST, UNIT 25, AND ALSO BEING THE NORTHEAST CORNER OF LAKE FOREST, UNIT 24, ACCORDING TO THE PLAT THEREOF, AS RECORDED ON SLIDE 731 B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA; THENCE RUN NORTH 39° 40' 28" WEST ALONG THE NORTH BOUNDARY LINE OF SAID LAKE FOREST, UNIT 24, FOR 30.40 FEET; THENCE RUN NORTH 40° 58' 37" EAST FOR 17.39 FEET; THENCE RUN SOUTH 74° 15' 04" EAST FOR 88.45 FEET; THENCE RUN SOUTH 61° 27' 49" EAST FOR 64.92 FEET; THENCE RUN SOUTH 55° 13' 47" EAST FOR 83.14 FEET; THENCE RUN SOUTH 69° 48' 50" EAST FOR 53.46 FEET; THENCE RUN SOUTH 17° 11' 17" WEST FOR 40.74 FEET TO THE NORTH LINE OF SAID LAKE FOREST, UNIT 25; THENCE RUN SOUTH 74° 21' 49" WEST ALONG SAID NORTH LINE FOR 83.86 FEET TO THE POINT OF BEGINNING.

THE PROPERTY DESCRIBED ABOVE CONTAINS 0.40 ACRES, MORE OR LESS.

The GRANTORS hereby certify that the above described property is not the homestead of any of the GRANTORS.

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 Grantee, its successors and assigns, FOREVER.

IN WITNESS WHEREOF, the undersigned parties have hereunto set their hands and seals and caused this instrument to be signed on this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
B. WHITE-SPUNNER

\_\_\_\_\_  
ROLLINS TINDELL, JR

JAY-E, L.L.C.

By: \_\_\_\_\_  
JEPHTHA BLACKSHER WHITE-  
SPUNNER  
Its Member/Manager

By: \_\_\_\_\_  
JOHN WHITE-SPUNNER  
Its Member/Manager

\_\_\_\_\_  
JOHN WHITE-SPUNNER

\_\_\_\_\_  
MARL M. CUMMINGS, III

\_\_\_\_\_  
ROBERT SEAN COLEY

\_\_\_\_\_  
MARY ANNE BALL

\_\_\_\_\_  
KARA COLEY COATS

AIRP, LLC

By: \_\_\_\_\_  
BLACKSHER WHITE-SPUNNER  
Its Authorized Member

Grantee's Address:

\_\_\_\_\_  
\_\_\_\_\_

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I, the undersigned Notary Public in and for said County in said State, hereby certify that B. WHITE-SPUNNER, 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 executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I, the undersigned Notary Public in and for said County in said State, hereby certify that ROLLINS TINDELL, JR., 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 executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

{00423269.DOCX-1}

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I, the undersigned Notary Public in and for said County in said State, hereby certify that JEPHTHA BLACKSHER WHITE-SPUNNER and JOHN WHITE-SPUNNER, whose names as the authorized Member/Managers of JAY-E, L.L.C., an Alabama limited liability company, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such authorized Member/Managers and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I, the undersigned Notary Public in and for said County in said State, hereby certify that JOHN WHITE-SPUNNER, 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 executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I, the undersigned Notary Public in and for said County in said State, hereby certify that MARL M. CUMMINGS, III, 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 executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

{00423269.DOCX-1}

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I, the undersigned Notary Public in and for said County in said State, hereby certify that ROBERT SEAN COLEY, 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 executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I, the undersigned Notary Public in and for said County in said State, hereby certify that MARY ANNE BALL, 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, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I, the undersigned Notary Public in and for said County in said State, hereby certify that KARA COLEY COATS, 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, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

{00423269.DOCX-1}

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I, the undersigned Notary Public in and for said County in said State, hereby certify that B. WHITE-SPUNNER, whose name as the authorized Member of AIRP, L.L.C., an Alabama limited liability company, 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 authorized Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

This Instrument was Prepared By:

J. Manson Murray  
Vickers, Riis, Murray and Curran, L.L.C.  
Regions Bank Building, 11<sup>th</sup> Floor  
56 Saint Joseph Street  
Mobile, AL 36602-3489

**CITY OF DAPHNE  
RESOLUTION NO. 2010 - 76**

**REVISIONS TO CITY OF DAPHNE STREET MAP**

**WHEREAS**, the Planning Commission of the City of Daphne, Alabama at their regular meeting held on July 22, 2009, favorably recommended to the City Council of the City of Daphne, Alabama a revision to the City of Daphne Street Map as presented at said meeting; and

**WHEREAS**, said revision to street map is necessary due to additional streets being added to and accepted by the City; and

**WHEREAS**, due notice of said revisions to the City of Daphne Street Map has been provided to the public as required by law through publication and open display at the City of Daphne Public Library and City Hall; and

**WHEREAS**, the City Council of the City of Daphne, Alabama, after due consideration, and upon the recommendation of the Planning Commission of the City of Daphne, believe it is in the best interest of the health, safety and welfare of the citizens of the City to accept the revisions to the City of Daphne Street Map; and

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

**SECTION I: ADOPTION OF MAP**

THAT the City of Daphne Street Map was considered by the City of Daphne Planning Commission on July 22, 2010, and having made a favorable recommendation to the City Council and said revised map being attached hereto as Exhibit "A" is hereby adopted as the official "City of Daphne Street Map."

**SECTION II: REPEALER**

THAT Resolution No. 2006-22, Resolution No. 2006-66, and Resolution No. 2007-05, Resolution 2007-69, Resolution 2008-02, Resolution 2008-41, and Resolution 2009-06, Resolution 2009-72, Resolution 2010-22 entitled "City of Daphne Street Map" are hereby repealed in their entirety and any Resolution(s) or parts of Resolution(s) conflicting with the provisions of this Resolution are hereby repealed insofar as they conflict.

**SECTION III: EFFECTIVE DATE**

THAT This Resolution shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne, Alabama.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
DAPHNE, ALABAMA ON THIS THE DAY OF , 2010.**

---

**AUGUST A. PALUMBO,  
COUNCIL PRESIDENT**

---

**FRED SMALL,  
MAYOR**

**ATTEST:**

---

**DAVID COHEN,  
CITY CLERK, MMC**

To: Office of the City Clerk  
From: Adrienne Jones,  
Director of Community Development  
Subject: Revised City of Daphne Street Map  
Date: July 23, 2010

## MEMORANDUM

At the July 22, 2010 regular meeting of the City of Daphne Planning Commission eight members were present and the vote carried unanimously for the favorable recommendation of the acceptance of the above captioned map.

Please prepare a resolution and place on the appropriate agenda for action by the City Council.

Thank you,  
ADJ/jd

cc: file

**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.

00015212.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 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

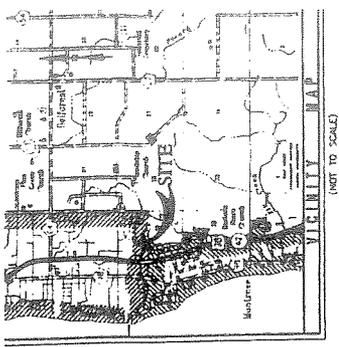
TO

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

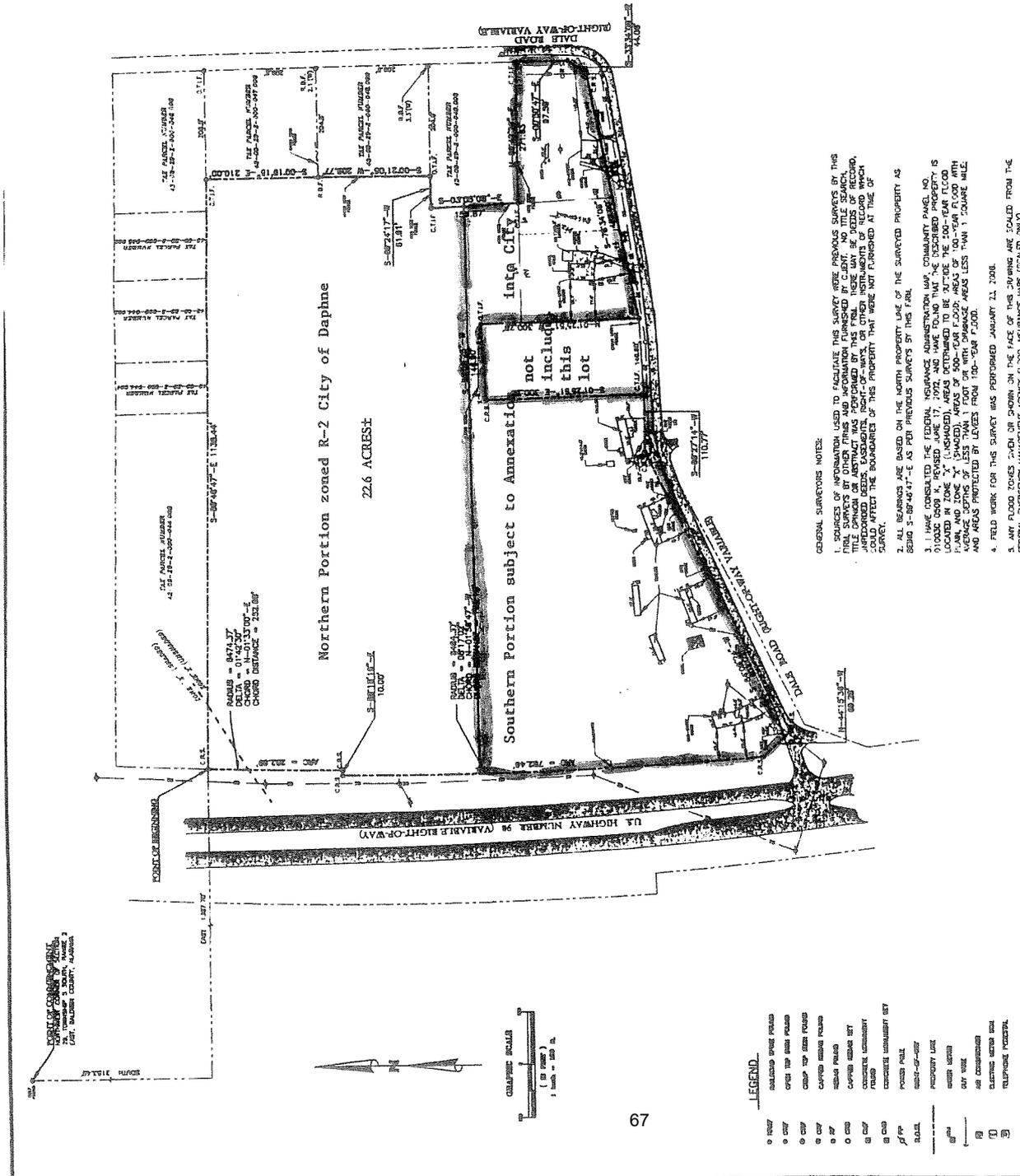
of 782.46 feet to a point; thence run S-89 18'16"-E along said East right-of-way of U.S. Highway Number 98, 10.00 feet to a point; thence run Northeasterly along said East right-of-way of U.S. Highway Number 98 and a non-tangent curve to the right having a radius of 8474.37 feet, a delta angle of 01 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.

00015173.WPDver2



Petition for Annexation applies to area indicated in Legal Description less and except that which is already in the Daphne City Limits.

Notes added by City Staff (AJ) for clarification only. 5/13/10



Northern Portion zoned R-2 City of Daphne  
22.6 ACRES

Southern Portion subject to Annexation not include this lot

- LEGEND**
- 1/4" = 10' (1/8" = 5')
  - 1/8" = 10' (1/16" = 5')
  - 1/16" = 10' (1/32" = 5')
  - 1/32" = 10' (1/64" = 5')
  - 1/64" = 10' (1/128" = 5')
  - 1/128" = 10' (1/256" = 5')
  - 1/256" = 10' (1/512" = 5')
  - 1/512" = 10' (1/1024" = 5')
  - 1/1024" = 10' (1/2048" = 5')
  - 1/2048" = 10' (1/4096" = 5')
  - 1/4096" = 10' (1/8192" = 5')
  - 1/8192" = 10' (1/16384" = 5')
  - 1/16384" = 10' (1/32768" = 5')
  - 1/32768" = 10' (1/65536" = 5')
  - 1/65536" = 10' (1/131072" = 5')
  - 1/131072" = 10' (1/262144" = 5')
  - 1/262144" = 10' (1/524288" = 5')
  - 1/524288" = 10' (1/1048576" = 5')
  - 1/1048576" = 10' (1/2097152" = 5')
  - 1/2097152" = 10' (1/4194304" = 5')
  - 1/4194304" = 10' (1/8388608" = 5')
  - 1/8388608" = 10' (1/16777216" = 5')
  - 1/16777216" = 10' (1/33554432" = 5')
  - 1/33554432" = 10' (1/67108864" = 5')
  - 1/67108864" = 10' (1/134217728" = 5')
  - 1/134217728" = 10' (1/268435456" = 5')
  - 1/268435456" = 10' (1/536870912" = 5')
  - 1/536870912" = 10' (1/1073741824" = 5')
  - 1/1073741824" = 10' (1/2147483648" = 5')
  - 1/2147483648" = 10' (1/4294967296" = 5')
  - 1/4294967296" = 10' (1/8589934592" = 5')
  - 1/8589934592" = 10' (1/17179869184" = 5')
  - 1/17179869184" = 10' (1/34359738368" = 5')
  - 1/34359738368" = 10' (1/68719476736" = 5')
  - 1/68719476736" = 10' (1/137438953472" = 5')
  - 1/137438953472" = 10' (1/274877906944" = 5')
  - 1/274877906944" = 10' (1/549755813888" = 5')
  - 1/549755813888" = 10' (1/1099511627776" = 5')
  - 1/1099511627776" = 10' (1/2199023255552" = 5')
  - 1/2199023255552" = 10' (1/4398046511104" = 5')
  - 1/4398046511104" = 10' (1/8796093022208" = 5')
  - 1/8796093022208" = 10' (1/17592186044416" = 5')
  - 1/17592186044416" = 10' (1/35184372088832" = 5')
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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**

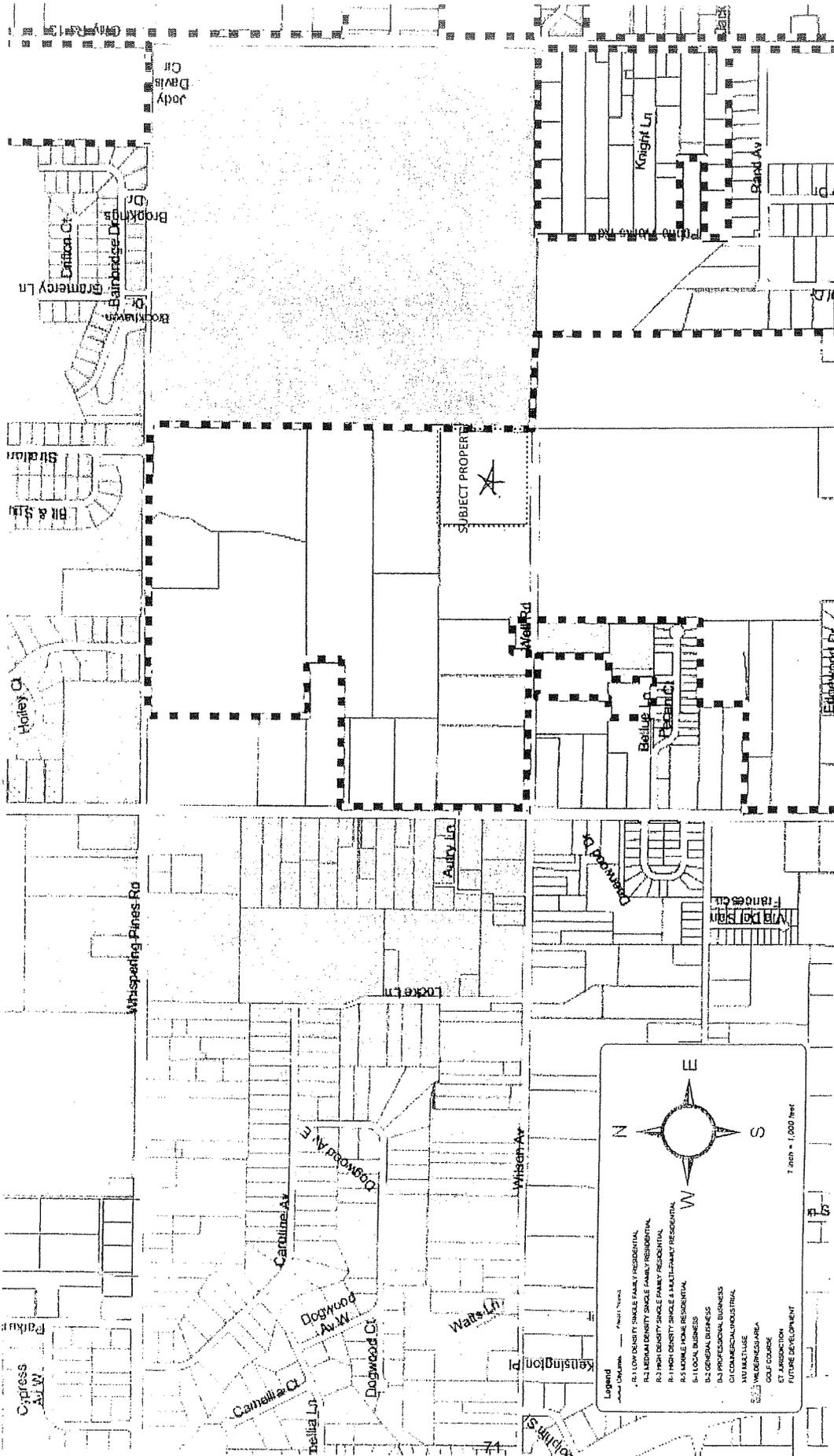
**WELL ROAD PROPERTY (9.5 ACRES)**

**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**

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**AN ORDINANCE TO REPEAL ORDINANCE NO. 2005-55  
AND TO ESTABLISH PENALTIES AND ENFORCEMENT  
PROCEDURES FOR VIOLATION OF MUNICIPAL ORDINANCES**

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**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.**

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**AUGUST PALUMBO  
COUNCIL PRESIDENT**

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**FRED SMALL  
MAYOR**

**ATTEST:**

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**DAVID COHEN  
CITY CLERK, MMC**

Appendix B. Supreme Court's Extended Schedule of Fines

| FEDERAL SAFETY Regulation No.: | MOTOR CARRIER REGULATIONS: | Offense                                                                                       | Scheduled Fine |
|--------------------------------|----------------------------|-----------------------------------------------------------------------------------------------|----------------|
| 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

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III. Driver Qualifications

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|              |                                                              |       |
|--------------|--------------------------------------------------------------|-------|
| 391.11(b)(5) | Using driver without current valid operator's license/permit | \$100 |
|--------------|--------------------------------------------------------------|-------|

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|           |                                                             |      |
|-----------|-------------------------------------------------------------|------|
| 391.41(a) | Failure of driver to possess medical examiner's certificate | \$25 |
|-----------|-------------------------------------------------------------|------|

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IV. Driving of Motor Vehicles

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|       |                                                |      |
|-------|------------------------------------------------|------|
| 392.3 | Driver operating vehicle while ill or fatigued | \$50 |
|-------|------------------------------------------------|------|

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|             |                                              |      |
|-------------|----------------------------------------------|------|
| 392.9(a)(1) | Driver operating vehicle with an unsafe load | \$50 |
|-------------|----------------------------------------------|------|

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|        |                                                             |      |
|--------|-------------------------------------------------------------|------|
| 392.14 | Driver operating vehicle without caution during bad weather | \$50 |
|--------|-------------------------------------------------------------|------|

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|        |                                 |      |
|--------|---------------------------------|------|
| 392.16 | Driver failing to use seat belt | \$25 |
|--------|---------------------------------|------|

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|           |                                      |      |
|-----------|--------------------------------------|------|
| 392.60(a) | Transporting unauthorized passengers | \$25 |
|-----------|--------------------------------------|------|

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V. Hours of Service

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|             |                                                                                                   |       |
|-------------|---------------------------------------------------------------------------------------------------|-------|
| 395.3(a)(1) | Requiring or permitting driver to drive more than 10 hours following 8 consecutive hours off duty | \$100 |
|-------------|---------------------------------------------------------------------------------------------------|-------|

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|             |                                                                                                                   |       |
|-------------|-------------------------------------------------------------------------------------------------------------------|-------|
| 395.3(a)(2) | Requiring or permitting driver to drive after having been on duty 15 hours following 8 consecutive hours off duty | \$100 |
|-------------|-------------------------------------------------------------------------------------------------------------------|-------|

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|             |                                                                  |       |
|-------------|------------------------------------------------------------------|-------|
| 395.3(b)(1) | Driving after having been on duty 60 hours in 7 consecutive days | \$100 |
|-------------|------------------------------------------------------------------|-------|

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|             |                                                                  |       |
|-------------|------------------------------------------------------------------|-------|
| 395.3(b)(2) | Driving after having been on duty 70 hours in 8 consecutive days | \$100 |
|-------------|------------------------------------------------------------------|-------|

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|          |                                         |      |
|----------|-----------------------------------------|------|
| 395.8(a) | Driver's record of duty status required | \$50 |
|----------|-----------------------------------------|------|

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|                 |                                                     |      |
|-----------------|-----------------------------------------------------|------|
| 395.13(c)(1)(i) | Allowing a driver out of service to operate vehicle | \$50 |
|-----------------|-----------------------------------------------------|------|

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VI. Inspection and Maintenance

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|                                                   |                                                                                                                         |       |
|---------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|-------|
| 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><b>OFFENSE</b></i>                                               | <i><b>FINE</b></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<br><25 MPH over Posted Speed Limit                         | \$20.00                          |   |  |
| 25 or > 25 over Posted Speed Limit                                  | \$40.00                          |   |  |
| Speeding in a Construction Zone:<br><25 MPH over Posted Speed Limit | \$40.00                          |   |  |
| 25 or > 25 over Posted Speed Limit                                  | \$80.00                          |   |  |
| Speeding in a Construction Zone:<br><25 MPH over Posted Speed Limit |                                  |   |  |
| 25 or > 25 over Posted Speed Limit                                  |                                  |   |  |
| Speeding in a School Zone                                           | Mandatory<br>Court<br>Appearance |   |  |
| Stopping on Highway                                                 | \$30.00                          |   |  |
| Violating D. L. Restriction or Endorsement                          | \$10.00                          | * |  |
| Allowing a Child Under the Age of 16 to<br>Operate a Vehicle        | \$50.00                          |   |  |

|                                                                             |          |
|-----------------------------------------------------------------------------|----------|
| Shifting Load                                                               | \$25.00  |
| Spilling Load                                                               | \$25.00  |
| No Red or Orange Flag or Red Light<br>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<br>Divided Highway                        | \$30.00  |
| Failure to Yield to Emergency Vehicle                                       | \$50.00  |
| Improper Stopping or Parking on or in<br>Highway (General)                  | \$30.00  |
| Improper Stopping, Standing, or Parking<br>Outside of Business or Residence | \$30.00  |
| Improper Stopping, Standing, or Parking<br>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,<br>Length)                              | \$100.00 |
| Refusal to weigh                                                            | \$300.00 |
| Casting a Light from a Public Road<br>(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**

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**AN ORDINANCE TO AMEND ORDINANCE NO. 1995-08 ALLOWING AN  
EXPEDITED PROCESS OF SOLICITOR LICENSE GRANTING**

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**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

**CITY OF DAPHNE  
ORDINANCE 2010-49**

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**AN ORDINANCE TO REPEAL ORDINANCE NO. 2008-21 AND TO AMEND  
ORDINANCE NO. 2004-20 CONCERNING CIVIC CENTER RATES**

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**WHEREAS**, the City Council of the City of Daphne desires to increase the rental rates at the Daphne Civic Center; and

**WHEREAS**, the Building and Property Committee after consideration propose that the Daphne Civic Center rates be amended; and

**WHEREAS**, the Daphne City Council of the City of Daphne, after due consideration, deems that the amendments requested are proper and believe it to be in the best interest of the City that said amendments be affirmed;

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

**SECTION I: REPEALER**

Ordinance No. 2008-21 and the revised Civic Center rental fees established by the same is hereby repealed in its entirety.

**SECTION II: AMENDMENT TO RENTAL FEES**

Sections “XVII A” and “XVII B” of Ordinance No. 2004-20 shall be and are hereby Amended as follows:

**SECTION XVII: RENTAL FEES**

A. Base rates and cleaning rates shall start as listed below:

| <b>Meeting Room</b>    | <b>Sq. Ft.</b> | <b>Rate</b>                                                                                         |
|------------------------|----------------|-----------------------------------------------------------------------------------------------------|
| <b>Entire Facility</b> |                | \$1250.00 base                                                                                      |
|                        |                | \$375.00 cleaning<br>*some groups of<br>500+ may<br>require an extra<br>cleaning fee of<br>\$300.00 |

|                                              |        |                                                                                         |
|----------------------------------------------|--------|-----------------------------------------------------------------------------------------|
|                                              |        | \$20.00 hourly                                                                          |
| <b>Exhibit Hall/Stage</b>                    | 11,800 | \$565.00 base                                                                           |
|                                              |        | \$250.00 cleaning<br>*some groups of 500+ may require an extra cleaning fee of \$300.00 |
|                                              |        | \$20.00 hourly                                                                          |
| <b>Exhibit Hall w/ Stage, 2 dressing rms</b> |        | \$690.00 base                                                                           |
|                                              |        | \$250.00 cleaning<br>*some groups of 500+ may require an extra cleaning fee of \$300.00 |
|                                              |        | \$20.00 hourly                                                                          |
| <b>The Wisteria Reception Area + Gallery</b> | 3,700  | \$345.00 base                                                                           |
|                                              |        | \$250.00 cleaning<br>*some groups of 500+ may require an extra cleaning fee of \$300.00 |
|                                              |        | \$20.00 hourly                                                                          |
| <b>North Gallery</b>                         | 1,200  | \$65.00 base                                                                            |
|                                              |        | \$65.00 cleaning                                                                        |
|                                              |        | \$20.00 hourly                                                                          |
| <b>South Gallery</b>                         | 1,200  | \$65.00 base                                                                            |
|                                              |        | \$65.00 cleaning                                                                        |
|                                              |        | \$20.00 hourly                                                                          |
| <b>The Willow (Meeting room B &amp; C)</b>   | 1,505  | \$190.00 base                                                                           |
|                                              |        | \$125.00 cleaning                                                                       |
|                                              |        | \$20.00 hourly                                                                          |
| <b>Kitchen Full Service</b>                  |        | \$220.00 base                                                                           |
|                                              |        | \$100.00 cleaning                                                                       |
|                                              |        | \$20.00 hourly                                                                          |

|                                     |     |                               |
|-------------------------------------|-----|-------------------------------|
| <b>Kitchen Service Only</b>         |     | \$100.00 base                 |
|                                     |     | \$65.00 cleaning              |
|                                     |     | \$20.00 hourly                |
| <b>Greenroom</b>                    | 384 | \$250.00 base                 |
|                                     |     | \$100.00 cleaning             |
|                                     |     | \$20.00 hourly                |
| <b>Greenroom/DR 2</b>               |     | \$375.00 base                 |
|                                     |     | \$125.00 cleaning             |
|                                     |     | \$20.00 hourly                |
| <b>Greenroom/DR 2 &amp; Stage</b>   |     | \$375.00 base                 |
|                                     |     | \$250.00 cleaning             |
|                                     |     | \$20.00 hourly                |
| <b>Greenroom/DR 1,2 &amp; Stage</b> |     | \$425.00 base                 |
|                                     |     | \$250.00 cleaning             |
|                                     |     | \$20.00 hourly                |
| <b>Parking Lot</b>                  |     | \$25.00 per displayed vehicle |

- B. In addition to the base rental fees the following hourly rates shall apply: \$20.00 per hour for each hour of usage and \$50.00 per hour for each hour of usage for all holiday and city off days.

In addition to the base rental fees and hourly rates an extra labor fee may apply and will be at the discretion of the Director. This fee will be based on each events setup and needs to have successful event at the Daphne Civic Center.

The Director shall maintain an updated list of rental items which is to be treated as part of this Ordinance's fee schedule.

### **SECTION III: SEVERABILITY**

If any article, section, sentence, clause or phrase in this Ordinance is, for any reason, held to be invalid or unconstitutional by declaration of any Court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this Ordinance.

**SECTION IV: REAFFIRMATION**

That all other sections of Ordinance 2004-20 not specifically referenced or amended herein shall remain in full force and effect.

**SECTION V: EFFECTIVE DATE**

That the provisions of this ordinance shall become effective upon the approval and publication as prescribed by law.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.**

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**AUGUST A. PALUMBO,  
COUNCIL PRESIDENT**

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**FRED SMALL,  
MAYOR**

**ATTEST:**

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**DAVID COHEN,  
CITY CLERK, MMC**

**CITY OF DAPHNE  
ORDINANCE 2010-50**

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**ORDINANCE TO AMEND ORDINANCE 2004-21  
CONCERNING BAYFRONT PARK RENTAL RATES**

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**WHEREAS**, the City Council of the City of Daphne desires to increase the rental rates at the Bayfront Park; and

**WHEREAS**, the Building and Property Committee after consideration propose that the Bayfront Park rates be amended; and

**WHEREAS**, the Daphne City Council of the City of Daphne, after due consideration, deems that the amendments requested are proper and believe it to be in the best interest of the City that said amendments be affirmed,

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

**SECTION I:           AMENDMENT TO RENTAL FEES**

Sections “XVII A” and “XVII B” of Ordinance No. 2004-21 shall be and are hereby Amended as follows:

**SECTION XVII:       RENTAL FEES**

A. Base rates shall start as listed below:

| <b>Meeting Room</b>        | <b>Rate</b>    |
|----------------------------|----------------|
| <b>Entire Facility</b>     | \$475.00 base  |
|                            | \$20.00 hourly |
| <b>The Sunset</b>          | \$300.00 base  |
|                            | \$20.00 hourly |
| <b>The Jubilee</b>         | \$150.00 base  |
|                            | \$20.00 hourly |
| <b>The Kitchen</b>         | \$40.00 base   |
|                            | \$20.00 hourly |
| <b>Cleaning (Optional)</b> | \$200.00       |

- B. In addition to the base rental fees the following hourly rates shall apply: \$20.00 per hour for each hour of usage and \$50.00 per hour for each hour of usage for all holiday and city off days.

In addition to the base rental fees and hourly rates an extra labor fee may apply and will be at the discretion of the Director. This fee will be based on each events setup and needs to have a successful event at Bayfront Park.

The Director shall maintain an updated list of rental items which is to be treated as part of this Ordinance's fee schedule.

**SECTION II: SEVERABILITY**

If any article, section, sentence, clause or phrase in this Ordinance is, for any reason, held to be invalid or unconstitutional by declaration of any Court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this Ordinance.

**SECTION III: REAFFIRMATION**

That all other sections of Ordinance 2004-21 not specifically referenced or amended herein shall remain in full force and effect.

**SECTION IV: EFFECTIVE DATE**

That the provisions of this ordinance shall become effective upon the approval and publication as prescribed by law.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.**

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**AUGUST A. PALUMBO,  
COUNCIL PRESIDENT**

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**FRED SMALL,  
MAYOR**

**ATTEST:**

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**DAVID COHEN  
CITY CLERK, MMC**