

**CITY COUNCIL BUSINESS MEETING AGENDA
1705 MAIN STREET, DAPHNE, AL
SEPTEMBER 2, 2008
6:30 P.M.**

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

- 3. APPROVE MINUTES:** Council minutes meeting held August 18, 2008

PRESENTATION: Volunteer Mobile / Present Four Sets of Oxygen Masks for Pets

4. REPORT STANDING COMMITTEES:

A. FINANCE COMMITTEE / Scott

MOTION: To renew the City's medical & dental insurance plan with Blue Cross/Blue Shield and establish Fiscal 2009 monthly employee withholdings as follows:

Family: _____ Medical 25 Dental
Individual: _____ Medical

B. BUILDINGS & PROPERTY - Lake

C. PUBLIC SAFETY - Burnam

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Palumbo

E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Yelding

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments - Eady

B. Downtown Redevelopment Authority - Barnette

C. Industrial Development Board - Yelding

Economic Incentive Package

D. Library Board - Lake

Review minutes meeting held August 7th

E. Planning Commission – Barnette

F. Recreation Board - Palumbo

Review minutes meeting held August 13th

G. Utility Board - Scott

6. REPORTS OF OFFICERS:

A. Mayors Report

a.) **MOTION:** Authorize the Mayor to enter into the South Alabama Mutual Assistance Agreement

B. City Attorney's Report

C. Department Head Comments

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

NO RESOLUTIONS

ORDINANCES:

2ND READ

- a.) **Adjust the Speed Limits Within the City of Daphne...../Ordinance 2008-53**

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 NAGER

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

**AUGUST 18, 2008
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1

1. CALL TO ORDER

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

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Mr. Willie Robison gave the invocation.

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

Also present: Mayor Fred Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Kim Briley, Finance Director; Sharon Cureton, Human Resource Director; Tonja Young, Library Director; James White, Fire Chief; Bill Eady, Planning Department Director; Sandra Morse, Civic Center Director; Frank Barnette, Public Works; Richard Merchant, Building Official; David McKelroy, Recreation Director; David Carpenter, Police Chief; Jane Robbins, Mayor's Assistant; Marshall Parsons, Horticulturist; Scott Hutchinson, City Engineer; Al Guarisco, Village Point; Willie Robison, BZA; Ed Nelson, Recreation Board; Frieda Romanchuk, Beautification; Selena Vaughn, Village Point; Mickey Boykin, Museum; Andy Rutens, Attorney; Don Blanchard, Principal, Daphne High School.

Absent: Melvin McCarley, Interim Public Works Director.

3. APPROVE MINUTES:

MOTION BY Councilwoman Barnette to adopt the Council meeting minutes meeting held August 4, 2008. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt the Council Work Session minutes meeting held August 14, 2008. *Seconded by Councilman Scott.*

AYE Lake, Scott, Palumbo, Burnam NAY NONE OPPOSED

ABSTAIN Yelding, Barnette MOTION CARRIED

PRESENTATION: Present Four Sets of Oxygen Masks for Pets / Volunteer Mobile

All of the masks did not come in so they asked to be on the next Council meeting agenda.

PRESENTATION: S.E.E.D.S. / Presentation of Grants / Jan Finney / Boyd Miller / Ashley Hammond

Mrs. Finney and Mr. Boyd presented the grant funds raised by their annual Fun Run and Mama Mia Cook Off to Christ the King, Daphne Elementary, W.J. Carroll Intermediate, Daphne East, Daphne Middle School and Daphne High School. They also presented block grants from Representative Randy Davis and Senator Tripp Pitman to all the schools that applied for grants.

4.REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE / Scott

The minutes for the August 11th meeting are in the packet.

MOTION BY Councilman Scott to authorize the Mayor to enter into an agreement for the architectural design of Bay Front Park in the amount of \$8,500. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to authorize the Mayor to sign the FEMA Hazard Mitigation Grant Disaster Assistance Agreement for the Wooster settlement. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to accept the Treasurers Report ending July 31, 2008 with a balance of \$20,461,782.35. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Sales and Use Tax

\$997,274.15 was collected for the month of June which was approximately \$63,000 under budget. There is three months to go in the fiscal year and finances will be \$524,000 under budget, which basically indicates that they will be around \$700,000 range that they have been discussing for some time now, and they will take it out of the \$10+ million reserves.

Lodging Tax

\$64,626.19 was collected for the month of June which was an increase.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake

The minutes for the August 1st meeting are in the packet. items considered were the pavilion, to seal and stripe the parking lot for \$14,480, to repair the roof of the Civic Center for \$1,540, and there is more extensive work that needs to be done to the roof. They also considered painting the columns, metal ceilings, metal brackets, ceiling beams, metal doors, gutters and hand rails on the north side of the Civic Center for \$18,966. All of these are budgeted items.

C. PUBLIC SAFETY COMMITTEE – Burnam

The minutes for the August 6th meeting are in the packet, and no action is required by Council. The next meeting will be September 3rd at 4:30 p.m. in the Council Chambers.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo

The committee met and discussed an ordinance adjusting the speed limits in Daphne, and it is on the agenda tonight as a first read. The next meeting will be September 3rd following the Public Safety meeting.

Councilwoman Barnette asked the committee to consider the lodging tax ordinance at the meeting, and Councilman Palumbo stated that they should consider that at the Council work session. Councilwoman Barnette asked that the ordinance be placed on the next Council work session agenda.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

The committee met, but the minutes are not in the packet.

Hurricane Ivan Urban & Community Forest Grant

Marshall Parsons stated that there were left over funds available to the city to buy trees to put around the city were trees have been lost. The most that the city can get, because of the bid law, is \$14,999. Council has to give him approval to apply for the grant.

MOTION BY Councilman Yelding to authorize Marshall Parsons to apply for a Hurricane Ivan Urban & Community Forest Grant. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Eady

The board will meet August 7th at 6:00 p.m. with three submittals. All of them are set back encroachments one at 107 Timberline Drive, lots 55 & 56 of the Lakeview town homes and lots 57 & 58 of the Lakeview town homes. One was approved, one was denied, and one was withdrawn.

B. Downtown Redevelopment Authority – Barnette

The Authority did not meet in August, but will meet in September

C. Industrial Development Board – Yelding

No report. The next meeting will be August 25th.

D. Library Board – Lake

Ms. Tonja Young reported to Council that the Library received a Bookshelf for Collections grant which will teach how to archive special collections. The Museum may be interested in this also. She said that Daphne was 2 of only 3,000 libraries nation wide to receive this grant.

E. Planning Commission – Barnette

The Site Review meeting will be Wednesday, August 20th at 8:00 a.m. and the Planning Commission meeting will be August 28th.

E. Recreation Board – Palumbo

The board met on August 13th, and there was a recommendation sent to the Council to approve the lease with the Baldwin County Board of Education regarding the back section of property at Trione Park Sports Complex.

The City Attorney, Jay Ross, stated that the lease is ready with modifications to Section 13.02 to the satisfaction of himself and Council. The initial lease will be for 24 years with a one (1) year written notice of termination, with reimbursement for improvements or the city can remove the improvements.

MOTION BY Councilman Palumbo to authorize the Mayor to enter into the lease agreement with the Baldwin County Board of Education for the Trione Sports Complex property on behalf of the city with the document prepared by Mr. Ross with the modifications to Section 13.02 that were sent to Council that afternoon. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

The next Recreation Board meeting will be September 10th.

G. Utility Board – Scott

The next meeting will be Wednesday at 5:00 p.m.

6. REPORTS OF THE OFFICERS:

A. *Mayor's Report*

a.) *Authorize the Mayor to enter into an agreement with Cole Brothers Circus*

MOTION BY Councilwoman Barnette to authorize the Mayor to enter into an agreement with Cole Brothers Circus. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

b.) Authorize the Mayor to enter into a lease agreement with the Baldwin County Board of Education for the Trione Sports Complex Property.

This was considered under the Recreation Board report.

Mayor Small thanked Council for the motion regarding the Trione Sports Complex property, and he thanked Mr. Ed Nelson who worked really hard for eight months to get this done along with the Recreation Board.

Council President Burnam stated that they appreciate all that the Mayor, Jay Ross and the board have done to get this lease finished, and they all deserve a round of applause, because this has been in the works a long time.

B. City Attorney's Report

No report.

C. Department Head Comments

Frank Barnette – Public Works – stated they he hopes Council goes ahead with the bid proposal for the Justice Center air conditioning, and that they continue to invest in city property.

David Carpenter – Police Chief – stated that when the capital budget was passed Council allowed them to purchase a piece of equipment called Afix Tracker, and it came in today, and a couple of weeks ago there was a robbery at Checkers, and they got a prints off the car, and put it in the tracking system, and we actually got a match on the suspects.

Tonja Young – Library Director – reported that they are having free training Thursday night at 6:30 p.m. on how to use the Alabama Virtual Library which has 80 data bases to use. There is everything from Encyclopedias to children's farm animals, and there is something on it for everyone. Also, Friday at 6:30 the Library will host two authors Phillip Shirley and Sunny Brewer.

Sandra Morse – Civic Center Director – reported that 1200 tickets were sold for the Taste of the Eastern Shore, and that it was a success.

David Cohen – City Clerk – reported that the election is August 26th from 7:00 a.m. to 7:00 p.m. Absentee ballots are due in by August 21st. If you have a business or medical emergency you can vote up to the day before the election.

7. PUBLIC PARTICIPATION

Mr. Joe Davis – TimberCreek POA – 30757 Pine Court – spoke against outdoor advertising signs.

Mrs. Geri Moulton – 321 Whiting Court – spoke against outdoor advertising signs.

Mr. Alan Sams – 7898 Pine Run – spoke against outdoor advertising signs.

Mr. Kevin Spriggs – 23 Signal Hill, Spanish Fort – Owner of Daphne business – spoke in favor of signs advertising Daphne businesses. He stated that the sign ordinance is killing the businesses in Daphne, and the city needs signs to attract people to their businesses.

Mrs. Nancy Henderson – President of the Beautification Committee – handed out a resolution adopted by the Beautification Committee opposing any digital or billboard signs in Daphne.

Mrs. Frieda Romanchuk – 30615 Laurel Court – spoke opposing digital signs, settling of the lawsuit with Lamar and new billboards.

Mrs. Jody Fretz – Historic Malbis POA – spoke opposing signs of Hwy 181.

Mr. Mike Sullivan – 8800 Pine Run – spoke against flashy billboards.

Mr. Willie Robison – 560 Stuart Street – spoke of the need to enforce the ordinances that the city has, and that the city does not need a digital sign at the Civic Center.

Mrs. Dorothy Morrison – 727 Oak Bluff – spoke against having neon signs.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS:

a.) **ALDOT: Improvements to I-10 Interchange at CR 13 with Connector To US 90 and Additional Lanes on US 90 & County Road South of US-90.**/Resolution 2008-42

b.) **Bid Award: Justice Center Air Conditioning System / Inland Air Systems.**/Resolution 2008-43

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-42. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-42. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-43. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-43. *Seconded by Councilman Palumbo.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCES

1st READ

- a.) Lodging Tax Appropriation: Richard Scardamalia Pavilion. /Ordinance 2008-50
- b.) Sidewalk Project / Handrails / Guardrails: Connecting Jubilee Square to Adjacent Hotels. /Ordinance 2008-51
- c.) 5th Street / Van Buren Street Improvement. /Ordinance 2008-52
- d.) Adjust Speed Limit in City of Daphne /Ordinance 2008-53

MOTION BY Councilman Lake to suspend the rules to consider Ordinances 2008-50, 2008-51 and 2008-52. *Seconded by Councilman Yelding.*

ROLL CALL VOTE

Yelding	Aye	Nager	Aye
Barnette	Aye	Palumbo	Aye
Lake	Aye	Burnam	Aye
Scott	Aye		

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Lake to waive the reading of Ordinances 2008-50, 2008-51 and 2008-52. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Yelding to adopt Ordinances 2008-50, 2008-51 and 2008-52. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Ordinance 2008-53 was made a first read with the amendment to change the effective date to 30 days after adoption and publication.

8. COUNCIL COMMENTS

Councilman Yelding stated: I would like to echo what Mrs. Morse said about the Taste of the Eastern Shore, as I stated at the event it was great, a great correlation between the citizens of Daphne and the schools, and this is one way to really, really help our schools. The people just turn out tremendously. I think we are going to have a problem in the future, because we are going to run out of space, and I think we are going to have to start doing something different. You get to a point where you put 1,100 people in that building with all the vendors it is a little too crowded for the building, but I guess that is a good thing. The event went really well.

Councilwoman Barnette stated: I would like to thank all the citizens that came out tonight to exercise their democratic right to say what you think about our sign ordinance. I think it is a great group of folks here that care about Daphne, and want to see us make informed decisions on how we continue to move forward in the future for Daphne. I personally do not believe that large billboard signs have any benefit to either the business community or the human community. I think that we have a lot of data that shows otherwise. Our eastern shore area is one of the top 100 communities in the nation, and all of the communities that are on that list all have restrictive sign ordinances. I think the facts are there, and we do need to look at innovative ways to support our businesses, Jubilee Square for one, and I don't believe signage is the way to do it, but we can talk with the Highway Department about putting some of those tourist signs out, and getting a number of supporting tools for our businesses. We have already turned down the settlement agreement with Lamar, and we don't need to reopen it. We've said no, and are waiting for the summary judgment, and I appreciate you taking the time to tonight to come out and make your voice heard.

Councilman Lake stated: The Taste of the Eastern Shore was fantastic the other night. I really enjoyed it. Again, another fine job by our Civic Center, and it shows that that investment has been worth it for the city, and it has made a lot of money for the schools in the years past. I think that Cathy brought up a good point, and it was brought up by Mr. Spriggs, we do need to look at ways of attracting businesses south, and I think we can do some creative things. We do need to put some

AUGUST 18, 2008
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

9

directional signs on the Bay Way, and on I-10 to direct traffic south to Daphne businesses. I think we can do that creatively. We do have a directional sign at the Eastern Shore Center that shows hotels there. Maybe we could get the Beautification Committee to come up with some designs for a directional sign when you come off I-10 right there at Bass Pro right there where the Scenic Overlook is directing people south to Daphne businesses. We need to look at ways of attracting people who shop at Bass Pro. We need to work together on accentuating our assets.

Councilman Scott stated: I too really enjoyed the Taste of the Eastern Shore. A great job again Mrs. Morse. Thanks to all the individual groups that sold all the tickets. To get 1,200 people out there is a great sense of community, and again the Civic Center seems to be the center of our community in a lot of ways. We received a lot of e-mails regarding the sign situation, and I want to remind everybody that we go into Executive Session quite frequently to talk about the good name and character of a man or woman or pending litigation, and you almost have to have some negotiation, because this is a contest, we are going to court. We are being opposed, and we are being sued in Federal Court, so we have to have an opportunity at least to know what our options are. Anything that we would do, as far as change any ordinance, will always be done in public. I don't know if people spread misinformation that someone was trying to do something in secret, but that is totally incorrect. Some time ago the Mayor was ordered by a Federal judge to sit down in a mediation situation, and they realized at that point that the Mayor did not have the authority to negotiate anything, and that the authority lies strictly with the Council, and at that point the Federal judge ordered us to come to Mobile to sit in, Judge Dubose is handling the case, and we were ordered to sit in Judge Millings courtroom one day and go through a mediation hearing. We spent over a half a day in that process. This week we will be, there have been three of us that have been deposed in the case, prepped by our attorney, and the case itself goes to court in September, and this is a jury trial, and our attorney tells us that with a jury trial it is a little bit a roll of the dice. So we are hopeful that we will be successful. I don't think anybody on this Council wants to ever see any large billboards going down Highway 98, and I think none of us want to see sign clutter. I do think though that in certain situations if a Federal judge issues a court order it issues a certain amount of protection around us that we don't have just by writing ordinances. There is a national publication called the Commissioner and it is a publication of the American Planning Association, and in its summer edition it talks about staying legal with your sign ordinance, and it asks three questions, and it says that if you answer yes to any of them then your ordinance is ripe for challenge. Currently the Daphne Sign Ordinance answers yes to all three. So do we need to do some tweaking, yes. It addresses issues such as political signs, and says do you restrict the amount of time you can have political signs up, but you don't restrict the amount of time a real estate sign can be up, and if you say yes to that, that is a first amendment situation. Keep in mind what we would like to do, whatever that is, we cannot violate a due process for not only the citizens but also for our businesses. So I hope you realize that we are working hard on this issue, and we take it very seriously, and we are working to make sure we have a sound ordinance, and basically challenge proof.

Councilman Nager stated: I would like to echo the clerk's reminder to get out and vote on the 26th. It has been an interesting experience for me just running. I commend the act of running for office to anyone as a voyage of self discovery. You learn a lot about yourself. I am very serious, you learn a lot about yourself, you learn a lot about your community, and win or loose I can't say it has been a completely fun experience, but it has been a very interesting experience, and it is a great lesson in

**AUGUST 18, 2008
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

10

civics. I would highly recommend whatever the office is to get out and run for office yourself some day. It gives me new found respect and appreciation for our national and state politicians who campaign a lot longer than we do.

Councilman Palumbo stated: Tuesday, a week from tomorrow, is election day. I would like to urge the citizens, especially those in districts where there is no opposition for council to get out and vote. Sometimes those people in those districts are not aware, because there are not council candidates knocking on their door everyday, but you will vote for the office of Mayor. We want to have as big a turnout in Daphne as we possibly can. We have heard a lot of comments tonight, some from Council members, about signage and what businesses need. Our businesses, and on premises sign situation is totally different from the Lamar litigation. Lamar involves off premises signs, billboards. They want the right to make money by selling space on those billboards. They don't want to make a statement, they want to make a buck, and make no mistake if this Council were to cut a deal and allow one single billboard in this city, the next morning all the billboard companies, which Lamar represents, and they are numerous, will be down here at city hall applying for billboard permits, and if we don't give them to them we are going to be in court with everyone of those companies. Make no mistake about it. We are going to get a ruling in a matter of days by a Federal judge, a summary judgment in the cities favor, and we have been advised by our attorneys that they feel quite comfortable with our position, and in this eleventh hour it would be foolish to make a deal. I don't think it is what the people want, and I don't think it is what we should do in our city. Take a look at Highway 98, and drive down Airport Boulevard in Mobile and tell me where you want to live. Folks this no billboard ordinance has been on the books for almost 20 years in Daphne. We already have what other progressive communities are fighting very hard to get, and that is no billboard sight pollution in the city. Why give that up. We are the fastest growing city, and the fastest growing county in Alabama, and it is not in spite of our sign ordinances, perhaps it is because. I don't see businesses folding here, you go to Hamburger Hill, and those businesses are thriving. I have lived here for eleven years and most of them were here before I moved here, and it is despite a very restrictive sign ordinance. If we allow billboards just in the overlay district, which is what we are offered, the next day there will be applications for billboards of Highway 98, on Main Street, you name it. This is a no turning back decision. I think we need to represent what is on the books, and what the people want. If you think you are safe because you do not live close to the overlay district you are wrong. If this Council takes any action to allow any billboards it is going to affect you in every corner of this city.

Mayor Small stated: I would like to thank S.E.E.D.S. for all the money that they give to our schools. I had the opportunity before I came here tonight to address the P.T.A. at the Middle school. I am a parent, and will be a parent of school age children for a while yet, and it is important that you be involved with your children in school, and be involved with the P.T.A., and be involved with the school in general, and we are very fortunate in the City of Daphne that when you have a P.T.A. meeting instead of having five or six people show up you have hundreds that show up. We are very fortunate that we have parents that care in this city to support our children, and to support their education, and that we have a group like S.E.E.D.S. as well. So, I would like to thank all of them tonight for showing up tonight, and especially at the Open House at the Middle school, and as well for S.E.E.D.S. for all the money that has been given out, and for all the people that belong and support S.E.E.D.S.

**AUGUST 18, 2008
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

11

10. ADJOURN

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

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:06 P.M.

Respectfully submitted by,

David L. Cohen,
City Clerk, MMC

Certification by Presiding Officer:

Greg Burnam
Council President

Date & Time Signed: _____

**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:

RESOLUTION NO. _____

**A Resolution Establishing Guidelines for
Economic Development Incentives for
The City of Daphne, Alabama**

WHEREAS, the Daphne Industrial Development Board (hereinafter referred to as “IDB”) recognizes the importance of industrial development to the well being of the citizens of the City of Daphne and Baldwin County; and

WHEREAS, the IDB wishes to promote and develop industry and trade by inducing light manufacturing and light industrial projects to locate and/or to expand in and around the City of Daphne, Alabama; and

WHEREAS, Section §40-9B-1, et seq., of the Code of Alabama 1975 authorizes municipalities to grant certain tax abatements and incentives in order to encourage industrial development; and

WHEREAS, the IDB desires to establish guidelines and/or conditions upon which requests for tax abatements will be considered.

NOW, THEREFORE, BE IT RESOLVED BY THE DAPHNE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF DAPHNE, ALABAMA AS FOLLOWS:

Section 1. Purpose and Intent. These guidelines by the City of Daphne are hereby presented to prospective economic development projects interested in location or expansion within the City of Daphne. This information is intended to provide a fair and competitive incentive package to both new industries and existing industries to promote and develop trade by inducing light manufacturing and light industrial projects to locate and/or expand in the City of Daphne. In the event a waiver of these conditions is requested, the IDB must approve said waiver.

Section 2. Minimum Eligibility Requirements. The minimum eligibility requirements for participation in the incentive program are as follows:

- (a.) Minimum of 8 (8) full-time equivalent new jobs created.
- (b.) Minimum of \$150,000.00 in capital investment.
- (c.) Minimum average wage of \$15.00 per hour or minimum of \$17.00 per hour including benefits and “wrap-arounds”.
- (d.) Eligible industrial development projects shall be determined in accordance with Alabama Code §40-9B-1, et seq., (1975)

- (e.) For the purpose of determining available incentives, the higher dollar value, either in capital investment or payroll created, will be used.

Section 3. Non-educational Ad Valorem Tax Abatement. Alabama Code §40-9B-1, et seq., (1975) (the Tax Incentive Reform Act of 1992), provides for the abatement of non-educational ad valorem taxes for a period of years on real and/or personal property acquired in connection with establishing or expanding a qualified industrial or research enterprise. The City of Daphne may provide abatements based on the chart set forth below. The abatements are subject to the provisions set forth in Alabama Code §40-9B-1, et seq., (1975), and shall be based on the amount of capital investment, the number of jobs created and the payroll and benefits projected in good faith by the company for a minimum of three (3) years. Below are the minimum requirements for eligibility based on the aforementioned criteria.

Minimum number of jobs created:	8 full-time equivalent
Minimum payroll increase:	\$200,000
Minimum average wage:	\$15.00/hr
Minimum capital investment	\$150,000

<u>Capital Investment</u> (in dollars)	<u>Payroll</u> (in dollars)	<u>Property Tax Abatement</u> (years)
\$ 150,000 - \$ 500,000	\$ 250,000 - \$500,000	1-3
\$ 500,001 - \$ 1,200,000	\$ 500,001 - \$1,200,000	4-6
\$1,200,001 - \$1,500,000	\$1,200,001 - \$2,000,000	7-10

Section 4. Construction Related Transaction Taxes. Alabama Code §40-9B-1, et seq., (1975) (the Tax Incentive Reform Act of 1992), provides for the abatement of non-educational construction related transaction taxes imposed on tangible property and taxable services incorporated into a qualified industrial or research enterprise. The IDB may provide sales and use tax abatements on construction related transaction taxes based on the chart set forth below. The abatements are subject to the provisions set forth in Alabama Code §40-9B-1, et seq., (1975), and shall be based on the amount of capital investment, the number of jobs and payroll benefits projected in good faith by the company for a minimum of three (3) years. Below are the minimum requirements for eligibility based on the aforementioned criteria.

Minimum number of jobs created:	8 full-time equivalent	
Minimum payroll increase:	\$150,000	
Minimum average wage:	\$15.00/hr	
Minimum capital investment	\$150,000	
<u>Capital Investment</u> (in dollars)	<u>Payroll</u> (in dollars)	Construction Tax Abatements (construction materials/ equipment)
\$150,000 - \$ 250,000	\$150,000 - \$250,000	Equipment or Materials
\$250,001 - \$ 500,000	\$250,001 - \$500,000	Equipment or Materials
\$500,001 - \$ Unlimited	\$500,000 - Unlimited	Equipment or Materials

Section 5. Abatement of Mortgage and Recording Taxes. The IDB may abate mortgage and recording taxes in accordance with the provisions of Alabama Code §40-9B-1, et seq., (1975).

Section 6. Evaluation and Review of Company Records. The IDB reserves the right to evaluate whether or not a given company has met payroll, job creation and/or capital expectations as represented by the company. The IDB will have the right to receive certain payroll records and/or capital investment records. If the company has not met expectations, the incentive granted to the company may be reduced.

Section 7. Effective Date. The Resolution shall become effective immediately upon its adoption or as otherwise required by state law.

ADOPTED AND APPROVED this _____ day of _____, 2008.

Toni Fassbender
Chairman of IDB

**Daphne Public Library Board
August 7, 2008
Meeting Minutes**

In Attendance:

Library Director Tonja Young; Library Board Members Dee Gambill, Cassandra Day and Jan Blankenhorn; Board Chairman Ron Allen; Friends of the Library Board President Karen Kyzar, and Friends of the Library Board Member Dr. Jim Morris.

1) Call to Order:

After a quorum was established, Library Board Chairman Ron Allen called the meeting to order at 4:05 pm.

2) Reading and Approval of the Minutes:

The minutes of the July 3, 2008 meeting were reviewed and approved. Motion made by Dee, second by Jan. Motion passed.

3) Update on Library Addition Meeting with Architect:

Jan discussed the meeting with architects Jeff and Forrest, Mayor Small, herself, Ron, Charlie Wilson, and Tonja. She explained that we looked at ideas initiated by the Mayor, the Board, and the Library Staff for changing the plans including moving the stairwell outside of the building, putting the elevator in a corner of the building, etc. Jan stated that the meeting went well and all parties were receptive to new ideas. The architects stated that they would look at the plans with the changes in mind and see what they could create.

4) Discussion of Prospective Foundation Board Members:

Ron discussed postponed discussing the prospective Foundation Board Members.

5) Discussion of 2009 Budget Request for City Funding:

Tonja presented the 2009 Budget Request for City Funding and explained expenses where necessary. She explained that because the city budget was expected to be tight this year, the departments were asked to maintain their budget levels from the previous year. Dee inquired about the amounts spent by the six-month mark (March 2008) and Tonja explained that several categories had extra expenses at

the end of the fiscal year (such as desk calendars and calendar/appointment books for the library itself and for staff members), and that the library has some standing orders that come in irregularly that we need to be able to cover toward the end of the fiscal year. Tonja stated that the library was on track at this point in the fiscal year to be right on target for FY2008.

6) Library Director's Report

Tonja reported that the library had been chosen to receive the *IMLS Connecting to Collections Bookshelf*, a core set of conservation books, DVDs, and online resources addressing such topics as philosophy and ethics of collecting, collections management and planning, emergency preparedness, and culturally specific conservation issues.

Tonja discussed her presentations at the first annual Total Library Conference at APLS in Montgomery, where she was invited to speak on Adult Programming.

The monthly report for July, 2008 was reviewed. July showed an overall increase of 14.56 % in circulation, and an increase of 7.30 % in patronage. This increase in circulation was noted to be exceptionally high, since July is generally a slow month. Other statistics include:

Interlibrary Holds Loaned to Daphne = 1719
Interlibrary Holds Loaned from Daphne = 1943
New Patrons = 184
Volunteer Hours = 83
Exams Proctored = 17
Reference Questions: 842
Children's Programs = 294
Teen Programs = 28
Adult Programs = 22
Meeting Room Use = 656
New Items Cataloged = 762
Computer Users = 1357

7) Public Participation

Karen had some questions about when the Foundation would open a bank account.

8) Other Business

Cassandra announced that September would be her final meeting with the Library Board.

9) Adjourned

There was a motion to end the meeting by Dee. The meeting was adjourned by Ron at 5:00 pm.

Respectfully submitted by T. Young, August 19, 2008

City of Daphne Recreation Board Minutes
2605 Hwy 98
Daphne, Al. 36526
August 13, 2008
6:00 pm

Members Present: Chairman Ed Nelson, Eric Smith, Matt Cunningham, Lynne Thompson-Yates and Glenn Vickery (arrived at 6:25)

Members Absent: Kit Smith, John Peterson and Rick Cleveland

Advisory Staff Present: David McKelroy, Parks and Recreation Director, Councilmen Gus Palumbo and Greg Burnam (arrived at 6:35)

Call to Order

The meeting was called to order by Chairman Ed Nelson at 6:03 pm.

Review and Approval of Minutes

Motion was made by Eric Smith and seconded by Matt Cunningham to approve the July 13, 2008 meeting minutes. Motion passed.

Public Participation

Mr. Donald Poling and Councilman Bailey Yelding were present for a discussion on the possibility of a playground park in the Dauphine Acres community. It was agreed that such a playground was needed. Director David McKelroy informed the board that a budget request of \$ 50,000 had been for FY2009 for such a park.

Program Reports

Athletics Charlie McDavid reported that youth soccer, football and cheerleading are complete. Over 200 participants in football, over 500 in soccer and 50 in cheer have registered, on teams and practicing.

Community Activities Megan Matrone reported on the following upcoming events: Celtic Celebration, Veterans Day Parade, Christmas Parade, Brown Bag on the Bay and the Jubilee Breeze.

Senior Adults Participation information was presented on senior programs.

Old / New Business

Youth Social Programs The Recreation Board discussed the possibility of sponsoring some type of activities designed for youth. Megan Matrone was ask to investigate the possibilities and report back to the board.

New Sports Complex Next step is the City Council must act.

Trione Complex Lease The proposed new lease for Trione was discussed. The Lease is on the City Council work session agenda for Thursday, August 14. With the approval of the City Council at the August 18 council meeting, the lease could go before the Baldwin County Board of Education for their approval on August 21.

Reappointment of Board Members There was discussion to the length of terms for board members and what position to the board they were appointed to. Chairman Ed Nelson and Recreation Director David McKelroy will research.

Land Use Ordinance Chairman Ed Nelson questioned why the Board has never received information as to the proposed amendment to the Land Use Ordinance for recreational funds. Director David McKelroy will contact Planning commission as to the status of this proposal.

Park District Proposal Tabled for more information from John Peterson.

Athletic Program Participation Information Information was provided the board with regard to all athletic programs.

FY2009 Recreation Budget Information for the FY2009 budget request for Parks and Recreation were presented to the board.

Recreation Board Meeting Date & Time Discussion was held as to the best date and times for the board meetings. It was suggested that a later time on Wednesday might be better, perhaps 6:30 or 7:00.

Adjourn

The meeting was adjourned at 7:35 pm.

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

SOUTH ALABAMA MUTUAL ASSISTANCE AGREEMENT

I. PURPOSE

To provide an understanding between and among the counties, towns and cities (“Political Entity”) of the South Alabama Mutual Assistance Compact in providing and receiving mutual aid as a result of fire, flood, storm, epidemic, technological failure or accident, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, earthquake, explosion, terrorism, or man-made disaster, or other conditions (“Disasters”).

II. AUTHORITIES AND REFERENCES

- A. The basic authority for each county, town or city to enter into this Agreement is Code of Alabama, Title 31, Chapter 9, Sections 31-9-1 through 31-9-24, as amended (the “Alabama Emergency Management Act”) and more specifically Section 31-9-9.
- B. Provisions of this Agreement are based on the various sections and paragraphs of the Alabama Emergency Management Act.

III. SCOPE

This Agreement encompasses the area represented by the South Alabama Mutual Assistance Compact whose membership consists of the Emergency Management Directors of the counties listed on Appendix A, and an authorized representative of the city, town and county governing officials listed on Appendix B.

IV. SITUATION

Response to Disasters can exhaust all resources of a city, town, or county and deplete certain types of manpower, equipment, or supplies. When these conditions exist, the affected entity must rely on the next higher level of government, a neighboring entity, volunteer agencies, and/or the private sector for the necessary resources to save or sustain life, health, and property. Such assistance must be provided or received within the proper legal framework as outlined in the Alabama Emergency Management Act and with a clear understanding of the conditions under which such assistance is given or received.

V. MUTUAL AID AGREEMENT

Article 1. The purpose of this Agreement is to provide mutual aid among the parties to this Agreement in meeting any Disaster. The prompt, full, and effective utilization of the resources of the respective counties, towns or cities, including such resources that may be available from the state or federal governments or any other source, are essential to the safety, care and welfare of the people and property thereof in the event of a Disaster. All available resources including personnel, equipment or supplies, shall be incorporated into a

plan or plans of mutual aid. The Emergency Management Directors of the respective county members shall be voting members of the South Alabama Mutual Assistance Compact. The voting members of the South Alabama Mutual Assistance Compact shall establish a committee to formulate plans and take all necessary steps for the implementation of this Agreement which shall be voted on by the voting members. All authorized representatives of the city, town, and county governing officials listed on Appendix B, as may be amended from time to time, shall be associate members and shall not be entitled to voting rights.

Article 2. It shall be the duty of each Political Entity that is a member of the South Alabama Mutual Assistance Compact to formulate plans and procedures for implementation of this Agreement including, but not limited to, the authorization of the County Emergency Management Director in their jurisdiction to deploy their resources and free exchange of information and plans, including inventories of personnel, materials, supplies, equipment and other resources available for carrying out provisions of this Agreement. Each participating Political Entity shall bear the risk of its own actions, as it does with its day to day operations, and determine for itself what kinds of insurance and, in what amounts, it should carry. Each assisting Political Entity shall be solely responsible for determining that its insurance is current and adequate prior to providing assistance under this Agreement.

Article 3. All mutual aid assistance should be requested by and through the county Emergency Management Agency in which the requesting Political Entity is located. Political Entities that deploy without having received a request may or may not be reimbursed for their expenses. Any party Political Entity requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this Agreement in accordance with the terms hereof; provided, however, that the Political Entity rendering aid may withhold resources to the extent necessary to provide reasonable protection for such Political Entity. Each party to this Agreement shall extend to the Emergency Management employees of any assisting Political Entity, while operating within the requesting jurisdiction under the terms of this Agreement, the same powers, duties, rights, privileges and immunities as if they were performing their duties in the Political Entity in which normally employed or rendering services. Emergency Management forces will continue under the command and control of their normal leaders, but the organizational units will come under the operational control of Emergency Management authorities of the Political Entity receiving assistance.

Article 4. Wherever any person holds a license, certificate or other permit issued by any Political Entity evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party Political Entity to meet a Disaster, and such Political Entity shall give due recognition to such license, certificate or other permit as if issued in the Political Entity in which aid is rendered.

Article 5. Each Political Entity and each emergency management worker is granted immunity from liability for the death of or injury to persons, or for damages to property as a result of attempting to respond according to this Agreement as provided by law.

Article 6. Nothing herein contained shall preclude any party Political Entity from entering into supplementary agreements with any other Political Entity as otherwise provided by law.

Article 7. While assisting a requesting Political Entity, the assisting Political Entity shall continue to pay its employees according to its then prevailing ordinances, rules, and regulations. The requesting Political Entity shall from any available source, reimburse at a rate of 100% the assisting Political Entity for all direct and indirect payroll costs and expenses incurred in responding to the Disaster, including, but not limited to, employee pensions and benefits, and the pro rata portion of the cost for workers' compensation insurance, as determined by Generally Accepted Accounting Principles (GAAP). The requesting Political Entity is prohibited from granting reimbursement for overtime payroll costs; unless such compensation is in accordance with payroll policies previously established for normal day to day non-disaster activities of the assisting Political Entity. While providing services to the requesting Political Entity, employees of the assisting Political Entity shall remain as employees of their respective agency while responding to, or performing an emergency mutual aid function on behalf of the requesting Political Entity and until which time the emergency management worker is relieved of further emergency mutual aid responsibility by a duly authorized official.

Article 8. Each party Political Entity shall provide for the payment of compensation and death benefits to full-time employees of such Political Entity who are members of the Emergency Management forces of that Political Entity, and who sustain injuries or are killed while rendering aid pursuant to this Agreement, in the same manner and on the same terms as if the injury or death were sustained in the Political Entity where they are employed. Each party Political Entity agrees to furnish a copy of this Agreement to its workers' compensation insurance carrier.

Article 9. Any party Political Entity rendering aid in another Political Entity pursuant to this Agreement shall be reimbursed by the party Political Entity receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid and for the cost incurred in connection with such requests unless such damage is caused by gross negligence, willful and wanton misconduct, or intentional misuse of the assisting Political Entity's personnel.

Article 10. The assisting Political Entity shall be reimbursed for all materials and supplies used or damaged during the period of assistance unless such damage is caused by gross negligence, willful and wanton misconduct, or intentional misuse of the assisting Political Entity's personnel. The assisting Political Entity's personnel shall use reasonable care under the circumstances in the operation and control of all materials and supplies used by them during the period of assistance. The measure of reimbursement shall be determined in accordance with 44 CFR 206.228. In the alternative, the parties may agree that the requesting Political Entity will replace, with like kind and quality as determined by the assisting Political Entity, the materials and supplies used or damaged.

Article 11. This Agreement shall be operative immediately upon its ratification by any Political Entity as between it and any other Political Entity so ratifying. Ratification is indicated by the signature of the Chief Executive of the Political Entity and the Emergency Management Director of that respective jurisdiction after being approved by the governing body of the Political Entity. Duly authenticated copies of this Agreement will be deposited with each government entity ratifying this Agreement, the Emergency Management Agency represented by the entity, and the Alabama Emergency Management Agency.

Article 12. This Agreement shall continue in force and remain binding on each party Political Entity until the governing body of a Political Entity takes appropriate action to withdraw therefrom. Such action shall not be effective until notice thereof has been sent by the Chief Executive of the party Political Entity desiring to withdraw to Secretary of the South Alabama Mutual Assistance Compact.

Article 13. This Agreement shall be construed to effectuate the purposes stated in Article 1 hereof. If any provision of this agreement is declared unconstitutional or unlawful, or the applicability thereof to any person, entity or circumstance is held invalid, the constitutionality or legality of the remainder of this Agreement and the applicability thereof to other persons, entities and circumstances shall not be affected thereby. Nothing contained in this Agreement shall be construed as a limitation on the powers of participating counties, towns or cities to enter into other agreements relating to emergency management in an emergency or impairing in any respect the force and effect thereof.

VI. RATIFICATION

This Agreement shall become binding and obligatory when it shall have been signed by the Chief Executive Officer (Mayor, Commission Chairperson, Probate Judge, etc.) of the participating county, town and/or city after approval by the governing body of the county, town and/or city authorizing such signature.

This Agreement is approved this the _____ day of _____, 2008.

For _____
(Name of Political Entity)

By: _____
(Chief Executive)

(Emergency Management Director)

Attest:

(Clerk or Other)

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

**CITY OF DAPHNE
ORDINANCE NO. 2008-53**

**AN ORDINANCE TO ADJUST SPEED LIMITS WITHIN THE
CITY OF DAPHNE, ALABAMA**

WHEREAS, the City Council of the City of Daphne desires to promote the health, safety and welfare of the citizens of the City of Daphne by establishing speed limits along the public streets, roads, and highways within the City of Daphne; and

WHEREAS, the City Council of the City of Daphne recognizes that a uniform speed limit will aide to lessen confusion regarding various speed limits along the many public streets, roads, and highways within the City of Daphne;

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

SECTION I: SPEED LIMIT

Unless otherwise posted, the speed limit along the public streets, roads, and highways within the city limits of the City of Daphne shall be twenty-five (25) miles per hour (mph).

For purposes of this Section only, “posting” shall mean information in any tangible form or design and placed in such manner so as to notify motorists of the maximum speed limit allowed along the street, road, or highway to which the notice is affixed.

SECTION II: PENALTY

Any person who is convicted of speeding in excess of the speed limit as set forth in Section One (1) above shall be fined in accordance with Title 32-5A-8 of the Code of Alabama (1975) (as amended or may be amended), and Ordinance 2003-18 as may be amended from time to time.

SECTION III: REPEALER

Ordinances numbers 2005-46 and 2002-37 be and are hereby repealed in their entirety.

SECTION IV: EFFECT OF REPEAL

(a) The Repeal of Ordinances Nos. 2005-46 and 2002-37 does not revive any previously repealed ordinance.

- (b) The Repeal of Ordinances Nos. 2005-46 and 2002-37 does not effect any punishment or penalty incurred before the repeal did not take effect, nor does such repeal effect any suit, prosecution or proceeding pending at the time of the repeal.

SECTION V: CONFLICT WITH OTHER ORDINANCES

That any Ordinance heretofore adopted by the Council, which is in conflict with This Ordinance is hereby replaced to the extent of such conflict.

SECTION VI: SEVERBILITY

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

SECTION VII: EFFECTIVE DATE

This Ordinance shall be in full force and effect 30 days after its adoption by the City Council of the City of Daphne and publication as required by law.

APPROVED AND ADOPTED, this ____ day of _____, 2008.

GREG BURNAM
COUNCIL PRESIDENT
 DATE/TIME SIGNED: _____

FRED SMALL, MAYOR
 DATE/TIME SIGNED: _____

ATTEST:

DAVID L. COHEN, CITY CLERK, MMC