

**CITY OF DAPHNE**  
**CITY COUNCIL BUSINESS MEETING AGENDA**  
**1705 MAIN STREET, DAPHNE, AL**  
**OCTOBER 3, 2005**

**1. CALL TO ORDER**

**2. ROLL CALL/INVOCATION:  
PLEDGE OF ALLEGIANCE:**

- 3. APPROVE MINUTES:**       September 19, 2005  
  September 27, 2005 Special Called Meeting

- PUBLIC HEARINGS:**
- 1.) Amendment to the Land Use & Development Ordinance /  
Landscape and Tree Protection and Minimum  
Standards – Fire Hydrants / **Ordinance 2005-53**
  
  - 2.) Annexation: ESCC South Subdiv. / Will be known  
as Krystal Ridge Subdivision / Property Located  
at county Road 13 / **Ordinance 2005-54**

**4. REPORT STANDING COMMITTEES:**

- A. **FINANCE COMMITTEE** - Scott
- B. **BUILDINGS AND PROPERTY COMMITTEE**- Lake
- C. **PUBLIC SAFETY** - Burnam
- D. **CODE ENFORCEMENT/ORDINANCE COMMITTEE** – Landry
- E. **PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY** – Yelding  
Review minutes meeting held September 23<sup>rd</sup>

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

- A. **Board of Zoning Adjustments** – Eady
- B. **Downtown Redevelopment Authority** -Barnette
- C. **Industrial Development Board** – Yelding
- D. **Library Board** - Lake
- E. **Planning Commission** – Barnette  
Review minutes meeting held September 22<sup>nd</sup>
- F. **Recreation Board** - Burnam
- G. **Utility Board** - Scott

**6. REPORTS OF THE OFFICERS:**

- A. *Mayors Report*
- B. *City Attorney=s Report*
- C. *Department Head Comments*

**7. PUBLIC PARTICIPATION:**

**8. RESOLUTIONS & ORDINANCES:**

**RESOLUTIONS:**

- a.) Acceptance of Streets & Drainage  
Timber Creek Subdv. Phase 10A ...../Resolution 2005-71

**ORDINANCES:**

- a.) Annexation: Vilai Marino / Property Located off South Side  
of County Road 64 2<sup>nd</sup> READ ...../Ordinance 2005-41
- b.) Amending the Land Use & Development Ordinance 2<sup>nd</sup> READ ...../Ordinance 2005-42
- c.) Rezone: John & Susan Hurley / Property Located on the South Side of  
County Road 64 R-2 to B-2 2<sup>nd</sup> READ ...../Ordinance 2005-43
- d.) Extending Height Request Moratorium 2<sup>nd</sup> READ ...../Ordinance 2005-44
- e.) Appropriating Funds: Extending FY05 Budget Authority (Emergency) ...../Ordinance 2005-50
- f.) Amend Personnel Policy Handbook / Modification of Salaries and  
Percent of Increase or Decrease in Pay 1<sup>st</sup> READ ...../Ordinance 2005-51
- g.) Amend Personnel Policies and Procedures Handbook Related to  
Employment Insurability 1<sup>st</sup> READ ...../Ordinance 20905-52
- h.) Amending the Land Use & Development Ordinance / Landscape & Tree  
Protection and Minimum Standards – Fire Hydrants 1<sup>st</sup> READ ...../Ordinance 2005-53
- i.) Annexation: Krystal Ridge Subdivision / Property Located at  
County Road 13 1<sup>st</sup> READ ...../Ordinance 2005-54

**9. COUNCIL / MAYOR 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\_\_ \_

COUNCILWOMAN LANDRY

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

SEPTEMBER 19, 2005  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.

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**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; Regina Landry; August Palumbo.

Also present: Mayor Small; David Cohen, City Clerk; Jay Ross, City Attorney; Tim Fleming, Attorney; Bill Eady, Planning Department Director; Ken Eslava, Public Works Director; Mund Hanson, Fire Chief; David Carpenter, Police Chief; Sandra Morse, Civic Center Director; Kim Briley, Finance Director; Sharon Cureton, Human Resource Director; Ronnie Phillips, Building Inspection Director; Dale Foster, Librarian; Suzânn Henson, Senior Accountant; Michele Hanson, Detective Technician; Melvin McCarley, Public Works Supervisor; Eric Hayes, Firefighter; Scott Hutchinson, City Engineer; Al Guarisco, Village Point; Willie Robison, BZA; Starke Irvine, DRA; Jamie Rottger, Shelter Director.

Absent: David McKelroy, Recreation Director.

**3. APPROVE MINUTES:**

**MOTION BY Mrs. Landry to approve the minutes meeting held September 6, 2005.  
Seconded by Mr. Yelding.**

Mrs. Barnette asked that the minutes be amended to include comments made by Mr. Frank Lamb during Public Participation regarding the Sign Ordinance stating how the previous Sign Ordinance Committee worked so hard and cautioned the Council regarding changes to the Ordinance.

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

**PUBLIC HEARINGS: 1.) Annexation: Vilai Marino / Property located off South side of County Road 64**

*Mr. Eady* gave a presentation along with slides.

*Council President Burnam* opened the Public Hearing at 6:37 p.m.

No one spoke.

*Council President Burnam* closed the Public Hearing at 6:37 p.m.

*2.) Amendment to the Land Used and Development Ordinance /  
Revision of Zoning Map*

*Mr. Eady* gave a presentation on the updated Zoning Map.

*Council President Burnam* opened the Public Hearing at 6:38 p.m.

No one spoke.

*Council President Burnam* closed the Public Hearing at 6:39 p.m.

*3.) Rezoning: John & /Susan Hurley / Property located on North  
Side of County Road 64*

*Mr. Eady* gave a presentation on the rezoning request answering questions from the Council.

*Council President Burnam* opened the Public Hearing at 6:40 p.m.

*Mr. Roland Nelson* – opposed because of water backup.

*Mr. Scott Hutchinson* – Hutchinson, Moore & Rauch – Representing the owners, spoke regarding the type of development that will be developed, and how drainage will be addressed.

*Mr. Hutchinson* answered questions from Council regarding houses already there, runoff, and buffer zones.

*Mr. Jim Horn* – Pascagula - One of the owners of the property – spoke regarding the type of development that will be built, which will handle runoff..

*Mr. Yelding* voiced concern about drainage and creating problems for other parts of the city.

*Council President Burnam* closed the Public Hearing at 6:59 p.m.

**4. REPORT OF STANDING COMMITTEES:**

**A. FINANCE COMMITTEE – Scott**

The minutes for the September 12<sup>th</sup> meeting are in the packet.

**MOTION BY Mr. Scott to accept the Treasurers Report ending August 31, 2005 with a balance of \$10,465,456.30. Seconded by Mrs. Landry.**

**AYE ALL IN FAVOR**

**NAY NONE OPPOSED**

**MOTION CARRIED**

*Mr. Scott* reported the Ad Valorem Tax Collections continue to run behind, due to a delay by the State to re-appraise property in Baldwin County. The numbers will be up next year. He stated the Sales Tax collected was \$908,576 as opposed to the budget, the budget was \$803,051, this continues to run about \$100,000 ahead of the adjusted budget. Mr. Scott reported the Lodging Tax Collections continue to be way above what was projected, with \$56,266.23 being collected, compared to last year in which \$26,654. The financial income from the city continues to be at a healthy rate. He stated they are in the process of preparing the budget for Fiscal Year 2006 which will be presented to the Council sometime in October. He said they will probably need to extend the FY 05 budget until they can get the 2006 budget finalized.

**B. Buildings and Property Committee – Lake**

*Mayor Small* discussed with the Council the status of the shelter at the Civic Center, saying he thinks it will be winding up by the end of October.

**C. PUBLIC SAFETY – Burnam**

No report.

**E. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Landry**

The Committee did not meet last month due to the hurricane, but will meet in September. Mr. Palumbo said that the Sign Ordinance Committee will meet Monday, September 26<sup>th</sup> at 4:00 p.m. in the Council Chambers.

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

The minutes for the August 26<sup>th</sup> meeting are in the packet. Ken Eslava, Public Works Director, gave an update on cleanup of the debris from hurricane Katrina saying they are about 95% complete with the cleanup, the crews are doing a final assessment of the city, and October 22<sup>nd</sup> is the last day for debris pickup. Mr. Yelding said the next meeting will be September 23<sup>rd</sup> 8:00 a.m. in the Council Chambers.

**MOTION BY Mr. Yelding to allow FEMA to place temporary housing on the grounds of the Eastern Shore Association of Camp Julia on Main Street which is currently serving as a displacement center. Seconded by Mrs. Landry.**

Mr. Yelding stated that the Utility Board said they will help with the utilities and temporary water and sewer.

**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 October 6<sup>th</sup> 6:00 p.m. in the Council Chambers with three (3) appeals.

**B. Downtown Redevelopment Authority – Barnette**

The Authority met before the storm, but the minutes are not ready yet, hopefully they will be in the next packet. There will not be a meeting in September.

**C. Industrial Development Board – Yelding**

The next meeting will be September 26<sup>th</sup> 6:00 p.m.

**D. Library Board – Lake**

**MOTION BY Mr. Lake to re-appoint Mrs. Cassandra Day to the Library Board for a four (4) year term. Term begins 10/1/05 and ends 09/30/09. Seconded by Mr. Yelding.**

Mr. Palumbo stated that Mrs. Day was served for the last six (6) months temporarily filling a resignation, and that position is now coming up for full appointment, and the Library Board endorsed her re-appointment.

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

**E. Planning Commission – Barnette**

The Planning Commission will be meeting this Thursday in the Council Chambers at 6:00 p.m. The Planning Commission Chairman set up a sub-committee that she has not been invited to attend, she said there should be some minutes coming out of that meeting soon.

**F. Recreation Board – Burnam**

No report.

**G. Utility Board – Scott**

The next meeting will be a week from Wednesday in the Council Chambers at 6:00 p.m.

**6. REPORTS OF THE OFFICERS:**

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

- 1.) *Parade Permit / Alabama Citizens for Life – Life Chain / October 2, 2005***
- 2.) *Parade Permit / Bounds Family YMCA / Annual Harvest Fun Run / October 23, 2005***
- 3.) *Parade Permit / Daphne High School Homecoming Parade / October 6, 2005***

**MOTION BY Mrs. Barnette to approve the Parade Permits for:**

- 1.) *Parade Permit / Alabama Citizens for Life – Life Chain / October 2, 2005*
- 2.) *Parade Permit / Bounds Family YMCA / Annual Harvest Fun Run / October 23, 2005*
- 3.) *Parade Permit / Daphne High School Homecoming Parade / October 6, 2005*

*Seconded by Mr. Scott.*

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

*Mayor Small* asked Ms. Jamie Rottger to give an update on the shelter at the Civic Center.

*Ms. Rottger* stated they have 65 current residents at the shelter, they have served over 3,000 meals to date, and have given away over 419 boxes of non-perishable items, over 3,000 boxes of diapers, wipes and personal items and water to evacuees.

*Mayor Small* said also the Fire Chief is asking for five (5) part-time firefighters. Chief Hanson explained why they are needed.

*Council President* asked if there was a deadline on hiring these.

*Chief Hanson* said he would really like to start working on it this week we have several guys in paramedic school and we do not need to jeopardize them, so they could use them now.

Council discussed who will be hired, the money involved, benefits and how long they will be needed.

*Chief Hanson* said funding for these will come from his budget.

**MOTION BY Mr. Scott to suspend the rules to consider a motion to approve the hiring of five (5) firefighters. Seconded by Mrs. Landry.**

**ROLL CALL VOTE**

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

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

**MOTION FAILED**

Council discussed this saying this caught them of guard, and this needs to be discussed at a work session. They wondered why this was not brought to their attention at the last work session a few days ago when they were discussing personnel.

**Mayor Small** also discussed a bank account that had been set up in the city's name for the shelter which no one at the city knew about. The Mayor and Mrs. Briley had it closed, but the money is still there. They need an ordinance to get the money out of the bank. The citizens group went to the Daphne Volunteer Fire Department to set an account up, this is to avoid all the red tape involved with the money being in the City's name. The shelter will be able to have access to the money as they need it. The ordinance was handed out to the Council and will be Ordinance 2005-49. The amount of money in the account is \$2,421.96. The ordinance state that the money will be used for shelter needs.

***B. City Attorney's Report***

**Mr. Ross** said the ordinance for the moratorium on height request is in the packet for a 1<sup>st</sup> read. Mr. Ross said there was a typo brought to his attention by Mrs. Barnette, in the second to the bottom "Whereas" should read the previous ordinance Council adopted is 2005-14 not 2002-14. This Ordinance mirrors the motion made two weeks ago. Mr. Ross mentioned the memo regarding receiving the \$2,500 sanction by the court against the plaintiffs in the McMillan Bluff court case. Hopefully, this will be settled by the next Council meeting.

***C. Department Head Comments***

**David Carpenter – Police Chief** - reported on a bank robbery last week by two local subjects who were apprehended with about \$33,000 and two guns.

**Dale Foster – Librarian** - thanked, on behalf of the Friends of the Library, the Recreation Department and the Public Works Department for their assistance with the book sale two weekends ago. The book sale was a success.

**Chief Hanson – Fire Chief** – reported they have received two (2) Federal Grants. One of them is CEDAP, a search camera system, and he will be sending one of the firefighters to Washington D.C. for three (3) days to train. The other one is through the Department of Homeland Security, this grant includes a Light Rescue Vehicle, which will include training.

**Ken Eslava – Public Works Director** - reported that the County Road 13 widening was due to start September 12<sup>th</sup>, but has been delayed for start until September the 26<sup>th</sup>. Mr. Eslava announced that that they are officially into electronic recycling. They will be accepting TV's, radios, computers, cell phones, stereo's, etc. They have teamed up with Fairhope, they had recently ordered pickup and are working with them to take our load at no cost to the city, around 800 pounds of materials that would have ended up at the sanitary land fill are now going into recycle. They are encouraging drop off, but will pick it up curbside.

**David Cohen – City Clerk** – reported that he talked with the State Conservation Department today, a Mr. Jimmy Duff, about the May Day pier, and the material that will be coming from the May Day pier when they start to do demolition to remove it, they are interested in taking the material to a very close location and creating a new Daphne reef in Mobile Bay with the material. They are going to pursue a permit to utilize that material.

*David Carpenter – Police Chief* – reported for David McKelroy that the High School game with Fairhope that was canceled due to the hurricane will be tomorrow night at Fairhope at 6:00 p.m.

**7. PUBLIC PARTICIPATION**

*Mrs. Ruth Scaggs – 104 Seville Circle* – spoke regarding the council not representing the people regarding height variances. She feels that the city is not represented well on the Planning Commission, it is mostly business people.

*Mr. Milton – Daphne* – thanked the city and it’s employees for help in checking his home after the storm, since they evacuated. Thanked the Police and Fire Departments for the fine job they have done during the hurricanes.

*Mr. Charles Crowder – 43 Lake Shore Drive* - spoke regarding his concern with Resolution 2005-67 that the modifications that came out to the bid package were exclusive of other vendors.

*Mrs. Karen Nady – Captain O’Neal* - spoke regarding height variance meetings, and Planning Commission meetings where the public cannot speak.

*Mr. Frank Lamb - 603 Maxwell* – spoke regarding the FEMA trailers, and letting the people in Potter’s Mill, and Beale Avenue residents know that trailers may be moved in. He also spoke regarding the sign committee that they will be fair and balanced, and residents of Daphne. He also spoke regarding the Civic Center, asking if the Red Cross is going to underwrite the cost of utilities and the use of the center.

*Mr. John Peterson* – spoke regarding the Planning Commission and public participation. He mentioned that state law requires that public participation during Planning Commission meetings be available.

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

**RESOLUTIONS**

- a.) Bid Award: Cellular Telephones/Radio Equipment. .... /Resolution 2005-67
- b.) Bid Award: 2005-Z-Fuel Management System. .... /Resolution 2005-68
- c.) Bid Award: 2005-W-Natural Gas Generator. .... /Resolution 2005-69
- d.) Prepaid Travel / Ha Le Riggio / Randy Pennycuff. .... /Resolution 2005-70

MOTION BY Mrs. Barnette to waive the reading of Resolutions 2005-67.  
*Secoded by Mrs. Landry.*

AYE Yelding, Barnette, Scott, Landry, Paumbo, Burnam                      NAY Lake

**MOTION<sup>1</sup> CARRIED**

MOTION BY Mrs. Barnette to adopt Resolutions 2005-67. *Seconded by Mr. Lake.*  
AYE Yelding, Barnette, Scott, Landry, Palumbo, Burnam NAY Lake  
**MOTION CARRIED**

MOTION BY Mrs. Barnette to waive the reading to Resolutions 2005-68, 2005-69, and 2005-70.  
*Seconded by Mr. Yelding.*  
AYE ALL IN FAVOR NAY NONE OPPOSED **MOTION CARRIED**

MOTION BY Mrs. Barnette to adopt Resolutions 2005-68, 2005-69, and 2005-70.  
*Seconded by Mrs. Landry.*  
AYE ALL IN FAVOR NAY NONE OPPOSED **MOTION CARRIED**

**ORDINANCES:**

- a.) Annexation: Vilai Marino 1<sup>st</sup> Read...../Ordinance 2005-41
- a.) Amendment to the Land Use & Development Ordinance  
Revision of Zoning Map 1<sup>st</sup> Read...../Ordinance 2005-42
- c.) Rezoning: John & Susan Hurley 1<sup>st</sup> Read...../Ordinance 2005-43
- d.) Extending Height Request 1<sup>st</sup> Read...../Ordinance 2005-44
- e.) Acceptance of City Street Map 2<sup>nd</sup> Read...../Ordinance 2005-47
- f.) Appropriating Funds: City Hall Phone System 1<sup>st</sup> Read (Emergency).../Ordinance 2005-48
- g.) Daphne Volunteer Firefighters Shelter Account 1<sup>st</sup> Read...../Ordinance 2005 49

**ORDINANCES 2005-41, 2005-42, 2005-43 AS 1<sup>ST</sup> READ.**

MOTION BY Mrs. Barnette to suspend the rules to consider Ordinance of 2005-44. *Seconded by Mr. Scott.*

**ROLL CALL VOTE**

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

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

**MOTION FAILED**

**ORDINANCE 2005-44 WAS MADE A 1<sup>ST</sup> READ.**

MOTION BY Mrs. Barnette to waive the reading of Ordinance 2005-47. *Seconded by Mrs. Landry.*

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

MOTION BY Mrs. Barnette to adopt Ordinance 2005-47. *Seconded by Mrs. Landry.*

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

MOTION BY Mrs. Barnette to suspend the rules to consider Ordinance 2005-48.  
*Seconded by Mr. Yelding.*

**ROLL CALL VOTE**

Yelding	Aye	Landry	Aye
Barnette	Aye	Palumbo	Aye
Lake	Aye	Burnam	Aye
Scott	Aye		

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

**MOTION BY Mrs. Barnette to waive the reading of Ordinance 2005-48. *Seconded by Mrs. Landry.***

Mrs. Barnette said she would like to amend the Ordinance to correct the title to read City Hall Phone System instead of City Hall Site Preparation Survey and Engineering.

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

**MOTION BY Mrs. Barnette to adopt Ordinance 2005-48. *Seconded by Mrs. Landry.***

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

**MOTION BY Mrs. Barnette to suspend the rules to consider Ordinance 2005-49. *Seconded by Mr. Lake.***

**ROLL CALL VOTE**

Yelding	Aye	Landry	Aye
Barnette	Aye	Palumbo	Aye
Lake	Aye	Burnam	Aye
Scott	Aye		

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

**MOTION BY Mrs. Barnette to waive the reading of Ordinance 2005-49. *Seconded by Mrs. Landry.***

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

**MOTION BY Mrs. Barnette to adopt Ordinance 2005-49. *Seconded by Mrs. Landry.***

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

8. COUNCIL COMMENTS

*Mrs. Barnette* clarified regarding the Planning Commission and Height Committee, that it was her understanding that the wish of the Council, when they set up the Committees, was to involve public input at the front end, not the end product. The development of the sub-committee, she believes, has excluded the public, including her, from putting together the plan that will eventually come to the Planning Commission, and the Council. She said what she hopes they can do in the process of this sub-committee is meeting, and she will work with the Council further, she would like the Council to join together and put together three (3) or (4) meetings in different districts, to have a community visioning, because that is what they are talking about. She said it is not a pro or against condos, it is a "What do you want your community to look like." She does not feel the community has had an opportunity to say what they want. The product without community input makes it very difficult for a committee to actually come up with something. She said she would be getting with each Council member to set up these meetings and give the feedback to that committee.

*Mr. Lake* said he feels that they have neglected the families of the Public Works, Firemen, and Policemen that have to be on duty during the hurricanes. He would like to see, if there is evacuation, the city offer the families a location for the families to stay, like City Hall, so that the employees know their families are safe. He appreciates those who participated tonight during public participation.

*Mr. Palumbo* said that all the Council members serve on several committees. He said that he does not know of any committees, of any work sessions, or of any Council meetings of any nature that is not open to the public, anytime the public wants to come and participate.

*Council President Burnam* said he does not have a problem with the sub-committees, the way he understands it is that all they are going to do is research and come back with some ideas to the Planning Commission, and he hopes that the Commission as a whole would work on it from there. He said he was caught off guard about the part-time firemen, he is sorry he held it up, but this is the first he had heard of it. He said that this is not normal practice to hire people right off the bat, to hear about it the first time at a public meeting. He said he does not like surprises.

SEPTEMBER 19, 2005  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.

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9. ADJOURN

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

AYE ALL IN FAVOR      NAY NONE OPPOSED      MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:52 P.M.

Respectfully submitted by,

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

**Certification of Presiding Officer:**

\_\_\_\_\_  
Greg Burnam

Date & Time Signed: \_\_\_\_\_

SEPTEMBER 27, 2005  
SPECIAL CALLED  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 PM

1

**1. CALL TO ORDER**

Council President Burnam called the meeting to order at 6:33 p.m.

**2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE**

Mr. Lake gave the invocation.

**COUNCIL MEMBERS PRESENT:** Bailey Yelding arrived at 6:51 p.m.; Cathy Barnette; John Lake; Greg Burnam Ron Scott; Regina Landry; August Palumbo.

Also present: David Cohen, City Clerk; Mayor Small; Jay Ross, City Attorney; Bill Eady, Planning Department Director; Kim Briley, Finance Director; Sharon Cureton, Human Resource Director; Ronnie Phillips, Building Inspection Director; Ken Eslava, Public Works Director; David McKelroy, Recreation Director; Mund Hanson, Fire Chief; Michele Hanson, Police Department Technician.

**3. CITY EMPLOYEE HEALTH INSURANCE AND BENEFITS**

**MOTION BY Mr. Lake to renew Employee Health Insurance Policy for the Fiscal Year 2006 with the changes submitted by the Employee Insurance Committee which are:**

- 1.) Increase emergency room co-pay from \$25.00 to \$100.00 per occurrence
- 2.) Increase doctor visit co-pay from \$15.00 to \$20.00
- 3.) Increase doctor co-pay increases from \$15.00 to \$20.00 per occurrence
- 4.) Increase hospital deductible from \$100.00 to \$200.00 per occurrence
- 5.) A once a year \$250.00 major medical deductible now applies to employees (or covered family members) requiring surgery/anesthesia, maternity care, or in-hospital physician

**for a total change of the policy \$54,596.00. Seconded by Mrs. Barnette.**

*Mr. Palumbo* asked that the motion be amended to say that the employee participate to wipe out the increase by paying an extra \$18.00 a month per employee.

*Mr. Lake* did not accept the amendment by Mr. Palumbo.

*Mr. Palumbo* made a motion to amend Mr. Lake's motion to say that the employee participate to wipe out the increase by paying an extra \$18.00 a month per employee. *Seconded by Mrs. Landry.*

Council discussed the amendment.

**NOTE: Mr. Yelding arrived at 6:51**

**ROLL CALL VOTE**

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

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

**MOTION CARRIED**



SEPTEMBER 27, 2005  
SPECIAL CALLED  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 PM

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4. COUNCIL COMMENTS

*Mr. Lake* agreed with Mrs. Cureton and Mrs. Hanson comments.

*Mr. Scott* stated that he feels that if they had more time and had it gone through the Finance Committee they would not be where they were tonight. He said that morale has been a problem ever since they have been on the Council. He stated the city has some adequately paid department heads, and it is their responsibility to do something about the low morale, money is not the only cure for low morale. He challenged the department heads to establish good morale within their department, and the Council will work with them every place they can. There is not one person on the Council that does not want to do what is best for the City of Daphne.

*Mr. Palumbo* stated that at the last work session they were given a list of turnovers in the city, and it is very low. The City of Daphne will have people leave and go on to better things. He feels that the reason the city has a low attrition rate is because the city takes care of it's employees, even with this very small increase, the city is still paying over 80% of the cost of the insurance policy. He said when you take those minimum wage employees and add almost \$10,000 a year that the city is giving them in health benefits, he thinks it is a pretty good deal. The Council has to look at the big picture. The city has a lot of capital expenditures coming up. He stated that they have a whole list of roads that are in dire need of repair.

5. ADJOURN

**MOTION BY Mrs. Barnette to adjourn. *Seconded by Mrs. Barnette.***

**AYE ALL IN FAVOR**

**NAY NONE OPPOSED**

**MOTION CARRIED**

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 7:34 P.M.**

Respectfully submitted by,

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

**Certification of Presiding Officer:**

\_\_\_\_\_  
Greg Burnam

Date & Time Signed: \_\_\_\_\_

# **PUBLIC HEARINGS**

**OCTOBER 3, 2005**

- 1. Proposed Amendment to the Land Use and Development Ordinance / Landscape and Tree Protection and Minimum Standards – Fire Hydrants**
- 2. Annexation: Krystal Ridge Subdivision / Property located at County Road 13**

To: Office of the City Clerk  
From: William H. Eady, Sr.,  
Director of Community  
Development  
Subject: Proposed Amendment to the City  
of Daphne Land Use and  
Development Ordinance -  
Landscape and Tree Protection  
and Minimum Standards - Fire  
Hydrants

## MEMORANDUM

Date: August 4, 2005

At the regular meeting of the City of Daphne Planning Commission, July 28, 2005, seven members were present and the vote was unanimous for the affirmative recommendation of the above-mentioned amendment.

Upon receipt of said documentation, please set the public hearing, advertise, and place on the appropriate agenda for action by the City Council.

If you should have any questions, please do not hesitate to contact the undersigned.

Thank you,

WHE/jd

cc: Mayor Small  
file

**Proposed Revisions to the City of  
Daphne Land Use and Development Ordinance  
June 30, 2005  
First Draft**

**ARTICLE XIX  
LANDSCAPE AND TREE ORDINANCE**

**(Revision - change Director of Community Development to the City of Daphne Horticulturist for tree removal and replacement)**

(c) Revisions to Landscape Plan:

If proposed construction shall cause changes in the landscape or irrigation plan, a revised plan shall be submitted to the Director of Community Development for re-evaluation.

(d) Issuance of Site Disturbance Permit:

A landscape and irrigation plan shall be submitted with the recommendation of the Director of Community Development and approved by the Planning Commission prior to the issuance of a Site Disturbance Permit.

(e) Compliance with Landscape Provisions:

All subject properties, as well as, those owned by the City of Daphne shall comply with the provisions of this Article.

(f) Certification and Plan Requirements:

Landscape plans shall be drawn and stamped by a licensed landscape architect. The landscape plan shall be of professional quality and include the following:

- (1) Date, scale, north arrow, title, and names and contact information for property owner(s), developer, and the landscape architect.
- (2) Location of existing boundary line dimensions of the building site, existing water sources, significant drainage features, existing and proposed streets or alleys, existing or proposed utility easements on or adjacent to the building site, rights-of-way, setbacks, locations of proposed parking spaces, and location of existing and/or proposed sidewalks.

- (3) The locations, species, and D.B.H., diameter at breast height, of existing significant trees indicating those to be retained and those to be removed along with written justification for the removal of any significant trees.
- (4) The location(s) and dimension(s) of the proposed landscaped areas within the parking area(s) including a description of new trees and plant materials to be placed within landscaped area(s). Both common and botanical names shall be included.
- (5) An indication, using written or graphic information, of how the applicant plans to provide protection from damage, during construction, any existing trees and other vegetation which are proposed to be retained.
- (6) An indication, using written or graphic information, of how the applicant intends to protect tree roots by controlling erosion or sediment loss during construction.
- (7) Locations, type, and design of the proposed irrigation system.
- (8) Location and species of buffer zone vegetation.
- (9) A tree survey shall be made of the subject property and show all understory tree with an eight (8) inch or greater caliper or an overstory with a twelve (12) inch or greater caliper. This information shall be plotted on a 24" x 36" vellum drawing at the same scale as the plan. The drawing is to be used as an overlay to determine which trees will be retained and/or removed.

The landscape plan shall clearly show what existing trees, shrubbery, and other vegetation will be retained, as well as, what trees, shrubbery, and other vegetation shall be added to complete the final landscaping of the property.

#### **19-5 PROTECTION OF SIGNIFICANT TREES**

An overstory tree species is considered protected as a significant heritage tree if it has a twelve (12) inch or greater caliper. Likewise, an understory tree species is considered protected if it has an eight (8) inch or greater caliper.

Significant trees are hereby protected under this Article and cannot be cut or intentionally harmed without the expressed written permission of the City of Daphne Horticulturist.

#### **19-6 TREE PROTECTION ZONE**

All lands within one hundred (100) feet of the right-of-way of the four-lane U.S. Highway 98, fifty (50) feet of the right-of-way of Main Street, North Main Street, U.S. Highway 90, and all other (nonresidential) city streets are hereby declared to be tree protection zones.

No tree within these zones shall be removed without first presenting justification based on the criteria noted in Section 19-7 and written approval from the City of Daphne Horticulturist.

## 19-7 TREE REMOVAL AND PERMIT PROCEDURES

(a) Tree Removal:

Tree removal will be at the property owner's expense except for:

- 1) Trees in the City right-of-way which are diseased, injured, in danger of falling close to existing structures, create unsafe vision clearance, the removal of which shall be funded by the City; or 2) trees beneath utility lines which threaten to damage utility lines, of which the removal is the responsibility of the utility company.

(b) Tree Removal Permit:

Any person wishing to remove or relocate a significant tree, a tree located within the tree protection zone, any understory tree with an eight (8) inch or greater caliper, or an overstory with a twelve (12) inch or greater caliper shall submit a written application on the prescribed documents to the City of Daphne Horticulturist accompanied by a site plan. The following criteria must be established in order for the permit to be issued:

- (1) The tree shall be located in an area where a structure or improvement is to be placed in accordance with the proposed plan.
- (2) The tree shall be diseased, injured, in danger of falling too close to an existing or proposed structure, interferes with existing utility service, creates unsafe vision clearance, or conflicts with other Ordinances, Articles, or Regulations.
- (3) The tree shall be prior to or after construction in violation of federal, state, local laws, or regulations including but not limited to laws and regulations pertaining to government programs for the financing of the construction.
- (4) No understory trees greater than eight (8) inches in diameter or greater caliper or an overstory with a twelve (12) inch or greater caliper shall be removed unless it can be shown that the tree is a safety hazard to pedestrians, property or vehicular traffic, is diseased or weakened by age, storm, fire or other injury, or it is absolutely necessary to construct the proposed improvements without incurring significant additional construction costs, or it is necessary for the installation of solar energy equipment.
- (5) A permit may be denied if the tree is considered to have aged or grown to an impressive stature for its species or it is considered an integral part of the natural heritage of the City and the City of Daphne Horticulturist determines there is a reasonable alternative other than the removal of the tree.

## 19-8 REPLACEMENT TREES

In such case as outlined in Section 19-7 of this Article, the developer shall be required to plant two (2) replacement trees for each tree removed. The trees shall be shade or flowering trees and shall be at least two and one half (2 ½) inches or greater in caliper and ten (10) feet in height at planting. The landscape plan shall show the placement and species of the proper number of required new trees. The plan shall include complete, concise and clear renderings, and any other documentation as required by the Director of Community Development and/or the Planning Commission.

(a) Planting Requirements:

Trees planted in accordance with this Article shall meet the following criteria:

- (1) A minimum of four (4) different species shall be planted on each site. Three (3) species shall be overstory (large) trees and one (1) species shall be an understory (medium) tree in order to promote species richness.
- (2) Large (overstory) trees must have at least two and one half (2 ½) inches or greater in caliper and ten (10) feet in height at planting.
- (3) Medium (understory) trees must have at least two (2) inches in caliper and eight (8) feet in height at planting.
- (4) Multi-stemmed understory trees must be a minimum of eight (8) feet in height and must have at least three (3) stems; each with a minimum caliper of three-fourths (¾) inches.
- (5) Shrubs pruned into tree form variations shall not be credited toward tree planting requirements. These include, but are not limited to the following: Ligustrum, Indian Hawthorn, Tree Yaupon, and Camellia.
- (6) On site relocated trees may be credited toward these requirements.
- (7) It is recommended that trees be obtained from a licensed source.

## 19-9 GREEN BELT ZONE

All developments along U.S. Highway 98 shall maintain a minimum of ten (10) feet of the required fifty (50) foot setback as a landscaped green belt along the entire front width of the property, except where curb cuts provide ingress and egress.

If any of the fifty (50) foot front setback is used for parking, said green belt shall be in addition to the landscape requirements for parking areas as more specifically defined in Section 19-11 of this Article. Said green belt shall be planted with trees, shrubs, grass, or other ground cover so as to create an attractive appearance representative of the developer's approved landscape plan.

The trees shall be shade or flowering trees and shall be at least two and one half (2 ½) inches or greater in caliper and ten (10) feet in height at planting. There shall be a minimum of one (1) tree planted for every twenty-five (25) feet or fraction thereof of lot frontage, fifty percent (50%) of which shall be shade trees having a maximum crown of seventy (70) feet, except under or within forty (40) feet of an overhead power line. (See Definitions, Section 19-2, Understory Tree).

#### **19-10 BUFFER ZONE REQUIREMENTS**

Where a business district abuts any part of a residential district, a buffer zone ten (10) feet wide shall be required; where an industrial district abuts any part of a residential or business zone, a buffer zone of twenty (20) feet shall be required.

The buffer shall run the entire length of the abutting lot line(s). Under no circumstances shall this buffer impair vehicular flow and shall be part of the yard requirements. Said protection buffer shall be maintained in such a manner to accomplish its purpose continuously. Zoning districts shall comply with the following minimum standards and said buffer zone shall be constructed of at least one of the following three (3) designs or a combination thereof as determined by the Director of Community Development and approved by the Planning Commission:

(a) Wall or Fence:

If a wall or fence of solid appearance is provided as a protection buffer, it shall be at least six (6) feet in height and of a construction and design recommended by the Director of Community Development and approved by the Planning Commission.

(b) Screen Planting Strip:

A staggered double row of Evergreen plantings at least ten (10) feet in width which will grow to at least ten (10) feet in height and spaced in a manner in which after three years it will provide an impervious visual barrier.

(c) Natural Forest:

Natural, undisturbed forest which provides a nearly impervious visual barrier due to the dense nature of the plants and/or trees. If this option is chosen, the width of the buffer zone shall be twenty-five (25) feet and shall be shown on the landscape plan. The Director of Community Development shall determine whether the barrier is satisfactory via site inspection prior to approval.

#### **19-11 OFF-STREET PARKING FACILITIES**

The design and appearance of parking areas are intended to be compatible with the character of the community. Toward this objective, the following landscaping standards shall be observed in the construction of off-street parking areas which accommodate six (6) or more parking spaces:

- (a) Landscaped areas and perimeter areas shall be so graded as to receive a reasonable portion of the rainfall from the surrounding pavement. Protective curbing around landscaped areas will leave openings for the flow of water onto unpaved areas.
- (b) At least fifteen percent (15%) of the total interior area intended for off-street parking shall be suitably landscaped.
- (c) Interior portions of the parking area at intervals of twelve (12) parking spaces shall be broken by provision of landscaped islands. Such landscape islands shall include the placement of shade or flowering trees at least two and one half (2 ½) inches or greater in caliper and ten (10) feet in height at planting.
- (d) Each separate landscaped area must be a minimum of ninety (90) square feet if it is to be counted toward the minimum landscaped area requirements.
- (e) Landscaped areas shall be protected from vehicular encroachment by the use of curbing or wheel stops.
- (f) The owner, tenant and/or agent, if any, shall be jointly and severally responsible for watering and maintaining all landscaping in a healthy, neat and orderly condition, replacing it when necessary, and keeping it free of refuse and debris.
- (g) A minimum of five (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities.

If required, such areas shall be planted with a combination of trees, shrubs, and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the Director of Community Development.

- (h) Adjacent property owners may jointly agree on the establishment of a common landscaped area between their properties that meets the requirements of this Article; provided that such agreement and the planting and maintenance of the common area shall be binding upon both parties, his successors in interest, heirs, and assigns.
- (i) Innovative landscape designs using “natural cluster of trees” rather than the required one (1) tree at intervals of twelve (12) parking spaces may be recommended by the Director of Community Development and approved by the Planning Commission, if it is determined the design is compatible with the character of the community and is shown not to be a safety hazard.

## **19-12 SPECIAL DESIGNS**

*More stringent design and landscape standards may be required in any district if it is determined the design would be more compatible with the development and more beneficial to the aesthetics of the City.*

**19-13 SUPERVISION**

The landscape architect shall be responsible for the supervision of all plantings. Upon completion, the landscape architect shall certify in writing to the City that the submitted, approved landscape plan has been implemented and is in compliance with the provisions of this Article.

**19-14 CERTIFICATE OF OCCUPANCY**

A certificate of occupancy shall not be issued until the submitted, approved landscape plan has been implemented or a bond has been posted. Said bond shall be in an amount equal to one hundred and fifty percent (150%) of the total of the landscape cost which shall be certified by a professional landscape architect.

**19-15 MAINTENANCE**

Maintenance of new plantings is the responsibility of the property owner. Any vegetation or trees planted or retained to fulfill this which dies, becomes damaged, or diseased must be replaced by the property owner by the beginning of the optimum planting season of the following year. The property owner must notify the City of Daphne Horticulturist in writing when the replacement tree(s) and vegetation have been planted.

**19-16 PENALTIES**

The Code Enforcement Officer of the City of Daphne shall serve the owner of said property, each person, firm or corporation engaged in the activities regulated hereunder in which the activities are being conducted in violation of any provision of this Article. The person(s) shall be fined upon conviction, not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) and costs of the court for each offense.

**ARTICLE XI**

**MINIMUM STANDARDS AND REQUIRED IMPROVEMENTS**

**11-13 SPECIAL PROVISIONS**

**(Chip Martin, Fire Marshal requests deletion of this section and addition of the new section).**

**(c) Location of Fire Hydrants:**

~~Fire hydrants shall be installed along each street at a maximum interval of six hundred (600) feet or at the ends and center of each block. The water supply and pressure shall be sufficient to provide adequate fire protection and the future needs of the intended land use.~~

(c) Location of Roadway Fire Hydrants:

Roadway fire hydrants shall be installed along each street at the center of each block and at one corner of each roadway intersection, provided, however, that in no event shall fire hydrants be spaced so that any fire hydrant is located more than 600 feet from another fire hydrant. The water supply and pressure shall be sufficient to provide adequate fire protection and the future needs of the intended land use. Additional fire hydrant placement may be required on the interior of developed lots pursuant to local ordinance and fire regulations as adopted by the City.

To: Office of the City Clerk  
From: William H. Eady, Sr.,  
Director of Community  
Development  
Subject: Zoning Amendment for Don  
Gardner & Clifton Taylor

## MEMORANDUM

Lot 2 of ESCC South  
Subdivision will be known as  
Krystal Ridge Subdivision

Date: August 26, 2005

At the regular meeting of the City of Daphne Planning Commission, August 25, 2005, seven members were present and the vote was unanimous for the affirmative recommendation of the above-mentioned petition.

Upon receipt of said documentation, please set the public hearing, advertise, and place on the appropriate agenda for action by the City Council on October 3, 2005.

If you should have any questions, please do not hesitate to contact the undersigned.

Thank you,

WHE/jd

cc: Mayor Small  
Greg Burnam, Council President  
Jay Ross, City Attorney  
file

STATE OF ALABAMA

COUNTY OF BALDWIN

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

**(Lot #2, ESCC South Subdivision)**

The undersigned, Don Gardner & Clifton Taylor, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as KRYSTAL RIDGE ESTATES SUBDIVISION to be annexed into the City of Daphne, a municipal corporation incorporated under the laws of the State of Alabama, and submits the following in support of its petition:

1. **Description Of Property:** The description of the property which Petitioner requests to be annexed into the City of Daphne is described in Exhibit "A" attached hereto and made a part of this Petition as if fully set out herein (the "Property").

2. **Map Of Property:** Attached hereto as Exhibit "B" and made a part of this Petition, is a map of the Property showing its relationship to the corporate limits of the municipality of the City of Daphne.

3. **Owner:** The Petitioner, Don Gardner & Clifton Taylor, is the owner of the Property hereby sought to be annexed into the corporate limits of the City of Daphne.

4. **Specific Conditions:** This Petition is conditioned upon the adoption of an ordinance, which shall include specifically the conditions requested below upon annexing the said Property into the corporate limits of the City of Daphne. Please state the requested zoning, if other than R-1, or any other conditions which may apply upon annexation:

Zone R-3 High Density Single Family Residential

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5. Code: This Petition is filed pursuant to the provisions of Article 21, Chapter 42, Title 11, Code of Alabama, 1975, as amended.

DATED this 27<sup>th</sup> day of July,  
2005.

Respectfully submitted,

By:

Don Gardner  
Clifton Taylor

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that Don Gardner + Clifton Taylor whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily on the day same bears date.

GIVEN under my hand and official seal on this the 27<sup>th</sup> day  
of July, 2005.

Christy Wayler (NOTARY SEAL)  
NOTARY PUBLIC

My commission expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Apr 26, 2006  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Don Gardner & Clifton Taylor  
Annexation

Lot 2, ESCC Subdivision

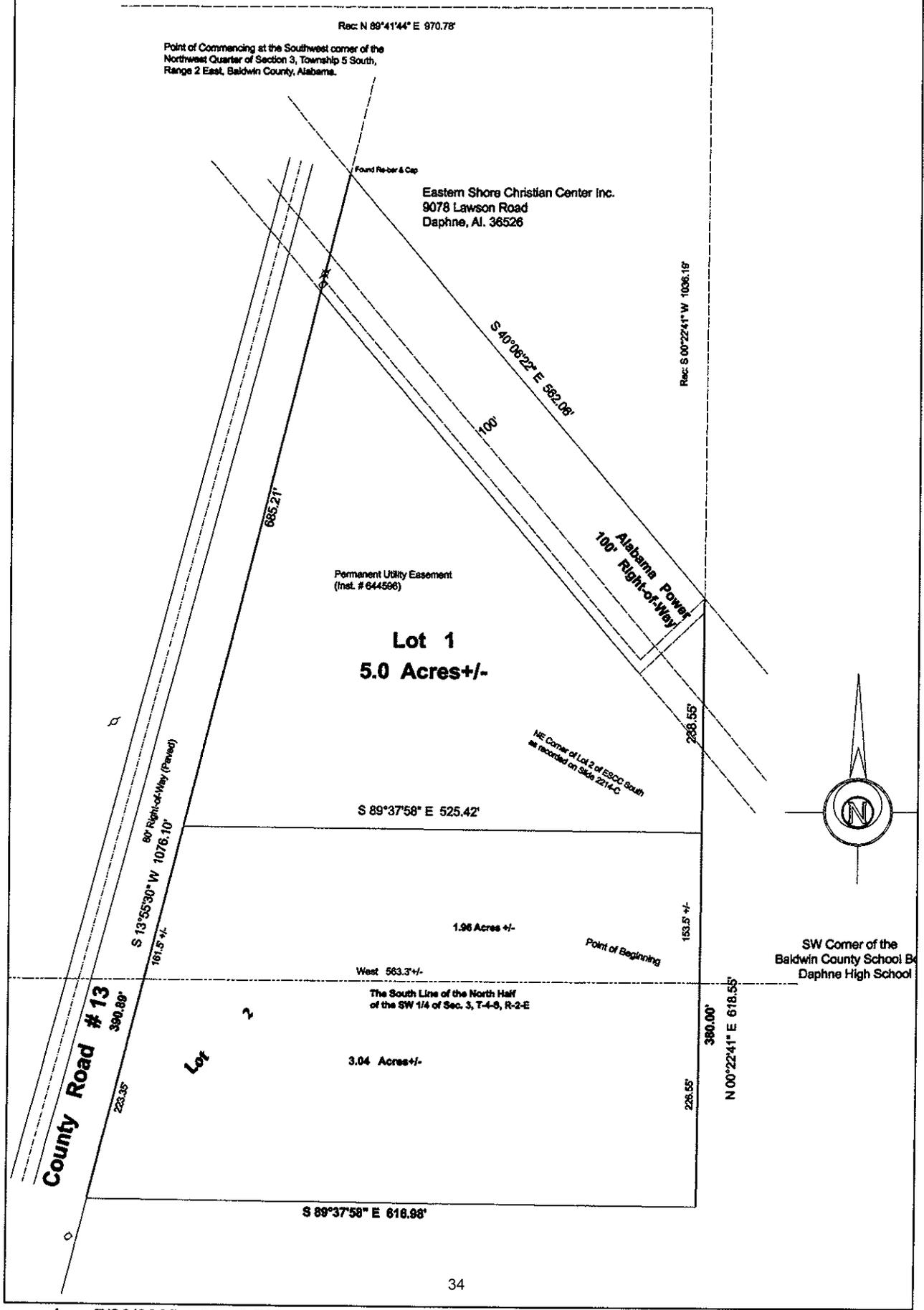
Exhibit "A"

Legal Description:

Commencing at the Northeast corner of Lot 2 of ESCC South Subdivision as per its plat recorded on Slide 2214-C in the Judge of Probate's Office, Baldwin County, Alabama, run South 00° 22' 41" West, along the East line of said Lot 2, 153.5 feet, more or less, to the intersection of the South line of the North Half of the Southwest Quarter of Section 3, Township 4 South, Range 2 East, Baldwin County for the Point of Beginning; thence run West along said South line, 563.3 feet to a point on the East Right-of-way line of County Road 13; thence run South 13° 55' 30" West, along said East Right-of-way line, 223.35 feet to an iron pin; thence run South 89° 37' 58" East, 616.98 feet to an iron pin; thence run North 00° 22' 41" East, 226.55 feet to the Point of Beginning. Intending to describe all that property between the South line of Lot 2 and the Existing City of Daphnes City Limits. Said parcel contains 3.04 acres, more or less.

Reference: Krystal Ridge Estates

# Lawson Road



**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**

# DRAFT

## PUBLIC WORKS COMMITTEE MEETING September 23, 2005

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

### I. CALL TO ORDER

The September meeting of the Public Works Committee was called to order at 8:26 a.m.

Present: Councilwoman Cathy Barnette, Councilman John Lake, Ken Eslava, Melvin McCarley, Scott Hutchinson, Aileen Trotter

### II. PUBLIC PARTICIPATION & CORRESPONDENCE

The committee reviewed and discussed the correspondence and the work request report for August 2005. Ken Eslava explained that the work order requests appeared to be fewer than usual due to the recent hurricanes.

### III. OLD BUSINESS

The committee reviewed the minutes from the Public Works Committee meeting held August 26, 2005. **Councilwoman Cathy Barnette motioned to approve the minutes; Councilman John Lake seconded the motion.**

Cathy Barnette inquired as to the status of the Village Drive resurfacing project. Ken Eslava indicated that the compaction test has been ordered. Work should begin next week.

### IV. NEW BUSINESS

Cathy Barnette inquired about the status of the Belrose House. Ken Eslava indicated that the owner of the house removed the asbestos shingles. Building Inspections may determine that it will need to be demolished since it was damaged during Hurricane Ivan. Ronnie Phillips may be able to provide an update.

Dr. Yancey has contacted Cathy Barnette stating that he is upset that the residents on Gray's Lane are dumping debris on his property on Old County Road. Ken indicated that it will be looked into. Residents on Gray's Lane will need to be given a location that they can dump their storm debris.

Drainage concerns on 4<sup>th</sup> Street were mentioned to Cathy Barnette by several residents on that street. They are also requesting street lights and mosquito spraying in the area. Melvin will look into the placement of street lights. There was also mention of health concerns (i.e. rats) with the house at the corner of Church and 4<sup>th</sup> Streets. This would probably be an issue for the Baldwin County Health Department to look into.

### V. DIRECTOR'S REPORT

#### A. Hurricane Katrina Clean-up Operations - Update

Ken Eslava indicated that the street operations will be continuing this weekend and then will slow for the next week to allow the build up for a final pass through the City. So far 48,400 cubic yards have been collected. Stickers will be placed on garbage cans stating that October 2, 2005 is the deadline for storm debris to be placed in the right-of-way. Letters will also be hand delivered to residents on the bay front reiterating the deadline. One project worksheet has been filed<sup>36</sup> with FEMA for approximately \$1.5 million.

# DRAFT

## B. Solid Waste Ordinance Enforcement

Ken Eslava expressed that everyone is in agreement to move the enforcement of the Solid Waste Ordinance to the Public Works Department. Next step will be to get the enforcement officer certified as an officer of the court by Judge Doyle, and provide additional training in the enforcement of the ordinance. Hopefully the Solid Waste Coordinator will be able to be acting in that capacity within the next few weeks. The ordinance will need to be reviewed to determine if it is necessary to change code enforcement officer to solid waste code enforcement officer.

**Councilwoman Cathy Barnette motioned to have the legal team evaluate and modify the ordinance, as necessary, to enable the Solid Waste Coordinator to be the Solid Waste Code Enforcement Officer.**

## C. Traffic Study – Old Daphne/Bayside Academy - Update

Ken Eslava indicated that the traffic study has not been completed because of the recent storms. The study will be a speed study in the area. New Nu-metrics traffic counters were recently purchased. More information should be available at the next Public Works Committee meeting.

## D. Garbage Rate Increase – 10 City Rate Comparison - Update

Ken Eslava provided additional information on the rates of garbage service in 10 cities similar in size to the City of Daphne. The sheet that Ken provided shows that the City needs to increase rates, as they are providing twice weekly pick-up for garbage, whereas most cities are providing once per week pick-up. Mr. Eslava indicated that he will discuss the increase further at the next meeting.

John Lake expressed concern over a potential rate increase since the cost of living is increasing faster than wages. He questioned if there is there a benefit to once per week service to keep the costs down. Mr. Eslava indicated that most people do not want a reduction in service. In addition, expenses will only be reduced approximately 10-13%, and residents would have to store garbage for a longer period, which could be a problem for large households. Mr. Eslava indicated that the last rate increase was about 3 years ago. The increases in fuel and labor costs are causing the need for the proposed increase. There is a procedure currently in place to provide latitude for people who need to work out financial strains. Residents on limited/fixed-incomes can file for an exemption once per year. Cathy Barnette suggested evaluating a round-up program.

John Lake suggested looking into the economics of providing service at the apartment complexes and other commercial large dumpsters in the City. He suggested obtaining a new truck to minimize maintenance fees with a used truck as a back-up. Ken indicated that this will be looked in to within the next few months.

The automated garbage truck should be in service within the next month. It will begin service in Timber Creek, Sehoy, Malbis, Canterbury.

# DRAFT

- E. Expansion of Recycle Building – HHW/E-Recycling  
Mr. Eslava has gotten the price for the expansion of the recycle building to facilitate the household hazardous waste and e-recycling. The overall cost is approximately \$52,000. The information has been sent to the Buildings and Properties Committee through the Mayor. It will also be forwarded to the Finance Committee for review.

## VI. SOLID WASTE AUTHORITY

None

## VII. MUSEUM COMMITTEE

Ken Eslava has requested that the Mayor have the City Clerk investigate the availability of historic preservation grants for the purpose of restoring the building. The building is in need of professional restoration as it is deteriorating faster than the City is able to provide upkeep. The estimated cost of restoration is \$0.25 million, and it does not include archival preservation/storage. This would also need to be included in any grant requests.

John Lake inquired into a patron count for the museum. Ken Eslava indicated that a count could be obtained and provided.

The minutes indicated that the Walding & Dunbar Property, which is the fellowship hall/Sunday School, appear to be a low priority with the City's officials. As far as anyone is aware, no one has contacted that City about obtaining the property. The building is dilapidated. Ms. Boykin should be contacted to determine what their concerns are about this property.

John Lake suggested that the museum may want to develop a reciprocal agreement with other museums in the area (i.e. USS Alabama) to make information available about each other to generate interest in the sites.

## VIII. BEAUTIFICATION COMMITTEE

John Lake indicated that Ms. Jean White was interested in being part of the Beautification Committee.

## IX. ENGINEER REPORT

- A. NRCS – There are three NRCS projects that are about to start. One project is behind the Methodist church, one is off Captain O'Neal, and the third is in Lake Forest. The project behind the Methodist Church should begin next week, the project in Lake Forest will begin the week following, and the project off of Captain O'Neal will begin the week after that.

## X. FUTURE BUSINESS

- A. The next Public Works Committee meeting will be held October 28 at 8:00 am at City Hall.

## XI. ADJOURNMENT

The meeting adjourned at 9:10 a.m. Councilwoman Barnette motioned to adjourn.

**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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THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF SEPTEMBER 22, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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**SUMMARIZATION OF MINUTES:**

THIS DOCUMENT IS A SUMMARIZATION OF THE MINUTES OF CITY OF DAPHNE PLANNING COMMISSION MEETING AND IS TO BE USED FOR REVIEW PURPOSES ONLY. THE OFFICIAL MINUTES OF THIS MEETING MAY BE OBTAINED IN THE CITY CLERK'S OFFICE UPON APPROVAL.

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**CALL TO ORDER:**

The Chairman stated the number of members present constitutes a quorum and the regular meeting of the City of Daphne Planning Commission was called to order at 6:02 p.m.

**CALL OF ROLL:**

**Members Present:**

Fred Small, Mayor  
Larry Chason, Secretary  
Jeff Carrico  
Carter Eide  
Warren West, Vice Chairman  
Robert Segalla, Chairman  
Cathy Barnette, Councilwoman  
Ed Kirby

**Staff Present:**

William H. Eady, Sr., Director of Community Development  
Jan Dickson, Planning Coordinator  
Nancy Anderson, GIS Technician  
Tim Fleming, Associate Attorney

**Staff Absent:**

Jay Ross, Attorney

The Chairman stated the first order of business is the call to order. Please let the record reflect that all members are present and the Commission has one position vacant. The next order of business is approval of the minutes.

**APPROVAL OF MINUTES:**

The minutes of the August 25, 2005 regular meeting were considered for approval. A copy of the minutes was furnished to us previously. If there are no additions, deletions, or corrections at this time, the Chair will entertain a motion. The Chair referenced corrections requested by Mr. Chason on page 6 of the minutes.

A **Motion** was made by Mr. Chason and **Seconded** by Mr. West **to approve the minutes of the regular meeting, contingent upon making the**

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF SEPTEMBER 22, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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**SUMMARIZATION OF MINUTES:**

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*corrections referenced on page 6. The Motion carried unanimously.*

**ELECTION OF OFFICERS:**

A Motion was made by Mr. Kirby and **Seconded** by Mr. West *to table the election of officers until January 1, 2006 due to Mr. Segalla's temporary reappointment. The Motion carried. Ms. Barnette abstained.* The Chairman stated the next order of business is site plan review for RichTex Fabrics.

**SITE PLAN REVIEW:**

**File S05-20:**

**Site: RichTex Fabrics**

Location: Northwest corner of County Road 13 and Rand Avenue,  
Lot 29, Austin Place Commercial Park, Phase Three  
Area: 60,041 Square Feet ±  
Owner: Don Richey  
Architect: Forrest Daniell & Associates - Jeff Jordan

An introductory presentation was given by Mr. Jeff Jordan, representing Forrest Daniell & Associates, requesting site plan review for the placement of a fabric sales facility located on the Northwest corner of County Road 13 and Rand Avenue on Lot 29, Austin Place Commercial Park, Phase Three. This business was located previously in the shopping center in Spanish Fort. The owner is proposing to construct a ten thousand square foot metal facility with a stucco facade with associated parking. Water and sanitary sewer are available to the site. There is one existing fire hydrant which will provide adequate fire protection. The drainage for the site is directed through a swale on the North side of the property to an existing detention pond located in the subdivision. A minimal amount will be directed onto County Road 13. I will be happy to answer any questions you may have.

The Chairman stated do any of the Commissioners have any questions or comments. At site preview, we discussed the placement of a six-foot privacy fence. It is not a requirement, but rather it was a request.

Mr. Jordan asked if it was possible to negotiate the location of the fence.

Mr. Eady stated we can work that out.

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The Chairman stated do any of the Commissioners have any questions or comments.

Ms. Barnette stated I just have one question. The fire department memorandums were not included in the books. I do not know if you received them, but I did not. I wanted to make sure that all these had been signed off on.

The Chairman stated no. I have not received it, but Chip Martin, the Fire Marshal, was present at site preview and said that he had not furnished them, but as far as he was concerned everything was fine.

Ms. Dickson stated he was in Jamaica is why they were not in the books.

The Chairman asked do you have that documentation.

Ms. Dickson stated yes sir.

The Chairman stated do any of the Commissioners have any further questions or comments. If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. West and **Seconded** by Mr. Kirby **to grant Site Plan approval to RichTex Fabrics. The Motion carried unanimously.**

The Chairman stated the next order of business is preliminary/final plat review for the resubdivision of Lot 16, Whispering Pines Subdivision.

**PRELIMINARY/FINAL PLAT REVIEW:**

**File SDPF05-21:**

**Subdivision: Resubdivision of Lot 16, Whispering Pines Subdivision**

Location: On the North side of Whispering Pines Road

Area: 0.96 Acres  $\pm$ , (2) lots

Owner: Herbert Gibson

Surveyor: Geo-Surveying - Matt Kountz

An introductory presentation was given by Mr. Matt Kountz, representing Geo-Surveying, requesting preliminary/final plat approval

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of a 0.96 acre subdivision consisting of two lots located on the North side of Whispering Pines Road. I will be glad to answer any questions you may have.

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

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to grant Preliminary/Final Plat approval to the resubdivision of Lot 16, Whispering Pines Subdivision. The Motion carried unanimously.**

The Chairman stated the next order of business is preliminary/final plat review for Holmes-Koetter Subdivision.

**File SDPF05-22:**

**Subdivision: Holmes-Koetter**

Location: 304 Beall Lane  
Area: 1.03 Acres +, (2) lots  
Owner: Susanne Holmes-Koetter  
Engineer: Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Ray Moore, representing Hutchinson, Moore & Rauch, requesting preliminary/final plat approval of a one-acre subdivision consisting of two lots located at 304 Beall Lane. I will be glad to answer any questions you may have.

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

A **Motion** was made by Mr. West and **Seconded** by Ms. Barnette **to grant Preliminary/Final Plat approval to Holmes-Koetter Subdivision. The Motion carried unanimously.**

The Chairman stated the next order of business is preliminary/final plat review for Jubilee Ridge Subdivision.

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**File SDPF05-23:**

**Subdivision: Jubilee Ridge**

Location: Southeast of the intersection of U. S. Highway 98 and County Road 64  
Area: 19.35 Acres +, (2) lots  
Owner: Vilia Marino  
Engineer: Hatch Mott MacDonald - John Peterson

An introductory presentation was given by Mr. John Peterson, representing Hatch Mott MacDonald, requesting preliminary/final plat approval of a nineteen-acre subdivision consisting of two lots located Southeast of the intersection of U. S. Highway 98 and County Road 64. Mr. John Peterson stated the fifteen-acre parcel is in the process of being annexed into the City of Daphne for the construction of condominiums. The remaining five acres will be retained by the owner, Ms. Marino, and will remain in the County; however, I foresee this parcel being developed as commercial at a later date. I will be glad to answer any questions you may have.

The Chairman stated do any of the Commissioners or Mr. Eady have any questions or comments. He opened the floor to public participation.

An adjacent property owner, Mr. Coleman, owner of Daphne Detail, addressed the Commission to express their concerns regarding the proposed development and how it would impact his property.

The Commission addressed the concerns of the adjacent property owner and discussed at length its possible effect on the adjacent property.

The Chairman stated do any of the Commissioners have any further questions or comments. He closed public participation. The public hearing for annexation will be held by the City Council, not the Planning Commission. Once the property is annexed, the Planning Commission will review the site plan for Jubilee Ridge Condominiums. If there is no objection, the Chair would entertain a motion.

**A Motion was made by Mayor Small and Seconded by Mr. Kirby to grant Preliminary/Final Plat approval to Jubilee Ridge Subdivision. The Motion carried unanimously.**

The Chairman stated the next order of business is preliminary plat review for Austin Park Estates.

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**PRELIMINARY PLAT REVIEW:**

**File SDP05-15:**

**Subdivision: Austin Park Estates**

Location: On County Road 54, North of Austin Park Subdivision  
Area: 56.04 Acres  $\pm$ , (50) lots  
Owner: Willard Penry  
Engineer: Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Ray Moore, representing Hutchinson, Moore & Rauch, requesting preliminary plat approval of a fifty-six acre subdivision consisting of fifty lots located on County Road 54 immediately North of Austin Park Subdivision. We had discussed this with the Commission previously.

Mr. Moore stated the oversized estate lots proposed in this subdivision will be six-tenths of an acre or thirty thousand square feet plus. Drainage has been designed in such a manner to address the flooding problem in this area. Water will be provided by the Belforest Water Authority and sanitary sewer will be provided by Baldwin County Sewer Service. The subdivision will have underground power. I will be glad to answer any questions you may have.

The Chairman stated do any of the Commissioners or Mr. Eady have any questions or comments.

Mr. Chason stated I am a proponent of this, and this size is certainly larger than what we have been seeing. I know we have been talking about making some changes to the regulations. I assume that we are going by the old regulations as far as park and recreation area is concerned.

Mr. Moore stated we do comply with the requirements for green space.

Mr. Chason stated I like this and I think it is a great thing for Daphne, but I think we need to look at writing a set of requirements for estate size lots in order to be consistent.

Mr. Eady stated they will be presented at your next work session.

Mr. West stated I do not see anything in here from the County. Are they required to sign off?

Mr. Moore stated they are required to sign off, but as of yet we have

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not received any of their comments. Everything you see here mimics their regulations.

Mr. West asked if it has to be reviewed by the County, then why don't we wait until they sign off.

Mr. Moore stated we have to wait on them Mr. West.

The Chairman stated I will direct this question to Mr. Eady. It is my understanding that the most stringent regulations apply. Is that not true Mr. Eady?

Mr. Eady stated yes sir. The County follows us in the review process and with all of the work they have to do it runs about three months behind us, but we do get the comments. All of their comments do have to be addressed before the County will allow the construction of the subdivision to begin. If we waited until we got the notes from the County, we would have to wait until they completed the review process.

Mr. West asked so when they make the comments you would require them to do it.

Mr. Eady stated yes sir.

Ms. Barnette stated this question is not necessarily for Mr. Moore. It is for Mr. Eady. At our work session, the work variance came up and I just wanted to know if this subdivision required a variance.

Mr. Eady stated no.

The Chairman stated do any of the Commissioners or Mr. Eady have any further questions or comments. He opened the floor to public participation. With no adjacent property owners present, he closed public participation. If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Chason and **Seconded** by Ms. Barnette **to grant Preliminary Plat approval to Austin Park Estates. The Motion carried unanimously.**

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

**ATTORNEY'S REPORT:**

Mr. Fleming stated no report.

**THE CITY OF DAPHNE  
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**PUBLIC PARTICIPATION:**

The Chairman asked is there anyone in the audience which took the time to show up tonight who wishes to address the Planning Commission. Just make sure that it pertains to something that we have jurisdiction over.

Mr. Nady requested the agenda indicate when public participation can occur.

The Chairman stated when I ask for public participation for certain agenda items is when you have an opportunity to address the issue. Let me say this. I have been on the Planning Commission for six years, and I have been the Chairman for four of those years. We have never turned anyone down who wished to speak. I have always said if you have shown an interest and taken the time to come up here, then we will listen to what you have to say.

Ms. Mary Francis requested to address the Commissions regarding her property adjacent to Jubilee Ridge Subdivision. She requested the placement of a fence along the property line in order to have a buffer to keep the horses away from the detention pond.

Ms. Mary Francis stated she commented on the odor associated with keeping animals, horses, and she wanted to make the new owner aware of that.

Mrs. Karen Nady commented on public participation and an indication of when the public is allowed to speak. She commented on several issues such as the revised master plan for Bayside Academy and Apalachee Residential Community site plan in which the public was not allowed to speak. It is important to ensure that public meetings and participation are allowed in order to involve the community.

The Chairman stated by state law public participation is not required for a master or site plan. A public hearing is held on issues by the City Council. Public participation is permitted when it is warranted by state law for the Planning Commission. Public comments are taken at the end of the meeting if anyone wishes to address the Planning Commission.

Ms. Dickson requested to give Ms. Nady a copy of the reference agenda which is contained within the Planning Commission books and indicates which items require a public hearing.

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**ADJOURNMENT:**

The Chairman stated do any of the Commissioners or Mr. Eady have any further questions or comments. If there is no objection, the Chair will entertain a motion to adjourn.

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

*There being no further business, the meeting was adjourned at 6:45 p.m.*

*Respectfully submitted by:*

Jan Dickson, Planning Coordinator

**APPROVED:** October 27, 2005

Robert Segalla, Chairman

THE CITY OF DAPHNE  
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**CITY COUNCIL MEETING  
MAYOR'S REPORT**

**NOTES:**

**CITY ATTORNEY'S REPORT**

**NOTES:**

**DEPARTMENT HEAD'S COMMENTS**

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

**NOTES:**

RECOMMENDATIONS

**COUNCIL COMMENTS:**

**RESOLUTION 2005-**

**Acceptance of Streets and Drainage  
located in TimberCreek Subdivision, Phase 10A**

**Whereas**, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval to TimberCreek Subdivision, Phase 10A on July 28, 2005 and the City of Daphne hereby recommends acceptance of said street located in TimberCreek Subdivision, Phase 10A; and,

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

**Whereas**, the Division of Public Works has accepted said streets and storm water drainage of TimberCreek Subdivision, Phase 10A; and,

**Whereas**, the Utilities Board of the City of Daphne has accepted the utilities of TimberCreek Subdivision, Phase 10A; and,

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

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS**, that TimberCreek Subdivision, Phase 10A according to the plat by Rester & Coleman Engineers as recorded in the Judge of Probate, Baldwin County, Alabama, and said streets being named D'Olive Ridge and Pulpwood Circle is hereby accepted by the City of Daphne, Alabama as a city street for maintenance.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE 3RD DAY OF OCTOBER, 2005.**

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

**GREG BURNAM  
COUNCIL PRESIDENT  
DATE AND TIME SIGNED:**

**FRED SMALL  
MAYOR  
DATE AND TIME SIGNED:**

**ATTEST:**

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

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

**SUBDIVISION NAME:** TimberCreek, Phase Ten, Part "A"

**LOCATION:** D'Olive Ridge

**THIS ACCEPTANCE OF ROADS AND RIGHTS-OF-WAY** is made this 28th day of September, \_\_\_\_\_ by TimberCreek Land Co., Inc., hereinafter called the Subdivider, owner of certain property located in Baldwin County, Alabama known as TimberCreek, Phase Ten, Part "A" Subdivision to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

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

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

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

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

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

**NOW, THEREFORE**, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the recommendation of the City of Daphne Planning Commission at their regular meeting of July 28, 2005.

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

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

Respectfully submitted,

TimberCreek Land Co., Inc.  
Name of Individual or Corporation

By: W. Allen Cox  
[Signature]  
Its: Secretary Treasurer

STATE OF ALABAMA    )  
COUNTY OF BALDWIN )

I, the undersigned Notary Public in and for said State and County, hereby certify that W. Allen Cox whose name as Secretary Treasurer of TimberCreek Land Co., Inc., an Alabama corporation or as owner of TimberCreek, Phase Ten, Part "A" is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer or owner and with full authority, executed the same voluntarily on the day same bears date.

Given under my hand and official seal on this the 27<sup>th</sup> day of September, 2005.

[Signature] (NOTARY SEAL)  
NOTARY PUBLIC  
My commission expires: 6/4/08

Recommendation:

[Signature]  
William H. Eady, Sr., Director of Planning/Zoning  
City of Daphne

Approval:

[Signature]  
Planning Commission Chairman  
City of Daphne

**ORDINANCE NO. 2005- 41**

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

**VILAI MARINO**

**(Property located off of south side of County Road 64)**

**BE IT ORDAINED BY THE MAYOR AND 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 July 28, 2005 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned R-4, high-density single and multi-family residential, district**; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on September 19, 2005 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 MAYOR AND 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"

COMMENCING AT THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE EAST ALONG THE NORTH LINE OF SECTION 21, A DISTANCE OF 947.80 FEET; THENCE SOUTH 01-29' WEST 442.12 FEET; THENCE NORTH 89-55'-38" EAST 389.85 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE SOUTH 00-33'-30" WEST 883.60 FEET; THENCE NORTH 89-48'-53" EAST 662.50 FEET; THENCE NORTH 00-20'-23" EAST 984.12 FEET; THENCE SOUTH 89-59'-36" WEST 600.23 FEET; THENCE NORTH 00-16'-56" WEST 300.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF COUNTY HIGHWAY NO. 64 (AN 80 FOOT RIGHT OF WAY); THENCE SOUTH 89-59'-36" WEST ALONG SAID RIGHT OF WAY LINE 60.00 FEET; THENCE SOUTH 00-16'-56" EAST 402.60 FEET TO THE POINT OF BEGINNING; CONTAINING 15.35 ACRES MORE OR LESS.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
**Greg Burnam**  
**Council President**  
Date & Time Signed: \_\_\_\_\_

\_\_\_\_\_  
**Fred Small**  
**Mayor**  
Date & Time Signed: \_\_\_\_\_

**ATTEST:**

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

VILAI MARINO  
ANNEXATION

EXHIBIT "A"

COMMENCING AT THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE EAST ALONG THE NORTH LINE OF SECTION 21, A DISTANCE OF 947.80 FEET; THENCE SOUTH 01-29' WEST 442.12 FEET; THENCE NORTH 89-55'-38" EAST 389.85 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE SOUTH 00-33'-30" WEST 883.60 FEET; THENCE NORTH 89-48'-53" EAST 662.50 FEET; THENCE NORTH 00-20'-23" EAST 984.12 FEET; THENCE SOUTH 89-59'-36" WEST 600.23 FEET; THENCE NORTH 00-16'-56" WEST 300.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF COUNTY HIGHWAY NO. 64 (AN 80 FOOT RIGHT OF WAY); THENCE SOUTH 89-59'-36" WEST ALONG SAID RIGHT OF WAY LINE 60.00 FEET; THENCE SOUTH 00-16'-56" EAST 402.60 FEET TO THE POINT OF BEGINNING; CONTAINING 15.35 ACRES MORE OR LESS.



**CITY OF DAPHNE  
ORDINANCE NO. 2005- 42**

**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, at their regular meeting held on July 28, 2005, favorably recommended certain amendments to the Zoning District Map approved and adopted by Ordinance 2001-33 referenced in Appendix H “Exhibit A” of the Daphne Land Use & Development Ordinance No. 2002-22 and amended by Ordinance No. 2003-06 and Ordinance No. 2005-11; 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 and amended by Ordinance No. 2003-06 and Ordinance No. 2005-11; 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 September 19, 2005; and

**WHEREAS**, the Mayor and City Council of the City of Daphne after due consideration believe the amendments to said Zoning District Map as requested by the Planning Commission are proper and in the best interest of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY 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.

**SECTION II. AMENDMENT**

Ordinance 2002-22, 2003-06, and 2005-11 are hereby amended to the extent that the adopted Zoning District Map referenced in Appendix H of “Exhibit A” and the revision to said map adopted on December 3, 2001 by Ordinance Number 2001-33, conflicts with the Revised Zoning District Map referenced as Exhibit A.

**SECTION III. REPEALER**

Any Ordinance(s) or parts of Ordinance(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

**SECTION IV. EFFECTIVE DATE**

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF DAPHNE,  
ALABAMA, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.**

**CITY OF DAPHNE**

\_\_\_\_\_  
**Greg Burnam  
Council President**

Date & Time: Signed: \_\_\_\_\_

\_\_\_\_\_  
**Fred Small  
Mayor**

Date & Time Signed: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**David Cohen  
City Clerk, MMC**

**ORDINANCE NO. 2005 - 43**

**Ordinance to Rezone Property Located on the South Side of County Road 64  
(2.52 +/- Acres)  
John & Susan Hurley**

**WHEREAS**, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-2, Single Family Residential District, to B-2, General Business District, said property is located on the (south side of County Road 64) in Daphne, Alabama, being more particularly described as follows:

**LEGAL PROPERTY DESCRIPTION**

SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA, EAST HALF OF LOT 4, BLOCK 2, RANDALL SUBDIVISION, ACCORDING TO PLAT THEREOF RECORDED IN MAP BOOK 1, PAGE 227, IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA, LESS AND EXCEPT THAT SOUTH 40 FEET OF SAID LOT 4, LYING IN THE RIGHT-OF-WAY OF BALDWIN COUNTY HIGHWAY NO. 64. SAID PARCEL CONTAINING 2.52 ACRES, MORE OR LESS

**WHEREAS**, the Planning Commission of the City of Daphne on July 28, 2005 has considered said request and set forth 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, September 19, 2005 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, Single Family District, to 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 \_\_\_\_ day of \_\_\_\_\_, 2005.**

\_\_\_\_\_  
**Greg Burnam**  
**Council President**  
Date & Time Signed: \_\_\_\_\_

\_\_\_\_\_  
**Fred Small**  
**Mayor**  
Date & Time Signed: \_\_\_\_\_

**ATTEST:**

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

**JOHN & SUSAN HURLEY  
ZONING AMENDMENT**

**Exhibit "A"**

**LEGAL DESCRIPTION:**

**SECTION 17, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA, EAST HALF OF LOT 4, BLOCK 2, RANDALL SUBDIVISION, ACCORDING TO PLAT THEREOF RECORDED IN MAP BOOK 1, PAGE 227, IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA, LESS AND EXCEPT THAT SOUTH 40 FEET OF SAID LOT 4, LYING IN THE RIGHT-OF-WAY OF BALDWIN COUNTY HIGHWAY NO. 64. SAID PARCEL CONTAINING 2.52 ACRES, MORE OR LESS.**

**REFERENCE: REZONING FOR HANDY LOCK STORAGE FACILITY  
PARCEL NO. 05-43-04-17-3-000-055.000**



**CITY OF DAPHNE  
ORDINANCE NO: 2005- 44**

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**AN ORDINANCE AUTHORIZING AN EXTENSION OF THE MORATORIUM  
ON APPROVAL AND CONSTRUCTION OF BUILDINGS  
IN EXCESS OF FIFTY (50) FEET AND/OR FOUR (4) STORIES IN HEIGHT**

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**WHEREAS**, the City Council of the City of Daphne, Alabama desires to promote the health, welfare and safety of the citizens of the City of Daphne by exercising proper and appropriate land use management; and

**WHEREAS**, the City Council of the City of Daphne, Alabama has determined that in order to promote and maintain the health, welfare and safety of the citizens of the City of Daphne, a plan of development is needed to properly oversee and authorize the approval and subsequent construction of any structure in excess of fifty (50) feet and/or 4 stories in height, it shall be necessary to prepare, approve and pass a comprehensive land use plan involving the height of such buildings; and

**WHEREAS**, Section 13-7 of the City of Daphne Land Use Ordinance No. 2002-22, currently addresses the authorization of buildings in excess of 50 feet or 4 stories in height, but that said ordinance is in need of amendment and expansion; and

**WHEREAS**, the City Council of the City of Daphne, Alabama desires to promote the health, welfare and safety of the citizens of the City by establishing an additional moratorium on the approval and construction of buildings in excess of 50 feet and/or 4 stories in height; and

**WHEREAS**, the City Council of the City of Daphne pursuant to Ordinance No.: 2002-14, previously enacted a six (6) month moratorium on approval and construction of buildings in excess of fifty (50) feet and/or 4 stories in height, and

**WHEREAS**, the City of Daphne requires additional time to study, prepare and establish a comprehensive and binding Land Use Ordinance to effectively address the authorization and construction of buildings in excess of 50 feet and/or 4 stories;

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

**SECTION I:**

- (a). That a moratorium is hereby declared to be in effect from the effective date of passage of this ordinance through January 3, 2006, thereby prohibiting the approval of and construction of any and all buildings or structures within the City of Daphne in excess of 50 feet and/or 4 stories in height in order to afford the City of Daphne sufficient time to prepare and establish a building and land use ordinance (or amendment of the existing Land Use Ordinance) that adequately regulates the construction of buildings in excess of 50 feet and/or 4 stories in height.
- (b). That this moratorium may be extended in length of time upon the majority vote of the City Council by passage of appropriate ordinance.
- (c). That Section 13-7 of the Daphne Land Use Ordinance No. 2002-22 is hereby suspended in that part as it relates to the approval or consideration of structures of more than four (4) stories or fifty (50) feet, as said provision is deemed suspended and without authority until such time as this moratorium expires and/or when said ordinance is amended by the City Council.

**SECTION II: CONFLICT WITH OTHER ORDINANCES**

That any Ordinance heretofore adopted by the City Council of the City of Daphne, Alabama which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

**SECTION III: SEVERABILITY**

That the provisions of this Ordinance are severable. If any provision, section, paragraph, sentence or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of the Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof separately and independently of each other.

**SECTION IV: EFFECTIVE DATE**

That this Ordinance shall be in full force and effect upon its adoption as provided by law by the City Council of the City of Daphne.

**APPROVED AND ADOPTED THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.**

\_\_\_\_\_  
**GREG BURNAM**  
**COUNCIL PRESIDENT**  
Date & Time Signed:\_\_\_\_\_

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

**ATTEST**

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

**ORDINANCE 2005- 50**

**An Ordinance Extending Fiscal Year 2005 Budget Authority**

**WHEREAS**, the Fiscal Year 2006 budget has not been approved and adopted by the Daphne City Council; and

**WHEREAS**, Fiscal Year 2006 begins October 1, 2005; and

**WHEREAS**, it is necessary to extend the authority of the Fiscal Year 2005 budget in order to continue essential departmental operations until such time as the Fiscal Year 2006 budget is approved and adopted.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Daphne, Alabama, that departmental operations shall continue under the authority of the Fiscal Year 2005 budget until such time as the Fiscal Year 2006 budget is adopted.

**APPROVED AND ADOPTED** on this \_\_\_\_\_ of \_\_\_\_\_, 2005.

\_\_\_\_\_  
**Greg Burnam**  
**Council President**  
Date & Time Signed:\_\_\_\_\_

\_\_\_\_\_  
**Fred Small**  
**Mayor**  
Date & Time Signed:\_\_\_\_\_

**ATTEST:**

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

**CITY OF DAPHNE  
ORDINANCE NO.: 2005- 51**

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**AN ORDINANCE TO AMEND CERTAIN PERSONNEL POLICIES AND  
PROCEDURES RELATED TO MODIFICATION OF SALARIES  
AND PERCENTAGE INCREASE OR DECREASE IN PAY**

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**WHEREAS**, the City Council of the City of Daphne, Alabama, has heretofore enacted a schedule of compensation based upon pay plan steps for employees, and;

**WHEREAS**, the City Council of the City of Daphne, Alabama, believes certain inconsistencies and discrepancies exist within the City's personnel policy and procedures, and,

**WHEREAS**, the City Council of the City of Daphne, Alabama, believes that the enactment of this ordinance will correct the conflicts therein;

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

**SECTION ONE:** That Section 4.7.6.3 entitled "**DEMOTION**" be and is hereby deleted and replaced in its entirety as follows:

If an employee is assigned to a position in a lower pay level in the City's compensation plan than his current position, the reassignment will be considered a demotion and his pay will be established at the same relative position and pay range established for his new position as it was in the pay range for his old position. Such pay will be at least two steps below the pay he received prior to the demotion. However, no employee who is demoted will have his pay established below the entry level or above the maximum level of pay for his new position.

**SECTION TWO:** That Section 4.8.3 entitled "**PAY**" be and is hereby deleted and replaced in its entirety as follows:

If an employee is temporarily assigned to a position that is equal or lower in pay level than his regular position, his pay will not change. If the employee is temporarily assigned to a position that is in a higher pay level than his regular position, his pay will not change during the first fifteen (15) working days of the temporary assignment. If the employee remains in the higher rated position for more than fifteen (15) continuous scheduled work days, his pay will be adjusted to the entry level of pay for the temporary job or paid at least two (2) steps higher than his regular pay for the remainder of the assignment. Upon completion of the temporary assignment, the employee's pay will revert to his regular pay.

**SECTION THREE:** That Section 4.9.3.4 entitled "**PAY**" be and is hereby deleted and replaced in its entirety as follows:

The pay of a demoted employee will be reduced to the same relative position in the pay range of the pay level of his new job as it was in the pay range of his old job. Normally, such reduction will be at least two (2) steps below the employee's pay before he was demoted. However, under no circumstances will the pay of a demoted employee be less than the entry level or more than the maximum level authorized for the pay level of the new job.

**SECTION FOUR:** That Section 10.8.1.3 entitled "**DEMOTION**" be and is hereby deleted and replaced in its entirety as follows:

When an employee is demoted to a new job, his pay will be established at the same relative position in the pay range of the pay grade for his new job that it was in the pay range of the job he held prior to his demotion. Such pay will be at least two (2) steps below the pay he received prior to his demotion. However, under no circumstances will a demoted employee's pay exceed the maximum level of pay or be less than the minimum level of pay authorized for the pay grade of his new job.

**SECTION SIX: SEVERABILITY**

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

**SECTION SEVEN: REPEALER**

All Ordinances or parts thereof in conflict with the provisions of this Ordinance, to the extent they conflict, be and are hereby repealed.

**SECTION EIGHT: EFFECTIVE DATE**

This Ordinance shall take effect upon its adoption and publication as required by law.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2005.**

**GREG BURNHAM**  
**Council President**

\_\_\_\_\_  
Date and time signed:\_\_\_\_\_

**FRED SMALL**  
**Mayor**

\_\_\_\_\_  
Date and time signed:\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**DAVID COHEN, City Clerk, MMC**

**CITY OF DAPHNE  
ORDINANCE NO.: 2005- 52**

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**AN ORDINANCE TO AMEND CERTAIN  
PERSONNEL POLICIES AND PROCEDURES  
RELATED TO EMPLOYEE INSURABILITY**

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**WHEREAS**, the City Council of the City of Daphne, Alabama, has established ordinances related to personnel policies and procedures for employees within the City of Daphne, and,

**WHEREAS**, the City Council of the City of Daphne, Alabama, has determined that it is in the best interest of the City to employ and retain individuals who have driving records that can be insured at a preferred rate by the City’s general liability carrier, and,

**WHEREAS**, the City Council of the City of Daphne, Alabama, believes that additional procedures should be enacted to more clearly establish and afford employees a reasonable opportunity to become employed and retain employment within the City as it relates to an employee’s driving record;

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

**SECTION ONE:** That Section 6.7.2.3.1 is hereby created and entitled “**DISMISSAL ACTION REVIEW, EMPLOYEE INSURABILITY**” which shall provide as follows:

- 6.7.2.3.1** (a). That when the City receives information from the City’s general liability carrier that an employee is excluded from having driving privileges and is otherwise uninsurable, the Human Resource Director shall contact the employee and the employee’s supervisor immediately upon notification. The employee shall immediately be placed on leave without pay until such time as the employee is able to provide additional information to the liability carrier, through Human Resources, in the form of a motor vehicle record, accident report or any other documentation so that

the liability carrier may cause a final determination to be made on the employee's insurability.

If such final determination by the City's liability carrier is made that the employee is not insurable, the employee may be dismissed pursuant to the procedures as set forth in Section 6.7.3, and other applicable provisions of the Personnel Policy and Procedure Handbook.

- (b). If an employee is initially excluded from driving privileges by the insurance liability carrier, but it is determined by subsequent investigation or review that the employee is insurable, the employee shall be reinstated and placed on probation with a new motor vehicle report to be generated every six (6) months until such time as the risk associated with the employee has lapsed based upon the liability insurance carrier's criteria. Such action will closely evaluate the employee's driving behavior and record which could result in the insurance carrier's premium or preferred rates of insurance being affected.

**SECTION TWO: SEVERABILITY**

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

**SECTION THREE: REPEALER**

All Ordinances or parts thereof in conflict with the provisions of this Ordinance, to the extent they conflict, be and are hereby repealed.

**SECTION FOUR: EFFECTIVE DATE**

This Ordinance shall take effect upon its adoption and publication as required by law.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2005.**

**GREG BURNHAM**  
**Council President**

\_\_\_\_\_  
Date and time signed: \_\_\_\_\_

**FRED SMALL**  
**Mayor**

\_\_\_\_\_  
Date and time signed: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**DAVID COHEN**  
**City Clerk, MMC**

**ORDINANCE NO. 2005- 53**

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**AN ORDINANCE TO AMEND THE CITY OF DAPHNE LAND USE AND DEVELOPMENT ORDINANCE NO. 2002-22, LANDSCAPE AND TREE PROTECTION AND MINIMUM STANDARDS -FIRE HYDRANTS**

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**WHEREAS**, the Planning Commission of the City of Daphne at their regular meeting held on July 28, 2005, considered certain amendments to the City of Daphne Land Use and Development Ordinance and set forth an affirmative recommendation to the City Council of the City of Daphne that said amendments should be affirmed; and,

**WHEREAS**, due notice of the said amendment has been presented 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 in regard to said amendment to the City of Daphne Land Use and Development Ordinance was held on September 19, 2005; and,

**WHEREAS**, the Mayor and City Council of the City of Daphne, after due consideration, deemed 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**

Article XIX, Landscape and Tree Protection, Sections 19-5, 19-6, 19-7 (b), and 19-15, and Minimum Standards, Special Provisions, Location of Fire Hydrants, Section 11-13, (c) of Daphne Land Use and Development Ordinance, Ordinance No. 2002-22, are hereby repealed in their entirety and replaced with the following:

**ARTICLE XIX  
LANDSCAPE AND TREE ORDINANCE**

**19-5 PROTECTION OF SIGNIFICANT TREES**

An overstory tree species is considered protected as a significant heritage tree if it has a twelve (12) inch or greater caliper. Likewise, an understory tree species is considered protected if it has an eight (8) inch or greater caliper.

Significant trees are hereby protected under this Article and cannot be cut or intentionally harmed without the expressed written permission of the City of Daphne Horticulturist.

**CITY OF DAPHNE  
LANDSCAPE AND TREE PROTECTION  
MINIMUM STANDARDS  
PAGE 2**

**19-6 TREE PROTECTION ZONE**

All lands within one hundred (100) feet of the right-of-way of the four-lane U.S. Highway 98, fifty (50) feet of the right-of-way of Main Street, North Main Street, U.S. Highway 90, and all other (nonresidential) city streets are hereby declared to be tree protection zones.

No tree within these zones shall be removed without first presenting justification based on the criteria noted in Section 19-7 and written approval from the City of Daphne Horticulturist.

**19-7 TREE REMOVAL AND PERMIT PROCEDURES**

(b) Tree Removal Permit:

Any person wishing to remove or relocate a significant tree, a tree located within the tree protection zone, any understory tree with an eight (8) inch or greater caliper, or an overstory with a twelve (12) inch or greater caliper shall submit a written application on the prescribed documents to the City of Daphne Horticulturist accompanied by a site plan. The following criteria must be established in order for the permit to be issued:

- (1) The tree shall be located in an area where a structure or improvement is to be placed in accordance with the proposed plan.
- (2) The tree shall be diseased, injured, in danger of falling too close to an existing or proposed structure, interferes with existing utility service, creates unsafe vision clearance, or conflicts with other Ordinances, Articles, or Regulations.
- (3) The tree shall be prior to or after construction in violation of federal, state, local laws, or regulations including but not limited to laws and regulations pertaining to government programs for the financing of the construction.
- (4) No understory trees greater than eight (8) inches in diameter or greater caliper or an overstory with a twelve (12) inch or greater caliper shall be removed unless it can be shown that the tree is a safety hazard to pedestrians, property or vehicular traffic, is diseased or weakened by age, storm, fire or other injury, or it is absolutely necessary to construct the proposed improvements without incurring significant additional construction costs, or it is necessary for the installation of solar energy equipment.
- (5) A permit may be denied if the tree is considered to have aged or grown to an impressive stature for its species or it is considered an integral part of the natural heritage of the City and the City of Daphne Horticulturist determines there is a reasonable alternative other than the removal of the tree.

**CITY OF DAPHNE  
LANDSCAPE AND TREE PROTECTION  
MINIMUM STANDARDS  
PAGE 3**

**19-15 MAINTENANCE**

Maintenance of new plantings is the responsibility of the property owner. Any vegetation trees planted or retained to fulfill this which dies, becomes damaged, or diseased must be replaced by the property owner by the beginning of the optimum planting season of the following year. The property owner must notify the City of Daphne Horticulturist in writing when the replacement tree(s) and vegetation have been planted. D

**ARTICLE XI  
MINIMUM STANDARDS AND REQUIRED IMPROVEMENTS**

**11-13 SPECIAL PROVISIONS**

(c) Location of Roadway Fire Hydrants:

Roadway fire hydrants shall be installed along each street at the center of each block and at one corner of each roadway intersection, provided, however, that in no event shall fire hydrants be spaced so that any fire hydrant is located more than 600 feet from another fire hydrant. The water supply and pressure shall be sufficient to provide adequate fire protection and the future needs of the intended land use. Additional fire hydrant placement may be required on the interior of developed lots pursuant to local ordinance and fire regulations as adopted by the City.

**SECTION 2: REPEALER.**

All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance, in so far as they conflict, are hereby repealed.

**SECTION 3: SEVERABILITY.**

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence, or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of said Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof separately and independently of each other.

**CITY OF DAPHNE  
LANDSCAPE AND TREE PROTECTION  
MINIMUM STANDARDS  
PAGE 4**

**SECTION 4: EFFECTIVE DATE.**

This Ordinance shall be in full force and effect upon its adoption and publication as required by law.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF DAPHNE, ALABAMA, ON  
THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.**

**CITY OF DAPHNE**

\_\_\_\_\_  
**Greg Burnam, Council President**

Date & Time Signed: \_\_\_\_\_

\_\_\_\_\_  
**Fred Small, Mayor**

Date & Time Signed: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**David Cohen, City Clerk, MMC**

**ORDINANCE NO. 2005- 54**

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE LIMITS  
OF THE MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA  
The Krystal Ridge Subdivision  
(Property located at County Road 13)**

**BE IT ORDAINED BY THE MAYOR AND 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 August 25, 2005 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned R-3, High Density Single Family Resident , zone**; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on October 3, 2005 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 MAYOR AND CITY  
COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, as follows:

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

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

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

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

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

**"EXHIBIT A"  
LEGAL DESCRIPTION**

Commencing at the Northeast corner of Lot 2 of ESCC South Subdivision as per its plat recorded on Slide 2214-C in the Judge of Probate's Office, Baldwin County, Alabama, run South 00° 22' 41" West, along the East line of said Lot 2, 153.5 feet, more or less, to the intersection of the South line of the North Half of the Southwest Quarter of Section 3, Township 4 South, Range 2 East, Baldwin County for the Point of Beginning; thence run West along said South line, 563.3 feet to a point on the East Right-of-way line of County Road 13; thence run South 13° 55' 30" West, along said East Right-of-way line, 223.35 feet to an iron pin; thence run South 89° 37' 58" East, 616.98 feet to an iron pin; thence run North 00° 22' 41" East, 226.55 feet to the Point of Beginning. Intending to describe all that property between the South line of Lot 2 and the Existing City of Daphne's City Limits. Said parcel contains 3.04 acres, more or less.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF  
THE CITY OF DAPHNE, ALABAMA on this \_\_\_\_\_ day of \_\_\_\_\_, 2005.**

\_\_\_\_\_  
**Greg Burnam  
Council President**

Date & Time Signed: \_\_\_\_\_

\_\_\_\_\_  
**Fred Small  
Mayor**

Date & Time Signed: \_\_\_\_\_

**ATTEST:**

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