

**CITY OF DAPHNE
CITY COUNCIL BUSINESS MEETING AGENDA
1705 MAIN STREET, DAPHNE, AL
OCTOBER 16, 2006
6:30 P.M.**

1. CALL TO ORDER

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

3. APPROVE MINUTES: Council Minutes meeting held October 2, 2006

PRESENTATION: Pfil Hunt / Gardyner Michael Captial

4. REPORT STANDING COMMITTEES:

A. FINANCE COMMITTEE – Scott

Review minutes Special meeting October 2nd

Review minutes meeting held October 9th

1.) Prepaid Travel / Resolution 2006-83

David Cohen, City Clerk / 41st Annual Municipal Management Training Institute for City Clerks and Administrators / November 15-17. 2006 / Birmingham, AL / \$105

2.) Bids:

1.) Cedar Circle/Bryant Gully / Phillips & Jordan, Inc. / Resolution 2006-84

2.) Whiting Court / Phillips & Jordan, Inc. / Resolution 2006-85

3.) Village Point Park / Yancey Branch/Lakeview Loop / ERS, Inc. / Resolution 2006-86

4.) Athletic Field Marking Paint / Pioneer Manufacturing Co. / Resolution 2006-87

3.) Motions:

Pay Exception: Tonja Young, Library Director

4.) Resolutions:

Surplus Property/Equipment

1.) Scrap Metal / Resolution 2006-88

2.) Vehicles/Furniture / Resolution 2006-89

5.) Daphne High School Stadium

1.) Baldwin County Board of Education Agreement / Resolution 2006-90

2.) Amend Fiscal Year 2007 Budget / Appropriation: DHS Stadium / Ordinance 2006-78

6.) Financial Reports:

1.) Treasurers Report / September 30, 2006

2.) Sales & Use Tax Collection Graphs / August 31, 2006

3.) Lodging tax Collections, August 31, 2006

B. BUILDINGS & PROPERTY - Lake

Review minutes meeting held October 6th

1.) **MOTION:** Recommend that a sign indicating that the facility had been dedicated to Richard Scardamalia be erected at the pavilion

C. PUBLIC SAFETY - Burnam

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Landry

E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Yelding

Review Beautification minutes meeting held October 6th

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

- A. Board of Zoning Adjustments - Eady**
- B. Downtown Redevelopment Authority - Barnette**
Review minutes meeting held October 9th
- C. Industrial Development Board - Yelding**
Review minutes meeting held September 25th
- D. Library Board - Lake**
- E. Planning Commission - Barnette**
Review minutes meeting September 28th
- F. Recreation Board - Palumbo**
- G. Utility Board - Scott**

6. REPORTS OF OFFICERS:

- A. Mayors Report**
 - a.) Approval of date and requests from ES Chamber for the 2007 Jubilee Festival / Letter with requests included in packet / September 29-30, 2007
 - b.) ABC License / Ollie’s Barbeque / 060 Retail Table Wine & 040 Retail Beer
(Background check done previously for Liquor License – included in packet)
 - c.) Parade Permit / Mystic Order of Persephone Mardi Gras Parade / February 16, 2007 / Rain Date February 19, 2007
 - d.) Land Swap between AIG Baker & City regarding Starbucks / Resolution 2006-82
 - e.) Authorize Mayor to enter into an agreement with Moody Electric to build the stairs at the Fire Tower / Resolution 2006-91
- B. City Attorney’s Report**
- C. Department Head Comments**

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) Development Agreement AIG Baker / Land Swap/Resolution 2006-82
- b.) Prepaid Travel / David Cohen...../Resolution 2006-83
- c.) Bid Award: Cedar Circle/Bryant Gulley / Phillips & Jordan, Inc...../Resolution 2006-84
- d.) Bid Award: Whiting Court NRCS / Phillips & Jordan, Inc...../Resolution 2006-85
- e.) Bid Award: Village Point Park / Yancey Branch / Lakeview Loop / ERS, Inc/Resolution 2006-86
- f.) Bid Award: Athletic Field Marking Paint / Pioneer Manufacturing...../Resolution 2006-87

- g.) Declaring Certain Property Surplus and Authorize Mayor to Dispose of Such Property...../Resolution 2006-88
- h.) Declaring Certain Property Surplus and Authorize Mayor to Dispose of Such Property...../Resolution 2006-89
- i.) Agreement – Daphne High School Stadium...../Resolution 2006-90
- j.) Authorize Mayor to Enter Into an Agreement with Moody Electric...../Resolution 2006-91

ORDINANCES:

2ND READ

- a.) Annexation / Pollard Group / Property Located SE of the Intersection of County Road 64 and Pollard Road (7.46 Acres)...../Ordinance 2006-77

1ST READ

- b.) Appropriation of Funds: Amend the Fiscal Year 2007 Budget / Daphne High School Stadium...../Ordinance 2006-78

9. COUNCIL COMMENTS

10. ADJOURN

**CITY OF DAPHNE
CITY COUNCIL MEETING**

ROLL CALL

CITY COUNCIL:

CALL VOTES

COUNCILMAN YELDING

PRESENT__ ABSENT__ __

COUNCILWOMAN BARNETTE

PRESENT__ ABSENT__

COUNCILMAN LAKE

PRESENT__ ABSENT__ __

COUNCILMAN BURNAM

PRESENT__ ABSENT__ __

COUNCILMAN SCOTT

PRESENT__ ABSENT__ __

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

**OCTOBER 2, 2006
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

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

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Councilman Lake gave the invocation.

COUNCIL MEMBERS PRESENT: Bailey Yelding; Cathy Barnette, John Lake; Greg Burnam; Ron Scott; Regina Landry; August Palumbo.

Also Present: Mayor Fred Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Meredith Turpin, Attorney; Bill Eady, Planning Director; Ken Eslava, Public Works Director; Kim Briley, Finance Director; Richard Merchant, Building Official; David McKelroy, Recreation Director; Sharon Cureton, Human Resource Director; Tonja Young, Library Director; David Carpenter, Police Chief; Mund Hanson; Fire Chief; Suzanne Henson, Senior Accountant; Capt. Joey Holasz, Fire Department; Josh Harlan, Fireman/Paramedic; Al Guarisco, Village Point; Starke Irvine, DRA; Jeff Hudson, DRA.

Absent: Sandra Morse, Civic Center Director.

3. APPROVE MINUTES:

MOTION BY Mrs. Barnette to approve the Council Work Session minutes meeting held September 14, 2006. *Seconded by Mrs. Landry.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to approve to Council minutes meeting held September 18, 2006. *Seconded by Mrs. Landry.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

PRESENTATION: Book Mark Awards / Tonja Young, Library Director / Michele Ott, Children’s Librarian

Ms. Tonja Young, Michele Ott, Mayor Small, John Lake and August Palumbo presented the awards to the students who received awards for their book marks.

**OCTOBER 2, 2006
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

- PUBLIC HEARINGS:** 1.) Amending the Land Use and Development Ordinance / Residential High Rise Development District / **Ordinance 2006-76**
- 2.) Annexation: Pollard Group, LLC / Property located SE of the intersection of County Road 64 and Pollard Road (7.46 Acres) / **Ordinance 2006-77**

1.) Amending the Land Use and Development Ordinance / Residential High Rise Development District

Mr. Eady gave a presentation stating that on August 24, 2006 at the regular meeting of the City of Daphne Planning Commission eight members were present and an affirmative recommendation was made to present an Ordinance to Council for the purpose of providing opportunity for high rise density urban type residential development exceeding 50 feet in height. The area is described as being located on the west side of US Highway 98 extending from the south side of Interstate 10 south to Van Buren Street. He stated that the instructions given to the Planning Commission was to come up with a height and a definite location for residential high rise. He said that this is the location that is recommended and that this will be the only place at this particular time in Daphne that a residential high rise can be constructed.

Council President Burnam opened the Public Hearing at 6:46 p.m.

No one spoke for or against the proposed Ordinance.

Council President Burnam closed the Public Hearing at 6:46.30 p.m.

2. Annexation: Pollard Group, LLC / Property located SE of the intersection of County Road 64 and Pollard Road. (7.46 Acres)

Mr. Eady gave a presentation stating that at the August 24, 2006 Planning Commission meeting eight members were present and gave an affirmative recommendation for the annexation of 7.46 acres off of Pollard Road for the purpose of building condos, and are requesting an R-4 zoning designation. Mr. Eady said that they have been before Council before with smaller acreage of about three to three and a half (3-3½ acres) that has already been annexed into the city.

Council President Burnam opened the Public Hearing at 6:48 p.m.

No one spoke for or against the annexation.

Council President Burnam closed the Pubic Hearing at 6:49 p.m.

OCTOBER 2, 2006
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE – Scott

Mr. Scott stated that the next committee meeting will be October 9th at 5:00 p.m. in the Executive Chambers. He stated that the committee met before the Council meeting to go over a bid award and pre-qualifications of vendors for the city hall renovation.

MOTION BY Mr. Scott to approve that the five (5) vendors listed below are the only ones that will be allowed to bid on the new city hall addition:

Trademark Construction, Inc.
Rod Cooke Construction, Inc.
TerMac Construction, Inc.

Witherington Construction Corp.
Stuart Construction

Seconded by Mr. Yelding.

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

MOTION CARRIED

Mr. Scott stated that the bids will be opened October 26th.

Mr. Scott stated that at the Work Session there was discussion of appointing a committee to research the salary of appointed officials, the city judge and prosecutor. Mr. Scott named three (3) individuals, Ernie Berger, Louis Nady and Willie Robison who are willing to serve on this committee and asked the Council to approve the appointment.

MOTION BY Mr. Scott to ratify Mr. Ernie Berger, Mr. Louis Nady and Mr. Willie Robison as a committee to study the salary and pay schedule of appointed officials, city judge and city prosecutor.

Seconded by Mrs. Barnette.

Mr. Scott stated that the committee will bring their findings to the Finance Committee who will then report them to the Council with no recommendation.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

B. BUILDINGS AND PROPERTY COMMITTEE - Lake

The next meeting will be Friday at City Hall at 10:00 a.m.

**OCTOBER 2, 2006
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

C. PUBLIC SAFETY COMMITTEE - Burnam

The committee will meet tomorrow at 4:30 in the Council Chambers. Council President Burnam invited the public to attend.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Landry

Mrs. Landry stated that the committee will meet right after the Public Safety meeting tomorrow, and that they will be considering the Fire Code Ordinance.

E. PUBLIC WORKS COMMITTEE - Yelding

Mr. Yelding stated that the minutes are in the packet for the last meeting, and that the next meeting will be October 27th at 8:00 a.m. in the Council Chambers.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. BOARD OF ZONING ADJUSTMENTS - Eady

Mr. Eady stated that the board will meet October 5th at 6:00 p.m. with one appeal which is a set back encroachment at 1133 Captain O'Neal Drive.

Mr. Yelding stated that he needed to add something to his Public Works report. He stated that the Beautification Committee is in need of additional people from districts #1, #3 and #6. He stated that two (2) people from each of those districts are needed.

B. DOWNTOWN REDEVELOPMENT AUTHORITY - Barnette

Mrs. Barnette stated that the next meeting will be October 9th at 5:30 p.m. in the Council Chambers. She stated that there is a momentum going in the Olde Towne District.

C. INDUSTRIAL DEVELOPMENT BOARD - Yelding

The next meeting will be October 3rd in the Council Chambers.

Mrs. Barnette stated that she will be submitting a resume' from District #2 for consideration.

Mr. Cohen stated that there are two (2) openings on the Board.

D. LIBRARY BOARD - Lake

Mr. Lake reported that the board will meet on Monday, October 9th.

Mr. Palumbo stated that they will discuss the potential kickoff fundraiser for the Library expansion.

E. PLANNING COMMISSION - Barnette

Mrs. Barnette stated that the commission met last Thursday, and the Site Review meeting will be October 18th at 8:00 a.m. in the Council Chambers. *Mrs. Barnette* stated that a public hearing needed to be set for November 6th to consider an annexation of property on Public Works Road owned by Mildred Lett Sloan..

OCTOBER 2, 2006
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

MOTION BY Mrs. Barnette to set a Public Hearing for November 6, 2006 to consider annexation of property located directly across from the Public Works facility on Public Works Road owned by Mildred Lett Sloan. *Seconded by Mr. Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

F. RECREATION BOARD - Palumbo

Mr. Palumbo stated that the board had not met since the last meeting, and will be meeting on Wednesday, October 11th at 6:00 p.m. in the Council Chambers.

G. UTILITY BOARD - Scott

Mr. Scott stated that the board met last Wednesday and the minutes will be in the next packet. He stated that there was a citizen from Haley's Lane at the meeting requesting sewer, but there was a problem in that Haley's Lane is a private lane. Mr. Scott stated that there are water meters down there that shouldn't be there, but that was done a long time ago. He stated that they are trying to work things out for this citizen.

6. REPORTS OF OFFICERS:

A. Mayor's Report

Mayor Small stated that the Planning Commission now has a full staff. He stated that he appointed Ms. Victoria Phelps as the ninth member. Mayor Small introduced Ms. Phelps to the Council.

B. City Attorney's Report

No report.

C. Department Head Comments

David McKelroy – Recreation Department Director – stated that Friday Daphne High School will be playing Foley.

Ken Eslava – Public Works Director - reported that the last days of Dauphine Acres sewerage is under way, construction has begun. Dryer public access to Mobile Bay per Dryer Avenue is under construction. He stated that the circus is coming to town Wednesday and Thursday night this week at Trione Complex. Mr. Eslava stated that several NRCS projects are kicking off, one down at D'Olive Branch off Lakeview Loop in Lake Forest, and the other at Yancey Branch and Village Point Park. He stated just a word of warning to the public that in a couple of weeks Village Point Park and the access road down through it is likely to be closed for four (4) to five (5) weeks while the remediation project takes place. He reported that the Public Health Department in joint effort with the Baldwin County EMA will on Tuesday, October 14th will be distributing up to 5,000 free flu shots.

**OCTOBER 2, 2006
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

7. PUBLIC PARTICIPATION:

Mr. John Tolbert – Daphne – (Verbatim) stated that I am here to address the Council tonight and the Mayor and all the city officials. I have been having an ongoing problem for the last 12 or 13 years with employment with the City of Daphne. I was dismissed from my job 12 years ago for a racial act that I did not cause, but was cause by a city employee, but still he is employed with the City of Daphne at this time. For the last 12 years I have come in weekly, monthly, time and time again and put an application in for positions throughout the city and all I can get in the end is that we have filled the position. Something is wrong here in Daphne, when I know that I am a native of Daphne, a taxpayer of Daphne, a man that gets all my utilities from Daphne, and outsiders still come into the City of Daphne and get paying jobs that keep people like me out that is more native American of Daphne. Every time I talk with ya'll here I'm denied, I'm denied, I'm denied someone always has a better application than me. I want to know what is wrong with this system. I do know partially what is wrong with it, maybe Public Works, some of those that were here 12 years ago under the Brown administration. I've spoken to Mayor Small several times about this, I have spoken to Councilman Lake, I have spoken to Councilman Yelding, something needs to did about the issue. If I'd commit such a heinous act that I should be denied to work in my city where I live and pay taxes it needs to be addressed tonight, and then you got others on the outside from Mobile County, Pensacola, Marshall Parsons, you might as well bring it out, I know that you will have to look into it anyhow, I did not create this act of starting this war with Daphne 12 years ago, it was what he did and what he said that caused me to take civil action for myself. So I am coming tonight before the Council, before the Mayor and before the citizens of Daphne to find out what is wrong with this city, why can I live in this city and not work for this city.

Council President Burnam said let me tell you what our roll is with personnel, aside from appointing a few department heads, we do not get involved in personnel, we don't get involved in the day to day hiring, we don't get involved with the day to day supervision of it. By law we are not supposed to. So, what I would suggest would be to set up an appointment with our Human Relations Director.

Mr. Tolbert said I have used all types of approaches already for somebody to look into this issue. Now ya'll are hired city officials, and when cases like this come up what could cause a person to bring civil action against the city again, it is time to look into it, it is time to correct it. That is what the City Council and Mayor is put here for. I am trying to do this civil without going through a lot of red tape, a lot of lawyer, a lot of legalities, it is time for somebody to stop and look into this thing.

Council President Burnam stated Mr. Tolbert your three (3) minutes are up, and my suggestion would be to set up a meeting with Mrs. Cureton, which is our Human Relations Director, if you have not done that and go from there.

Mr. Tolbert said I will take that step and see where it leads.

(End Verbatim)

Mr. Starke Irvine – 304 Bay Hill Drive – congratulated whoever was responsible for the new city website. He said that it is now easier to find things. He said the forms are not interactive and thinks some of them should be. He stated that the web page is wonderful.

OCTOBER 2, 2006
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

8.) RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS

- a.) Bid Award / 2006-II-Horticulture Chemicals /
Southern Turfcare...../Resolution 2006-81

MOTION BY Mrs. Barnette to waive the reading of Resolution 2006-81. *Seconded by Mr. Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to adopt Resolution 2006-81. *Seconded by Mr. Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCES:

2ND READ

- a.) Adopting the Fiscal Year 2007 Budget...../Ordinance 2006-75

1ST READ

- b.) Amending the Land Use & Development Ordinance /
Residential High Rise Development District...../Ordinance 2006-76

- c.) Annexation / Pollard Group / Property Located SE of the
Intersection of County Road 64 and Pollard Road
(7.46 Acres)...../Ordinance 2006-77

OCTOBER 2, 2006
 CITY COUNCIL MEETING
 1705 MAIN STREET
 DAPHNE, AL
 6:30 P.M.

MOTION BY Mrs. Barnette to waive the reading of Ordinance 2006-75. Seconded by Mr. Lake.

Mr. Palumbo stated for the record and for the benefit of the employees that this budget as written includes a 3% cost of living adjustment. He said that he has received some phone calls and e-mails by employees about the increase, and he wanted to point out to the employees that this budget also includes payment in full of the entire insurance premium increase, which he believes is to the tune of \$100,000, that if this budget is passed, that none of this increase will go on to the employees. He wanted to let the employees know that he thinks that by not having to pay any portion of the increase that this is a financial benefit.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to adopt Ordinance 2006-75. Seconded by Mr. Yelding.

AYE ALL IN FAVOR NAY NONO OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to suspend the rules to consider Ordinance 2006-76. Seconded by Mr. Scott.

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 2006-76. Seconded by Mrs. Landry.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

OCTOBER 2, 2006
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

MOTION BY Mrs. Landry to adopt Ordinance 2006-76. Seconded by Mr. Yelding.

Mrs. Barnette stated for the record that she disagrees with the 200 feet height limit.

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

NAY Barnette

MOTION CARRIED

ORDINANCE 2006-77 WAS MADE A 1ST READ

9. COUNCIL COMMENTS:

Mrs. Barnette commended Shannon Spivey, the Mayor's Assistant, for her hard work on the website. She stated that it really is fantastic, and she knows a lot of time went into this, and she just wanted this to get back to her, and let her know that the Council appreciates the work that she did. She said that she knows that David and Becky helped a little bit as well, but that Shannon really took it forward.

Mr. Lake commented that he wants to Council to consider a no smoking ordinance for the city. He stated that he was in a restaurant in Fairhope and he enjoyed his meal without having smoke all around. He stated that he would like the Council to look at that and review some ordinances, and he hopes that the Ordinance Committee will consider a no smoking ordinance.

Council President Burnam requested that this issue be put on the work session agenda for this month. He stated that if it seems to have momentum, then they will go from there.

Mr. Scott stated that the Council had a presentation from a group from Daphne High School about the expansion of the stadium, and they are in a tight time line. He said that the Board of Education meets on October 16th and for the board to give them the go ahead the High School has to have the commitment of dollars. He stated that he previously said that if the School Board gave \$1,000,000, and then hopefully, the County Commission, who has set a precedent in that they have pledged a half million dollars to Spanish Fort for their new stadium, so maybe they will contribute towards the Daphne stadium, that he is not opposed to funding the project. He asked the Council to think about this, and that this is something which, if possible, to have on the work session agenda.

Mrs. Landry stated that she also appreciates the website, although, she stated that the agenda is still hard to find. She asked if it could be moved to the home page for easier access. She reminded Council that if they want to ride in the Christmas parade that they need to fill out the form now and get it turned in to Recreation some time this month.

**OCTOBER 2, 2006
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

Mr. Palumbo agreed with Mr. Lake that the no smoking issue will not go away. He agrees with putting it on the work session. He said that he agrees with going to a general work session instead of a committee. He stated that he supports Mr. Scott asking that the Daphne stadium project be put on the work session agenda, which would give the Council enough time to take action if they so desire. He stated that he wanted to let everyone know that tomorrow night at the Fairhope city stadium the Baldwin County High Schools music program will have their band jamboree. He said that this is where all the seven (7) high schools will come and do their half time show, one behind the other. He stated that they rotate the stadiums from year to year. This year it is at Fairhope. He said it starts at 6:00 p.m.

10. ADJOURN

MOTION BY Mr. Lake to adjourn. Seconded by Mrs. Barnette.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO DISUCSS, THE MEETING ADJOURNED AT 7:28 P.M.

Respectfully submitted by,

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

Certification of Presiding Officer:

**Greg Burnam,
Council President**

Date & Time Signed: _____

**CITY COUNCIL MEETING
STANDING COMMITTEE RECOMMENDATIONS:**

FINANCE COMMITTEE REPORT

BUILDINGS & PROPERTY COMMITTEE REPORT

PLANNING/ZONING/CODE ENFORCEMENT COMMITTEE REPORT

PUBLIC SAFETY/ORDINANCE COMMITTEE REPORT

PUBLIC WORKS/BEAUTIFICATION/MUSEUM COMMITTEE REPORT

CITY OF DAPHNE
SPECIAL FINANCE COMMITTEE MINUTES
October 2, 2006 - 5:45 P.M.

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 5:50 p.m. Present were Chairman Ron Scott, Councilman Bailey Yelding, Finance Director Kim Briley, and Senior Accountant Suzâne Henson..

Councilwoman Regina Landry arrived at 5:55.

Also in attendance were Mayor Fred Small, Public Works Director Ken Eslava, Building Official Richard Merchant, and City Architect Jeff Hudson, Gatlin Hudson Architects.

II. PUBLIC PARTICIPATION

III. ISSUES REQUIRING ACTION BY CITY COUNCIL

A. Bid: 2006-II-Horticultural Chemicals

Mr. Eslava submitted comparison spreadsheet for vendors and a recommendation that the bid be awarded to Southern Turfcare. Mr. Eslava noted the bids were very close therefore past service and location of business were also evaluated.

Motion by Mr. Yelding to recommend to Council to adopt a resolution awarding Bid Number: 2006-II-Horticultural Chemicals to Southern Turfcare for unit cost as bid. Seconded by Mr. Scott.

B. Approve Vendors for Pre-Qualification: City Hall Project Bid (*Motion*)

Discussion was made regarding the advertisement of the City Hall Alterations and Additions Bid. As required in the advertisement, five vendors submitted Pre-Qualification Applications. All five were reviewed and recommended as qualified to bid. Ms. Henson noted that a spreadsheet summarizing the contractor's responses to the application were presented for review. Mr. Jeff Hudson explained this would be the only five who could submit a bid (as specified in the advertisement) and that this process would ensure that only qualified bidders bid on the project. Mayor Small noted that construction would begin December 1, 2006 – Phase I will take an estimated 11 months to complete and Phase II approximately 6 months.

Motion by Mr. Yelding to recommend to Council to approve the following contractors:

***Trademark Construction Inc.
Rod Cooke Construction Inc.
TerMac Construction Inc.
Witherington Construction Corp.
Stuart Construction***

as qualified bidders for the City Hall Alterations & Additions Contract. Seconded by Ms. Landry.

C. Appointing a Committee to review the Pay Schedule of appointed officials (*Motion*)

Mr. Scott noted that this was previously discussed at a Council Work Session and that it was being brought to Finance Committee for review and recommendation to the City Council. Mr. Scott noted this committee would be researching surrounding municipalities pay schedules for elected officials, City Judge, and City Prosecutor. The findings will be compared to the City of Daphne's pay rates. Discussion was made that Mr. Scott's recommendation to appoint: Mr. Ernie Berger, Mr. Louis Nady, and Mr. Willie Robison be brought to the full Council for a vote.

IV. ADJOURN

The meeting was adjourned at 6:10 pm.

**CITY OF DAPHNE
FINANCE COMMITTEE MINUTES
October 9, 2006
4:00 P.M.**

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 4:00 pm. Present were Chairman Ron Scott, Councilman Bailey Yelding, Finance Director Kim Briley, Senior Accountant Suzanne Henson, and Accountant Donna Page.

Absent was Councilwoman Regina Landry.

Also in attendance was Public Works Director Ken Eslava. Mayor Fred Small arrived at 4:20 p.m.

II. PUBLIC PARTICIPATION

There was no public present.

III. ISSUES REQUIRING ACTION BY CITY COUNCIL

A. Prepaid Travel

David Cohen, City Clerk, 41st Annual Municipal Management Training Institute for City Clerks and Administrators, November 15 -17, 2006, Birmingham, Alabama - \$105.00.

Motion by Mr. Yelding to recommend to Council to adopt a resolution approving prepaid travel for David Cohen in the amount of \$105.00 to attend the 41st Annual Municipal Management Training Institute for City Clerks and Administrators in Birmingham, Alabama, November 15 – 17, 2006. Seconded by Mr. Scott.

B. Bids

1. 2006-DD-Cedar Circle/Bryant Gully

Three bids were received for the USDA NRCS EWPP Agreement: 69-4101-6-30, Cedar Circle / Bryant Gully DAP-0905-06. Mr. Ken Eslava recommended the low bid of \$205,355.00 from Phillips & Jordan Inc. be accepted.

2. 2006-EE-Whiting Court

Two bids were received for the USDA NRCS EWPP Agreement: 69-4101-6-30, Whiting Court DAP-0905-02. Mr. Eslava recommended the low bid of \$598,557.00 from Phillips & Jordan Inc. be accepted.

3. 2006-FF-VP Park / Yancey Branch / Lakeview Loop

No bids were received by the deadline for the USDA NRCS EWPP Agreement: 69-4101-6-30, Village Point Park / Yancey Branch DAP-0905-03 / Lakeview Loop DAP-0905-05. Mr. Eslava requested proposals for a negotiated contract (as allowed by State Bid Law) and two were received. Mr. Eslava discussed that after review of the two proposals, one bid, H. E. Newell Inc., was found to have significant errors. Mr. Eslava and City engineers (HMR, LLC) recommend the contract be awarded to ERS, Inc. in the amount of \$667,535.80.

Motion by Mr. Yelding to recommend to Council to adopt a resolution awarding the following bids and negotiated contract:

- ***2006-DD-Cedar Circle /Bryant Gully to Phillips & Jordan Inc in the amount of \$205,355.00***
- ***2006-EE-Whiting Court to Phillips & Jordan Inc in the amount of \$598,557.00***
- ***2006-FF-VP Park/Yancey Branch/Lakeview Loop (negotiated contract) to ERS, Inc. in the amount of \$667,535.80.***

Seconded by Mr. Scott.

4. 2007-B-Athletic Field Marking Paint

One bid was received for 2007-B-Athletic Field Marking Paint from Pioneer Manufacturing Company. A letter from Mr. David McKelroy, Recreation Director, was submitted recommending that this bid be accepted and stating that it is reasonable and that prior service by Pioneer has been outstanding.

Motion by Mr. Yelding to recommend to Council to adopt a resolution awarding Bid Number 2007-B-Athletic Field Marking Paint to Pioneer Manufacturing Company for unit cost as bid. Seconded by Mr. Scott.

C. Declare Property Surplus:

1. Scrap Metal

Ms. Suzâne Henson reported that the City has an accumulation of scrap metal from various equipment / projects that needs to be disposed of (dumpster located at Mechanical department). Ms. Henson noted that this resolution would authorize the Mayor to approve disposition of scrap metal as required. Ms. Henson noted that this would streamline the process of disposing of scrap metal similar to the resolutions adopted for disposition (through recycling) of old computers and appliances.

2. Schedule A – Vehicles / Furniture

A Surplus Schedule listing three vehicles and three desks was presented for approval to be declared surplus. Ms. Henson stated that after receiving the surplus list from the department, two of the three desks listed on Schedule A were requested to be transferred to another department and therefore will be removed from the list. Ms. Henson explained that all departments are given a list of items submitted for surplus and given the opportunity to transfer the items to their department if needed before the items are auctioned.

Motion by Mr. Yelding to recommend to Council to adopt the following resolutions declaring certain personal property surplus and authorizing the Mayor to dispose of such property.

- ***Scrap Metal***
- ***Schedule A – Vehicles / Furniture***

Seconded by Mr. Scott.

D. Request Pay Exception – Tonja Young - Library Director Position

A memorandum from Mr. Glenn Swaney, Daphne Library Board, was presented requesting that Ms. Young's salary be adjusted upward to a Pay Grade 29, Step 4, \$44,570.00 annually. Mayor Small noted this request is following the pay exception procedure as previously approved by City Council.

Motion by Mr. Yelding to present to Council the request for adjusting Ms. Tonja Young, Library Director's, salary to Pay Grade 29, Step 4, \$44,570.00 annually. Seconded by Mr. Scott.

IV. CURRENT BUSINESS

A. 2006-BB-Daphne Fire Tower Stairs

Fire Chief Mund Hanson is discussing this project with several contractors, but does not currently have a contract to present to the Committee. The Fire Tower Stairs were tabled to a future meeting.

B. Daphne High School Stadium Proposal

Ms. Briley presented a worksheet showing the costs involved with three funding commitment possibilities. Mr. Scott discussed that the County Commission should be asked to provide \$500,000.00 toward the costs since the County will get use from it also. Mr. Yelding noted that he was not for cutting back on the plans. It was discussed that this proposal is on the Council Work session Thursday for the full Council to discuss, so no recommendation was made at this time.

C. Special Finance Committee Meeting for November 6, 2006, to review City Hall Alterations & Additions Bid

Ms. Henson stated that the City Hall Alterations & Additions bid will be opened October 26, 2006. The Committee agreed to meet at 5:45 p.m. November 6, 2006, prior to the Council meeting to discuss the submitted bids.

V. FINANCIAL REPORTS

A. Treasurer's Report: September 30, 2006

The Treasurer's Report of \$24,204,210.40 was presented. Ms. Briley noted that there was no significant change from last month, which is to be expected at this time of the year.

Motion by Mr. Yelding to recommend to Council to accept the Treasurer's Report as of September 30, 2006, in the amount of \$24,204,210.40. Seconded by Mr. Scott.

B. Sales and Use Taxes: August 31, 2006

The sales and use taxes collection spreadsheet and graphs as of August 31, 2006 were presented. Collections for August 2006 were \$950,539.01. Mr. Scott noted that collections were \$74,722.41 over budget. Ms. Briley discussed that this is a 9.28% increase over August of last year. Mr. Scott discussed that this also included the tax holiday weekend.

C. Lodging Tax Collections, August 31, 2006

The Lodging Tax Collections report shows \$43,139.77 collected for August 2006. Mr. Scott noted that this is an increase of approximately \$6,000.00 from August 2005.

D. Summary Report of Revenues and Expenditures - August 31, 2006

The Summary Report of Revenues and Expenditures was presented. Ms. Briley discussed that Revenues over Expenditures as of August 31 is \$1,247,615.00.

E. Report of New Business Licenses – August & September 2006

Lists showing new Businesses for the months of August and September were presented.

F. Bills Paid Report – September 30, 2006

The Bills Paid Report was contained in Packet #2. Mr. Scott discussed the Taste of Eastern Shore disbursements to Daphne High School from the fund raiser and that the event was successful.

VI. ADJOURN

The meeting was adjourned at 4:40 pm.

PREPAID TRAVEL REQUEST FORM

EMPLOYEE NAME/TITLE	DAVID L. COHEN
DEPARTMENT	LEGISLATIVE
DATES OF TRAVEL	NOVEMBER 15-17, 2006
SCHOOL/ORGANIZATION	41 ST ANNUAL MUNICIPAL MANAGEMENT TRAINING INSTITUTE FOR CITY CLERKS & ADMINISTRATORS
LOCATION FOR TRAINING: CITY/STATE	BIRMINGHAM, AL
REGISTRATION FEE	\$235.00
LODGING	\$288.00
TOTAL ADVANCE REQUESTED ($\\$35 \times \#$ OF DAYS)	\$105.00

A complete Expenses Report with itemized receipts must be submitted upon return. The employee understands that proper itemized receipts must be submitted for all monies expended. Any remaining balance must be reimbursed to the City or this amount will be included as taxable income on the employee's W-2.



 Department Head Approval

 Employee Signature David L Cohen

 Vendor # 3988

 Dept # 120200 / Object # 52211 / Proj # 16

***PREPAID TRAVEL IS APPROVED BY THE FINANCE COMMITTEE THEN COUNCIL -PLEASE SUBMIT IN TIME TO ALLOW SUFFICIENT TIME FOR THESE APPROVALS.**

***ATTACH A COPY OF THE BROCHURE/REGISTRATION FORM FOR TRAINING EVENT ATTENDING - THE ATTACHED COPY SHOULD DISPLAY PURPOSE, DATES, AND COST OF TRAINING EVENT.**

Revised 3/06



TENTATIVE AGENDA

November 15-17, 2006, Hilton Perimeter Park Hotel, Birmingham, Alabama

Wednesday, November 15

- | | | | |
|------------|---|------------|--|
| 12:30 p.m. | Newcomers Welcome and Early Bird Registration
(Conference Registration Desk) | 12:00 p.m. | Luncheon
Business Meeting &
Presentation of Awards |
| 3:00 p.m. | Contracts for Dummies
Ken Smith , Deputy Director/Chief Counsel, ALM, Montgomery | 1:15 p.m. | Business Writing
Ruth Beaumont Cook , Communication Skills Consultants, Birmingham, |
| 5:30 p.m. | President's Reception
Hosted by Corporate Sponsors | 2:45 p.m. | Refreshment Break |
| | | 3:00 p.m. | Employment Law: Personnel, FMLA
Gregg Smith , Attorney, Birmingham |

Thursday, November 16

- | | | | |
|-----------|---|-----------|---|
| 7:30 a.m. | Registration, Coffee & Danish
(Conference Registration Desk and Pre-function Foyer) | 4:30 p.m. | Adjourn |
| 8:30 a.m. | Welcome
Presiding: Geniece Johnson , MMC, City Clerk, Fairhope, President, AAMCA | 6:30 p.m. | Social |
| 8:40 a.m. | Report from AAMCA Elections Committee | 7:00 p.m. | Dinner and Entertainment
Installation of New Officers |
| 8:45 a.m. | Legal and Legislative Update
Ken Smith , ALM | | |

Friday, November 18

- | | | | |
|------------|---|------------|--|
| 9:15 a.m. | Disaster Preparedness: A Panel
(e.g., Disaster Plans—Tornadoes, Hurricanes, Floods, Fires; First Responders; FE MA Paperwork; Bird Flu Pandemic, and related discussions) | 7:30 a.m. | Coffee and Danish
(Pre-function Foyer) |
| 10:00 a.m. | Refreshment Break | 8:30 a.m. | Working with the Media
Carrie Banks , Communications Director, ALM |
| 10:15 a.m. | Disaster Preparedness... (continued) | 9:15 a.m. | Services of ALM
Carrie Banks , Communications Director, ALM |
| | | 10:15 a.m. | Refreshment Break |
| | | 10:30 a.m. | Resources for Municipal Clerks: AAMCA and IIMC
Glenda Morgan , MMC, Municipal Clerk, Mobile |
| | | 11:45 a.m. | Institute Evaluation and Adjournment |

CITY OF DAPHNE

BID OPENING MINUTES

BID DOCUMENT NO: 2006-DD-CEDAR CIRCLE/BRYANT GULLY NRCS

October 4, 2006

11:30 A.M.

CITY HALL

Those present were as follows:

Mr. Ken Eslava	Public Works Director
Ms. Suzanne Henson	Sr. Accountant
Mr. Steve Delahunty	Hutchinson, Moore & Rauch, LLC
Mr. Skip Gruber	Hutchinson, Moore & Rauch, LLC

7 bid invitations were picked up by contractors 3 sealed bids were received.

Mr. Steve Delahunty opened the bids presented and the bids were read aloud as follows:

<u>VENDOR</u>	<u>BID BOND</u>	<u>ADDENDUM</u>	<u>AMOUNT OF BID</u>
Phillips & Jordan Inc	X	X	\$205,355.00
H E Newell, Inc	X	X	\$299,295.00
John G Walton Const Co	X	X	\$239,041.00

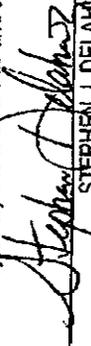


Suzanne Henson, Sr. Accountant

CITY OF DAPHNE
 USDA NRCS EWPP AGREEMENT NO: 69-4101-6-30
 CEDAR CIRCLE/BRYANT GULLY - DAP-0905-06
 SEPTEMBER 27, 2006

 Hutchinson, Moore & Rauch, LLC Engineers ♦ Surveyors ♦ Land Planners		BIDDER #1 PHILLIPS & JORDAN, INC.			BIDDER #2 JOHN G. WALTON CONSTRUCTION, CO.			BIDDER #3 HE NEWELL, INC.		
ITEM#	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	
701	CLEARING AND GRUBBING	LS	1		\$ 6,830.00		\$ 13,100.00		\$ 12,000.00	
702	SEEDING AND MULCHING	LS	1		\$ 1,970.00		\$ 15,700.00		\$ 3,500.00	
705	POLLUTION CONTROL	LS	1		\$ 12,000.00		\$ 4,989.00		\$ 6,900.00	
708	MOBILIZATION	LS	1		\$ 23,000.00		\$ 14,200.00		\$ 20,000.00	
711	WATER REMOVAL	LS	1		\$ 1,535.00		\$ 2,744.00		\$ 5,000.00	
715	MSE WALL	LS	1		\$ 33,600.00		\$ 71,335.00		\$ 94,200.00	
723	EARTHFILL	CY	7,000	\$ 10.60	\$ 73,500.00	\$ 9.13	\$ 63,910.00	\$ 15.00	\$ 105,000.00	
742	PIPES AND INLETS	LS	1		\$ 45,100.00		\$ 46,958.00		\$ 45,095.00	
761	ROCK RIPRAP	TON	80	\$ 85.00	\$ 6,800.00	\$ 70.75	\$ 5,660.00	\$ 85.00	\$ 6,800.00	
795	GEOTEXTILE	SY	100	\$ 10.20	\$ 1,020.00	\$ 4.45	\$ 445.00	\$ 8.00	\$ 800.00	
TOTAL AMOUNT BID					\$ 205,355.00		\$ 239,041.00		\$ 299,295.00	

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


 STEPHEN J. DELAHUNTY, P.E.
 Construction Manager
 Hutchinson, Moore & Rauch, LLC

Approved For Agenda

Signature

10-6-06

Date

MEMORANDUM

CITY of DAPHNE....DIVISION of PUBLIC WORKS

**To: Mayor Fred Small
Kim Briley, Finance Director
Finance Committee**

From: Ken Eslava, Public Works Director



Date: October 6, 2006

Re: Recommendation for Bid Award

Please consider this my formal recommendation to award bid 2006-DD-CEDAR CIRCLE / BRYANT GULLY DAP-0905-06 to Phillips and Jordan, Inc., in the amount of \$205,355.00.

Phillips and Jordan are the low bidder on this NRCS project, and have a significant history of success with projects of this type.

The bid comparison is as follows:

Phillips and Jordan, Inc.....	\$205, 355.00
John G. Walton Const. Co.....	\$239, 041.00
H.E. Newell, Inc.....	\$299, 295.00

Please contact me if you have questions regarding this recommendation.

Cc: Mr. Steve Delahunty, P.E., HMR Engineers



HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127
Daphne, Alabama 36526

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

October 6, 2006

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

RE: USDA NRCS EWPP Agreement No.: 69-4101-6-30
Cedar Circle / Bryant Gully DAP-0905-06

Dear Mayor Small:

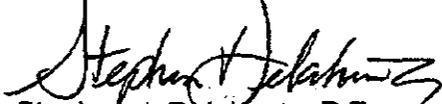
Enclosed is the Tabulation of Bids received October 6, 2006 for the subject project.

We recommend that you award the Contract to Phillip & Jordan, Inc. at their submitted lowest bid of \$205,355.00.

Also enclosed are the original bid packages received, these are for your files.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC


Stephen J. DeFahunty, P.E.
Project Manager

SJD\big
D25002570106.706

CITY OF DAPHNE

**BID OPENING MINUTES
BID DOCUMENT NO: 2006-EE-WHITING COURT
October 4, 2006
11:30 A.M.
CITY HALL**

Those present were as follows:

Mr. Ken Eslava	Public Works Director
Ms. Suzanne Henson	Sr. Accountant
Mr. Steve Delahunty	Hutchinson, Moore & Rauch, LLC
Mr. Skip Gruber	Hutchinson, Moore & Rauch, LLC

Mr. Steve Delahunty opened the bids presented and the bids were read aloud as follows:

<u>VENDOR</u>	<u>BID BOND</u>	<u>ADDENDUM</u>	<u>AMOUNT OF BID</u>
Phillips & Jordan Inc	X	X(3)	\$598,557.00
H E Newell, Inc	X	X(3)	\$859,375.00



Suzanne Henson, Sr. Accountant

CITY OF DAPHNE
 USDA NRCS EWPP AGREEMENT: 69-4101-6-30
 WHITING COURT - DAP-0905-02
 OCTOBER 4, 2006



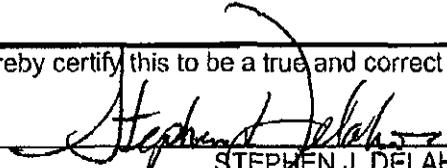
Hutchinson, Moore & Rauch, LLC
 Engineers ♦ Surveyors ♦ Land Planners

BIDDER #1
 PHILLIPS & JORDAN, INC.

BIDDER #3
 HE NEWELL, INC.

ITEM#	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
701	CLEARING AND GRUBBING	LS	1		\$ 18,245.00		\$ 20,000.00
702	SEEDING AND MULCHING	LS	1		\$ 1,970.00		\$ 6,500.00
704A	SOLID SOD	SY	4,000	\$ 4.75	\$ 19,000.00	\$ 7.00	\$ 28,000.00
705	POLLUTION CONTROL	LS	1		\$ 19,820.00		\$ 15,000.00
708	MOBILIZATION	LS	1		\$ 25,900.00		\$ 50,000.00
711	WATER REMOVAL	LS	1		\$ 5,730.00		\$ 15,000.00
715	MSE WALLS	LS	1		\$ 388,000.00		\$ 520,500.00
720	LAND SHAPING AND GRADING REPLACEMENT OF ALL DRIVEWAYS 9 CONCRETE OR ASPHALT), FENCES, TREES, BUSHES, OTHER STRUCTURES THAT ARE DISTURBED AS PART OF THIS WORK	LS	1		\$ 39,000.00		\$ 76,875.00
742	24" RCP	LF	552	\$ 66.00	\$ 36,432.00	\$ 100.00	\$ 55,200.00
742	36" RCP	LF	232	\$ 105.00	\$ 24,360.00	\$ 150.00	\$ 34,800.00
742	WEIR INLET	EA	4	\$ 4,200.00	\$ 16,800.00	\$ 8,000.00	\$ 32,000.00
742	TIE INTO EXISTING INLET	LS	1		\$ 3,300.00		\$ 5,500.00
TOTAL AMOUNT					\$ 598,557.00		\$ 859,375.00

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



 STEPHEN J. DELAHUNTY, P.E.
 Construction Manager
 Hutchinson, Moore & Rauch, LLC

0

****Phillips & Jordan, Inc. clarification: No additional monies have been added for access through properties for the Whiting Court project; which will be addressed via Change Order, if necessary.**

p.4
2516266934
HMR LLC
Oct 06 06 10:58a

Approved for Agenda

Signature

10-06-06

Date

MEMORANDUM

CITY of DAPHNE....DIVISION of PUBLIC WORKS

**To: Mayor Fred Small
Kim Briley, Finance Director
Finance Committee**

From: Ken Eslava, Director of Public Works

Date: October 6, 2006

Re: Recommendation for Bid Award

Please consider this my formal recommendation to award bid 2006-EE-WHITING COURT DAP-0905-02 to Phillips and Jordan, Inc., in the amount of \$598, 557.00.

Phillips and Jordan are the low bidder on this NRCS project, and have a significant history of success with projects of this type.

The bid comparison is as follows:

Phillips and Jordan, Inc.....\$ 598,557.00

H.E. Newell, Inc.....\$ 859,375.00

Please contact me if you have questions regarding this recommendation.

cc: Mr. Steve Delahunty, P.E., HMR Engineers



HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127
Daphne, Alabama 36526

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

October 6, 2006

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

RE: USDA NRCS EWPP Agreement No.: 69-4101-6-30
Whiting Court DAP-0905-06

Dear Mayor Small:

Enclosed is the Tabulation of Bids received October 6, 2006 for the subject project.

We recommend that you award the Contract to Phillip & Jordan, Inc. at their submitted lowest bid of \$598,557.00. Please note lower bidder included condition that no additional monies have been added for access through properties for the Whiting Court project if needed these will be added via Change Order.

Also enclosed are the original bid packages received, these are for your files.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC

A handwritten signature in black ink that reads 'Stephen J. Delahunty'.

Stephen J. Delahunty, P.E.
Project Manager

SJD\big
02500257006.707

CITY OF DAPHNE

BID OPENING MINUTES

BID DOCUMENT NO: 2006-FF-VP PARK/YANCEY BRANCH/LAKEVIEW LOOP

SEPTEMBER 7, 2006

11:30 A.M.

CITY HALL

Those present were as follows:

Ms. Suzanne Henson

Sr. Accountant

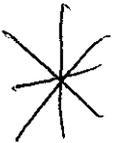
Mr. Steve Delahunty

HMR Engineers

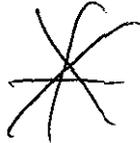
3 bid invitations were mailed/picked up by contractors 0 sealed bids were received.

<u>VENDOR</u>	<u>AMOUNT BID</u>	<u>BID BOND</u>
---------------	-------------------	-----------------

NO BIDDERS



Contract to be negotiated



A handwritten signature in black ink, appearing to be 'SH' or similar initials, written over a horizontal line.

Suzanne Henson, Sr. Accountant

MEMORANDUM

CITY of DAPHNE....DIVISION of PUBLIC WORKS

**To: Mayor Fred Small
Kim Briley, Finance Director
Finance Committee**

Approved For Finance Comm Agenda

Signature

Date

From: Ken Eslava, Public Works Director

Date: September 25, 2006

**Re: Recommendation for Bid Award....Village Point Park/Yancey
Branch DAP-0905-03
Lakeview Loop DAP-0905-05
(NRCS Projects)**

Negotiated Contract

Please consider this my formal recommendation to award construction for the aforementioned NRCS projects to ERS, Inc. in the amount of \$667, 535.80.

It is of critical importance to note that during the bid receipt and tabulation process, a bid of \$246,010.00 was received. Due to the significant difference in the two bids (\$421,525.80), the lesser of the two bids was reviewed for error.

There were serious errors found in his calculation of material quantities, causing his price to significantly less than the second bidder. The contractor requested that he be allowed to withdraw his bid from consideration, which was granted.

It is in the best interest of the City to proceed with the recommendation as stated above.



HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127
Daphne, Alabama 36526

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

September 25, 2006

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

RE: USDA NRCS EWPP Agreement No.: 69-4101-6-30
Village Point Park / Yancey Branch DAP-0905-03
Lakeview Loop DAP-0905-05

Dear Mayor Small:

Enclosed is the Tabulation of Bids received August 15, 2006 for the subject project.

We recommend that you award the Contract to ERS, Inc. at their submitted bid of \$667,535.00 due to the request of the low bidder per the attached letter.

Also enclosed are the original bid packages received, these are for your files.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC

A handwritten signature in cursive script that reads "Stephen J. Delahunty".

Stephen J. Delahunty, P.E.
Project Manager

SJD\blg
0250012570106.666

USDA NRCS AGREEMENT:
 69-4101-6-30
 VILLAGE POINT PARK/YANCEY BRANCH DAP-0905-03
 LAKEVIEW LOOP DAP-0905-05
 AUGUST 15, 2006

 Hutchinson, Moore & Rauch, I.I.C Engineers ♦ Surveyors ♦ Land Planners		BIDDER #1 H.E. NEWELL		BIDDER #2 ERS, INC.			
ITEM#	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
VILLAGE POINT PARK / YANCEY BRANCH - DAP-0905-03							
1	POLLUTION CONTROL	LS	1	\$ 5,250.00	\$ 5,250.00	\$ 14,000.00	\$ 14,000.00
2	MOBILIZATION	LS	1	\$ 8,000.00	\$ 8,000.00	\$ 36,000.00	\$ 36,000.00
3	OBSTRUCTION REMOVAL (TREES)	LS	1	\$ 8,000.00	\$ 8,000.00	\$ 50,000.00	\$ 50,000.00
4	SEDIMENT REMOVAL	CY (TBM)	16,000	\$ 13.40	\$ 214,400.00	\$ 33.25	\$ 532,000.00
LAKEVIEW LOOP - DAP-0905-05							
5	POLLUTION CONTROL	LS	1	\$ 1,500.00	\$ 1,500.00	\$ 2,500.00	\$ 2,500.00
6	MOBILIZATION	LS	1	\$ 1,500.00	\$ 1,500.00	\$ 14,500.00	\$ 14,500.00
7	OBSTRUCTION REMOVAL (TREES)	LS	1	\$ 2,500.00	\$ 2,500.00	\$ 13,000.00	\$ 13,000.00
8	SEDIMENT REMOVAL	CY (TBM)	270	\$ 18.00	\$ 4,860.00	\$ 20.50	\$ 5,535.00
TOTAL AMOUNT					\$ 246,010.00		\$ 667,535.00

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



 STEPHEN J. DELAHUNTY, P.E.
 Project Manager
 Hutchinson, Moore & Rauch, LLC

NOTE: BOLD/ITALICIZED NUMBERS INDICATE AN ERROR IN THE EXTENSION OF UNIT PRICE. THIS DOES NOT CHANGE THE TOTAL AMOUNT.

CITY OF DAPHNE

BID OPENING MINUTES BID DOCUMENT NO: 2007-B-ATHLETIC FIELD MARKING PAINT OCTOBER 5, 2006 11:30 A.M. CITY HALL

Those present were as follows:

Ms. Suzanne Henson	Sr. Accountant
Mr. David Mckelroy	Recreation Director
Mr. Dwayne Coley	PW Supervisor
Mr. Melvin McCarley	PW Superintendent

1 bid invitations were mailed/picked up, 1 sealed bid were received.

Mr. Mckelroy opened the bids presented and the bids were read aloud as follows:

<u>VENDOR</u>		<u>TOTAL UNIT COST</u>
Pioneer Manufacturing Co	Max White Paint	\$ 67.50 (5 Gallon Bucket)
	Brite Stripe Yellow Gold	\$ 63.00 (5 Gallon Bucket)
	Brite Stripe Purple	\$ 84.00 (5 Gallon Bucket)
	PVIP Aerosol White	\$ 41.00 (per case)
	PVIP Aerosol Yellow Gold	\$ 41.00 (per case)
	PVIP Aerosol Royal Purple	\$ 47.00 (per case)



Suzanne Henson, Sr. Accountant

Fred Small
Mayor
David McKelroy
Recreation Director

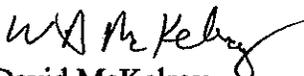


Mary Jensen
Seniors Program Coordinator
Charlie McDavid
Athletic Coordinator
Robyn Andrews
Community Activities Coordinator

October 5, 2006

RE: Bid Document 2007 - B -- Athletic Field Marking Paint

It is recommended that the city accept the bid of Pioneer Manufacturing Company. Pioneer was the only company to return a bid, however, the bid is reasonable and prior service by Pioneer has been outstanding.


David McKelroy
Recreation Director

RECREATION DEPARTMENT
2605 HIGHWAY 98 * P.O. BOX 400 * DAPHNE, ALABAMA 36526
(251) 621-3703 * FAX: (251) 621-3717
E-MAIL: recdirc@bellsouth.net

Kim

From: Kim Briley [kibriley@bellsouth.net]
Sent: Wednesday, October 04, 2006 9:25 AM
To: 'Jean Mccutchen'
Cc: 'Mayor Small'
Subject: RE: Draft Agreement

Jean,

Yes- the Finance Committee will meet on Oct 9th. There will be a City Council Work Session on Oct 12 at 6:30- it would be good if someone could be available at the Oct 12 Work Session to answer any questions that may arise.

Thanks,

Kim

From: Jean Mccutchen [mailto:JMccutchen@bcbe.org]
Sent: Tuesday, October 03, 2006 2:56 PM
To: Kim Briley
Subject: Draft Agreement
Importance: High

Kim,

We met with our legal firm and they drafted an Agreement that we could use with the City in the event the City Council votes to appropriate funds for the Daphne High School Stadium Project.

The draft Agreement is a standard agreement that we plan to use for agreements with municipalities in the County. We developed the Agreement such that the amounts could be completed depending upon what the City votes to do. I attached your amortization schedule along with options showing total commitments by the applicable parties and their respective percentages of contribution toward the project.

Of course if the City votes to fully fund the contribution with one disbursement, then these documents will not be necessary. I would assume that at that point, the City or City counsel would contact us if they needed to execute any documents pertaining to a distribution from the City.

As I do not know the status or any contribution from any other sources, I could only use the City's, the Board's and Daphne High School's contributions.

Please let me know if you need anything further. Based upon our conversation, the Finance Committee will meet on the 9th?

Thank you.

Jean McCutchen, Director
Business and Finance
Baldwin County Public Schools
251-580-1664

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

From: Kim Briley [mailto:kibriley@bellsouth.net]
Sent: Wednesday, September 20, 2006 1:53 PM
To: Jean Mccutchen
Cc: 'Mayor Small'

I. \$ 1,000,000

5%

	<u>Principal</u>	<u>Interest</u>		<u>Total Payment</u>
			1,000,000	
Upon execution	200,000	-	800,000	200,000
Year 1	160,000	40,000	640,000	200,000
Year 2	160,000	32,000	480,000	192,000
Year 3	160,000	24,000	320,000	184,000
Year 4	160,000	16,000	160,000	176,000
Year 5	160,000	8,000	-	168,000
	<u>1,000,000</u>	<u>120,000</u>		<u>1,120,000</u>

II. \$ 1,200,000

5%

	<u>Principal</u>	<u>Interest</u>		<u>Total Payment</u>
			1,200,000	
Upon execution	240,000	-	960,000	240,000
Year 1	192,000	48,000	768,000	240,000
Year 2	192,000	38,400	576,000	230,400
Year 3	192,000	28,800	384,000	220,800
Year 4	192,000	19,200	192,000	211,200
Year 5	192,000	9,600	-	201,600
	<u>1,200,000</u>	<u>144,000</u>		<u>1,344,000</u>

III. \$ 1,573,000

5%

	<u>Principal</u>	<u>Interest</u>		<u>Total Payment</u>
			1,573,000	
Upon execution	314,600	-	1,258,400	314,600
Year 1	251,680	62,920	1,006,720	314,600
Year 2	251,680	50,336	755,040	302,016
Year 3	251,680	37,752	503,360	289,432
Year 4	251,680	25,168	251,680	276,848
Year 5	251,680	12,584	-	264,264
	<u>1,573,000</u>	<u>188,760</u>		<u>1,761,760</u>

Shown below is tentative budget of project

Total for Improvements and Enlargement to Stadium,
Track and Field Surface 2,773,000

From presentation, it appears that breakdown is:

Total Improvements/Contract	2,257,000
Architect/Engineering	154,000
Contingency	<u>362,000</u>
	<u>2,773,000</u>

Funding Commitments - there are 3 possibilities

BCOE	1,000,000	
Daphne HS	<u>200,000</u>	
	1,200,000	54.55%

Contribution of City of Daphne possibilities	<u>1,000,000</u>	45.45%
	<u>2,200,000</u>	

BCOE	1,000,000		
Daphne HS	<u>200,000</u>		
	1,200,000	1,200,000	50.00%

Contribution of City of Daphne possibilities		<u>1,200,000</u>	50.00%
		2,400,000	

BCOE	1,000,000		
Daphne HS	<u>200,000</u>		
	1,200,000	1,200,000	43.27%

Contribution of City of Daphne possibilities		<u>1,573,000</u>	56.73%
		2,773,000	



COOPERATION AGREEMENT

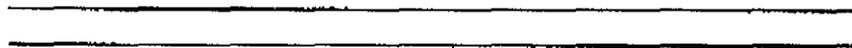
Between

CITY OF DAPHNE, ALABAMA

and

BALDWIN COUNTY BOARD OF EDUCATION

Dated as of _____, 200__



**STATE OF ALABAMA
COUNTY OF BALDWIN**

COOPERATION AGREEMENT

This Cooperation Agreement between the City of Daphne, Alabama, a municipal corporation existing under the laws of the State of Alabama (the "City") and the Baldwin County Board of Education, an agency of the State of Alabama (the "Board") made and entered this _____ day of _____, 200__.

Recitals

WHEREAS, the Board is vested with the general administration and supervision of the public schools and educational interests of Baldwin County, Alabama; and

WHEREAS, the Board authorized an allocation of \$1,000,000 to each county high school feeder pattern for enhancement of facilities that enrich and enhance the public school educational and athletic or other extracurricular programs; and

WHEREAS, the Daphne High School feeder pattern advisory committee has recommended to the Board and the Board has approved the expenditure of the \$1,000,000 Daphne High School feeder pattern allocation to enlarge and renovate the Daphne High School stadium; and

WHEREAS, the Board has approved the funding of the enhancement projects by multiple funding commitments from municipalities and other sources; and

WHEREAS, the Board is holding the sum of \$200,000 donated by private sources and to be used to enlarge and renovate the Daphne High School stadium; and

WHEREAS, the Board has determined that it is in the best interest of the Baldwin County School System and its students for the Board to make the necessary arrangements to finance the construction of improvements to the Daphne High School stadium (the "2006 Daphne High School Stadium Project") through this Cooperation Agreement.

WHEREAS, in connection with financing the construction of the 2006 Daphne High School Stadium Project and as a condition of the Board precedent thereto, the City proposes to make certain payments to the Board in respect to the repayment of the amount financed by the Board for the 2006 Daphne High School Stadium Project.

NOW, THEREFORE, in consideration of the premises, it is hereby agreed between the City and the Board as follows:

SECTION 1. Agreement of City to Provide Funds.

(a) The City hereby covenants and agrees to pay to the Board, in bankable funds and without the necessity of demand therefor, those sums and on those conditions as set forth in the instrument of even date herewith and attached hereto as Exhibit A and made a part hereof. The obligation of the City to make such payments as herein provided shall remain in full force and effect until this Cooperation Agreement is terminated in accordance with its terms.

(b) The principal sum as set forth on Exhibit A will be used by the Board for the Daphne High School Stadium Project. The amount budgeted for the Daphne High School Stadium Project is _____. The budgeted amount is contingent on the Board receiving \$200,000 from private contributions and _____ from the City to add to the \$1,000,000 allocated by the Board. The scope of the project, including professional fees, will not exceed that budgeted amount.

(c) (i) The City may make such payments to the Board from any funds or revenues which at the time of any such payment the City is authorized by law to apply to capital improvements or to the payment of debt service on any long-term obligations issued by the City.

(d) In the event the 2006 Daphne High School Stadium Project is not completed, the Board, the City, and the private contributions will each pay a pro-rated portion of the project expenses and costs incurred based on the contributions set forth in Section 1 (b). These payments and costs include, without limitation, architectural, engineering and other design and pre-construction fees in the event the project is abandoned prior to the construction phase.

(ii) The City hereby covenants and agrees not to incur any other obligations payable from such funds or revenues so long as the indebtedness is outstanding if the effect of such issuance or such incurrence would result in the City being unable to make the payments provided for herein in the amounts and at the time herein provided.

SECTION 2. Binding Effect; Governing Law.

This Agreement shall inure to the benefit of and shall be binding upon the City and the Board and their respective successors and assigns. This Agreement shall be governed exclusively by the applicable laws of the State of Alabama.

SECTION 3. Effective Date; Termination.

This Agreement shall take effect upon the date hereof and shall not be terminated by either party until the obligation set forth in Exhibit A shall have been paid in full by the City.

SECTION 4. All Prior Agreements Superseded.

This Agreement shall completely and fully supersede all prior agreements, both written and oral, between the City and the Board relating to the matters herein contained.

SECTION 5. Execution in Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 6. Section Captions.

The section headings contained herein are included for convenience only and should not be considered a part hereof or affect in any manner the construction or interpretation of this Agreement.

IN WITNESS WHEREOF, the City and the Board have caused this Cooperation Agreement to be executed in their respective corporate names and have caused their respective corporate seals to be hereunto affixed, and have caused this Cooperation Agreement to be attested, all by their duly authorized officers, and have caused this Cooperation Agreement to be dated the date and year first written above.

**CITY OF DAPHNE, ALABAMA,
an Alabama municipal corporation**

By: _____
Its: Mayor

SEAL

Attest:

City Clerk

**BALDWIN COUNTY BOARD OF EDUCATION,
an Agency of the State of Alabama**

By: _____
Its: President

SEAL

Attest:

Superintendent and Ex-officio Secretary

STATE OF ALABAMA

COUNTY OF BALDWIN

I, _____, a Notary Public, in and for said County in said State, hereby certify that _____ and _____, whose names as Mayor and City Clerk of the City of Daphne, Alabama, an Alabama municipal corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they in their capacities as such officers and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this ____ day of _____, 2006.

Notary Public
My Commission Expires: _____

STATE OF ALABAMA

COUNTY OF BALDWIN

I, _____, a Notary Public, in and for said County in said State, hereby certify that _____ and _____, whose names as President and Superintendent and Ex-Officio Secretary of the Baldwin County Board of Education, an Agency of the State of Alabama, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, in their capacities as such President and Superintendent, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this ____ day of _____, 2006.

Notary Public
My Commission Expires: _____

\$ _____ Daphne, Alabama _____, 2006

PROMISSORY NOTE

The undersigned City of Daphne, an Alabama municipality, for value received, promise to pay to the order of The Baldwin County Board of Education, an agency of the State of Alabama, the principal sum of _____ Dollars (\$ _____), plus interest at the rate of five percent (5%), per annum, payable in consecutive annual installments beginning with one installment of _____ on the date of this Promissory Note and five (5) additional installments of \$ _____ each, which payments include interest, the first installment being due and payable on the date hereof, and each additional installment being due and payable on the same date of each successive year thereafter until the entire sum of principal plus interest has been paid in full. The makers of this instrument shall have the right to prepay this indebtedness or any part thereof without penalty on the due date of any installment. All payments received under this note shall be applied first to interest and then to principal.

Upon failure to pay any installment of principal and/or interest when due, the entire principal sum at the option of the holder shall become immediately due and payable without notice or demand on any party to this instrument. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

The City of Daphne agrees to pay all costs of collecting or securing, or attempting to collect or secure this note, including a reasonable attorney's fee, whether the same be collected or secured by suit or otherwise.

WITNESS our hands and seals on this the _____ day of _____, 2006.

WITNESSES:

**City of Daphne
Mechanical Maintenance**

Memo

Approved For Finance Comm. Agenda

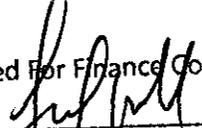

Signature
10-5-06

Date

To: Suzanne Henson Sr. Accountant
From: Billy D. Crutchfield Mechanical Maintenance Supervisor
CC:
Date: 10/4/2006
Re: Scrap Steel Dumpster

The scrap steel dumpster is full and needs to be picked up by Royal Street Junk the dumpster contains old vehicle doors/the boom off of truck 98 where it had to be replaced as well as scrap steel and pipe from varies other city projects.

RESOLUTION 2006 -



Signature
10-6-06

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

WHEREAS, the Department Heads of the City of Daphne have determined that the items scheduled on Schedule A are no longer required for public or municipal purposes; and

WHEREAS, the items on said Schedule A are recommended for disposal.

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

- 1- The property included on Schedule A and attached hereto is hereby declared to be surplus property and
- 2- The Mayor is authorized to advertise and accept bids through Govedeals.com as contracted for the sale of such personal property and
- 3- The Mayor is authorized to sell said property to the highest bidder and deposit any and all proceeds to the General Fund. The Mayor is further authorized to direct the disposition of any property on Schedule A which is not claimed by any bidder.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this 16th day of October, 2006.

Greg Burnam, Council President
Date & Time Signed: _____

Fred Small, Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen, City Clerk CMC

SCHEDULE A

DEPARTMENT	VEHICLE #	VEHICLE DESCRIPTION	VIN #
Janitorial	113	1991 CHEVROLET S/10 PU	1GCCS14A6M8215390
Police	196	1996 FORD CROWN VIC	2FALP71W6TX177362
Police-Blown Engine	298	1998 FORD TAURUS	1FAFP52U9WA156596
Court		Desk - L Shape - 29 xx 62 w/lower L - 24 x 48 (Dark Cherry Laminate)	
Court		Desk - L Shape - 29 xx 62 w/lower L - 24 x 48 (Dark Cherry Laminate)	
Court		Desk - L Shape - 29 xx 62 w/lower L - 24 x 48 (Dark Cherry Laminate)	

PLEASE RETURN TO HUMAN RESOURCES FOR PROCESSING

Memorandum

To: Mayor Small
From: Human Resource Department
Date: 9-15-06
Re: Requested pay exception for Tonja Young

The following data is furnished in reference to the request stated above:

Years related experience (indicate if exp was with the City):
1998-Children's Librarian with City of Daphne
1993 to present-Part-time/Acting Director at Oscar Johnson Memorial Library

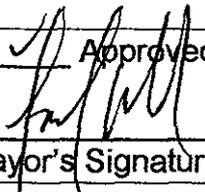
Highest Educational level:
MLS Librarianship Science

Requested pay grade, pay step, hourly rate:
Pay Grade 29, Step 4, \$44,570 annually (\$21.43 an hour)

When promoted, pay set according to policy at Pay Grade 29, Step 1, \$41,009 annually

Pay and experience levels of current City employees in same job classification:
Not applicable

APPROVAL AUTHORITY

<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved
 _____ Mayor's Signature
<u>9/15/06</u> Date

<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved
_____ Council President's Signature
_____ Date

Suzanne

From: Shannon Spivey [mayorassist@bellsouth.net]
Sent: Friday, September 15, 2006 1:36 PM
To: 'Sharon Cureton'; 'Kim Briley'; hensonsm@bellsouth.net
Subject: FW: Library Directors Salary Adjustment

Please see message below from the Mayor.

Shannon Spivey
Assistant to Mayor Small
621-9000

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

From: Mayor Small [mailto:mayorsmall@bellsouth.net]
Sent: Friday, September 15, 2006 1:07 PM
To: 'Shannon Spivey'
Subject: FW: Library Directors Salary Adjustment

Have this put on the finance committee agenda with all need from HR.

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

From: gswaney@bellsouth.net [mailto:gswaney@bellsouth.net]
Sent: Wednesday, September 13, 2006 9:45 AM
To: mayorsmall@bellsouth.net
Cc: GROBIN2345@bellsouth.net; tonjadpl@bellsouth.net; apalumbo@bellsouth.net; anita@rigas.net; ernie.seckinger@zebra.net; ernie.seckinger@us.army.mil; dayken@peoplepc.com; johnlake3@bellsouth.net
Subject: Library Directors Salary Adjustment

To: Mayor Fred Small
City of Daphne

From: Glenn Swaney
Daphne Library Board

Ms. Cureton requested that I write a memo to you verifying the Daphne Library Boards desire that Ms. Youngs salary be adjusted upward to reflect the recent Daphne City Council approval of a new salary level for Ms.

Young. Referring to my notes of the meeting that took place in your office with conferees Gayle Robinson- Library Board Vice Chairman, Sharon Cureton- Daphne HR Director, Daphne City Councilmen August Palumbo and John Lake, City of Daphne Mayor Fred Small and Glenn Swaney-Library Board Chair, my notes indicate that Ms. Youngs initial salary as Library Director was to be revised upward to \$44,500 dollars annually which i believe reflected the 4th salary level in the Directors position.

The Daphne Library Board wants to thank you very much for your efforts regarding this much needed salary adjustment and hope that you can move the finalization of this amended salary effort forward expeditiously to an early completion and additional money in the pay envelope for Ms. Young.

Thank you again for your efforts in this matter.

TREASURER'S REPORT

As of September 2006

TO: FINANCE COMMITTEE

FROM: KIMBERLY BRILEY, FINANCE DIRECTOR/TREASURER

<u>ACCT TITLE</u>	<u>BANK</u>	<u>BALANCE</u>
GENERAL FUND & ENTERPRISE FUNDS		
MMA ACCT	COMPASS	\$8,179,871.32
OPERATING ACCT	COMPASS	(\$673,806.32)
PAYROLL ACCT	COMPASS	(\$2,422.71)
MUNICIPAL COURT	COMPASS	\$275,872.56
		<u>\$7,779,514.85</u>
SPECIAL REVENUES FUND		
SAIL SITE	FIRST GULF	\$1,735.59
4 CENT GAS TAX	FIRST GULF	\$97,053.63
7 CENT GAS TAX	FIRST GULF	\$183,062.57
		<u>\$281,851.79</u>
CAPITAL PROJECTS FUND		
CDBG LOAN REPAY	COMPASS	\$704.51
CAPITAL RESERVE	WACHOVIA	\$3,905,228.70
97 WARRANT CONS	WACHOVIA	\$5,053.29
99 WARRANT CONS	REGIONS	\$554,830.04
2000 CONSTRUCTION	REGIONS	\$90,709.57
2006 CONSTRUCTION	WACHOVIA	\$10,577,213.25
		<u>\$15,133,739.36</u>
DEBT SERVICE FUND		
DEBT SERVICE	WACHOVIA	\$1,009,104.40
		<u>\$24,204,210.40</u>

SALES & USE TAXES

ACTUAL COLLECTIONS

	1999	2000	2001	2002	2003	2004	2005	2006
October	505,823.52	523,515.85	565,075.77	671,699.04	636,482.64	697,830.58	833,700.71	932,634.66
November	477,755.53	535,573.14	591,377.80	650,308.98	646,534.10	710,788.74	814,666.03	901,512.38
December	677,887.14	730,634.15	803,488.81	858,086.66	892,208.68	941,151.87	1,091,073.78	1,168,443.68
January	486,672.84	504,442.67	557,344.42	639,638.85	590,727.65	697,083.68	771,837.83	887,468.11
February	493,808.01	540,963.07	587,990.90	602,215.06	632,654.31	688,421.54	788,825.08	878,123.66
March	604,374.14	595,340.89	682,504.29	710,960.77	705,390.20	848,156.86	917,832.17	1,081,774.83
April	546,895.63	535,336.42	649,639.77	629,853.17	692,148.44	752,039.55	863,144.81	968,760.72
May	552,248.34	618,037.66	684,188.67	668,867.28	702,692.15	757,610.49	867,446.44	1,000,424.48
June	592,710.00	657,414.17	693,747.71	731,684.73	752,668.04	818,209.20	982,863.46	1,024,091.07
July	556,101.54	627,156.12	622,924.98	679,602.58	721,790.90	803,051.14	908,576.13	941,407.68
August	572,426.86	618,088.96	652,404.99	657,027.91	739,993.63	745,320.33	869,818.11	950,539.01
September	567,326.23	623,657.72	660,492.09	644,827.41	715,641.36	830,260.80	998,476.08	
Totals	6,634,029.78	7,110,160.82	7,751,180.20	8,144,772.44	8,428,932.10	9,289,924.78	10,708,260.63	10,735,180.28

FY 2006 BUDGET/ACTUAL COMPARISONS

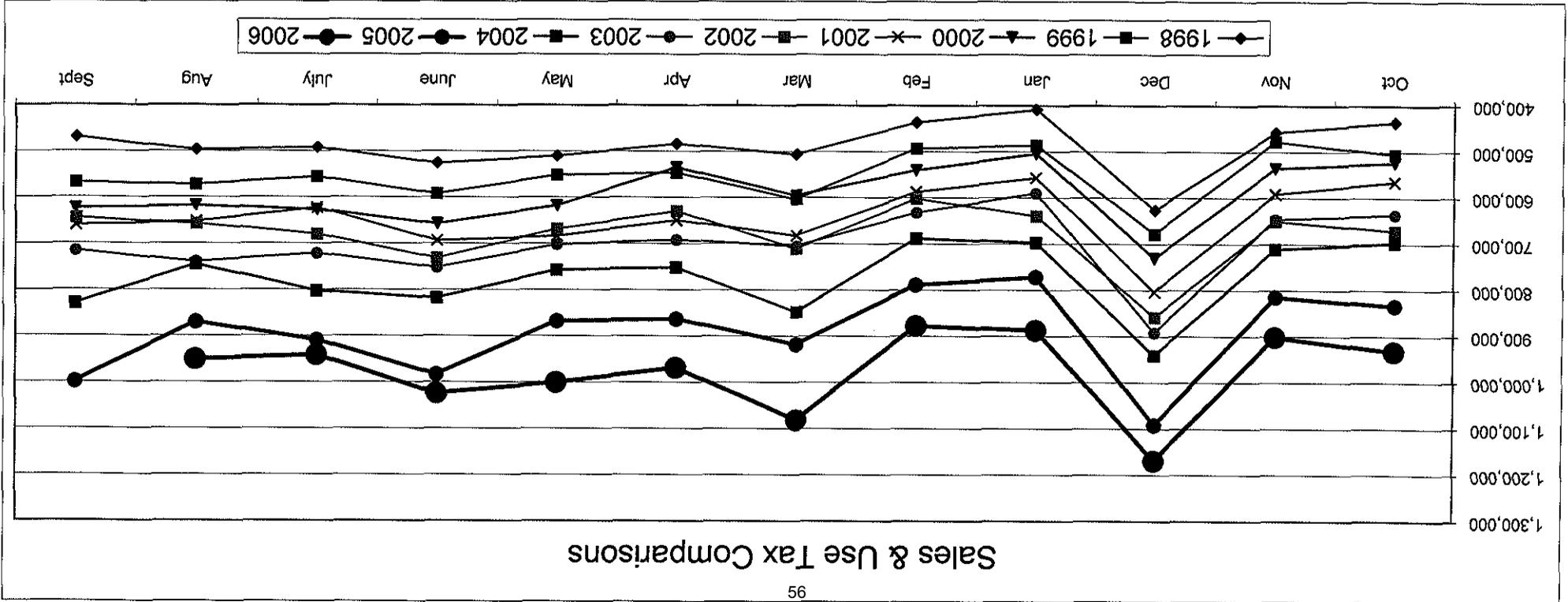
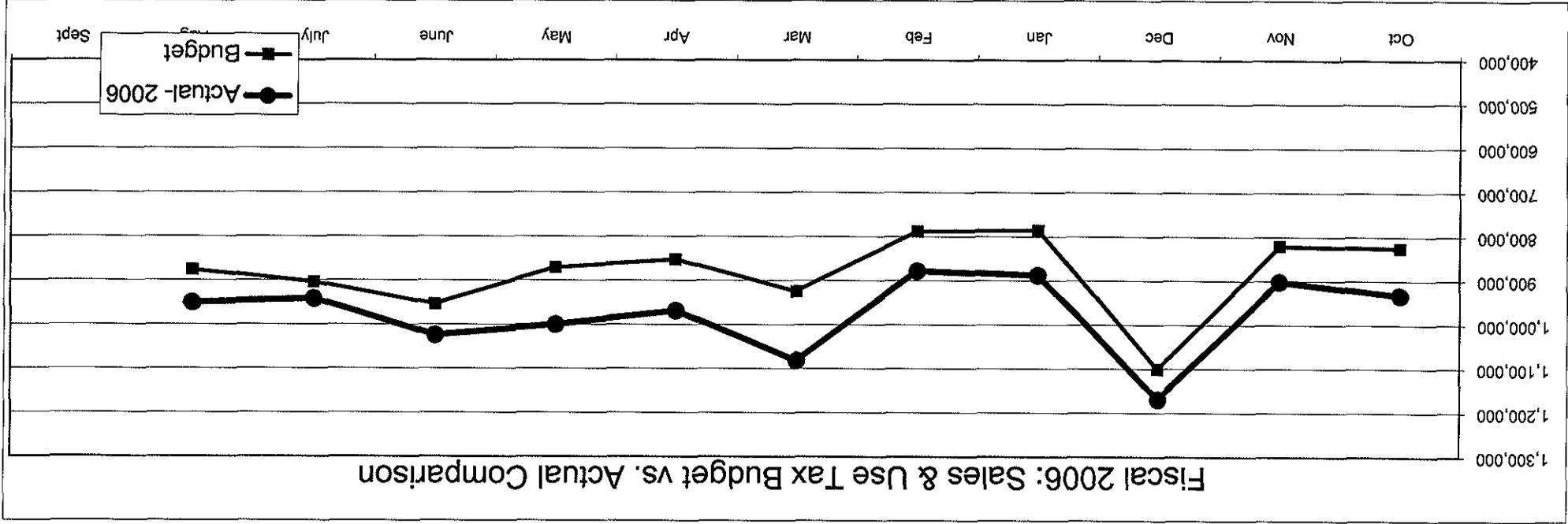
	Actual-2006	Budget	Monthly Variance	YTD Variance	% of Budget
October	932,634.66	825,474	107,160.68	107,160.68	12.98%
November	901,512.38	820,652	80,860.42	188,021.10	9.85%
December	1,168,443.68	1,100,098	68,345.56	256,366.66	6.21%
January	887,468.11	785,065	102,403.51	358,770.17	13.04%
February	878,123.66	787,808	90,316.12	449,086.29	11.46%
March	1,081,774.83	923,786	157,988.83	607,075.12	17.10%
April	968,760.72	852,157	116,604.14	723,679.26	13.68%
May	1,000,424.48	870,852	129,572.92	853,252.18	14.88%
June	1,024,091.07	952,994	71,096.59	924,348.77	7.46%
July	941,407.68	903,547	37,860.86	962,209.63	4.19%
August	950,539.01	875,817	74,722.41	1,036,932.04	8.53%
September		920,338			0.00%
Totals	10,735,180.28	10,618,586	1,036,932.04		

FISCAL YEAR COMPARISONS

	<u>\$ Change</u>							<u>Percent Change</u>						
	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
October	17,692.33	41,559.92	106,623.27	(35,216.40)	61,347.94	135,870.13	98,933.95	3.50%	7.94%	18.87%	-5.24%	9.64%	19.47%	11.87%
November	57,817.61	55,804.66	58,931.18	(3,774.88)	64,254.64	103,877.29	86,846.35	12.10%	10.42%	9.97%	-0.58%	9.94%	14.61%	10.66%
December	52,747.01	72,854.66	54,597.85	34,122.02	48,943.19	149,921.91	77,369.90	7.78%	9.97%	6.80%	3.98%	5.49%	15.93%	7.09%
January	17,769.83	52,901.75	82,294.43	(48,911.20)	106,356.03	74,754.15	115,630.28	3.65%	10.49%	14.77%	-7.65%	18.00%	10.72%	14.98%
February	47,155.06	47,027.83	14,224.16	30,439.25	55,767.23	100,403.54	89,298.58	9.55%	8.69%	2.42%	5.05%	8.81%	14.58%	11.32%
March	(9,033.25)	87,163.40	28,456.48	(5,570.57)	142,766.66	69,675.31	163,942.66	-1.49%	14.64%	4.17%	-0.78%	20.24%	8.21%	17.86%
April	(11,559.21)	114,303.35	(19,786.60)	62,295.27	59,891.11	111,105.26	105,615.91	-2.11%	21.35%	-3.05%	9.89%	8.65%	14.77%	12.24%
May	65,789.32	66,151.01	(15,321.39)	33,824.87	54,918.34	109,835.95	132,978.04	11.91%	10.70%	-2.24%	5.06%	7.82%	14.50%	15.33%
June	64,704.17	36,333.54	37,937.02	20,983.31	65,541.16	164,654.26	41,227.61	10.92%	5.53%	5.47%	2.87%	8.71%	20.12%	4.19%
July	71,054.58	(4,231.14)	56,677.60	42,188.32	81,260.24	105,524.99	32,831.55	12.78%	-0.67%	9.10%	6.21%	11.26%	13.14%	3.61%
August	45,662.10	34,316.03	4,622.92	82,965.72	5,326.70	124,497.78	80,720.90	7.98%	5.55%	0.71%	12.63%	0.72%	16.70%	9.28%
September	58,331.49	36,834.37	(15,664.68)	70,813.95	114,619.44	168,215.28		9.93%	5.91%	-2.37%	10.98%	16.02%	20.26%	
Annual \$ Change	476,131.04	641,019.38	393,592.24	284,159.66	860,992.68	1,418,335.85		7.18%	9.02%	5.08%	3.49%	10.21%	15.27%	

TOTAL collections: FY 05	10,708,261
TOTAL est. bdgt coll: FY 06	10,618,586
Budgeted Dollar Variance 05/06	(89,675)
Budgeted Percent Variance 05/06	-0.84%

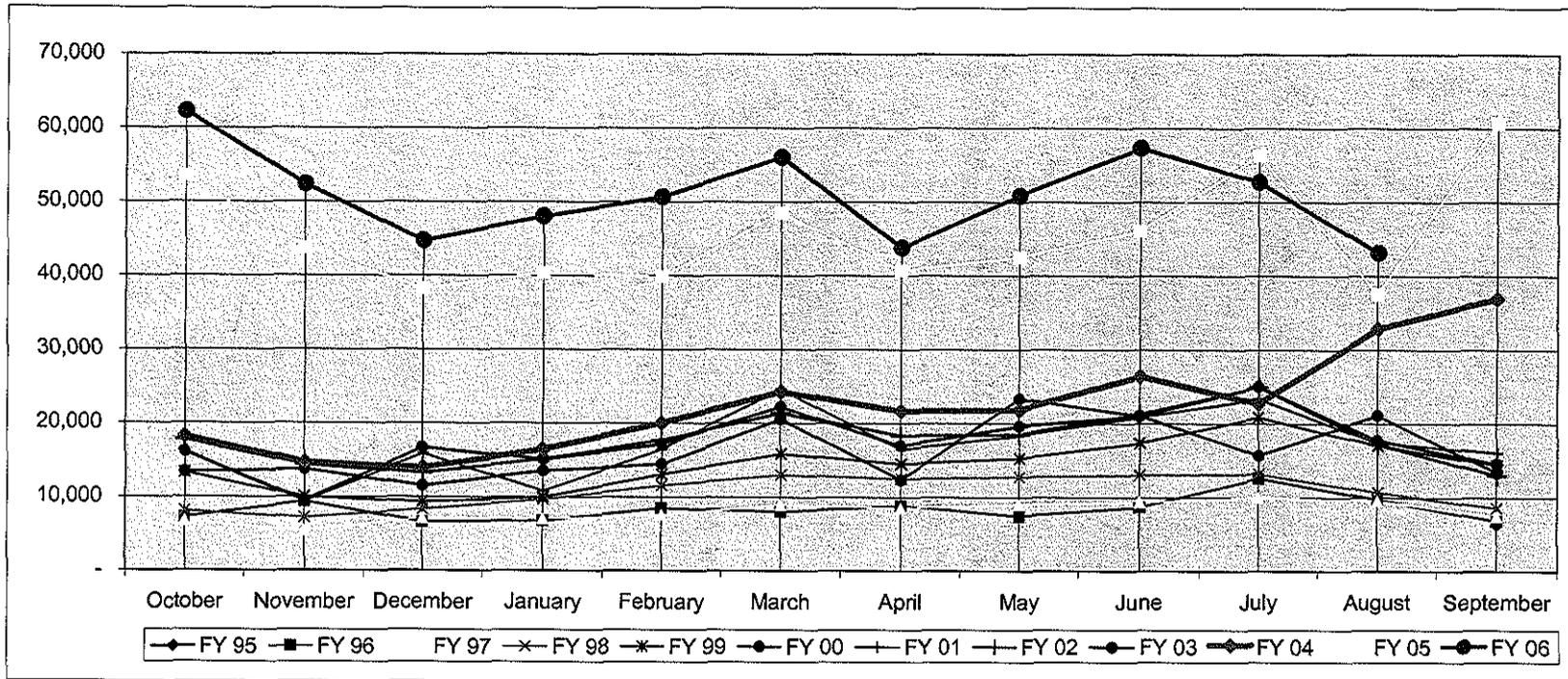
TOTAL collections: 8-31-06	10,735,180
Budgeted: 10-1-05 to 8-31-06	9,698,248
Actual Coll->(c) Budget, 8-31-06	1,036,932
% Over/(Under) Budget, 8-31-06	10.69%



Monthly Lodging Tax Collections

	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>	<u>FY 06</u>
October		7,228.60	6,701.69	8,042.55	13,241.96	13,344.97	16,021.98	17,757.16	16,103.81	18,110.90	53,490.95	62,191.49
November		9,371.57	5,419.99	7,156.30	9,963.87	13,712.88	9,378.73	14,346.00	9,488.82	14,652.46	43,652.17	52,326.23
December		6,580.10	7,076.44	8,327.51	9,303.23	11,505.34	15,885.37	13,257.40	16,693.64	13,940.92	38,197.96	44,694.55
January		6,765.39	6,990.72	9,704.80	9,934.03	13,517.89	10,802.39	15,150.55	15,089.26	16,416.20	40,334.81	48,014.80
February		8,466.36	7,536.69	11,579.98	13,024.87	14,425.61	16,482.91	17,680.30	17,174.37	19,952.91	39,797.68	50,684.11
March		8,017.74	8,902.63	13,048.18	15,837.90	20,536.51	24,601.77	21,371.61	22,248.25	24,206.01	48,474.92	56,076.62
April		8,802.85	8,533.40	12,559.65	14,513.45	12,327.50	16,532.24	18,354.06	16,974.57	21,626.29	40,666.33	43,813.91
May		7,427.26	8,958.97	12,786.85	15,280.40	23,309.92	18,386.51	18,526.24	19,610.83	21,785.09	42,479.97	50,871.74
June		8,672.68	9,359.82	13,101.68	17,379.01	21,073.57	20,948.57	21,322.07	21,031.35	26,336.81	46,037.59	57,338.25
July		12,568.56	9,975.46	13,200.77	20,840.98	15,680.49	23,389.72	25,013.71	25,026.81	22,654.15	56,266.23	52,752.31
August		9,721.13	9,549.66	10,730.24	17,009.26	21,117.00	17,432.39	17,223.03	17,749.12	32,788.35	37,501.21	43,139.77
September	<u>6,371.27</u>	<u>6,806.02</u>	<u>7,400.70</u>	<u>8,586.97</u>	<u>14,397.17</u>	<u>13,393.86</u>	<u>16,116.04</u>	<u>12,997.60</u>	<u>14,563.86</u>	<u>36,847.13</u>	<u>60,635.33</u>	
Total	6,371.27	100,428.26	96,406.17	128,825.48	170,726.13	193,945.54	205,978.62	212,999.73	211,754.69	269,317.22	547,535.15	561,903.78

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



FY 2006 Budget
617,000
% Budget Collected, 8/31/2006
91%

GENERAL FUND

Summary Statement of Revenues, Expenditures, and
Changes in Fund Balance- Budgetary Basis
For the Month Ended August 31, 2006
with comparatives: 8-31-01; 8-31-02; 8-31-03; 8-31-04; and 8-31-05

	8/31/2001	8/31/2002	8/31/2003	8/31/2004	8/31/2005	8/31/2006	Amended Budget	Budgetary Variance Over/(Under)	% Budget
Revenues									
Sales, Use, & luxury Taxes	6,800,700	7,213,953	7,377,680	8,139,586	9,303,628	10,272,016	11,143,334	(871,318)	-8%
Payment in Lieu of Taxes	244,483	209,665	152,416	260,086	235,936	258,540	1,243,500	(984,960)	-79%
Ad Valorem Taxes	2,272,393	2,454,724	2,583,672	2,834,430	2,882,359	3,187,850	3,267,000	(79,150)	-2%
Licenses & Permits	732,871	684,974	1,597,435	1,580,416	1,771,603	1,970,417	1,740,220	230,197	13%
Other Revenues	1,161,183	1,023,079	1,204,987	1,163,455	1,095,394	1,797,159	1,110,225	686,934	62%
Total Revenues	11,211,630	11,586,396	12,916,189	13,977,974	15,288,919	17,485,982	18,504,279	(1,018,297)	-6%
Expenditures									
General Government									
Personnel	1,000,808	1,108,624	1,131,955	1,230,677	1,295,173	1,395,317	1,639,748	(244,431)	-15%
Operating	644,654	646,435	682,468	720,491	769,181	884,831	1,101,731	(216,900)	-20%
Capital	75,663	161,150	53,914	41,746	35,144	236,113	58,050	178,063	307%
	1,721,125	1,916,209	1,868,337	1,992,914	2,099,498	2,516,261	2,799,529	(283,268)	-10%
Public Safety									
Personnel	3,059,493	3,315,578	3,275,562	3,481,286	3,750,114	4,157,439	4,953,127	(795,688)	-16%
Operating	660,856	671,087	690,994	720,420	773,534	1,041,148	1,198,346	(157,198)	-13%
Capital	229,317	78,753	557,190	191,919	129,435	288,947	324,689	(35,742)	-11%
	3,949,666	4,065,418	4,523,746	4,393,625	4,653,083	5,487,534	6,476,162	(988,628)	-15%
Public Works									
Personnel	1,547,886	1,568,008	1,547,405	1,617,831	1,751,968	1,804,589	2,119,377	(314,788)	-15%
Operating	955,387	937,626	868,565	934,686	1,061,891	1,182,977	1,358,481	(175,504)	-13%
Capital	249,320	170,754	230,722	179,212	300,420	729,437	929,821	(200,384)	-22%
	2,752,592	2,676,387	2,646,691	2,731,729	3,114,280	3,717,003	4,407,679	(690,676)	-16%
Parks & Recreation									
Personnel	649,777	716,395	713,739	783,307	857,819	874,318	1,107,532	(233,214)	-21%
Operating	383,314	421,673	431,053	471,546	611,946	575,615	733,704	(158,089)	-22%
Capital	23,156	12,019	25,157	73,262	62,058	17,500	-	17,500	#DIV/0!
	1,056,247	1,150,087	1,169,949	1,328,116	1,531,824	1,467,433	1,841,236	(373,803)	-20%
Total Departmental									
Personnel	6,257,964	6,708,604	6,668,661	7,113,102	7,655,075	8,231,664	9,819,784	(1,588,120)	-16%
Operating	2,644,210	2,676,822	2,673,079	2,847,143	3,216,553	3,684,570	4,392,262	(707,692)	-16%
Capital	577,456	422,676	866,983	486,139	527,057	1,271,997	1,312,560	(40,563)	-3%
	9,479,630	9,808,102	10,208,724	10,446,383	11,398,685	13,188,231	15,524,606	(2,336,375)	-15%
Other Financing Sources & Uses									
Debt Proceeds	134,274	151,770	514,581	6,000	-	-	-	-	-
Transfers to Debt Service	(2,222,973)	(2,306,980)	(2,164,491)	(1,772,544)	(1,956,094)	(2,297,693)	(2,483,006)	(185,313)	7%
Other Transfers & Uses	(457,298)	(513,576)	(450,881)	(1,634,302)	(866,445)	(752,443)	(1,129,292)	(376,849)	33%
Total Other Financing Sources/Uses	(2,545,998)	(2,668,786)	(2,100,791)	(3,400,847)	(2,822,540)	(3,050,136)	(3,612,298)	(562,162)	16%
Total Revenues Over Expenditures									
	(813,998)	(890,492)	606,675	130,744	1,067,695	1,247,615	(632,625)	1,880,240	
Unreserved Fund Balance, 10-01	2,431,236	2,381,054	2,386,488	3,825,172	4,106,801	5,968,130			
Unreserved Fund Balance, 8-31	1,617,238	1,490,562	2,993,163	3,955,915	5,174,496	7,215,745			

**NEW BUSINESS LICENSE
AUGUST 2006**

CITY LIMITS	CONTRACTORS
ART IN MOTION	1 NETHERLAND REFRIGERATION 1
BELTONE AUDIOLOGY & HEARING AID CENTER	1 NEDS PROFESSIONAL PAINTING 1
WET LOOK	1 VETERAN AIR LLC 1
RX ADVANTAGE INC	1 SOUTHLINE ELECTRIC 1
COUNTRYWIDE HOME LOANS INC BRANCH # 256-SRA (3)	1 R&R FRAMING 1
WORLD FINANCE CORPORATION	1 ACE COMMUNICATION & ELECTRICAL 1
TREAT 2 L WILLIAMS	1 M & M HOMEBUILDER LLC 1
HOLIDAY INN EXPRESS	1 TOWNSEND RONALD 1
DOMINOS PIZZA	1 IRBY ELECTRIC CONSTRUCTION & MAINTENANCE 1
SUNSET LANDSCAPING & LAWN CARE	1 J S WALTON & CO INC 1
EASTERN SHORE HARLEY- DAVIDSON	1 Q&R CONSTRUCTION 1
HOUSE OF DIXIE	1 HUAL ELECTRIC INC 1
ZAHURAKS VETERANS POINTE	1 DBM CORP 1
SOUND EXTREME ENTERTAINMENT	1 A&O HEATING/COOLING LLC 1
PLATINUM COMPANIES	1 ALL TRIM INC 1
NEXCALL COMMUNICATIONS	1 SCOTT FENCE COMPANY 1
FLOTTE EDWARD	1 SPECIALTY REPAIR & REMODELING 1
THE MASTERS CRAFTMAN	1 BYRD DRYWALL 1
VIRTUAL PARTNERS INC	1 THEO LUKER 1
BALDWIN BONE & JOINT P C	1 LOPEZ CONCRETE 1
INTERNATIONAL MORTGAGE CORPORATION	1 COASTAL FRAMING 1
DON GROVES	1 LAMBERT BUILDING AND DEVELOPMENT, LLC 1
CITY LIMITS	22
	KAISER LANDSCAPE & POOL SERVICE INC 1
	DALLAS DRILLING CORP 1
OUT OF CITY	BRAVO PAINTING 1
A BLOOM LANDSCAPE AND SPRINKLER CO	1 COOL BREEZE AIR CONDITIONING INC 1
MCKINNEY PETROLEUM EQUIPMENT INC	1 YAHWEH'S BUILDER INC 1
COASTAL FIRE PROTECTION	1 BILL BASS HOMES 1
DAILEY LAWN CARE	1 ISLAND AIR CONDITIONING & HEATING INC 1
SOUTHERN FURNITURE LEASING	1 ADVANTAGE PAINT CO 1
ENTERPRISE LEASING COMPANY	1 ROLLIN ELECTRICAL MAINTENANCE LLC 1
SUNQUEST PROPERTIES OF NW FL INC	1 DOUG WARD & CO 1
AUTOLEASE CORP OF FLORIDA	1 QUALITY PLUMBING 1
DIRECT SCAFFOLD & LADDER CO LLC	1 CA, LLC 1
MLS MART REALTY LLC	1 GANTT LAND CLEARING & HAULING LLC 1
CUT N EDGE	1 MONARCH CONSTRUCTION SERVICES 1
PARATA SYSTEMS LLC	1 MAXWELL CONSTRUCTION CO 1
HANDYMAN HEAVEN	1 QUALITY POWER SERVICES LLC 1
D & T POOLS AND SPAS INC	1 WAR CONSTRUCTION INC 1
AUXILIARY POWER SYSTEMS INC	1 B&L FRAMING LLC 1
TOTAL NEW BUSINESSES- NOT IN CITY	15
	SOUTHERN INSULATION & ENERGY SERVICES INC 1
	GOODWIN A/C INC 1
	CT DRIVER SIGNS LLC 1
INSURANCE COMPANIES	TOTAL NEW CONTRACTORS 43
LAD DRAGO STATE FARM INSURANCE	1
AMERICAN GENERAL INDEMNITY COMPANY	1
TOTAL INSURANCE COMPANIES	2

TOTAL NEW BUSINESSES 32

NEW BUSINESS LICENSE
SEPTEMBER 2006

CITY LIMITS	
CUSTOM PRODUCTS	1
PLANET BEACH	1
LOWES HOME CENTERS INC # 2251	1
RF&G PRINCESSES LLC	1
SPECILTY CLOSINGS	1
CHINA CHEF	1
HERITAGE PLANNING GROUP P C	1
BENJAMIN C MAUMENEE P C	1
JULIES GYMNASTICS	1
JUBILEE STOP	1
M&B REALTI CO	1
LILY'S GIFTS	1
LANDMARK REAL ESTATE GROUP INC	1
MOBILE APPLIANCE	1
WHITE GLOVE CLEANING SERVICE	1
TOTAL NEW BUSINESSES- CITY LIMITS	15

OUT OF CITY	
BETH PIERCE	1
FIRST RESPONSE SERVICES	1
VISALUS, VISALUS SCIENCES	1
ASC INC	1
HUUNDAI LEASE TITLING TRUST	1
OWENS & MINOR	1
INTEGRATED WASTE SOLUTIONS	1
WANDA BEAUDRY LLC	1
EXCELLENCE CARPET CLEANING	1
THE KOLACHE BAKERY INC	1
GULF STATES READY MIX ALABAMA	1
AL TRY OUR SPORTS PLES	1
TOTAL NEW BUSINESSES- NOT IN CITY	12

CONTRACTORS	
CAJUN TERMITE & PEST CONTROL LLC	1
FRIDAY CONSTRUCTION LLC	1
SHEW ELECTRIC INC	1
B E S SECURITY SYSTEMS INC	1
AFCO-VICTORY EXTERMINATING INC	1
EQUITY BUILDER CONSTRUCTION LLC	1
D&L CONSULTING INC	1
MCTRAIL SIGNS & GRAPHICS	1
TRI STATE PLUMBING	1
GUARDIAN CONTRACTORS LLC	1
COASTAL TREE SERVICE	1
SYCAMORE CONSTRUCTION INC	1
LAYS TREE SERVICE	1
KEITH CAMPBELL SIGN INC	1
AUDIO VISUAL SPECIALIST	1
A&A AIR SYSTEMS	1
HUTERA FLOORING & DRAPERIES	1
AAA CLIMATE CONTROL & PLUMBING	1
MOORE ROOFING	1
HARBISON SERCICES	1
VICKERS JOHNNIE T	1
QUALITY HEATING & AIR CONDITIONING	1
ENVIROREM INC	1
L&L A/C & HTG INC	1
JOHNNY LOTT & SONS ASPHALT SPECIALIST	1
D R HORTON INC	1
ELLISON CABINETRY	1
WALKER MAINTENANCE INC	1
WALKER MAINTENANCE INC	1
TRAWICK CONTRACTOR INC	1
VAN DAMME PLUMBING & REPAIR	1
ONGUARD ALARM	1
TOTAL NEW CONTRACTORS	32

TOTAL NEW BUSINESSES	59
-----------------------------	-----------

Buildings and Property Committee Meeting

Friday, October 6, 2006

10:00 a.m.

City of Daphne

Council Chambers

Committee

Councilman John Lake, Chairman

Mayor Fred Small

Councilman August A. Palumbo

Sandra Morse, Director Daphne Civic Center

Ken Eslava, Public Works, Director

Richard Merchant, Buildings Inspector

Ragan Lambert, Building Department

Ashley Campbell, Erosion Control

Also attending: Councilman Greg Burnam

Meeting

The meeting opened at 10:05 a.m. with the discussion of the request made by the Park City Organization requesting that they receive the materials from the old Planning Department building. Mr. Ken Eslava, Public Works Director stated that the best plan for the building was for the Public Works Department to keep whatever salvage from the building for their upcoming projects and research prices for a basic Kemko type building and allow the Park City Organization to supply plumbing, lights, etc. for the project. This would be another City of Daphne facility that Park City would have usage of. Mr. Eslava stated that he would research a 50'x50' type basic structure and report back to the Buildings and Property Committee.

The Committee discussed the Civic Center electronic signage. The Committee reviewed the drawings that were prepared by YESCO Electronic Sign Company. The company prepared three drawings which were reviewed and the Committee requested that the YESCO representative attend the next Buildings and Property Committee meeting.

The Committee discussed the Eastern Star Building and the condition of the building for usage as a possible college campus. Councilman Palumbo and Mayor Small discussed sending a sketch of the facility to the representatives at Faulkner College and Huntington College. Mayor Small stated that his office will send the drawings and report back to the Committee. Mayor Small stated that if the project proceeds, it would be necessary to involve the surrounding community for input.

The Committee reviewed a request from the Baldwin County Humane Society for a reduction in fees for their upcoming Human Society Christmas By the Bay fundraising event. A **Motion** was made by Mayor Small to reduce their @\$8,000.00 Civic Center event bill by \$2,500.00. The Committee discussed the benefits that the City receives from the Humane Society. **Seconded** by Councilman Palumbo. **Motion Approved.**

A review was made of verbiage presented by Mrs. Cynthia Scardamalia Nelson for a plaque that would dedicate the Richard Scardamalia Pavilion to her late husband. A **Motion** was made by Mayor Small to recommend to the Council that a sign indicating that the facility had been dedicated to her husband be erected. **Seconded** by Council Palumbo. **Motion Approved.**

Councilman Palumbo made request that Ms. Morse research and present plans for updating the Richard Scardamalia Pavilion at the next meeting.

Councilman Palumbo stated that the Recreation Committee is working on plans that would provide a "Dog Park" behind the Trione Complex.

Mr. Richard Merchant, Building Inspector stated that the "Re-inspection Fees" will go into effect November 1, 2006. A **Motion** was made by Councilman Palumbo to send the Building Codes to the next work session. **Seconded** by Mayor Small. **Motion Approved.**

Meeting Adjourned at 11:00 a.m.

Sandra

From: Cynthia Nelson [cnelson@providencehospital.org]
Sent: Tuesday, September 19, 2006 12:20 PM
To: scmorse@bellsouth.net
Cc: mayorassist@bellsouth.net
Subject: plaque



RICHARD
AMALIA PAVILIO

Sandra,

I appreciate your getting in touch with me concerning the plaque to be placed on the Richard Scardamalia Pavilion. This was something that was told me 11 years ago and it has been like unfinished business to me. You said to put on it whatever I wanted. It is difficult to sum someone like Richard up on a plaque in just a few words. Look at the attachment and let me know what you think. Thanks you so much for addressing this.
Cynthia



RICHARD SCARDAMALIA PAVILION

**Richard Scardamalia 1947-1995
Passionate Artist, Photographer, Environmentalist
and Visionary of the Eastern Shore.**

He had an eye for beauty
that was manifest in his work.
He had a zest for life
that was evident in his love of the environment.
He had a vision for the future
that lives in the preservation of the park that you are visiting.

Daphne Beautification Committee

City Hall 1705 Main St. Daphne, AL

Meeting Minutes

October 6, 2006

Meeting: General Membership Meeting 10:00 a.m.

Invitees: Stark Irvine

City Liaison: Marshall Parsons, Marjorie Bellue

Members:

Chair: Carollee Grindel (4)	Jerry Guillott (4)	Audrey Rouire (6)
Vice Chair: Vincent Russo (2)	Tomasina Werner (4)	Jessia Prater (1)
Secretary: Anne Talton (7)	Dorothy Rankins (5)	Bea Wilson (2)
Frieda Romanchuk (7)	Patty Kearney (5)	Nancy Henderson (3)
Marilyn O'Connor Moore (2)	Dorothy Morrison (2)	Toni James (1)
Francis Harold (1)		

I. Call to order -10:03 a.m.

II. Roll call – Carollee Grindel, Vincent Russo, Anne Talton, Marilyn O'Connor Moore, Tomasina Werner, Dorothy Rankins, Patty Kearney, Dorothy Morrison, Audrey Rouire, Jessia Prater, Bea Wilson, Nancy Henderson, Toni James, Francis Harold, Guests were Shannon Spivey from the Mayors Office and Robin Andrew from the Recreation Department's (Christmas Parade Planner).

III. Approval of minutes – The minutes of September were read, accepted and approved as read.

IV. Subcommittee Reports

- a) Christmas Decorations Subcommittee – Nancy Henderson reported that she and Frieda had plugged in and tested the santas and strings of lights. They ended up in the surplus pile. Marshall said that 126 Christmas tree pole decorations and 2 wired santas had been unused for over six years needed to go to surplus. A motion was made by Dorothy Morrison and seconded by Bea Wilson to put these items in surplus. The motion passed by unanimous vote. Marshall also informed the committee of this years Christmas schedule. Starting November 13 they would start pulling and testing pole decorations and putting them up the following week. Then they would start putting up stationary decorations. The area to be decorated goes from Main Street (KFC) to Johnson or Woodbridge (Holy Cross). Marshall reviewed plans for The Christmas Parade and decorations. A motion was made by Vincent Russo and seconded by Dorothy Morrison to install permanent base lighting on the Bradford trees at Lott Park. This was voted on the passed by unanimous vote. A Christmas Planning Committee was formed with Nancy Henderson and Frieda Romanchuck as co-chairs. The following ladies volunteered to be on that committee, Dorothy Morrison, Carollee Grindel, Bea Wilson, Jessia Prater, and Anne Talton. They will meet Monday morning at the barn on Johnson Road at 10:00.

- b) Butterfly Garden Subcommittee – Carollee reported that they are working on funding and getting more Master Gardeners to help. The Trailblazers put in a grant to put flowers on the north side with the help of Alabama Power.
- c) Arbor Day Subcommittee – Anne Talton said that they met recently with Marjorie and her committee. They would be typing and redoing a list of the available trees as well as a brochure. She read an email from Patty Kearney who had arranged a tree planting ceremony at Daphne High School to celebrate Arbor Day and Tomasina Werner would be doing the publicity for our committee.
- d) Community Garden Subcommittee – Carollee said that this was on hold for the time being.

V. Open business

- a) Budget Request – Our Committee members went to the city hall meeting and were warmly received with a request for our priorities list. Carollee will send that list to each Council member. Then we discussed our gateway sign on Rand Street and Scenic 98, the photo that we took and the reason for the delay in putting up the sign. Marshall said that the power poles were in the way and Riviera would have them up in two weeks and then he could get the sign in the ground and we can get a new photo.
- b) Charter – Latest Revision – Carollee is working on the history that will be added.

VI. New business

- a) Plans for downtown Daphne from the Downtown Redevelopment Authority (DRA) were reviewed for us by Starke Irvin. He explained that an overlay district was done to save Old Towne Daphne. There will be an adult park like setting in front of City Hall with an Italian Fountain and the statue of Daphne, which was sculptured by Fran Neuman. A study showed a need for two story buildings and more of them have been added to downtown. Anne asked if a large wood carved sign could be put on Highway 98 to designate Old Towne Daphne’s area or the direction to that area. A discussion of Centennial Park and the need to make it more accessible.
- b) Vincent Russo asked about the new Riviera building on Johnson Road and the need for landscaping as it is an eyesore as is. Marshal will check on that.
- c) The fallen tree at the elementary school was checked on by Dorothy Morrison. The Bay Minette office said that they would remove the tree by November first. A suggestion was made that she call Tracy Roberts or Frank Trione for any help she needed.

VII. Public Works Report

Marshall reported that Public Works had now taken over the non-athletic parks and he had a new crew to start on projects at each park and to get the trails open again. His office has been treating the pine trees for pine beetle infestation and he is Okaying permits by phone. He may be able to get free lumber for the Scenic overlook gazebo. A discussion was held about paying for an architectural design plan. Nothing was agreed upon.

VIII. Announcements

Carollee reported that Frieda had checked on the pine trees along the interstate at the new Lowe's shopping mall that are dying. Marshall said that the developer has the responsibility to remove or replace and Ken Eslava will follow up on it.

IX. Adjournment –11:30

Respectfully submitted

Anne Talton, Secretary

**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:

**DOWNTOWN REDEVELOPMENT AUTHORITY
DAPHNE, AL
1705 MAIN STREET
OCTOBER 9, 2006
5:30 P.M.**

DRAFT

1. CALL TO ORDER/ROLLCALL

Starke Irvine called the meeting to order with a quorum present at 5:44 p.m.

Present: Starke Irvine; Ceann Wachter; Chris Donald; Kit Smith

Members Absent: Jackie Ward, Glenn Glass

Board Members Present: Cathy Barnette, Jeff Hudson

Board Members Absent: Mayor Small, Andy Citrin

Also present: Rebecca Hayes, Recording Secretary; Ryan Glass; Fred Glass; Bob Lloyd; Mary Lloyd; Lad Drago; Jay Ross, City Attorney, Meredith Turpin, Attorney.

ARCHITECTURAL REVIEW COMMITTEE FOR THE OLDE TOWNE DISTRICT

Mr. Ross stated that this committee can be legally formed, but the Authority has to come to terms with how restrictive it will be. Mr. Ross stated that Becky had given him a copy of Trussville's design standards that are excellent, and that would be a good place to start. He also stated that the Authority might want to look at Montrose for a guideline. He stated that if you want Italian architecture then you must come to a balance and define what you mean by Italian architecture. Mr. Ross stated that if you want to have approval of color then you need to list the choices and can state that the Review Committee will have final approval. He stated that whatever is decided, it is best to have a list to go by instead of opinions.

Starke asked the members to look over the information that Becky provided and make notes for the next meeting.

MINUTES

MOTION BY Kit to approve the minutes meetings held August 23, 2006. Seconded by Ceann.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

BEAUTIFICATION MEETING

Starke reported that he went to the Beautification meeting and they had a discussion about the Jubilee Courtyard and coming up with ways to make it more user friendly. He said that they discussed opening the Courtyard up, and that Will Hughes said that he would buy tables and umbrellas to put in the Courtyard if they would open it up. Starke stated that they also discussed the changes that the Recreation Board was thinking of making to Centennial Park. One change is taking down the back fence and opening that area up, and they thought that was an excellent idea. Starke said that the Authority should have a liaison on the Beautification Committee, and that the Beautification Committee should have a member attending the DRA meetings, because they are striving for some of the same goals for the city, and that they need to work together.

Ceann stated that she would be glad to attend the Beautification meetings.

NEXT MEETING

Starke stated that at the next meeting they will be reviewing the members and their terms, and discuss adding some members and board members. He stated that the next meeting will be November 13, 2006.

ADJOURN

The meeting adjourned at 6:50 p.m.

**September 25, 2006
CITY OF DAPHNE, AL
INDUSTRIAL DEVELOPMENT BOARD MEETING 6:00 P.M. at City Council
Chambers**

1. CALL TO ORDER/ROLL CALL

Members present – Jack Ehlenberg, Joe Lovelady, Toni Fassbender, Pokey Miller, and John Coulter

Also present – David Cohen, Robert Ingram, (New Alliance Person)

2. OLD BUSINESS

- a. Approval of August 28, 2006 Minutes

Motion by Mr. Lovelady Seconded by Mr. Miller To approve the minutes

ALL IN FAVOR NONE OPPOSED MOTION CARRIED

3. TREASURERS REPORT

Mr. Coulter gave the report to the board with a balance of \$85,056.38.

Motion by Mr. Ehlenberg Seconded by Mr. Lovelady To approve the treasures report

ALL IN FAVOR NONE OPPOSED MOTION CARRIED

4. I-10 COMMERCE CENTER

- a. Discuss financing the land under purchase agreement

Robert Ingram discussed the various developers that could come in build spec buildings. There will be a need to pick an appropriate lot. The board discussed hiring an engineering firm and lawyer to proceed with the proposed land at the I-10 Commerce Center.

Motion by Mr. Ehlenberg Seconded by Mr. Coulter To set an IDB meeting on October 3, 2006 at 6 P.M.

ALL IN FAVOR NONE OPPOSED MOTION CARRIED

Motion by Mr. Ehlenberg Seconded by Mr. Coulter To send letter to Sonny Nichols with regard to option agreement.

ALL IN FAVOR NONE OPPOSED MOTION CARRIED

Motion by Mr. Coulter Seconded by Mr. Ehlenberg To contact Patrick Collins to hire as

the IDB attorney

ALL IN FAVOR

NONE OPPOSED

MOTION CARRIED

5. OTHER BUSINESS

Mr. Ehlenberg stated that the IDB needed to appoint a new chairman and vice chairman.

Motion by Mr. Ehlenberg
Chairman

Seconded by Mr. Coulter

To appoint Toni Fassbender as

ALL IN FAVOR

NONE OPPOSED

MOTION CARRIED

Motion by Mr. Coulter
Chairman

Seconded by Mr. Ehlenberg

To appoint Joe Lovelady as Vice

6. ADJOURN

Motion by Mr. Coulter

Seconded by Mr. Ehlenberg

To adjourn

ALL IN FAVOR

NONE OPPOSED

MOTION CARRIED

**THERE BEING NO FURTHER BUSINESS TO DISCUSS THE MEETING
ADJOURNED AT 7:15 P.M.**

Respectfully Submitted,

David L. Cohen, Secretary

Approved:

Toni Fassbender, Chairman

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006 DRAFT
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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 6:00 p.m.

CALL OF ROLL:

Members Present:

Fred Small, Mayor
DeLeon Thomas
Warren West, Vice Chairman
Jeff Carrico, Chairman
Don Terry
Cathy Barnette, Councilwoman
Ed Kirby

Members Absent:

Larry Chason, Secretary

Staff Present:

William H. Eady, Sr., Director of Community Development
Pat Houston, Administrative Technician
Helen Burdette, Executive Assistant
Meredith Turpin, Associate Attorney
Misty Gray, Associate Attorney
Nancy Anderson, GIS Technician

Staff Absent:

Jay Ross, Attorney
Jan Dickson, Planning Coordinator

The Chairman stated the first order of business is the call to order. Please let the record reflect that seven 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 24, 2006 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.

A **Motion** was made by Mayor Small and **Seconded** by Mr. West **to approve the minutes of the regular meeting as written with no additions, deletions, or corrections. The Motion carried unanimously.**

The Chairman stated the next order of business is a site plan review for Luce Development Building.

NEW BUSINESS:

SITE PLAN REVIEW:

File S06-22:

Site: Luce Development Building

Location: Lot 9, TimberCreek Business Park

Area: 0.42 Acres \pm ,

Owner: Richard Luce

Engineer: Frank Dagley & Associates - Patrick Tolbert

An introductory presentation was given by Mr. Tolbert, representing Frank Dagley & Associates, requesting site plan review for Luce Development Building on Lot 9, Timbercreek Business Park consisting of point forty-two acres. He stated the correction for the zoning was made. I will be happy to answer any questions you may have.

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

Mr. Kirby stated just one question. On sheet three, it shows overhead electrical service. Is that correct?

Mr. Tolbert stated we will change that.

The Chairman stated so the power will go underground.

Mr. Tolbert stated yes, sir.

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

A **Motion** was made by Mr. West and **Seconded** by Mr. Kirby **to approve the site plan for Luce Development Building. The Motion carried unanimously.**

The Chairman stated the next order of business is a site plan review for Sam's Gas. Let the record reflect I will not be voting on this project.

File S06-23:

Site: Sam's Gas

Location: Southwest corner of I-10 and Highway 181
Area: 3.1 Acres ±,
Owner: Sam's Real Estate Business Trust
Engineer: Kimley-Horn & Associates - Christopher Nix

An introductory presentation was given by Mr. Nix, representing Kimley-Horn & Associates, requesting site plan review for Sam's Gas located at the Southwest corner of I-10 and Highway 181, consisting of three point one acres. I will be happy to answer any question you may have.

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

Ms. Barnette stated I know at site preview we discussed the fact that the signage was on all four sides, and we have not seen anything in our packet noting correction.

Mr. Nix stated also with me tonight is Cory Johnson, of Harrison French & Associates, the architects, he can answer any questions you may have.

Mr. Johnson stated I spoke with Mr. Kirby earlier this week to resolve the sign issue, and we will be going with three small signs that will meet the correct criteria for the Eastern Shore Park Overlay District requirements.

The Chairman stated at the present, we do not have the actual sign to look at, and other than your just saying you are going apply. You will need to submit the signage for approval.

Mr. Kirby stated they will have to submit it to me for approval at the proper time.

Mayor Small stated if I may, and Mr. Kirby, too. I noted it on my reduced copy that we do have the monument signs moved for that area, and I guess they do need approval as well.

Mr. Kirby stated yes, sir.

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

A Motion was made by Mayor Small and **Seconded** by Mr. Thomas **to approve the site plan for Sam's Gas. The Motion carried unanimously.**

The Chairman stated the next order of business is a site plan review for Malbis Cancer Center.

File S06-24:

Site: Malbis Cancer Center

Location: U. S. Highway 90, West of Alabama Highway 181, Northeast of County Road 13
Area: 101 Acres \pm ,
Owner: Easlan Capital of Atlanta, Inc.
Engineer: Hutchinson, Moore & Rauch - Christopher Baker

An introductory presentation was given by Mr. Baker, representing Hutchinson, Moore & Rauch, requesting site plan review for Malbis Cancer Center located at U. S. Highway 90, West of Alabama Highway 181, Northeast of County Road 13 consisting of one hundred and one acres recently annexed into the City. It is zoned business with nineteen parking spaces. I will be happy to answer any question you may have.

The Chairman stated do any of the Commissioners have any questions or comments. Is this going to have a gravel road out to Highway 90?

Mr. Baker stated no, sir.

The Chairman stated for construction use only. Okay. I see it now.

Mr. Baker stated I believe that is part of our erosion control.

Mr. West stated I would like to know when Daphne will have the sewer connections available, and is it timely for your building.

Mr. Baker stated we are currently in the process of working out that with the Utilities Board. What is going to happen with this individual site right here is that we have met with the Utilities Board and we are going to run a service line, and then cooperate with the Utilities Board on a future trunk up and down Highway 90.

Mr. West stated thank you, very much.

Mayor Small stated is what we are looking at here just the beginning of the total master plan or the total process.

Mr. Baker stated yes, sir. It is a temporary facility. It is not a mobile home or anything like that, so do not think of it happening in that regard. It is a cancer treatment facility.

Mr. Baker stated it will be there for approximately eighteen months. It is the first beginning of the defilading master plan, which we have included in your package. It will be a greater medical office facility, as well as, a cancer treatment facility.

Mayor Small stated I apologize that I was not at the work session.

The Chairman stated let me ask one more question. You said, when you answered Mr. West about the sewer, that provisions are being made for taps, and new lines to tie in, but as of now there is no sewer.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. Baker stated right now, there is not.

The Chairman stated so you are going to have to time that connection.

Mr. Baker stated right.

Mayor Small stated they should be starting on that pretty soon, if not currently.

Mr. Baker stated we are cooperating very closely with the Utilities Board in order to make sure that everything is running concurrently. Obviously, the ultimate master plan is very much contingent on having the sanitary sewer put through.

The Chairman stated I just want to make sure that the sewer was provided and acceptable in relations to the sewer being in place on this project.

Mr. Baker stated yes, sir.

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

A **Motion** was made by Mr. West and **Seconded** by Mr. Kirby **to approve the site plan for Malbis Cancer Center. The Motion carried unanimously.**

The Chairman stated the next order of business is site plan review for the Proposed City Hall Improvements.

File S06-25:

Site: Proposed City Hall Improvements

Location: 1705 Main Street, North of Dryer Avenue

Area: 4.01 Acres ±

Owner: The City of Daphne

Engineer: Hutchinson, Moore & Rauch - Scott Hutchinson

An introductory presentation was given by Mr. Hutchinson, representing Hutchinson, Moore & Rauch, requesting site plan review for the proposed City Hall improvements, consisting of four point one acres located at 1705 Main Street. I will be happy to answer any questions you may have.

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

Ms. Barnette stated just for the record. Sure the retention was the most significant, but we also talked about making sure the people understand that there will be no heavy equipment and that type of stuff, in the area because of the sensitive trees. We want to make sure that we make reference to that and the underground retention pond. Then the other thing that we talked about was a construction entrance and a regular entrance. I do not know if we have it or if we need it to

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

know it tonight, but we do want to show that we have an entrance exclusively for construction and one for the public.

Mr. Hutchinson stated certainly, it will not be shown on the plat. If we showed that it might possibly change. More than likely the north entrance will be the construction entrance.

Mayor Small stated that is correct. It is likely the north entrance will be the construction entrance, as well as, talks with the Fire Marshall for plans to make a temporary entrance into City Hall from the rear for all of the citizens and employees.

Mr. Hutchinson stated we will use, as much of the existing parking lot out front, as we can. It will be fenced off with a big orange fence as well as the trees that you brought up.

The Chairman stated I would like to ask, Mr. Hutchinson, in lieu of the orange fence around the trees that you put up a chain link construction fence. It is not that expensive, but it will stop someone from driving into the construction site.

Mr. West stated what happens to the Art Center that sits on the corner. Will that continue?

Mr. Hutchinson stated yes, sir. It is hard to see, but that building will stay there.

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

A Motion was made by Mayor Small and **Seconded** by Mr. Thomas **to approve the site plan for the Proposed City Hall Improvements. The Motion carried unanimously.**

The Chairman stated the next order of business is site plan review for The Live Oak Restaurant.

File S06-26:

Site: The Live Oak Restaurant

Location: 805 Trione Avenue

Area: 0.59 Acres ±

Owner: Dr. Glenn Glass

Engineer: Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Moore, representing Hutchinson, Moore & Rauch, requesting site plan review for The Live Oak Restaurant, consisting of point fifty-nine acres located at 805 Trione Avenue. We are planning to place the dumpster on the east side. I will be happy to answer any questions you may have.

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

Mr. West stated how do you plan to protect the citizens that live adjacent to this primarily on the east side.

Mr. Moore stated the east side is zoned B-2 anyway, Mr. West. There is a residential house there, and there is a fence along the east side between them.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. West stated so the fence will remain.

Mr. Moore stated yes, sir.

Mr. West stated is that the only residence or is there one on the other side.

Mr. Moore stated no, sir. If you remember, on the north side is the old Camellia Café.

Mayor Small stated Ray, what did we decide or what was discussed at the site plan review about the sidewalk on the west side of the alley way.

Mr. Moore stated I think Mr. Irvine will address that issue.

Mr. Irvine stated I was not at the site preview so I do not know exactly what was discussed. The previous discussion was that the owner/developer is wanting to build a sidewalk down that side. He only needed to have the City give him permission to use that playground area is my understanding.

Mayor Small stated right. I just did not know if that had been discussed there or not. The right-of-way belongs to the City. The problem is getting with all of the Council members to get approval on that. The fence will be about four to six feet away from the park, so as long as everybody know that. As well too, and I know we discussed it some off and on with Dr. Glass, and the Downtown Redevelopment, and I do not know about you Ray, but you know we have that wooden fence there, which can be moved, and my suggestion is, down to Lott Park, and put it up against the cemetery fence. I think it would look good, but as well, somebody is going to have to reinstall some of the same fencing there. Are the developers or the owners willing to install the fencing there?

Mr. Irvine stated I cannot answer that for them. I know just enough about it to know that Bill Causwell is real partial to this thing. I do not know if he is going to have the money to do that or not, and he did comment in the last ERA meeting that we had that he was hoping that the City would do that because it would really be an improvement for the park somewhat. He was hoping to tie in with some overall improvements which he has heard from the Recreation Board that they are planning for the park anyway. So I am not certain if that pocket was ever included. I think it is still kind of just hanging out there, but he does honestly need the fence.

Mayor Small stated well we need the fence there, and we all know we need the sidewalk.

Mr. Irvine stated I mean, he needs that side of the fence removed.

Mayor Small stated yeah, well we would like for it to be removed too. I think it would be aesthetically better there for it to be removed. In doing this I think it is a big open question, at this time, as to who is going to pay for it. If we give him the property there, should we have to put the fence back up. I guess we can go ahead and approve this, Mr. Eady, and worry about the fence later on and discuss the sidewalk, as the conditions are permitted.

Mr. Kirby stated I guess my concern is why do we need a sidewalk through a piece of private property. What is the purpose of the sidewalk?

Mr. Irvine stated I think what Dr. Glass is hoping for, and in fact the ERA is hoping, is that we are going to create more foot traffic in the Olde Town area. He is hoping to move people on foot from

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

Manci to Trione Street without them walking out in this driveway area. The sidewalk is on public property, not private property, it has been on the City's property.

Mr. Kirby stated okay. I noticed we do have, or this reflects sidewalks on the other side of the parking where you pull in. You do have sidewalks on that side all the way through.

Mr. Moore stated on the east side there is a rear sidewalk through there.

Mr. Kirby stated it goes all the way through.

Mayor Small stated I think we had discussed this in the Downtown Redevelopment as well because we would feel a lot better about people not having to duck right into a street. Have we had any word from the attorney as to whether they are willing to give up any property there?

Mr. Moore stated the last I heard, no, sir, there was not any word.

Mayor Small stated we are kind of waiting on that. It is contingent on that as well.

Mr. Moore stated I do know that on this side here they are going to want on both sides of the fence opened to everything.

Mayor Small stated I think actually on the north side the wood fence would be more appropriate in not showing the building there. It would be more appropriate to look at from inside the park because the only thing you are going to see is just the building from there.

Mr. Irvine stated just for directional purposes, does Dr. Glass go to this entity or does he go the City Council.

The Chairman stated here because all we are doing right now is deciding on the site plan.

Mr. Irvine stated I am talking about the fence, sidewalk and all of that.

Mayor Small stated I think probably going to a Council Work Session would be appropriate, to bring this to the Council to let them in on it. I do not see any need to hold up this site plan approval for that tonight because I feel like we can work all of this out.

Ms. Barnette stated right. I was just going to add to the Mayor's comment. The sidewalk and the fence, although I know it is important to Mr. Glass's project, it is not criteria for site plan approval. It is just kind of something else that the City and the property owner have to work out. The way I see it. I do not know if we want to just modify the approval to include or not include the sidewalk and fence because we do not know if that is going to be worked out. We have presumptions, but we do not know.

The Chairman stated the approval would be contingent upon the acceptable sidewalk and fence.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Ms. Barnette stated I do not think we can include the sidewalk and the fence because it is not part of his site plan.

Mr. Moore stated we have a sidewalk. The sidewalk on the west side of the fence was merely done as a point of object for downtown redevelopment in working with this project.

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

Mr. Kirby stated since the sidewalk and fence are not a part of the site plan I will make a motion.

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to approve the site plan for The Live Oak Restaurant. The Motion carried unanimously.**

The Chairman stated the next order of business is site plan review for Parcel A of Resubdivision of Lot 2, Highway 64 Commercial Park.

File S06-27:

Site: Parcel A of Resubdivision of Lot 2, Highway 64 Commercial Park

Location: County Road 64 and Capital Drive
Area: 0.69 Acres ±
Owner: S. A. "Andy Luckie"
Engineer: Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Moore, representing Hutchinson, Moore & Rauch, requesting site plan review for Parcel A or Resubdivision of Lot 2, Highway 64 Commercial Park, consisting of point sixty-nine (.69) acres located at County Road 64 and Capital Drive. I will be happy to answer any questions you may have.

The Chairman stated do any of the Commissioners have any questions or comments. Are they building a new building or expanding? What is the surface like there now, and is there a retention pond?

Mr. Moore stated they are building a new building because of growth. There is retention in the subdivision way to the north.

The Chairman stated it is designed for everything in the subdivision.

Mr. Moore stated yes, sir. It is designed for everything out there.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

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

A **Motion** was made by Mr. West and **Seconded** by Mayor Small *to approve the site plan for Parcel A of Resubdivision of Lot 2, Highway 64 Commercial Park. The Motion carried unanimously.*

The Chairman stated the next order of business is a final plat review for Rolling Hills Place.

FINAL PLAT REVIEW:

File SDF06-05:

Subdivision: Rolling Hill Place

Location: On Rolling Hills Drive between Hope Drive and Calverdale Circle
Area: 6.66 Acres \pm , (23) lots
Owner: Friday Construction Company - Mike Commiskey
Engineer: Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Ray Moore, representing Hutchinson, Moore & Rauch, requesting final plat review of a six-point sixty-six-acre subdivision, consisting of twenty-three lots located on Rolling Hills Drive between Hope Drive and Calverdale Circle. There was some discussion at site preview about the detention pond holding some water and the landscaping. I will be happy to answer any questions you may have, and the owner is here tonight, and he is aware of the deficiencies on some plants over on the west side.

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

Mr. West stated back to the retention pond. It is going to be a retention pond, and it is going to retain water?

Mr. Moore stated no, sir. It is not designed to hold water. It is a detention pond. It will not hold water.

Mr. West stated who is going to maintain it?

Mr. Moore stated the Property Owners Association would be the ones to maintain that property.

Mr. West stated so the fact that it is not a retention pond or it may be a detention pond, somebody has to maintain it.

Mr. Moore stated yes, sir.

Mr. West stated that will be the landowners.

Mr. Moore stated yes, sir.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. West stated that is in the Property Owners Association covenants.

Mr. Moore stated yes, sir, that is in the covenants. Mr. Eady, should have drafted copy in his folder.

Mr. West stated we do have a copy of it.

Mr. Moore stated I do not know if it is in your packet, but Mr. Eady, was sent a draft.

Mr. West stated I would like to see it.

Mayor Small stated it is actually on the plat. On the top left hand corner.

Mr. Moore stated right, and down at the bottom right there also. Again, I want to stress what you see out there. The last time we were at site preview someone said you have not mowed out there or you have not done anything. Well, I drove straight there. The only thing that had not been mowed was the very bottom of it, and yes there are some rocks standing there. We were instructed by the City staff to over excavate for clearing in the future.

The Chairman stated do you think that was approved, I mean to over excavate on your design professional. Is that what you would have done?

Mr. Moore stated you are asking me to respond to that.

The Chairman stated yes.

Mr. Moore stated no, sir. I would have cleaned that out.

Mayor Small stated why did we wait until we went ahead and laid the grass, even if we over estimated there about the correction of the erosion control or correct the deficiencies. Of course, when you got ready to lay grass why did not you go ahead, fill it in and then lay the grass according to the plans.

Mr. Moore stated we were instructed to leave it that way until some of the houses were built and everything else. When you are fixing on any site, you are going to have a little bit of a run off. Those were her comments, and that is what she wanted us to do and that is what we did.

The Chairman stated the verbal directions were given to who.

Mr. Moore stated were given to our staff.

The Chairman stated to your engineers.

Mr. Moore stated yes, sir.

The Chairman stated I would think in the future I would prefer verbal directions on engineering to be made by a design professional. That is what I would do. I think I would have to come back, and resubmit this to make such a provision. You are the design professional, and ultimately you are awarded approval based on your design, and if it is incorrect, she whether it is staff or not someone has made a modification to it. As such I do not think that is something that the City wants to take the responsibility of, the design of retention, or detention because I guarantee people will have a real short memory.

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

Mr. Moore stated that is why we take notes. Those kinds of comments go into a daily report to be filed. People take direction all the time from the City. This is Mr. Mike Commiskey, the owner. Mr. Commiskey stated I was not happy with that situation either. In fact, on two different occasions on our final inspections out there, the preliminary I called up Ray Moore and said what is with all of this water. The drainage is installed and we put the grass around there. We want the grass and everything like it is suppose to be. He said you told him you cannot do it, so then I am looking to my guy, who says he is looking to the City authority. We are just trying to do what we were told to do.

The Chairman stated with all due respect, I understand what you are saying, but I think what the more approvable thing to say is, contractor puts in the design, contractor stabilizes site, contractor make sure grass is rooted, contractor makes sure dirt soil and sediment cannot get to storm drainage, and make sure the grass is maintained and mowed and you are done.

Mr. Commiskey stated right. I hear exactly what you are saying.

Mayor Small stated Mr. Eady, we have a memo here from you saying that you withdraw your recommendation for approval, on this development, at this time.

Mr. Eady stated until the landscaping is complete, yes, sir.

Mayor Small stated can we address the landscaping, Mr. Moore.

Mr. Moore stated yes, sir. I think this gentleman is going to talk about it to.

Mr. Gilleran stated I am David Gilleran, and I have a problem with the west side. One thing is the holding pond, and I looked at it before this meeting, and it is holding water, and it is not being treated like it needs to be. The mosquito population is breeding happily. The retention pond, detention pond, whatever it is, needs to be addressed by someone. Also, Mr. Moore and Mr. Commiskey did assure us that this was going to be landscaped on the back side as it is on the front side, I have no problems with that. It is just that from my back porch, looking out from my family room, my french windows I can see a giant hole in a culvert, and that is just not acceptable. I am beginning to notice that on a daily basis. So if I have assurance from Mr. Moore, Mr. Commiskey that this will be done, I will be satisfied.

Mr. Moore stated I went out and looked at that, in his back yard toward that direction. I found out that area is not being properly kept up.

Mayor Small stated in his letter there he mentioned a fence, and I do not think our Ordinance call for that, but if the detention pond ends up being a dry pond that is not something I am not all that concerned about.

Mr. Gilleran stated if it not a dry pond, on any day, I can go down there, and there are ten to twelve small children playing down there. Because it is not holding water right now, children can easily injury themselves or be hurt. I will leave that issue up to the City, but right now there is some liability involved in that area. As a resident of Daphne it is my duty to report this, and if I were a child it would be a great temptation for me to go down there and investigate. Slipping on the algae, hitting

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

their head, falling on a rock and God forbid a two, three or four year old child being face down in that water is my concern.

Mr. Moore stated I will remind you that if you look at the original contour out there, we actually went in, and regraded the gully. It was a sheer wall six to eight feet deep, so we went in and re-graded it and put weir at the bottom. Weir sits in a hundred year soil if it is only three feet deep.

Mr. Moore stated it looks a whole lot more horrendous than that, but the weir is only three feet high.

Mayor Small stated what would it take to correct this deficiency? Should the builder be allowed to go in there and fill in the detention or go in there, pull back the grass, and fix it so it will drain.

Mr. Moore stated I think from the only stand point of it we are looking for direction. A City Officer told us what to do out there, and this Board says fill it in. I may as well go put grass in it.

The Chairman stated judging by what we are getting I cannot speak about the liabilities, but we certainly do not want to take responsibility for something that is an issue. It is my opinion that they cannot change an engineering design, and the issue is that it has changed. I do not think it is too difficult to fill it in.

Mr. Moore stated no, it would not be, and I agree with this man's assessment. It is ugly. My problem is selling lots out there.

Mayor Small stated the normal thing to do is before the developer turns it over to the Property Owners Association it has to correct.

Mr. Moore stated you are right. At that time all of the lots will be sold and that is when they turn it over.

Ms. Barnette stated the landscaping, regardless to what has happened, there have been some plantings and things around the holding pond according to the original landscape plans. So when you talk about not doing the contingency I do not know if we have a choice other than not approving this tonight. We have a recommendation from the Planning Department to say so, and we said we were not going to do contingencies, so I think we need to have them come back and have these issues addressed and fixed or deny it.

The Chairman stated Mr. Moore, we need to do a follow-up on this.

Mr. Commiskey stated a lot of stuff was not done and a lot of other stuff was done. We went out there and put about another one hundred and fifty feet of fencing along there that was not called for, and we can have landscaping in by this weekend. It is what was missed after dealing with Ray. It is not that expensive. I do not know what needs to be done. Put dirt back in the pond, replant or whatever. Obviously, is gone now who is supposed to have done that on his contract. I will get somebody out there to do whatever, whoever decides is the proper thing to do.

The Chairman stated I would ask that you correct this and come back on the next meeting date.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. Commiskey stated is this recommendation of withdrawal simply because of the landscaping on the back side.

The Chairman stated I think it is twofold. I think it is the City, and I cannot speak for Mr. Eady, might want the landscaping and other issue taken care of before approving it. If we were to approve it, by this being a final plat review, we would have to require some type of landscape bond. Was that provided? So there is not a bond here, and you need to correct the deficiencies.

Mr. Moore stated well, you signed Cambron without a bond, and we did get that taken care of. We over excavated that pond at the City's request or an officer of the City. Now, will the City come in and put the dirt back for us because we had somebody do that for us, on our part.

The Chairman stated I cannot answer that. I think that is a question for the City attorney. Surely we can ask, but I do not want to put them on the spot tonight.

Mr. Moore stated with all due respect I feel like we are getting punished for something the City told us to do.

The Chairman stated allegedly requested. I would ask that you resubmit it for approval. If we put it up for a vote, I cannot guarantee what would happen.

Mr. Commiskey stated what are we resubmitting besides the landscaping.

The Chairman stated you have to resubmit the whole thing.

Mr. Commiskey stated I understand that, but what are we suppose to do.

The Chairman stated you would correct the deficiencies, and then come back with those corrections being done. The landscaping is now in, and whatever grass is out there is established.

Mr. Moore stated instead of withdrawing, can we table this, and bring it back next month with those corrections.

The Chairman stated yes.

Mr. Gilleran stated are you saying that you will bring that fence back around here.

Mr. Moore stated he was not talking about there. When we did the fence over here, we brought it all the way up. One of the residents over here, if you remember, cleared about an acre on our property, and we had nothing to do with it. There is no vegetation right here.

Mayor Small stated I do understand the objections, but we do have a control point, with Mr. Eady signing the plat, and you cannot sell any lots until that happens. We have a major problem with the detention pond being undone prior to approval directed by the City or whatever. We should have handled that from the get go. We should not be looking at this problem here. I think we do have a control point there to approve this project. We can depend on the staff to make sure this project is completely finished before signing off on it. Then we would be in the same situation if we tabled it, and brought it back next month.

The Chairman stated so you would like us to vote on it, Mr. Mayor.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mayor Small stated I am just asking my fellow members.

The Chairman stated Mr. Moore, would you like us to vote on it.

Mayor Small stated well, I am asking my fellow Commissioners if they do not agree. I do not want to hold this project up.

Mr. Moore stated I do not know if I want you to vote on it or not.

Mayor Small stated we still have the same control right now as we would if we make him wait and bring it back. I mean we are going to wait a month, and have pictures and a letter that says the work has been done.

The Chairman stated Mayor, this is a public forum so let us just do it same way. It is a valid comment. I agree with you, it is something that could be done, but I think my purpose in having it done in this public forum is for it to be voted on by this group. I grant it that you have an issue with bringing it up for a vote, but I would prefer to bring it back next month. I will bring this back to you, Mr. Moore. Do you want us to table it or take a vote?

Mr. Moore stated I think I am going to table it.

A Motion was made by Mr. Kirby and **Seconded** by Ms. Barnette **to table final plat review approval for Rolling Hill Place. Mayor Small opposed. The Motion carried.**

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

File SDF06-24:

Subdivision: Austin Park Estates

Location: On County Road 54, North of Austin Park Subdivision

Area: 56.04 Acres \pm , (50) lots

Owner: J. Lee Davenport

Engineer: Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Moore, presenting Hutchinson, Moore & Rauch requesting final plat review of a fifty-six point four acre subdivision, consisting of fifty lots located on County Road 54, north of Austin Park Subdivision. He stated Mr. West mentioned in site preview about the street light. I do hold in my hand a receipt for forty-four hundred dollars that was paid for the street light on May 31, 2006. I will be happy to answer any questions you may have.

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

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. West stated my point is that it is required. It is a problem, but I do not think it is the Planning Commission's problem.

Mr. Moore stated this is a way of bonding it. We have already paid for those lights.

Mr. West stated the lights need to be there.

Mr. Kirby stated in the past we have allowed final plat approval without the street lights being in, but the problem of vandalism comes up.

The Chairman stated we have a letter from Baldwin County with deficiencies, and one from Ken Eslava. Are you aware of that?

Ms. Barnette stated Mr. Eady was saying at the site preview that he has approved it since then. Is that correct?

Mr. Eady stated yes. There has been another inspection after that one and he has approved it and the County has accepted it as well.

The Chairman stated Mr. Eady, I can assume that we can take your assurance that all of these lots have been inspected, and there is written documentation.

Mr. Eady stated yes, sir.

Mr. Moore stated it is in an ET zone, so the County has done that also.

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

A Motion was made by Mr. Kirby and **Seconded** by Ms. Barnette **to approve final plat review for Austin Park Estates. The Motion carried unanimously.**

The Chairman stated the next order of business is a final plat review for Waterford, Phase One.

File SDF06-25:

Subdivision: Waterford, Phase I

Location: On Austin Road approximately one half mile East of Alabama Highway 181
Area: 10.97 Acres \pm , (19) lots
Owner: Lee Carroll - The Waterford Group, LLC
Engineer: Hutchinson, Moore & Rauch - Tom Granger

An introductory presentation was given by Mr. Granger, representing Hutchinson, Moore & Rauch,

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

requesting final plat review of a ten point ninety-seven acre subdivision, consisting of nineteen lots located on Austin Road approximately one half mile East of Alabama Highway 181. He stated this was originally presented to you as a preliminary plat review under the name, The Old Place, and the name has been changed, and it is not gated. I will be happy to answer any questions you may have.

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

Mr. West stated I am looking for an Ordinance, in the County or in the City, that will deal with when you can open up lots unto a main street and when you cannot. We as the Planning Commission have done it both ways. We did it with County Road 54 and County Road 54, well wanted to do, and the County said no you cannot do that, so we made it a part of the subdivision, and now, we have nineteen lots open up onto a highway that is busy. I understand the possible logic, and maybe agree with it. I just need think we need it in writing so that the public will understand what we are doing, and we are consistent in what we are doing. I think in this case the reason that the County is allowing this is that you pushed it, and this Highway is not of much traffic as the other. This is on what?

Mr. Granger stated Austin Road.

Mr. West stated Austin Road and the other one is on County Road 54.

Mr. Granger stated yes, sir. I do not believe you will find anything definitive in writing as to the classification of the roads, a minor collector or a major collector, all of this will be a local street. People on this road are typically just getting to their house. It is not like County Road 27 where people are commuting from point "A" to point "B", but the County is going to look at each one individually, I believe. I do not think there is anything that you will find in writing. We did do common driveways, which means two lots share a driveway, which is similar to Avalon which the County approved. The County did approve this in light of based on the fact that they granted us the driveway permits. The driveways are set, and they would not have granted us permits if they did not approve of it. Again, it is very similar to Avalon that is on County Road 54.

Mr. West stated the other thing I had was that there has not been enough work done for this subdivision to be approved. As I understand, and I do not have it, but there is a bond.

Mr. Granger stated that is on Phase Two.

Mr. West stated on Phase Two.

Mr. Granger stated yes, sir. There is really no need for structure in Phase one.

Mr. West stated Phase One, thank you. Phase One is not involved because it is right on the highway. The thing that worries me most about Phase One is that it is open on the highway and it is inconsistent. How can you have a gate to the subdivision with nineteen lots not even in it? How can you handle that?

Mr. Granger stated there is no gate and I do not know how that got printed in the paper.

Mr. West stated that leads me to the next question. Where is the landscaping plan? I do not see it.

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

Mr. Granger stated much of the landscaping in Phase One will be done as the lots are constructed.

Mr. West stated I do not have the landscaping plan for this.

Mr. Eady stated we do not normally submit landscaping plans on final plat review, it comes with preliminary plat review.

Mr. West stated landscaping plans come with a final.

Mr. Eady stated no, sir. It comes with the preliminary plat review. The thing submitted most with a final is the final plat. The landscape plan is not submitted again. All of that comes with the preliminary plat at the beginning.

Mr. West stated thank you. I did not realize that. I would like to see the landscaping plan, if I can, regardless.

The Chairman stated there is a landscaping bond.

Mr. Granger stated not on Phase One, no, sir.

The Chairman stated on Phase Two.

Mr. Granger stated yes, sir.

The Chairman stated you are asking for Phase Two approval as well. Are you not?

Mr. Granger stated yes, sir. Phase Two is next. The only infrastructure rules for tying into existing utilities are the water and sewer. It is really the only infrastructure in the bonds construction of Phase One.

The Chairman stated you understand Mr. West concern about these driveways coming out unto the main road. It is a final, at this point, but it is something that probably needs to be looked at in the future.

Mr. Granger stated the intention was to not have an alleyway on the back of the lots. They are larger lots. We have a fifty-foot setback. The houses are farther off the road. We are trying to give a little larger front yard. On a street like this that has very little traffic it works pretty well.

Mayor Small stated is all of the sewer going to be tied directly into the right-of-way on Austin Road. Is there a separate plan? What are we doing about Phase Two? We have already approved the master plan for Old Place. Is that not right? We have looked at it two or three times.

Mr. Thomas stated yes, we have looked at the master plan for Old Place.

Mayor Small stated did we not put gravity sewer in there at the lift station?

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 28, 2006
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Mr. Granger stated yes, sir.

Ms. Barnette stated I asked this at site preview. Our book has the zoning as ER, Single Family Estate and the plat has R2-B.

Mr. Granger stated it is R2-B.

Ms. Barnette stated what is the minimum lot size for R2-B?

Mr. Granger stated we are larger than that, I assure you.

Ms. Barnette stated there are some small lots in here.

Mr. Granger stated eighteen thousand square feet.

Ms. Barnette stated I know the R-1's are still forty thousand.

Mr. Granger stated R2-B is fifteen thousand. Our smallest is around sixteen or seventeen thousand.

Ms. Barnette stated you are not thinking of our R-2, right.

Mr. Granger stated no.

Ms. Barnette stated we are saying the County R2-B is fifteen thousand.

Mr. Granger stated yes.

Ms. Barnette stated you will stake your reputation on that.

Mr. Granger stated that is correct.

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

A Motion was made by Mr. Kirby and **Seconded** by Ms. Barnette **to approve final plat review for Waterford, Phase One. The Motion carried unanimously.**

The Chairman stated the next order of business is a final plat review for Waterford, Phase Two.

File SDF06-26:

Subdivision: Waterford, Phase II

Location: On Austin Road approximately one half mile East of Alabama Highway 181
Area: 32.88 Acres \pm , (63) lots
Owner: Lee Carroll - The Waterford Group, LLC
Engineer: Hutchinson, Moore & Rauch - Tom Granger

An introductory presentation was given by Mr. Granger, representing Hutchinson, Moore & Rauch, requesting final plat review of a thirty-two point eighty-eight acre subdivision, consisting of sixty-three lots located on Austin Road approximately one half mile East of Alabama Highway 181. I will be happy to answer any questions you may have.

The Chairman stated do any of the Commissioners have any questions or comments. This is the one that has the bond on it, right.

Mr. Granger stated that is correct. Well, it is a complete infrastructure bond, not just landscaping.

Mayor Small stated that bond is to the County.

Mr. Granger stated that bond is in favor of the County for one hundred and fifty percent of the estimated value. We actually did that estimate six days ago, and a lot of that work has been done. So the bond is well in excess of the one hundred and fifty percent of the remaining work to be done, which includes paving, curb and gutter, and such as that. It is not just landscaping. Phase Two improves the common areas and the main amenity package, which is under construction now. It was originally called the Old Place because it was the old Corte homestead. It is being redone to be a club house, and swimming pool, and that is in the lower left hand corner common area of the plat. The bond is one point one-six million dollars, and it is in favor of Baldwin County, and we submitted a copy of it with our package.

Mr. West stated how can we approve this without seeing the bond?

The Chairman stated have you seen the bond, Mr. Eady?

Mr. Eady stated yes, sir.

The Chairman stated so it does exist.

Mr. Eady stated yes, sir.

Mr. West stated what did he say?

The Chairman stated Mr. Eady says that he has seen it.

Mr. West stated he has seen it. I think we should see it.

The Chairman stated I think so too. Mr. Eady, in the future can you put a copy of the bond in our packet or just something that says in fact that it is part of their submittal.

Mr. Eady stated in the future, yes, sir.

Ms. Barnette stated if the zoning R2-B is fifteen thousand, then these lots do not meet that criteria.

Mr. Granger stated this was done prior to that being known. That was in the District 15 zoning, which for a preliminary plat approval was nine months ago, I believe. Eight months prior to the property being zoned.

Mr. Eady stated the District 15 zoning did not come into effect until August 1, 2006. These projects

were already building.

The Chairman stated so I guess the annotation on the plans would be inaccurate. It is not an accurate representation of what is there. It may not have been required at that time, but we do have it noted here as such.

Mr. Granger stated zone R2-B. We could put a notation there "as of August 1, 2006".

The Chairman stated amend it to reflect that change.

Mr. Granger stated sure. You would like to see that as well.

Ms. Barnette stated I think yes because you are implying that it meets something that it does not. I think there is a responsibility there.

Mr. Granger stated we will make sure there is a notation on the plat.

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

A Motion was made by Mr. Kirby and **Seconded** by Ms. Barnette **to approve final plat review for Waterford, Phase Two. The Motion carried unanimously.**

The Chairman stated the next order of business is a preliminary/final plat review for Resubdivision of Lot 1, Strassner Acres.

PRELIMINARY/FINAL PLAT REVIEW

File SDPF06-09:

Subdivision: Resubdivision of Lot 1, Strassner Acres

Location: Southwest of Alabama Highway 181 and U. S. Highway 90
Area: 1.99 Acres \pm , (2) lots
Owner: Gail Strassner

An introductory presentation was given by Ms. Strassner, the owner, requesting preliminary/final plat review of a one point ninety-nine acre subdivision consisting of two lots located Southwest of Alabama Highway 181 and U. S. Highway 90 for construction of a residence. I will be happy to answer any questions you may have.

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

Mr. Kirby stated the field line issue has been corrected.

Mr. Thomas stated I do not know if we can approve this because I asked you last time if you were in the new District 15, and you said no, but in fact, you are. The zone for her property is R1-A. R1-A has a requirement of forty thousand square feet, and I believe one hundred and twenty feet at the build line. So you do not meet County regulations, and our rules and the state rules say that we or the County have to comply with the more restrictive of the zones.

Ms. Strassner stated when did that take place.

Mr. Eady stated August 1, 2006.

Ms. Strassner stated I applied for this months ago. Everything was approved, and I have done everything I was asked to do, but now all of a sudden you are changing it after I have spent a substantial amount of money on this.

Mr. Thomas stated I do not have a choice.

Mayor Small stated I guess I am looking at the attorney for a little direction.

Ms. Gray stated it is my understanding that she submitted it before this District was passed, and it was withdrawn, and then they put the District 15 in and then she resubmitted it. I am not sure if that is correct, but that is my understanding of it. Now, when she resubmitted it would come in under the new District that was passed on August 1, 2006, which is the forty thousand square feet, one hundred and twenty feet build line.

Mr. Eady stated the reason it was withdrawn was to correct the field lines on the other property.

The Chairman stated I remember the utility issue.

Ms. Barnette stated although these regulations went into effect in August we still would have been at the last meeting looking at this issue using the same thing. I think we have a responsibility to follow the criteria.

Mr. Kirby stated I think this was, and you all correct me if I am wrong, withdrawn at our request, to allow, Ms. Strassner to show on this plat how the purposed field line would be placed, on this lot.

The Chairman stated well, I will qualify that by saying that we did ask Ms. Strassner to withdraw at it was coming up for a vote, at which time it could have been possibly turned down, so we gave her the opportunity to withdraw it, but she could have put it through at that time.

Ms. Strassner stated I had that information on paper but not with me.

Mayor Small stated I am falling in with Mr. Kirby. We probably could have directed her to table this just as well, and that way we would have had a continuation. I do not think the terminology awarded there should be a factor. She did not want us to vote on it that night because she was going to bring it back the next month with the proper criteria that she did not have. I think out of all honesty that was the thoughts of everyone here. Is that not correct?

Mr. Thomas stated I agree, however, that is not what happened. What happened was she withdrew, and resubmitted after the new regulations. It was resubmitted after the new regulation.

Ms. Strassner stated how come nobody bothered to tell me this.

Mr. Thomas stated we had no idea when you were resubmitting.

Ms. Strassner stated you had no idea so that make me look like an idiot.

The Chairman stated madam, you have to address the Chairman, please. Most presentation are presented by design professionals.

Mr. Eady stated the reason it was taken back was because the field lines were leading over into this property, and she was told to take it back and free up these field lines, and this is where they are now, and that is also an additional field area for future use. She moved the field line off that property that is what it was held back for. Just a correction. Of course, if and when this property develops it will have a field line of its own.

The Chairman stated so it is the terminology. Withdrawn or tabled.

Mayor Small stated I am not for anybody, I am just for what is right. I think last month the direction came from us.

The Chairman stated the exact specific question asked was do you want to withdraw. I understand what you are saying, and the terminology used should have been table.

Ms. Barnette stated I know we are talking about whether or not it was withdrawn or tabled, but if you go back to the minutes in the open discussion, we did discuss it. I understand that Ms. Strassner made changes to the property, but we also discussed the density, whether or not it was suitable, and what the new regulations were. So all of the discussions were covered during the last meeting. We had the public participation when they talked about the density and they were most concerned. I do not feel like we left the meeting with the only issue being the field line, and I guess that everyone has a different interpretation of how we leave things. If that was not communicated, I apologize, but I felt like we left the meeting with both the facts that there was an issue with the field line, undoubtedly, we were certain that was a problem, but also that there were some density concerns that needed to be addressed.

Ms. Strassner stated Ms. Barnette, what do you mean by density?

Ms. Barnette stated well, just like this is zoned, officially, a forty thousand square foot lot and a one hundred and twenty feet on your width, that is a density issue with five of your lots, and that is what your neighbors were responding to. This is what the new plan has put into effect.

The Chairman stated there was a good bit of discussion about the density measures and the traffic flow.

Ms. Strassner stated when you talk about the traffic flow with fourteen houses in there it is not like a caravan of cars going back and forth.

The Chairman stated at this time are there any adjacent property owners that wish to speak. The floor is open for public participation.

Mr. Scourtes stated my name is Bill Scourtes, I live at 29470 State Highway 181. At the last meeting it became apparent that we did not have any written covenants or restrictions in place. I was unaware, as you mention, that we have applied for a historical landmark district, which

encompasses the area all the way to County Road 13 west and all the way past the cemetery south and all the way to Highway 90 and 181 north and east of, I do not know what a good landmark is to tell you, but just after the residences in the back. It is in place with the State of Alabama, at this time. The precedent that was set was for selling to people within the families. Then some of the family members relocated or they sold to outsiders. Ms. Strassner, at the time, requested from Judge Malbis to subdivide for her mother in-law, and he allowed her to subdivide within her property one time. He failed to put it in the deed restrictions, and of course, that is a technicality, but it was the intent and whole flavor of that neighborhood, and also our disbursed group. The zoning was in place, I believe your Council was not aware of what density measures were in place, but it was in effect August 1st. So I would like that to be noted, and I agree with all of the above, and Norman McAllister would like to speak.

The Chairman stated thank, you, sir.

Mr. McAllister stated I am Norman McAllister, I live at 9595 Malbis Lane. I have some handouts to pass out if you do not mind.

Mayor Small stated Mr. Eady, did we not know that District 15 was in place last Planning Commission meeting.

Mr. Eady stated I did not have the regulations until the latter part of last week.

The Chairman stated so when the project is withdrawn before District 15 and then resubmitted afterwards. I do not want to judge the legal aspects of this.

Ms. Gray stated it was my understanding that the project was submitted before District 15 came into place, and then it was resubmitted after District 15 went into place, which would put it under the new requirement. Of course, that is my off the cuff response. I will be glad to look through everything she submitted and the minutes of the last meeting, and the reasons why it was withdrawn for a legal opinion.

The Chairman stated sir, we are not attorneys and this certainly is a lot of information. I do not know if we will be able to get through all of that.

Mr. McAllister stated let me just say one thing. If this application was not presented until August 24, 2006, then that was twenty-four days after the County meeting.

The Chairman stated it has more to do with the application date rather than when she actually made the re-submittal.

Mr. McAllister stated is Ms. Strassner property now being in District 15, zone R1-A being questioned?

Mr. Eady stated no question about it. I have a map right here.

The Chairman stated is it in the new R1-A?

Mr. Eady stated yes, sir.

Mr. McAllister stated for the record she needs to reach the minimum lot requirement size of forty

thousand square feet, and the lot width requirement of one hundred and twenty feet at the building line.

The Chairman stated we understand that is applicable, and the new lot does meet that criteria. Our problem is the submission dates.

Mr. McAllister stated we believe that the intent of that was that if she could have gotten it to the Commission, and had it heard before this went into effect then it would be a different story. The story is when it came to the Commission to be heard this was already in effect.

The Chairman stated I think it has more to do with the application date. The issue today will probably be whether the project was withdrawn and resubmitted. At which point it would come under the new guidelines.

Mr. McAllister stated the first man that spoke, and I continue our argument against this project.

The Chairman stated we have heard your arguments before, and I have looked at your briefs there, and they are dually noted. These are much the same as we looked at the last time. It is not our position to judge the legal aspects of this.

Mr. McAllister stated the only thing in question tonight is last time Ms. Strassner denied that she had restricted the other acres that sold. She sold her property with restrictions on it, which will not allow her to do what she wants to do to us. I think that signature on the document speaks for itself. I object to the subdivision of the property.

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 Ms. Barnette and **Seconded** by Mr. Thomas ***to deny preliminary/final plat approval for the Resubdivision of Lot 1, Strassner Acres because it does not meet the zoning requirements.***

Mayor Small stated I do feel, honestly, and I am not for either party, believe me. I understand all of the concerns, and I probably agree a lot with them, but I do believe that this whole Commission extended the word, I think. There is one word, tabled or withdrawn, and I think the intent was all the same. For Ms. Strassner, it had nothing to do with District 15. She got her application in July, which was ahead of time, and it actually came to this Commission. The only thing that was holding it up was the field lines, which was a very simple matter. We asked her if she would like to withdraw, and I think the same word could have been would you like to table, and she would have accepted that as well. I am not for either party. I do not really care. I am just for what is right, is right, and what is wrong, is wrong. From that right there is all I am saying. I understand that if we want to look at it, and say it was withdrawn, and she resubmitted, and correctly she would have to come under the new District 15 rules, but I would just like to state that for the record.

Ms. Strassner stated I approached Mr. Eady back in January, before I went to talk to a surveyor to make sure I had plenty of land to do this, and he assured me I did. I have been going through this

since January, spending a lot of money and time, and I feel that I have the right to do this. It is my piece of property and the adjacent property owners do not seem to care. Yes, you did change the zoning, but after we submitted it the first time. I should have been informed that it was even a consideration.

The Chairman stated yes, madam. Thank you. To that we have a motion and a second.

Upon roll call vote, the Motion carried.

Mayor Small	Nay
Mr. West	Nay
Mr. Carrico	Aye
Mr. Kirby	Nay
Mr. Thomas	Aye
Mr. Terry	Aye
Ms. Barnette	Aye

The Chairman stated the next order of business is a preliminary/final plat review for the Resubdivision of Lot 2, Defilippi Acres.

File SDPF06-10:

Subdivision: Resubdivision of Lot 2, Defilippi Acres

Location:	Intersection of County Road 64 and Friendship Road
Area:	3 Acres \pm , (2) lots
Owner:	James & Donna McIntyre
Engineer:	Hutchinson, Moore & Rauch - Scott Hutchinson

An introductory presentation was given by Mr. Hutchinson, representing Hutchinson, Moore & Rauch, requesting preliminary/final plat review of a three-acre subdivision consisting of two lots located at the intersection of County Road 64 and Friendship Road. The owner is proposing to subdivide a parcel with two existing commercial buildings into two lots. There was an issue at site preview concerning the stated used, which I do not know where it came from, but the zoning is not stated on the plat. I will be happy to answer any questions you may have.

The Chairman stated the utilities are separated.

Mr. Hutchinson stated yes, sir. They were there already.

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

Ms. Barnette stated this subdivision meets all of the new District 15 requirements, right.

Mr. Hutchinson stated yes, this is Baldwin County, District 15.

Mr. Kirby stated what is the new zone?

Mr. Hutchinson stated B-3.

The Chairman stated it meets all of the regulations. He opened the floor for public participation. Do any of the Commissioners have any further questions or comments? 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 Mayor Small and Seconded by Mr. West to approve the preliminary/final plat for the Resubdivision of Lot 2, Defilippi Acres. The Motion carried unanimously.

The Chairman stated the next order of business is a preliminary/final plat review for the Sirmon.

File SDPF06-15:

Subdivision: Sirmon

Location: Colvin Lane
Area: 1.02 Acres \pm , (2) lots
Owner: Phillip Sirmon
Surveyor: J. Michael Garratt

An introductory presentation was given by Mr. Garratt, the surveyor representing Mr. Phillip Sirmon, requesting preliminary/final plat review of a one point two acre subdivision consisting of two lots located on Colvin Lane. I will be happy to answer any questions you may have.

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

Ms. Barnette stated I think this one is in District 15 too, and I am not quite sure what the setbacks are. We do not know what the zoning is.

Mr. Garratt stated it is zoned R1-B.

The Chairman stated Mr. Eady, does it meet with the criteria. Is it applicable? I think it has to do with the date the project was submitted. Do you know the date it was submitted?

Mr. Garratt stated one month ago.

Mr. Eady stated according to the map it is R2-B.

Mr. Garratt stated R2-B. I am sorry.

The Chairman stated does it meet the criteria.

Mr. Garratt stated we followed the criteria listed.
Mr. Eady stated I will look it up. The book is very thick.

Mr. Kirby stated Mr. Chairman, make we take a short recess while he looks that up.

The Chairman stated yes. **Recessed at 8:03 p.m. Called back to order at 8:08 p.m.** He stated we have found out that this does meet all of the criteria. Mr. Eady has verified it. **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 Mayor Small **to approve the preliminary/final plat for the Sirmon Subdivision. The Motion carried unanimously.**

SKETCH PLAN REVIEW:

An introductory presentation was given by Mr. Ray Moore, representing Hutchinson, Moore & Rauch, **requesting** sketch plan review regarding clearing and grading of the road right-of-way on approximately sixty-nine acres of annexed property between Eastern Shore Park and County Road 13 known as the Renaissance Center, LLC. This road will do a jug handle type thing and come back out to Highway 90. I will be happy to answer any questions you may have.

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

Mayor Small stated I was thinking that road would tie into County Road 13.

Mr. Moore stated no, sir. When we met with the Highway Department, Johnny Glasko, the reason, he did not want that turn there. We can have a curb cut in there for the hospital, but they did not want that traffic turning there because there will not be a light there. On Highway 90 we have applied for a light. They will let us across there to make circulation inside the medical center. They do not want a light there because it would be a straight shot, and there is already too much congestion.

Mr. Kirby stated at this time is it just clearing.

Mr. Moore stated yes, sir. Just clearing.

Mr. Kirby stated you are not building the road yet?

Mr. Moore stated no, sir. We will not be putting any asphalt down. Grading and under cutting. We will be dedicating that right-of-way all the way through when we come back with the subdivision in there.

Ms. Barnette stated can we see that. I mean is there documentation, as a Planning Commission member I do not recall this.

The Chairman stated this does not require public participation. You can step up.

Ms. Rowell stated I am Susan McGhee Rowell, I have property on County Road 13, and I am coming up next. So the only thing is as it refers to County Road 13. What I was trying to figure out was how all of this is connecting in, and they were talking about a roadway annexed between Eastern Shore Park and County Road 13. I am trying to get a visual base on where that actually was.

Mr. Moore stated north of Highway 90.

Ms. Rowell stated north of 90. Thank you.

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

A **Motion** was made by Mayor Small and **Seconded** by Ms. Barnette *to approve the sketch plan plat review for right-of-way and road bed improvements for Renaissance Center, LLC. The Motion carried unanimously.*

The Chairman stated the next order of business is an annexation review for Mildred Lett Sloan.

PETITIONS:

ANNEXATION REVIEW:

An introductory presentation was given by Mr. Ray Moore, representing Hutchinson, Moore & Rauch, requesting annexation of a two-acre parcel located on Public Works Road directly across from the Daphne Public Works Facility. The zoning is B-2 General Business. I will be happy to answer any questions you may have.

The Chairman stated it meets all of the regulations. He opened the floor for public participation. Do any of the Commissioners have any further questions or comments? 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 Mayor Small *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the annexation of the Mildred Lett Sloan property (Reference: Prestige Window & Door) with B-2, General Business Zoning. The Motion carried unanimously.*

The Chairman stated the next order of business is an administrative presentation by Mr. Shawn Rowell, regarding a purported right-of-way shown on the Innisfree Subdivision plat.

ADMINISTRATIVE PRESENTATION:

An introductory presentation was given by Shawn & Susan McGhee Rowell, owners of the Innisfree Subdivision, regarding the purported right-of-way shown on the plat of the Innisfree Subdivision. He stated I apologize, we did not prepare anything to do this, but we do have a few things to say tonight.

Ms. Rowell stated Shawn and Susan McGhee Rowell and this is a correction warranty deed. I just want to put this into the Planning Commission's minutes, and to make sure that it is noted. It has been recorded at the Foley County Probate. It is Instrument No. 995190. It is a correction deed, correcting a purported right-of-way that was given by Willow Bay Group to the City of Daphne several years ago. I can give you a copy of this.

The Chairman stated Mr. Eady, you will have to explain to me what is going on with this.

Mr. Eady stated I will try. A few years back when Tiawasse Trace was originally approved the Vice President of the company, at that time, set aside, reserved, dedicated, whatever word you want to use, fifty-feet on the south side of the property to be used at a future date, for a future road. This was some time before, and I do have some dates, some time before Ms. McGhee, well it was Ms. McGhee then, bought the property. At the time that she purchased it, she was told by me, on several occasions, that the right-of-way had been set aside there.

Mr. Eady stated from that they have met with me several times, and they have met with Mr. Ray Moore several times, he was their surveyor, and they have met with the Mayor, and they have met with groups of us, from time to time. I think it shows in the book the last meeting we had back here. I actually asked them exactly what they wanted, and they did not say. So I do not know whether they want the right-of-way vacated, but they say it is not there. So if it is not there then it cannot be vacated. I really do not know what it is about as for the fifty-feet that crosses their property. When they have made their presentation, I would like to make one as well.

The Chairman stated is there an action required on any part of this.

Ms. Gray stated no. There is no action required on this, tonight, from my understanding. I am not sure what their presentation will be.

Mr. Rowell stated there is no presentation.

The Chairman stated so there is no action required from the Planning Commission. You have to excuse me, but I am trying to figure out how this is a Planning Commission issue.

Mr. Eady stated normally, if the right-of-way was there and a request was made to vacate the right-of-way, then it would come to the Planning Commission, for recommendation to the Council to vacate. They have not filled out an application for vacation of right-of-way or a vacation of easement or a vacation of anything. They have not filed any papers with us for that. They have been to our office and gone through the records several times. They have been furnished copies of the records that they required, and they did pay for them. I do not know what they want.

The Chairman stated since there is no action required on our part you can finish the presentation, but I do not know what more of a purpose it could serve here, other than you sounding like you might want to make some kind of future point to make some kind of application. The right-of-way vacated or something.

Mr. Rowell stated no. Vacating the right-of-way for future use would be a negative matter.

Ms. Rowell stated because there is no right-of-way there.

The Chairman stated sounds like there might be a dispute between the City and yourself.

Mr. Rowell stated very much so.

Ms. Rowell stated possibly.

The Chairman stated I think probably it would be better if you went through the Mayor's office, and he can direct that from there.

Ms. Rowell stated we have.

Mr. Rowell stated we have done that.

Mayor Small stated there is nothing the Mayor's office can do with this because there is nothing that has been asked from the Mayor's office to be done. I do not know what to do.

Mr. Rowell stated my problem is we conflict.

The Chairman stated I am sorry I do not mean to cut you off, honestly, I do not, but it is not something the Planning Commission can address. So to speak to us about it is not probably going to do much good. It sounds like it might be some type of legal dispute.

Ms. Rowell stated we have been there also. We absolutely do not know where to go. We have been, with all due respect, to Mr. Small, we have been to Mr. Eady, we have talked, we have talked to the City Attorney's of Daphne. This issue has been lingering and causing unbelievable undue stress.

The Chairman stated if the City attorney cannot answer it, I know we cannot.

Ms. Rowell stated no, he answered it.

The Chairman stated right. So, I guess we were still stuck. I do not know the issue, but it is not something that we would try.

Mr. Rowell stated just note that the correction deed has been filed and it is private property.

Ms. Rowell stated period.

Mr. Rowell stated period. Take it any which way you want.

The Chairman stated okay. Thank you.

Ms. Rowell stated for future presentation when Tiawassee, Phase Two comes to you that was testimony.

Mayor Small stated Shawn, do you have a copy. Did you not have a copy of the deed that you were going to give us?

Mr. Rowell stated yes, we have a copy. I can make a copy of it for you.

Mayor Small stated is that where you filed the corrected deed.

Mr. Rowell stated yes, sir.

Mayor Small stated okay. You have not gotten the recorded one yet. So it is all a legal document.

Mr. Rowell stated yes, sir.

The Chairman stated I am sorry.

Ms. Rowell stated we are sorry too. We do not know what to do.

Mr. Rowell stated we have been doing through this a while.

Ms. Rowell stated other than getting an attorney at a go zillion dollars an hour. We are citizens and we pay taxes. We do not know what to do.

Mr. Rowell stated Mr. Eady claims the land has been dedicated. However, we are still paying taxes on it. It is conflicting.

The Chairman stated I do not know. I cannot answer to it. I just do not know, and I am sorry. The documents that you have reflected there will all be noted in the minutes somehow. How it relates to what we are doing. It will be a matter of record.

Mr. Kirby stated Mr. Eady, has presented us with some material here, and I am sitting here looking through it, and on the plat for Innisfree, when it was recorded it shows a reserved for future right-of-way line on that side of that property. When Tiawassee was done, and I was here when Tiawassee was done, there was a lot of discussion about maintaining a right-of-way through there from Pollard Road to County Road 13. That was made record on the plat when Tiawassee was recorded. It showed a dedicated right-of-way.

Ms. Rowell stated on Tiawassee. On 1778-B which is the final plat it was not.

Mr. Rowell stated on Tiawassee.

The Chairman stated it sounds like it is going to be a legal dispute. It is not something we can answer here.

Ms. Rowell stated that is okay. The next time whenever Tiawassee, Phase Two development comes through just remember if they are asking for a fifty-foot dedicated right-of-way it is not. It does not exist. That cannot be. Thank you.

Mr. Rowell stated it does not exist. Thank you.

The Chairman stated thank you.

Mr. Eady stated I think if you will look at the documents I have furnished to you that you will find that it is there, and has been for approximately a little over twelve years.

Mr. Rowell stated well, can I ask you a question then.

Mr. Eady stated talk to him.

Mr. Rowell stated when Mr. Moore approached Bill Eady, and said I do not have the proper evidence at what point is that not enough evidence that it is not there.

Ms. Gray stated that is a legal question.

The Chairman stated it is a legal dispute at this point, and I am not even going to make a recommendation. You need to generate some kind of correspondence to the City.

Ms. Rowell stated you are not just up to speed. I am sorry for all that.

The Chairman stated it is not something that we vote on. You are not asking for an action from us.

Ms. Rowell stated no. More or less it is basically telling you about it.

The Chairman stated you are trying to get in a public forum and document it on record.

Ms. Rowell stated exactly. Thank you. Have a good night.

The Chairman stated we got it. The Mayor is making copies of that.

Mr. Rowell stated thank you. We appreciate it.

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

ATTORNEY'S REPORT:

Ms. Gray stated we do not have a report.

Mr. Eady stated I have a comment to make when you get through.

The Chairman stated can we adjourn.

Mr. Eady stated I want to ask you a question before you adjourn.

Mr. Eady stated I have heard several comments tonight about what was not in the packet and what you do not see, and I want to see it to believe it, and so forth. This same question came up probably a year ago or maybe a little farther back, and I asked the question exactly what do you want to see in the packet. At that time, I was told we do not want to see any more paper. You can see that the paper trail is growing tremendously, and getting larger every month, and yet we still do not have

what each individual member wants to see. What I am asking you is on a final plat do you want a complete set of as-built drawings. You will have everything in it. It will have the grading, drainage, landscaping, the sign, everything that is being done will be in an as-built drawing. In the past over and over and over, on a final we only present the final plat because all the work has been done. All I want to know is what do you want.

The Chairman stated I think it is just concern, Bill. It seems that on a preliminary the information is there to begin with. What we want is just confirmation. I cannot speak for the whole Commission, but I guess we are talking about a payment on a performance bond for incomplete work if the City is going to accept it we need to see it. Then the letters from your staff, which you have been doing all along. The letter from Eslava, Baldwin County or whoever it is, saying we have looked at this or with whatever, and we do not have a problem with them. Then we have an instrument in place to make sure those things are taken care of.

Mr. Eady stated my new procedure is that I am not bringing anything else to this Planning Commission that the County has not signed off on. The County has joined me, and worked really well with it. Some of the developers and engineers have not been too happy with us, but it will pay off for us, and that is what we are doing. It kind of bothers me a little bit when we go through as much work as that. You can see the amount of work that has been done there, not so much by me, but by these ladies sitting over here, and then to be questioned as to whether it is proper or not or whether we have got the correct thing. All I want to know is exactly what do you want. I can give you anything you need, anything you want. I want to do the job right, but I want to do it in a way that I am not questioned about whether I have done it right or not, every time I come before to this Planning Commission. I can give you anything. I can give you as built drawings. I can give you any size drawing you want. We have the capability of giving you anything you want.

Mr. West stated what you have done in the past as far as I am concerned is excellent. What I have seen recently, like the bond issue, we all wanted that. We always have seen that.

Mr. Eady stated I can understand the bond issue, but you mentioned tonight, Mr. West that you wanted to see a copy of the landscape plan on a final plat, and that was presented under a preliminary plat. I had no thoughts of bringing a landscape plan for a final, but if you want to see one each time that is fine I will be glad to bring it.

Mr. West stated when do I see it. At preliminary.

Mr. Eady stated you see it at the preliminary, yes, sir. If you want one each time, I will be glad to do it.

The Chairman stated I think this should be made at some kind of different forum. I think we need to sit down and have type of side bar meeting to address these issues. I know individually there may be other concerns and collectively we can compile them and get something so we can answer exactly what you are asking.

Mr. Eady stated okay.

The Chairman stated I think you are doing a great job. The City of Daphne is an explosive City, and I think you have got your hands full. I commend your office and your staff they do a great job. You have a tremendous work load and I think you do a good job.

Mr. Eady stated well, we have been short one. Jan had surgery on August 28th and I do not know exactly when she will be back. These two ladies over here have picked up the load, and they are doing double duty. They are working hard. They are not as familiar with as she is. They have done every bit of that stuff you have in your hands, and I appreciate it, and I want you to know I appreciate it, and them to know that they are appreciated so I feel for them as well. We are all here, and we have one goal, and that is to do the job right. There is not but five of us and we handle a lot of work. We handle a lot of responsibility. Everything that goes through our City comes through our office, and we are responsible for a lot of time and certainly millions of dollars that people have either spent, borrowed or agreed to borrow or whatever. We have a tremendous responsibility, and we try to live up to that responsibility. So all I want to know is exactly what do you want from us, and we will give it to you, but do not wait until the Planning Commission meeting to tell me that you want to see something.

The Chairman stated Bill, I think it was a credit to your staff if you look at what went on here tonight. We had two projects turned down. One of which was probably turned down because of the recommendation from your office. I think the Commission pretty much looks to you and what you do to answer their questions. If it were not for your office, I think a lot more projects would be turned down. I think you are doing your job right.

Mr. Eady stated I hope we are. It is very difficult because all of the engineers do not want to cooperate with us. From time to time, and you have given me permission to withdrawn them, and I have on a few occasions, but I hate to do that when so many people and so much money is involved in it. Anything I can do to make it work. I want to make it work, and my staff does too, as well. I just want to give you what you want.

The Chairman stated yes, sir.

Mr. Eady stated thank you.

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 8:22 p.m.

Respectfully submitted by:

Pat Houston, Administrative Technician

APPROVED: October 26, 2006

Jeff Carrico, Chairman

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:



**EASTERN
SHORE**
CHAMBER OF
COMMERCE

P.O. Drawer 310
Daphne, Alabama 36526-0310

Overlook
29750 Larry Dee Cawyer Drive
Daphne, Alabama
251.621.8222
FAX 251.621.8001

Downtown Fairhope
327 Fairhope Avenue
251.928.6387
FAX 251.928.6389

www.ESchamber.com
email: office@ESchamber.com



September 28, 2006

City of Daphne
Mayor & City Council
Post Office Box 400
Daphne, Alabama 36526

Re: 19th Annual Jubilee Festival – September 29th & 30th, 2007

Dear Mayor Small and City Council Members:

The 19th Annual Jubilee Festival is scheduled to be held September 29 - 30, 2007. As always, the continued support of the Mayor and City Council is essential. At this time the festival committee would like to request the following from the City of Daphne:

1. Permission to block Main Street from Magnolia Avenue South to Dryer Avenue. The closing of this area would still allow access by area residents and church visitors.
2. Permission to use Centennial Park for KidsART.
3. Permission to allow children to paint on the back fence in Centennial Park.
4. Assistance from Police and Street Department with street closings and barricades from Friday, September 28, 2007 after 5:00 p.m. until Sunday, September 30, 2007 after 6:00 p.m.
5. Coordination by the Mayor with Riviera Utilities for additional electrical power access at the City Hall entrance utility pole.
6. Permission to use City Hall as headquarters for the festival staff and volunteers.
7. Permission to place temporary banners to help promote the 19th Annual Jubilee Festival.

Specifics of the banners are as follows:

Banners to read: *Jubilee Festival, September 29th & 30th*

Banners to be posted 2 weeks prior to event

Size of Banners to be 120" x 34"

Locations to include:

Santa Rosa & Main Street

Jubilee Mall

Lawson Road

8. Permission to place banners within the site of the festival.

Please place this request on the agenda for the next available City Council Meeting. Please contact Angela Kimsey at the Eastern Shore Chamber of Commerce (621-8222) with the date of the meeting.

The Eastern Shore Chamber of Commerce and the Jubilee Festival Committee greatly appreciate the City's continued support of this annual event. We are looking forward to another successful event for both the Chamber and the City. The Festival continues to grow each year, but success of the event is only possible with the combined effort of the City, the Chamber and the volunteers.

Sincerely,

Linda Mong & Terri Waring, Festival Co- Chairs
19th Annual Jubilee Festival

CZ/crs

cc: Darrelyn Bender, President, Eastern Shore Chamber of Commerce
Jerry Keehn Chairperson, Executive Board Eastern Shore Chamber of Commerce

STATE OF ALABAMA, ALCOHOLIC BEVERAGE CONTROL BOARD, MONTGOMERY, ALABAMA

Date Refused _____ TYPE APPLICATION Date Approved _____
 By: _____ 060 - Retail Table Wine - (On or Off Premises) By: _____

Name of Applicant (s) Ollie's Barbecue, LLC
 Circle One: Ind. Part. Assoc. Corp. LLC

Name and address of individual, partners and members, association, corporate officers, etc.:

Name	D.L. # Title	Date of Birth Place of Birth	Present Residence Address	Length at Residence
James Barry McClung	AL 4987121 Member	09/24/65 Jefferson County, AL	710 South Mobile, Street #49 Fairhope, AL 36532	3 mos.
John Young Kirkpatrick	AL 5112823 Member	01/26/67 Jefferson County, AL	717 Oak Bluff Drive Daphne, AL 36526	1 1/2 years

Corporate Information: Ints # 847968 Date 10/21/04 County Baldwin
 (Enter book and page or document info.) (Incorporation or Authority)

Trade Name Ollie's Barbeque

Location 1410 Hwy 98-D Daphne, AL 36526 County Baldwin

Mailing Address 1410 Hwy 98-D Daphne, AL 36526
 (Include Street or Post Office Box Address, City, State, and Zip Code)

Previous Licensee Information Transferee

Licensee Name Ollie's Barbeque, LLC Type 020 Year 2005-2006

Trade Name Ollie's Barbeque License Number 2389

Location (location transfer only) N/A

- Has applicant complied with ABC Regulation # 20-X-5-.14 regarding financial responsibility? Y N
 Does the ABC Board have any actions pending against the current licensee? (If Yes, explain in Investigation Section) Y N
 Has ANYONE, including manager or applicant, had a Federal/State permit or license suspended, revoked or declined? Y N
 Has a liquor, wine, malt or brewed beverage license for these premises ever been denied, suspended or revoked? Y N
 Are the applicant(s) named above, the only person(s), in any manner, interested in the business sought to be licensed? Y N
 These premises are located in the: Corporate Limits Police Jurisdiction of Daphne, Alabama (Enter N/A if not located in either)
 Are any of the applicants, whether individual, member of partnership or association, or officers and directors of corporation or the corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this Act? Y N
 Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage or distilled liquors permit or license issued under authority of this Act? Y N
 Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate of another licensee, or from any firm, association or corporation operating under or regulated by the authority of this Act? Y N
 What is the applicants' primary source of funding? Loan Inheritance Individual(s) Business Other (explanation attached)

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of ANY law violation? Y N

(If Yes, explain in Investigation Section) Signature of applicant [Signature]

The undersigned agree, if a license is issued as herein above applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages. The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the Board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the licensed premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him in connection with said licensed premises. The undersigned hereby understands that should he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

STATE OF ALABAMA Signed [Signature]
 COUNTY OF Baldwin Title Member Date 10/03/2006

The undersigned James Barry McClung, Member of Ollie's Barbecue, LLC
 (Name of applicant or member if Partnership or Association of Name and Title of Officer, if a Corporation)

applicant for the Alcoholic Beverage license requested, hereby swears and affirms that he/she has read said application and all statements therein and the facts set forth are true and correct, and that the applicant is the only person interested in the business for which license is requested.

Sworn to and subscribed before me this 3rd day of October, 2006

[Signature] Signature of Notary Public
 Notary Public, State at Large My commission expires 12/11/06
[Signature] Signature of Affiant
 Business Phone (251) 625-4949 Home Phone (251) 929-7031
 Other (251) 554-8858

(For Central Office Use Only) License No: _____ Date of Issue _____ Amount of fees _____ Total _____

GENERAL APPLICATION INFORMATION

Contact Person: James Barry McClung

Phone Numbers: Home: (251) 929-7031 Business: (251) 625-4949

Fax: _____ Pager: _____ Other: (251) 554-8858

Internet/Web Address: _____ Email Address: _____

Does the premises have a fully equipped and operational kitchen? Y N NA

Does the establishment have restroom facilities? Y N

Is place of business habitually and principally used for providing food to the public? Y N Snacks Only NA

Are these premises equipped with services and facilities for on premise consumption of alcoholic beverages? Y N

Will this business be operated PRIMARILY as a package store? Y N

If a COMMON CARRIER, does each vehicle seat 10 or more persons? Y N NA

INVESTIGATION SECTION OF APPLICATION (To be completed by investigating ABC Agent)

Will applicant engage in the sale of tobacco products? Y N If yes, type of business: 44 - Restaurant

Number of tobacco vending machines present: n/a

Will applicant engage in the sale of products containing ephedrine or pseudo-ephedrine? Y N (Benadryl, Claritin, Motrin, Sudafed, etc.)

Neighborhood Investigation waived in accordance with Application Guidelines

Building seating capacity 150 License premises includes patio area Y N

Building Dimensions: Length 60 Width 75 Square Footage 4500 Sales and Display Square Footage _____

License covers: Entire structure Portion of: Top Floor Bottom Floor Other _____

License Structure: One Story Two Story Multi-Story Single Structure Shopping Center Motel/Hotel

Structure Material: Wood Brick/Block Metal/Pre-Fab Other _____

Is location within city limits? Y N Police Protection: County _____ City _____

Number of licenses issued in vicinity: 0 1-5 6-10 more than 10 Nearest: 100 feet

Nearest: School Church Private Residence

within 2 blocks within 2 blocks within 2 blocks

within 1/2 mile within 1/2 mile within 1/2 mile

Exceeds Above Exceeds Above Exceeds Above

EXPLANATION OF LAW VIOLATIONS

List below the court records for law violations, if any, of each person interested in this application, including manager whether as a sole applicant, partner, officer, or member. (Do not include traffic violations, except DUI and Reckless Driving)

Name	Date	Violation	Jurisdiction	Disposition
I certify no member of this corporation has no criminal record.				

FILING FEE ACKNOWLEDGEMENT

In reference to ACT NO. 80-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.

Signature of Applicant: _____

TRANSFER AGREEMENT License Type: _____ License # _____

I _____, as _____ holding current ABC License at _____ (Name) (Title)

this location, hereby authorize the ABC Board to transfer the license(s) to APPLICANT as appears on front of application, provided that this applicant obtains approval from the appropriate local governing body and meets all requirements of the ABC Board. I understand that I am responsible for the operation of this licensed establishment until the applicant obtains a re-issued license from the ABC Board. I also understand that if for any reason this transfer is not approved by the local governing body or the ABC Board, I must take over complete control, operation, and responsibility of these licensed premises. If I do not continue operation of this licensed establishment, I will relinquish my ABC License to the local ABC Board office, or local Agent.

Licensee	Date
Applicant	Date

(Note: If applicant or licensee is a partnership, ALL partners must sign this agreement)

LEASE/PROPERTY OWNERSHIP

If applicant OWNS property, is copy of recorded deed attached? Y N

If applicant has CONTRACT TO PURCHASE, is a copy of the recorded sales contract attached? Y N

If applicant is LEASING the property, is a copy of the lease agreement attached? Y N

A: Name of Property Owner/Lessor: Fleetwood Lane Contact #: (251) 990-0031

B: What is the LESSOR'S primary business? Real Estate Investment

C: Is LESSOR involved in any way with the Alcoholic Beverage business? Y N (If yes, explain on an attached sheet)

D: Is there any further interest in, or connection with, the licensee's business by the LESSOR? Y N (If yes, explain on an attached sheet)

Applicant attests to the truthfulness of the above responses. (Applicant's Initials) JVK

Agent/ID _____ Supervisor _____ (Review includes complete application packet)

AGENT: Application taken: 10/03/2006 Application/Investigation completed: _____ Forwarded to D.O.: _____

LOCAL GOVERNMENT: Submitted: _____ Received from: _____

SUPERVISOR: Received in District Office: _____ Reviewed: _____ Forwarded to C.O.: _____

Already did background check for
Retail Liquor license.
Another one not necessary per PD

2005-1
case no.

ABC LICENSE ROUTING

(initial)

DATE RECEIVED BY REVENUE DIV. 12-06-04 SY
DATE FORWARDED TO POLICE DEPT. 12-06-04 SLB
DATE RECEIVED BY POLICE DEPT. 12-06-04 MTW
DATE: APPROVED DISAPPROVED

POLICE DEPT. SIGNATURE [Signature]

DATE RETURNED TO REVENUE DIV. 1-31-05 MTW
DATE FORWARDED TO CITY CLERK 2-1-05 SWC
DATE RECEIVED BY CITY CLERK 2-01-05 RH
SCHEDULED DATE ON AGENDA _____

Council Action : APPROVED DISAPPROVED TABLED

COMMENTS- _____

Rescheduled for Council Agenda Date _____

Council Action : APPROVED DISAPPROVED TABLED

COMMENTS- _____

DATE RETURNED TO REVENUE DIV. _____

DATE RETURNED TO TAXPAYER
OR TO ABC FIELD OFFICE _____
(per taxpayer request)

STATE OF ALABAMA, ALCOHOLIC BEVERAGE CONTROL BOARD, MONTGOMERY, ALABAMA

Liquor

TYPE APPLICATION
 020 - Restaurant Retail Liquor

Name of Applicant (s) OLLIE'S BARBECUE LLC
 Circle One: Ind. Part. Assoc. Corp. LLC

Name and address of individual, partners and members, association, corporate officers, etc.:

Name	D.L. # Title	Date of Birth Place of Birth	Present Residence Address	Length at Residence
JAMES BARRY MCCLUNG	AL 4987121 Member	09/24/65 JEFFERSON COUNTY, AL	157 PEBBLE LN. ALABASTER, AL 35007	8 YEARS
JOHN YOUNG KIRKPATRICK	AL 5112823 Member	01/26/67 JEFFERSON COUNTY, AL	717 OAK BLUFF DR. DAPHNE, AL 36526	6 MONTHS

Corporate Information: INST # 847968 Date 10-21-04 County BALDWIN
 (Enter book and page or document info.) (Incorporation or Authority)

Trade Name OLLIE'S BARBECUE
 Location 1410 HWY 98-D DAPHNE, AL County BALDWIN

Mailing Address 1410 HWY 98-D DAPHNE, AL 36526
 (Include Street or Post Office Box Address, City, State, and Zip Code)

Previous Licensee Information Transferee

Licensee Name N/A Type N/A Year N/A
 Trade Name N/A License Number N/A

Location (location transfer only) N/A

as applicant complied with ABC Regulation # 20-X-5-.14 regarding financial responsibility? Y N
 Does the ABC Board have any actions pending against the current licensee? (If Yes, explain in Investigation Section) Y N
 Has ANYONE, including manager or applicant, had a Federal/State permit or license suspended, revoked or declined? Y N
 Has a liquor, wine, malt or brewed beverage license for these premises ever been denied, suspended or revoked? Y N
 Was the applicant(s) named above, the only person(s), in any manner, interested in the business sought to be licensed? Y N
 Where these premises are located in the: Corporate Limits Police Jurisdiction of DAPHNE, Alabama (Enter N/A if not located in either)
 Are any of the applicants, whether individual, member of partnership or association, or officers and directors of corporation or the corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this Act? Y N
 Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage or distilled liquors permit or license issued under authority of this Act? Y N
 Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate of another licensee, or from any firm, association or corporation operating under or regulated by the authority of this Act? Y N
 What is the applicant's primary source of funding? Loan Inheritance Individual(s) Business Other (explanation attached)
 Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of ANY law violation? Y N
 If Yes, explain in Investigation Section) Signature of applicant [Signature]

I, the undersigned, agree, if a license is issued as herein above applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages. I, the undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the Board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duty authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the licensed premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him in connection with said licensed premises. The undersigned hereby understands that should he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

STATE OF ALABAMA
 COUNTY OF BALDWIN Signed [Signature] Title Member Date 11/23/2004

The undersigned JAMES BARRY MCCLUNG, Member of OLLIE'S BARBECUE LLC
 (Name of applicant or member if Partnership or Association of Name and Title of Officer, if a Corporation)
 Applicant for the Alcoholic Beverage license requested, hereby swears and affirms that he/she has read said application and all statements therein and the facts set forth are true and correct, and that the applicant is the only person interested in the business for which license is requested.
 Sworn to and subscribed before me this 23rd day of November 2004

Signature of Notary Public
 Notary Public, State at Large My commission expires
 Signature of Affiant
 Business Phone (251) 854-8858 Home Phone (251) 626-3002

Liquor

GENERAL APPLICATION INFORMATION

Contact Person: JOHN YOUNG KIRKPATRICK

Phone Numbers: Home: (251) 626-3002 Business: (251) 554-8858

Fax: _____ Pager: _____ Other: _____

email/Web Address: _____ Email Address: _____

Are the premises have a fully equipped and operational kitchen? Y N NA

Are the establishment have restroom facilities? Y N

Is the place of business habitually and principally used for providing food to the public? Y N Snacks Only NA

Are these premises equipped with services and facilities for on premise consumption of alcoholic beverages? Y N

Is this business be operated PRIMARILY as a package store? Y N

Does COMMON CARRIER, does each vehicle seat 10 or more persons? Y N NA

INVESTIGATION SECTION OF APPLICATION (To be completed by Investigating ABC Agent)

Does applicant engage in the sale of tobacco products? Y N If yes, type of business: _____

Number of tobacco vending machines present: NA

Does neighborhood investigation waived in accordance with Application Guidelines?

Is the building seating capacity 150 License premises includes patio area Y N

Building Dimensions: Length 60' Width 75' Square Footage 4500' Sales and Display Square Footage _____

Does the structure covers: Entire structure Portion of: Top Floor Bottom Floor Other SHOPPING CENTER

Structure: One Story Two Story Multi-Story Single Structure Shopping Center Motel/Hotel

Structure Material: Wood Brick/Block Metal/Pre-Fab Other _____

Is the location within city limits? Y N Police Protection: County City

Number of licenses issued in vicinity: 0 1-5 6-10 more than 10 Nearest: 100 FT

Nearest: School Church Private Residence

within 2 blocks within 2 blocks within 2 blocks

within 1/2 mile within 1/2 mile within 1/2 mile

Exceeds Above Exceeds Above Exceeds Above

EXPLANATION OF LAW VIOLATIONS

List below the court records for law violations, if any, of each person interested in this application, including manager whether as a sole applicant, partner, officer, member. (Do not include traffic violations, except DUI and Reckless Driving)

Name	Date	Violation	Jurisdiction	Disposition
I certify no member of this corporation has a criminal record.				

FILING FEE ACKNOWLEDGEMENT

In reference to ACT NO. 8D-528, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.

Signature of Applicant: [Signature]

TRANSFER AGREEMENT License Type: _____ License # _____

This is not a License Transfer _____, as _____ holding current ABC License at _____

I, the location, hereby authorize the ABC Board to transfer the license(s) to APPLICANT as appears on front of application, provided that this applicant obtains approval from the appropriate local governing body and meets all requirements of the ABC Board. I understand that I am responsible for the operation of this licensed establishment until the applicant obtains a re-issued license from the ABC Board. I also understand that if for any reason this transfer is not approved by the local governing body or the ABC Board, I must take over complete control, operation, and responsibility of these licensed premises. If I do not continue operation of this licensed establishment, I will relinquish my ABC License to the local ABC Board office, or local Agent.

Licensee: _____ Date: _____

Applicant: _____ Date: _____

LEASE/PROPERTY OWNERSHIP

Does applicant OWNS property, is copy of recorded deed attached? Y N

Does applicant has CONTRACT TO PURCHASE, is a copy of the recorded sales contract attached? Y N

Does applicant is LEASING the property, is a copy of the lease agreement attached? Y N

A: Name of Property Owner/Lessor: FLEETWOOD LANE Contact #: (251) 990-0031

B: What is the LESSOR'S primary business? REAL ESTATE INVESTMENT

C: Is LESSOR involved in any way with the Alcoholic Beverage business? Y N (If yes, explain on an attached sheet)

D: Is there any further interest in, or connection with, the licensee's business by the LESSOR? Y N (If yes, explain on an attached sheet)

Applicant attests to the truthfulness of the above responses. (Applicant's Initials) [Signature]

Agent/ID: _____ Supervisor: _____ (Review includes complete application packet)

AGENT: Application taken: 11/23/2004 Application/Investigation completed: _____ Forwarded to D.O.: _____

LOCAL GOVERNMENT: Submitted: _____ Received from: _____

SUPERVISOR: Received in District Office: _____ Reviewed: _____ Forwarded to C.O.: _____

STATE OF ALABAMA, ALCOHOLIC BEVERAGE CONTROL BOARD, MONTGOMERY, ALABAMA

Date Refused _____ TYPE APPLICATION Date Approved _____
 By: _____ 040 - Retail Beer - (On or Off Premises) By: _____

Name of Applicant (s) Ollie's Barbecue, LLC
 Circle One: Ind. Part. Assoc. Corp. LLC

Name and address of individual, partners and members, association, corporate officers, etc.:

Name	D.L. # Title	Date of Birth Place of Birth	Present Residence Address	Length at Residence
James Barry McClung	AL 4987121 Member	09/24/65 Jefferson County, AL	710 South Mobile, Street #49 Fairhope, AL 36532	3 mos.
John Young Kirkpatrick	AL 5112823 Member	01/26/67 Jefferson County, AL	717 Oak Bluff Drive Daphne, AL 36526	1 1/2 years

Corporate Information: Ints # 847968 Date 10/21/04 County Baldwin
 (Enter book and page or document info.) (Incorporation or Authority)

Trade Name Ollie's Barbeque
 Location 1410 Hwy 98-D Daphne, AL 36526 County Baldwin

Mailing Address 1410 Hwy 98-D Daphne, AL 36526
 (Include Street or Post Office Box Address, City, State, and Zip Code)

Previous Licensee Information Transferee

Licensee Name Ollie's Barbeque, LLC Type 020 Year 2005-2006

Trade Name Ollie's Barbeque License Number 2389

Location (location transfer only) N/A

Has applicant complied with ABC Regulation # 20-X-5-.14 regarding financial responsibility? Y N
 Does the ABC Board have any actions pending against the current licensee? (If Yes, explain in Investigation Section) Y N
 Has ANYONE, including manager or applicant, had a Federal/State permit or license suspended, revoked or declined? Y N
 Has a liquor, wine, malt or brewed beverage license for these premises ever been denied, suspended or revoked? Y N
 Are the applicant(s) named above, the only person(s), in any manner, interested in the business sought to be licensed? Y N
 These premises are located in the: Corporate Limits Police Jurisdiction of Daphne, Alabama (Enter N/A if not located in either)
 Are any of the applicants, whether individual, member of partnership or association, or officers and directors of corporation or the corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this Act? Y N
 Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage or distilled liquors permit or license issued under authority of this Act? Y N
 Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate of another licensee, or from any firm, association or corporation operating under or regulated by the authority of this Act? Y N
 What is the applicants' primary source of funding? Loan Inheritance Individual(s) Business Other (explanation attached)
 Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of ANY law violation? Y N
 (If Yes, explain in Investigation Section) Signature of applicant [Signature]

The undersigned agree, if a license is issued as herein above applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages. The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the Board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the licensed premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him in connection with said licensed premises. The undersigned hereby understands that should he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

STATE OF ALABAMA Signed [Signature]
 COUNTY OF Baldwin Title Member Date 10/03/2006

The undersigned James Barry McClung, Member of Ollie's Barbecue, LLC
 (Name of applicant or member if Partnership or Association of Name and Title of Officer, if a Corporation)
 applicant for the Alcoholic Beverage license requested, hereby swears and affirms that he/she has read said application and all statements therein and the facts set forth are true and correct, and that the applicant is the only person interested in the business for which license is requested.

Sworn to and subscribed before me this 3rd day of October 2006

[Signature] Signature of Notary Public
 Notary Public, State at Large My commission expires 12/11/06
[Signature] Signature of Affiant
 Business Phone (251) 625 - 4949 Home Phone (251) 929 - 7031
 Other (251) 554 - 8858

For Central Office Use Only - License No. _____ Date of Issue _____ Amount of fees _____ Total _____

GENERAL APPLICATION INFORMATION

Contact Person: James Barry McClung
Phone Numbers: Home: (251) 929-7031 Business: (251) 625-4949
Fax: Pager: Other: (251) 554-8858
Internet/Web Address: Email Address:

Does the premises have a fully equipped and operational kitchen? Y N NA
Does the establishment have restroom facilities? Y N
Is place of business habitually and principally used for providing food to the public? Y N Snacks Only NA
Are these premises equipped with services and facilities for on premise consumption of alcoholic beverages? Y N
Will this business be operated PRIMARILY as a package store? Y N
If a COMMON CARRIER, does each vehicle seat 10 or more persons? Y N NA

INVESTIGATION SECTION OF APPLICATION (To be completed by investigating ABC Agent)

Will applicant engage in the sale of tobacco products? Y N If yes, type of business: 44 - Restaurant
Number of tobacco vending machines present: n/a
Will applicant engage in the sale of products containing ephedrine or pseudo-ephedrine? Y N (Benadryl, Claritin, Motrin, Sudafed, etc.)
Neighborhood Investigation waived in accordance with Application Guidelines
Building seating capacity 150 License premises includes patio area Y N
Building Dimensions: Length 60 Width 75 Square Footage 4500 Sales and Display Square Footage
License covers: Entire structure Portion of: Top Floor Bottom Floor Other
License Structure: One Story Two Story Multi-Story Single Structure Shopping Center Motel/Hotel
Structure Material: Wood Brick/Block Metal/Pre-Fab Other
Is location within city limits? Y N Police Protection: County City
Number of licenses issued in vicinity: 0 1-5 6-10 more than 10 Nearest: 100 feet
Nearest: School Church Private Residence
 within 2 blocks within 2 blocks within 2 blocks
 within 1/2 mile within 1/2 mile within 1/2 mile
 Exceeds Above Exceeds Above Exceeds Above

EXPLANATION OF LAW VIOLATIONS

List below the court records for law violations, if any, of each person interested in this application, including manager whether as a sole applicant, partner, officer, or member. (Do not include traffic violations, except DUI and Reckless Driving)
Name Date Violation Jurisdiction Disposition
I certify no member of this corporation has no criminal record.

FILING FEE ACKNOWLEDGEMENT

In reference to ACT NO. 80-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.
Signature of Applicant:

TRANSFER AGREEMENT License Type: License #

I, _____, as _____ holding current ABC License at _____ (Name) _____ (Title)
this location, hereby authorize the ABC Board to transfer the license(s) to APPLICANT as appears on front of application, provided that this applicant obtains approval from the appropriate local governing body and meets all requirements of the ABC Board. I understand that I am responsible for the operation of this licensed establishment until the applicant obtains a re-issued license from the ABC Board. I also understand that if for any reason this transfer is not approved by the local governing body or the ABC Board, I must take over complete control, operation, and responsibility of these licensed premises. If I do not continue operation of this licensed establishment, I will relinquish my ABC License to the local ABC Board office, or local Agent.
Licensee: _____ Date: _____
Applicant: _____ Date: _____

(Note: If applicant or licensee is a partnership, ALL partners must sign this agreement)

LEASE/PROPERTY OWNERSHIP

If applicant OWNS property, is copy of recorded deed attached? Y N
If applicant has CONTRACT TO PURCHASE, is a copy of the recorded sales contract attached? Y N
If applicant is LEASING the property, is a copy of the lease agreement attached? Y N
A: Name of Property Owner/Lessor: Fleetwood Lane Contact #: (251) 990-0031
B: What is the LESSOR'S primary business? Real Estate Investment
C: Is LESSOR involved in any way with the Alcoholic Beverage business? Y N (If yes, explain on an attached sheet)
D: Is there any further interest in, or connection with, the licensee's business by the LESSOR? Y N (If yes, explain on an attached sheet)

Applicant attests to the truthfulness of the above responses. (Applicant's Initials) JBK
Agent/ID _____ Supervisor _____ (Review includes complete application packet)

AGENT: Application taken: 10/03/2006 Application/Investigation completed: / / Forwarded to D.O.: / /
LOCAL GOVERNMENT: Submitted: / / Received from: / /
SUPERVISOR: Received in District Office: / / Reviewed: / / Forwarded to C.O.: / /

Already did background check for
Retail Liquor license.
Another one not necessary per PD

2005-1
case no.

ABC LICENSE ROUTING

(initial)

DATE RECEIVED BY REVENUE DIV. 12-06-04 SY
DATE FORWARDED TO POLICE DEPT. 12-06-04 SL
DATE RECEIVED BY POLICE DEPT. 12-06-04 MTW
DATE: APPROVED DISAPPROVED
POLICE DEPT. SIGNATURE [Signature]

DATE RETURNED TO REVENUE DIV. 1-31-05 MTW
DATE FORWARDED TO CITY CLERK 2-1-05 SUC
DATE RECEIVED BY CITY CLERK 2-01-05 RH
SCHEDULED DATE ON AGENDA _____

Council Action : APPROVED DISAPPROVED TABLED
COMMENTS- _____

Rescheduled for Council Agenda Date _____
Council Action : APPROVED DISAPPROVED TABLED
COMMENTS- _____

DATE RETURNED TO REVENUE DIV. _____
DATE RETURNED TO TAXPAYER
OR TO ABC FIELD OFFICE _____
(per taxpayer request)

STATE OF ALABAMA, ALCOHOLIC BEVERAGE CONTROL BOARD, MONTGOMERY, ALABAMA

Liquor

TYPE APPLICATION
 020 - Restaurant Retail Liquor

Name of Applicant (s) OLLIE'S BARBECUE LLC
 Circle One: Ind. Part. Assoc. Corp. LLC

Name and address of individual, partners and members, association, corporate officers, etc.:

Name	D.L. # Title	Date of Birth Place of Birth	Present Residence Address	Length at Residence
JAMES BARRY MCCLUNG	AL 4987121 Member	09/24/65 JEFFERSON COUNTY, AL	157 PEBBLE LN. ALABASTER, AL 35007	8 YEARS
JOHN YOUNG KIRKPATRICK	AL 5112823 Member	01/26/67 JEFFERSON COUNTY, AL	717 OAK BLUFF DR DAPHNE, AL 36526	6 MONTHS

Corporate Information: INST # 847968 Date 10-21-04 County BALDWIN
 (Enter book and page or document info.) (Incorporation or Authority)
 Trade Name OLLIE'S BARBECUE
 Location 1410 HWY 98-D DAPHNE, AL County BALDWIN
 Mailing Address 1410 HWY 98-D DAPHNE, AL 36526
 (Include Street or Post Office Box Address, City, State, and Zip Code)

Previous Licensee Information Transferee
 Licensee Name N/A Type N/A Year N/A
 Trade Name N/A License Number N/A
 Location (location transfer only) N/A

Does applicant comply with ABC Regulation # 20-X-5-14 regarding financial responsibility? Y N
 Does the ABC Board have any actions pending against the current licensee? (If Yes, explain in Investigation Section) Y N
 Has ANYONE, including manager or applicant, had a Federal/State permit or license suspended, revoked or declined? Y N
 Has a liquor, wine, malt or brewed beverage license for these premises ever been denied, suspended or revoked? Y N
 Are the applicant(s) named above, the only person(s), in any manner, interested in the business sought to be licensed? Y N
 Where these premises are located in the Corporate Limits Police Jurisdiction of DAPHNE, Alabama (Enter N/A if not located in either)
 Are any of the applicants, whether individual, member of partnership or association, or officers and directors of corporation or the corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this Act? Y N
 Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage or distilled liquors permit or license issued under authority of this Act? Y N
 Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate of another licensee, or from any firm, association or corporation operating under or regulated by the authority of this Act? Y N
 What is the applicants' primary source of funding? Loan Inheritance Individual(s) Business Other (explanation attached)
 Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of ANY law violation? Y N
 If Yes, explain in Investigation Section Signature of applicant [Signature]

The undersigned agrees, if a license is issued as herein above applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages. The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the Board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the licensed premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him in connection with said licensed premises. The undersigned hereby understands that should he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

STATE OF ALABAMA
 COUNTY OF BALDWIN
 Signed [Signature]
 Title Member Date 11/23/2004

The undersigned JAMES BARRY MCCLUNG, Member of OLLIE'S BARBECUE LLC
 (Name of applicant or member if Partnership or Association of Name and Title of Officer, if a Corporation)
 Applicant for the Alcoholic Beverage license requested, hereby swears and affirms that he/she has read said application and all statements therein and the facts set forth are true and correct, and that the applicant is the only person interested in the business for which license is requested.
 Sworn to and subscribed before me this 23rd day of November 2004

Signature of Notary Public [Signature] Signature of Applicant [Signature]
 Notary Public, State at Large My commission expires _____ Business Phone (251) 654-8858 Home Phone (251) 626-3002

Liquor

GENERAL APPLICATION INFORMATION

Subject Person: JOHN YOUNG KIRKPATRICK

Phone Numbers: Home: (251) 626-3002 Business: (251) 554-8858

Fax: _____ Pager: _____ Other: _____

Internet/Web Address: _____ Email Address: _____

Does the premises have a fully equipped and operational kitchen? Y N NA

Does the establishment have restroom facilities? Y N

Is the place of business habitually and principally used for providing food to the public? Y N Snacks Only NA

Are these premises equipped with services and facilities for on premise consumption of alcoholic beverages? Y N

Is this business to be operated PRIMARILY as a package store? Y N

Does COMMON CARRIER, does each vehicle seat 10 or more persons? Y N NA

INVESTIGATION SECTION OF APPLICATION (to be completed by Investigating ABC Agent)

Does applicant engage in the sale of tobacco products? Y N If yes, type of business: _____

Number of tobacco vending machines present: n/a

Neighborhood Investigation waived in accordance with Application Guidelines

Maximum seating capacity 150 License premises includes patio area Y N

Building Dimensions: Length 60' Width 75' Square Footage 4500' Sales and Display Square Footage _____

Roof covers: Entire structure Portion of: Top Floor Bottom Floor Other SHOPPING CENTER

Roof Structure: One Story Two Story Multi-Story Single Structure Shopping Center Motel/Hotel

Roof Structure Material: Wood Brick/Block Metal/Pre-Fab Other _____

Location within city limits? Y N Police Protection: County _____ City _____

Number of licenses issued in vicinity: 0 1-3 6-10 more than 10 Nearest: 100 FT

Nearest: School Church Private Residence

within 2 blocks within 2 blocks within 2 blocks

within 1/2 mile within 1/2 mile within 1/2 mile

Exceeds Above Exceeds Above Exceeds Above

EXPLANATION OF LAW VIOLATIONS

List below the court records for law violations, if any, of each person interested in this application, including manager whether as a sole applicant, partner, officer, member. (Do not include traffic violations, except DUI and Reckless Driving)

Name	Date	Violation	Jurisdiction	Disposition
I certify no member of this corporation has a criminal record.				

FILING FEE ACKNOWLEDGEMENT

In reference to ACT NO. 80-520, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.

Signature of Applicant: [Signature]

TRANSFER AGREEMENT License Type: _____ License # _____

This is not a License Transfer _____ as _____ holding current ABC License at _____

I, _____ (Name) _____ (Title) hereby authorize the ABC Board to transfer the license(s) to APPLICANT as appears on front of application, provided that this applicant obtains approval from the appropriate local governing body and meets all requirements of the ABC Board. I understand that I am responsible for the operation of this licensed establishment until the applicant obtains a re-issued license from the ABC Board. I also understand that if for any reason this transfer is not approved by the local governing body or the ABC Board, I must take over complete control, operation, and responsibility of these licensed premises. If I do not continue operation of this licensed establishment, I will relinquish my ABC License to the local ABC Board office, or local Agent.

Licensee: _____ Date: _____

Applicant: _____ Date: _____

(Note: If applicant of license is a partner(s), ALL partner(s) must sign this agreement)

LEASE/PROPERTY OWNERSHIP

Does applicant OWN property, is copy of recorded deed attached? Y N

Does applicant have CONTRACT TO PURCHASE, is a copy of the recorded sales contract attached? Y N

Does applicant is LEASING the property, is a copy of the lease agreement attached? Y N

A: Name of Property Owner/Lessor: FLEETWOOD LANE Contract #: (251) 990-0031

B: What is the LESSOR'S primary business? REAL ESTATE INVESTMENT

C: Is LESSOR involved in any way with the Alcoholic Beverage business? Y N (If yes, explain on an attached sheet)

D: Is there any further interest in, or connection with, the licensee's business by the LESSOR? Y N (If yes, explain on an attached sheet)

Applicant attests to the truthfulness of the above responses. (Applicant's Initials) JYK

Agent/ID: _____ Supervisor: _____ (Review includes complete application packet)

AGENT: Application taken: 11/23/2004 Application/Investigation completed: /// Forwarded to D.O.: ///

LOCAL GOVERNMENT: Submitted: /// Received from: ///

SUPERVISOR: Received in District Office: /// Reviewed: /// Forwarded to C.O.: ///

CITY OF DAPHNE PARADE PERMIT

ORGANIZATION:	<i>Mystic Order of Persephone</i>
CONTACT PERSON:	<i>Angie Perkins</i>
ADDRESS:	<i>7135 Hurricane Road Bay Minette, AL 36507</i>
PHONE NUMBER (HOME): PHONE NUMBER (BUSINESS):	<i>937-1220 234-8214 Cell#</i>
TYPE OF PARADE:	<i>Mardi Gras Parade</i>
DATE OF PARADE:	<i>February 16, 2007 February 19, 2007 Rain Date</i>
ROUTE TO BE TRAVELED:	<i>See attached map</i>
APPROXIMATE # OF PEOPLE & CARS:	<i>25 Units – 700 people includes band members</i>
START TIME:	<i>6:45 P.M.</i>
STOP TIME:	<i>8:30 P.M.</i>
ASSEMBLY AREA/STREET:	<i>Civic Center</i>
ASSEMBLY TIME:	<i>5:00 P.M.</i>
SPECIAL REQUEST:	<i>Block Streets</i>
APPROVAL	
POLICE: Chief David Carpenter:	
FIRE: Chief Mund Hanson	
PUBLIC WORKS: Ken Eslava	
CITY COUNCIL:	
SPECIAL INSTRUCTIONS:	
DATE ROUTED:	<i>October 6, 2006</i>
NOTIFICATION:	

APRIL 17, 2006
CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

3

B. BUILDINGS AND PROPERTY COMMITTEE – Lake
a.) Land Swap / AIG Baker

Mr. Eady gave a presentation showing slides of what properties are requested to be swapped. *Mr. Eady* explained the swap and stated that he needs a paper trail because the city does not have a deed for the property.

Council asked questions regarding how this would affect O'Charley's business, and *Mr. Eady* stated that O'Charley's did not have a problem with it since the parking lot is not part of their lease. *Mr. Eady* also stated that parking has been set aside across the street in an adjacent parking lot, and that AIG Baker is going to build a walk zone to get across the street to the restaurant.

Council discussed the restrictions on the parking lot, and *Mr. Eady* said that the city cannot sell it, but they can exchange it. He stated that they did the same thing with the Rave Theatre. Council discussed whether this was an out parcel or a parcel where revenue could be collected to go toward the debt. *Mr. Preston Bolt*, Bond Counsel for the AIG Baker Agreement, was present and answered that revenue could be collected from Starbucks to go toward payment of the debt. Council also discussed whether an appraisal was necessary, they discussed that an appraisal was not necessary for the land swap with the Rave Theater. *Mr. Eady* stated that Starbucks was originally going into the Bass Pro Shopping Center. Council discussed that by agreeing to the swap, they would bring revenue producing businesses to Daphne, instead of have just a parking lot.

MOTION BY *Mr. Scott* to give *Mr. Eady* permission to proceed with the property swap between the City of Daphne and AIG Baker. *Seconded by Mr. Yelding.*

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

MOTION CARRIED

C. PUBLIC SAFETY – Burnam

The next meeting will be May 2nd at 4:30 p.m. in the Council Chambers. The public is invited to come.

E. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Landry

The Committee did not meet, because there were not any ordinances to consider. The Committee will meet May 2nd if there are any ordinance to consider.

F. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

There was not a meeting for March. *Mr. Yelding* stated that Public Works is doing a good job with the sidewalks. *Mr. Eslava* stated that they will be moving into District #2 next week. The next meeting will be April 28th at 8:00 a.m. in the Council Chambers.

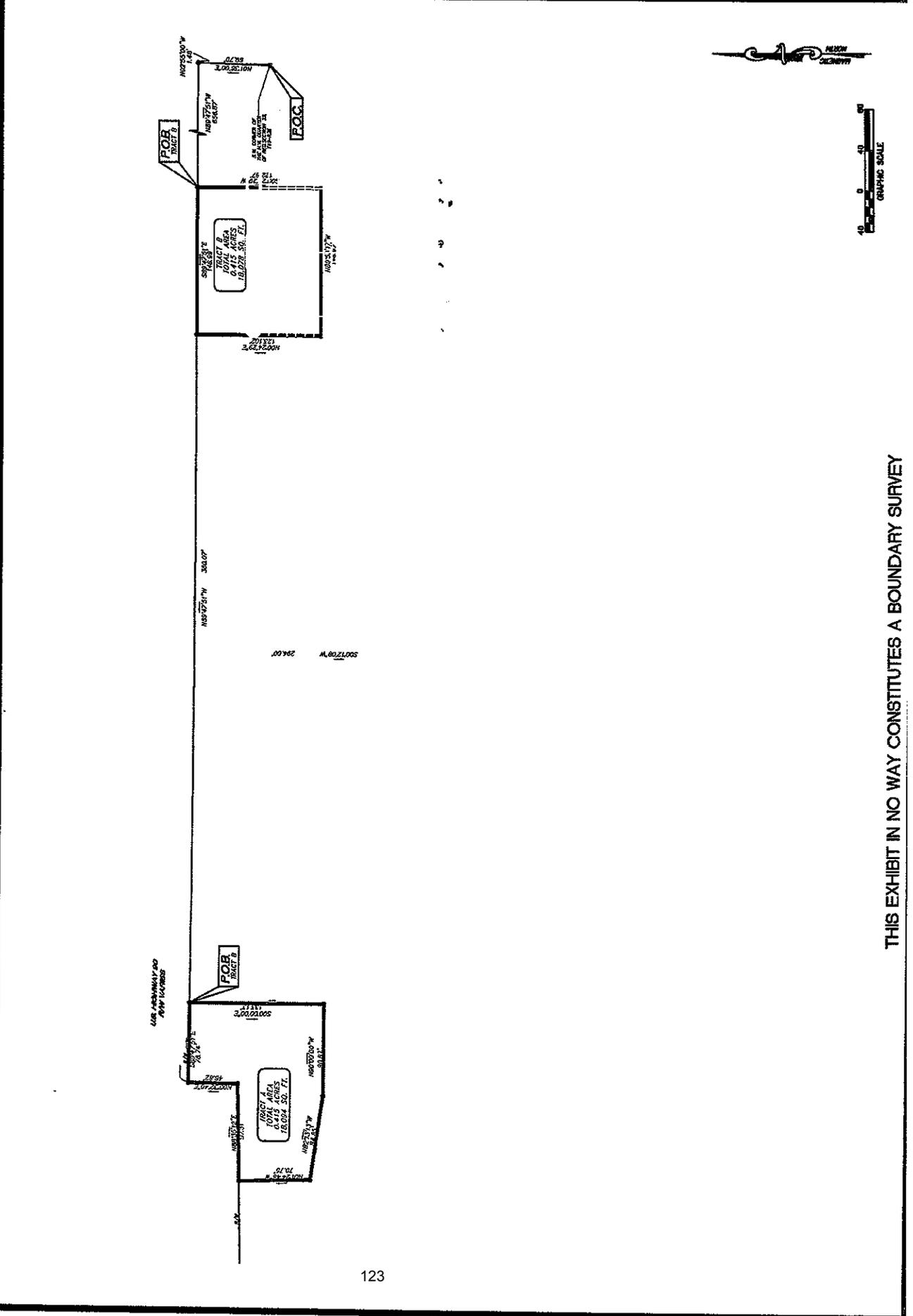
REVISIONS

SECTION 21-10-75E
 BALDWIN COUNTY, AL
JAMES EARL STANHOPE
 DRYWELL, AL

AND BAKER REAL ESTATE LLC
 50115 BRANCH LANE
 BRANCOVA, ALABAMA 36024
 205-686-2100

LAJ ENGINEERING
 PARKWAY CENTER -
 PARKWAY PL. - SITE 720
 MARBETTA, GA 30067
 PHONE: 770/423-0807
 FAX: 770/423-1382
 WWW.LAJENGINEERING.COM

LAJ ENGINEERING
 PROJECT NO. 17011
 SHEET NO. 1 OF 1
 SCALE: 1"=40'
 DATE: 04/20/09



THIS EXHIBIT IN NO WAY CONSTITUTES A BOUNDARY SURVEY

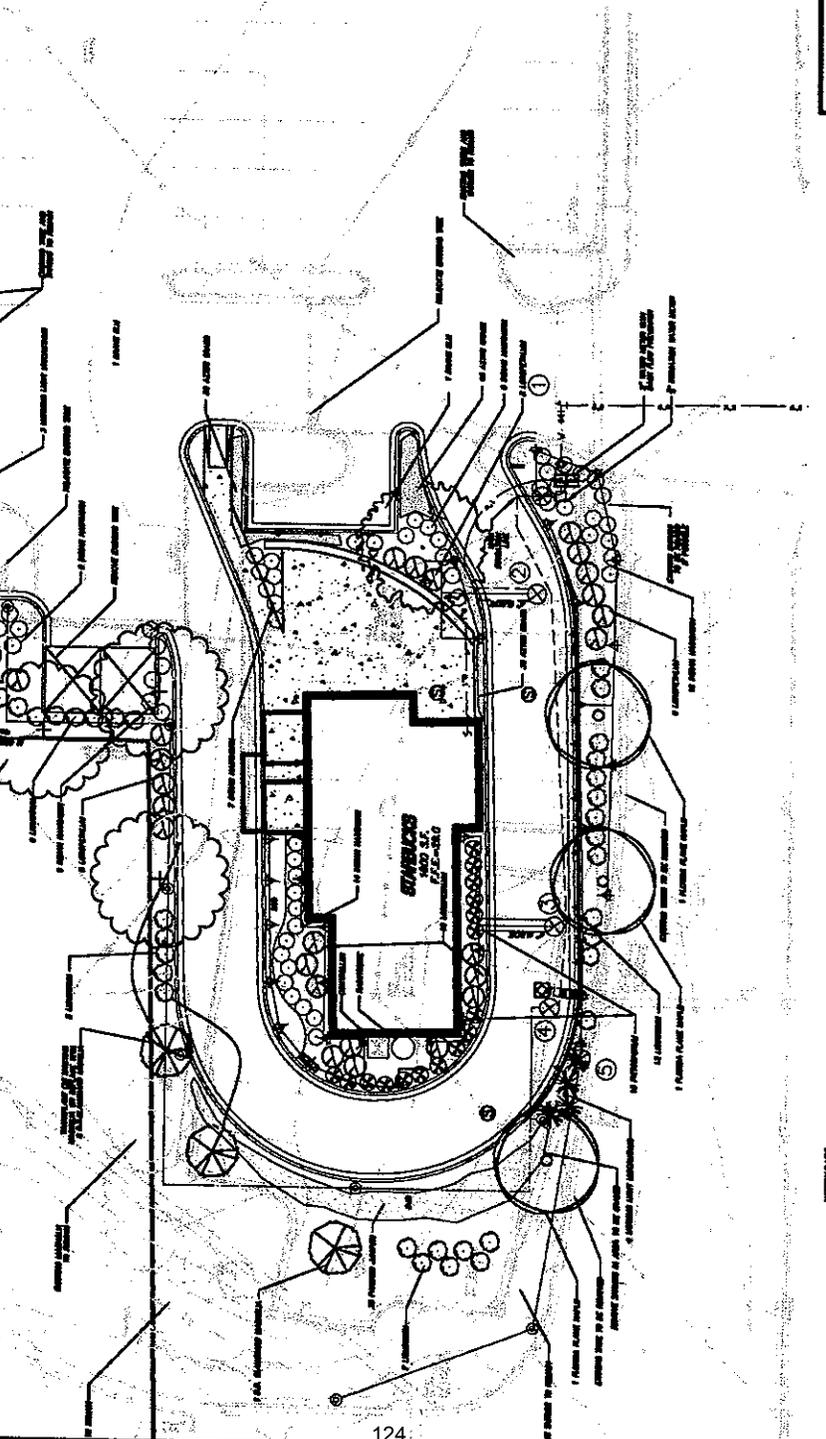
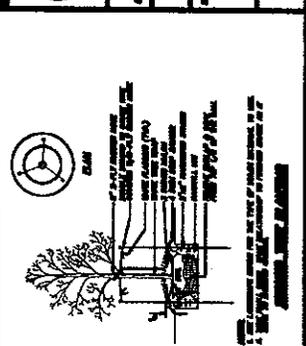
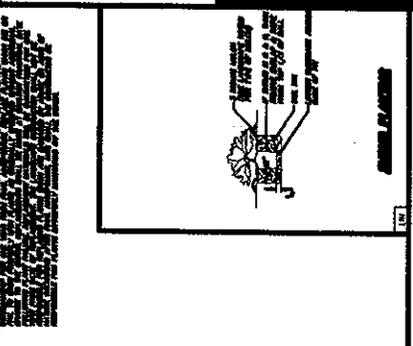
JUBILEE SQUARE STARBUCKS
 8000 HIGHWAY 80
 FORT WORTH, TEXAS 76114
 NO BANNER FINAL ESTATE

LAI ENGINEERING
 PARKWAY N. - STE. 720
 MARSHALL, TX 75701
 PHONE: 727-423-1232
 WWW.LAIENGINEERING.COM



GENERAL LANDSCAPE NOTES

1. ALL PLANTINGS TO BE INSTALLED BY THE CONTRACTOR UNDER THE CLOSE SUPERVISION OF THE LANDSCAPE ARCHITECT.
2. ALL PLANTINGS TO BE INSTALLED IN ACCORDANCE WITH THE SPECIFICATIONS AND NOTES ON THE PLANS.
3. ALL PLANTINGS TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTURE BOARD'S SPECIFICATIONS.
4. ALL PLANTINGS TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTURE BOARD'S SPECIFICATIONS.
5. ALL PLANTINGS TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTURE BOARD'S SPECIFICATIONS.
6. ALL PLANTINGS TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTURE BOARD'S SPECIFICATIONS.
7. ALL PLANTINGS TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTURE BOARD'S SPECIFICATIONS.
8. ALL PLANTINGS TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTURE BOARD'S SPECIFICATIONS.
9. ALL PLANTINGS TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTURE BOARD'S SPECIFICATIONS.
10. ALL PLANTINGS TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTURE BOARD'S SPECIFICATIONS.



NO.	DESCRIPTION	QTY	UNIT	PRICE
1	1" DBL. SP. 10' H. PALM TREE	1	EA	150.00
2	1" DBL. SP. 8' H. PALM TREE	1	EA	120.00
3	1" DBL. SP. 6' H. PALM TREE	1	EA	90.00
4	1" DBL. SP. 4' H. PALM TREE	1	EA	60.00
5	1" DBL. SP. 2' H. PALM TREE	1	EA	30.00
6	1" DBL. SP. 1" H. PALM TREE	1	EA	15.00
7	1" DBL. SP. 10' H. PALM TREE	1	EA	150.00
8	1" DBL. SP. 8' H. PALM TREE	1	EA	120.00
9	1" DBL. SP. 6' H. PALM TREE	1	EA	90.00
10	1" DBL. SP. 4' H. PALM TREE	1	EA	60.00
11	1" DBL. SP. 2' H. PALM TREE	1	EA	30.00
12	1" DBL. SP. 1" H. PALM TREE	1	EA	15.00

NO.	DESCRIPTION	QTY	UNIT	PRICE
1	1" DBL. SP. 10' H. PALM TREE	1	EA	150.00
2	1" DBL. SP. 8' H. PALM TREE	1	EA	120.00
3	1" DBL. SP. 6' H. PALM TREE	1	EA	90.00
4	1" DBL. SP. 4' H. PALM TREE	1	EA	60.00
5	1" DBL. SP. 2' H. PALM TREE	1	EA	30.00
6	1" DBL. SP. 1" H. PALM TREE	1	EA	15.00
7	1" DBL. SP. 10' H. PALM TREE	1	EA	150.00
8	1" DBL. SP. 8' H. PALM TREE	1	EA	120.00
9	1" DBL. SP. 6' H. PALM TREE	1	EA	90.00
10	1" DBL. SP. 4' H. PALM TREE	1	EA	60.00
11	1" DBL. SP. 2' H. PALM TREE	1	EA	30.00
12	1" DBL. SP. 1" H. PALM TREE	1	EA	15.00

NO.	DESCRIPTION	QTY	UNIT	PRICE
1	1" DBL. SP. 10' H. PALM TREE	1	EA	150.00
2	1" DBL. SP. 8' H. PALM TREE	1	EA	120.00
3	1" DBL. SP. 6' H. PALM TREE	1	EA	90.00
4	1" DBL. SP. 4' H. PALM TREE	1	EA	60.00
5	1" DBL. SP. 2' H. PALM TREE	1	EA	30.00
6	1" DBL. SP. 1" H. PALM TREE	1	EA	15.00
7	1" DBL. SP. 10' H. PALM TREE	1	EA	150.00
8	1" DBL. SP. 8' H. PALM TREE	1	EA	120.00
9	1" DBL. SP. 6' H. PALM TREE	1	EA	90.00
10	1" DBL. SP. 4' H. PALM TREE	1	EA	60.00
11	1" DBL. SP. 2' H. PALM TREE	1	EA	30.00
12	1" DBL. SP. 1" H. PALM TREE	1	EA	15.00

24 HOUR EMERGENCY CONTACT: ANDREW LEWIS (205) 989-1000

Sign A

(1) set of 18" Internally illuminated Starbucks Coffee channel letters mounted on a raceway painted to match the facade = 36.5 square feet

Sign B

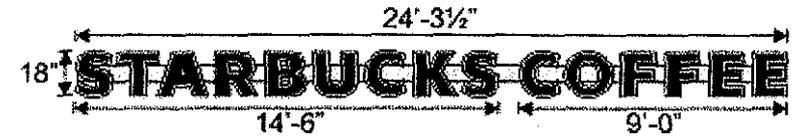
(1) 48" Starbucks Coffee internally illuminated logo disk wall sign = 12.6 square feet

Sign C

(1) 16.2 square foot DRIVE THRU internally illuminated wall sign with 9" copy = 16.2 square feet

Total signage this elevation = 65.3 square feet

All signs are U.L. listed



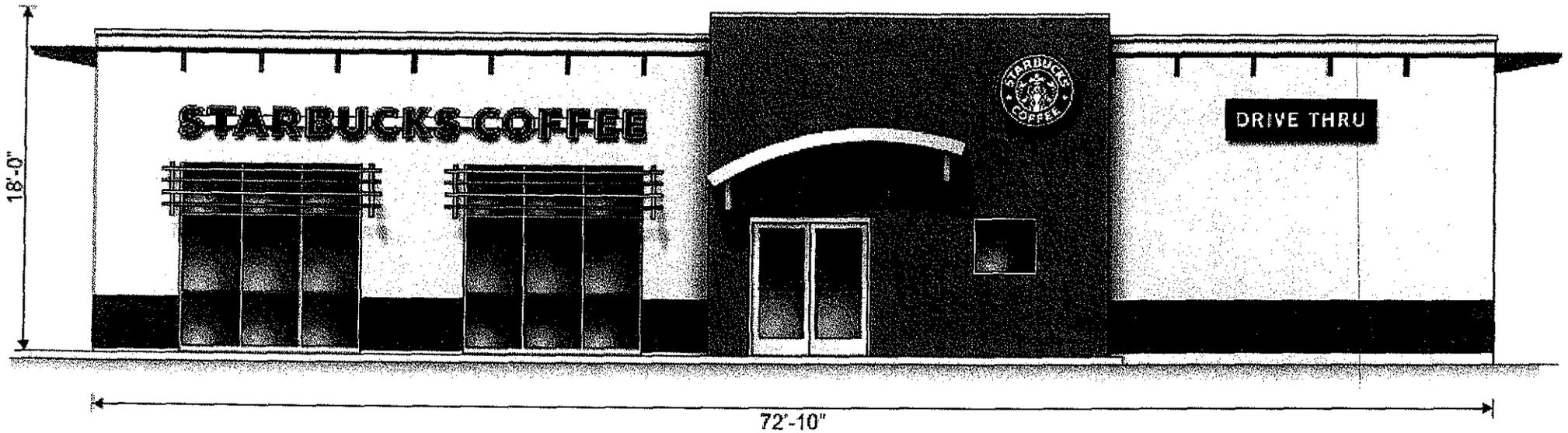
top of sign to grade = 15'-11"
bottom of sign to grade = 14'-5"



top of sign to grade = 13'-7"
bottom of sign to grade = 11'-6"



top of sign to grade = 16'-1"
bottom of sign to grade = 12'-1"



"CONCEPTUAL PLAN - NOT FOR CONSTRUCTION"
"COLORS SUBJECT TO CHANGE AT LANDLORD'S DISCRETION"

South Elevation
Scale 1/8" = 1'-0"



Starbucks Coffee #9971

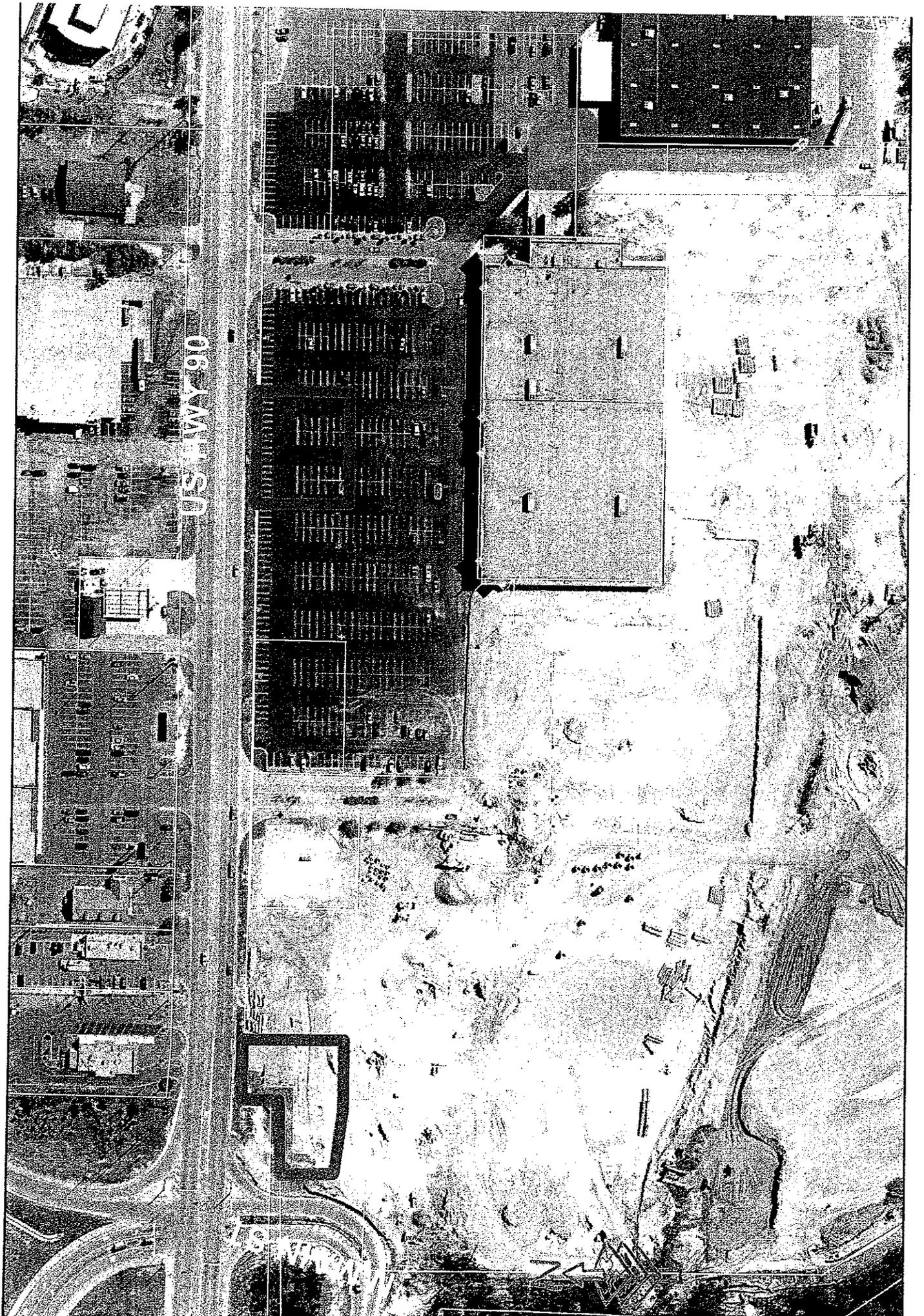
2601 South McKenzie Road - Riviera Center Factory Stores Tanger Outlet Mall
Foley, AL 36535

10/14/05

Drawing by: Alex Okon



1 800 233 3411



Starbucks April 2006

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

RESOLUTION 2006-82

**AIG Baker Development Agreement:
Fourth Amendment and Supplement**

BE IT RESOLVED by the City Council of the City of Daphne, Alabama, as follows:

SECTION 1: FINDINGS

Having made due and proper investigation of the matters herein referred to, the City Council has ascertained and does hereby find and declare the following facts are true and correct.

- A. The City of Daphne (hereafter "City") has heretofore entered into a Development Agreement dated the 20th day of July, 2000 (the "Development Agreement"); the First Amendment and Supplement thereto dated the 21st day of December, 2000; the Second Agreement and Supplement thereto dated the 31st day of January, 2003; and the Third Amendment and Supplement thereto dated July 18, 2005 by and between AIG Baker Development, LLC, also doing business as AIG Baker Daphne, LLC and AIG Baker Shopping Center Properties, LLC (collectively referred to as the "Developer").
- B. The City and Developer have deemed it to be mutually beneficial to execute a certain "land swap" in order to facilitate the location of Starbucks at Daphne Jubilee Square.
- C. The City deems it desirable to enter into the said Fourth Amendment and Supplement to the Development Agreement, a copy of which is attached hereto and made a part hereof by reference as Exhibit "A".

SECTION II: AUTHORIZATION OF FOURTH AMENDMENT AND SUPPLEMENT TO DEVELOPMENT AGREEMENT

The Mayor and City Clerk are hereby authorized and directed to execute and deliver, for and on behalf of the City, the Fourth Amendment and Supplement to the Development Agreement in the form attached hereto as Exhibit "A".

ADOPTED AND APPRVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, on this the _____ day of _____, 2006.

 Greg Burnam,
 Council President
 Date & Time Signed:_____

 Fred Small,
 Mayor
 Date & Time Signed:_____

ATTEST:

 David L. Cohen,
 City Clerk, MMC

FORTH AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FORTH AMENDMENT TO DEVELOPMENT AGREEMENT (this "Amendment") is made and entered into as of the ____ day of October, 2006, by and between **AIG BAKER DEVELOPMENT, L.L.C.**, a Delaware limited liability company (the "Developer"), and **THE CITY OF DAPHNE, ALABAMA**, a municipality organized and existing under the laws of the State of Alabama (the "City").

RECITALS

Developer (as assignee of AIG Baker Development, L.L.C.) and City have heretofore entered into that certain Development Agreement, dated July 20, 2000, as amended by First Amendment and Supplement to Development Agreement dated as of December 21, 2000, and by Second Amendment and Supplement to Development Agreement dated January 31, 2003, and by Third Amendment and Supplement to Development Agreement dated July 18, 2005, (as amended, the "Development Agreement"), with respect to the re-development of the Jubilee Square Shopping Center.

As contemplated by the Development Agreement, the Developer conveyed to the City the Public Land pursuant to that certain Statutory Warranty Deed With Declaration of Covenants and Reservation of Easements dated April 1, 2002, recorded as Instrument # 651254 in the Office of the Judge of Probate of Baldwin County, Alabama (the "Deed"), consisting of approximately 18.98 acres of land.

Developer is negotiating with Starbucks Corporation to locate its store in the Jubilee Square Shopping Center (the "Starbucks Location"). In order to facilitate the Starbucks Location, the Developer has requested that the City "swap" approximately 18,094 square feet of the Public Land for approximately 18,094 square feet of nonpublic land (which such nonpublic land will become "Public Land") in the areas which are shown as Tract A and Tract B on Exhibit A attached hereto, and the City has so agreed. The Developer and the City desire to set forth certain other amendments of the Development Agreement, as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the Developer and the City do hereby agree as follows:

1. Defined Terms. Each and every capitalized term used herein and not otherwise defined herein shall have the meaning given such term in the Development Agreement.

2. Land Swap.

(a) In consideration of the Developer's conveyance to the City of the "Replacement Public Land Tract" hereinafter described, the City hereby agrees to convey to the Developer fee simple title to the land which is identified on Exhibit A attached hereto as "APPROXIMATELY 18,094 SF OF LOT 6 TO CREATE LOT 6A" (the "Starbucks Tract"). Such conveyance shall be by statutory warranty deed, subject to those easements and encumbrances affecting the Starbucks Tract which are set forth on Exhibit C to the Deed. The Starbucks Tract will be released from covenants and easements and provisions set forth in Exhibit B to the Deed requiring that the same be used only for public parking, ingress, egress, and utilities, and no other purposes.

(b) In consideration of City's conveyance to the Developer of the Starbucks Tract, Developer hereby agrees to convey to the City fee simple title to the land which is identified on Exhibit A attached hereto as "APPROXIMATELY 18,094 SF OF LOT 3D TO CREATE LOT 3D1" (the "Replacement Public Land Tract"). Such conveyance shall be by statutory warranty deed, subject to the same covenants, conditions, easements, restrictions, and agreements which were set forth in the Deed which conveyed the original Public Land to the City. All Developer obligations relating to the maintenance and indemnification obligations applicable to the Public Land as set forth in the Development Agreement will apply to the Replacement Public Land Tract with the same force and effect as the original Public Land.

(c) Developer will be responsible for all costs incurred in the connection with the conveyances described in paragraphs (a) and (b) (collectively, the "Land Swaps"), including any recording fees or attorneys fees in preparing the conveyance instruments.

3. Ratification. All of the applicable terms, conditions and provisions of the Development Agreement, as herein amended and supplemented, are in all respects hereby ratified and reaffirmed, and the Development Agreement and this Amendment shall be read, taken and construed as one and the same instrument.

4. Counterparts. This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY DELETED]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed by their duly authorized officers and/or representatives, to be effective the day and year first-above written.

DEVELOPER:

AIG BAKER DAPHNE, L.L.C.
a Delaware limited liability company

BY: AIG BAKER SHOPPING CENTER
PROPERTIES, L.L.C., a Delaware limited
liability company
Its Sole Member

By: _____

Its: _____

CITY:

THE CITY OF DAPHNE, a municipality
organized and existing under the laws of the State
of Alabama

By: _____

Its: _____

**RESOLUTION 2006-83
PREPAID TRAVEL**

**BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA
HEREBY AUTHORIZES THE FOLLOWING:**

prepaid travel expenses are approved for the purpose and amount indicated below for the following:

David Cohen, City Clerk, Annual Municipal Training Institute for City Clerks and Administrators, November 15-17, 2006, Birmingham, AL - \$105

A complete expense summary with receipts will be submitted and approved by the Mayor upon return from the above.

**APPROVED AND ADOPTED BY THE CITY COUNCIL, CITY OF DAPHNE, ALABAMA on
this ___-__ day of _____, 2006.**

**Greg Burnam,
Council President**

Date & Time Signed:_____

Fred Small, Mayor

Date & Time Signed:_____

ATTEST:

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

Resolution 2006-84

**RESOLUTION: 2006-DD-CEDAR CIRCLE/BRYANT GULLY
DAP-0905-06 Agreement No. 69-4101-6-30**

WHEREAS, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

WHEREAS, the City of Daphne acknowledges that CEDAR CIRCLE/BRYANT GULLY - DAP-0905-06 will exceed \$50,000; and

WHEREAS, the City of Daphne did receive and review bids for CEDAR CIRCLE/BRYANT GULLY Project # DAP-0905-06 and has determined that the bid as presented is reasonable; and

WHEREAS, staff recommends the bid for CEDAR CIRCLE/BRYANT GULLY Project # DAP-0905-06 be awarded to Phillips & Jordan Inc.;

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept the bid of Phillips & Jordan Inc. in the amount of \$205,355 as specified in BID SPECIFICATION NO. 2006-DD-CEDAR CIRCLE/BRYANT GULLY - DAP-0905-06 NRCS Grant Agreement no: 69-4101-6-30.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2006.

Greg Burnam,
Council President
Date & Time Signed:_____

Fred Small,
Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen,
City Clerk MMC

Resolution 2006-85

**RESOLUTION: 2006-EE-WHITING COURT NRCS
DAP-0905-02 Agreement No. 69-4101-6-30**

WHEREAS, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

WHEREAS, the City of Daphne acknowledges that WHITING COURT - DAP-0905-02 will exceed \$50,000; and

WHEREAS, the City of Daphne did receive and review bids for WHITING COURT Project # DAP-0905-02 and has determined that the bid as presented is reasonable; and

WHEREAS, staff recommends the bid for WHITING COURT Project # DAP-0905-02 be awarded to Phillips & Jordan Inc.;

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept the bid of Phillips & Jordan Inc. in the amount of \$598,557 as specified in BID SPECIFICATION NO. 2006-EE-WHITING COURT - DAP-0905-02 NRCS Grant Agreement no: 69-4101-6-30.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2006.

Greg Burnam,
Council President
Date & Time Signed:_____

Fred Small,
Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen,
City Clerk MMC

Resolution 2006-86

**RESOLUTION: 2006-FF-VP PARK / YANCEY BRANCH / LAKEVIEW LOOP
DAP-0905-03 & 0905-05 Agreement No. 69-4101-6-30**

WHEREAS, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

WHEREAS, the City of Daphne acknowledges that VP PARK / YANCEY BRANCH / LAKEVIEW LOOP - DAP-0905-03 & 0905-05 will exceed \$50,000; and

WHEREAS, Bids were solicited for the VP PARK / YANCEY BRANCH / LAKEVIEW LOOP - DAP-0905-03 & 0905-05 and no bids were received; and

WHEREAS, State of Alabama Bid Laws authorize the City to negotiate a contract when no bids are received; and

WHEREAS, the VP PARK / YANCEY BRANCH / LAKEVIEW LOOP contract has been negotiated with ERS, Inc.; and

WHEREAS, staff recommends the negotiated bid for VP PARK / YANCEY BRANCH / LAKEVIEW LOOP - DAP-0905-03 & 0905-05 be awarded to ERS, Inc.;

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept and award the negotiated contract to ERS, Inc. in the amount of \$667,535.80 for the VP PARK / YANCEY BRANCH / LAKEVIEW LOOP - DAP-0905-03 & 0905-05 NRCS Grant Agreement no: 69-4101-6-30.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this ____ day of _____, 2006.

Greg Burnam,
Council President
Date & Time Signed:_____

Fred Small,
Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen,
City Clerk MMC

RESOLUTION NO. 2006-87
2007-B-ATHLETIC FIELD MARKING PAINT

WHEREAS, The City of Daphne is required under section 41-16-20 of the Code of Alabama to secure competitive bids for items in excess of \$7,500; and

WHEREAS, The City of Daphne acknowledges that the cost for the ATHLETIC FIELD MARKING PAINT will exceed this amount; and

WHEREAS, Staff has reviewed the bids for the ATHLETIC FIELD MARKING PAINT and determined that the bid as presented is reasonable; and

WHEREAS, Staff recommends the bid for the ATHLETIC FIELD MARKING PAINT be awarded to Pioneer Manufacturing Company.

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept the bid of Pioneer Manufacturing Company for unit cost listed as follows:

Max White Paint	\$ 67.50 (5 Gallon Bucket)
Brite Stripe Yellow Gold	\$ 63.00 (5 Gallon Bucket)
Brite Stripe Purple	\$ 84.00 (5 Gallon Bucket)
PVIP Aerosol White (22 oz)	\$ 41.00 (per case)
PVIP Aerosol Yellow Gold (20 oz)	\$ 41.00 (per case)
PVIP Aerosol Royal Purple (20 oz)	\$ 47.00 (per case)

and made a part hereof for BID SPECIFICATION NO. 2007-B-ATHLETIC FIELD MARKING PAINT.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2006.

Greg Burnam,
Council President
Date & Time Signed:_____

Fred Small,
Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen,
City Clerk MMC

RESOLUTION 2006 - 88

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

WHEREAS, the City of Daphne has an accumulation of scrap metal from various equipment/projects that cannot be used for public or municipal purposes; and

WHEREAS, such scrap metal is recommended for disposal.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Daphne that the following procedures will be followed for the disposal of scrap metal:

- 1- Scrap metal that is recommended by departments for disposal and approved by the Mayor are hereby declared to be surplus property. AND
- 2- The Mayor is authorized to enter into contracts for the disposition of all such scrap metal and deposit any and all proceeds to the General Fund. AND
- 3- The Mayor is further authorized to direct the disposition of all scrap metal that cannot be sold.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this _____ day of _____, 2006.

Greg Burnam,
Council President
Date & Time Signed:_____

Fred Small,
Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen,
City Clerk, MMC

RESOLUTION 2006 - 89

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

WHEREAS, the Department Heads of the City of Daphne have determined that the items scheduled on Schedule A are no longer required for public or municipal purposes; and

WHEREAS, the items on said Schedule A are recommended for disposal.

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

- 1- The property included on Schedule A and attached hereto is hereby declared to be surplus property and
- 2- The Mayor is authorized to advertise and accept bids through Govedeals.com as contracted for the sale of such personal property and
- 3- The Mayor is authorized to sell said property to the highest bidder and deposit any and all proceeds to the General Fund. The Mayor is further authorized to direct the disposition of any property on Schedule A which is not claimed by any bidder.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this _____ day of _____, 2006.

Greg Burnam,
Council President
Date & Time Signed:_____

Fred Small,
Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen,
City Clerk, MMC

SCHEDULE A

DEPARTMENT	VEHICLE #	VEHICLE DESCRIPTION	VIN #
Janitorial	113	1991 CHEVROLET S/10 PU	1GCCS14A6M8215390
Police	196	1996 FORD CROWN VIC	2FALP71W6TX177362
Police-Blown Engine	298	1998 FORD TAURUS	1FAFP52U9WA156596
Court		Desk - L Shape - 29 xx 62 w/lower L - 24 x 48 (Dark Cherry Laminate)	

RESOLUTION NO. 2006-90

AGREEMENT-DAPHNE HIGH SCHOOL STADIUM

WHEREAS, residents of the City of Daphne attend Daphne High School; and

WHEREAS, the City of Daphne recognizes the importance of athletics to the citizens of Daphne; and

WHEREAS, the City of Daphne believes it to be in the best interest to the health, safety, and welfare of its citizens to promote high school athletics.

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

1. The City of Daphne hereby agrees to make a contribution to the Baldwin County School Board in the amount of \$ _____ according to the terms setforth in the attached Exhibit "A" for improvements to the athletic facilities at Daphne High School; AND
2. the Agreement between the City of Daphne and the Baldwin County Board of Education, hereto attached as Exhibit "A", is hereby approved and the Mayor and City Clerk are hereby authorized to execute such Agreement on behalf of the City.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ DAY OF _____, 2006.

Greg Burnam,
Council President
Date & Time Signed: _____

Fred Small,
Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen,
City Clerk, MMC

I. \$ 1,000,000

5%

	<u>Principal</u>	<u>Interest</u>		<u>Total Payment</u>
			1,000,000	
Upon execution	200,000	-	800,000	200,000
Year 1	160,000	40,000	640,000	200,000
Year 2	160,000	32,000	480,000	192,000
Year 3	160,000	24,000	320,000	184,000
Year 4	160,000	16,000	160,000	176,000
Year 5	160,000	8,000	-	168,000
	<u>1,000,000</u>	<u>120,000</u>		<u>1,120,000</u>

II. \$ 1,200,000

5%

	<u>Principal</u>	<u>Interest</u>		
			1,200,000	
Upon execution	240,000	-	960,000	240,000
Year 1	192,000	48,000	768,000	240,000
Year 2	192,000	38,400	576,000	230,400
Year 3	192,000	28,800	384,000	220,800
Year 4	192,000	19,200	192,000	211,200
Year 5	192,000	9,600	-	201,600
	<u>1,200,000</u>	<u>144,000</u>		<u>1,344,000</u>

III. \$ 1,573,000

5%

	<u>Principal</u>	<u>Interest</u>		
			1,573,000	
Upon execution	314,600	-	1,258,400	314,600
Year 1	251,680	62,920	1,006,720	314,600
Year 2	251,680	50,336	755,040	302,016
Year 3	251,680	37,752	503,360	289,432
Year 4	251,680	25,168	251,680	276,848
Year 5	251,680	12,584	-	264,264
	<u>1,573,000</u>	<u>188,760</u>		<u>1,761,760</u>

Shown below is tentative budget of project

Total for Improvements and Enlargement to Stadium,
Track and Field Surface 2,773,000

From presentation, it appears that breakdown is:

Total Improvements/Contract	2,257,000
Architect/Engineering	154,000
Contingency	362,000
	<u>2,773,000</u>

Funding Commitments - there are 3 possibilities

BCOE	1,000,000		
Daphne HS	<u>200,000</u>		
	1,200,000	1,200,000	54.55%

Contribution of City of Daphne possibilities		<u>1,000,000</u>	45.45%
		<u>2,200,000</u>	

BCOE	1,000,000		
Daphne HS	<u>200,000</u>		
	1,200,000	1,200,000	50.00%
Contribution of City of Daphne possibilities		<u>1,200,000</u>	50.00%
		2,400,000	
BCOE	1,000,000		
Daphne HS	<u>200,000</u>		
	1,200,000	1,200,000	43.27%
Contribution of City of Daphne possibilities		<u>1,573,000</u>	56.73%
		2,773,000	

COOPERATION AGREEMENT

Between

CITY OF DAPHNE, ALABAMA

and

BALDWIN COUNTY BOARD OF EDUCATION

Dated as of _____, 200__

**STATE OF ALABAMA
COUNTY OF BALDWIN**

COOPERATION AGREEMENT

This Cooperation Agreement between the City of Daphne, Alabama, a municipal corporation existing under the laws of the State of Alabama (the "City") and the Baldwin County Board of Education, an agency of the State of Alabama (the "Board") made and entered this _____ day of _____, 200__.

Recitals

WHEREAS, the Board is vested with the general administration and supervision of the public schools and educational interests of Baldwin County, Alabama; and

WHEREAS, the Board authorized an allocation of \$1,000,000 to each county high school feeder pattern for enhancement of facilities that enrich and enhance the public school educational and athletic or other extracurricular programs; and

WHEREAS, the Daphne High School feeder pattern advisory committee has recommended to the Board and the Board has approved the expenditure of the \$1,000,000 Daphne High School feeder pattern allocation to enlarge and renovate the Daphne High School stadium; and

WHEREAS, the Board has approved the funding of the enhancement projects by multiple funding commitments from municipalities and other sources; and

WHEREAS, the Board is holding the sum of \$200,000 donated by private sources and to be used to enlarge and renovate the Daphne High School stadium; and

WHEREAS, the Board has determined that it is in the best interest of the Baldwin County School System and its students for the Board to make the necessary arrangements to finance the construction of improvements to the Daphne High School stadium (the "2006 Daphne High School Stadium Project") through this Cooperation Agreement.

WHEREAS, in connection with financing the construction of the 2006 Daphne High School Stadium Project and as a condition of the Board precedent thereto, the City proposes to make certain payments to the Board in respect to the repayment of the amount financed by the Board for the 2006 Daphne High School Stadium Project.

NOW, THEREFORE, in consideration of the premises, it is hereby agreed between the City and the Board as follows:

SECTION 1. Agreement of City to Provide Funds.

(a) The City hereby covenants and agrees to pay to the Board, in bankable funds and without the necessity of demand therefor, those sums and on those conditions as set forth in the instrument of even date herewith and attached hereto as Exhibit A and made a part hereof. The obligation of the City to make such payments as herein provided shall remain in full force and effect until this Cooperation Agreement is terminated in accordance with its terms.

(b) The principal sum as set forth on Exhibit A will be used by the Board for the Daphne High School Stadium Project. The amount budgeted for the Daphne High School Stadium Project is _____. The budgeted amount is contingent on the Board receiving \$200,000 from private contributions and _____ from the City to add to the \$1,000,000 allocated by the Board. The scope of the project, including professional fees, will not exceed that budgeted amount.

(c) (i) The City may make such payments to the Board from any funds or revenues which at the time of any such payment the City is authorized by law to apply to capital improvements or to the payment of debt service on any long-term obligations issued by the City.

(d) In the event the 2006 Daphne High School Stadium Project is not completed, the Board, the City, and the private contributions will each pay a pro-rated portion of the project expenses and costs incurred based on the contributions set forth in Section 1 (b). These payments and costs include, without limitation, architectural, engineering and other design and pre-construction fees in the event the project is abandoned prior to the construction phase.

(ii) The City hereby covenants and agrees not to incur any other obligations payable from such funds or revenues so long as the indebtedness is outstanding if the effect of such issuance or such incurrence would result in the City being unable to make the payments provided for herein in the amounts and at the time herein provided.

SECTION 2. Binding Effect; Governing Law.

This Agreement shall inure to the benefit of and shall be binding upon the City and the Board and their respective successors and assigns. This Agreement shall be governed exclusively by the applicable laws of the State of Alabama.

SECTION 3. Effective Date; Termination.

This Agreement shall take effect upon the date hereof and shall not be terminated by either party until the obligation set forth in Exhibit A shall have been paid in full by the City.

SECTION 4. All Prior Agreements Superseded.

This Agreement shall completely and fully supersede all prior agreements, both written and oral, between the City and the Board relating to the matters herein contained.

SECTION 5. Execution in Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 6. Section Captions.

The section headings contained herein are included for convenience only and should not be considered a part hereof or affect in any manner the construction or interpretation of this Agreement.

IN WITNESS WHEREOF, the City and the Board have caused this Cooperation Agreement to be executed in their respective corporate names and have caused their respective corporate seals to be hereunto affixed, and have caused this Cooperation Agreement to be attested, all by their duly authorized officers, and have caused this Cooperation Agreement to be dated the date and year first written above.

CITY OF DAPHNE, ALABAMA,
an Alabama municipal corporation

By: _____
Its: Mayor

SEAL

Attest:

City Clerk

BALDWIN COUNTY BOARD OF EDUCATION,
an Agency of the State of Alabama

By: _____
Its: President

SEAL

Attest:

Superintendent and Ex-officio Secretary

STATE OF ALABAMA

COUNTY OF BALDWIN

I, _____, a Notary Public, in and for said County in said State, hereby certify that _____ and _____, whose names as Mayor and City Clerk of the City of Daphne, Alabama, an Alabama municipal corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they in their capacities as such officers and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this ____ day of _____, 2006.

Notary Public
My Commission Expires: _____

STATE OF ALABAMA

COUNTY OF BALDWIN

I, _____, a Notary Public, in and for said County in said State, hereby certify that _____ and _____, whose names as President and Superintendent and Ex-Officio Secretary of the Baldwin County Board of Education, an Agency of the State of Alabama, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, in their capacities as such President and Superintendent, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this ____ day of _____, 2006.

Notary Public
My Commission Expires: _____

\$ _____ Daphne, Alabama _____, 2006

PROMISSORY NOTE

The undersigned City of Daphne, an Alabama municipality, for value received, promise to pay to the order of The Baldwin County Board of Education, an agency of the State of Alabama, the principal sum of _____ Dollars (\$ _____), plus interest at the rate of five percent (5%), per annum, payable in consecutive annual installments beginning with one installment of _____ on the date of this Promissory Note and five (5) additional installments of \$ _____ each, which payments include interest, the first installment being due and payable on the date hereof, and each additional installment being due and payable on the same date of each successive year thereafter until the entire sum of principal plus interest has been paid in full. The makers of this instrument shall have the right to prepay this indebtedness or any part thereof without penalty on the due date of any installment. All payments received under this note shall be applied first to interest and then to principal.

Upon failure to pay any installment of principal and/or interest when due, the entire principal sum at the option of the holder shall become immediately due and payable without notice or demand on any party to this instrument. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

The City of Daphne agrees to pay all costs of collecting or securing, or attempting to collect or secure this note, including a reasonable attorney's fee, whether the same be collected or secured by suit or otherwise.

WITNESS our hands and seals on this the _____ day of _____, 2006.

WITNESSES:

Resolution 2006-91

RESOLUTION: 2006-BB-DAPHNE FIRE TOWER STAIRS

WHEREAS, the City of Daphne is required under section 39-1-1(E) of the Code of Alabama to secure competitive bids for public works contracts in excess of \$ 50,000; and

WHEREAS, the City of Daphne acknowledges that DAPHNE FIRE TOWER STAIRS will exceed \$50,000; and

WHEREAS, Bids were solicited for the DAPHNE FIRE TOWER STAIRS and no bids were received; and

WHEREAS, State of Alabama Bid Laws authorize the City to negotiate a contract when no bids are received; and

WHEREAS, the DAPHNE FIRE TOWER STAIRS contract has been negotiated with Moody’s Electric, Inc.; and

WHEREAS, staff recommends the negotiated bid for DAPHNE FIRE TOWER STAIRS be awarded to Moody’s Electric, Inc.;

NOW, THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED, THAT THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, hereby accept and award the negotiated contract to Moody’s Electric, Inc. in the amount of \$138,875 for the DAPHNE FIRE TOWER STAIRS.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2006.

Greg Burnam,
Council President
Date & Time Signed:_____

Fred Small,
Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen,
City Clerk, MMC

CITY OF DAPHNE

BID OPENING MINUTES – NEGOTIATED BID
BID DOCUMENT NO: 2006-BB-DAPHNE FIRE TOWER STAIRS
OCTOBER 11, 2006
11:30 A.M.
CITY HALL

Those present were as follows:

Ms. Suzânnne Henson	Sr. Accountant
Chief Mund Hanson	Fire Department

2 bid invitations were mailed/picked up , 1 sealed bids were received.

Chief Hanson opened the bid presented and the bids were read aloud as follows:

<u>VENDOR</u>	<u>TOTAL UNIT COST</u>
Moody's Electric, Inc.	\$138,875

***No bids were received at the August 17, 2006 bid opening - this is a negotiated contract.



Suzânnne Henson, Sr. Accountant

Memo

To: Mayor Small
City Council Members

From: Chief Hanson *[Signature]*

Date: October 12, 2006

Re: Fire Training Facility Exterior Stairs

I have discussed this with Volunteer Fire Chief Melvin McCarley and we recommend that the City accept the recommendation from H M R and award this project to Moody's Electric, Inc.

Cc: Melvin McCarley
Volunteer Fire Chief

* \$35,000 Encumbered - Remainder to be Funded
by Daphne Volunteer Fire Fighters Association.

CITY OF DAPHNE

**BID OPENING MINUTES – NEGOTIATED BID
BID DOCUMENT NO: 2006-BB-DAPHNE FIRE TOWER STAIRS
OCTOBER 11, 2006
11:30 A.M.
CITY HALL**

Those present were as follows:

Ms. Suzânnne Henson Sr. Accountant
Chief Mund Hanson Fire Department

2 bid invitations were mailed/picked up , 1 sealed bids were received.

Chief Hanson opened the bid presented and the bids were read aloud as follows:

<u>VENDOR</u>	<u>TOTAL UNIT COST</u>
Moody's Electric, Inc.	\$138,875

***No bids were received at the August 17, 2006 bid opening - this is a negotiated contract.



Suzânnne Henson, Sr. Accountant

Memo

To: Mayor Small
City Council Members

From: Chief Hanson *[Signature]*

Date: October 12, 2006

Re: Fire Training Facility Exterior Stairs

I have discussed this with Volunteer Fire Chief Melvin McCarley and we recommend that the City accept the recommendation from H M R and award this project to Moody's Electric, Inc.

Cc: Melvin McCarley
Volunteer Fire Chief

* \$35,000 Encumbered - Remainder to be Funded
by Daphne Volunteer Fire Fighters Association.

ORDINANCE NO. 2006-77

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

POLLARD GOUP, LLC

**(Property located Southeast of the intersection of
County Road 64 and Pollard Road 7.46 Acres)**

**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 June 22, 2006 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 Multi-Family Residential, District**; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on October 2, 2006 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.

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH OF 7.46 ACRES TO-WIT:

PARCEL 1:

LOTS 1, 2, AND 3, BOLAR VIEW SUBDIVISION AS PER PLAT THEREOF RECORDED ON SLIDE 1532-A IN THE RECORDS IN THE OFFICE OF THE JUDGE OF PROBATE OF BALDWIN COUNTY, ALABAMA.

PARCEL 2:

FROM THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST, RUN SOUTH 1323 FEET TO THE BEGINNING CORNER, (THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21); THENCE RUN SOUTH 650 FEET TO A CORNER; THENCE RUN EAST 672 FEET TO A CORNER; THENCE RUN NORTH 619 FEET TO A CORNER; THENCE RUN NORTH 61 DEGREES 00 MINUTES WEST 73 FEET TO A CORNER; THENCE RUN WEST 609.5 FEET TO THE POINT OF BEGINNING. PROPERTY LYING IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

LESS AND ACCEPT: (1)

COMMENCING AT THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; RUN THENCE SOUTH, ALONG THE WEST LINE OF SAID SECTION, 1323 FEET TO A NAIL; THENCE RUN SOUTH 89 DEGREES 10 MINUTES 39 SECONDS EAST, 40.0 FEET TO A STEEL ROD ON THE EAST RIGHT-OF-WAY LINE OF POLLARD ROAD (80 FOOT RIGHT-OF-WAY); THENCE RUN SOUTH 00 DEGREES 31 MINUTES WEST, ALONG SAID EAST RIGHT-OF-WAY LINE, 50.0 FEET TO A POINT FOR THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; RUN THENCE SOUTH 89 DEGREES 10 MINUTES 39 SECONDS EAST 110.0 FEET TO A POINT; THENCE RUN NORTH 00 DEGREES 31 MINUTES EAST, 50.0 FEET TO A POINT; THENCE RUN SOUTH 89 DEGREES 10 MINUTES 39 SECONDS EAST, 64.58 FEET TO A STEEL ROD; THENCE RUN SOUTH 00 DEGREES 31 MINUTES WEST 996.65 FEET TO A STEEL ROD; THENCE RUN NORTH 89 DEGREES 10 MINUTES 39 SECONDS WEST, 174.58 FEET TO A STEEL ROD ON THE AFOREMENTIONED EAST RIGHT-OF-WAY LINE; THENCE RUN NORTH 00 DEGREES 31 MINUTES EAST, ALONG SAID EAST RIGHT-OF-WAY, 46.65 FEET TO THE POINT OF BEGINNING.

AND FURTHER LESS AND EXCEPT: (2)

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; RUN THENCE NORTH 00 DEGREES 42 MINUTES EAST, ALONG THE WEST LINE OF SAID SECTION; 659.51 FEET TO A POINT; THENCE RUN SOUTH 89 DEGREES 24 MINUTES EAST, 40.0 FEET TO AN IRON PIPE ON THE EAST RIGHT-OF-WAY LINE OF POLLARD ROAD (80.0 FOOT RIGHT OF WAY) FOR THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE RUN NORTH 00 DEGREES 31 MINUTES EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, 119.76 FEET TO A STEEL ROD; THENCE RUN SOUTH 89 DEGREES 24 MINUTES EAST, 363.72 FEET TO A STEEL ROD; THENCE RUN SOUTH 00 DEGREES 31 MINUTES WEST, 119.76 FEET TO AN IRON PIPE ON THE AFOREMENTIONED EAST RIGHT-OF-WAY LINE AND THE POINT OF BEGINNING.

AND FURTHER LESS AND EXCEPT: (3)

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; RUN THENCE NORTH 00 DEGREES 31 MINUTES EAST, ALONG THE WEST LINE OF SAID SECTION, 779.27 FEET TO A POINT; THENCE RUN SOUTH 89 DEGREES 24 MINUTES EAST, 40.0 FEET TO A STEEL ROD ON THE EAST RIGHT-OF-WAY LINE OF POLLARD ROAD (80.0 FOOT RIGHT-OF-WAY) FOR THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE RUN NORTH 00 DEGREES 31 MINUTESEAST, ALONG SAID EAST RIGHT-OF-WAY LINE, 39.46 FEET TO A POINT; THENCE RUN SOUTH 89 DEGREES 24 MINUTES ESAT, 158.61 FEET TO A POINT; THENCE RUN NORTH 00 DEGREES 31 MINUTES EAST, 65.0 FEET TO A POINT; THENCE RUN 89 DEGREES 24 MINUTES WEST, 158.61 FEET TO A POINT ON THE EAST RIGHT-OF-WAY 4.17 FEET TO A STEEL ROD; THENCE RUN SOUTH 89 DEGREES 24 MINUTES WEST, 108.63 FEET TO A STEEL ROD; THENCE RUN NORTH 89 DEGREES 24 MINUTES WEST, 162.83 FEET TO A STEEL ROD ON THE AFOREMENTIONED EAST RIGHT-OF-WAY LINE AND THE POINT OF BEGINNING.

AND FURTHER LESS AND EXCEPT: (4)

FROM THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 5 SOUTH, RANGE 2 ESAT, BALDWIN COUNTY, ALABAMA, THENCE RUN SOUTH 1323 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION21; CONTINUE THENCE SOUTH 429.8 FEET TO THE NORTH LINE OF THE LOT HEREINDESCRIBED; THENCE RUN EAST 14 FEET TO AN IRON PIPE ON THE EAST MARGIN OF A 28 FOOT GRADED ROAD, FOR A PINT OF BEGINNING; CONTINUE THENCE EAST 184.61 FEET TO AN IRON PIPE; THENCE RUN SOUTH 65 FEET TO AN IRON PIPE; THENCE RUN WEST 184.61 FEET TO AN IRON PIPE ON THE EAST MARGIN OF SAID 28 FOOT WIDE GRADED ROAD; THENCE RUN NORTH ALONG THE EAST MARGIN OF SAID ROAD 65 FEET TO THE POINT OF BEGINNING; AND LYING ON THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION21, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY ALABAMA; AND BEING A LOT IN THE 10 ACRE TRACT OF GEORGE WILLIAMS, AS RECORDED IN DEED BOOD 135, PAGES 341 AND 342 IN THE RECORDS IN THE OFFICE OF THE JUDGE OF PROBATE OF BALDWIN COUNTY, ALABMAMA.

AND FURTHER LESS AND EXCEPT: (5)

LOTS 1, 2, AND 3, BOLAR VIEW SUBDIVISION AS SHOWN ABOVE AS PARCEL 1.

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.

ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this _____ day of _____, 2006.

Greg Burnam
Council President

Date & Time Signed: _____

Fred Small
Mayor

Date & Time Signed: _____

ATTEST:

David L. Cohen
City Clerk, MMC

ORDINANCE 2006-78

DAPHNE HIGH SCHOOL STADIUM FY 07 APPROPRIATION

WHEREAS, Ordinance 2006-75 approved and adopted the Fiscal Year 2007 Budget on October 2, 2006; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2007 budget, the City Council has determined that a certain appropriation is required and should be approved and made a part of the Fiscal Year 2007 budget; and

WHEREAS, the City of Daphne recognizes Daphne High School and the importance of athletics to the citizens of Daphne.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that \$ _____ is hereby appropriated to the Baldwin County Board of Education for the "2006 Daphne High School Stadium" enlargement and renovation project.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2006.

Greg Burnam,
Council President
Date & Time Signed: _____

Fred Small,
Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen,
City Clerk MMC