

**CITY OF DAPHNE  
CITY COUNCIL BUSINESS MEETING AGENDA  
1705 MAIN STREET, DAPHNE, AL  
NOVEMBER 7, 2005**

**1. CALL TO ORDER**

**2. ROLL CALL/INVOCATION:**

**PLEDGE OF ALLEGIANCE:**

- 3. APPROVE MINUTES:** October 13, 2005 Work Session  
October 17, 2005 Regular Meeting  
October 18, 2005 Daphne School Meeting  
October 24, 2005 Special Called Council Meeting  
October 25, 2005 Vision Meeting Minutes

**PROCLAMATIONS:** Baldwin County Commission Allocation of \$45,000 for Daphne Search and Rescue for Hurricane Relief and to Commend for their Relief Effort After Hurricane Katrina.

National Home Care Month

**4. REPORT STANDING COMMITTEES:**

- A. **FINANCE COMMITTEE** - Scott
- B. **BUILDINGS AND PROPERTY COMMITTEE**- Lake
- C. **PUBLIC SAFETY** - Burnam
- D. **CODE ENFORCEMENT/ORDINANCE COMMITTEE** – Landry
- E. **PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY** – Yelding  
Review minutes meeting held October 28<sup>th</sup>

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

- A. **Board of Zoning Adjustments** – Eady  
Review minutes meeting held October 6<sup>th</sup>
- B. **Downtown Redevelopment Authority** -Barnette  
Review minutes meeting held October 18<sup>th</sup>
- C. **Industrial Development Board** – Yelding
- D. **Library Board** - Lake
- E. **Planning Commission** – Barnette  
Review minutes meeting held September 22<sup>nd</sup>
  - a.) Set Public Hearing date for **December 5, 2005** to consider the following:
    - 1.) Rezone: Property located Southeast of the intersection of Pecan Court and Pollard Road – A & B-10, LLC / Rezone from R-4 High Density Single and Multi-Family Residential District to B-2 General Business District
    - 2.) Annexation: Malbis Plantation, Inc./ Water Tank Site
    - 3.) Rezone: Property located on AL Hwy 181 across from Austin Road / Country Club Development, LLC /  
Rezone from R-3 High Density Single Family Residential District

Review minutes held October 27  
Review site review minutes held October 23
- F. **Recreation Board** - Burnam
- G. **Utility Board** – Scott  
Review minutes meeting held September 28<sup>th</sup>

**6. REPORTS OF THE OFFICERS:**

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

**7. PUBLIC PARTICIPATION:**

**8. RESOLUTIONS & ORDINANCES:**

**RESOLUTIONS:**

- a.) Amending the Personnel Handbook to Establish an Accrual of Vacation Leave for Firefighters...../Resolution 2005-74

**ORDINANCES:**

- a.) Establish Penalties and Enforcement Procedures for Violation of Municipal Ordinances and to Repeal Ordinances 198-33, 2001-01 and 2002-21 2<sup>nd</sup> READ...../Ordinance 2005-55
- b.) Authorizing Overtime Compensation for Salaried Employees During Declared Emergencies 2<sup>nd</sup> READ...../Ordinance 2005-56
- c.) Appropriating Funds: City Hall Architectural Services, Site Preparation, Survey & Engineering 2<sup>nd</sup> READ...../Ordinance 2005-59
- d.) Appropriating Funds: Finance Department Temporary Accountant Position 2<sup>nd</sup> READ...../Ordinance 2005-60
- e.) Amend Personnel Policies and Procedures Related to a Productive Work Place Equal Employment Opportunities, Sexual Harassment, Workplace Violence, Retaliation, Complaint Procedures and Security Measures 1<sup>ST</sup> READ...../Ordinance 2005-61
- f.) Repeal Ordinance 2005-52 1<sup>st</sup> Read...../Ordinance 2005-62

**9. COUNCIL / MAYOR COMMENTS**

**10. ADJOURN**

**CITY OF DAPHNE  
CITY COUNCIL MEETING**

**ROLL CALL**

**CITY COUNCIL:**

**CALL VOTES**

COUNCILMAN YELDING

PRESENT\_\_ ABSENT\_\_ \_\_

COUNCILWOMAN BARNETTE

PRESENT\_\_ ABSENT\_\_

COUNCILMAN LAKE

PRESENT\_\_ ABSENT\_\_ \_\_

COUNCILMAN BURNAM

PRESENT\_\_ ABSENT\_\_ \_\_

COUNCILMAN SCOTT

PRESENT\_\_ ABSENT\_\_ \_\_

COUNCILWOMAN LANDRY

PRESENT\_\_ ABSENT\_\_ \_\_

COUNCILMAN PALUMBO

PRESENT\_\_ ABSENT\_\_ \_\_

**MAYOR**

MAYOR SMALL

PRESENT\_\_ ABSENT\_\_ \_\_

**CITY CLERK:**

DAVID L. COHEN

PRESENT\_\_\_ ABSENT\_\_\_

**CITY ATTORNEY:**

CITY ATTORNEY JAY ROSS

PRESENT\_\_ ABSENT

**MINUTE NOTES:**

**CITY COUNCIL MEETING  
MINUTES**

**NOTES:**

COMMITTEE RECOMMENDATIONS

**CITY OF DAPHNE  
CITY COUNCIL  
WORK SESSION  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.  
October 13, 2005**

**1. CALL TO ORDER**

Council President Burnam called the meeting to order at 6:35 p.m.

**2. DISCUSS: METRO CABLE / BOB BENNETT**

*Mr. Bennett* gave a presentation of his company and the services that it will provide to the citizens of Daphne. He also answered questions from the Council.

**3. DISCUSS: COUNCIL DISCRETIONARY FUNDS FOR EACH DISTRICT**

The Council discussed the pros and cons and of having discretionary funds. Some of the Council did not think it was a good idea, they felt there would be too many problems that would surface if they had these funds available. The Council left this open for discussion.

**4. COUNCIL COMMENTS**

*Mrs. Barnette* commented that the Council should adopt the information board outside the Council Chambers as the official posting place for notices of meetings. She stated that this should have been included with the council packet for Monday's meeting.

*Mrs. Landry* reported to the Council regarding her meeting with the parents of the Jubilee Maids Court. The Council discussed how involved they wanted to be with the group. The consensus of the Council was that they did not want to be involved in any way except contributing to the scholarship fund.

*Mr. Scott* thanked the Mayor and Council for the flowers sent for his mother's funeral. He commented on the meeting about the schools, saying he wondered why they were having this meeting before the school feasibility study is done.

*Mr. Palumbo* agreed with Mr. Scott regarding the meeting on schools.

**5. ADJOURN**

Council President Burnam adjourned the meeting at 7:50 p.m.

OCTOBER 17, 2005  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.

1

**1. CALL TO ORDER**

Council President Lake 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 Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Tim Fleming, Attorney; Bill Eady, Planning Department Director; Ken Eslava, Public Works Director; Mund Hanson, Fire Chief; David Carpenter, Police Chief; David McKelroy, Recreation Director; Dale Foster, Librarian; Kim Briley, Finance Director; John Williams, Civic Center; Melvin McCarley, Public Works Supervisor; Al Guarisco, Village Point; Melinda Immell, Volkert & Associates Engineering.

**Absent:** Sandra Morse, Civic Center; Sharon Cureton, Human Resource Director; Ronnie Phillips, Building Inspections Director; Jay Ross, City Attorney.

**3. APPROVE MINUTES:**

**MOTION BY Mrs. Barnette to approve the minutes meeting held October 3, 2005. Secoded by Mrs. Landry.**

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

**4. REPORT OF STANDING COMMITTEES:**

**A. FINANCE COMMITTEE – Scott**

The minutes for the October 10<sup>th</sup> meeting are in the packet.

**MOTION BY Mr. Scott to increase the Flexible Spending Account limit to \$2,000. Secoded by Mr. Yelding.**

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

**MOTION BY Mr. Scott to authorize Galbraith & Associates and Volkert & Associates to work together to prepare a grant application for ADECA funds available for storm repairs to the City sewer system with the understanding that the Utility Board will be responsible for all matching funds. *Seconded by Mr. Yelding.***

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

**MOTION BY Mr. Scott to accept the Treasurers Report as of September 30, 2005 in the amount of \$10,475,983.62. *Seconded by Mrs. Landry.***

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

*Mr. Scott* reported that the Sales Tax collected was \$869,818.11 and there was budgeted \$790,000, so over \$79,000 was collected over budget. Year to date after the adjusted budget, and it has been six (6) months, \$401,000 was collected above what was projected. He stated that lodging tax collected for 2004 was \$32,788 and as of August 2005 \$37,501 has been collected.

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

The Committee met October 7<sup>th</sup> and the minutes are in the packet. The main item discussed was the Taste of the Eastern Shore. The Committee recommends sponsoring the Taste in the amount of \$8,000. They also discussed the addition to City Hall with the architect Jeff Hudson.

**C. PUBLIC SAFETY – Burnam**

The minutes for the October 4<sup>th</sup> meeting are in the packet. Mr. Palumbo reported that the Committee had a request to name Mr. Carl Davis’s private drive “Twin Lane.” The Police Department and Fire Department did not have any objection to this request.

**MOTION BY Mr. Palumbo to name Mr. Carl Davis’s private drive “Twin Lane.” *Seconded by Mrs. Barnette.***

Council discussed that the proper procedure is to go through the Planning Department.

**Mr. Palumbo withdrew his motion.**

**Mrs. Barnette withdrew her second to the motion.**

**MOTION BY Mr. Palumbo to recommend sending the request to name Mr. Carl Davis’s private drive “Twin Lane.” *Seconded by Mr. Landry.***

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

*Mr. Palumbo* stated the Committee recommends naming the North Precinct after Melvin Johnson, the first black police officer.

**MOTION BY Mr. Palumbo to name the North Police Precinct after Melvin Johnson. Seconded by Mrs. Barnette.**

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

The Public Safety Committee recommended hiring five (5) part-time firefighters.

**MOTION BY Mrs. Landry to approve hiring five (5) part-time firefighters, to work overtime shifts. Seconded by Mr. Palumbo.**

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

*Mrs. Barnette* recommended putting a stop sign at 6<sup>th</sup> and McAdams.

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

The minutes for the October 4<sup>th</sup> meeting are in the packet. The Committee discussed several Ordinances including a MOT Ordinances that cleans up window fines. The Sign Ordinance Committee will met October 12<sup>th</sup>, and Mrs. Landry stated that she handed out the September 26<sup>th</sup> minutes. The Sign Committee will meet October 27<sup>th</sup> at 4:30 p.m., and the Ordinance Committee will meet November 8<sup>th</sup> at 5:30 p.m.

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

The next meeting will be October 28<sup>th</sup> 8:00 a.m. in the Council Chambers.

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

**A. Board of Zoning Adjustments – Eady**

No meeting in November.

**B. Downtown Redevelopment Authority – Barnette**

The Authority will meet tomorrow at 5:15 p.m.

**C. Industrial Development Board – Yelding**

The Board will meet tomorrow at 6:00 p.m.

**OCTOBER 17, 2005  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.**

**D. Library Board – Lake**

Mr. Palumbo reported that the Board met last week. The next meeting will be November 6<sup>th</sup> at 4:30 p.m. Mr. Don Parman, with the Friends of the Library, reported on the book sale and silent auction that was held during the Jubilee Festival saying they raised over \$3,000.

**E. Planning Commission – Barnette**

The Site Review meeting will be October 19<sup>th</sup> 9:00 a.m. in the Council Chambers, and the Planning Commission will be meeting Thursday October 27<sup>th</sup> in the Council Chambers at 6:00 p.m.

**F. Recreation Board – Burnam**

No report.

**G. Utility Board – Scott**

No report.

**6. REPORTS OF THE OFFICERS:**

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

*Mayor Small* asked the Council for an update from the work session regarding the Jubilee Maids Court.

*Mrs. Landry* said the consensus from the work session was the Council would give monetary support which will go through the Finance Department and held in escrow for dispersion when the girls enter college, and the organization will govern itself without input from the Council. The new group is the organization that the city will sponsor.

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

*Mr. Fleming* gave credit for the new MOT Ordinance to Mr. Ed Kirby who helped him update the Ordinance. He asked that Ordinance 2005-56 and 2005-57 be pulled from the agenda for correction. Mr. Fleming asked the Council to pick a date for a personnel appeal hearing.

**MOTION BY Mrs. Landry to suspend the rules to set a date for the personnel appeal hearing for October 24, 2005 5:00 p.m. Seconded by Mrs. Barnette.**

**ROLL CALL VOTE**

<b>Yelding</b>	<b>Aye</b>	<b>Landry</b>	<b>Aye</b>
<b>Barnette</b>	<b>Aye</b>	<b>Palumbo</b>	<b>Aye</b>
<b>Lake</b>	<b>Aye</b>	<b>Burnam</b>	<b>Aye</b>
<b>Scott</b>	<b>Aye</b>		

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

**MOTION BY Mrs. Barnette to set an administrative hearing for October 24, 2005 at 5:00 p.m.  
*Seconded by Mr. Yelding.***

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

**MOTION BY Mrs. Barnette to suspend the rules to consider a motion to designate the bulletin board outside of City Hall as the official posting site for public notices of meetings. Seconded by Mr. Scott.**

***ROLL CALL VOTE***

<b>Yelding</b>	<b>Aye</b>	<b>Landry</b>	<b>Aye</b>
<b>Barnette</b>	<b>Aye</b>	<b>Palumbo</b>	<b>Aye</b>
<b>Lake</b>	<b>Aye</b>	<b>Burnam</b>	<b>Aye</b>
<b>Scott</b>	<b>Aye</b>		

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

**MOTION BY Mrs. Barnette to designate the bulletin board outside of City Hall as the official posting site for public notices of meetings.**

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

***C. Department Head Comments***

***David McKelroy – Recreation Director*** – reminded everyone that October 29<sup>th</sup> is the Bluegrass Festival put on to benefit the Village Point Park Preserve.

**7. PUBLIC PARTICIPATION**

***Denise D'Oliveira – S.E.E.D.S.*** – announced the Momma Mia Cookoff to be held November 12<sup>th</sup> 7:00 p.m. to 10:00 p.m. in the parking lot of Hutchinson, Moore & Rauch.

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

**RESOLUTIONS**

- a.) Adopting the Concepts and Principles as Outlined in the National Incident Management System. .... /Resolution 2005-72
- b.) Prepaid Travel / David L. Cohen. .... /Resolution 2005-73
- c.) Taste of the Eastern Shore. .... /Resolution 2005-74
- d.) Declare Emergency: Hurricane Katrina Projects. .... /Resolution 2005-75

**MOTION BY Mrs. Barnette to waive the reading of Resolutions 2005-72, 2005-73, 2005-74, 2005-75. *Seconded by Mrs. Landry.***

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

**MOTION BY Mrs. Barnette to adopt Resolutions 2005-72. *Seconded by Mrs. Landry.***

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

**MOTION BY Mrs. Barnette to adopt Resolution 2005-73. *Seconded by Mrs. Landry.***

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

**MOTION BY Mrs. Barnette to adopt Resolution 2005-74. *Seconded by Mr. Scott.***

Mr. Palumbo asked that the Resolution be amended to say that the 2006 appropriation will be paid in two equal installments: one \$8,000 contribution upon adoption of this Resolution and the second \$8,000 contribution following the 2006 Taste of the Eastern Shore event.

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

OCTOBER 17, 2005  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.

**MOTION BY Mrs. Barnette to adopt Resolution 2005-75. Seconded by Mrs. Landry**

The Council discussed declaring an emergency and were not comfortable with approving this without an opinion from the City Attorney as to what constitutes an emergency.

*Mrs. Barnette* asked if the City Attorney could have an opinion by Monday the 24<sup>th</sup>, and if so they could consider the Resolution at the administrative hearing meeting.

*Mr. Fleming* said he would have the opinion by then.

**Mrs. Barnette withdrew her motion.**

**Mrs. Landry withdrew her second of the motion.**

**Resolution 2005-75 will be on the October 24<sup>th</sup> agenda.**

**ORDINANCES:**

- a.) Amend Personnel Policy Handbook / Modification of Salaries and Percent of Increase or Decrease in Pay 2<sup>nd</sup> READ. . . . ./Ordinance 2005-51
- b.) Amend Personnel Policies and Procedures Handbook Related to Employment Insurability 2<sup>nd</sup> READ . . . . ./Ordinance 2005-52
- c.) Amending the Land Use & Development Ordinance / Landscape & Tree Protection and Minimum Standards – Fire Hydrants 2<sup>nd</sup> READ . . . . ./Ordinance 2005-53
- d.) Annexation: Krystal Ridge Subdivision / Property Located at County Road 13 2<sup>nd</sup> READ. . . . ./Ordinance 2005-54
- e.) Establish Penalties and Enforcement Procedures for Violation of Municipal Ordinances and to Repeal Ordinances 198-33, 2001-01 and 2002-21 1<sup>st</sup> READ. . . . ./Ordinance 2005-55
- f.) Authorizing Overtime Compensation for Salaried Employees During Declared Emergencies 1<sup>st</sup> READ. . . . ./Ordinance 2005-56
- g.) Granting the Mayor Power and Authority to Declare a Civil Emergency and to Invoke Curfew in Times of a Civil Emergency 1<sup>st</sup> READ. . . . ./Ordinance 2005-57

OCTOBER 17, 2005  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.

- h.) Appropriating Funds: US Hwy 90 Sanitary Sewer Extension:  
Preliminary Design & Evaluation. .... /Ordinance 2005-58
- i.) Appropriating Funds: City Hall Architectural Services,  
Site Preparation, Survey & Engineering 1<sup>ST</sup> READ. .... /Ordinance 2005-59
- j.) Appropriating Funds: Finance Department Temporary  
Accountant Position 1<sup>ST</sup> READ ..... /Ordinance 2005-60

MOTION BY Mrs. Barnette to waive the reading of Ordinance 2005-51. *Seconded by Mrs. Landry.*  
AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to adopt Ordinance 2005-51. *Seconded by Mrs. Landry.*  
AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to waive the reading of Ordinance 2005-52. *Seconded by Mrs. Landry.*  
AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to adopt Ordinance 2005-52. *Seconded by Mrs. Landry.*  
AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to waive the reading of Ordinance 2005-53. *Seconded by Mr. Yelding.*  
AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Mrs. Barnette to adopt Ordinance 2005-53. *Seconded by Mrs. Landry.*  
AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

OCTOBER 17, 2005  
CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.

9

**MOTION BY Mrs. Barnette to adopt Ordinance 2005-54. Seconded by Mrs. Landry.**

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

**ORDINANCES 2005-55, 2005-59, AND 2005-60 WE MADE 1<sup>ST</sup> READ**

**ORDINANCES 2005-56 AND 2005-57 WERE PULLED EARLIER IN THE MEETING.**

**MOTION BY Mr. Lake to suspend the rules to consider Ordinance 2005-58. 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 Mr. Lake to waive the reading of Ordinance 2005-58. Seconded by Mr. Scott.**

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

**MOTION BY Mr. Lake to adopt Ordinance 2005-58. Seconded by Mr. Yelding.**

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

**8. COUNCIL COMMENTS**

*Mrs. Barnette* reminded everyone that there is an visioning meeting with citizens around October 25<sup>th</sup> at the community center at Timber Creek.

*Mr. Scott* said they are still working on the budget, and the Mayor has not released it yet, but as soon as he does he will give Mr. Yelding and Mrs. Landry a CD containing the budget. The Finance Committee will set up a special meeting to discuss the budget with the Council. He said he forgot to state the date of the next Utility Board meeting, which will be held November 2<sup>nd</sup> 6:00 p.m. at City Hall.

*Mr. Palumbo* said he also forgot to mention the date of the next Library Board meeting, which is November 14<sup>th</sup> 4:30 p.m. at the Library.

*Mr. Burnam* commented on the community visioning meeting saying that what he is hearing from his district is that they want sidewalks, road repairs. He asked that someone from Hutchinson, Moore & Rauch be present at the next Council meeting to give an update on the sidewalk grant.

**9. ADJOURN**

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

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

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:23 P.M.**

Respectfully submitted by,

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

**Certification of Presiding Officer:**

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

**PUBLIC MEETING  
DAPHNE CIVIC CENTER  
2603 US HIGHWAY 98  
7:05 P.M.**

7:05 – Mayor Fred Small welcomed everyone and told them that he wanted to have this meeting to find out what the people of Daphne are thinking about their public schools. His objective is Daphne Schools. This is not about City versus County Schools. The concerns that he has heard from the community are a 1000 student school would be too large, which is better, K-6 or smaller grade clusters and what will be done with north campus if new school is built at south campus? This is not the only meeting the Mayor intends to have and he wants to know what the citizens want so that he can take that to the school board.

7:10 – Ruth Sewell of SEEDS made a presentation about the International Baccalaureate Program. She stated that the goal of SEEDS is to engage the community and the public to think about schools and how they affect the community as a whole. SEEDS performs fund raising and they hope to make strategic changes to benefit all schools. The IB program is a worldwide, rigorous study program for K – 12. It provides a liberal arts education. Ms. Sewell stated that it would be a big asset for the community. SEEDS wants to educate the community on the IB program. The school board put together a committee to research IB for Daphne. The Daphne City Council endorses the program and the High School personnel support it. Daphne had the largest representation at the recent school board meeting to discuss IB. School board will be deciding whether or not to have the IB program in Daphne and if so, where to have it. Fairhope has also recently shown an interest in having it there even though Daphne was the one to introduce the program.

7:20 – Randy Davis discussed the 10 year plan released by the Baldwin County Board of Education. He currently serves on the Education Committee in the Legislature. When he gets calls about concerns regarding the schools, he tries to always refer them to the school board. He stated that the open dialog between the State and the City has been what makes us successful. He has seen a lot of unrest in the district in the last couple of years. He commended the teachers, parents and kids. In the past, he stated that the Boards philosophy had been to have no more than 500 students at each elementary school, 700 to 750 at each middle school and 1000 to 1250 at the high schools. The 10 year plan was adopted in June and was amended in October. He has not been able to find any supporting data as to why they are changing the student configuration to build a 1000 student elementary school. Traffic in that area is a problem. Study suggested 25 acres for elementary schools, 40 acres for middle school and 50-60 acres for high school. No Daphne schools have enough acreage. He does think picking up a few administration and teaching units should be the driving force behind all decisions. Rep. Davis is also concerned about the lack of communication between citizens and schools.

7:35 – Open the floor to the public

**PUBLIC MEETING  
 DAPHNE CIVIC CENTER  
 2603 US HIGHWAY 98  
 7:05 P.M.**

Sherrie Weller spoke regarding test scores going down after schools were split. Asked that County consider the discipline problems with K-6 configuration.

Alice Crockey spoke in support of IB program.

Pete Cartnel asked why they would put more than the recommended number of students on a smaller campus. Also wanted to know about how IB program is evaluated.

Daphne High School Student (didn't understand his name) – Wanted to know how Daphne property taxes are being used in the schools.

Stark Irvine – Concerned about how new school will effect traffic at south campus. Downtown Redevelopment would have a stance before the next public meeting.

Julie Jacobson – Asked if more than one school in a district could have an IB program. Who will decide which school gets it.

Dan Jacobson – Asked about the criteria for selecting students for the IB program.

Daphne student (unknown name) – Spoke about AP versus IB. What happens to students who only excel in a few subjects under the IB program?

Ruth Sewell - Responded to questions about the IB program.

Sherrie Weller – Spoke about middle school principal doing away with AP classes. Asked why the County thinks that the enrollment at Daphne High School will decrease over next 5 years?

Kit Smith – Past Board of Education member who spoke about the lack of communication with the board. Also spoke about severe mold problem at Daphne Elementary.

Andrea - 7<sup>th</sup> grade teacher- Spoke about the middle school principal implementing inclusion classes. There is supposed to be an aid in every class with a learning disabled student but that is not the case.

Lane Glass – As a business owner nearby, he loves idea of 100 student school. As a DRA member, he is scared of traffic issues. What are we going to do with north campus? Where is the center of our community? Daphne seems like an ant hill that has been kicked and everyone is scattered.

**PUBLIC MEETING  
DAPHNE CIVIC CENTER  
2603 US HIGHWAY 98  
7:05 P.M.**

Ralph – Spoke about problems with block system. No representation from Daphne on the school board.

Ron Scott - Spoke about city doing a school feasibility study.

Greg Burnam – Said that the Public Safety Committee would address the traffic issues with the school board

John Lake – Daphne Schools have always taken a back seat. Can the school board election be county wide so all members will be concerned about losing their spot when there is a problem? Superintendent should be an elected position. Could there be more than one school system in Baldwin County?

Mayor – School Board has contacted him about new school.

Cathy Barnette – Council is committed to hearing what the community wants

Sherrie Weller – wants to state for the record that she would like to have Daphne North house K-3, Daphne South 4-6 and Daphne East 5-6. She would like this taken to the School Board.

Mayor – Wants to hold another meeting in 4-6 weeks. Don't want to let teachers and kids and the citizens need to let the decision makers know what they want.

**OCTOBER 24, 2005  
CITY COUNCIL MEETING  
PERSONNEL HEARING  
1705 MAIN STREET  
DAPHNE, AL  
5:00 P.M.**

1

**1. CALL TO ORDER**

Council President Burnam called the meeting to order at 5:15 p.m.

COUNCIL MEMBERS PRESENT: Bailey Yelding; Cathy Barnette; John Lake, arrived at 6:16 p.m.; Greg Burnam; Ron Scott; Regina Landry; August Palumbo.

Also present: Mayor Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Tim Fleming, Associate Attorney; Sharon Cureton, Human Resource Director; David McKelroy, Recreation Director; Ken Eslava, Public Works Director; Lieutenant Danny Bell, Police Department.

**2. RESOLUTION 2005-75 / Declare Emergency: Hurricane Katrina Projects**

*Ken Eslava – Public Works Director* – stated that he would like to pull the Resolution and go ahead and bid the project out.

Council agreed.

**3. PERSONNEL HEARING**

**MOTION BY Mrs. Barnette to enter into Executive Session to discuss the general reputation and character of an employee. The City Attorney certifies that the Executive Session is warranted for these specific reasons. The meeting will return from Executive Session at 7:30 p.m. Seconded by Mr. Scott.**

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

**Council entered into Executive Session at 5:30 p.m.**

Mr. Ross, City Attorney, came out of Executive Session to state that the meeting will continue for another hour, and will return from Executive Session at 8:15 p.m.

Mr. Ross, City Attorney, came out of Executive Session to state that the meeting will continue for another hour, and will return from Executive Session at 9:15 p.m.

**Council recessed from Executive Session at 9:45 p.m.**

**OCTOBER 24, 2005  
CITY COUNCIL MEETING  
PERSONNEL HEARING  
1705 MAIN STREET  
DAPHNE, AL  
5:00 P.M.**

2

**3. RECESS**

**MOTION BY Mr. Scott to recess from Executive Session and reconvene Wednesday, October 26, 2005 at 5:00 p.m. *Seconded by Mrs. Landry.***

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

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING RECESSED AT 9:45 P.M.**

**4. RECONVENE - OCTOBER 26, 2005**

Council President Burnam reconvened the meeting at 5:22 p.m.

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

Also present: Mayor Small; David Cohen, City Clerk; Jay Ross, City Attorney; Tim Fleming, Associate Attorney; David McKelroy, Recreation Director; Debbie White, Recreation Department; Lt. Danny Bell, Police Department.

**MOTION BY Mr. Scott to continue the Executive Session for the Personnel Hearing to discuss the general reputation and character of an employee. The City Attorney certifies that the Executive Session is warranted for these specific reasons. The Council will return from Executive Session in 3 hours. *Seconded by Mrs. Landry.***

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

**Council reentered Executive Session at 5:24 p.m.**

Mr. Ross, City Attorney, came out of Executive Session at 8:15 p.m. and stated that the meeting will continue for another hour returning from Executive Session at 9:15 p.m..

Mr. Ross, City Attorney, came out of Executive Session at 9:30 p.m. and stated that the meeting will continue for another hour returning from Executive Session at 10:30 p.m.

**OCTOBER 24, 2005  
CITY COUNCIL MEETING  
PERSONNEL HEARING  
1705 MAIN STREET  
DAPHNE, AL  
5:00 P.M.**

3

Mr. Ross, City Attorney, came out of Executive Session at 10:40 and stated that the meeting will continue for another hour returning from Executive Session at 11:40 p.m.

**Council recessed from Executive Session at 11:50 p.m.**

The Council held a discussion.

**MOTION BY Mr. Scott to recess from Executive Session and reconvene November 1, 2005 at 5:00 p.m. Seconded by Mrs. Landry.**

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

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING  
RECESSED AT 12:05 A.M.**

**4. RECONVENE - NOVEMBER 1, 2005**

Council President Burnam reconvened the meeting at 5:13 P.M.

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

Also present: Mayor Fred Small; David Cohen, City Clerk; Jay Ross, City Attorney; Sharon Cureton, Human Resource Director.

**MOTION BY Mr. Scott to go into Executive Session and discuss the good name and character of a city employee for forty-five minutes. Seconded by Mr. Lake.**

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

The City Council went into executive session at 5:14 P.M.

The City Council came out of executive session at 6:22 P.M.

**MOTION BY Mr. Scott to place the city employee from the personnel hearing on leave of absence without pay for a period not to exceed 120 calendar days with the employee to be responsible for payment of COBRA benefits for health insurance**

**OCTOBER 24, 2005  
CITY COUNCIL MEETING  
PERSONNEL HEARING  
1705 MAIN STREET  
DAPHNE, AL  
5:00 P.M.**

4

**during leave period. That the employee within 120 calendar days shall be evaluated by a Psychiatrist approved by the City and the employee, which evaluation shall be determined if employee is no longer a danger to herself or others, and if she is mentally fit and able to return to work with the City. That when the employee is released by the qualified Psychiatrist as referenced above to return to the workplace, the City will work to located a comparable position for the employee, and the employee will be placed on probation for 180 calendar days thereafter. Seconded by Mr. Lake.**

**AYE Mr. Yelding, Ms. Barnette, Mr. Lake, Mr. Scott  
NAY Mr. Burnam, Ms. Landry, Mr. Palumbo**

**MOTION CARRIED**

**MOTION BY Mr. Lake to adjourn. Seconded by Mr. Scott**

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

The City Council adjourned at 6:43 P.M.

**VISIONING MEETING  
TIMBER CREEK COMMUNITY CENTER  
DAPHNE, AL  
6:30 P.M.**

**PAGE 1**

PRESENT: Mayor Small; Cathy Barnette; Ron Scott; August Palumbo; John Lake; Bill Eady; David Cohen; Warren West; Ed Kirby; Al Guarisco; Toni Fassbender.

**QUESTION #1: Do you agree with the above vision statement? Why or Why not?**

How?  
Define healthy  
Quality industry – perhaps commerce business  
Ensure highest quality – unrealistic  
Education  
Measurable  
More emphasis on natural environment  
Protect natural drainage, ravines, streams and discouraging erosion  
Fairhope helping them  
Enforce sign ordinance in effect  
Remain attract place to live  
Historic aspects  
Farming community preservation  
How do planning commissions communicate / coordinate?  
Add to vision about working together / Regional

**QUESTION #2: Do you agree with the above mission statements? What is Missing?**

If start to loose business, Why?  
School system strong in Baldwin County  
Put up more \$ from Daphne  
If spend city \$ on schools, double taxation  
Switch provide to enhance facilities  
Maintain citizens input  
Promote citizen involvement / input of municipal activities  
Forge bond – action item  
Add mission statement regarding environmental preservation, noise pollution  
Perhaps split lump 2 & 3 regarding different roles  
Nothing about fiscal responsibility  
Focus on contingency / emergency planning  
Follow comprehensive plan  
Need for relationships  
More attention to deny construction in environmental areas

**VISIONING MEETING  
TIMBER CREEK COMMUNITY CENTER  
DAPHNE, AL  
6:30 P.M.**

**PAGE 2**

Flood plains / drainage concerns  
Need for visibility  
Need for community shelter  
Trash / litter enforcement  
Define best use of land  
Entry corridors

**QUESTION #3:    What makes Daphne unique? What are our strengths?  
What attracted you to Daphne?**

Safety  
Less crime  
Small town atmosphere  
Miles of walkable beaches  
We have everything  
Waterfront  
Easy access to Mobile and its offerings  
Can see water and access it  
Beautiful sunset  
Controlled commercial activity / Highway 98 “zoning”  
We are not Fairhope  
Trees on Highway 98 corridor  
Respect history and heritage  
Jubilees  
Line between cities vague  
Keep causeway water natural by scenic causeway  
Relationship of 98 to Bay  
Green space  
Publicly held property  
Enjoy “pockets of woods”  
Historic / antebellum bay homes

**QUESTION #4:    What are the challenges facing our community? What are  
weaknesses?**

“64/90” overrun by developers / development  
Loss of hometown quality of life  
More  
Don’t want to be West Mobile  
Resist temptations to reduce green space  
Loss of pocket of woods

**VISIONING MEETING  
TIMBER CREEK COMMUNITY CENTER  
DAPHNE, AL  
6:30 P.M.**

**PAGE 3**

No mechanism for developers to approach community. Can we identify way for inclusiveness  
Waste treatment facility violations  
Increase in taxes – any and all  
Need theme in Daphne – plan it! Expand it – Architecture  
Parking / Promotes shopping  
Run-off from areas to Bay  
Traffic!!!!  
Developing plans with neighboring communities  
Conflict between growth and preservation  
Concern of access road and buffer  
Ability of community to address concern to local communities, state, federal and county  
Challenge keep residents here  
Modifications to exit 37 and tree protection  
Timber Creek feel more part of Spanish Fort  
Pull together community diversity  
How keep signs in check with increase in development (business)  
Don't modify frequently – ordinances in place – enforce what we have  
Set standard for construction – IBC – lead it  
Health / smoking in public places / want ordinance  
Attract medical industry / hospitals  
Transportation mindset

**Question: Annexation of area**

Referendum on height

**Why height?**

Power to transform community – redefine openings – see bay  
Require public access  
Economic shift which will upgrade shopping  
Bayfront parking etc.

**QUESTION #5:**

What do you think is the most important issue facing  
Daphne today?

Traffic  
Rapid growth  
Utilization of water front  
Protect quality of life  
Maintain green space  
Architectural controls in public areas  
Part-time government / officials under compensated / over worked

**VISIONING MEETING  
TIMBER CREEK COMMUNITY CENTER  
DAPHNE, AL  
6:30 P.M.**

Sound fiscal management

Boundary

Max height

Lot coverage

Setbacks

Open space vs green space

Sidewalks

Public Access

Design Review

**QUESTION #6:**

At what height would you like the City of Daphne to Restrict buildings?

50 feet,	50-100,	100-150,	150-200,	over 200
19	8	3	1	1

Better density space land, set backs

**QUESTION #7:**

How familiar are you with the Daphne Comprehensive Plan?

Very	Somewhat	Not at All
------	----------	------------

**VISIONING MEETING  
TIMBER CREEK COMMUNITY CENTER  
DAPHNE, AL  
6:30 P.M.**

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE NO.</u>	<u>E-MAIL</u>
Dan & Julie Jaksen	8091 Majors Ct.	625-0466	<a href="mailto:djaksen@netscape.net">djaksen@netscape.net</a>
Pat Oberholtzer	26175 Via De San Franseco	621-0196	
Ron Hays	8895 Pine Run	621-7278	
Mr. & Mrs. Warren West	103 Deer Ct.	626-7543	
Fred Small	20 St. Charles Place	621-9000	
Mr. & Mrs. Glenn Swaney	329 Bay Hill	626-0217	
Jerry Williams	9081 Pine Run	626-6990	<a href="mailto:jerryvic@bellsouth.net">jerryvic@bellsouth.net</a>
Maureen & Fred Nation	120 Havenwood Cr.	626-6816	<a href="mailto:frednmoe@att.net">frednmoe@att.net</a>
Richard Scott	101 Belrose Ave	626-8406	<a href="mailto:rjscottjr@siteone.com">rjscottjr@siteone.com</a>
Dan Murtaugh	Fairhope, AL	219-5475	<a href="mailto:dmurtaugh@mobileregister.com">dmurtaugh@mobileregister.com</a>
Alfred Guarisco	1109 Randall Ave	626-2729	
Rick Fine	P.O. Box 2590	626-9970	
John L. Lake	2027 Sea Cliff N	454-2513	<a href="mailto:Johnlake3@bellsouth.net">Johnlake3@bellsouth.net</a>
Rebecca Wolf	28603 Oakwood Ct.	626-1883	<a href="mailto:Realbecca3@aol.com">Realbecca3@aol.com</a>
Barabra Groseclose	3060 Middle Creek Cr.	625-3625	
Don Green	9604 Aspen Cr.	621-9453	
Tonie & Fred Fassbender	Pipper Cr.		<a href="mailto:toni@deanmccary.com">toni@deanmccary.com</a>
Franklin Lamb	603 Maxwell Ave		
Dennis Shortridge	30467 Laurel Ct.	621-6678	
Carolyn Walthall	616 Maxwell Ave	621-3459	
Karen Nady	1801 Capt. O'Neal Dr.	621-0286	<a href="mailto:karennady@aol.com">karennady@aol.com</a>
Ernie Berger	306 Belrose Ave	626-6609	<a href="mailto:ernestberger@bellsouth.net">ernestberger@bellsouth.net</a>
Louie Nady	1801 Cat. O'Neal Dr.	621-0286	<a href="mailto:lnady@aol.com">lnady@aol.com</a>
Joe Cleveland	236 Bay View	621-8405	<a href="mailto:joec@jclevearch.com">joec@jclevearch.com</a>
Carl Gettig	106 Lindsay Cr.	626-1612	<a href="mailto:doc1612@webtv.net">doc1612@webtv.net</a>
Jean Erwin	27670 Hwy 98 #37	626-9195	<a href="mailto:jrerw@webtv.net">jrerw@webtv.net</a>
Philip Speir	730 Oak Bluff Dr.	621-0998	
Ed Kirby	103 Summit Cr.	626-1645	<a href="mailto:edkirby7942@yahoo.com">edkirby7942@yahoo.com</a>
Arnold Schwarz	30691 Pine Ct.	621-1101	<a href="mailto:arnold_schwarz@msn.com">arnold_schwarz@msn.com</a>
Michele Traum	9565 Aspen Cr.	626-7199	<a href="mailto:m.traum@mchsi.com">m.traum@mchsi.com</a>
Michael Traum	9565 Aspen Cr.	626-7199	<a href="mailto:m.traum@mchsi.com">m.traum@mchsi.com</a>
Lee Yokel	320 Whiting Ct.	626-2935	<a href="mailto:yokels@aol.com">yokels@aol.com</a>
Frieda Romanchull	30615 Laurel Ct.	447-0240	<a href="mailto:friedan@bellsouth.net">friedan@bellsouth.net</a>
Jan Traeger	113 Dewitt Cr.	621-0024	
Jean-Marie McDonnell	P.O. Box 57	626-28116	<a href="mailto:notmatisse@aol.com">notmatisse@aol.com</a>
John Nocera	30268 Scotch Pine Ct.	621-8828	<a href="mailto:jnocera@pirnie.com">jnocera@pirnie.com</a>
Calvin Smith	30308 Mistletoe Ct.	626-1007	<a href="mailto:setsandjets@mchsi.com">setsandjets@mchsi.com</a>
Stu Allhands	8675 Pine Run	621-6792	<a href="mailto:allhand@bellsouth.net">allhand@bellsouth.net</a>
Dan & Jeni Smith	9210 Cedar Ct.	626-3649	<a href="mailto:danjeni@aol.com">danjeni@aol.com</a>
Thomas Boni	25170 County Rd 13	626-5127	<a href="mailto:tomtom22783@aol.com">tomtom22783@aol.com</a>

**Office of the Mayor  
Daphne, Alabama  
Proclamation**

**Whereas**, home care services provide high quality and compassionate health care services to those in need, especially at times of community or personal health care crisis,

**Whereas**, home care is the most preferred method of health care delivery among disabled, elderly, and chronically ill individuals eager to live independently in their own homes as long as they possibly can; and

**Whereas**, home care services allow families to stay together, and provide for greater health, dignity and comfort in our communities; and

**Whereas**, home care in the United States is growing alternatives to hospitalization or other institution-based forms of health care for acute, chronic and terminal illnesses, providing care to millions of Americans each year; and

**Whereas**, thousands of everyday heroes such as home care nurses, therapists and aides work tirelessly to provide professional health care and support to millions of Americans in need of quality health services; and

**Whereas**, these dedicated home care professionals and volunteers form a support network that continues to play a vital role in health care delivery for our nation's disabled, infirm and aging population; and

**Whereas**, Amedisys Home Health Care, the National Association for Home Care, and thousands of home care and hospice agencies across the United States have declared the month of November 2005 as National Home Care Month and are calling on all Americans to observe these occasions with appropriate ceremonies and activities;

**Now, therefore, be it resolved** that I, Fred Small, Mayor, do hereby proclaim November 2005 as NATIONAL HOME CARE MONTH in the city of Daphne and encourage the support and participation of all citizens in learning more about the home care and hospice concepts of care for the elderly, disabled, and infirm.

In witness whereof I have hereunto set my hand and caused this seal to be affixed.

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

**ATTEST:**

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

**CITY COUNCIL MEETING  
STANDING COMMITTEE RECOMMENDATIONS:**

**FINANCE COMMITTEE REPORT**

**BUILDINGS & PROPERTY COMMITTEE REPORT**

**PLANNING/ZONING/CODE ENFORCEMENT COMMITTEE REPORT**

**PUBLIC SAFETY/ORDINANCE COMMITTEE REPORT**

**PUBLIC WORKS/BEAUTIFICATION/MUSEUM COMMITTEE REPORT**

# DRAFT

## PUBLIC WORKS COMMITTEE MEETING October 28, 2005

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

### I. CALL TO ORDER

The October meeting of the Public Works Committee was called to order at 8:13 a.m.

Present: Councilman Bailey Yelding, Councilwoman Cathy Barnette, Councilman John Lake, Mayor Fred Small, Ken Eslava, Melvin McCarley, Aileen Trotter

### II. PUBLIC PARTICIPATION & CORRESPONDENCE

The committee reviewed and discussed the correspondence and the work request report for September 2005. Ken Eslava explained that the mechanical maintenance shop handles all work by work order request, so they usually show the largest number of requests. Costs of vehicle maintenance are also tracked.

### III. OLD BUSINESS

The committee reviewed the minutes from the Public Works Committee meeting held September 23, 2005. **Councilwoman Cathy Barnette motioned to approve the minutes; Councilman John Lake seconded the motion.**

Ken Eslava indicated that the traffic speed study in old Daphne will conclude on Monday.

Cathy Barnette inquired about the placement of the street light on 4<sup>th</sup> Street. Melvin McCarley indicated that the pole for the light has been marked and the request has been forwarded to Riviera Utilities.

Cathy Barnette inquired as to the status of the location that residents on Gray's Lane will be able to place trash for City pick-up. No specific location has been designated. Currently they can place it at the top of the hill in the right-of-way on Old County Road. It must not be placed on private property.

Bailey Yelding inquired as to the status of the sidewalk projects that the City committed to previously to address public safety. **Bailey Yelding made a motion to send the sidewalk projects to the finance committee for approval. Cathy Barnette seconded the motion.**

Bailey Yelding inquired into the status of the lot in Dauphine Acres where the City is filling the lot with dirt, and the possibility of locating a park there. He indicated that residents in that area would like to see a bathroom located at the park. Bailey Yelding indicated that he will speak with residents in the area to obtain a consensus on the development of the lot into a park. Mayor Small suggested that if the lot is not made into a park, it should be sold.

### IV. NEW BUSINESS

A. John Lake requested that the timing of the traffic light on the south side of Interstate 10 and Highway 90 on Highway 98 be evaluated to determine if the timing of the light can be made

# DRAFT

more efficient, especially in the early morning hours. Ken Eslava indicated that the light is a State controlled light, so they may have to look into it.

- B. John Lake inquired into the placement of a stop sign at Yacht Club Drive in the blind curve to replace the yield sign. Ken Eslava indicated that he would have to look in the Traffic Control Handbook to see if it would qualify for a stop sign.

## V. DIRECTOR'S REPORT

### A. Solid Waste Code Enforcement

Ken Eslava indicated that he has completed a draft of the code enforcement policy. Judge Doyle and Prosecutor Scroggins are looking at the ordinances to make sure there are no loopholes present. A draft of the municipal offense ticket is completed and will be sent to the printers for a proof once the Purchase Order has been received.

Mayor Small expressed concerns about enforcing the ordinance for those people who place trash out more than 24-hours in advance. Some people may have help in placing trash in the right-of-way on the weekends as they cannot do so themselves, so it may be present for more than 24-hours before pick-up. Ken Eslava indicated that complaints will need to be investigated, but the City will not be out seeking those placing trash out too early. Primary concerns will be improper placement of trash, including placing trash on other people's property, and delinquent accounts.

### B. Public Works Master Plan - Volkert

Ken Eslava indicated that Volkert will be developing a master plan for the Public Works facility. It will include the mechanical maintenance shop and a possible transfer station. They will work with Ken and other staff to determine the needs of the department for a long term development plan. They will produce drawings, develop cost estimates, and handle permitting and land use issues. The development of the plan is not to exceed \$15,000 with a timeframe of 90 days. Cathy Barnette inquired into the development of this plan in-house. Ken Eslava indicated that the tools and man-power are not available to complete this plan in-house.

**Councilwoman Cathy Barnette made a motion to recommend to the finance committee to approve the funding of the development of the master plan for the Public Works facility, not to exceed \$15,000. Councilman John Lake seconded the motion.**

### C. Garbage Rate Increase – 13 City Comparison

Ken Eslava provided a comparison of the garbage rates in 13 cities to show fees and the frequency of pick-up. The information provided shows some of the increases that the solid waste department has incurred over the past few years. Options provided include increasing rates by 25% from \$13.90 to \$17.40 and maintaining twice per week pick-up service. An increase based on the additional operational costs should be considered yearly to account for increased expenditures.

John Lake expressed concern about a yearly increase, as it does not encourage more efficiency and conservation to bring costs down. Additionally, John Lake was concerned

## DRAFT

about the increase in the rates since utility rates were recently increased. He recommended a trial run of once per week service to prevent an increase in the fees.

Ken Eslava indicated that fuel, personnel, and maintenance costs are costs that cannot be controlled. The yearly examination of the need for an increase would be based on an increase in operating costs. If the costs are reviewed yearly, it could prevent a larger increase later on, once it is past due.

The other option provided by Ken Eslava was to consider a once per week pick-up service. However, this will not cut costs in half. The population is increasing and operating expenses are increasing, so a rate increase will still be necessary within the next year. The City will still collect the same quantity of garbage and the tipping and billing fees will not decrease. There may be a slight decrease in fuel because the garbage will not run every day. Public perception will be that there is a loss in service. Additionally, large increases in the City's population due to annexation will increase the department's expenses.

Cathy Barnette inquired into the ability to use commercial garbage pick-up to off-set the costs of the residential rates. Ken Eslava indicated that to set up for commercial garbage would require a large capital investment, so any profit would be several years in the future.

Bailey Yelding requested the garbage rate increase be added to the agenda of the next work session.

- D. Household Hazardous Waste Training – Ken and Aileen  
Ken Eslava and Aileen Trotter will attend training sessions on November 7-9 in Hazardous Waste Management and DOT Hazardous Materials Training in preparation for the household hazardous waste program. Clean Harbors has been providing additional information on the development of a household hazardous waste program. The application period for most of the funding sources has already closed for the year, so funding will be investigated in 2006. Cathy Barnette suggested contacting Cara Stallman to determine if CEAPP funds are available.
- E. Summary List of Road Projects  
Ken Eslava provided a master list of road projects. The first six are the roads that have already been proposed. The road projects were submitted by Council members. Attached to the list was a letter to the vendor requesting an update on the costs and the timeframe for completion of the work. Also requested is a cost projection for the remaining projects through 2007 and 2008. Bailey Yelding would like an update on the grant for the sidewalks from HMR.
- F. Mosquito GPS Tracking Program  
Ken Eslava introduced documentation produced by a new mosquito spraying program that shows where mosquito spraying has been done in the City. The map indicates where spraying was done, when the spray was manually shut off, and where the vehicle was moving but spraying was not being done. The computer unit is tied into the sprayer, so that the spray will increase as speed increases and decrease as the vehicle slows. It will provide documentation of spraying for the City's records since the information can be downloaded from the unit daily.

# DRAFT

There was discussion on updating the map to include new roads and updating the names of the roads. John Lake recommended that a presentation be made to the City Council to demonstrate the abilities of this new equipment. There were discussions on using the equipment for tracking other City vehicles, provided the employees using those vehicles were notified that the tracking device was in use.

**VI. SOLID WASTE AUTHORITY**

None

**VII. MUSEUM COMMITTEE**

Cathy Barnette inquired into the Dunbar and Walding properties that were mentioned in the previous museum meeting. Ken Eslava indicated that it would need to be looked into by code enforcement or building inspection for unsafe structures. Ken Eslava will forward the information to code enforcement and building inspection for further action. The Museum Committee needs to be informed of the actions taken so that they are aware that the City is looking into the issues.

**VIII. BEAUTIFICATION COMMITTEE**

None

**IX. ENGINEER REPORT**

A. None

**X. FUTURE BUSINESS**

A. The next Public Works Committee meeting will be held November 18 at 8:00 am at City Hall.

**XI. ADJOURNMENT**

The meeting adjourned at 9:28 a.m. **Councilwoman Barnette motioned to adjourn. John Lake seconded the motion.**

**CITY OF DAPHNE  
PUBLIC WORKS COMMITTEE AGENDA**

**Time: 8:00 AM on October 28, 2005**

**Location: City Hall Council Chambers**

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

**I. CALL TO ORDER**

**II. PUBLIC PARTICIPATION & CORRESPONDENCE**

- A. Correspondence ..... 1-8
- B. Work Request Report ..... 9

**III. OLD BUSINESS**

- A. Minutes –September 23, 2005 ..... 10-12

**IV. NEW BUSINESS**

**V. DIRECTOR’S REPORT**

- A. Solid Waste Code Enforcement ..... 13-14
- B. Public Works Master Plan - Volkert
- C. Garbage Rate Increase – 13 City Rate Comparison
- D. Household Hazardous Waste Training – Ken & Aileen
- E. Summary List of Road Projects

**VI. SOLID WASTE AUTHORITY**

**VII. MUSEUM COMMITTEE**

- A. Minutes – September 12, 2005 ..... 15-17

**VIII. BEAUTIFICATION COMMITTEE**

- A. Minutes – October 7, 2005 ..... 18-20

**IX. ENGINEER REPORT**

- A. NRCS Update

**V. FUTURE BUSINESS**

- A. Set date for November Meeting

**XI. ADJOURNMENT**

Ambassador Cards  
✧

75TU 2K  
© AMBASSADOR CARDS  
MADE IN U.S.A.



Tony Cross + Daphne Recycle Center,

We want to thank you  
for the magnets, recycle  
containers + information.  
For our Welcome gift  
to new Neighbors. We  
have already heard positive  
comments and know you  
now have some new recycle  
customers.

Dorothy Reisel, Nora Jones, Mary Ellen Parr,  
Historic Malbis Welcome Committee

One little "Thank You"  
Just wouldn't suffice  
When someone does something  
So thoughtful and nice!

THANKS AGAIN!



# HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127  
Daphne, Alabama 36526

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

September 26, 2005

Ms. Elizabeth Brown, Interim Executive Director  
Alabama Historical Commission  
468 South Perry Street  
Montgomery, Alabama 36130-0900

RE: City of Daphne, Alabama  
Yancey Branch Improvement Project

Dear Ms. Brown:

Hutchinson, Moore & Rauch, LLC has been retained by the City of Daphne to obtain all of the necessary permits for the referenced project. The Scope of Work for the project is to simply remove sediment that is currently obstructing the flow of Yancey Branch from Scenic 98 westward to Mobile Bay.

Attached is a copy of the Phase I Cultural Resources Survey for the project prepared by PanAmerican Consultants, Inc. On behalf of the City of Daphne, we request your Department's concurrence with this project.

Should you have any questions, please contact me at 251-626-2626.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC

Scott A. Hutchinson, P.E.

SAH\blg

Enclosure

cc: Honorable Fred Small  
Mr. Ken Eslava

D2500\2282\05.450

September 26, 2005

U. S. Department of the Interior Fish and Wildlife Service  
Ms. Barbara Allen  
Post Office Drawer 1190  
Daphne, Alabama 36526

RE: City of Daphne, Alabama  
Yancey Branch Improvement Project

Dear Ms. Allen:

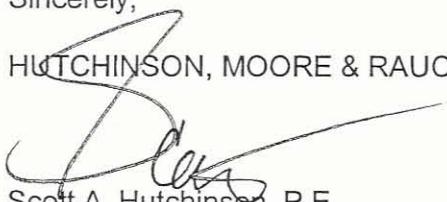
Hutchinson, Moore & Rauch, LLC has been retained by the City of Daphne to obtain all of the necessary permits for the referenced project. The Scope of Work for the project is to simply remove sediment that is currently obstructing the flow of Yancey Branch from Scenic 98 westward to Mobile Bay.

On behalf of the City of Daphne, we request your Department's concurrence with this project.

Should you have any questions, please contact me at 251-626-2626.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC



Scott A. Hutchinson, P.E.

SAH\blg

Enclosure

cc: Honorable Fred Small  
Mr. Ken Eslava

D2500\2282\05,449



**Jane Bostrom**  
Community Representative

**Baldwin County office**  
26148 Capital Drive Suite F Daphne, AL 36526  
t) 251.621.7994 f) 251.447.0271  
jane.bostrom@cancer.org

Mr McCordy,

A huge thank you from myself and all the "Think Pink" committee, participants, & survivors. The City of Daphne Tent was perfect for our event & greatly appreciated. Please tell all the gentlemen who put it up, thank you!  
Jane Bostrom

JAMES P. POHSL  
P.O. Box 219  
DAPHNE, AL. 36526  
(347 GRAY'S LANE)  
21 OCT. 2005

PUBLIC WORKS DEPT.  
CITY OF DAPHNE  
PO Box 400  
DAPHNE, AL. 36526

ATTN: MR. KEN ESLAVA

Dear Mr. Eslava,

I am writing to thank you and your department for the personal attention and assistance given last September, which expedited the debris removal from my property.

Mark Southerland, DBA 'Tartan Co.', had contracted to remove approx. 15,000 cu. ft. of debris from my beach front yard on the bay (downed trees, etc. + storm surge debris) when a problem arose over the tipping site on Old County Rd. You and Tony Cross quickly and diplomatically sorted out the problem so that the job could continue with a minimum loss of time and expense.

I particularly appreciated your personal visit to check on progress and the follow up visits made by Danny Dillard.

The City of Daphne can certainly be proud of their Public Works Dept. and its personnel.

Sincerely,

James P. Poshl

cc: MAYOR SMALL

Public Works Committee

**MEMORANDUM**

**CITY of DAPHNE...DIVISION of PUBLIC WORKS**

**To: Mayor Fred Small  
Public Works Committee Members  
Public Safety Committee Members**

**From: Ken Eslava, Director  
Public Works & Maintenance**

**Date: October 3, 2005**

**Re: Bayside Traffic Analysis / Two Phase Study**

**During the recent discussions with Bayside Academy regarding proposed additional parking requirements, it became readily evident that the traffic situation in the entire area was a problem and needed to be studied. We have established boundaries for this study, which include all streets in Old Daphne which directly support traffic flowing to Bayside. All East-West and North-South thru streets(arteries & connectors) will be included in the analysis. The limits of the study are: Santa Rosa Avenue.....Northernmost Boundary  
Maxwell Avenue....Southernmost Boundary  
Main Street....Easternmost boundary  
Old County Road / Captain O'Neal Drive.....Westernmost Boundaries**

**It should be noted here that Main Street itself will not be included in the study, but used only as an East boundary for the study. Main Street itself handles traffic flowing to 2 public schools, 1 parochial school, 1 private school and 2 Montessori Schools. Using data from Main Street in this study would inaccurately contribute to the true purpose of this effort.**

**In a Public Works Committee meeting, it was agreed upon that traffic speeds were the first concern which needed to be addressed. This will be entitled Phase One / Bayside Traffic Analysis. After this speed study is complete, our findings and recommendations for traffic calming will be submitted to the Public Safety Committee for their consideration.**

6

**Phase Two / Bayside Traffic Analysis** will consist of a general traffic flow study of the general area. This is where we will look at quantitative traffic flow on each street, and will quickly identify problematic congestion spots during school traffic hours. Findings could, and I repeat could, show that there may be justification to establish several one way streets in the area during peak flow school traffic times...which may help more evenly distribute traffic flow. Once this Phase is complete, we will submit our findings to the Public Safety Committee, along with any recommendations which we feel may contribute to the improvement of the situation.

The following is a list of streets included in the analysis, and the relative date for same:

**\*\*East-West arteries....Study date: starts Oct. 4 @ 12:00 noon  
ends Oct. 11 @ 12:00 noon**

**Santa Rosa Avenue  
Lea Avenue  
Magnolia Avenue  
Belrose Avenue(East of Old County)  
Belrose Avenue(West of Old County)  
Dryer Avenue**

**\*\*East-West Arteries....Study date: starts Oct. 13 @ 12:00 noon  
ends Oct. 20 @ 12:00 noon**

**College Avenue  
Deer Avenue  
Maxwell Avenue**

**\*\*North-South Arteries....Study date: starts Oct. 13 @ 12:00 noon  
ends Oct. 20 @ 12:00 noon**

**Captain O'Neal Drive  
Old County Road(two locations)**

**\*\* North-South Connector....Study date: starts Oct. 24 @ 12:00 noon  
Ends Oct. 31 @ 12:00 noon**

**Sixth Street**

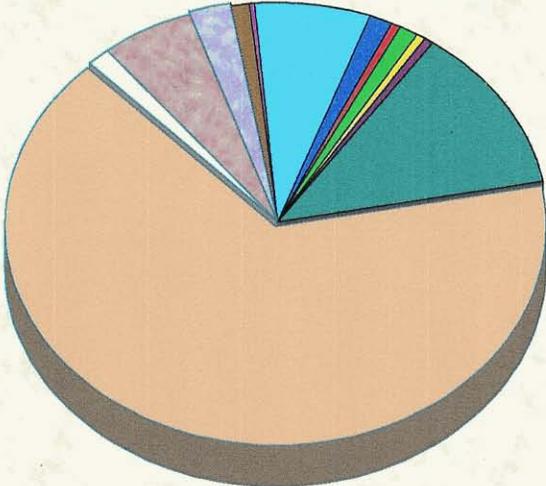
**\*\* East-West Connector....Study date: starts Oct. 24 @ 12:00 noon  
Ends Oct. 31 @ 12:00 noon**

**Church Street**

**Footnote: McAdams Street has already been taken care of in a recent study. Its data will be included in reports from this study.**

# September 2005

## WORK REQUEST REPORT



	Arbor-12		Drainage-2		Grounds-6
	Mechanical-293		Maintenance-54		Mosquito-2
	Mowing-3		Parks-5		Janitorial-2
	Signs-6		Streets-32		Street Lamps-1
	Traffic Signals-4				

**PUBLIC WORKS COMMITTEE MEETING**  
**September 23, 2005**

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

**I. CALL TO ORDER**

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

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

**II. PUBLIC PARTICIPATION & CORRESPONDENCE**

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

**III. OLD BUSINESS**

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

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

**IV. NEW BUSINESS**

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

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

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

**V. DIRECTOR'S REPORT**

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

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

B. Solid Waste Ordinance Enforcement

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

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

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

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

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

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

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

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

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

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

**VI. SOLID WASTE AUTHORITY**

None

**VII. MUSEUM COMMITTEE**

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

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

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

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

**VIII. BEAUTIFICATION COMMITTEE**

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

**IX. ENGINEER REPORT**

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

**X. FUTURE BUSINESS**

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

**XI. ADJOURNMENT**

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

# MEMORANDUM

## CITY of DAPHNE...DIVISION of PUBLIC WORKS

To: Judge Tom Doyle

From: Ken Eslava, Director of Public Works

Date: October 13, 2005

Re: Solid Waste Code Enforcement

Tom,

As we discussed this past Tuesday, I am forwarding two sets of Ordinances relating to each of our three(3) Solid Waste Operations....Garbage, Trash & Recycle. Historically, we have had no problems relating to recycling operations at all. So our immediate focus will rest on the most common violations & problems on the street:

- a) Failure to pay garbage bills
- b) Violations relating to trash
  - 1) Over the ordinated quantity of 15 cubic feet
  - 2) Placement at curbside too early in advance of regularly scheduled Pickup
  - 3) Improper placement of trash

As well as a general review of the attached ordinances, I would respectfully ask that you and David Scroggins recommend any changes that would leave no loopholes...and make them as airtight as possible as I forward cases to prosecution in your court.

I am preparing a standard policy for each step of the enforcement effort, which will basically go as follows:

- a) Citizen is contacted, briefed on the Ordinance, asked to remediate the problem and is given a hard copy of same.
- b) Next violation of the same nature will initiate a municipal offense warning ticket.
- c) Next violation will incite issuance of a municipal offense ticket.

**As an F.Y.I. note, I sent Mr. Tony Cross to your court session this past Tuesday afternoon so that he begins his “court etiquette” education. Tony has been assigned the task of our Solid Waste Code Enforcement, and will attend several more sessions in the near future so that he will have the basic skills in hand once he appears before you for the first time.**

**Once the Ordinances have been reviewed by yourself and Mr. Scroggins, I would like for myself and Tony Cross to meet with you both in order to have all players on the same page. Thank you for your assistance in this matter.**

# Old Methodist Church Museum of Daphne

## September 12, 2005 Meeting Minutes

The meeting was called to order by President Mickey Boykin.

ATTENDEES: Mickey Boykin, Emily Hammond, Polly Gregorius, Pat Tippet, Patsy Lindsey, Al Guarisco, Margie Waldrop, Candice Bishop, Camilla Butler, Jeanne Nelson, Kit Caffey, and Carolyn Hafner.

MINUTES: Minutes from the August meeting were distributed, read by the membership, and approved.

TREASURER'S REPORT: Treasurer Pat Tippet delivered the following report: Museum Account holds an unchanged balance of \$6,601.81; Old Methodist Church Cemetery Account holds a balance of \$19,258.55. Treasurer's Report was accepted.

### REPORTS OF STANDING COMMITTEES

TELEPHONE: Margie/Polly – no report.

FUND RAISING: \$141.?? was made at the Jubilee Festival.

EXHIBITS: no report.

PUBLICITY: Jody/Mickey – Pictures from Dr. John Hafner's presentation in August are posted on bulletin board in museum.

SPECIAL EVENTS: Al/Mickey – Remarks were made that Johnny's presentation was enjoyable and that there was a suprisingly good turnout, considering the Hurricane Katrina threat.

Christmas Open House: Betty Jo and Emily will co-chair the committee; Camilla and Carolyn volunteered to serve. Mickey will publish article in newspapers soliciting old toys and ornaments and new volunteers.

CEMETERY: Doris – not present.

VOLUNTEERS: Emily, Betty Jo and Patsy L. swapped; Mickey will open 9/16, Al, 9/23, and Margie 9/30.

CHAMBER OF COMMERCE TOURISM BUREAU: Al was not notified in time to attend most recent meeting, but should make a report next month.

UNFINISHED AND ONGOING BUSINESS:

RENOVATIONS/GROUNDS: Public Works - new window has been installed to replace the one lost to Hurricane Katrina. No other damage was suffered.

TOURS: A Bayside teacher has expressed an interest in bringing her class to the museum for a tour in 2/06.

WALDING and DUNBAR PROPERTIES: No report.

PURCHASE OF COMPUTER/SCANNER/COPIER: Ongoing project.

SELF-GUIDED TOUR OF MUSEUM LEAFLET: Members who brought exhibits to museum will write descriptions to be laminated and placed with the exhibit.

LONG RANGE PLANS: 1) Kit volunteered to find out about meetings in the area regarding preservation of museum-quality items. 2) Mickey suggested/requested that members visit other museums and report on them. 3) Jeanne suggested our museum's exhibits be arranged in chronological order. 4) Get more "museum" cases. 5) The 150<sup>th</sup> anniversary of the civil war will occur in 2010, museum building should be involved/included in town happenings.

NEW BUSINESS: Al sold 10 "Walking Guides of Old Town Daphne" for Village Point.

ANNOUNCEMENTS: next meeting will be held on October 10, 2005.

There being no further business, the meeting was adjourned.

Respectfully submitted, Carolyn Hafner,<sup>51</sup>  
Temporary Secretary

CITY OF DAPHNE  
BEAUTIFICATION COMMITTEE MEETING

October 7, 2005

I. CALL TO ORDER

MEMBERS PRESENT

Jerry Guillott  
Marjorie Bellue  
Carollea Grindel  
Marshall Parsons

NEW MEMBERS PRESENT

Marilyn Moore

MEMBERS ABSENT

Dorothy Morrison

II. PUBLIC PARTICIPATION

Rene Taylor and Karen Belina have resigned from the Beautification Committee due to many other commitments!

III. OLD BUSINESS

- A. REVIEW AND APPROVE MINUTES FROM AUGUST 5, 2005  
Minutes were approved !
- B. JUBILEE FESTIVAL WAS HELD SUCCESSFULLY ON  
SEPT. 10 AND 11, 2005  
Chamber did not allow us to use the front of Centennial Park for Picnic tables  
because of the lack of space needed for the vendors.
- C. HALLOWEEN DECORATIONS WOODEN PUMPKINS TO BE DISPLAYED AT  
CENTENNIAL. Decorations will be displayed two weeks before Halloween!
- D. UPDATE FOR STORAGE BUILDING FOR BEAUTIFICATION SUPPLY ITEMS  
Existing shelves will be moved from another location into the new Storage Building at  
Public Works Facility. This Shelving will be utilized for organizing decoration  
supplies . The new Storage Building will allow Beautification Committee members a  
place to work on decoration projects.

October 7, 2005

E. BUDGET ITEMS FROM FY 2005 – TOTAL BUDGET \$15,000.00

This list of budget items was reviewed from last year's budget.

- ARBOR DAY \$3000.00,
- DEER PARK \$5500.00,
- POINSETTIA DECORATIONS FOR POLES \$5000.00,
- OTHER SEASON DECORATIONS \$1,500.00

F. OAK TREES ON HIGHWAY 98 UPDATE

Marshall informed the Committee that he was in the process of securing a Grant for the Lake Forest Subdivision for trees damaged during Hurricane Ivan.

This Grant will be used to replace these damaged trees with Crape Myrtles.

The City and Riviera Utilities will be working together to remove trees that hinder powerlines in the Lake Forest Subdivision.

IV. NEW BUSINESS

A. BUDGET ITEMS TO ADDRESS FOR THE COMING YEAR

A discussion was made to discuss items to purchase for the coming year at the November meeting.

B. BUDGET ITEM, ARBOR DAY TREES ARE ORDERED, TOTAL AMOUNT, FOR TREES AND SUPPLIES \$3000.00

3330 Trees have been ordered for Arbor Day Trees. The trees ordered include Red Maple, Hackberry, Pignut Hickory, Persimmon, Ginkgo, American Holly, Red Cedar, Crape Myrtles, River Birch, Black Gum, Sourwood, Eastern Hornbeam, Nuttall Oak, Willow Oak, White Oak, Cherry Bark Oak, Shumard Oak, Pin Oak, Chestnut Oak, Live Oak, Bald Cypress, American Beech, Parsley Hawthorn, Red Bud, Dogwood, Silverbell, and Downy Service Berry. Riviera Utilities will be donating Powerline Friendly Trees to the City of Daphne for the Arbor Day Distribution on February 25, 2006.

C. CHRISTMAS DECORATIONS

DISPLAYING DECORATIONS  
NEW DECORATIONS NEEDED

Christmas Decorations for light Poles were discussed and the final decision was to purchase any new decorations that were needed after Christmas to take advantage of lower cost of decorations during the summer.

BEAUTIFICATION COMMITTEE MEETING

October 7, 2005

IV. NEW BUSINESS

D. CREPE MYRTLE TRAIL AND CITY PARKS

The Crepe Myrtle Trail was discussed, a discussion was made to obtain a map.

We could then map out a sidewalk trail and come up with areas that Crape Myrtles could be planted on City Right of Ways .

E. BEAUTIFICATION AWARDS CEREMONY

TO BE HELD APRIL 2007-

A Committee Chairman and volunteers will be needed to prepare for this ceremony. This Committee and volunteers will be decided on at a later date.

F. MARSHALL'S REPORT FOR THE GROUNDS DEPARTMENT

Deer Park Project will be planting this Park in the coming Months of November and December.

The City will have a new Greenhouse Complex, to be build at the Public Works Facility in the coming Months of November and December



www.volkert.com

October 26, 2005

Mr. Ken Eslava  
 Director of Public Works  
 City of Daphne, Alabama  
 P.O. Box 400  
 Daphne, Alabama 36526

3809 Moffett Road (36618)  
 P.O. Box 7434  
 Mobile, Alabama 36670-0434  
 251.342.1070  
 Fax 251.342.7962  
 volkert@volkert.com

**RE: Proposal for Public Works Facility Master Plan Development**

Dear Mr. Eslava:

Thank you for the opportunity to meet with you and discuss the need for a Public Works Facility master plan for the City of Daphne. The following are key points to our approach for preparing a master plan for the Public Works facility:

- Meet with Public Works staff as directed by the Director to review current and future departmental needs,
- Consider long term departmental needs,
- Confirm current and future growth needs with Director,
- Recommend spacing arrangements to allow for efficient operations and best use of existing properties,
- Conduct review sessions with Mayor, Public Works Director, Public Works Committee and other City Council representatives,
- Advise on permitting and other land use consideration necessary to construct proposed improvements,
- Prepare cost estimates,
- Present findings in a written report with drawings to meet the objectives described above, and
- Review findings with Mayor, Public Works Director, Public Works Committee, and City Council representatives.

We anticipate that a master plan report for the Public Works Facility of the City of Daphne would be completed within ninety days following a kickoff meeting. We propose to perform this master plan on a cost reimbursable basis with a not-to-exceed limit of \$15,000.

Again, we appreciate the opportunity to assist the City in this effort. Please contact me at your convenience should you require any additional information regarding these items.

Sincerely,

Melinda D. Immel, P.E.  
 Project Manager

/kvd



www.volkert.com

October 26, 2005

Mr. Ken Eslava  
Director of Public Works  
City of Daphne, Alabama  
P.O. Box 400  
Daphne, Alabama 36526

3809 Moffett Road (36618)  
P.O. Box 7434  
Mobile, Alabama 36670-0434  
251.342.1070  
Fax 251.342.7962  
volkert@volkert.com

**RE: Proposal for Public Works Facility Master Plan Development**

Dear Mr. Eslava:

Thank you for the opportunity to meet with you and discuss the need for a Public Works Facility master plan for the City of Daphne. The following are key points to our approach for preparing a master plan for the Public Works facility:

- Meet with Public Works staff as directed by the Director to review current and future departmental needs,
- Consider long term departmental needs,
- Confirm current and future growth needs with Director,
- Recommend spacing arrangements to allow for efficient operations and best use of existing properties,
- Conduct review sessions with Mayor, Public Works Director, Public Works Committee and other City Council representatives,
- Advise on permitting and other land use consideration necessary to construct proposed improvements,
- Prepare cost estimates,
- Present findings in a written report with drawings to meet the objectives described above, and
- Review findings with Mayor, Public Works Director, Public Works Committee, and City Council representatives.

We anticipate that a master plan report for the Public Works Facility of the City of Daphne would be completed within ninety days following a kickoff meeting. We propose to perform this master plan on a cost reimbursable basis with a not-to-exceed limit of \$15,000.

Again, we appreciate the opportunity to assist the City in this effort. Please contact me at your convenience should you require any additional information regarding these items.

Sincerely,

Melinda D. Immel, P.E.  
Project Manager

/kvd



# MEMORANDUM

## CITY of DAPHNE...DIVISION of PUBLIC WORKS

**To: Mayor Fred Small  
Public Works Committee**

**From: Ken Eslava, Public Works Director**

**Date: October 27, 2005**

**Re: Solid Waste Cost Comparisons, FY '03 thru FY '05**

**I took command of the Public Works Division during July 2002, and at that time, the Garbage / Recycle Department was showing a bottom line of expenditure over revenue (negative cash flow)). Just prior to my arrival in '02, there had been an increase in garbage rates approved, which combined with some overtime controls and departmental changes, I turned the tables on the bottom line after about one year. Since that time, I have worked very hard to maintain financial efficiency and end up at years end with a revenue over expenditure(positive cash flow)result.**

**In late FY '02, the garbage rates were increased from \$11.95 to the current rate of \$13.90....or about a 15% increase. We have been able to manage a positive years end result with that \$1.95 increase for the last few years...despite the constant rise in costs of personnel(fringe benefits & insurances, budgeted overtime, workers compensation, etc.), vehicle maintenance costs, landfill tipping fees and most importantly...the cost of fuel. Additionally, we have significantly increased our customer base in the last three years which have a direct effect(increase) on all of the above factors.**

**WE ARE NOW AT THE CROSSROAD OF DECIDING WHICH OF THE FOLLOWING TWO OPTIONS SHOULD BE IMPLEMENTED.**

**OPTION 1: INCREASE GARBAGE RATES**

If this choice is made, my recommendation is to increase rates by \$3.50 per month. This will bring the monthly charge to \$17.40, and reflects a 25% increase....which is the average percentile increase in operating costs over the last three(3) fiscal years. Furthermore, I recommend that, after one year of the new rate increase going into effect, that we increase rates ANNUALLY. The annual increase should increase proportionally to the percentile increase of operating costs. So if annual costs rise by only 10%, then the rates increase by only 10%.

**OPTION 2: CUT BACK TO ONCE A WEEK SERVICE**

By reducing services to once a week, our savings will not be reduced by half!!!! We will still have to pickup the same tonnage every week. Dropping back to once a week service will only delay the need for a rate increase perhaps by only a fiscal year...due to:  
a) constantly increasing operating costs  
b) increasing garbage tonnage due to population growth  
To summarize, service reduction will merely delay the need for a rate increase....and in my opinion, will be viewed poorly by the public.

The following comparison reflects the increased costs for Garbage & Recycling operations over the last 3 year time frame, since the last rate increase:

	Fiscal Year 2003 (Actuals)	Fiscal Year 2006 (Budget)
Personnel	\$184,078	\$231,164 (20%+increase)
Fuel	\$16,906	\$25,000 (35%+increase)

Due to uncontrolled fuel costs, in FY '05 alone, we overran our annual budget by nearly 175%.  
59



# MEMORANDUM

## CITY of DAPHNE...DIVISION of PUBLIC WORKS

To: Mayor Fred Small

From: Ken Eslava, Public Works Director



Date: October 27, 2005

Re: Needed Road Improvements

Listed below you will find a cumulative list of roads requiring significant improvements within the Municipal Limits of Daphne. All of the major road projects on this list were proposed by me, with the exception of Lawson Road, which was proposed by Regina Landry and Gus Palumbo. In a memo dated March 1 of this year, I requested that all Council members submit their proposed lists back to my office for placement on this master list.

The following master list of road projects has been submitted to Florida Highway Products for purposes of getting an updated estimate of costs, based on remediation method (full depth reclamation, resurfacing, micro-surfacing, etc.). Once I receive an estimate of costs, you and I can sit down and prioritize the roads and set a time frame in place for completing the work.

- North Main Street.....(old price=\$301,027.00)
- Daphne Avenue.....(old price=\$63,189.00)
- Windsor Drive(L.F.).....(old price=\$25,920.00)
- Lake Forest Boulevard(L.F.).....(old price=\$41,770.00)
- Ridgewood Drive(L.F.).....(old price=\$317,220.00)
- Bayview Drive(L.F.).....(old price=\$85,983.00)
- Johnson Road
- Daphmont Drive / Extension
- Warren Drive
- Pine Street
- Oak Street
- Cedar Street
- Randall Avenue
- Wilson Avenue
- Van Avenue
- Trione Street

**Schieffelin Lane(currently gravel)**

**Lancaster Way(L.F.)**

**Shirley Circle(L.F.)**

**Jean Circle(L.F.)**

**Golmon Circle(L.F.)**

**Ventura Circle(L.F.)**

**Page Circle(L.F.)**

**Jason Circle(L.F.)**

**Vega Circle(L.F.)**

**Second Street**

**Van Buren Avenue**

**Fifth Street**

**First Street North(Park City).....currently gravel**

**Second Street North(Park City)...currently gravel**

**Third Street North & South(Park City)...north is currently gravel**

**Fourth Street North & South(Park City)...north is currently gravel**

**Fifth Street North & South(Park City)...north is currently gravel**

**Sixth Street North & South(Park City)...north is currently gravel**

**Seventh Street North & South(Park City)...north is currently gravel**

**Eighth Street North & South(Park City).....north is currently gravel)**

**Carroll Lane(Park City)**

**Carl Davis Road(Park City)**

**Moore Lane(Park City)**

**Park Drive(Park City)**

**Pinehill Road(Park City) NOTE...NOTE....NOTE...This is major restoration project, not simply a resurfacing project, and will require the services of both testing labs and professional engineering firms. I will request that several engineering firms submit quotations on this project!**

**Lawson Road..from Ridgewood Drive to U.S. 181**

Fred Small  
Mayor

David Cohen  
City Clerk

Kimberly Briley  
Finance Director/Treasurer

Ken Eslava, Jr.  
Director of Public Works



Bailey Yelding, Jr.  
District 1

Cathy Barnette  
District 2

John L. Lake  
District 3

Greg W. Burnam  
District 4

Ronald Scott  
District 5

Regina Landry  
District 6

August Palumbo  
District 7

**October 27, 2005**

**Mr. Jim Patterson  
Florida Highway Products, Inc.  
P.O. Box 928  
Bartow, Fla. 33831**

**Re: Request for Quotations & Update**

**Dear Mr. Patterson,**

**Please find attached a master list of roads with in the City of Daphne targeted for improvements within the next few years. We are in the process of prioritizing the list based on the severity of existing conditions and projected costs. I need your help with the projected costs portion of the program.**

**Please provide the following:**

- a) update the projected cost for the first six(6) roads shown on the list. You initially submitted costs during the summer of 2004 for these projects.**
- b) Provide me with a recommended engineering solution, and a cost, for the balance of the roads shown on the master list. DO NOT provide a cost for Pinehill Road as this project will managed by other means.**
- c) Provide an estimated cost for items a and b shown above, and using best information available and current market trends.....project the costs for each project as if the work was performed during the following progressive years: Fiscal Year 2006, Fiscal Year 2007 and Fiscal Year 2008. I do realize that providing a projected cost for any one project is a long shot at this point, but it will greatly assist us in allocating financial resources for completion of these projects in upcoming fiscal years.**

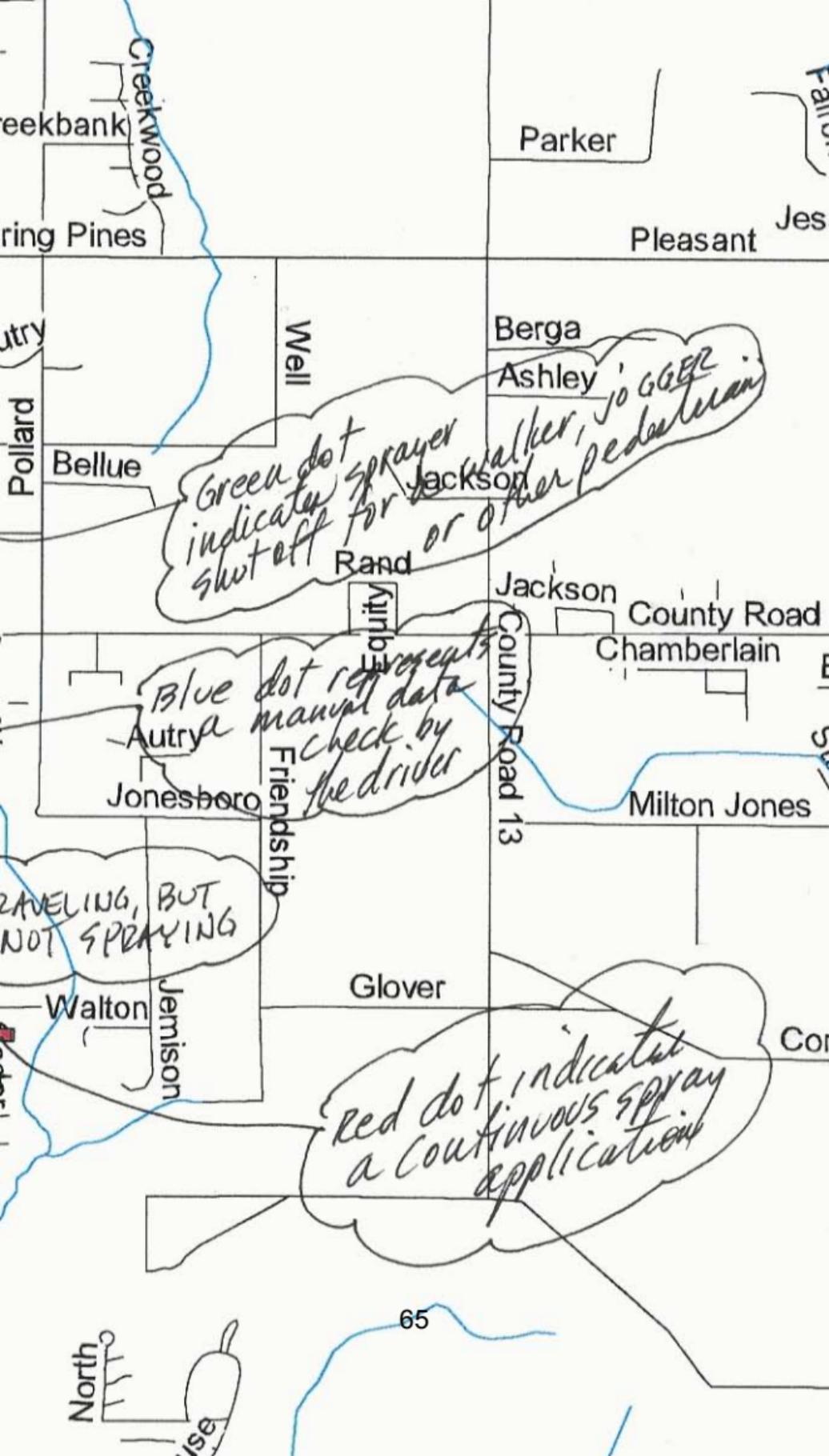
**I greatly appreciate your help, and please contact me at your earliest convenience to schedule a visit to Daphne. I will escort you to all road sites and answer any questions which may arise.**

**On Behalf of the City of Daphne, I Am Sincerely**

A handwritten signature in black ink, appearing to read 'Ken Eslava', with a long horizontal flourish extending to the right.

**Ken Eslava, Director  
City of Daphne Divisions of Public Works & Maintenance**

**Initial copy to Florida Highway Products via facsimile  
Formal copy via U.S. mail**



Creekbank  
Pines

Parker

Pleasant

Autry  
Pollard

Well

Berga

Ashley

Bellue

Green dot indicates sprayer shut off for jogger or other pedestrian

Rand

Equity

Jackson

County Road

Blue dot represents manual data check by the driver

Autry

Jonesboro

Friendship

County Road 13

Chamberlain

Milton Jones

TRAVELING, BUT NOT SPRAYING

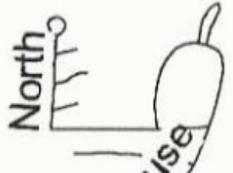
Walton

Jemison

Glover

Red dot indicates a continuous spray application

65



# Trip 1 : Thursday, October 27, 2005

Spray Date	10/27/2005
Start Time	4:22:00 PM
End Time	7:41:00 AM
Vehicle Number	94
Chemical	AQUARESLI
Driver	CHRIS
Comments	1
Trip Miles	37.1
Spray Miles	33.1
Spray Acres	1201.0
Ounces Sprayed	984.8
Average Spray Speed	13.0
Spray Time	02:36

**CITY COUNCIL MEETING  
REPORTS OF SPECIAL COMMITTEES**

**NOTES:**

**BOARD OF ZONING ADJUSTMENTS REPORT:**

**DOWNTOWN REDEVELOPMENT AUTHORITY REPORT:**

**INDUSTRIAL DEVELOPMENT BOARD:**

**LIBRARY BOARD:**

**PLANNING COMMISSION REPORT:**

**RECREATION BOARD REPORT:**

**UTILITY BOARD REPORT:**

---

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL

---

The Chairman stated the number of members present constituted a quorum and the regular meeting of the Board of Zoning Adjustment was called to order at 6:00 p.m.

**Call of Roll:**

**Members Present:**

Jeri Hargiss  
Billy Mayhand  
Glen Swaney, Chairman  
Willie Robison  
Frank Lamb

**Members Absent:**

Walt Crimmins  
Barry Taylor

**Staff Present:**

William H. Eady, Sr., Director of Community Development  
Pat Houston, Recording Secretary  
Jerry Speegle, Attorney\*

\* Arrive at 6:04 p.m.

The Chairman stated it seems that everyone is present. There are five members present, and four out of the five members must vote affirmatively for a variance to be granted. He stated Mr. Eady, if you would be so kind we are ready to start, but first let us approve the last minutes. Has everyone has had an opportunity to look over the minutes, if so I will entertain a motion.

**Approval of Minutes:**

The minutes of the August 4, 2005 meeting were considered for approval. A **Motion** was made by **Mr. Lamb** and **Seconded** by **Mr. Robison to approve the minutes.**

Upon roll call vote, *the Motion carried, unanimously.*

<b>Ms. Hargiss</b>	<b>Aye</b>
<b>Mr. Mayhand</b>	<b>Aye</b>
<b>Mr. Swaney</b>	<b>Aye</b>
<b>Mr. Lamb</b>	<b>Aye</b>
<b>Mr. Robison</b>	<b>Aye</b>

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL**

---

The Chairman stated first is Appeal #2005-04, Paul & Marianne Grundhoefer, 130 Durnford Hill Court. Now, Mr. Eady, you can start.

**New Business:**

**Appeal #2005-04, Paul & Marianne Grundhoefer**

Mr. Eady displayed color transparencies of 130 Durnford Hill Court. He stated the Grundhoefer's have requested to encroach the back setback line by thirty-four feet. They wish to add a two-car carport on the back of their home. The existing setback line is about four-feet off of the wall, about where you see the brick pavers. The carport will be about twenty-two feet, and when you add the utility area it will be thirty-four feet.

The Chairman stated the carport and the tool shed, which will be twelve feet wide, for a total of thirty-four feet.

Mr. Eady stated that is correct. The red and white striped pole denotes where the actual setback line is from the existing home. It is actually about four point seven feet off the property line. Pat is standing at the thirty-four feet point from the house at the other striped poled, which this gives you an idea of how far it will be from the house. In the last shot, from where Pat is hiding behind the birdhouse to the fence is five-feet. As far the five-feet, it is in line with the Ordinance, and that is all I have.

The Chairman stated who is here for this? Would you like to state your reasons why you would like to have this appeal granted?

Ms. Grundhoefer stated we recently enclosed our garage and we feel like extending it in that direction would comply with the other homes on the street. That would be the only direction to go.

Mr. Grundhoefer stated talk about the street, and how it dead ends right there.

Ms. Grundhoefer stated our house butts up against Beall Lane. Well, part of our property does. We do have a neighbor behind us on part of that property, and that is sort of where we are.

The Chairman stated so there has never been a concept, Mr. Eady of extending that right-a-way. In fact, you will not be able to extend that right-a-way up to the house, the street or whatever, will you?

Mr. Eady stated no, sir. I do not think it can be extended any farther in that area. You may can widen it, but it cannot be extended.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL**

---

The Chairman stated I see to the left it says there is a twenty-foot drainage easement in there, but the thirty-foot right-a-way stops there.

Mr. Eady stated that is correct. The thirty-foot stops, and the drainage easement continues on.

Mr. Robison stated I have asked this question before and I will ask it again. I noticed the neighbors listed here as adjacent property owners, and have you all talked to them about how they feel about you adding this on back there. If so, what did they have to say?

Ms. Grundhoefer stated we have spoken to all of our neighbors, and they are fine with it. We talked to the Jacob's beside us, and they do not have a problem with it.

The Chairman asked when you say that, which side are you talking about?

Ms. Grundhoefer stated both, Lot 19 and Lot 17. Both of those neighbors, I believe, received the same letter we did, but they have been knowing that we intend to do this. They are fine with it.

The Chairman stated the people on Lot 19 have no problems.

Ms. Grundhoefer stated no, sir.

The Chairman opened the floor to public participation. He stated are any of them here tonight. With no adjacent property owners present, he closed public participation. He stated does any of the Board members have any questions or comments. If there are no objections, the Chair will entertain a motion.

Mr. Lamb stated well, my position is, and always will be, is that the Board of Zoning Adjustment is the last bastion on the guardianship of the Land Use Ordinance. We are divided or the City is divided into zones, R-1, R-2, and R-3. R-1 is more valuable property than R-2 or R-3 because of the buildation of the lot size. With that the City has proposed restrictions on setbacks, which is to protect all of the property owners within a subdivision from any encroachments. The value of their property is vested in the setbacks. To allow a variance to a setback demarcates the value of the property, whether it is intended or not because you are allowing someone to break the setbacks that the City has established. One of the charges given to the Board of Adjustment in all of our studies that we have received, are the ones that say, did the property owner bring this hardship upon himself. The answer is yes, in this instance, and it is very clear to me that they did. You brought a piece of property, you enclosed your carport or garage, and now you want to do an addition. It was something you did, not something that somebody else did, and that is what is called a self-imposed hardship. One of the rules of the Board of Zoning

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL**

---

Adjustment is that you cannot grant a variance for a self-imposed hardship. If this Board then allows this variance, which is thirty-four feet, and I served on the Board of Adjustment before, and until this day I never saw a variance that deep. The maximum I ever saw was maybe three or four feet in the back. Thirty-four feet is an extraordinary amount for a variance to be granted, and I understand it is because of the lot shape, but still thirty-four feet is enormous.

Mr. Lamb stated secondly, in that subdivision or any other subdivision, if we grant a variance of that magnitude this Board is going to have a very big problem from this point forward ever denying a variance of any kind in an R-1, because they would have a history. They will say well you did it for this case and for that case, so do it for us. So, in effect what you would do is negate the entire Land Use Development Ordinance regarding setbacks. Setbacks are established to ensure value of property. R-3 setbacks are not as restrictive as R-2, and R-2 is not as restrictive as R-1 and out of them R-1 most restrictive. So, after studying this, looking over it, and reviewing all of the previous notes, this is clearly a self-imposed hardship, to me.

Mr. Robison stated one of the questions asked in number four, under reason for the variance, is "to the best of my knowledge, can you affirm that the hardship was not created by an action of anyone having property interest in the land," which you have an interest in the land, and as Mr. Lamb said, would have created the hardship by closing in the garage. Now you want to have a space to park your vehicle. Another thing under the Land Use Ordinance in granting variances, it says that the requirements of the Zoning Ordinance would create an unnecessary property hardship, which would prevent reasonable use of the property. It may create a hardship for you, but the property, there will not be a hardship. If you add on to it or if you do not add on it, you will not have a hardship. If you do not add on, it will not decrease the value of your property, I would not think.

Mr. Lamb stated the property value would increase.

Mr. Robison stated monetary reasons cannot enter into the picture, but I am like Mr. Lamb, thirty-four feet is a long way.

The Chairman stated any other questions or comments.

Mr. Grundhoefer stated the property behind us, and all the way down the street, also have parking behind them. Are you saying all of them have complied up to this time?

Mr. Robison stated I cannot answer that question for those houses because I do not know where their setbacks are or have they encroached on it.

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL

---

Mr. Grundhoefer stated it says it right there, and we had to sign before we brought the place. You see that shed adjacent to it.

Mr. Lamb stated you are talking about on Beall Lane.

Mr. Grundhoefer stated yes, sir. There are actually three buildings right there.

The Chairman stated on the other side.

Mr. Grundhoefer stated there is a big RV, right here, and then there is a storage shed over here, and you go on down the road. I just wanted to be uniform with what other people are doing. I guess we could put it in the back, but to do that we would have to drive all the way around to get to a garage around here. All of our neighbors have garages like this and that would not accomplish a whole lot because all we would be doing is swapping property. I think it was not only the neighbor to the left and right of us, but I think it was also the neighbor directly behind us. Ray Moore, which is behind us, and all four of my neighbors, after talking with them, are okay. In fact, Ray stated if he needed to come up here to show his support, he would be glad to. It was my understanding that this was not a big deal to let us do this, and that is sort of where we are at.

The Lamb asked Mr. Eady, was Beall Lane or that subdivision there before the Land Use Ordinance was adopted?

Mr. Eady stated no, sir.

Mr. Lamb stated therefore, it is grandfathered.

Mr. Eady stated I do not believe so. I do not know exactly when Beall Lane was built.

Mr. Lamb stated was it there before this house was built.

The Chairman stated I believe this house was constructed before the Land Use Ordinance. Do you know when your house was built?

Mr. Grundhoefer stated probably about eighteen to twenty years ago.

The Chairman stated I think it was constructed prior to the Land Use Ordinance going into effect.

Mr. Grundhoefer stated I am sorry, but are you talking about our house?

Mr. Lamb stated Beall.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL**

---

The Chairman stated no, I believe your house was constructed prior to the Land Use Ordinance going into effect.

Mr. Grundhoefer stated one other thing, if you do not mind me saying. There are no houses that face Schieffien. I think there is only one house up toward Main Street, which faces Schieffien. All of the other properties use either Beall or Durnford Hill. I understand that it is a severe encroachment, but there is only one person that uses Schieffien, down where we are, and that is our neighbor. They can either go out on Beall or come in to their house on Schieffien. The Chairman stated Schieffien is that short street.

Mr. Eady stated it is sort of an awkward lot.

Mr. Lamb stated I think I understand. On Lot 17 you said something about an RV?

Mr. Grundhoefer stated well, it is probably irrelevant, but the neighbor parks their RV and there is another neighbor that has a storage shed. I am sure they are in compliance. To get the point of that is this, putting a structure up that actually matches the house, and it is not seen by any traffic because there is no traffic on the road behind it, and nobody is planning on building anywhere within that area, it really seems to just drop right out of the sky.

The Chairman stated that is not relevant for the variance. If we vote on this tonight, and it does not pass, what is the particular rule on that. You cannot bring it back before the Board for a year.

Mr. Eady stated that is correct. If you turn it down then they have fifteen days to notify us that they want to carry it to Circuit Court.

The Chairman stated I was just thinking that.

Mr. Eady stated Circuit Court is the only avenue left.

Mr. Speegle stated what you are talking about Mr. Sweeney, there is a year requirement. You cannot bring it back for a year.

The Chairman stated what I was actually getting to was at this time we do not vote on the issue or at least table it, which would be at no extra expense to them, until the point in time that the easement is decreased, and then you can come back with this.

Mr. Eady stated you will have to vote one way or the other, tonight.

Mr. Robison stated we have to vote tonight, to approve it or not approve it. We have to vote on it. We could not table it, tonight.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL**

---

The Chairman stated we could table it tonight. Correct, Mr. Speegle.

Mr. Speegle stated yes, to my recollection, I do not have a copy the bylaws in front of me, I think they are in my other notebook. I think it says you have to rule on it, my recollection is within forty-five days from the date the petition is filed. Is that right?

Mr. Eady stated thirty days.

Mr. Speegle stated okay, thirty days.

Mr. Speegle stated so, what usually would be done is, if you table it now then you would set up a special meeting to take it up before that time period runs out.

Ms. Grundhoefer stated is it my understanding that by tabling it we are or you are. What are we accomplishing by doing that?

Mr. Speegle stated or you can withdraw it, but you just have to pay another hundred dollars to refile it in the next month or so, but if they go ahead and rule on it, you would be prevented from bringing it back for another year.

The Chairman stated I just want to point out that you can withdraw it at this point in time, and there is no charge to review it again.

Mr. Grundhoefer stated what laws were you saying. Are you saying it was written before or after? Does that really apply?

The Chairman stated yes, it does apply. It was in effect prior to your house being built as it pertains to the criteria for variances. Any additional questions or comments? Again, if you withdrew it, there would be no charge, and you may be able to decrease the encroachment.

Ms. Grundhoefer stated may I ask a question. What would be a reasonable encroachment?

The Chairman stated I knew that question was going to come up. I cannot speak on that. None of the Board can speak on that or make any comments.

Mr. Grundhoefer stated can I make a comment. Was the law in effect for the people on Beall before or is there any way of knowing how long ago the encroachments were passed on the permanent structure behind my house.

The Chairman stated I cannot answer that. Mr. Eady, do you know?

Mr. Eady stated I do not know because I do not know when they were built. I have been here since 1989 and those structures were already

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL**

---

there. I have never been involved with anything over there so they had to be that way before then.

Mr. Grundhoefer asked do you know what I am referring to, though?

Mr. Eady stated sir.

Mr. Grundhoefer stated do you know what I am referring to. Were you there taking pictures?

Mr. Eady stated yes, sir. I made the pictures on your property. Mr. Grundhoefer stated I was wondering if you noticed the three structures that are right behind my house where one actually comes over on my land by two-feet.

Mr. Eady stated I know about them. Like I said, I came here in 1989, and they had to be already there.

The Chairman stated at this point in time shall we go ahead or can somebody make a motion or do you wish to withdraw.

Mr. Grundhoefer stated is it pretty clear that it is going to be voted down at this point.

The Chairman stated we need, of course, a super majority of four to approve it.

Ms. Grundhoefer asked if we withdraw it, can we come back, at any time?

Mr. Speegle stated if you withdraw your application you can come back whenever you want to, and make another application for a variance with the same configurations or different configurations.

Mr. Grundhoefer if we come back with it, do we have to actually bring more evidence or does that even play a part. I feel like I am in Court all of a sudden. I am not sure if the Board understands.

Mr. Speegle stated I feel like I am in Court, too. The problem is that this Board is what is called a quasi judicial body. They do not give you advice. They simply make decisions. Mr. Eady, has the history in his brain of how this Board has ruled in the past, so you might want to talk to him later. Nobody can really give you advice on this Board.

Mr. Eady stated I really do not see the advantage of bringing it back, if you are going to turn this one down because even at twenty-feet, I feel like, you will do the same thing again. What is the point? I do not know what your access would be. You do have a slot over there a

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL**

---

little farther to the left. You would have enough room to build it. All you have to do is get a permit.

Mr. Speegle stated the Board generally rules on what is an unnecessary hardship, not just a hardship. What the Board usually looks at is, the property, the configuration, and can you do something different, and I think you have heard something about some options where you could build the structure, and not encroach on any setbacks.

Mr. Eady stated they can build it in this slot over here. I do not know what the arrangement on his driveway would be. That is not a part of it, but you could build to the left of this dashed line. You would not have to ask anybody only get a permit to do it.

Mr. Speegle stated I will also tell you that I have been doing this for a lot of years, and I cannot read this Board or any other Board. I mean heard comments before, and then there is a vote, and it has gone way different than what I thought it was going to go. Every member has their own opinion about how they are going to vote.

Mr. Lamb stated what would be the rear setback line on that yard, Mr. Eady.

Mr. Eady stated right there.

Mr. Lamb stated it is forty-feet.

Mr. Eady stated yes, see how that lot goes back in, and that easement is part of their lot. The setback to the left goes out, and fits that area in the back.

The Chairman stated you can see that cut off.

Mr. Eady stated they could build inside that, and I am not telling them where to build it, but the forty-foot setback goes across and up. You could build in there, up to where it says outlet, and all you would have to have is a building permit.

Mr. Grundhoefer stated from here, all the way around.

Ms. Grundhoefer stated there is just grass out there. It is just out. This right here is out. It does not belong to anybody.

Mr. Grundhoefer stated that is just grass. The City right-a-way is washed away.

Ms. Grundhoefer stated it is closed off, and there is grass. The carport will be encroaching on the setback line here, on that property there is really nothing there.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL**

---

Mr. Mayhand asked where is the privacy fence?

Ms. Grundhoefer stated it is here.

Mr. Speegle asked Mr. Eady, is that right-a-way in use right now?

The Chairman stated it is. Most of the neighbors use it.

Mr. Eady stated that is Schieffien Lane.

Mr. Grundhoefer stated there are no major utilities using it. The garbage truck does not use it.

The Chairman stated no.

Ms. Grundhoefer stated in fact, we are the only ones that do not use it, and we are hoping maybe one day to do so, too, but for now it just stops.

Mr. Grundhoefer stated this is a dead end here, and this is the road, right here. There really should be a pipe here because of the water, and at some point in time, that may be an answer. There is really nothing in here.

The Chairman stated well, we really should move on.

Mr. Lamb stated let me ask a question. Mr. Eady, what would be the chance of the City abandoning a portion of that right-a-way, since it is of no value or use to the City.

Mr. Eady stated they would not do that. The only way you can get rid of a right-a-way is to have it vacated, appraised, and the adjoining property owners do a appraise value.

Mr. Speegle stated that is what I was getting at, whether it was really in use right now or not, we might be able to vacate it.

Mr. Lamb stated I was thinking that thirty-feet would allow them to do that, and they would have some more room to get around.

The Chairman stated okay, shall we go ahead and vote.

Ms. Grundhoefer stated thank you.

Mr. Grundhoefer stated thank you.

The Chairman stated you want us to vote on the issue.

Mr. Grundhoefer stated yes, sir.

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL

---

The Chairman stated comments, questions, entertain a motion. Who would like to make a motion?

Mr. Lamb stated I am always confused. Do you have to put the motion in an affirmative way.

Mr. Eady stated yes.

Mr. Robison stated yes.

The Chairman stated yes.

Mr. Speegle stated the stature reads that way.

Mr. Lamb stated affirmatively, if you are against it.

Mr. Eady stated it is extremely confusing.

Mr. Speegle stated it is very confusing, and the stature just reads that way. It says it takes an affirmative vote.

Mr. Lamb stated what do you advise.

Mr. Speegle stated my advice has always been, stature says it, and that is the way you do it.

Mr. Eady stated we have only had one Chairman, who insisted it be done, and in most cases, they had to explain to the members what they had voted on, after they voted.

The Chairman stated I am going to say let us make a motion to either affirmative or not affirmative.

Mr. Eady stated you cannot do that.

Mr. Speegle stated the problem you have is, and I do not know if you will ever have this problem, but it is always confusing to do that. You really upset a lot of citizens doing that because somebody makes the motion to approve it and then votes against it, but the stature really does read that way. I have never had it come up in Court, and I have tried a number of cases before, and never had it come up. I do not know if it is that big a deal, but that is what the Court has always done because that is what stature reads. You can do it, if there is an affirmative vote of four people, and you have not had an affirmative vote. I guess if you deny it you have no affirmative vote.

**A Motion was made by Mr. Lamb and Seconded by Mr. Mayhand to deny Appeal #2005-04, Paul & Marianne Grundhoefer, 130 Durnford Hill Court, to encroachment the rear setback by thirty-four feet.**

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL

---

Upon roll call vote, *the Motion carried.*

Mr. Lamb	<i>Aye</i>
Mr. Robison	<i>Aye</i>
Mr. Swaney	<i>Nay</i>
Mr. Mayhand	<i>Aye</i>
Ms. Hargiss	<i>Aye</i>

The Vice Chairman stated the appeal is denied, and I guess the recourse is to, Mr. Speegle.

Mr. Speegle stated the recourse is to file a petition with the Circuit Court.

Mr. Eady stated they need to notify us within fifteen days if they are going to do that.

The Chairman stated good. Thank you.

**Appeal #2005-05, Carl & Lisa Powell**

The Chairman stated okay, Mr. Eady, next appeal.

Mr. Eady displayed color transparencies of the property located at 27054 Bit & Spur Drive in the Stratford Glen Subdivision. He stated next is this home that needs to clear the title. The home was built about a half of a foot over the setback line on Lot 50. On the rear it is a little over a foot, and on the front it is a half of a foot. Ms. Milstead, of Remax by the bay, is here representing the owners. If you would, Ms. Milstead, come on up. The setback is ten-feet. The survey shows that the front of the house is nine point five-feet off of the side setback line, and the red and white pole shows eight point sixty-five feet off the rear setback, representing a one point four foot encroachment.

The Chairman asked did you have that house constructed?

Ms. Milstead no, I did not. I am a realtor, and I am representing the owners of the house, who bought it from another party that had bought it from Mitchell Company. It has gone through two closings, and nobody noticed. I happen to look at it when I was listing the home. I asked for their survey, and I looked at it, and thought oh, gee because it has been sold twice. So, that is why I am here going through this procedure, to ask for a setback line variance.

The Chairman stated in actually, they just built the house too large for the lot.

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL

---

Ms. Milstead stated well, they moved it actually. If it were on the other side there is plenty of room. What is it? I think it is eleven-feet on the south side.

Mr. Eady stated that is right.

Ms. Milstead stated Rester & Coleman, I believe, were the surveyors. It is just one of those things.

Mr. Lamb stated you are saying that this house has gone through two other closings without anyone questioning it.

Ms. Milstead stated nobody. The first owners closed with Mitchell Homes, and that is the survey there, and nobody said anything to him about it.

Mr. Lamb stated when you say that, you mean nobody looked at the survey to see if it was right.

Ms. Milstead stated I suppose so. That is right, and I called Mitchell Homes.

Mr. Lamb stated I wonder how many of them we have missed.

Ms. Milstead stated exactly. You know I am beginning to look at these now. I mean I have been set up here for eleven years, and of course, you probably know that in Lake Forest it is grandeur.

The Chairman stated yes, but this house is new.

Ms. Milstead stated right, this house is new. It is a new subdivision.

The Chairman stated right. It was built after the Land Use Ordinance.

Ms. Milstead stated of course this is about the County, but they had one out in Austin Brooks Subdivision, that had a five-foot violation.

Mr. Lamb stated in the course of human events, where does the responsibility lay, to ensure that the structure is built within the setback. At the bottom line, who is that?

Mr. Eady stated Building Official.

Mr. Lamb stated the Building Official.

Mr. Eady stated he checks to see if it is in the right place when they stake out the slab.

Mr. Lamb stated when it is staked out.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL**

---

Mr. Eady stated that is when he checks it. The ultimate responsibility, of course, is the builder, but as far as the City is concerned, to check them, then that is what needs to be done.

Mr. Lamb stated this is Stratford Glen.

Ms. Milstead stated yes, sir, Stratford Glen Subdivision.

Mr. Robison stated with it going through two closings, and this will be the third closing, somewhere down the line someone would not be able to get a clear title, would they.

Ms. Milstead stated their title company insured it, and title companies will insure it, but I am told that what weighs in on it is whether the lenders will approve it because they do not care. I just wanted it to be right. Whenever it is sold again, I want it to be done right.

The Chairman stated you are doing the right thing.

Mr. Lamb stated we get a lot of this, and if you have a problem, and I think we have a problem, then we need to somehow stop the problem. I do not know if it is in the developer staking out his lots or if was the actual contractor who builds it or if it is the Building Inspector, who checks it, and if we in the final analyze find that it is Building Inspector, he is an employee of the City.

Mr. Eady stated it is quite possible that after he checks it, because all they have is a string line, it gets offset, then the slab is poured. You can see where the slab is off eleven and a half feet on this side. It is a very valuable home, and it is going to be there for a long time.

Mr. Lamb stated well, I do not have a problem with that, but I do think we are going to find a lot more of these type homes, correct.

Mr. Eady stated I do not think so. The City is doing a much better job at catching these type things now because we have more help to do so. The City has a new Building Official with more Building Inspectors now.

Mr. Lamb stated okay.

The Chairman stated the whole City is responsible for, in essence, the survey, which is what was done. So the City was not privy to that survey to know that it was off.

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL

---

Mr. Eady stated it is the surveyors job to survey it. If he stakes it out wrong then he had to do it.

Mr. Speegle stated well, if it is staked the Building Official can run a tape, and they know whether it is over the line, but you also, like Mr. Eady said, do not know if they might move it later or what. It has not happened in the last couple of years, Mr. Eady is right. The number of these that have come before the Board in the last two or three years have been negligible compared to what they were eight, nine years ago, but you do not even know if the Building Official measured this, without looking at the records. I mean there have been some that I do not think anybody ever went out and looked.

Mr. Eady stated I do not know if they did then, but I do know they do now.

Mr. Speegle stated they do now.

Mr. Lamb stated well, I commend you for bringing this to be cleared before any farther actions are taken.

Ms. Milstead stated thank you.

Mr. Speegle stated would you please state your name.

Ms. Milstead stated Sharon Milstead.

The Chairman stated do any of the Board members have any additional questions or comments. If there are no objections, the Chair will entertain a motion.

**A Motion was made by Mr. Robison and Seconded by Mr. Hargiss to approve Appeal #2005-05, Carl & Lisa Powell, 27054 Bit & Spur Drive, to encroach the Northeast side setback line by 1.35-feet and the Northwest side setback line by 0.5-feet.**

Upon roll call vote, *the Motion carried, unanimously.*

Mr. Lamb	Aye
Mr. Robison	Aye
Mr. Swaney	Aye
Mr. Mayhand	Aye
Ms. Hargiss	Aye

The Chairman stated the appeal is granted, and it can be picked up in the morning.

Ms. Milstead stated thank you all. I appreciate it.

**Adjournment:**

CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF OCTOBER 6, 2005 - 6:00 P.M. DRAFT  
COUNCIL CHAMBERS, CITY HALL

---

The Chairman stated if there is no other business or no objection, the Chair would entertain a motion to adjourn.

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

There being no further business the meeting was adjourned at **6:43 p.m.**

**Respectfully submitted by:**

Pat Houston, Recording Secretary

**APPROVED:** \_\_\_\_\_, 2005

Glen Swaney, Chairman

/ph

**DOWNTOWN REDEVELOPMENT AUTHORITY  
DAPHNE, AL  
1705 MAIN STREET  
OCTOBER 18, 2005  
5:15 P.M.**

Starke Irvine called the meeting to order with a quorum present at 5:45 p.m.

Present: Starke Irvine, Glenn Glass, Ceann Wachter, Chris Donald, Kit Smith.

Absent: Todd Chambliss, Jackie Ward, Tracey Woodham.

Board Members Absent: Andy Citrin, Mayor Small, Cathy Barnette, Jeff Hudson

Also present: Rebecca Hayes, Recording Secretary.

**MOTION BY Glenn Glass to approve the minutes meeting held August 23, 2005.  
Seconded by Ceann Watcher.**

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

Discussion was held regarding funding from the city, also discussion was held regarding financial plans and projects. Stake discussed having Pfil Hunt from Gardnyr Michael attend a meeting to discuss bond issues. Mr. Irvine stated that the Authority should keep the Buildings and Property Committee up to date with what they are doing. The Authority discussed the new addition to City Hall and asked Rebecca to check with the Mayor to make sure Jeff was keeping with the Italian theme for the front of the building.

**MOTION BY Kit Smith to contribute \$250.00 to the S.E.E.D.S. organization.  
Seconded by Glenn Glass.**

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

Starke mentioned that a letter should be written recognizing Larry Chason's efforts in renovating the building across from City Hall.

The Authority discussed the next meeting date and changed the meetings to the 2<sup>nd</sup> Monday of the month. The next meeting will be November 14<sup>th</sup>.

The meeting adjourned at 6:40 p.m.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF SEPTEMBER 22, 2005  
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 6:02 p.m.

**CALL OF ROLL:**

**Members Present:**

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

**Staff Present:**

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

**Staff Absent:**

Jay Ross, Attorney

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

**APPROVAL OF MINUTES:**

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

A **Motion** was made by Mr. Chason and **Seconded** by Mr. West **to approve the minutes of the regular meeting, contingent upon making the corrections referenced on page 6. The Motion carried unanimously.**

**ELECTION OF OFFICERS:**

A **Motion** was made by Mr. Kirby and **Seconded** by Mr. West **to table the election of officers until January 1, 2006 due to Mr. Segalla's**

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

---

---

*temporary reappointment. The Motion carried. Ms. Barnette opposed.*

The Chairman stated the next order of business is site plan review for RichTex Fabrics.

**SITE PLAN REVIEW:**

**File S05-20:**

**Site: RichTex Fabrics**

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

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

The Chairman stated do any of the Commissioners have any questions or comments. At site preview, we discussed and suggested the placement of a six-foot shadow box privacy fence and the owner respectfully consented.

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

Mr. Eady stated we can work that out.

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

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

The Chairman stated no. I have not received it, but Chip Martin, the Fire Marshal, was present at site preview and said that he had not

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

---

furnished them, but as far as he was concerned everything was fine.

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

The Chairman asked do you have that documentation.

Ms. Dickson stated yes sir.

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

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

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

**PRELIMINARY/FINAL PLAT REVIEW:**

**File SDPF05-21:**

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

Location: On the North side of Whispering Pines Road

Area: 0.96 Acres ±, (2) lots

Owner: Herbert Gibson

Surveyor: Geo-Surveying - Matt Kountz

An introductory presentation was given by Mr. Matt Kountz, representing Geo-Surveying, requesting preliminary/final plat approval of a 0.96 acre subdivision consisting of two lots located on the North side of Whispering Pines Road. I will be glad to answer any questions you may have.

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

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

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

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

---

---

**File SDPF05-22:**

**Subdivision: Holmes-Koetter**

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

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

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

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

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

**File SDPF05-23:**

**Subdivision: Jubilee Ridge**

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

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

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

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

---

---

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

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

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

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

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

**PRELIMINARY PLAT REVIEW:**

**File SDP05-15:**

**Subdivision: Austin Park Estates**

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

An introductory presentation was given by Mr. Ray Moore, representing Hutchinson, Moore & Rauch, requesting preliminary plat approval of a fifty-six acre subdivision consisting of fifty lots located on County Road 54 immediately North of Austin Park Subdivision. We had discussed this with the Commission previously. The oversized estate lots proposed in this subdivision will be six-tenths of an acre or thirty thousand square feet plus. Drainage has been designed in such a manner to address the flooding problem in this area. Water will be provided by the Belforest Water Authority and sanitary sewer will be provided by Baldwin County Sewer Service. The subdivision will have underground power. I will be glad to answer any questions you may have.

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

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

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

---

---

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

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

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

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

Mr. Moore stated they are required to sign off, but as of yet we have not received any of their comments. Everything you see here mimics their regulations.

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

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

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

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

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

Mr. Eady stated yes sir.

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

Mr. Eady stated no.

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

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

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

---

---

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

**ATTORNEY'S REPORT:**

Mr. Fleming stated no report.

**PUBLIC PARTICIPATION:**

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

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

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

Ms. Mary Francis requested to address the Commissions regarding her property adjacent to Jubilee Ridge Subdivision. She requested the placement of a fence along the property line in order to have a buffer to keep the horses away from the detention pond. She commented on the odor associated with keeping animals, horses, and she wanted to make the new owner aware of that.

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

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

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

**ADJOURNMENT:**

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

---

---

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

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

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

***Respectfully submitted by:***

Jan Dickson, Planning Coordinator

**APPROVED:** October 27, 2005

Robert Segalla, Chairman

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

---

---

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

---

---

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

**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 6:07 p.m.

**CALL OF ROLL:**

**Members Present:**

Fred Small, Mayor  
Jeff Carrico  
Carter Eide  
Warren West, Vice Chairman  
Robert Segalla, Chairman  
\*Cathy Barnette, Councilwoman  
Ed Kirby

\* Ms. Cathy Barnette, Councilwoman, arrived at 6:05 p.m.

**Members Absent:**

Larry Chason, Secretary

**Staff Present:**

William H. Eady, Sr., Director of Community Development  
Jan Dickson, Planning Coordinator  
Pat Houston, Administrative Technician  
Tim Fleming, Associate Attorney

**Staff Absent:**

Jay Ross, Attorney  
Nancy Anderson, GIS Technician

The Chairman stated the first order of business is the call to order. Please let the record reflect that Mr. Chason is not 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 September 22, 2005 regular meeting were considered for approval. A copy of the minutes was furnished to us previously. If

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

there are no additions, deletions, or corrections at this time, the Chair will entertain a motion. The Chair requested corrections on page 2 of the minutes.

A **Motion** was made by Mr. West and **Seconded** by Mr. Kirby **to approve the minutes of the regular meeting, contingent upon making the corrections referenced on page 2. The Motion carried unanimously.**

The Chairman stated the next order of business under old business is site plan review for Jubilee Ridge Condominiums.

**OLD BUSINESS:**

Presentation to be given by Mr. Peterson, representing Hatch Mott MacDonald, requesting Master Plan approval for Jubilee Ridge Condominiums.

**SITE PLAN REVIEW:**

**File S05-19:**

**Site: Jubilee Ridge Condominiums**

Location: Southeast of the intersection of U. S. Highway 98 and County Road 64  
Area: 15.35 Acres ±  
Owner: Jubilee Ridge, L.L.C.  
Engineer: Hatch Mott MacDonald - John Peterson

An introductory presentation was given by Mr. John Peterson, representing Hatch Mott MacDonald, requesting site plan review for the placement of a one hundred and fourteen unit condominium development located Southeast of the intersection of U. S. Highway 98 and County Road 64. I will be glad to answer any questions you may have.

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

A **Motion** was made by Mr. Kirby and **Seconded** by Mr. West **to grant Site Plan and Master Plan approval to Jubilee Ridge Condominiums. The Motion carried unanimously.**

The Chairman stated the next order of business under new business is the site preview and meeting date for November.

**THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

---

---

**SUMMARIZATION OF MINUTES:**

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

---

**NEW BUSINESS:**

**SET MEETING DATE AS FOLLOWS:**

**SITE PREVIEW, WEDNESDAY, NOVEMBER 16, 2005  
REGULAR MEETING, TUESDAY, NOVEMBER 22, 2005**

The Commission confirmed site preview and meeting dates.

Ms. Barnette questioned whether or not a motion was necessary.

The Chairman stated I do not believe a motion is necessary to confirm the dates since all of the members are present and agree to the date. The next order of business is preliminary plat review for Eastern Shore Park Subdivision.

**PRELIMINARY PLAT REVIEW:**

**File SDP05-19:**

**Subdivision: Eastern Shore Park**

Location: The intersection of U. S. Highway 90 and Alabama Highway 181

Area: 78.93 Acres +, (15) lots

Owner: Malbis Properties, LLC - Frank Johnston, Aronov Realty Co., Inc.

Engineer: Columbia Engineering & Services - Jason Hurst

Surveyor: Herndon, Hicks & Associates - David Herndon

An introductory presentation was given by Mr. Bobby Herndon, representing Herndon, Hicks & Associates, accompanied by Mr. Jason Hurst, representing Columbia Engineering & Services, Mr. Kevin McLaughlin, representing Aronov Realty Co., Inc., and Mr. Frank Johnston, representing Aronov Realty Co., Inc./Malbis Properties, L.L.C., requesting preliminary plat approval of a seventy-eight acre subdivision consisting of fourteen lots located at the intersection of U. S. Highway 90 and Alabama Highway 181. I will be glad to answer any questions you may have.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

**SUMMARIZATION OF MINUTES:**

---

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

---

The Chairman requested that the development consider increasing the buffer zone along the rear of buildings adjacent to the right-of-way from five to twenty-five feet within the subdivision.

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

An adjacent property owner, Mr. Kevin Spriggs, owner of Malbis Shell, addressed the Commission to express his concerns regarding the proposed development and how it would impact his property. I am not opposed to the development, but rather I support growth in this area. I would like to comment; however, we would resist any change to access to Alabama Highway 181 or Highway 90.

An adjacent property owner addressed the Commission to request that the developer consider increasing the buffer zone to fifty feet between the development and the adjacent properties.

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

Mr. Kevin McLaughlin, representing Aronov Realty Co., Inc., stated that in addition to the buffer zone within the subdivision each site, such as Lowes, will have a landscape plan which will include a buffer zone. Also, with the setback of each business will add an additional buffer between the subdivision and the adjacent properties.

Mayor Small questioned whether or not the sanitary sewer issues had been addressed with the Utilities Board of the City of Daphne.

The Chairman commented on an email he had received from Stan Clayton, the Operations Manager/Utilities Board of the City of Daphne, which stating Columbia Engineering had addressed their concerns.

Mr. Jason Hurst, representing Columbia Engineering & Services, stated a revised set of plans was given to the Utilities Board of the City of Daphne this afternoon for review.

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

A **Motion** was made by Mr. West and **Seconded** by Mayor Small **to grant Preliminary approval to Eastern Shore Park Subdivision.**

Mayor Small stated he would like to amend the motion to say contingent

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

upon approval by the Utilities Board of the City of Daphne.

An **Amended Motion** was made by Mr. West and **Seconded** by Mayor Small **to grant Preliminary approval to Eastern Shore Park Subdivision, contingent upon approval of the sanitary sewer revisions being accepted by the Utilities Board of the City of Daphne. The Motion carried unanimously.**

The Chairman stated the next order of business is master plan review for the Old Home Place.

An introductory presentation was given by Mr. Moore, representing Hutchinson, Moore & Rauch, requesting master plan approval of the Old Home Place. This is a three-phase subdivision. Because of the concerns in the areas the major issue for the development was drainage, which we have addressed.

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to grant approval to the Master Plan for The Old Home Place Subdivision. The Motion carried. Ms. Barnette opposed.**

The Chairman stated the next order of business is preliminary plat review for The Old Home Place.

**File SDP05-18:**

**Subdivision:**       **The Old Home Place, Phase One**

Location:            On Austin Road approximately one half mile East of  
                          Alabama Highway 181

Area:                10.97 Acres +, (15) lots

Owner:               Del Corte

Engineer:            Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Moore, representing Hutchinson, Moore & Rauch, requesting preliminary plat approval of a ten-acre subdivision consisting of fifteen 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.

Mr. West stated utilities are provided by Belforest Water Authority and Baldwin County Sewer Service. He questioned why sanitary sewer could not be the Utilities Board of the City of Daphne and connect to the Cottonwood Subdivision.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

Mr. Moore stated I do not know where Cottonwood Subdivision is in relationship to this subdivision.

The Chairman asked Mr. David Diehl with Engineering Development Services to comment on the location of the subdivision and the availability of utilities.

Mr. Diehl stated this subdivision is approximately one mile from Cottonwood Subdivision. The sanitary sewer from this development ties into another one of our subdivisions, Bellaton Subdivision, for which Baldwin County Sewer is existing.

Ms. Barnette questioned whether or not the number or drive ways proposed in this development was consistent with our Land Use and Development Ordinance.

The Chairman asked Mr. Moore to outline the location of the subdivision and Austin Road. He asked if he felt as if this would ever be a major thoroughfare.

Mr. Moore stated this road will never be anything more than a collector street. It will never go anywhere, except when the adjacent property is developed and the street connects. We have addressed the access by providing a dual drive way for each set of the lots.

The Chairman stated this will never be a problem because of the location of the road and it will never go anywhere. Do any of the Commissioners or Mr. Eady have any questions or comments? He opened the floor to public participation. With no adjacent property owners present, he closed public participation. If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to grant Preliminary Plat approval to The Old Home Place Subdivision, Phase One. The Motion carried. Ms. Barnette opposed.**

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

**PRELIMINARY/FINAL PLAT REVIEW:**

**File SDPF05-24:**

**Subdivision: Resubdivision of Lot 1, Sundowne Subdivision**

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

Location: On the West side of U. S. Highway 98  
Area: 11.26 Acres +, (2) lots  
Owner: Barry Booth & Chunchula Energy Corporation  
Engineer: Hutchinson, Moore & Rauch - Doug Bailey

An introductory presentation was given by Mr. Bailey, representing Hutchinson, Moore & Rauch, requesting preliminary/final plat approval of an eleven-acre subdivision consisting of two lots located on the West side of U. S. Highway 98. Lot 1A is the site for the previously approved Apalachee Residential Community. I will be happy to answer any questions you may have.

The Chairman asked Mr. Bailey to outline for the Commission the reason for the proposed division into two lots.

Mr. Bailey stated based on the requirements for condominium regulations in the State of Alabama, it was advised by counsel for the property to be divided into two lots to separate ownership and common area for the two developments.

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

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to grant Preliminary/Final Plat approval to Resubdivision of Lot 1, Sundowne Subdivision. The Motion carried. Ms. Barnette opposed.**

The Chairman stated the next order of business is preliminary/final plat review for the addition to Lot 29, Eagle Creek Subdivision.

**File SDPF05-25:**

**Subdivision: Addition to Lot 29, Eagle Creek Subdivision**

Location: Eagle Creek Drive West of Pollard Road  
Area: 3.37 Acres +, (1) lots  
Owner: Gulf Coast Referral Service - Sonny Nichols  
Engineer: Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Moore, representing Hutchinson, Moore & Rauch, requesting preliminary/final plat approval of a three-acre subdivision consisting of one lot located on Eagle Creek Drive West of Pollard Road. The subdivision consists of the

**THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

---

---

**SUMMARIZATION OF MINUTES:**

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

---

reduction of the three hundred foot buffer zone located to the West of the subdivision to one hundred feet. The remainder of the property will be added to lot 29 of Eagle Creek Subdivision, Phase One. This lot would adhere to the restrictions of the subdivision. This lot will become a part of lot 29 and no residential structure shall be placed on this portion of the lot.

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

The adjacent property owners of the subdivision addressed the Commission to express their concerns regarding the proposed development and how it would impact his property.

The main concerns addressed were: establishment of the buffer zone on the final plat; it was to be deed-restricted as a buffer zone for the subdivision and the adjacent dirt pit; the subdivision and the buffer zone was to be given to the property owners association after five years and was not; concerned that a structure other than a residence could be constructed on the lot for a home based business; additional traffic; and retaining the buffer zone in order to protect the development from noise and dust because the dirt pit is removing trees for an expansion of their business.

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

Mr. Kirby commented on the criteria for a home based business. A structure could not be placed on this parcel for that type of business can only operate out of the main structure with two related employees.

The Chairman stated do any of the Commissioners have any questions or comments. He closed public participation. He stated as a property owner I can relate to the concerns which have been expressed; therefore, I would like us to consider tabling action until such time the attorney has reviewed the documentation and warranty deeds and report to the Commission his findings. He questioned whether or not a motion was necessary.

Mr. Fleming stated I think so.

Mr. Moore stated that he conceded to the waiving of the thirty-day rule for the approval of a subdivision.

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.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to table the Preliminary/Final Plat approval for the Addition to Lot 29, Eagle Creek Subdivision, until the next regular meeting. The Motion carried unanimously.**

The adjacent property owners questioned what is the date of the next meeting.

The Chairman stated Tuesday, November 22, 2005. The next order of business is final plat review for Eastern Shore Park Subdivision.

**FINAL PLAT REVIEW:**

**File SDF05-15:**

**Subdivision: Eastern Shore Park**

Location: The intersection of U. S. Highway 90 and Alabama Highway 181  
Area: 78.93 Acres ±, (15) lots  
Owner: Malbis Properties, L.L.C. - Frank Johnston, Aronov Realty Co., Inc.  
Engineer: Columbia Engineering & Services - Jason Hurst  
Surveyor: Herndon, Hicks & Associates - David Herndon

An introductory presentation was given by Mr. Bobby Herndon, representing Herndon, Hicks & Associates, accompanied by Mr. Frank Johnston, representing Aronov Realty Co., Inc./Malbis Properties, L.L.C., requesting final plat approval of a seventy-eight acre subdivision consisting of fourteen lots located at the intersection of U. S. Highway 90 and Alabama Highway 181. I will be glad to answer any questions you may have.

The Chairman stated we do not give approvals based on contingencies. I do not consider this a contingency, but rather an extension of time in order to meet the criteria for final approval of the subdivision. The situation of the utilities must be resolved and a performance bond or letter or credit in the amount of one hundred and fifty percent of the total cost of the improvements must be in place prior to the issuance of a site disturbance permit. Do any of the Commissioners or Mr. Eady have any questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to grant Final Plat approval to Eastern Shore Park, contingent upon the**

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

*presentation of a performance bond or letter of credit prior to the issuance of a site disturbance bond for the development. The Motion carried unanimously.*

The Chairman stated the next order of business is site plan review for Concentra.

**SITE PLAN REVIEW:**

**File S05-21:**

**Site: Concentra**

Location: Northwest of the intersection of Whispering Pines and Pollard Roads, Lots 3 & 4, Daphne Commercial Park, Phase One  
Area: 1.27 Acres ±  
Owner: Project 64, L.L.C.- Rance Reehl  
Engineer: Frank Dagley & Associates - Frank Dagley

The site plan for Concentra was withdrawn by the owner.

The Chairman stated the next order of business is site plan review for Parkway Pointe.

**File S05-22:**

**Site: Parkway Pointe**

Location: On the East side of Main Street near Potters Mill  
Area: 1.15 Acres ±  
Owner: Parkway Pointe, L.L.C.  
Engineer: Hutchinson, Moore & Rauch - Doug Bailey

An introductory presentation was given by Mr. Bailey, representing Hutchinson, Moore & Rauch, requesting site plan review for the placement of a professional business office and associated uses facility located on the East side of Main Street near Potters Mill. I will be happy to answer any questions you may have.

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

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

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

The Chairman stated the next order of business is site plan review for Lowes.

**File S05-23:**

**Site:**           **Lowes**

Location:           The Northwest corner of U.S. Highway 90 and Alabama Highway 181  
Area:               14.40 Acres +  
Owner:              Malbis Properties, L.L.C. - Frank Johnston, Aronov Realty, Co., Inc.  
Agent:               Lowes Home Center, Inc.  
Engineer:           Southern Civil Engineers - Bob Vance

An introductory presentation was given by Mr. Vance, representing Southern Civil Engineers, requesting site plan review for the placement of a retail construction and maintenance sales and associated uses facility located on the Northwest corner of U. S. Highway 90 and Alabama Highway 181, also known as Lot 10 of Eastern Shore Park Subdivision. He stated we have deleted one parking space for each area for a total of twenty-two spaces. The total number of parking spaces still exceeds the minimum allowable parking requirements for the Eastern Shore Overlay District. The deletion of the parking results in a buffer zone of twenty feet. We have restricted sales of outdoor and seasonal items to be allowed in the garden center parking area only.

Mr. West questioned whether or not the sign was in compliance.

Mr. Kirby stated the signage for Lowes is ok.

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to grant Site Plan approval to Lowes of Daphne, Alabama. The Motion carried unanimously.**

The Chairman stated the next order of business is annexation review for Malbis Plantation, Inc.

**PETITIONS:**

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

**ANNEXATION REVIEW:**

An introductory presentation was given by Melinda Immel, representing Volkert & Associates, requesting annexation of a three and one half acre parcel located Southeast of the intersection of Lawson Road and County Road 13 with R-3, High Density Single Family, zoning. Said owner of subject property is Malbis Plantation, Inc. A water storage tank is proposed for the Utilities Board of the City of Daphne with the possibility of future water production and treatment facilities for the wells.

The Chairman asked counsel if it was necessary for him to recuse himself from voting on this project since he was the Chairman of the Utilities Board of the City of Daphne. I do not see any reason that I may need to since this project is mandated by ADEM.

Mr. Fleming stated he did not see any conflict since he would not benefit from the approval of the project.

A **Motion** was made by Mr. Kirby and **Seconded** by Mr. Eide **for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the annexation of Malbis Plantation, Inc.**

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

Ms. Barnette	Aye
Mr. Segalla	Aye
Mr. Eide	Aye
Mr. West	Aye
Mr. Carrico	Aye
Mr. Kirby	Aye
Mayor Small	Aye

The Chairman stated the next order of business is a zoning review for A & B-10, LLC.

**ZONING AMENDMENT REVIEW:**

**File Z05-03: A & B-10, LLC**

Location: Southeast corner of the intersection of Pecan Court and Pollard Road

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

---

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

---

Area: 0.38 Acres +  
Owner: A & B-10, L.L.C.- John Avent  
Engineer: Engineering Development Services - David Diehl

**Present Zoning: R-4                      Proposed Zoning:                      B-2**

**Reference: Lot 29, Pecan Trace Subdivision**

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services, requesting the rezoning of Lot 29 of Pecan Trace Subdivision from an R-4, High Density Single Family Residential, to a B-2, General Business, zone. He stated we are asking for the rezoning of this parcel for the construction of a business office and warehouse facility to be located on Pollard Road. The lot is not suitable for the construction of a residential home. It would retain a buffer between this lot and the subdivision. Also, upon development we would restrict access to Pollard Road and not allow access onto Pecan Court. 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. 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. Kirby **for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the rezoning for A & B-10, L.L.C. from an R-4, High Density Single Family Residential, to a B-2, General Business, zone.**

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

Ms. Barnette            Aye  
Mr. Segalla            Aye  
Mr. Eide            Aye  
Mr. West            Aye  
Mr. Carrico            Aye  
Mr. Kirby            Aye  
Mayor Small            Aye

The Chairman stated the next order of business is a zoning review for Country Club Development, LLC.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

---

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

---

**File Z05-04: Country Club Development, L.L.C.**

Location: On Alabama Highway 181 across from Austin Road  
Area: 2.88 Acres +  
Owner: Fred L. Corte  
Agent: Country Club Development, L.L.C. - Trae Corte  
Engineer: Engineering Development Services - Jason Estes or David Diehl

**Present Zoning: R-3                      Proposed Zoning: B-1**

**Reference: A portion of Phase Two of Bellaton  
Subdivision**

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services, requesting the rezoning of a portion of Bellaton Subdivision from an R-3, High Density Single Family Residential, to a B-1, Local Business, zone. He stated we are asking for the rezoning of this parcel for the construction of a business office and sales facility within the second phase of the subdivision. 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. 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. Kirby **for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the rezoning for Country Club Development, L.L.C. from an R-3, High Density Single Family Residential, to a B-1, Local Business, zone.**

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

Ms. Barnette     Aye  
Mr. Segalla     Aye  
Mr. Eide     Aye  
Mr. West     Aye  
Mr. Carrico     Aye  
Mr. Kirby     Aye  
Mayor Small     Aye

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

The Chairman stated the next order of business is an administrative presentation for Cottonwood Subdivision.

**MASTER PLAN REVIEW:**

An introductory presentation to be given by Mr. Diehl, representing Engineering Development Services, outlining the specifications and requesting Master Plan approval for Cottonwood Subdivision. Said owner, Julio Corte, Jr., and Developers, Mike and Angela McLaughlin, proposed to annex three hundred and nine acres located on the West side of Alabama Highway 181. This will be a mixed use development located at the intersection of Alabama Highway 181 and Austin Road. I will be happy to answer any questions you may have.

The Chairman stated he liked the criteria for the master plan with a variety of mixed use zones, common areas, and the recreational area in each phase. It is crucial for the safety of the children to provide recreational area near the child's home because I would not let my child venture very far from home into another phase. This is a sketch plan and does not require a motion.

Ms. Dickson stated Mr. Diehl has requested the Planning Commission grant approval for the master plan.

A **Motion** was made by Mayor Small and **Seconded** by Mr. West **to grant approval for the Master Plan for Cottonwood Subdivision. The Motion carried. Mr. West abstained.**

Mr. West stated if the vote is sufficient to carry the motion he would like to abstain since he is related to the owner.

The Chairman stated that is fine. We had the six affirmative votes.

Mr. Diehl stated when the development comes to the Commission in the future, Mr. West, you will not be related to the owner.

The Chairman stated the next order of business is an administrative presentation for Eastern Shore Park regarding signage.

**ADMINISTRATIVE REVIEW:**

An introductory presentation was given by Mr. Frank Johnston, representing Aronov Realty Co., Inc./Malbis Properties, L.L.C., and Jerry Lancaster, Knight Signs, requesting approval for an Interstate

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

Pylon Sign and a Developmental Sign for Eastern Shore Park Subdivision.

Ms. Barnette stated that she was disappointed in the fact that the developer/owner of the subdivision elected to do the maximum height of the interstate pylon sign.

A **Motion** was made by Mayor Small and **Seconded** by Mr. West **to grant approval to the Interstate Pylon Sign. The Motion carried. Ms. Barnette opposed.**

A **Motion** was made by Ms. Barnette and **Seconded** by Mayor Small **to grant approval to the Developmental Sign. The Motion carried unanimously.**

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

**ATTORNEY'S REPORT:**

Mr. Fleming stated no report.

**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 7:35 p.m.*

***Respectfully submitted by:***

Jan Dickson, Planning Coordinator

**APPROVED:** November 22, 2005

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

Robert Segalla, Chairman

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF OCTOBER 27, 2005  
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

---

---

**SUMMARIZATION OF MINUTES:**

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

---



The City of Daphne Planning Commission  
Site Preview Summarization of Minutes  
Wednesday, October 19, 2005 - 9:00 a.m.  
Council Chambers, City Hall

---

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

---

**PRELIMINARY PLAT REVIEW:**

**File SDP05-19:**

**Subdivision: Eastern Shore Park**

Location: The intersection of U. S. Highway 90 and Alabama Highway 181  
Area: 78.93 Acres +, (15) lots  
Owner: Malbis Properties, LLC - Frank Johnston, Aronov Realty  
Engineer: Columbia Engineering & Services - Jason Hurst  
Surveyor: Herndon, Hicks & Associates - David Herndon

An introductory presentation was given by Mr. Frank Johnston, representing Aronov Realty Co./Malbis Properties, L.L.C., outlining the specifications for the proposed subdivision and Kent Broom, Landscape Architect, of the proposed revisions to the landscape plans.

The Commission discussed at the length the proposed development with regard to the following: the layout of the proposed subdivision, streets, landscaping and maintenance thereof, drainage, maintenance of detention pond, sidewalks, signage for the development/interstate, and installation of sanitary sewer.

The following recommendations and/or revisions to the present plan were made: remove one of the lots from the proposed development until such time the criteria for the lot was outlined in the Eastern Shore Park Overlay District; the detention pond not be presented nor accepted by the City of Daphne for maintenance; suggested location of the sidewalks; accept landscape recommendations made by Mr. Broom for the development; present interstate pylon and one of the developmental signs for approval by the Planning Commission; acceptance of the streets; outline the criteria and location of the landscaped areas to be maintained by the City of Daphne Public Works Department; outlined criteria for the design and installation of sanitary sewer and potable water.

Mr. Eady, Director of Community Development, stated the next order of business is final plat review for Eastern Shore Park Subdivision.

The City of Daphne Planning Commission  
Site Preview Summarization of Minutes  
Wednesday, October 19, 2005 - 9:00 a.m.  
Council Chambers, City Hall

---

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

---

**FINAL PLAT REVIEW:**

**File SDF05-15:**

**Subdivision: Eastern Shore Park**

Location: The intersection of U. S. Highway 90 and Alabama Highway 181  
Area: 78.93 Acres +, (15) lots  
Owner: Malbis Properties, LLC - Frank Johnston, Aronov Realty  
Engineer: Columbia Engineering & Services - Jason Hurst  
Surveyor: Herndon, Hicks & Associates - David Herndon

An introductory presentation was given by Mr. Frank Johnston, representing Aronov Realty Co./Malbis Properties, L.L.C., outlining the specifications for the proposed subdivision and the desire to seek final approval in order to transfer a lot to Lowes and future developments.

Mr. Eady, Director of Community Development, referenced the correspondence from Compass Bank regarding the letter of credit. In order to obtain a letter of credit the applicant must apply to the board and receive approval prior to issuance. Mr. Johnston is requesting final approval contingent upon no issuance of a building permit for the owners of the lots until the letter of credit is given to the City.

The following recommendations were made by the Commission: final approval may be given contingent upon no site disturbance permits being issued for the proposed development until such time the developer/owner has given the letter of credit or performance bond to the City of Daphne.

Mr. Eady, Director of Community Development, stated the next order of business under old business is site plan review for Jubilee Ridge Condominiums. This project was reviewed previously for a two-lot subdivision and annexation into the City of Daphne.

**OLD BUSINESS:**

**Presentation to be given by Mr. Peterson, representing Hatch Mott MacDonald, requesting Master Plan approval for Jubilee Ridge Condominiums.**

The City of Daphne Planning Commission  
Site Preview Summarization of Minutes  
Wednesday, October 19, 2005 - 9:00 a.m.  
Council Chambers, City Hall

---

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

---

**SITE PLAN REVIEW:**

**File S05-19:**

**Site: Jubilee Ridge Condominiums**

Location: Southeast of the intersection of U. S. Highway 98 and County Road 64  
Area: 15.35 Acres +  
Agent: Jubilee Ridge, L.L.C.  
Owner: Vilia Marino  
Engineer: Hatch Mott MacDonald - John Peterson

An introductory presentation was given by Mr. John Peterson, representing Hatch Mott MacDonald, outlining the specifications for the one hundred and fourteen unit development which has been annexed into the City of Daphne.

The Commission discussed at the length the proposed development.

The following recommendation and/or revisions was made by the Commission: the consideration and addition of the installation of a deceleration lane.

**NEW BUSINESS:**

Mr. Eady, Director of Community Development, stated the next order of business under new business is the site preview and meeting date for November.

**SET MEETING DATE AS FOLLOWS:**

**SITE PREVIEW, WEDNESDAY, NOVEMBER 16, 2005**  
**REGULAR MEETING, THURSDAY, NOVEMBER 22, 2005**

The Commission confirmed site preview and meeting dates.

Mr. Eady, Director of Community Development, stated the next order of business is

The City of Daphne Planning Commission  
Site Preview Summarization of Minutes  
Wednesday, October 19, 2005 - 9:00 a.m.  
Council Chambers, City Hall

---

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

---

preliminary plat review for the Old Home Place.

**Presentation to be given by Mr. Moore, representing Hutchinson, Moore & Rauch, requesting Master Plan approval for The Old Home Place.**

**File SDP05-18:**

**Subdivision: The Old Home Place, Phase One**

Location: On Austin Road approximately one half mile East of Alabama Highway 181  
Area: 10.97 Acres +, (15) lots  
Owner: Del Corte  
Engineer: Hutchinson, Moore & Rauch - Ray Moore

An introductory presentation was given by Mr. Moore, representing Hutchinson, Moore & Rauch, outlining the specifications for the proposed subdivision.

The Commission asked if the developer was considering annexation.

Mr. Moore stated we are considering it, but at this time the subject property is not contiguous.

The Commission discussed at the length the proposed development and had no comments and/or revisions.

Mr. Eady, Director of Community Development, stated the next order of business is preliminary/final plat review for the Lot 1, Resubdivision of Sundowne Subdivision.

**PRELIMINARY/FINAL PLAT REVIEW:**

**File SDPF05-24:**

**Subdivision: Resubdivision of Lot 1, Sundowne Subdivision**

Location: On the West side of U. S. Highway 98  
Area: 11.26 Acres +, (2) lots



The City of Daphne Planning Commission  
Site Preview Summarization of Minutes  
Wednesday, October 19, 2005 - 9:00 a.m.  
Council Chambers, City Hall

---

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

---

Engineer: Frank Dagley & Associates - Frank Dagley

An introductory presentation was given by Mr. Patrick Tolbert, representing Frank Dagley & Associates, outlining the specifications for the proposed site plan.

The Commission discussed at the length the proposed development with regard to the following: the parking requirements for the site. There were no suggestions and/or revisions made to the site plan.

Mr. Eady, Director of Community Development, stated the next order of business is site plan review for Parkway Pointe.

**File S05-22:**

**Site: Parkway Pointe**

Location: On the East side of Main Street near Potters Mill  
Area: 1.15 Acres +  
Owner: Parkway Pointe, LLC  
Engineer: Hutchinson, Moore & Rauch - Doug Bailey

An introductory presentation was given by Mr. Bailey, representing Hutchinson, Moore & Rauch, outlining the specifications for the proposed site plan.

The Commission discussed at the length the proposed development with regard to the following: storm water runoff and detention, material of the parking area, removal of existing trees, and landscaping. There were not suggestions and/or revisions made to the site plan.

Mr. Eady, Director of Community Development, stated the next order of business is site plan review for Lowes.

**File S05-23:**

**Site: Lowes**

Location: The Northwest corner of U.S. Highway 90 and Alabama Highway 181  
Area: 14.40 Acres +  
Owner: Malbis Properties, LLC - Frank Johnston, Aronov Realty

The City of Daphne Planning Commission  
Site Preview Summarization of Minutes  
Wednesday, October 19, 2005 - 9:00 a.m.  
Council Chambers, City Hall

---

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

---

Agent: Lowes Home Center, Inc.  
Engineer: Southern Civil Engineers - Bob Vance

An introductory presentation was given by Mr. Vance, representing Southern Civil Engineers, and Mr. Frank Johnston, representing Aronov Realty Co./Malbis Properties, L.L.C., outlining the specifications for the proposed site plan.

Mr. Eady, Director of Community Development stated Lowes will not purchase the lot from Eastern Shore Park until such time the subdivision and the site plan has been approved. The development, Eastern Shore Park Subdivision, is proposing to do all of the grading and construction of the infrastructure for the site. At that time, Lowes will construct their building, parking lot, and install landscaping. I suggested they give us a site plan that would be generic and compatible with any site in the development.

The Commission discussed at the length the proposed development with regard to the following: parking, site disturbance bond, signage, landscaping, buffer areas, access, utilities, storm water runoff, erosion control, and detention.

Members of the Commission commented on the requirements of the Eastern Shore Overlay District as it compared to the parking ratio of Lowes. They noted that the parking exceeded the minimum criteria for the district and recommended a reduction in order to comply with the district requirements.

Discussion of interstate pylon and developmental signs which were are not a part of the presentation for Lowes. Requested placement on the planning commission agenda for approval of signage.

Mr. Eady, Director of Community Development, stated the next order of business is annexation review for Malbis Plantation, Inc.

**PETITIONS:**

---

**ANNEXATION REVIEW:**

Presentation to be given by Melinda Immel, representing Volkert & Associates, requesting annexation of a three and one half acre parcel located Southeast of the intersection of Lawson Road and County Road 13 with R-3, High Density Single Family, zoning. Said owner of subject property is Malbis Plantation, Inc. A water storage tank is proposed for the Utilities Board of the City of Daphne with the possibility of future water production wells and water treatment facilities for the wells.





The City of Daphne Planning Commission  
Site Preview Summarization of Minutes  
Wednesday, October 19, 2005 - 9:00 a.m.  
Council Chambers, City Hall

---

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

---

Mr. Corte, the owner/developer requested the Commission to relax the current regulations and allow him to continue with his proposal because of the time frame involved in amending the regulations. At present, he wished to continue his development with the new revised master plan.

The Commission commented this type of development could not be approved until such time the Land Use Ordinance had been amended to address Mr. Corte's proposal.

With this, Mr. Corte requested to withdraw the application for the R-4, High Density Single Family, zoning and continue with the application for the B-1, Local Business, zoning for the office area.

Mr. Eady, Director of Community Development, stated the next order of business is an administrative presentation by Thomas Mitchell, President of Belforest Water System Board.

**ADMINISTRATIVE PRESENTATION:**

**BELFOREST WATER AUTHORITY:**

An introductory presentation was given by Mr. Thomas Mitchell, President of Belforest Water System Board, regarding potable water for residences and fire protection for all new developments within its territory which are reviewed by the City of Daphne Planning Commission. He relayed to the Commission the new procedures which have been put in place by Belforest Water Authority to address issues regarding subdivisions in the extraterritorial planning jurisdiction.

**UTILITIES FOR PROPOSED BAY FRONT PARK:**

An introductory presentation was given by Mr. Starke Irvine, Irvine, Co., Inc, requesting cooperation and assistance from the City of Daphne and the Utilities Board of the City of Daphne for the placement of utilities to the proposed retail/residential development on Bay Front Park Drive.

Mr. Eady, Director of Community Development, stated the next order of business is an administrative presentation for Cottonwood Subdivision.

An introductory presentation was given by Mr. David Diehl, representing Engineering Development Services, outlining the specifications for the proposed Master Plan for Cottonwood Subdivision.

**MASTER PLAN REVIEW:**

Presentation to be given by Mr. Diehl, representing Engineering Development



The City of Daphne Planning Commission  
Site Preview Summarization of Minutes  
Wednesday, October 19, 2005 - 9:00 a.m.  
Council Chambers, City Hall

---

Fred Small, Mayor

Larry Chason, Secretary

Jeff Carrico

Carter Eide

Warren West, Vice Chairman

Robert Segalla, Chairman

Cathy Barnette, Councilwoman

Ed Kirby

---

Park Drive, traffic concerns by diverting traffic through Tiawasee Trace. There were no suggestions and/or revisions made to the proposal.

**SUBSEQUENT MEETING DATE:**

Regular Planning Commission meeting of Thursday, October 27, 2005.

**ADJOURNMENT:**

There being no further business to discuss, Mr. Eady, Director of Community Development, adjourned the meeting at 2:30 p.m.

Respectfully submitted,  
Jan Dickson, Planning Coordinator

## **PLANNING COMMISSION**

### **SET PUBLIC HEARING FOR:**

**DECEMBER 5, 2005**

- 1.) Rezone: Property located Southeast of the intersection of Pecan Court and Pollard Road / A & B-10, LLC / Rezone from R-4 High Density Single and Multi Family Residential District to B-2 General Business District
- 2.) Annexation: Malbis Plantation, Inc. / Water Tank Site
- 3.) Rezone: Property located on AL Hwy 181 across from Austin Road / County Club Development

To: Office of the City Clerk  
From: William H. Eady, Sr.,  
Director of Community  
Development  
Subject: Zoning Amendment for A & B-10,  
LLC

## MEMORANDUM

Reference: Lot 29 of Pecan  
Trace

Date: October 28, 2005

At the regular meeting of the City of Daphne Planning Commission, October 27, 2005, seven members were present and the vote was unanimous for the affirmative recommendation of the above-mentioned petition.

Upon receipt of said documentation, please set the public hearing, advertise, and place on the appropriate agenda for action by the City Council on December 5, 2005.

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

Thank you,

WHE/jd

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

**THE CITY OF DAPHNE**  
**PLANNING DEPARTMENT**  
**APPLICATION FOR ZONING AMENDMENT**

Application Number: 205-03 Date Plat Submitted: Sept 27, 05

Date Presented: Oct. 27, 05

Name of Owner: A & B-10, LLC

Address: 27154 POLLARD RD DAPHNE, AL 36526 Telephone# 626-2122  
(Street or P.O. Box) (City) (State) (Zip Code)

Name of Authorized Agent, if other than owner: EDS

Address: P O BOX 1395 DAPHNE, AL 36526 Telephone# 626-2122  
(Street or P.O. Box) (City) (State) (Zip Code)

Subdivision: LOT 29 OF PECAN TRACE

Lot(s): 29 Unit \_\_\_\_\_

- Two (2) copies of legal description of the subject property.
- Two (2) copies of subdivision plat or site plan drawn to scale, (28" x 36").
- List of the names and mailing addresses for the adjacent property owners (Date Submitted: 9/27/2005).

**Meeting Dates:**

Planning Commission: October 27, 2005

City Council: \_\_\_\_\_

**Reason(s) for requesting the Zoning Amendment:**

R-4 SINGLE FAMILY RESIDENTIAL TO B-2 COMMERCIAL

\_\_\_\_\_  
**SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE**

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

**APPLICATION FOR ZONING AMENDMENT**

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

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

1) Description of property for which amendment is requested:

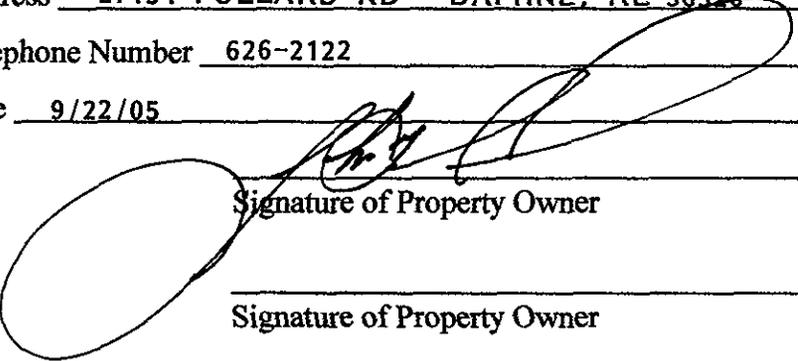
- a) Address LOT 29 OF PECAN TRACE
- b) Name of Subdivision LOT 29 OF PECAN TRACE
- c) Lot numbers involved in change LOT 29
- d) Total acreage of change 0.37 AC
- e) Recorded in Map Book \_\_\_\_\_ Page \_\_\_\_\_
- f) Owned in whole by the undersigned? YES
- g) If owned in part, name(s) of co-owner(s) :  
N/A

2) Zoning change requested:

- a) Present classification of property R-4 SINGLE FAMILY
- b) Reclassification desired B-2
- c) Character of neighborhood R-4 SINGLE FAMILY RESIDENTIAL & B-2 BUSINESS

3) Certifications:

- a) Owner's Name A & B-10, LLC
- b) Address 27154 POLLARD RD DAPHNE, AL 36526
- c) Telephone Number 626-2122
- d) Date 9/22/05

  
Signature of Property Owner

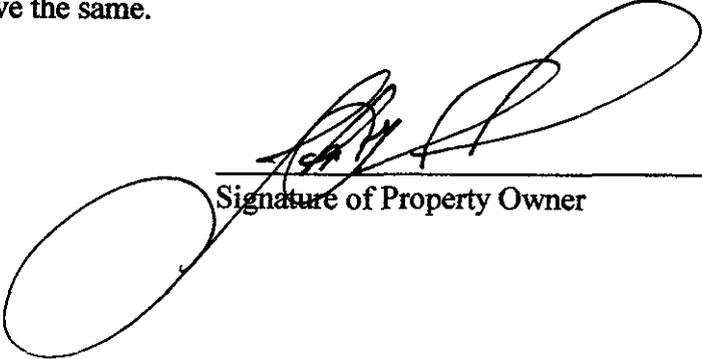
\_\_\_\_\_  
Signature of Property Owner

**AGREEMENT**

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

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

9/26/05  
Date

  
Signature of Property Owner

**A & B - 10, LLC  
ZONING AMENDMENT**

**EXHIBIT "A"**

**LEGAL DESCRIPTION:**

LOT 29, PECAN TRACE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2178-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA. TRACT CONTAINS 0.37 ACRES, MORE OR LESS, AND LIES IN SOUTHWEST QUARTER SECTION 16, TOWNSHIP 5 SOUTH, RANGE 2 EAST.

REFERENCE: LOT 29, PECAN TRACE SUBDIVISION

ZONED R-4  
650 AC

POLLARD ROAD  
(PAVED ROAD)  
60' RIGHT-OF-WAY



ZONED B-2  
320 AC ±

PECAN COURT  
(PAVED ROAD)  
60' RIGHT-OF-WAY

ZONED R-4  
743 AC

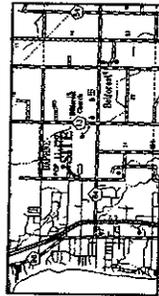
ZONED R-4  
0.37 AC  
ZONE B-2  
PROPOSED

COMMON AREA 1  
PECAN TRACE  
(SLIDE FILE 2178-D)

ZONED B-2  
130 AC ±

PECAN TRACE  
RIGHT-OF-WAY  
60' ±  
0.39 AC ±

PERMANENT BOUNDARY OF THE CITY OF FORT  
WORTH  
1.9 AC



# LOT 29

Pecan Trace Subdivision

# REZONING SKETCH

## EXHIBIT "B"

SEPTEMBER 22, 2005 - SHEET 1 OF 1 SHEETS

ENGINEERING DEVELOPMENT SERVICES, LLC  
1000 W. WOODWAY, SUITE 100, FORT WORTH, TEXAS 76102  
(817) 342-1000

PROPOSED 60' RIGHT-OF-WAY FOR POLLARD ROAD  
PROPOSED 60' RIGHT-OF-WAY FOR PECAN COURT

PERMANENT BOUNDARY OF THE CITY OF FORT  
WORTH  
0.17 AC

**ADJACENT PROPERTY OWNERS  
RESUBDIVISION OF LOT 29, PECAN TRACE**

Montgomery, Carolyn W  
P O Box 2682  
Daphne, AL 36526

Utilities Board of The City of Foley  
P O Drawer 550  
Foley, AL 36535

Pollard Road LLC  
P O Box 1044  
Daphne, AL 36526

Pecan Trace Property Owners Association, Inc.  
P O Box 1629  
Foley, Alabama 36536

Autry, Earsley L & Cora  
PO Box 123  
Roanoke, AL 36274

PLEASE PUBLISH in the Bulletin Legal Section on **Wednesday, November 9, 2005.**

**FIRST NOTICE OF PUBLIC HEARING**

Notice is hereby give the first time that the City Council of the City of Daphne will hold a **Public Hearing on December 5, 2005 at 6:30 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama.** The public is welcome to attend and offer comments opposing or favoring a proposed Ordinance rezoning certain property from R-4 High Density Single and Multi-Family Residential District to B-2 General Business District as presented below. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.

**PROPOSED ORDINANCE:**

**ORDINANCE NO. 2005 -**

**Ordinance to Rezone Property Located Southeast corner of the intersection of Pecan Court and Pollard Road (0.38+/- Acres)  
A & B-10, LLC**

**WHEREAS,** the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-4, High Density Single and Multi-Family Residential District, to B-2, General Business District, said property is located at the Southeast corner of the intersection of Pecan Court and Pollard Road in Daphne, Alabama, being more particularly described as follows:

**LEGAL PROPERTY DESCRIPTION**

LOT 29, PECAN TRACE SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2178-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA. TRACT CONTAINS 0.37 ACRES, MORE OR LESS, AND LIES IN SOUTHWEST QUARTER SECTION 16, TOWNSHIP 5 SOUTH, RANGE 2 EAST.

**WHEREAS,** the Planning Commission of the City of Daphne on October 27, 2005 has considered said request and set forth affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

**WHEREAS,** after proper publication, a public hearing was held by the City Council on Monday, December 5, 2005 concerning the requested rezoning.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA,** that said property described above is hereby rezoned from R-4, High Density Single and Multi-Family Residential District, to B-2, General Business District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS day    day of                    , 2005.**

**Greg Burnam  
Council President**

**Fred Small  
Mayor**

**ATTEST:**

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

To: Office of the City Clerk  
From: William H. Eady, Sr.,  
Director of Community  
Development  
Subject: Annexation for Malbis  
Plantation, Inc.

## MEMORANDUM

Date: October 28, 2005

At the regular meeting of the City of Daphne Planning Commission, October 27, 2005, seven members were present and the vote was unanimous for the affirmative recommendation of the above-mentioned petition.

Upon receipt of said documentation, please set the public hearing, advertise, and place on the appropriate agenda for action by the City Council on December 5, 2005.

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

Thank you,

WHE/jd

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

STATE OF ALABAMA

COUNTY OF BALDWIN

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

( MALBIS PLANTATION, INC. )

The undersigned, William J. Scourtes, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as Malbis Plantation (Portion of) to be annexed into the City of Daphne, a municipal corporation incorporated under the laws of the State of Alabama, and submits the following in support of its petition:

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

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

William J. Scourtes Acting On Behalf

3. **Owner:** The Petitioner, of Malbis Plantation, Inc., is the owner of the Property hereby sought to be annexed into the corporate limits of the City of Daphne.

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

R-3. This site is proposed to be used by Daphne Utilities.  
Currently, a water storage tank is proposed to be constructed  
with the possibility of future water production wells and water  
treatment facilities for the wells.

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

DATED this 6TH day of OCTOBER,  
2005.

Respectfully submitted,

By: [Signature]

STATE OF ALABAMA  
COUNTY OF BALDWIN

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

GIVEN under my hand and official seal on this the 6TH day of OCTOBER, 2005.

[Signature] (NOTARY SEAL)  
NOTARY PUBLIC  
My commission expires: 5/2/09

**MALBIS PLANTATION, INC.  
ANNEXATION**

**EXHIBIT "A"**

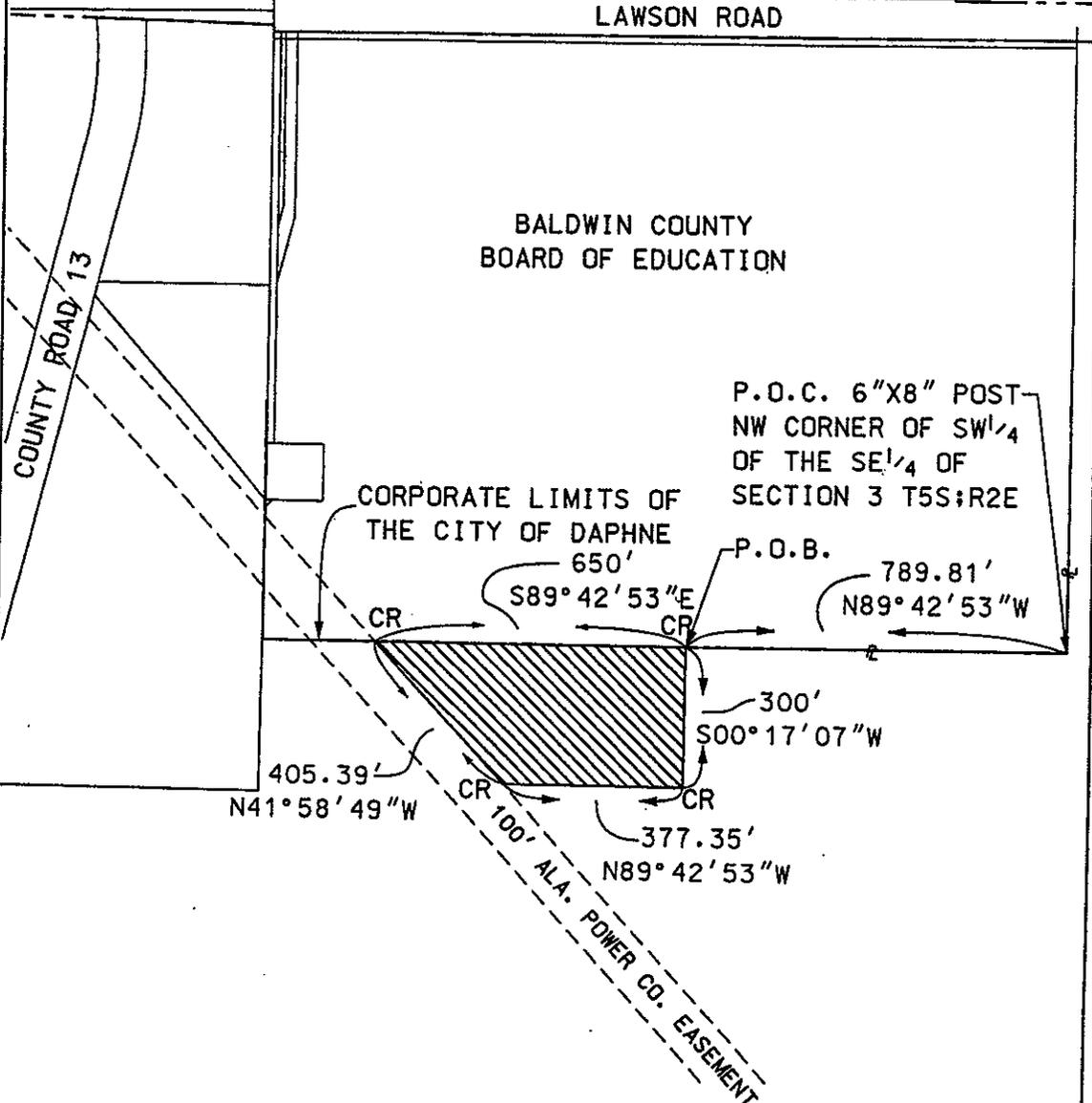
**DESCRIPTION OF PROPERTY:**

COMMENCING AT A 6"X8" POST MARKING THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 2 EAST; THENCE N89°42'53"W ALONG THE SOUTH PROPERTY LINE OF THE PROPERTY NOW OR FORMERLY OWNED BY THE BALDWIN COUNTY BOARD OF EDUCATION A DISTANCE OF 798.81 FEET TO A CAPPED ROD AND THE POINT OF BEGINNING; S00°17'07"W A DISTANCE OF 300 FEET TO A CAPPED ROD; THENCE N89°42'53"W A DISTANCE OF 377.35 FEET TO A CAPPED ROD AND THE EAST LINE OF AN EXISTING 100 FOOT ALABAMA POWER EASEMENT; THENCE N41°58'49"W ALONG SAID NORTH LINE OF SAID ALABAMA POWER EASEMENT A DISTANCE OF 405.39 FEET TO A CAPPED ROD AND THE SOUTH PROPERTY LINE OF THE PROPERTY NOW OR FORMERLY OWNED BY THE BALDWIN COUNTY BOARD OF EDUCATION; THENCE S89°42'53"E ALONG SAID SOUTH LINE OF SAID PROPERTY A DISTANCE OF 650 FEET TO THE POINT OF BEGINNING, CONTAINING 3.54 ACRES, MORE OR LESS.

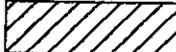
REFERENCE: DAPHNE UTILITIES

EXHIBIT "B"

SECTION 3, TOWNSHIP 5 SOUTH, RANGE 2 EAST  
BALDWIN COUNTY, ALABAMA



LEGEND

PROPOSED SITE 

P.O.C. POINT OF COMMENCING

P.O.B. POINT OF BEGINNING

C.R. CAPPED ROD

<sup>141</sup> P PROPERTY LINE

PROJECT NO. 408106.10

COUNTY BALDWIN

TRACT NO. 01

OWNER MALBIS PLANTATION, INC.

PLEASE PUBLISH in the Bulletin Legal Section on **Wednesday, November 9, 2005.**

**FIRST NOTICE OF PUBLIC HEARING**

Notice is hereby give the first time that the City Council of the City of Daphne will hold a Public Hearing on December 5, 2005 at 6:30 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama. The public is welcome to attend and offer comments opposing or favoring a proposed annexation of property as presented below. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.

**PROPOSED ORDINANCE:**

**ORDINANCE NO. 2005-**

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE LIMITS  
OF THE MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA  
Water Tank Site – Malbis Plantation**

**(Property located at the Southeast of the intersection of Lawson Road and County Road 13)**

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

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

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

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

**WHEREAS**, said petition has been presented to the Planning Commission of the City of Daphne on October 27, 2005 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned R-3, High Density Single Family Resident , zone**; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on December 5, 2005 concerning the petition for annexation; and,

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

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

**DESCRIPTION OF PROPERTY:**

COMMENCING AT A 6"X8" POST MARKING THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 2 EAST; THENCE N89°42'53"W ALONG THE SOUTH PROPERTY LINE OF THE PROPERTY NOW OR FORMERLY OWNED BY THE BALDWIN COUNTY BOARD OF EDUCATION A DISTANCE OF 798.81 FEET TO A CAPPED ROD AND THE POINT OF BEGINNING; S00°17'07"W A DISTANCE OF 300 FEET TO A CAPPED ROD; THENCE N89°42'53"W A DISTANCE OF 377.35 FEET TO A CAPPED ROD AND THE EAST LINE OF AN EXISTING 100 FOOT ALABAMA POWER EASEMENT; THENCE N41°58'49"W ALONG SAID NORTH LINE OF SAID ALABAMA POWER EASEMENT A DISTANCE OF 405.39 FEET TO A CAPPED ROD AND THE SOUTH PROPERTY LINE OF THE PROPERTY NOW OR FORMERLY OWNED BY THE BALDWIN COUNTY BOARD OF EDUCATION; THENCE S89°42'53"E ALONG SAID SOUTH LINE OF SAID PROPERTY A DISTANCE OF 650 FEET TO THE POINT OF BEGINNING, CONTAINING 3.54 ACRES, MORE OR LESS.

REFERENCE: DAPHNE UTILITIES

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

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

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

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

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

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

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

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

**ATTEST:**

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



PLEASE PUBLISH in the Bulletin Legal Section on **Wednesday, November 9, 2005.**

**FIRST NOTICE OF PUBLIC HEARING**

Notice is hereby give the first time that the City Council of the City of Daphne will hold a Public Hearing on December 5, 2005 at 6:30 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama. The public is welcome to attend and offer comments opposing or favoring a proposed annexation of property as presented below. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.

**PROPOSED ORDINANCE:**

**ORDINANCE NO. 2005-**

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE LIMITS  
OF THE MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA  
Water Tank Site – Malbis Plantation**

**(Property located at the Southeast of the intersection of Lawson Road and County Road 13)**

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

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

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

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

**WHEREAS**, said petition has been presented to the Planning Commission of the City of Daphne on October 27, 2005 and a affirmative recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned R-3, High Density Single Family Resident , zone**; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on December 5, 2005 concerning the petition for annexation; and,

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

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

**DESCRIPTION OF PROPERTY:**

COMMENCING AT A 6"X8" POST MARKING THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 2 EAST; THENCE N89°42'53"W ALONG THE SOUTH PROPERTY LINE OF THE PROPERTY NOW OR FORMERLY OWNED BY THE BALDWIN COUNTY BOARD OF EDUCATION A DISTANCE OF 798.81 FEET TO A CAPPED ROD AND THE POINT OF BEGINNING; S00°17'07"W A DISTANCE OF 300 FEET TO A CAPPED ROD; THENCE N89°42'53"W A DISTANCE OF 377.35 FEET TO A CAPPED ROD AND THE EAST LINE OF AN EXISTING 100 FOOT ALABAMA POWER EASEMENT; THENCE N41°58'49"W ALONG SAID NORTH LINE OF SAID ALABAMA POWER EASEMENT A DISTANCE OF 405.39 FEET TO A CAPPED ROD AND THE SOUTH PROPERTY LINE OF THE PROPERTY NOW OR FORMERLY OWNED BY THE BALDWIN COUNTY BOARD OF EDUCATION; THENCE S89°42'53"E ALONG SAID SOUTH LINE OF SAID PROPERTY A DISTANCE OF 650 FEET TO THE POINT OF BEGINNING, CONTAINING 3.54 ACRES, MORE OR LESS.

REFERENCE: DAPHNE UTILITIES

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

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

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

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

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

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

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

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

**ATTEST:**

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



PLEASE PUBLISH in the Bulletin Legal Section on **Wednesday November 16, 2005.**

**SECOND NOTICE OF PUBLIC HEARING**

Notice is hereby give the second time that the City Council of the City of Daphne will hold a Public Hearing on December 5, 2005 at 6:30 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama. The public is welcome to attend and offer comments opposing or favoring a proposed annexation of property as presented below. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.

**PROPOSED ORDINANCE:**

**ORDINANCE NO. 2005-**

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE  
LIMITS  
OF THE MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA  
Water Tank Site – Malbis Plantation**

**(Property located at the Southeast of the intersection of Lawson Road and County Road  
13)**

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

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

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

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

**WHEREAS**, said petition has been presented to the Planning Commission of the City of Daphne on October 27, 2005 and a affirmative recommendation was **approved** for the

City Council to consider said request for annexation and said property **shall be zoned R-3, High Density Single Family Resident , zone**; and,

**/END SYNOPSIS**

To: Office of the City Clerk  
From: William H. Eady, Sr.,  
Director of Community  
Development  
Subject: Zoning Amendment for Country  
Club Development, LLC

## MEMORANDUM

Reference: A portion of  
Bellaton Subdivision, Phase  
Two

Date: October 28, 2005

At the regular meeting of the City of Daphne Planning Commission, October 27, 2005, seven members were present and the vote was unanimous for the affirmative recommendation of the above-mentioned petition.

Upon receipt of said documentation, please set the public hearing, advertise, and place on the appropriate agenda for action by the City Council on December 5, 2005.

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

Thank you,

WHE/jd

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



APPLICATION FOR ZONING AMENDMENT

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

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

1) Description of property for which amendment is requested:

- a) Address \_\_\_\_\_
- b) Name of Subdivision TO BE KNOWN AS BELLATON, PHASE TWO
- c) Lot numbers involved in change \_\_\_\_\_
- d) Total acreage of change 2.88 AC
- e) Recorded in Map Book IN Page 807984
- f) Owned in whole by the undersigned? YES
- g) If owned in part, name(s) of co-owner(s) :  
N/A

2) Zoning change requested:

- a) Present classification of property R-3
- b) Reclassification desired PLANNED UNIT DEVELOPMENT - B-1
- c) Character of neighborhood FARMLAND, ORCHARD, R-3 SINGLE FAMILY RESIDENTIAL

3) Certifications:

- a) Owner's Name COUNTRY CLUB DEVELOPMENT, LLC
- b) Address 22881 US HWY 98 BLDG. J FAIRHOPE, AL 36532
- c) Telephone Number 928-0700
- d) Date SEPTEMBER 22, 2005

Signature of Property Owner

Signature of Property Owner

**AGREEMENT**

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

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

9/26/85

\_\_\_\_\_  
Date



\_\_\_\_\_  
Signature of Property Owner

**COUNTRY CLUB DEVELOPMENT, LLC**

**ZONING AMENDMENT**

**EXHIBIT "A"**

COMMENCE AT THE "LOCALLY ACCEPTED" NORTH QUARTER CORNER OF SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN AND RUN SOUTH 00 DEGREES 17 MINUTES 17 SECONDS WEST, A DISTANCE OF 664.23 FEET; THENCE RUN SOUTH 89 DEGREES 36 MINUTES 47 SECONDS EAST, A DISTANCE OF 99.98 FEET; THENCE RUN SOUTH 58 DEGREES 51 MINUTES 38 SECONDS EAST, A DISTANCE OF 59.28 FEET; THENCE RUN SOUTH 87 DEGREES 41 MINUTES 05 SECONDS EAST, A DISTANCE OF 585.09 FEET; THENCE RUN SOUTH 89 DEGREES 36 MINUTES 47 SECONDS EAST, A DISTANCE OF 1460.45 FEET; THENCE RUN SOUTH 00 DEGREES 23 MINUTES 13 SECONDS WEST, A DISTANCE OF 190.00 FEET FOR A POINT OF BEGINNING THENCE RUN SOUTH 00 DEGREES 23 MINUTES 13 SECONDS WEST, A DISTANCE OF 140.00 FEET; THENCE RUN NORTH 89 DEGREES 36 MINUTES 47 SECONDS WEST, A DISTANCE OF 217.93 FEET; THENCE RUN SOUTH 05 DEGREES 39 MINUTES 45 SECONDS WEST, A DISTANCE OF 163.73 FEET; THENCE RUN SOUTH 06 DEGREES 46 MINUTES 50 SECONDS EAST, A DISTANCE OF 182.85 FEET; THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1090.34 FEET, AN ARC DISTANCE OF 84.91 FEET, (CHORD BEARS NORTH 74 DEGREES 10 MINUTES 09 SECONDS EAST, 84.89 FEET); THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1230.00 FEET , AN ARC DISTANCE OF 231.96 FEET, (CHORD BEARS NORTH 77 DEGREES 20 MINUTES 27 SECONDS EAST, 231.61 FEET); THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET , AN ARC DISTANCE OF 37.59 FEET, (CHORD BEARS NORTH 39 DEGREES 40 MINUTES 24 SECONDS EAST, 34.14 FEET); THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 775.24 FEET , AN ARC DISTANCE OF 210.66 FEET, (CHORD BEARS NORTH 04 DEGREES 23 MINUTES 17 SECONDS EAST, 210.02 FEET); THENCE RUN NORTH 12 DEGREES 10 MINUTES 22 SECONDS EAST, A DISTANCE OF 145.49 FEET; THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, AN ARC DISTANCE OF 44.41 FEET, (CHORD BEARS NORTH 38 DEGREES 43 MINUTES 12 SECONDS WEST, 38.80 FEET); THENCE RUN NORTH 89 DEGREES 36 MINUTES 47 SECONDS WEST, A DISTANCE OF 138.50 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 2.88 ACRES, MORE OR LESS, AND LIES IN SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

**REFERENCE: BELLATON, PHASE TWO**



**ADJACENT PROPERTY OWNERS  
BELLATON, PHASE TWO  
REZONING (B-1)**

**BERTOLLA PROPERTIES LLC  
P O BOX 1527  
DAPHNE, AL 36526**

**BONI, LOUIS JR  
11582 LISA COURT  
FAIRHOPE, AL 36532**

**CORTE, FRED L  
P O BOX 1156  
FAIRHOPE, AL 36533**

**COUNTRY CLUB DEVELOPMENT, LLC  
200 ROCK CREEK PARKWAY  
FAIRHOPE, AL 36532**

PLEASE PUBLISH in the Bulletin Legal Section on **Wednesday, November 9, 2005.**

**FIRST NOTICE OF PUBLIC HEARING**

**Notice is hereby give the first time that the City Council of the City of Daphne will hold a Public Hearing on December 5, 2005 at 6:30 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama. The public is welcome to attend and offer comments opposing or favoring a proposed Ordinance rezoning certain property from R-3 High Density Single Family Residential District to B-1 Local Business District as presented below. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.**

**PROPOSED ORDINANCE:**

**ORDINANCE NO. 2005 -**

**Ordinance to Rezone Property Located on Alabama Highway 181 across  
from Austin Road (2.88+/- Acres)  
Country Club Development, LLC**

**WHEREAS**, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-3, High Density Single Family Residential District, to B-1, Local Business District, said property is located on Alabama Highway 181 across from Austin Road in Daphne, Alabama, being more particularly described as follows:

**LEGAL PROPERTY DESCRIPTION**

COMMENCE AT THE "LOCALLY ACCEPTED" NORTH QUARTER CORNER OF SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN AND RUN SOUTH 00 DEGREES 17 MINUTES 17 SECONDS WEST, A DISTANCE OF 664.23 FEET; THENCE RUN SOUTH 89 DEGREES 36 MINUTES 47 SECONDS EAST, A DISTANCE OF 99.98 FEET; THENCE RUN SOUTH 58 DEGREES 51 MINUTES 38 SECONDS EAST, A DISTANCE OF 59.28 FEET; THENCE RUN SOUTH 87 DEGREES 41 MINUTES 05 SECONDS EAST, A DISTANCE OF 585.09 FEET; THENCE RUN SOUTH 89 DEGREES 36 MINUTES 47 SECONDS EAST, A DISTANCE OF 1460.45 FEET; THENCE RUN SOUTH 00 DEGREES 23 MINUTES 13 SECONDS WEST, A DISTANCE OF 190.00 FEET FOR A POINT OF BEGINNING THENCE RUN SOUTH 00 DEGREES 23 MINUTES 13 SECONDS WEST, A DISTANCE OF 140.00 FEET; THENCE RUN NORTH 89 DEGREES 36 MINUTES 47 SECONDS WEST, A DISTANCE OF 217.93 FEET; THENCE RUN SOUTH 05 DEGREES 39 MINUTES 45 SECONDS WEST, A DISTANCE OF 163.73 FEET; THENCE RUN SOUTH 06 DEGREES 46 MINUTES 50 SECONDS EAST, A DISTANCE OF 182.85 FEET; THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1090.34 FEET, AN ARC DISTANCE OF 84.91 FEET, (CHORD BEARS NORTH 74 DEGREES 10 MINUTES

09 SECONDS EAST, 84.89 FEET); THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1230.00 FEET , AN ARC DISTANCE OF 231.96 FEET, (CHORD BEARS NORTH 77 DEGREES 20 MINUTES 27 SECONDS EAST, 231.61 FEET); THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET , AN ARC DISTANCE OF 37.59 FEET, (CHORD BEARS NORTH 39 DEGREES 40 MINUTES 24 SECONDS EAST, 34.14 FEET); THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 775.24 FEET , AN ARC DISTANCE OF 210.66 FEET, (CHORD BEARS NORTH 04 DEGREES 23 MINUTES 17 SECONDS EAST, 210.02 FEET); THENCE RUN NORTH 12 DEGREES 10 MINUTES 22 SECONDS EAST, A DISTANCE OF 145.49 FEET; THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, AN ARC DISTANCE OF 44.41 FEET, (CHORD BEARS NORTH 38 DEGREES 43 MINUTES 12 SECONDS WEST, 38.80 FEET); THENCE RUN NORTH 89 DEGREES 36 MINUTES 47 SECONDS WEST, A DISTANCE OF 138.50 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 2.88 ACRES, MORE OR LESS, AND LIES IN SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

**WHEREAS**, the Planning Commission of the City of Daphne on October 27, 2005 has considered said request and set forth affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

**WHEREAS**, after proper publication, a public hearing was held by the City Council on Monday, December 5, 2005 concerning the requested rezoning.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, that said property described above is hereby rezoned from R-3, High Density Single Family Residential District, to B-1, Local Business District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS day    day of                    , 2005.**

**Greg Burnam  
Council President**

**Fred Small  
Mayor**

**ATTEST:**

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

PLEASE PUBLISH in the Bulletin Legal Section on **Wednesday November 16, 2005.**

**SECOND NOTICE OF PUBLIC HEARING**

Notice is hereby give the second time that the City Council of the City of Daphne will hold a Public Hearing on December 5, 2005 at 6:30 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama. The public is welcome to attend and offer comments opposing or favoring a proposed Ordinance for rezoning certain property from R-3, High Density Single Family Residential District to B-1 Local Business District. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.

**PROPOSED ORDINANCE:**

**ORDINANCE NO. 2005 -**

**Ordinance to Rezone Property Located on Alabama Highway 181 across  
from Austin Road (2.88+/- Acres)  
Country Club Development, LLC**

**WHEREAS**, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from R-3, High Density Single Family Residential District, to B-1, Local Business District, said property is located on Alabama Highway 181 across from Austin Road in Daphne, Alabama, being more particularly described as follows:

**LEGAL PROPERTY DESCRIPTION**

COMMENCE AT THE "LOCALLY ACCEPTED" NORTH QUARTER CORNER OF SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SAINT STEPHENS MERIDIAN AND RUN SOUTH 00 DEGREES 17 MINUTES 17 SECONDS WEST, A DISTANCE OF 664.23 FEET; THENCE RUN SOUTH 89 DEGREES 36 MINUTES 47 SECONDS EAST, A DISTANCE OF 99.98 FEET; THENCE RUN SOUTH 58 DEGREES 51 MINUTES 38 SECONDS EAST, A DISTANCE OF 59.28 FEET; THENCE RUN SOUTH 87 DEGREES 41 MINUTES 05 SECONDS EAST, A DISTANCE OF 585.09 FEET; THENCE RUN SOUTH 89 DEGREES 36 MINUTES 47 SECONDS EAST, A DISTANCE OF 1460.45 FEET; THENCE RUN SOUTH 00 DEGREES 23 MINUTES 13 SECONDS WEST, A DISTANCE OF 190.00 FEET FOR A POINT OF BEGINNING THENCE RUN SOUTH 00 DEGREES 23 MINUTES 13 SECONDS WEST, A DISTANCE OF 140.00 FEET; THENCE RUN NORTH 89 DEGREES 36 MINUTES 47 SECONDS WEST, A DISTANCE OF 217.93 FEET; THENCE RUN SOUTH 05 DEGREES 39 MINUTES 45 SECONDS WEST, A DISTANCE OF 163.73 FEET; THENCE RUN SOUTH 06 DEGREES 46 MINUTES 50

SECONDS EAST, A DISTANCE OF 182.85 FEET; THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1090.34 FEET, AN ARC DISTANCE OF 84.91 FEET, (CHORD BEARS NORTH 74 DEGREES 10 MINUTES 09 SECONDS EAST, 84.89 FEET); THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1230.00 FEET , AN ARC DISTANCE OF 231.96 FEET, (CHORD BEARS NORTH 77 DEGREES 20 MINUTES 27 SECONDS EAST, 231.61 FEET); THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET , AN ARC DISTANCE OF 37.59 FEET, (CHORD BEARS NORTH 39 DEGREES 40 MINUTES 24 SECONDS EAST, 34.14 FEET); THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 775.24 FEET , AN ARC DISTANCE OF 210.66 FEET, (CHORD BEARS NORTH 04 DEGREES 23 MINUTES 17 SECONDS EAST, 210.02 FEET); THENCE RUN NORTH 12 DEGREES 10 MINUTES 22 SECONDS EAST, A DISTANCE OF 145.49 FEET; THENCE RUN ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, AN ARC DISTANCE OF 44.41 FEET, (CHORD BEARS NORTH 38 DEGREES 43 MINUTES 12 SECONDS WEST, 38.80 FEET); THENCE RUN NORTH 89 DEGREES 36 MINUTES 47 SECONDS WEST, A DISTANCE OF 138.50 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 2.88 ACRES, MORE OR LESS, AND LIES IN SECTION 27, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

**WHEREAS**, the Planning Commission of the City of Daphne on October 27, 2005 has considered said request and set forth affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

**/END SYNOPSIS**

## Utilities Board Meeting of the City of Daphne

---

CITY COUNCIL CHAMBERS  
SEPTEMBER 28, 2005  
6:00 P.M.

### I. Call to Order

The Utility Board Meeting was called to order by the Chairman, Robert Segalla at 6:00 p.m. on September 28, 2005. Mr. Segalla stated that Daphne Utility's sympathy is with Ron Scott and his family due to the loss of his mother.

### II. Roll Call

Present: Robert Segalla, Lon Johnston, Mayor Fred Small

Absent: Bob Patterson, Ron Scott

Others Present: Lloyd Taylor, Rob McElroy, Stan Clayton, Stephnie Merchant, Rebecca Williamson, Deloris Brown, Ed Bellue, Ray Moore, Melinda Immel, Tim Patton, Don Boone

### III. Pledge of Allegiance

### IV. Approval of Minutes – July 27, 2005

The Board reviewed the minutes from the July 27 meeting.

Mr. Johnston motioned to approve the minutes from the July 27 Board Meeting; Mayor Small seconded the motion and all concurred.

### V. Old Business

#### A. Agenda – August 31, 2005

Mr. Segalla requested that the Board elect the officers.

Mr. Johnson nominated Mr. Segalla as Chairman and all were in favor. Mr. Segalla nominated Mr. Johnston as Vice Chairman and all were in favor. Mr. Segalla nominated Mr. Ron Scott as Secretary/Treasurer and all were in favor. RETRACTION VIA E-VOTE: Mr. Scott was nominated for the position of Vice Chairman and all were in favor. Mr. Scott was nominated for the position of Secretary/Treasurer and all were in favor.

Mr. Don Boone of Riviera Utilities discussed the land swap proposal between Daphne Utilities and Riviera Utilities. Mr. Boone requested adoption of a resolution to approve the land swap agreement.

Mr. Boone requested permission to begin work on the property. The Board attorney was in approval of the request and the Board granted permission for Riviera to be working on the property.

Mr. Johnson motioned to approve the land swap with Riviera Utilities as outlined in the agreement prepared by the Board attorney and that a resolution will be adopted by the Board; Mayor Small seconded the motion and all were in favor.

Mr. Segalla commended Mr. McElroy and Mr. Clayton for their excellent work on the Bass Pro Shop project.

Mr. Segalla commended all the employees who participated in the *Kids Fun Time* event for the evacuee children at the Daphne Civic Center shelter.

The Board reviewed the status of the Fire Hydrant maintenance program.

Mr. McElroy updated the Board on the status of July 2005 financials. Mr. Segalla informed the Board that the rate increase produced an additional \$400,000+ for the months of June, July and August 2005.

## **VI. New Business**

### **A. Natural Gas Proposals**

The Board discussed the natural gas proposals for Riverview Road and Malbis.

Mr. Johnston motioned to approve the natural gas project for Riverview Road; Mayor Small seconded the motion and all were in favor.

## **VII. Finance Reports**

Mrs. Williamson reviewed the financial reports for August 2005 with the Board.

## **VIII. General Managers Report**

### **A. Administration**

Mr. McElroy informed the Board that FEMA reimbursement was requested from Hurricane Dennis for \$21,000, and estimated Katrina expenses to be approximately \$75,000. He updated the Board on the status of the web site improvements. He updated the Board on the status of vacant positions and hiring process, and reviewed the status of the vehicle purchase and maintenance program.

**B. Operations**

Mr. Clayton advised the Board that they were actively pursuing new users for the bio-solids produced at the WWTF. He informed the Board that 118 gallons of grease was recycled during the month of August. The Board discussed the accountability/payment process for septic disposals at the WWTF. Mr. McElroy credited the program to Manager, Kevin Bryant and informed the Board that it would generate approximately \$100,000 this year which would be used for plant improvements and maintenance. Mr. Clayton recognized Mr. Bryant for the bio-diesel program utilizing the recycled cooking oil. He updated the Board on the status of federal funding for emergency generators. He informed the Board that gas prices had been locked in at \$11.92 for a three month period. Mr. McElroy advised the Board that a mail out would be going to gas customers regarding stabilization of the gas pricing. Mr. Clayton updated the Board on booster station issues during the recent dry period. Mr. Segalla stated that addition generators should be acquired for the lift stations. Mr. McElroy advised the Board that they were working on a grant for obtaining a side stream storage tank at the treatment plant.

**IX. Resolutions/Board Action Required**

**A. Sanitary Sewer Pretreatment Program – Resolution No. 2005-11**

The Board reviewed and discussed the Sanitary Sewer Pretreatment Program and implementation of the program for existing businesses (Grease Resolution).

Mayor Small motioned to adopt the Sanitary Sewer Pretreatment Resolution; Mr. Johnston seconded the motion and all were in favor.

**B. Sanitary Sewer Infiltration Prevention Program – Resolution No. 2005-10**

The Board reviewed and discussed the Sanitary Sewer Infiltration Prevention Program.

Mayor Small motioned to adopt the Sanitary Sewer Pretreatment Resolution; Mr. Johnston seconded the motion and all were in favor.

**C. Employee Handbook – Resolution No. 2005-12**

Mr. Johnston motioned to adopt the personnel handbook; Mayor Small seconded the motion and all were in favor.

**X. Public Participation**

A. Richard Fine – Fine Enterprises

Mr. Segalla stated that Mr. Fine had requested to be placed on the agenda, but that he did not come to the meeting.

**XI. Board Comments**

Mr. Johnston requested a printout of Board member terms. Mr. Segalla reviewed the terms of the Board.

**XII. Executive Session**

The Board went into executive session at 6:06 p.m. to discuss legal issues and reconvened at 6:29 p.m.

**XIII. Adjournment**

Mr. Johnston motioned to adjourn at 7:17 p.m.

**CITY COUNCIL MEETING  
MAYOR'S REPORT**

**NOTES:**

**CITY ATTORNEY'S REPORT**

**NOTES:**

**DEPARTMENT HEAD'S COMMENTS**

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

**NOTES:**

RECOMMENDATIONS

**COUNCIL COMMENTS:**

**CITY OF DAPHNE  
RESOLUTION NO. 2005-74**

---

**A RESOLUTION AMENDING THE CITY OF DAPHNE PERSONNEL  
HANDBOOK TO ESTABLISH AN ACCRUAL OF VACATION  
LEAVE FOR FIREFIGHTERS IN THE CITY OF DAPHNE**

---

**WHEREAS**, the City Council of the City of Daphne recognizes that the City of Daphne Fire Department members work shifts of 24 hours when on duty, and;

**WHEREAS**, the City Council of the City of Daphne recognizes that a city fire fighter works 2,808 hours per year as opposed to a regular city employee who works 2,080 hours per year, thereby resulting in increased time worked on an annual basis and increased time lost resulting from a “sick day”, and;

**WHEREAS**, the City Council of the City of Daphne recognizes that an inequity arises in the calculation of vacation and sick time benefits earned by city firefighters because of the unique work hours/shifts worked by these employees, and;

**WHEREAS**, the City Council of the City of Daphne, Alabama has determined that in order to rectify this inequity, the personnel manual for the city of Daphne, applying to Fire Fighters should be amended to allow the Fire fighters of the City of Daphne to be afforded a different basis for calculating vacation time and sick leave for said firefighters,

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

**SECTION ONE:                   DEFINITIONS**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Eligible Employees** means any employee whose work schedule is 2,808 hours per year.

**SECTION TWO:    AMENDMENT OF §9.4.2.3 PERSONNEL HANDBOOK**

That Section 9.4.2.3 of the CITY OF DAPHNE PERSONNEL HANDBOOK having been previously amended by City Resolution 1995-13, entitled “Change No. 1”, is hereby amended by adding the following language at the end of paragraph one (1) of “Change 1”, as stated in City of Daphne Resolution 1995-13, as follows:

**9.4.2.3       Accrual of Vacation Leave.** All eligible employees will earn vacation leave for each full leave year (January 1 – December 31) that they work. The amount of leave earned each year will be based on the employee’s continuous

years of service and either 2080 or 2808 annual hours in accordance with the following criteria.

Continuous Years of Service	% X 2080	Hours Earned Per Year
0 thru 9 years	.0385 per hour	80 hours per year
10 thru 14 years	.0577 per hour	120 hours per year
15 thru 24 years	.0769 per hour	160 hours per year
Over 24 years	.0962 per hour	200 hours per year

Continuous Years of Service	% X 2808	Hours Earned Per Year
0 thru 9 years	.0385 per hour	108 hours per year
10 thru 14 years	.0577 per hour	162 hours per year
15 thru 24 years	.0769 per hour	216 hours per year
Over 24 years	.0962 per hour	270 hours per year

All remaining portions of "Change No. 1" as expressed in City Resolution 1995-13 remain in full force and effect.

### **SECTION THREE: AMENDMENT OF §9.4.3.1 PERSONNEL HANDBOOK**

That Section 9.4.3.1 of the CITY OF DAPHNE PERSONNEL HANDBOOK is hereby deleted in its entirety and is replaced by the following language:

**9.4.3.1 Accrual of Sick Leave.** Unclassified and classified employees based on 2080 annual hours will earn sick leave credit at the rate of 3.08 hours per pay period for a total of 80 hours per year. Unclassified and classified employees based on 2,808 annual hours will earn sick leave credit at the rate of 9 hours per month for a total of 108 hours per year. However, an eligible employee will not earn any sick leave credit for any month in which he is in a non-pay status for more than ten (10) working days during the month. An eligible employee may accrue up to a maximum of one thousand four hundred forty (1,440) hours of sick leave credit.

### **SECTION FOUR: REPEALER**

All City resolutions or part(s) thereof in conflict with the provisions of this resolution, and so far as they conflict are hereby repealed.

### **SECTION FIVE: SEVERABILITY**

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

### **SECTION SIX: EFFECTIVE DATE**

This Resolution shall become effective upon approval by the City Council and publication as required by law.

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

\_\_\_\_\_  
**GREG BURNAM**  
**COUNCIL PRESIDENT**  
Date/Time: \_\_\_\_\_

\_\_\_\_\_  
**FRED SMALL**  
**MAYOR**  
Date and Time: \_\_\_\_\_

**ATTEST:**

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

# **CITY OF DAPHNE ORDINANCE NO. 2005 – 55**

---

## **AN ORDINANCE ESTABLISHING PENALTIES AND ENFORCEMENT PROCEDURES FOR VIOLATION OF MUNICIPAL ORDINANCES AND TO REPEAL ORDINANCE NOS. 1998 - 33, 2001 - 01 and 2002 - 21**

---

**WHEREAS**, the City Council of the City of Daphne, Alabama desires to promote the health, welfare and safety of the citizens of Daphne, Alabama, and

**WHEREAS**, the City Council of Daphne, Alabama passed ordinance number 1998-33 and subsequent amendments setting forth a schedule of fines for certain offenses which may be paid without the necessity of appearing before the Municipal Court of Daphne, Alabama, and that such a need still exists for the City, and

**WHEREAS**, the prior ordinances so establishing said schedule of offenses have been amended from time to time and ordinance numbers subject to the schedule of fines have changed themselves through amendments, repeals and the like to such an extent that a re-organization of this ordinance is called for in order to remove confusion in the citation of ordinance numbers, and

**WHEREAS**, the Cit Council of the City of Daphne, Alabama, desires to establish a new Municipal Ordinance Ticket (MOT) Ordinance setting forth the ordinances subject to fines payable without mandatory court appearance, now therefore,

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

### **SECTION 1: PENALTY AND ENFORCEMENT PROCEDURES**

(a) Except as otherwise provided by separate ordinance, any person, firm or corporation committing an offense within the corporate limits of the City or within the police jurisdiction thereof, which is in violation of an ordinance of the city now existing or hereafter enacted shall, upon conviction, be punishable by a fine not to exceed five hundred dollars (\$500.00).

(b) In addition thereto, any person so convicted may be imprisoned or sentenced to hard labor for the city for a period not exceeding six (6) months, at the discretion of the court trying the case.

(c) Except where otherwise provided, every day any violation of such code or any other ordinance of the city or such rule, regulation or order shall continue shall constitute a separate offense.

**SECTION II: VIOLATIONS SUBJECT TO MUNICIPAL OFFENSE TICKET**

(a) Violations of the following municipal laws, as may be amended from time to time, shall be punishable by the issuance of a municipal offense ticket as set out further herein:

1965-10, 1980-03, 1982-01, 1987-10, 1989-04, 1990-12, 1990-15, 1990-16, 1990-18, 1990-22, 1990-25, 1990-28, 1990-29, 1990-31, 1990-35, 1990-36, 1993-10, 1995-08, 1997-03, 1997-27, 1998-29, 2000-06, 2002-02, 2002-22, 2002-26, 2002-30, 2003-31, 2002-34, 2003-03, 2003-11, 2003-17, 2003-25, 2003-32, 2004-05, 2004-10, 2004-14, 2004-23, 2004-48, 2005-01, 2005-07

**SECTION III: SCHEDULE OF FINES**

(a) The following Schedule of Fines is hereby established by the City pursuant to ordinances of the City of Daphne and laws of the State of Alabama. In addition to the fines so established, the defendant shall pay, in addition to such fine amount, any court costs which are in effect at the time such violation occurs. If the defendant elects to plead guilty before a magistrate to a violation of any of the listed municipal laws for which there is a fine set forth in this Section, the fine plus the applicable court costs shall apply in such case. In lieu of appearing before a magistrate, the defendant may sign a guilty plea and waiver of trial provision on the municipal offense ticket, and deliver the amount of the fine plus applicable court costs to the Clerk The Municipal Court or mail such amount to the Clerk Of The Municipal Court at 1502 Highway 98, Daphne, Alabama 36526. In the event the defendant elects to be tried by the Municipal Court, then the defendant shall be subject to such fine and punishment as expressed in section I of this ordinance.

[SEE ATTACHED SCHEDULE OF FINES]

**SECTION IV: PROCEDURE FOR ISSUANCE OF MUNICIPAL OFFENSE TICKET AND DISPOSITION OF CHARGE.**

(a) When any officer, inspector, investigator, auditor or other employee of the City, designated by the City code, ordinance or appointment by the mayor, as an enforcement officer finds any violation or violations of the provision of the municipal law which he is authorized and required to enforce, the City employee may issue, on forms provided by the City, a municipal offense ticket and deliver to the person, firm, or corporation in violation of such municipal law. The

municipal offense ticket shall direct the person or a representative of the firm or corporation, whichever the case may be, to appear in Municipal Court of the City at a time and on a date stated therein to answer the charge or charges for violating such municipal law, which violation shall be stated in the municipal offense ticket. However, in the alternative, if the violation is the first violation of such municipal law by the person, firm, or corporation cited, or if Section III provides a scheduled fine for a second or third offense, then such person, firm, or corporation, may, in lieu of appearing in the Municipal Court pursuant to the municipal offense ticket, pay the appropriate fine and court costs pursuant to the terms stated in section III and on the municipal offense ticket, in addition to either of the following:

(1) Appearing in person before a magistrate, signing the plea of guilty and waiver of trial provision on the ticket or on a form provided by the magistrate and paying the fine and court costs, provided that the magistrate retains a copy of the ticket or such other form; or

(2) Signing the guilty plea and waiver of trial provisions on the ticket and mailing the ticket in the amount of the fine and court costs to the clerk of the court. Remittance by mail of the fine and costs constitutes a guilty plea and waiver of trial, whether or not the guilty plea and waiver of trial provisions on the ticket are signed by the defendant. Should the amount tendered be insufficient, such money received by the magistrate or clerk shall be considered to be a partial payment of the lawful penalty, applied by the clerk to the fines and costs, and disbursed as required by law. The clerk may give notice of such insufficiency, and a supplemental summons or warrant of arrest shall be issued for the offender's arrest, and a judgment shall be entered by the magistrate of court for the balance of the penalty due.

(b) If any person, firm or corporation, so cited shall fail to appear in the Municipal Court of the City at the time and place stated in any municipal offense ticket duly issued or fails to pay the appropriate fine set forth on the municipal offense ticket, as set forth herein, the officer, inspector, investigator, auditor or other employee of the City issuing such citation is hereby authorized and directed to swear out a warrant or execute an affidavit or complaint charging such person, firm or corporation with a violation of the municipal law or laws, listed on such municipal offense ticket.

(c) The officers, inspectors, investigators, auditors, or other employees of the City, designated by law as enforcement officers and authorized to issue the municipal offense tickets as herein provided, are hereby further authorized to swear out warrants or execute affidavits or complaints charging such person(s),

firm, or corporation within a violation of municipal law without having first issued a municipal offense ticket for such violation.

**SECTION V: PENALTIES FOR SUBSEQUENT OFFENSES, FAILURE TO APPEAR, ETC.**

(a) Any person, firm or corporation, receiving a subsequent (second, third or more) municipal offense ticket for violation of a municipal law or laws for which there is no scheduled fine for subsequent (second, third or more) offense, and anyone failing to appear in Municipal Court, or otherwise failing to settle the matter by payment of the applicable fine and court cost prior to the date stated on the municipal offense ticket shall be punishable as provided in section I of this ordinance, or by community service for a period not exceeding six (6) months, or by both such fine and imprisonment, and/or community service at the discretion of the judge, unless otherwise prohibited by state law.

(b) For purposes of this section, the term subsequent (second, third) offense shall mean the committing of an offense involving the same offense for which the defendant has been previously issued a municipal offense ticket within three (3) years of the earlier offense.

**SECTION VI: REPEALER**

Ordinance No. 1998-33, Ordinance No. 2001-01, and Ordinance No. 2002-21 are hereby repealed in their respective entireties.

**SECTION VII: SEVERABILITY.**

The provisions of this ordinance shall supersede any conflict provisions of any other ordinances or resolutions previously adopted which pertain to the establishment of fines and penalties for violations a job classification and pay plan. Should any provision of this ordinance be declared invalid or unenforceable by court of competent jurisdiction, the remaining provisions shall remain in full force and effect notwithstanding such invalidity.

**SECTION VIII: EFFECTIVE DATE.**

This ordinance shall be in full force and effect upon its adoption the City Council of the City of Daphne, and publication as required by law.

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

\_\_\_\_\_  
GREG BURNAM  
COUNCIL PRESIDENT  
DATE/TIME SIGNED: \_\_\_\_\_

\_\_\_\_\_  
FRED SMALL  
MAYOR  
DATE/TIME SIGNED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
DAVID COHEN, CITY CLERK, MMC

## CITY OF DAPHNE SCHEDULE OF FINES

<u>ORDINANCE NO.</u>	<u>DESCRIPTION OF OFFENSE</u>	<u>FINE</u>
1965-10	Sleeping in motor vehicle	\$25.00
1980-03, 1990-29	Fail to file or pay tobacco tax – 1 <sup>st</sup> offense	\$150.00
1980-03, 1990-29	Fail to file or pay tobacco tax- 2 <sup>nd</sup> offense	300.00
1980-03, 1990-29	Fail to file or pay tobacco tax- 3 <sup>rd</sup> offense	500.00
1982-01	Municipal Pier	\$100.00
1987-10	Misdemeanor offense of Careless Driving	\$150.00
1989-04	Political signs	\$25.00/sign/day
1990-12	Littering – 1 <sup>st</sup> offense	\$50.00
1990-12	Littering – 2 <sup>nd</sup> offense	100.00
1990-12	Littering – 3 <sup>rd</sup> offense	400.00
1990-12	Commercial or construction site litter- 1 <sup>st</sup> offense	\$100.00
1990-12	Commercial or construction site litter- 2 <sup>nd</sup> offense	200.00
1990-12	Commercial or construction site litter – 3 <sup>rd</sup> offense	300.00
1990-12	Commercial or construction dumping	500.00
1990-12	Dumping, junk disposal – 1 <sup>st</sup> offense	\$100.00
1990-12	Dumping, junk disposal – 2 <sup>nd</sup> offense	200.00
1990-12	Dumping, junk disposal – 3 <sup>rd</sup> offense	300.00
1990-12	Escape of load from vehicle – 1 <sup>st</sup> offense	\$75.00
1990-12	Escape of load from vehicle – 2 <sup>nd</sup> offense	125.00
1990-12	Escape of load from vehicle – 3 <sup>rd</sup> offense	275.00
1990-12	Sweep leaves, grass on sidewalk, street- 1 <sup>st</sup> offense	\$50.00
1990-12	Sweep leaves, grass on sidewalk, street-2 <sup>nd</sup> offense	100.00
1990-12	Sweep leaves, grass on sidewalk, street – 3 <sup>rd</sup> offense	200.00
1990-15, 1990-16 1990-22, 1990-35 1990-36	Failure to file tax return – 1 <sup>st</sup> offense	\$175:00
1990-15, 1990-16 1990-22, 1990-35 1990-36	Failure to keep records – 1 <sup>st</sup> offense	\$175.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Failure to file tax return – 2 <sup>nd</sup> offense	225.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Failure to file tax return - 3 <sup>rd</sup> offense	275.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Failure to add tax to price – 1 <sup>st</sup> offense	\$125.00

1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Failure to add tax to price – 2 <sup>nd</sup> offense	200.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Failure to add tax to price - 3 <sup>rd</sup> offense	300.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Failure to keep records – 2 <sup>nd</sup> offense	200.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Failure to keep records - 3 <sup>rd</sup> offense	350.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Willful failure to make returns – 1 <sup>st</sup> offense	\$175.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Willful failure to make returns – 2 <sup>nd</sup> offense	350.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Willful failure to make returns – 3 <sup>rd</sup> offense	450.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Willful failure to permit examination of records – 1 <sup>st</sup> offense	\$200.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Willful failure to permit examination of records – 2 <sup>nd</sup> offense	400.00
1990-15, 1990-16, 1990-22, 1990-35, 1990-36	Willful failure to permit examination of records – 3 <sup>rd</sup> offense	500.00
1990-28, 1990-31	Fail to file or pay liquor tax – 1 <sup>st</sup> offense	\$200.00
1993-10	Regulate smoking in certain public places	\$50.00
1995-08	Provide for identification and licensing of solicitors	\$200.00
1997-03	Wrecker services	\$100.00
1997-27	Bay Front Park Cleaning fine/city property>	1 <sup>st</sup> \$50.00
1997-27	Bay Front Park Damage/defacing city property>	2 <sup>nd</sup> \$100.00
1997-27	Bay Front Park Security, failure to provide>	3 <sup>rd</sup> \$200.00
1997-27	Bay Front Park violation of alcohol policy>	
1997-27	Bay Front Park violation of smoking policy>	
1998-29	Prohibiting discharge of firearms or pneumatic powered weapons within city limits	Mun. Court
2002-02 § I(B)	Interfering/Opposing Animal Control Officer 1 <sup>st</sup> offense & subsequent offense	Mun. Court
2002-02 § III(A)	Keeping Prohibited Livestock in City Limits 1 <sup>st</sup> offense	\$25.00
2002-02 § III(A)	Keeping Prohibited Livestock in City Limits 2 <sup>nd</sup> offense	50.00
2002-02 § III(A)	Keeping Prohibited Livestock in City Limits 3 <sup>rd</sup> offense	Mun. Court
2002-02 § III(A)	Keeping Prohibited Fowl in City Limits 1 <sup>st</sup> offense	\$25.00
2002-02 § III(A)	Keeping Prohibited Fowl in City Limits 1 <sup>st</sup> offense	50.00
2002-02 § III(A)	Keeping Prohibited Fowl in City Limits 1 <sup>st</sup> offense	Mun. Court

2002-02 § III(A)	Unsanitary Living Condition Livestock/Fowl 1 <sup>st</sup> offense	\$25.00
2002-02 § III(A)	Unsanitary Living Condition Livestock/Fowl 2 <sup>nd</sup> offense	50.00
2002-02 § III(A)	Unsanitary Living Condition Livestock/Fowl 3 <sup>rd</sup> offense	Mun. Court
2002-02 § III(A)	Unsanitary/Inhumane living conditions (any animal) 2 <sup>nd</sup> offense	100.00
2002-02 § III(A)	Unsanitary/Inhumane living conditions (any animal) 3 <sup>rd</sup> offense	Mun. Court
2002-02 § III(B)	Fowl at large 1 <sup>st</sup> offense	\$15.00
2002-02 § III(B)	Fowl at large 2 <sup>nd</sup> offense	25.00
2002-02 § III(B)	Fowl at large 3 <sup>rd</sup> offense	50.00
2002-02 § III(B)	Livestock at Large 1 <sup>st</sup> offense	\$15.00
2002-02 § III(B)	Livestock at Large 2 <sup>nd</sup> offense	25.00
2002-02 § III(B)	Livestock at Large 3 <sup>rd</sup> offense	50.00
2002-02 § III(C)	Operating Illegal Horse Stable 1 <sup>st</sup> offense & subsequent offense	Mun. Court
2002-02 § IV (A)	Failure to License (dog or cat) 1 <sup>st</sup> offense	\$15.00
2002-02 § IV (A)	Failure to License (dog or cat) 2 <sup>nd</sup> offense	25.00
2002-02 § IV (A)	Failure to License (dog or cat) 3 <sup>rd</sup> offense	50.00
2002-02 § IV (B)	Failure to attach tag (dog or cat) 1 <sup>st</sup> offense	\$15.00
2002-02 § IV (B)	Failure to attach tag (dog or cat) 2 <sup>nd</sup> offense	25.00
2002-02 § IV (B)	Failure to attach tag (dog or cat) 3 <sup>rd</sup> offense	50.00
2002-02 § V(D)	Vicious Animal at Large 1 <sup>st</sup> offense	\$100.00
2002-02 § V(D)	Vicious Animal at Large 2 <sup>nd</sup> offense	200.00
2002-02 § V(D)	Vicious Animal at Large 3 <sup>rd</sup> offense & subsequent offense	500.00
2002-02 § V(E)	Keeping a Dangerous Animal 1 <sup>st</sup> offense & subsequent offense	Mun. Court
2002-02 § VII(A)	Noisy Animals 1 <sup>st</sup> offense	\$15.00
2002-02 § VII(A)	Noisy Animals 2 <sup>nd</sup> offense	25.00
2002-02 § VII(A)	Noisy Animals 3 <sup>rd</sup> & subsequent offense	50.00
2002-02 § XI (A)	Failure to Obtain Rabies Vaccination 1 <sup>st</sup> offense	\$15.00
2002-02 § XI (A)	Failure to Obtain Rabies Vaccination 2 <sup>nd</sup> offense	25.00
2002-02 § XI (A)	Failure to Obtain Rabies Vaccination 3 <sup>rd</sup> offense	50.00
2002-02 § XI (D)	Failure to attach rabies tag (dog or cat) 1 <sup>st</sup> offense	\$15.00
2002-02 § XI (D)	Failure to attach rabies tag (dog or cat) 2 <sup>nd</sup> offense	25.00
2002-02 § XI (D)	Failure to attach rabies tag (dog or cat) 3 <sup>rd</sup> offense	50.00
2002-02 § XI (E)	Failure to Quarantine Animal that has bitten 1 <sup>st</sup> offense	Mun. Court
2002-02 § XI (E)	Failure to Quarantine Animal that has bitten 2 <sup>nd</sup> offense	Mun. Court
2002-02 § XI (E)	Failure to Notify Authorities of Bite 1 <sup>st</sup> offense	Mun. Court
2002-02 § XI (E)	Failure to Notify Authorities of Bite 2 <sup>nd</sup> offense	Mun. Court
2002-02 § XIV (D)	Failure to Provide Adequate Shelter/Food or Water 1 <sup>st</sup> offense	\$25.00
2002-02 § XIV (D)	Failure to Provide Adequate Shelter/Food or Water 2 <sup>nd</sup> offense	50.00
2002-02 § XIV (D)	Failure to Provide Adequate Shelter/Food or Water 3 <sup>rd</sup> offense	Mun. Court
2002-02 § XIV(D)	Unsanitary/Inhumane living conditions (any animal) 1 <sup>st</sup> offense	\$50.00
2002-02 §V (A)	Dog at large (with tag) 1 <sup>st</sup> offense	\$10.00
2002-02 §V (A)	Dog at large (with tag) 2 <sup>nd</sup> offense	25.00
2002-02 §V (A)	Dog at large (with tag) 3 <sup>rd</sup> offense	50.00
2002-02 §V (A)	Dog at large (without tag) 1 <sup>st</sup> offense	\$15.00

2002-02 §V (A)	Dog at large (without tag) 2 <sup>nd</sup> offense	25.00
2002-02 §V (A)	Dog at large (without tag) 3 <sup>rd</sup> offense	50.00
2002-02 §V (C)	Failure to Surrender Dangerous Animal 1 <sup>st</sup> offense	Mun. Court
2002-02 §V (C)	Failure to Surrender Dangerous Animal 2 <sup>nd</sup> offense	Mun. Court
2002-02 §V(F)	Promoting Animal Fighting 1 <sup>st</sup> offense	\$100.00
2002-02 §V(F)	Promoting Animal Fighting 2 <sup>nd</sup> & subsequent offense	Mun. Court
2002-02 §VII	Cruelty to Animals 1 <sup>st</sup> offense	\$200.00
2002-02 §VII	Cruelty to Animals 2 <sup>nd</sup> offense	500.00
2002-02 §VII	Cruelty to Animals 3 <sup>rd</sup> offense	Mun. Court
2002-02 §VIV (D)	Dog on runner less than 20 feet long 1 <sup>st</sup> offense	\$15.00
2002-02 §VIV (D)	Dog on runner less than 20 feet long 2 <sup>nd</sup> offense	25.00
2002-02 §VIV (D)	Dog on runner less than 20 feet long 3 <sup>rd</sup> offense	50.00
2002-02 §XIII (A)	Failure to Confine Dog/Cat in Heat 1 <sup>st</sup> offense	\$25.00
2002-02 §XIII (A)	Failure to Confine Dog/Cat in Heat 2 <sup>nd</sup> offense	50.00
2002-02 §XIII (A)	Failure to Confine Dog/Cat in Heat 3 <sup>rd</sup> offense	100.00
2002-02 §XIV (B)	Cat at large/destruction damage to property w/o tag 1 <sup>st</sup> offense	\$15.00
2002-02 §XIV (B)	Cat at large/destruction damage to property w/o tag 2 <sup>nd</sup> offense	25.00
2002-02 §XIV (B)	Cat at large/destruction damage to property w/o tag 3 <sup>rd</sup> offense	50.00
2002-02 §XIV (B)	Cat at large/destruction damage to property w/ tag 1 <sup>st</sup> offense	\$15.00
2002-02 §XIV (B)	Cat at large/destruction damage to property w/ tag 2 <sup>nd</sup> offense	25.00
2002-02 §XIV (B)	Cat at large/destruction damage to property w/ tag 3 <sup>rd</sup> offense	50.00
2002-02 §XIV (D)	Animal restrained by leash or restraining device less than 6 feet long – 1 <sup>st</sup> offense	\$15.00
2002-02 §XIV (D)	Animal restrained by leash or restraining device less than 6 feet long – 2 <sup>nd</sup> offense	25.00
2002-02 §XIV (D)	Animal restrained by leash or restraining device less than 6 feet long – 3 <sup>rd</sup> offense	50.00
2002-02 §XIV(C)	Allowing dog to defecate on another's property – 1 <sup>st</sup> offense	\$15.00
2002-02 §XIV(C)	Allowing dog to defecate on another's property - 2 <sup>nd</sup> offense	25.00
2002-02 §XIV(C)	Allowing dog to defecate on another's property – 3 <sup>rd</sup> offense	50.00
2002-02 §XIV(E)	Refusing to Allow Inspection 1 <sup>st</sup> offense & subsequent	Mun. Court
2002-02 §XVI(C)	Tampering with Animal Trap/removing animal from trap/interfering with ACO in setting servicing trap 1 <sup>st</sup> offense & subsequent offense	Mun. Court
2002-22	Balloons, flags, flying para- 1 <sup>st</sup> offense	\$50.00
2002-22	Balloons, flags, flying para – 2 <sup>nd</sup> offense	100.00
2002-22	Balloons, flags, flying para- 3 <sup>rd</sup> offense	200.00
2002-22	Erosion & sediment control – 1 <sup>st</sup> offense	\$100.00
2002-22	Erosion & sediment control – 2 <sup>nd</sup> offense	250.00
2002-22	Erosion & sediment control – 3 <sup>rd</sup> offense	500.00
2002-22	Illegal display of political signs	\$25.00
2002-22	Illegal placement of sign – 1 <sup>st</sup> offense	\$250.00
2002-22	Landscaping violation – 1 <sup>st</sup> offense	\$150.00
2002-22	Sign - no permit – 1 <sup>st</sup> offense	\$125.00
2002-22	Sign - no permit- 2 <sup>nd</sup> offense	200.00

2002-22	Sign - no permit- 3 <sup>rd</sup> offense	300.00
2002-22	Yard sale – 1 <sup>st</sup> offense	\$25.00
2002-22	Yard sale – 2 <sup>nd</sup> offense	50.00
2002-22	Yard sale – 3 <sup>rd</sup> offense	100.00
2002-22	Zoning Code violations – 1 <sup>st</sup> offense	\$100.00
2002-22	Zoning Code violations – 2 <sup>nd</sup> offense	200.00
2002-22	Zoning Code violations – 3 <sup>rd</sup> offense	300.00
2002-22	Occupy premises w/out cert. of occupancy – 1 <sup>st</sup> offense	\$100.00
2002-22	Occupy premises w/out cert. of occupancy – 2 <sup>nd</sup> offense	\$250.00
2002-22	Occupy premises w/out cert. of occupancy - 3 <sup>rd</sup> offense	500.00
2002-22	Failure to obtain tree removal permit – 1 <sup>st</sup> offense	\$100.00
2002-22	Failure to obtain tree removal permit – 2 <sup>nd</sup> offense	250.00
2002-22	Failure to obtain tree removal permit- 3 <sup>rd</sup> offense	500.00
2002-26	Failure to Obtain Business License (each offense)	\$500.00
2002-34, 2004-05	Garbage/trash disposal – 1 <sup>st</sup> offense	\$50.00
2002-34, 2004-05	Garbage/trash disposal – 2 <sup>nd</sup> offense	100.00
2002-34, 2004-05	Garbage/trash disposal – 3 <sup>rd</sup> offense	200.00
2003-03 §VII.A.5	Fire/Medical False Alarm – 1 <sup>st</sup> offense	No Fine
2003-03 §VII.A.5	Fire/Medical False Alarm – 2 <sup>nd</sup> offense	\$50.00
2003-03 §VII.A.5	Fire/Medical False Alarm – 3 <sup>rd</sup> offense	100.00
2003-03 §VII.A.5	Fire/Medical False Alarm – 4 <sup>th</sup> offense	200.00
2003-03 §VII.A.5	Fire/Medical False Alarm – 5 <sup>th</sup> & subsequent offense	500.00
2003-03 §VIII.A.2	Fire/Medical Alarm – Failure to return report of service or repair	\$500.00
2003-03 §VIII.A.3	Nuisance Fire/Medical Report – 1 <sup>st</sup> & 2 <sup>nd</sup> offense	No Fine
2003-03 §VIII.A.3	Nuisance Fire/Medical Report – 3 <sup>rd</sup> offense	\$50.00
2003-03 §VIII.A.3	Nuisance Fire/Medical Report – 4 <sup>th</sup> offense	100.00
2003-03 §VIII.A.3	Nuisance Fire/Medical Report - 5 <sup>th</sup> offense	200.00
2003-03 §VIII.A.3	Nuisance Fire/Medical Report - 6 <sup>th</sup> & subsequent offense	500.00
2003-03 §X.G	Nuisance Fire/Medical Report – False Report	\$500.00
2003-09	Public Indecency	Mun. Court
2003-11	Livestock, fowl at-large prohibit- 1 <sup>st</sup> offense	\$15.00
2003-11	Livestock, fowl at-large prohibit- 2 <sup>nd</sup> offense	25.00
2003-11	Livestock, fowl at-large prohibit – 3 <sup>rd</sup> offense	50.00
2003-11	Noisy animals - nuisance – 1 <sup>st</sup> offense	\$15.00
2003-11	Noisy animals - nuisance – 2 <sup>nd</sup> offense	25.00
2003-11	Noisy animals - nuisance – 3 <sup>rd</sup> offense	50.00
2003-11	Permit required for livestock, fowl	\$25.00
2003-11	Animal at-large {other dog, cat} – 1 <sup>st</sup> offense	\$15.00
2003-11	Animal at-large (other dog, cat) -2 <sup>nd</sup> offense	25.00
2003-11	Animal at-large {other dog, cat} – 3 <sup>rd</sup> offense	50.00
2003-11	Confinement of dog or cat in heat- 1 <sup>st</sup> offense	\$25.00
2003-11	Confinement of dog or cat in heat – 2 <sup>nd</sup> offense	50.00
2003-11	Confinement of dog or cat in heat- 3 <sup>rd</sup> offense	100.00
2003-11	Cruelty to animals – 1 <sup>st</sup> offense	\$200.00
2003-11	Cruelty to animals – 2 <sup>nd</sup> offense	500.00
2003-11	Dangerous animal allowed at-large – 1 <sup>st</sup> offense	\$100.00
2003-11	Dangerous animal allowed at-large – 2 <sup>nd</sup> offense	200.00
2003-11	Dangerous animal allowed at-large – 3 <sup>rd</sup> offense	500.00
2003-11	Dog or cat at-large with tag-1 <sup>st</sup> offense	\$10.00

2003-11	Dog or cat at-large without tag – 1 <sup>st</sup> offense	15.00
2003-11	Dog or cat at-large with/without tag – 2 <sup>nd</sup> offense	25.00
2003-11	Dog or cat at-large with/without tag – 3 <sup>rd</sup> offense	50.00
2003-17 §5(c)	Failure to Properly Clean float and/or area	\$500.00/incident
2003-17 §8	Mardi Gras – Failure to Clean up after animals	\$200.00
2003-17 §9	Mardi Gras - Throwing trash from float	\$25.00/incident
2003-25	Parking Violation - Parking at May Day Park	\$25.00
2003-25	Parking Violation - Parking in median	10.00
2003-25 (§II.I)	Parking Violation –Handicapped	100.00
2003-25 (§III.C)	Parking Violation –Tow away zones	25.00
2003-25 (§IV.C)	Parking Violation –No parking areas	10.00
2003-25 (§V.B)	Parking Violation –Park near intersection	10.00
2003-25 (§VI.B)	Parking Violation –Park near fireplug	25.00
2003-25 (§VII.E)	Parking Violation –No parked vehicle for sale	Mun. Court
2003-25 (§VIII.C)	Parking Violation –Fire lanes	25.00
2003-31	Outdoor Lighting, Public & Private	Mun. Court
2003-32	Noise Ordinance- 1 <sup>st</sup> offense	\$50.00
2003-32	Noise Ordinance – 2 <sup>nd</sup> offense	100.00
2003-32	Noise Ordinance – 3 <sup>rd</sup> offense	200.00
2004-05	Residential property <i>clean</i> – 1 <sup>st</sup> offense	\$50.00
2004-05	Residential property clean – 2 <sup>nd</sup> offense	125.00
2004-05	Residential property clean – 3 <sup>rd</sup> offense	300.00
2004-05	Sidewalks/right-of-way litter free -1 <sup>st</sup> offense	\$50.00
2004-05	Sidewalks/right-of-way litter free -2 <sup>nd</sup> offense	100.00
2004-05	Sidewalks/right-of-way litter free -3 <sup>rd</sup> offense	200.00
2004-10	Failure to obtain building permit- 1 <sup>st</sup> offense	\$500.00
2004-14	Library Books – Failure to return – 1 <sup>st</sup> & subsequent	\$10.00
2004-23	Right of Way violation	Mun. Court
2004-48	Mosquito and Stagnant Water Control 1 <sup>st</sup>	\$25.00
2004-48	Mosquito and Stagnant Water Control 2 <sup>nd</sup>	\$50.00
2004-48	Mosquito and Stagnant Water Control 3 <sup>rd</sup>	\$100.00
2005-01	Junk vehicles – 1 <sup>st</sup> offense	\$50.00
2005-01	Junk vehicles – 2 <sup>nd</sup> offense	\$100.00
2005-01	Junk vehicles – 3 <sup>rd</sup> offense	Mun. Court
2005-01	Weeds – 1 <sup>st</sup> offense	\$25.00
2005-01	Weeds – 2 <sup>nd</sup> offense	\$50.00
2005-01	Weeds – 3 <sup>rd</sup> offense	\$100.00
2005-07 SFPC 3101	Assembly occupancy violation – 1 <sup>st</sup> offense	\$100.00
2005-07 SFPC 603	Automatic sprinkler systems – 1 <sup>st</sup> offense	\$25.00
2005-07 SFPC 603	Automatic sprinkler systems – 2 <sup>nd</sup> offense	125.00
2005-07 SFPC 603	Automatic sprinkler systems – 3 <sup>rd</sup> offense	325.00
2005-07 SFPC 607	Automatic fire extinguishing systems – 1 <sup>st</sup> offense	25.00
2005-07 SFPC 607	Automatic fire extinguishing systems – 2 <sup>nd</sup> offense	125.00
2005-07 SFPC 607	Automatic fire extinguishing systems – 3 <sup>rd</sup> offense	325.00
2005-07 SFPC, 402	No Permit to Install Automatic Fire Sprinkler System 1 <sup>st</sup> offense	\$150.00
2005-07 SFPC, 402	No Permit to Install Automatic Fire Sprinkler System 2 <sup>nd</sup> offense	\$350.00
2005-07 SFPC, 402	No Permit to Install Automatic Fire Sprinkler System 3 <sup>rd</sup> offense	\$500.00
2005-07 SFPC, 402	No Permit to Install Fire Alarm System 1 <sup>st</sup> offense	\$150.00
2005-07 SFPC, 402	No Permit to Install Fire Alarm System 2 <sup>nd</sup> offense	\$350.00
2005-07 SFPC, 402	No Permit to Install Fire Alarm System 3 <sup>rd</sup> offense	\$500.00
2005-07 SFPC, 402	No Permit for Portable Fire Extinguisher Service 1 <sup>st</sup>	\$150.00

	offense	
2005-07 SFPC, 402	No Permit for Portable Fire Extinguisher Service 2 <sup>nd</sup> offense	\$350.00
2005-07 SFPC, 402	No Permit for Portable Fire Extinguisher Service 3 <sup>rd</sup> offense	\$500.00
2005-07 SFPC, 402	No Permit for Fixed Fire Extinguisher Service 1 <sup>st</sup> offense	\$150.00
2005-07 SFPC, 402	No Permit for Fixed Fire Extinguisher Service 2 <sup>nd</sup> offense	350.00
2005-07 SFPC, 501	No Permit for Fixed Fire Extinguisher Service 3 <sup>rd</sup> offense	500.00
2005-07 SFPC, 501	No Permit for Waste Burning Incinerator 1 <sup>st</sup> offense	\$150.00
2005-07 SFPC, 501	No Permit for Waste Burning Incinerator 2 <sup>nd</sup> offense	350.00
2005-07 SFPC, 501	No Permit for Waste Burning Incinerator 3 <sup>rd</sup> offense	500.00
2005-07, SFPC 102	Fire Official- Powers and Duties – 1 <sup>st</sup> offense	\$25.00
2005-07, SFPC 102	Fire Official - Powers and Duties – 2 <sup>nd</sup> offense	125.00
2005-07, SFPC 102	Fire Official - Powers and Duties – 3 <sup>rd</sup> offense	325.00
2005-07, SFPC 501	Open burning and incinerators – 1 <sup>st</sup> offense	\$50.00
2005-07, SFPC 501	Open burning and incinerators – 2 <sup>nd</sup> offense	150.00
2005-07, SFPC 501	Open burning and incinerators – 3 <sup>rd</sup> offense	350.00
2005-07, SFPC 502	Flammable and Combustible Materials – 1 <sup>st</sup> offense	\$50.00
2005-07, SFPC 502	Flammable and Combustible Materials – 2 <sup>nd</sup> offense	150.00
2005-07, SFPC 502	Flammable and Combustible Materials – 3 <sup>rd</sup> offense	350.00
2005-07, SFPC 503	Fire reporting & false alarms – 1 <sup>st</sup> & 2 <sup>nd</sup> offense	Written Warning
2005-07, SFPC 503	Fire reporting & false alarms – 3 <sup>rd</sup> offense	\$50.00
2005-07, SFPC 503	Fire reporting & false alarms -4 <sup>th</sup> offense	100.00
2005-07, SFPC 503	Fire reporting & false alarms – 5 <sup>th</sup> offense	200.00
2005-07, SFPC 601	Fire protection systems: general – 1 <sup>st</sup> offense	\$25.00
2005-07, SFPC 601	Fire protection systems: general – 2 <sup>nd</sup> offense	125.00
2005-07, SFPC 601	Fire protection systems: general – 3 <sup>rd</sup> offense	325.00
2005-07, SFPC 602	Fire protection systems: fire service features – 1 <sup>st</sup> offense	\$50.00
2005-07, SFPC 602	Fire protection systems: fire service features – 2 <sup>nd</sup> offense	150.00
2005-07, SFPC 602	Fire protection systems: fire service features – 3 <sup>rd</sup> offense	350.00
2005-07, SFPC 605	Fire alarm systems – 1 <sup>st</sup> offense	\$25.00
2005-07, SFPC 605	Fire alarm systems – 2 <sup>nd</sup> offense	125.00
2005-07, SFPC 605	Fire alarm systems - 3 <sup>rd</sup> offense	325.00
2005-07, SFPC 606	Smoke alarms – 1 <sup>st</sup> offense	\$25.00
2005-07, SFPC 606	Smoke alarms – 2 <sup>nd</sup> offense	125.00
2005-07, SFPC 606	Smoke alarms – 3 <sup>rd</sup> offense	325.00
2005-07, SFPC 608	Portable fire extinguishers – 1 <sup>st</sup> offense	\$25.00
2005-07, SFPC 608	Portable fire extinguishers – 2 <sup>nd</sup> offense	125.00
2005-07, SFPC 608	Portable fire extinguishers – 3 <sup>rd</sup> offense	325.00
2005-07, SFPC 701	Electrical: General Violation – 1 <sup>st</sup> offense	\$25.00
2005-07, SFPC 701	Electrical: General Violation -2 <sup>nd</sup> offense	125.00
2005-07, SFPC 701	Electrical: General Violation – 3 <sup>rd</sup> offense	325.00
2005-07, SFPC 703	Electrical: Extension Cords – 1 <sup>st</sup> offense	\$25.00
2005-07, SFPC 703	Electrical: Extension Cords – 2 <sup>nd</sup> offense	125.00
2005-07, SFPC 703	Electrical: Extension Cords – 3 <sup>rd</sup> offense	325.00
2005-07, SFPC 705	Electrical: Access Violation – 1 <sup>st</sup> offense	\$25.00
2005-07, SFPC 705	Electrical: Access Violation – 2 <sup>nd</sup> offense	125.00
2005-07, SFPC 705	Electrical: Access Violation – 3 <sup>rd</sup> offense	325.00

2005-07, SFPC 802	Exit obstruction- 1 <sup>st</sup> offense	\$100.00
2005-07, SFPC 807	Exit illumination & signs – 1 <sup>st</sup> offense	\$25.00
2005-07, SFPC 807	Exit illumination & signs – 2 <sup>nd</sup> offense	125.00
2005-07, SFPC 807	Exit illumination & signs – 3 <sup>rd</sup> offense	325.00
2005-07, SFPC 907	Flammable and Combustible Liquids:	
2005-07, SFPC 907	Service Stations – 1 <sup>st</sup> offense	\$25.00
2005-07, SFPC 907	Service Stations – 2 <sup>nd</sup> offense	125.00
2005-07, SFPC 907	Service Stations – 3 <sup>rd</sup> offense	325.00

**CITY OF DAPHNE  
ORDINANCE NO: 2005- 56**

---

**AN ORDINANCE AUTHORIZING OVERTIME COMPENSATION FOR SALARIED  
EMPLOYEES and  
SETTING FORTH ADMINISTRATIVE PAY POLICY  
DURING DECLARED EMERGENCIES**

---

**WHEREAS**, the City Council of the City of Daphne, Alabama desires to promote the health, welfare, and safety of the citizens of the City of Daphne while fairly compensating the employees of the City of Daphne; and

**WHEREAS**, the City Council of the City of Daphne, Alabama has determined that in order to promote and maintain a peaceful community and the order of justice within the City of Daphne, it shall be necessary to compensate salaried employees for hours of work performed in excess of their normal 40 hour work week in times of emergencies existing in the City of Daphne and/or within the limits of police jurisdiction thereof as so declared as a local state of emergency; and

**WHEREAS**, the City Council of the City of Daphne, Alabama desires to promote the health, welfare, and safety of the citizens of the City by so ordering the authorization of emergency overtime pay for salaried employees during such declared emergencies affecting the City of Daphne.

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

**SECTION I: DEFINITIONS: FOR THE PURPOSES OF THIS ORDINANCE THE FOLLOWING DEFINITIONS WILL APPLY.**

**(a) Salaried-exempt Employee:** An employee whose job duties are of such a nature that they are covered by exemptions of the overtime provisions of the Fair Labor Standards Act.

**(b) Administrative Pay:** Administrative Leave With Pay as approved by the Mayor and provided to employees during declared states of emergencies as described in this ordinance.

**SECTION II: COMPENSATION OF SALARIED-EXEMPT EMPLOYEES FOR OVERTIME WORK PERFORMED DURING STATES OF EMERGENCY AFFECTING THE CITY OF DAPHNE, ALABAMA.**

(a) In the event of an emergency affecting the City of Daphne, and a local State of Emergency is declared, the Mayor may utilize salaried employees to aid the City during normal and extended work hours. In this event, salaried employees will be considered non-exempt (hourly) employees beginning when such state of emergency is declared and ending when such state of emergency is lifted. Exempt employees shall receive compensation at the rate of one and one-half (1 ½) times their “calculated hourly wage” for **each hour worked** in excess of 40 hours per week. “Calculated hourly wage” shall be determined by dividing the salaried employee’s annual salary by 2080. Exempt employees will not receive overtime pay for work during any portion of the pay period that is not during

a declared state of emergency (ie: a maximum of 8 hours will be recognized for work days not falling within the time of the declared emergency).

**SECTION III: ADMINISTRATIVE PAY DURING STATES OF EMERGENCY AFFECTING THE CITY OF DAPHNE, ALABAMA**

Administrative time granted by the Mayor to City employees during declared emergencies will not be counted as *hours worked* in the calculation of hours eligible for overtime compensation. Employees who work on days declared as administrative time will receive administrative time pay as authorized by the Mayor as an addition to pay for the hours actually worked. Such administrative pay will be paid at the regular rate of pay.

**SECTION IV: CONFLICT WITH OTHER ORDINANCES**

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

**SECTION V: SEVERABILITY**

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

**SECTION VI: EFFECTIVE DATE**

This Ordinance shall be in full force and effect upon its adoption by the City Council of the City of Daphne.

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

**THE CITY OF DAPHNE**

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

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

**ATTEST:**

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

**ORDINANCE 2005-59**

**An Ordinance Appropriating Funds**

**City Hall Architectural Services, Site Preparation, Survey & Engineering**

**WHEREAS**, the Fiscal Year 2006 budget is being reviewed and evaluated for adoption; and

**WHEREAS**, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2006 budget; and

**WHEREAS**, the City Council has heretofore determined that certain costs will be incurred for the planning of building additions and/or improvements at the City Hall location.

**NOW, THEREFORE**, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that a Fiscal Year 2006 General Fund appropriation not to exceed \$ 50,000 for Architectural Services, Site Preparation, Engineering, and Surveying of City Hall property for the proposed new City Hall complex is hereby approved.

**APPROVED AND ADOPTED** by the City Council of the City of Daphne, Alabama, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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

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

**ATTEST:**

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

**ORDINANCE 2005-60**

**An Ordinance Appropriating Funds**

**Finance Department Temporary Accountant Position**

**WHEREAS**, the Fiscal Year 2006 budget is being reviewed and evaluated for adoption; and

**WHEREAS**, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2006 budget; and

**WHEREAS**, the Finance Department has had an increasing work load during the past year as a result of FEMA reporting requirements resulting from hurricane events as well as an overall work load increase due to increasing administrative requirements; and

**WHEREAS**, the City of Daphne recognizes the need to authorize a Temporary Accountant position in order to meet the increasing work load demands in the Finance Department.

**NOW, THEREFORE**, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that a Fiscal Year 2006 General Fund appropriation in the amount of \$7,000 is hereby approved for the funding of a Finance Department Temporary Accountant position.

**APPROVED AND ADOPTED** by the City Council of the City of Daphne, Alabama, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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

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

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

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

**ATTEST:**

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

**CITY OF DAPHNE  
ORDINANCE NO.: 2005-61**

---

---

**AN ORDINANCE TO AMEND CERTAIN PERSONNEL POLICIES AND  
PROCEDURES RELATED TO A PRODUCTIVE WORK PLACE  
EQUAL EMPLOYMENT OPPORTUNITIES,  
SEXUAL HARASSMENT, WORKPLACE VIOLENCE, RETALIATION,  
COMPLAINT PROCEDURES AND SECURITY MEASURES**

---

---

**WHEREAS**, the City Council of the City of Daphne, Alabama, has certain personnel policies and procedures which are required to be administered by the Human Resources Director, and;

**WHEREAS**, the City Council of the City of Daphne, Alabama, believes that additional clarification should be provided for equal employment opportunities related to issues of sexual harassment, workplace violence, retaliation, complaint procedures and security measures , and,

**WHEREAS**, the City Council of the City of Daphne, Alabama, desires to enhance City policy in enforcement aspects of the personnel policies and procedures related to these subject matters;

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

**SECTION ONE:** That Section 1.1.6. entitled “**EQUAL EMPLOYMENT OPPORTUNITIES**” be and is hereby amended to add Section 1.1.6.1. to be entitled “**COMMITMENT TO EQUAL EMPLOYMENT OPPORTUNITIES**” which shall provide as follows:

**1.1.6.1. Commitment to Equal Employment Opportunities:** The City of Daphne is committed to equal employment opportunities for qualified persons. The City recognizes and appreciates each employee’s work and contribution to the City’s success, and the City believes that all employees are to be treated fairly and with respect. The City provides equal employment opportunities and equal treatment in all aspects of employment to all employees and all applicants for employment without regard to race, color, religion, sex, (including pregnancy, child birth and other related medical conditions), national origin, age, physical and/or

mental, disability, and/or military obligation. The City is committed to making reasonable accommodations to ensure equal employment opportunities for qualified disabled individuals. Violation of this policy shall not be permitted and shall be treated as a Group Two (2) offense, with disciplinary action up to and including termination.

**SECTION TWO:** That Section 7.3.4.17. entitled "**HARASSMENT**" be and is hereby deleted in its entirety and restated as follows:

**7.3.4.17 Harassment:** That the City of Daphne expects all employees, including department managers and supervisors to respect the feelings of fellow employees and to treat co-employees in a courteous and professional manner. The City shall not tolerate any form of harassment in the workplace. Specifically forbidden is harassment due to a person's sex, race, national origin, religion, age and/or physical or mental disabilities. *Certain examples of prohibited harassment include, but are not limited to: offensive, insulting or demeaning remarks, gestures, jokes, pranks, slurs, graffiti, e-mails, pictures, cartoons and the like, about a person's sex, race, national origin, religion, age and/or physical or mental disabilities or statements or comments that reflect upon stereotypes related to a persons sex, race, national origin, religion, age and/or physical or mental disabilities.* Harassment of City employees is strictly forbidden and shall be treated as a Group Two (2) offense, with disciplinary action up to and including termination.

**SECTION THREE:** That Section 1.4. entitled "**SEXUAL HARASSMENT PROVISIONS**" be and is hereby amended to delete Section 1.4.1. "**PROHIBITED**" and replaced with "**PROHIBITED CONDUCT**" which shall provide as follows:

**1.4.1. (a). Prohibited Conduct:** That the City of Daphne requires all employees to maintain a professional workplace that is free of sexual harassment. Department managers, supervisors and co-employees shall not threaten or insinuate that an employee's refusal to submit to sexual advances or any other form of sexual harassment will adversely effect the employee's continued employment, pay, benefits, working conditions or job opportunities. Similarly, department managers and supervisors shall not state or imply, expressly or otherwise, that submission to sexual advances or any other form of sexual harassment will in any way enhance an employee's employment opportunities, hours, pay, benefits and/or other terms or conditions of employment or advancement of employment.

(b). The City of Daphne expressly prohibits any verbal or physical conduct of a sexual nature that could contribute to a hostile or offensive workplace for any employee, whether committed by a department manager, supervisor, employee, or any other persons so employed with the City.

Some examples of prohibited conduct shall include, but are not to be limited to the following:

- a. The use of profane or vulgar language;
- b. Unwelcome sexual flirtations, sexual advances or sexual propositions;
- c. Sexually oriented or suggestive jokes or comments;
- d. Comments implied about a person's body or sex life;
- e. Sexually degrading words, including sexual slang used to describe any person;
- f. Any physical contact of a sexual nature, including unwelcome or inappropriate touching, pinching, patting, grabbing and/or hugging;
- g. The display, reproduction or transmission of sexually explicit and/or sexually suggestive images, objects, or cartoons in or about the workplace;
- h. Sexually suggestive or vulgar graffiti, including words and/or drawings;
- i. A department manager or supervisor's comments suggesting that an employee will suffer employment consequences such as demotion, discharge or denial of a pay raise if such employee does not agree to certain demands or if the employee complains about offenses of sexual behavior or other forms of harassment;
- j. Comments suggesting that the employee will receive favorable treatment in exchange for sexual favors.

(c). No department manager or supervisor has any authority to take any adverse action against an employee, including discharge, demotion or reducing the employee's work hours, benefits or pay because the employee refuses or has refused to submit to any sexual advances or any other form of sexual harassment. Similarly, no department manager or supervisor shall have any authority to provide an employee preferential treatment because the employee consents to the submission of sexual advances or any other form of sexual harassment. Sexual harassment of City employees is strictly forbidden and shall result in disciplinary action up to and including termination and shall otherwise be treated as a Group Two (2) offense.

**SECTION FOUR:**

That Section 1.4. entitled "**SEXUAL HARASSMENT PROVISIONS**" be and is hereby amended to delete 1.4.3. and replaced with "**RETALIATION FORBIDDEN**" and add a new section to be designated as 1.4.4. entitled "**EEO/HARASSMENT/RETALIATION COMPLAINT PROCEDURE**" which shall provide as follows :

**1.4.3. Retaliation Forbidden:** That the City of Daphne encourages all employees of the City to immediately come forward if such employee has a discrimination or harassment complaint and the City does expressly affirm that no adverse action shall or

may be taken or allowed against any employee who, in good faith, reports discrimination or harassment in the workplace. Retaliation against the employee shall be grounds for discipline and shall be considered a Group Two (2) offense.

**1.4.4. EEO/Harassment/Retaliation Complaint Procedure:** An employee shall promptly report any observed or any known incidences of discrimination, harassment and/or retaliation directly to the Human Resources Director to ensure that the City can promptly investigate, and if appropriate, take prompt and effective action. It is considered inappropriate and insufficient for an employee to report or complain only to a manager or supervisor. If a complaint involves the Human Resources Director, then the employee shall promptly report said complaint to the Mayor. All managers and supervisors shall have a responsibility to address any observed or reported harassment, discrimination or retaliation and shall immediately stop such misconduct if such occurs in their presence. All managers and supervisors shall have the responsibility to report observed or reported harassment, discrimination or retaliation to the Human Resources Director, even if no employee initiates a complaint. Failure to do so may result in disciplinary action, which shall be considered a Group Two (2) offense. The City of Daphne, through the Human Resources Director or Mayor's office, shall thoroughly investigate all complaints and the complaining employee may be required to prepare a written report detailing the alleged allegation and to sign the report. To the extent practical, investigations will be confidential with extreme and due regard for the sensitive nature of such complaint. After completing an investigation, the Human Resources Director or the Mayor will determine if the complaint is valid. The Human Resources Director or the Mayor shall take prompt and appropriate disciplinary action up to and including discharge against the person or persons engaged in misconduct, depending upon the severity of the violation. If appropriate, the City has the discretion to provide counseling services, referrals and medical assistance for employees. Employees who have reported violations of this policy will be notified by the Human Resources Director, subject to confidentiality, of how their reports were investigated and what actions were taken, within thirty (30) calendar days of the filing of said complaint.

**SECTION FIVE:** That new Section 1.8 is hereby created and entitled "***WORKPLACE VIOLENCE***" which shall provide as follows:

**1.8 (a) Workplace Violence:** That the City shall not tolerate acts of violence committed by or against City employees and shall strictly prohibit employees from making threats of, or engaging in, violent behavior. Such prohibited conduct includes, but is not limited to, the following:

- (a). Intentionally injuring another employee or person;

- (b). Expressly or implicitly threatening physical injury to another person or employee;
  - (c). Otherwise engaging in behavior that creates reasonable fear of physical injury to another person or employee or that subjects another individual to severe or extreme emotional distress or mental anguish;
  - (d). Possessing, brandishing, or using a firearm, knife or other weapon while on City premises or engaging in City business, or threatening to use or utilizing any other object as a weapon;
  - (e). Threatening to damage, or intentionally damaging, real or personal property;
  - (g). Committing injurious acts motivated by, or related to, domestic violence or sexual harassment.
- (b). If an employee feels threatened or in danger of violent behavior, they shall immediately advise their supervisor and/or department manager and then promptly report the threat to the Human Resources Director. It may also be necessary to contact the Daphne Police Department. All threats of, or actual violence, both direct and indirect, shall be reported as soon as possible, and no later than twenty four (24) hours after occurrence. Such threats include threats by employees, by customers, vendors, solicitors or other members of the public and fears of being stalked and/or attacked in the workplace. Threats of violence may also include a co-worker discussing violence toward themselves in the form of suicidal plan. All employees are encouraged to reach out and help their co-employees by reporting such comments to their immediate supervisor.
- (c). The City is committed to the safety and well-being of their employees, and for this reason, the City may provide, through the health insurance provider, counseling services, referrals and/or medical assistance for employees who have been victims of violence, as well as employees who are in need of help in dealing with personal or work related problems that generate anger, hostilities, or self harm ideas.

When reporting a threat of violence, the employee should be as specific in detail as possible (please refer the Attachment 1: Entitled *Security Measures in Case of Workplace Violence for additional information on how to respond to a crisis situation*).

The City shall thoroughly investigate all complaints and violations of workplace violence. The complaining employee may be required to prepare a written report describing the alleged violation and will be required to sign the report. If, after completing the investigation, the Human Resources Director and/or Mayor determines that a complaint is valid, the Human Resources Director and/or Mayor shall take prompt disciplinary action, up to and including discharge against the employee or employees engaged in the misconduct, depending upon the severity of the violation. Non-employees engaged in violent acts on the employer's premises will be reported to law enforcement for consideration of prosecution.

Employees who have reported violations of this policy shall be notified by the Human Resources Department, subject to confidentiality, of the status of their report, and that it was investigated and what actions were taken by the City, within thirty (30) calendar days of the complaint. The City will actively intervene at any indication of possible hostility or a violent situation.

**SECTION SIX: SEVERABILITY**

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

**SECTION SEVEN: REPEALER**

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

**SECTION EIGHT: EFFECTIVE DATE**

This Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, upon its adoption and publication as required by law.

**ORDINANCE NO.: 2005- 61**

**Page 7**

---

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

---

**GREG BURNHAM  
Council President**

Date/time Signed: \_\_\_\_\_

---

**FRED SMALL  
MAYOR**

Date/Time Signed: \_\_\_\_\_

**ATTEST:**

---

**DAVID COHEN, City Clerk, MMC**

# ORDINANCE 2005-61

## ATTACHMENT ONE

### SECURITY MEASURES IN CASES OF WORKPLACE VIOLENCE

1. EMERGENCY CONTACTS: In instances of workplace violence or threats of such violence the following emergency contacts are available:
  - A. Police Call 911 or 621-9100
  - B. Rescue Fire Department 911
  - C. Medical Industrial Medical Clinic-Daphne  
7101 Highway 90 Suite 101  
Daphne, AL 36526  
251-625-8222
  - D. Employee Counseling Alabama Psychiatric Services  
1203 US Hwy 98  
Daphne, AL  
621-9167
  
2. EVACUATION and COMMUNICATION: Upon learning that a suspicious intruder, violent person, or active shooter is in the building, the person discovering the incident shall:
  - A. Call 911, report the incident, and call for **CODE RED** within the city building. The **CODE RED** shall be announced over the building's PA system if available, portable radios, office to office phone calls, or by runner (as a last resort). If a runner has to be used, it is imperative that the runner announce **CODE RED** quickly to each office in a direction away from the threat and that the runner secures himself/herself in the last office announced to. Office personnel who choose to run outside may be running into the intruders if they are still outside the building.
  - B. A **CODE RED** places the city building into lockdown status. All office personnel, upon receiving communication of a **CODE RED**, shall quickly and immediately lock their office door. The employees shall then move away from the door and stay secure as far from the door as possible until the police resolve the situation. Employees are not to open the door if demanded by the intruder.
  - C. Employees caught in the hallway during a **CODE RED** should immediately go to the nearest office and get secure. All doors are to remain closed until the Police Department responds, resolves the situation, and individually goes to each office, gives an "all clear", and escorts each office to a safe place.
  - D. If office personnel hear movement and see physical descriptions of the intruders, they should call the police department and relay the information without leaving the secured office.

## **ORDINANCE 2005-61**

- E. The same procedures apply if the situation turns into a hostage situation. Employees will stay in their office until police safely escort each office out of the danger area. Office personnel should expect to stay in lockdown for some time depending on the situation. The police department will safely evacuate each office out only when it is safe to do so.
- F. Once the threat has been neutralized or if the intruder is secured in a police perimeter, the police department will start evacuating the personnel room by room to a safe assembly point. The police department will determine where the assembly will take place, it will not be pre-determined.
- G. Once at the assembly area, every supervisor of each office will be asked to account for persons present and those missing. The names of missing personnel will be given to the police officer conducting the evacuation.
- H. The evacuated personnel will most likely be kept in one location until all personnel are present and/or accounted for. Additional police interviews will likely be conducted of employees and citizens that were in the building at the time of lockdown.

**CITY OF DAPHNE  
ORDINANCE NO.: 2005-62**

---

---

**AN ORDINANCE REPEALING ORDINANCE NO. 2005-52**

---

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

**WHEREAS**, the City Council of the City of Daphne, Alabama, recently passed Ordinance No. 2005-52 wherein the City determined that it is in the best interest of the City to employ and retain individuals who have driving records that can be insured at a preferred rate by the City's general liability carrier, and,

**WHEREAS**, the City Council of the City of Daphne, Alabama, believes that it is in the best interest of the City to reconsider the provisions therein and the City Council now desires to reconsider the provisions of said ordinance in greater detail and to address said issues at a later date, and as such desires to now repeal said ordinance.

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

**City of Daphne Ordinance No. 2005-52 is hereby repealed in its entirety.**

**SECTION ONE: SEVERABILITY**

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

**SECTION TWO: EFFECTIVE DATE**

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

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

\_\_\_\_\_  
**GREG BURNAM**  
**Council President**

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

\_\_\_\_\_  
**FRED SMALL**  
**Mayor**

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

**ATTEST:**

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