

CITY COUNCIL BUSINESS MEETING AGENDA
1705 MAIN STREET, DAPHNE, AL
NOVEMBER 17, 2008
BUSINESS MEETING
6:30 P.M.

1. CALL TO ORDER

2. ROLL CALL/INVOCATION
PLEDGE OF ALLEGIANCE

- 3. APPROVE MINUTES:** Special Called Council meeting minutes meeting held October 27, 2008
Council Organizational minutes meeting held November 3, 2008
Council Business meeting minutes meeting held November 3, 2008

SWEARING IN: Police Officer / Sidney Bumpers

CERTIFICATE OF APRECIATION: Dr. Albert Corte

PUBLIC HEARING: Rezone: Ashley Gates Apartments, Phase I & II / Located on the SE Corner Of Main Street and Van Avenue (13.21 Acres & 5.40 Acres) / Rezone from B-2, General Business District to R-4, High Density Multi-Family Residential District / [Ordinance 2008-66](#)

4. REPORT STANDING COMMITTEES:

A. FINANCE COMMITTEE / Scott

Review minutes meeting held November 10th

a.) Ordinance:

- 1.) Amending the Job Classification Schedule per Annual Review of Jobs / [Ordinance 2008-65](#)

b.) Resolutions:

- 1.) Prepaid Travel / David Cohen / 43rd Annual Municipal Management Training Institute for City Clerks & Administrators / Birmingham, AL / November 19-21 / \$105 / [Resolution 2008-63](#)
2.) Declare Surplus Equipment / [Resolution 2008-62](#)

c.) Motion:

- 1.) Reject bids received for the Park City and Joe Lewis Park Bathroom Facilities and re-evaluate the scope for re-bid

d.) Financial Reports:

- 1.) Treasurers Report / October 31, 2008
2.) Sales & Use Tax Collections / September 30, 2008
3.) Lodging Tax Collections / September 30, 2008

B. BUILDINGS & PROPERTY - Lake

Review minutes meeting held November 7th

C. PUBLIC SAFETY - Burnam

Review minutes meeting held November 5th

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Palumbo

E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Yelding

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments - Eady

B. Downtown Redevelopment Authority - Barnette

- C. Industrial Development Board – Yelding**
- D. Library Board - Lake**
- E. Planning Commission – Barnette**
Review minutes meeting held October 23rd
- F. Recreation Board - Palumbo**
Review minutes meeting held September 10th
- G. Utility Board - Scott**

6. REPORTS OF OFFICERS:

A. Mayors Report

- a.) *Parade Permit / Animal Rescue / December 20, 2008*
- b.) **MOTION:** *Approve holding the Jubilee Festival on September 26, 27, 2009, and request per letter from Chamber of Commerce*

B. City Attorney’s Report

- a.) AT&T Agreement

C. Department Head Comments

David Cohen – MOTION: To select engineering company for May Day Boat Ramp

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) **Retaining Officer & Employees. /Resolution 2008-61**
- b.) **Declaring Certain Property Surplus and Authorizing the Mayor to Dispose of Such Property. /Resolution 2008-62**
- c.) **Prepaid Travel / David Cohen. /Resolution 2008-63**
- d.) **Safe Routes to School Project Grant / County Rd. 13. /Resolution 2008-64**
- e.) **Safe Routes to School Project Grant School Master Plan. /Resolution 2008-65**

ORDINANCES:

2ND READ

- a.) **Adopting the Fiscal Year 2009 Budget. /Ordinance 2008-57**
- b.) **Amending Renaissance Assessment Agreement. /Ordinance 2008-64**

1ST READ

- c.) **Rezone Ashley Gates Apartments / B-2, General Business to R-4, High Density Multi-Family Residential District /Ordinance 2008-66**

9. COUNCIL COMMENTS

10. ADJOURN

**CITY OF DAPHNE
CITY COUNCIL MEETING**

ROLL CALL

CITY COUNCIL:

CALL VOTES

COUNCILMAN YELDING

PRESENT__ ABSENT__ _

COUNCILWOMAN BARNETTE

PRESENT__ ABSENT__

COUNCILMAN LAKE

PRESENT__ ABSENT__ _

COUNCILMAN BURNAM

PRESENT__ ABSENT__ _

COUNCILMAN SCOTT

PRESENT__ ABSENT__ _

COUNCILMAN NAGER

PRESENT__ ABSENT__ _

COUNCILMAN PALUMBO

PRESENT__ ABSENT__ _

MAYOR

MAYOR SMALL

PRESENT__ ABSENT__ _

CITY CLERK:

DAVID L. COHEN

PRESENT__ ABSENT__

CITY ATTORNEY:

CITY ATTORNEY JAY ROSS

PRESENT__ ABSENT

MINUTE NOTES:

**CITY COUNCIL MEETING
MINUTES**

NOTES:

COMMITTEE RECOMMENDATIONS

**OCTOBER 27, 2008
SPECIAL CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

Council President Burnam called the meeting to order at 7:04 p.m.

2. ROLL CALL

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

Also present: Mayor Small; David Cohen, City Clerk; Jay Ross, Attorney; Sharon Cureton, Human Resource Director; Sandra Morse, Civic Center Director; Derek Boulware, Councilman-elect District 6; Georgia Landrum, Investigator; Daphne Cotton, Court Reporter.

Employee Hearing

MOTION BY Councilwoman Barnette to enter into Executive Session for a Quasi Judicial Hearing, and the meeting will last three (3) hours. *Seconded by Councilman Scott.*

The City Attorney certified that the stated reason is acceptable according to the Alabama Open Meetings Act.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Council entered into Executive Session at 7:09 p.m.

Mayor Small came out of Executive Session at 10:00 p.m. to stat that the session will last another 45 minutes.

Council returned from Executive Session at 10:45 p.m.

MOTION BY Councilman Scott to recess the Special Called Council meeting at 10:45 p.m., and reconvene the meeting on November 10, 2008 at 5:30 p.m. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Respectfully submitted by,

Certification of Presiding Officer:

David L. Cohen, City Clerk, MMC

John Lake, Council President
Date & Time Signed: _____

**NOVEMBER 3, 2008
DAPHNE, AL
1705 MAIN STREET
CITY COUNCIL
ORGANIZATIONAL MEETING
6:30 P.M.**

1. CALL TO ORDER

The City Clerk, David Cohen, called meeting to order at 6:30 P.M.

2. INVOCATION/PLEDGE OF ALLEGIANCE

Councilman John Lake gave the invocation.

3. OATH OF OFFICE ADMINISTERED BY JUDGE PAM BASCHAB AND JUDGE TOM DOYLE

Oath of Office: Mayor Fred Small

Judge Tom Doyle administered the oath of office for Mayor Small with his wife and children holding the Bible.

Oath of Office: Bailey Yelding, Jr. District 1

Judge Tom Doyle administered the oath of office for Mr. Yelding with his daughter holding the Bible.

Oath of Office: Cathy Barnette District 2

Judge Tom Doyle administered the oath of office for Mrs. Barnette with her son holding the Bible.

Oath of Office: Greg Burnam District 4

Judge Tom Doyle administered the oath of office for Mr. Burnam with his daughter holding the Bible.

Oath of Office: Ron Scott District 5

Judge Tom Doyle administered the oath of office for Mr. Scott with his wife holding the Bible.

Oath of Office: Derek Boulware District 6

Judge Tom Doyle administered the oath of office for Mr. Boulware with his wife holding the Bible.

Oath of Office: August Palumbo District 7

Judge Tom Doyle administered the oath of office for Mr. Palumbo with his wife holding the Bible.

Oath of Office: John Lake District 3

Judge Pam Baschab administered the oath of office for Mr. Lake with Mr. Lake's wife holding the Bible.

4. ROLL CALL

MEMBERS PRESENT: Bailey Yelding, Councilwoman Cathy Barnette, John Lake, Councilman Greg Burnam, Councilman Ron Scott, Councilman Derek Boulware, August Palumbo.

MOTION BY Councilwoman Barnette to establish the 1st & 3rd Mondays of each month for the Council meeting beginning at 6:30 P.M as contained in the Rules of Procedure. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

8. COUNCIL RULES OF PROCEDURE/ Ordinance 2008-62

Council agreed to consider Ordinance 2008-62 at the Council Work Session.

9. RETAINING OFFICERS / Resolution 2008-56

Council considered each officer separately

- a.) SECTION 3 OF THE ORIGINAL RESOLUTION / Resolution 2008-56 / Retaining Police Chief

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-56. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-56. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

- b.) SECTION 4 OF THE ORIGINAL RESOLUTION / Resolution 2008-57 / Retaining Fire Chief

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-57. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-57. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

c.) SECTION 5 OF THE ORIGINAL RESOLUTION /Resolution 2008-58 / Retaining Treasurer

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-58. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

d.) SECTION 6 OF THE ORIGINAL RESOLUTION / Resolution 2008-59 / Hiring City Attorney

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-59. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-59. *Seconded by Councilman Scott.*

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

MOTION CARRIED

e.) SECTION 2 OF THE ORIGINAL RESOLUTION /Resolution 2008-60 / Retain City Clerk

MOTION BY Councilwoman Barnette to waive the reading of Resolution 2008-60. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Resolution 2008-60. *Seconded by Councilman Yelding.*

MOTION BY Councilman Burnam to amend the resolution to read “appointed for a 90 day probation period.” Seconded by Councilman Scott.

Council discussed the amended motion. Councilman Burnam and Councilman Scott wanted time to investigate a letter that Council received before the meeting regarding the City Clerk.

ROLL CALL VOTE ON AMENDMENT TO RESOLUTION 2008-60

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

AYE Burnam, Scott

NAY Yelding, Barnette, Boulware, Palumbo, Lake

MOTION FAILED

VOTE ON ORIGINAL MOTION TO ADOPT RESOLUTION 2008-60

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

10. RATIFY USE OF PRESENT BANK DEPOSITORIES AND SIGNATORIES TO THE CITY ACCOUNTS

MOTION BY Councilwoman Barnette to suspend the rules to consider Ordinance 2008-63. Seconded by Councilman Scott.

ROLL CALL VOTE

Yelding	Aye	Boulware	Aye
Barnette	Aye	Palumbo	Aye
Burnam	Aye	Lake	Aye
Scott	Aye		

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

MOTION BY Councilwoman Barnette to waive the reading of Ordinance 2008-63. Seconded by Mr. Yelding.

NOVEMBER 3, 2008
CITY OF DAPHNE, AL
1705 MAIN STREET
CITY COUNCIL
ORGANIZATIONAL MEETING
6:30 PM

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTIONBY Councilwoman Barnette to adopt Ordinance 2008-63. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

10. ADJOURN

MOTION BY Councilman Yelding to adjourn. *Seconded by Councilman Burnam*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO DISCUSS IN THE ORGANIZATIONAL MEETING, THE MEETING ADJOURNED AT 7:10 PM.

Respectfully submitted by,

David L. Cohen, City Clerk, MMC

Certification of Presiding Officer:

John Lake
Council President
Date & Time Signed: _____

1. CALL TO ORDER

Council President Lake called the meeting to order at 7:15 p.m.

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Invocation given at organizational meeting.

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

Also present: Mayor Fred Small; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Erick Bussey, Attorney; Kim Briley, Finance Director; Bill Eady, Planning Department Director; Sharon Cureton, Human Resource Director; Tonja Young, Library Director; David Carpenter, Police Chief; Richard Merchant, Building Official; James White, Fire Chief; Melvin McCarley, Interim Public Works Director; David McKelroy, Recreation Director; Cornell Smith, Revenue Officer; Jane Robbins, Mayor's Assistant; Al Guarisco, Village Point Foundation; Ron Allen, Library Board.

Absent: Sandra Morse, Civic Center Director.

3. APPROVE MINUTES:

MOTION BY Councilwoman Barnette to adopt the Council meeting minutes meeting held October 20, 2008. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt the Council Work Session minutes meeting held October 16, 2008. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

PRESENTATION: Introduction of new firefighters / Chief White

Chief White introduced Gerald Lanier, Michael Ramer, and Steven Martell.

PROCLAMATION: Animal Shelter Week

Councilman Palumbo read and presented the proclamation to Ric Yelding; Rhonda Jones and Linda Matthews.

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BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
7:00 P.M.**

2

CERTIFICATE OF APRECIATION: Dr. Albert Corte

Dr. Corte was not present to receive the certificate.

4. REPORT OF STANDING COMMITTEES:

A. FINANCE COMMITTEE / Scott

No report.

B. BUILDINGS AND PROPERTY COMMITTEE – Lake

No report. The next meeting will be Friday at 10:00 a.m.

C. PUBLIC SAFETY COMMITTEE – Burnam

No report. The next meeting will be Wednesday at 4:30 p.m. at City Hall

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Palumbo

No report.

E. PUBLIC WORKS COMMITTEE/SOLID WASTE AUTHORITY – Yelding

No report.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Eady

No meeting in November.

B. Downtown Redevelopment Authority – Barnette

No report. There will not be a meeting in November.

C. Industrial Development Board – Yelding

Appoint new member:

MOTION BY Councilman Scott to appoint Dennis Kearney to the Industrial Development Board. *Seconded by Councilman Yelding.*

AYE ALL IN FAVOR

NAY NONE OPPOSED

MOTION CARRIED

D. Library Board – Lake

The next meeting will be November 6th at 4:00 p.m.

MOTION BY Councilman Burnam to authorize the Mayor to enter into an agreement with hatch McDonald for alterations and additions to the Daphne Library. Seconded by Councilman Scott.

ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

E. Planning Commission – Barnette

Site Review meeting is November 12th at 8:00 a.m., and the Planning Commission meeting is November 20th at 6:00 p.m.

F. Recreation Board – Palumbo

No report. The next meeting will be Wednesday at 6:00 p.m.

G. Utility Board – Scott

The next meeting will be the last Wednesday of the month at 5:00 p.m. at City Hall.

6. REPORTS OF THE OFFICERS:

A. *Mayor's Report*

a.) *MOTION: Authorize the Mayor to enter into an agreement between the City of Daphne and Larry Jackson / Mowing Services (No Cost to City)*

MOTION BY Councilwoman Burnam to authorize the Mayor to enter into an agreement between the City of Daphne and Larry Jackson for mowing services at not cost to the city. Seconded by Councilwoman Barnette.

Mayor Small stated that Mr. Jackson will be mowing for hay for his animals on the south side of Trione Park.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Mayor Small invited everyone to the Veterans Day Ceremony to be held at City Hall Tuesday at 10:a.m. the speaker will be Congressman Joe Bonner, and Representative Randy Davis will present a plaque to the Bueche family. He stated that the Daphne High School football team made it to the playoffs, and it will be a home game this weekend. He also reported that the Daphne High School Band received superior ratings a Tate, and came in third overall. The Honor Guard received first place.

B. City Attorney's Report

No report.

C. Department Head Comments

James White – Fire Chief - thanked Council for his reappointment, and he promised to continue to work hard for the Fire Department.

David McKelroy – Recreation Director – reported that congratulations are in order for the Bayside Ladies Volleyball Team they won their 7th consecutive State title. He said that they have won it nine out of the last ten years.

Tonja Young – Library Director – introduced the new Reference Librarian Ms. Ann Morris to Council.

Kim Briley – Finance Director/Treasurer – thanked Council for her reappointment.

David Cohen – City Clerk – thanked Council for his reappointment. He also stated that there is potential for a grant for the May Day boat ramp. The state has money that has just been released. At this point he is trying to get RFP for services to bring to Council at a later time. It will be similar to the pier and boat ramp at Fairhope. Hopefully, this will get Daphne out of the sand removal business. He will bring this to the work session.

7. PUBLIC PARTICIPATION

Mr. Rod Drummond - spoke regarding the sound system not being as efficient as the old one.

Mr. Willie Robison – 560 Stuart Street – spoke regarding the letter Council received five minutes before the meeting.

Mr. Joe Lemoine – Avery Lane – spoke regarding a meeting about homeowners insurance on November 20th at the 1st Baptist Church in Foley hosted by Act II.

Mrs. Denise D'Oliviera – S.E.E.D.S.- reminded everyone that the Mama Mia Cook-off will be Saturday.

8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS

RESOLUTIONS:

NO RESOLUTIONS

ORDINANCES

2ND READ

- a.) Regulating Erosion and Sediment Control for Residential Dwellings and Other Land Disturbance. /Ordinance 2008-54
- b.) Lodging Tax Appropriation: D'Olive Creek Pedestrian Bridge Crossing. /Ordinance 2008-60
- c.) MS4 Monitoring Plan. /Ordinance 2008-61

1ST READ

- d.) Amending Renaissance Assessment Agreement. /Ordinance 2008-64

MOTION BY Councilman Scott to waive the reading of Ordinances 2008-54, 2008-60, and 2008-61. *Seconded by Councilman Burnam.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Ordinance 2008-54. *Seconded by Councilman Burnam.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Ordinance 2008-60. *Seconded by Councilwoman Barnette.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilwoman Barnette to adopt Ordinance 2008-61. *Seconded by Councilman Scott.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCES 2008-64 WAS MADE 1ST READ.

8. COUNCIL COMMENTS

Councilman Yelding said to his fellow councilmen that they were just sworn in, and they swore to uphold the duties of this city, and that he hopes that they, as the City Council, along with the department heads that they just reinstated would get together, work collectively and move this city forward to the best of their ability. He said that is what he would like the new year to bring about. There have been some things in the past that they have dropped the ball on, and he feels that the City Council, department heads, and the Mayor are going to have to collaborate, and be a little more together to keep this city moving on the right track.

Councilwoman Barnette thanked the citizens of Daphne for re-electing her, and she is honored and privileged to be sitting in her chair today and being sworn in. She looks forward to working hard for the next four years to serve the city of Daphne, and particularly the residents of District 2. She also thanked the Mayor, the Police Chief and his department and all the residents who conveyed their support, sympathy and prayers during the last week during her personal ordeal.

Councilman Scott spoke regarding the pedestrian bridge over D'Olive Creek at Alligator Alley on the east side that will connect the sidewalk over to the new side walk by the hotels. He also spoke regarding the information that was received at the last minute which was in reference to Resolution 2008-56 that had all the appointments lumped together. Council had asked the Mayor to let them know what the reviews were for these employees. The letter came from the Mayor, and there was not any attempt to highjack anyone or to ambush anybody. It was an informational letter and it highlighted the review of these employees. Even though these are appointed positions by Council, they are reviewed on job performance by the Mayor. He also thanked the citizens for re-electing him. He looks forward to working with this Council, they are all friends, and they will not always agree, but they all care for each other. They will all work together to make Daphne the shining star on the eastern shore.

Councilman Boulware stated that he has met will all the Council members since he was elected, and they are all fine people. He feels that the citizens of Daphne should be proud of the Council members. They are extremely confident, well meaning and know that they have the best interest of the city at heart. He said he read a quote one time that said "If we are all thinking alike then someone is probably not thinking." He asked the citizens to remember that the disagreements that Council has during meetings is just a process to get to better service for the City of Daphne. He thinks there will be a lot of good things coming out of the next four years. He asked the citizens to bear with them, and help them when they could.

Councilman Palumbo thanked his colleagues for electing him Council President Pro Tem. He thinks he speaks for the Council in thanking Councilman Burnam for his four years service as Council President. Oftentimes people come to meetings, and it appears that the Council President is just chairing the meetings, but there is a lot of behind the scenes work to being Council President. There are meetings with the Mayor, individual Council members, dealing with people who want to come and give presentations to the Council, setting the agenda and working with the City Clerk, there is a lot to it. This gentleman has done it for four years, and done an excellent job. The fact that he is not continuing as Council President is a natural progression of things. Most of the municipal offices in

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7:00 P.M.**

this area change chairmanship once a year. The fact that he remained for four years and nobody attempted to remove him speaks volumes for his work. Councilman Palumbo congratulated the department heads for their appointment, and he looks forward to working with them in the next term. He also mentioned that at the work session along with the rules they need to look at the committee assignments. Everyone needs to think about if they want to change committees or go from one committee to another, and when the committees meet. The first city Veterans Day celebration is next Tuesday, which was the Mayor's idea, and he thinks that it is an excellent one. The celebration will be Tuesday, November 11th at 10:00 at City Hall. He reminded everyone that tomorrow they will elect the President of the United States. He asked that everyone take the time to exercise their right to vote.

Mayor Small stated that Coffee with the Mayor will be November 13th at 8:30 a.m. The speaker will be Mr. Tim Russell, State Revenue Commissioner, about taxes in the State of Alabama.

Council President Lake recognized the Jubilee Girls that were present. He stated that all Council members are returning except one, which says a lot for the Mayor and this Council for working together. He agrees with everyone that they do work together. They all agree to disagree. He thinks a lot of that was on Councilman Burnam's head, because over the last four years he has used a lot of wisdom and grace in guiding the meetings, and he hopes that he can come to the standard that Councilman Burnam has set, and will look for his guidance in future meetings. He appreciates the honor of being elected Council President for this year.

10. ADJOURN

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

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 7:52 P.M.

Respectfully submitted by,

David L. Cohen,
City Clerk, MMC

Certification by Presiding Officer:

John Lake
Council President
Date & Time Signed: _____

City of Daphne
Office of the Mayor

CERTIFICATE OF APPRECIATION

presented to

DR. ALBERT CORTE, JR.

WHEREAS, in consideration of Dr. Albert Corte, the City of Daphne would like to thank him for his almost forty years of service to the citizens; and

WHEREAS, he served twenty years caring for Daphne's sick, injured, stray, and lost animals; and

WHEREAS, after the Albert Corte, Jr. Animal Shelter was established in 1989 he continues his support with his leadership and guidance; and

WHEREAS, it was Dr. Corte's assistance that was vital in helping the Daphne Police Department get the shelter built and set up and it has been expanded several times due to the growth of the city and it's animal population; and

NOW THEREFORE, the Mayor and City Council thank Dr. Albert Corte for his enthusiasm, energy and tireless dedication for serving all of us in Daphne;

This Certificate of Appreciation is presented by the City of Daphne, Alabama on this 3rd day of November, 2008.

Fred Small
Mayor

**PUBLIC HEARING LIST
FOR COUNCIL MEETING**

NOVEMBER 17, 2008

TO CONSIDER:

- 1.) Rezoning: Ashley Gates Apartments, Phases I & II
Property located on the Southeast Corner of
Main Street and Van Avenue (13.21 Acres and 5.40 Acres)
Rezone from B-2, General Business District to
R-4, High Density Multi-Family Residential District



To: Office of the City Clerk
From: William H. Eady, Sr., Director of
Community Development
Subj: Ashley Gates - Brookfield, L.L.C.
Zoning Amendment
Date: September 11, 2008

MEMORANDUM

At the regular meeting of the City of Daphne Planning Commission, August 28, 2008, eight members were present and the vote carried unanimously for the affirmative recommendation of the above-mentioned ordinance.

Upon receipt of said documentation, please place on the appropriate agenda for action by the City Council.

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

Thank you,

WHE/jd

cc: file

attachment(s)

Reference: rezoning of Ashley Gates Apartments, Phases I and II

**THE CITY OF DAPHNE
PLANNING DEPARTMENT
APPLICATION FOR ZONING AMENDMENT**

Application Number: 208-07 Date Plat Submitted: July 28, 2008

Date Presented: August 28, 2008

Name of Owner: Ashley Gates-Brookfield, L.L.C.

Address: Post Office Box 241402 Montgomery, AL 36117 Telephone# 334-387-1168
(Street or P.O. Box) (City) (State) (Zip Code)

Name of Authorized Agent, if other than owner: Meredith L. Turpin, Esquire

Address: Post Office Box 2925 Daphne, AL 36526 Telephone# 621-1555 ext. 24
(Street or P.O. Box) (City) (State) (Zip Code)

Subdivision: None

Lot(s): _____ 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: July 28, 2008).

Meeting Dates:

Planning Commission: August 28, 2008

City Council: _____

Reason(s) for requesting the Zoning Amendment:

This Property is zoned B-2 and is an existing Apartment Complex, therefore
to comply with the present land use, it needs to be Rezoned to R-4.



SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

(Application for a Zoning Amendment information shall be that of the owner of the subject property).

Revised: March 18, 2004

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 912 Van Avenue
Daphne, AL 36526
- b) Name of Subdivision See Legal Description
- c) Lot numbers involved in change N/A
- d) Total acreage of change Phase One 13.21 Acres, Phase Two 5.40 Acres
- e) Recorded in Map Book Slide No. 1815-A Page _____
- f) Owned in whole by the undersigned? No.
- g) If owned in part, name(s) of co-owner(s):
Please see attached Exhibit "A"

2) Zoning change requested:

- a) Present classification of property B-2
- b) Reclassification desired R-4
- c) Character of neighborhood Mixed use (commercial & residential)

3) Certifications:

- a) Owner's Name Ashley Gates-Brookfield, L.L.C.
- b) Address Post Office Box 241402 Montgomery, AL 36117
- c) Telephone Number 334-387-1168
- d) Date July 28, 2008

Jos D. Slavik
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.

July 28, 2008
Date

Joe D. Stanlaw
Signature of Property Owner

ASHLEY GATES -BROOKFIELD, L.L.C.
ZONING AMENDMENT
 from B2, General Business
 to R4, High Density Multi-family Residential
 (PROPERTY 18.2146 ACRES)

EXHIBIT "A"

LEGAL DESCRIPTION:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, T5S-R2E, BALDWIN COUNTY, ALABAMA, RUN THENCE SOUTH 2226.67 FEET TO A POINT ON A WESTWARD PROJECTION OF THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE; THENCE ALONG SAID WESTWARD PROJECTION AND ALONG THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE RUN N 89° 51' 14" E 858.28 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 89° 51' 14" E AND ALONG SAID SOUTH LINE OF VAN AVENUE RUN 266.00 FEET TO A POINT; THENCE RUN S 00° 15' 57" E 578.45 FEET TO THE NORTHWEST CORNER OF DAPHNE SQUARE, ACCORDING TO PLAT RECORDED IN MAP BOOK 10, PAGE 125 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE WEST BOUNDARY OF SAID DAPHNE SQUARE RUN S 00° 18' 31" E 704.83 FEET TO THE SOUTHWEST CORNER OF SAID DAPHNE SQUARE; THENCE RUN N 89° 39' 07" W 712.61 FEET TO A POINT; THENCE RUN N 00° 23' 48" E 509.33 FEET TO A POINT; THENCE RUN N 00° 29' 32" E 557.91 FEET TO A POINT; THENCE RUN N 89° 51' 14" E 434.28 FEET TO A POINT; THENCE RUN N 00° 40' 29" W 210.0 FEET TO THE POINT OF BEGINNING. CONTAINING 18.620 ACRES. THIS DESCRIPTION INCLUDES LOT 1 OF VAN AVENUE SUBDIVISION AS PER PLAT RECORDED ON SLIDE NO. 1815-A OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA.

THE FOLLOWING AREA IS TO RETAIN B-2 ZONING AS BUFFER FOR ADJACENT PROPERTY ZONED B-2:

LESS AND EXCEPT A 10 FOOT BUFFER STRIP BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, T5S-R2E, BALDWIN COUNTY, ALABAMA, RUN THENCE SOUTH 2226.67 FEET TO A POINT ON A WESTWARD PROJECTION OF THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE; THENCE ALONG SAID WESTWARD PROJECTION AND ALONG THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE RUN N 89° 51' 14" E 1114.28 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 89° 51' 14" E AND ALONG SAID SOUTH LINE OF VAN AVENUE RUN 10.00 FEET TO A POINT; THENCE RUN S 00° 15' 57" E 578.45 FEET TO THE NORTHWEST CORNER OF DAPHNE SQUARE, ACCORDING TO PLAT RECORDED IN MAP BOOK 10, PAGE 125 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE WEST BOUNDARY OF SAID DAPHNE SQUARE RUN S 00° 18' 31" E 704.83 FEET TO THE SOUTHWEST CORNER OF SAID DAPHNE SQUARE; THENCE RUN N 89° 39' 07" W 492.96 FEET TO A POINT; THENCE RUN N 00° 20' 53" E 10.00 FEET TO A POINT; THENCE RUN S 89° 39' 07" E 482.85 FEET TO A POINT; THENCE RUN N 00° 18' 31" W 694.73 FEET TO A POINT; THENCE RUN N 00° 15' 57" W 578.47 FEET TO THE POINT OF BEGINNING. CONTAINING 17,657 SQUARE FEET OR 0.4054 ACRE.

Ashley Gate's Apartments Adjoining Property Owner's List

Tillman, Elbert Leon Jr & Nanett
P. O. Box 2388
Daphne, AL 36526

1300 main Street LLC
1300 Main Street
Daphne, AL 36526

Alves, J Hodge III Etux Allison
P. O. Box 123
Mobile, AL 36601

Hutchco Properties LLC
P. O. Box 361
Montrose, AL 36559

Coastal Properties LLC
1290 Main Street Suite B
Daphne, AL 36526

Parkway Pointe LLC
P. O. Box 1318
Gulf Shores, AL 36547

Wright, Elizabeth Etal Brown, PA
1112 Johnson Road
Daphne, AL 36526

HPJ Properties LLC
801 Captain O'Neal Drive
Daphne, AL 36526

Conaway, Francis Etux Tommie
P. O. Box 1021
Daphne, AL 36526

Conaway, Francis B Etux Tommie B
P. O. Box 1021
Daphne, AL 36526

Leonard, John W & Ellen H
P. O. Box 353
Daphne, AL 36526

Alabama, State of
State of Alabama
Montgomery, AL 36104

Tellus Eight LLC
P. O. Box 10080
Gulfport, MS 39505

L M Smith Construction Co., Inc.
438 Begeman Road
Mobile, AL 36608

The Sulcer Wood Corporation
c/o Badcock Furniture
1201 Hwy. 98
Daphne, AL 36526

Pruett, Donald E
P. O. Box 267
Montrose, AL 36559

HPJ Properties, LLC
801 Captain O'Neal Drive
Daphne, AL 36526

Ozark Pole & Timber Products Inc.
19137 Scenic Hwy 98
Fairhope, AL 36532

Nelson, Charles T
P. O. Box 834
Daphne, AL 36526

Nelson, Frances L
P. O. Box 22
Daphne, AL 36526

Maumenee, Benjamin C
P. O. Box 966
Fairhope, AL 36533

Long / Earle LLC
36510 Boykin Blvd.
Lillian, AL 36549

Johansen, George E
902 Van Ave.
Daphne, AL 36526

Lambert, Thomas G
P. O. Box 355
Daphne, AL 36526

Dees, J Anthony
115 Schooley Circle
Daphne, AL 36526

Beedy, Judson D
P. O. Box 2826
Daphne, AL 36526

Beedy, Pamela S
894 Van Ave.
Daphne, AL 36526

**CITY COUNCIL MEETING
STANDING COMMITTEE RECOMMENDATIONS:**

FINANCE COMMITTEE REPORT

BUILDINGS & PROPERTY COMMITTEE REPORT

PLANNING/ZONING/CODE ENFORCEMENT COMMITTEE REPORT

PUBLIC SAFETY/ORDINANCE COMMITTEE REPORT

PUBLIC WORKS/BEAUTIFICATION/MUSEUM COMMITTEE REPORT

**CITY OF DAPHNE
FINANCE COMMITTEE MINUTES
November 10, 2008
4:00 P.M.**

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 4:10 pm. Present were Chairman Ron Scott, Councilman Derek Boulware, Finance Director Kim Briley, Senior Accountant Suz  ne Henson and Accountant Donna Page.

Councilman Bailey Yelding arrived at 4:35 pm.

Also in attendance were Mayor Fred Small, Human Resources Director Sharon Cureton (arrived at 4:30), and Recreation Director David McKelroy.

Mr. Boulware was nominated to be Chairman of the Finance Committee and will now serve in that capacity.

II. PUBLIC PARTICIPATION

There was no public participation.

III. HUMAN RESOURCES BUSINESS

Ms. Sharon Cureton presented the change in pay grade recommendations as determined by the Archer Company from their review of pay grades 14 through 38. Their recommendations were as follows:

1. Site Containment Inspector from Pay Grade 17 to Environmental Programs Manager at Pay Grade 20
2. Recreation Program Coordinator (2) from Pay Grade 17 to Pay Grade 19.

The annual cost for these changes would be \$13,920.19

Motion by Mr. Scott to recommend to Council to make the following pay grade changes as recommended by the Archer Company:

- 1. Site Containment Inspector from Pay Grade 17 to Environmental Programs Manager at Pay Grade 20***
 - 2. Recreation Program Coordinator (2) from Pay Grade 17 to Pay Grade 19***
- at a total annual cost of \$13,920.19. Seconded by Mr. Yelding. All in favor.***

IV. ISSUES REQUIRING ACTION BY CITY COUNCIL

A. Bid: 2009-B-PARK BATHROOM FACILITIES: PARK CITY PARK & JOE LEWIS PARK

Twelve bid invitations were sent out, with seven sealed bids received. It was discussed that the lowest bid was \$150,000, but only \$95,000 has been appropriated for this work. Mr. McKelroy noted that there seemed to be a lot of discrepancies in line items of the bid, such as one company bid \$2,000 for site work while another bid \$28,000. Mayor Small stated that we should re-evaluate the scope of the work needed.

Motion by Mr. Scott to recommend to Council to reject all bids and to re-bid after re-evaluating the scope of the project. Seconded by Mr. Boulware. All in favor.

B. Pre-paid Travel

1. David Cohen, City Clerk, 43rd Annual Municipal Management Training – Institute for City Clerks & Administrators, Birmingham AL, November 19- 21, 2008 - \$105

Mr. Scott discussed that pre-paid travel requests need to be timely submitted before the Finance Committee and the Council in order to be processed before the travel dates.

Motion by Mr. Scott to recommend to Council to adopt a resolution approving the following pre-paid travel: David Cohen, City Clerk, 43rd Annual Municipal Management Training – Institute for City Clerks & Administrators, Birmingham AL, November 19 – 21, 2008 - \$105.00 Seconded by Mr. Boulware. All in favor.

C. Declare City Equipment Surplus

Motion by Mr. Scott to recommend to Council to adopt a resolution declaring the following equipment surplus and authorizing the Mayor to dispose of such property:

Turbo Charger Generator - # 7197

1989 John Deer Tractor w/ Alamo Brush Cutter - # L02555R653220

1999 John Deere Deck Mower - # M01145X180087

1990 Ford F 350 Crew Cab - # 2FTJW35H9LCA43610

1999 John Deere Deck Mower - #M01145X185335

Seconded by Mr. Yelding. All in favor.

V. Current Business

A. Bids: 2009-C-Trione Soccer & Football Complex Phase I

The bids received for the Trione Soccer & Football Complex Phase I were discussed. Ms. Briley noted that there is approximately \$740,000 remaining in the recreation fund for this project, with the low bid being \$178,513 over this amount. It was also discussed that this bid does NOT include the lights, bathrooms, or irrigation needed. Ms. Henson stated the minutes were just an FYI as the engineers at Hutchinson, Moore, & Rauch (HRM) are still reviewing the bids and we have not received their recommendation. Mr. McKelroy noted that the fields would not be needed until August 2009. Mr. Scott made the motion to table action on the bids until after HMR's recommendation is received.

B. City Hall Contingency Fund Update

Ms. Briley presented change order #6 for the Committee's review. This brings the total spent for change orders to \$88,984, with a remaining balance available of \$11,016.

C. General Fund - FY 2009 Budget

Ms. Briley presented a revised 2009 proposed budget summary, which includes Council actions since the beginning of FY 2009. There is a balance available of \$52,991. Also presented was the requested employee

COLA cost information. Mayor Small noted that he and Ms. Briley will be working together to prepare budget information that would be presented to the Council at the next work session.

VI. FINANCIAL REPORTS

A. Treasurer's Report: October 31, 2008

The Treasurer's Report totaling \$20,157,496.61 was presented.

Motion by Mr. Scott to accept the Treasurer's Report as of October 31, 2008, in the amount of \$20,157,496.61. Seconded by Mr. Yelding. All in favor.

B. Sales and Use Taxes: September 30, 2008

Sales and Use Tax Collected for September 2008	- \$ 960,450
Sales and Use Tax Budgeted for September 2008	- <u>\$1,024,647</u>
Under Budget (for September)	- \$ (64,197)

YTD Budget Collections Variance - Under Budget - \$(716,406)

C. Lodging Tax Collections, September 30, 2008

The Lodging Tax Collections report shows \$49,698.91 collected for September 2008.

D. Report: New Business Licenses – October 2008

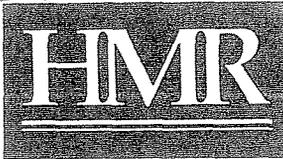
A report showing new businesses licensed in the City in October was presented.

E. Bills Paid Reports – October 2008

The October Bills Paid Report for FY 2008 was included in Packet #2.
The October Bills Paid Report for FY 2009 was included in Packet #2-A.

VII. ADJOURN

The meeting was adjourned at 5:20 p.m.



HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127
Daphne, Alabama 36526

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

October 30, 2008

Honorable Fred Small, Mayor
City of Daphne
Post Office Box 400
Daphne, AL 36526

RE: Bid Document No. 2009-B Park Bathroom Facilities:
Park City Park & Joe Patrick Lewis Park

Dear Mayor Small:

Enclosed is the Tabulation of Bids received October 29, 2008 for the subject project.

We recommend that you award the Contract to Thomas Construction at their submitted lowest bid of \$150,000.00. Please note that the Contractor did not turn in the entire bid specification booklet, however, our review finds that the lump sum bid is in order.

*Note
to
Council **

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

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC


Stephen J. Delahunty, P.E.
Project Manager

/mlp
D25002958/08.398

**CITY OF DAPHNE
 2009-B-PARK BATHROOM FACILITIES:
 PARK CITY PARK & JOE PATRICK LEWIS PARK
 OCTOBER 28, 2008**

PRESENT WERE:

MS. SUZANNE HENSON	SR ACCOUNTANT
MIRANDA POWELL	HMR
MELVIN MCCARLEY	PW

12 INVITAIONS TO BID WERE MAILED, PICKED-UP, E-MAILED, OR FAXED, 7 SEALED BIDS WERE RECEIVED.

THE PRESENTED BIDS WERE OPENED AND THE BIDS WERE READ ALOUD AS FOLLOWS:

<u>VENDER</u>	<u>BID BOND</u>	<u>ADDENDUM</u>	<u>AMOUNT</u>
GM STUART, INC.	X	N/A	174,378.00
EM DUNAWAY GC, INC.	X		159,979.00
THOMAS CONST.	X	NO BOOKLET	150,000.00
BAY SOUTH LTD, INC.	X		157,000.00
EAST COAST CONTR., INC.	X		193,787.00
HARRIS CONST. DEVELOPMENT	X	NO BOOKLET	173,820.00
MC WILLIAMS CONST.INC.	X		169,519.00



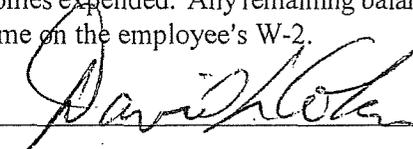
 SUZANNE HENSON, SR. ACCOUNTANT

PREPAID TRAVEL REQUEST FORM

EMPLOYEE NAME/TITLE	DAVID L. COHEN
DEPARTMENT	LEGISLATIVE
DATES OF TRAVEL	NOVEMBER 19-21, 2008
SCHOOL/ORGANIZATION	43 RD ANNUAL MUNICIPAL MANAGEMENT TRAINING INSTITUTE FOR CITY CLERKS & ADMINISTRATORS
LOCATION FOR TRAINING: CITY/STATE	BIRMINGHAM, AL
REGISTRATION FEE	\$260.00
LODGING	\$258.00
TOTAL ADVANCE REQUESTED (\$35 x # OF DAYS)	\$105.00

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

Employee Signature _____



Department Head Approval

8064 120200 / 52211 / _____
 Vendor # Dept Org # Object # Proj #

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

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

43rd Annual Municipal Management Training Institute for City Clerks and Administrators

November 19-21, 2008, Hilton Perimeter Park Hotel, Birmingham, AL

TENTATIVE AGENDA

Wednesday, November 19

12:30 p.m. **Newcomers Welcome
and Early Bird Registration**
(Conference Registration Desk)

3:00 p.m. OPENING SESSION

5:30 p.m. **President's Reception**
Hosted by Corporate Sponsors

6:30 p.m. **Social**

7:00 p.m. **Dinner and Entertainment**
Installation of New Officers

Thursday, November 20

7:30 a.m. **Registration, Coffee & Danish**
(Conference Registration Desk and
Pre-function Foyer)

8:30 a.m. **Welcome**
Presiding: **Iva Nelson**,
City Clerk, Gadsen,
President, AAMCA

8:40 a.m. **Report from AAMCA
Elections Committee**

8:45 a.m. TBA

10:00 a.m. **Refreshment Break**

10:15 a.m. TBA

12:00 p.m. **Luncheon**
Business Meeting &
Presentation of Awards

1:15 p.m. TBA

2:45 p.m. **Refreshment Break**

3:00 p.m. TBA

4:30 p.m. **Adjourn formal program**

Friday, November 21

7:30 a.m. **Coffee and Danish**
(Pre-function Foyer)

8:30 a.m. TBA

9:15 a.m. **Refreshment Break**

9:30 a.m. TBA

10:15 a.m. TBA

11:15 a.m. **Evaluations and Adjournment**

**A complete agenda will
be mailed to registrants
at a later date.**

Total Budget, Contingency Fund
October 31, 2008

Adopted Budget	50,000
Amended Budget	<u>50,000</u>
	100,000

Change Order #1	4,750
Change Order #2	(18,335)
Change Order #3	(25,253)
Change Order #4	(2,051)
Change Order #5	(22,301)
Change Order #6	<u>(25,794)</u>
	(88,984)

Balance Available	<u><u>11,016</u></u>
-------------------	----------------------

CHANGE ORDER

Distribution to:

- OWNER
- ARCHITECT
- CONTRACTOR
- FIELD
- OTHER

PROJECT:

Daphne City Hall Addition
Daphne, Alabama

CHANGE ORDER NUMBER: 6

INITIATION DATE: 21-Oct-08

CONTRACTOR:

Rod Cooke Construction, Inc.
3496 Halls Mill Road
Mobile, Al 36693

ARCHITECT'S PROJECT NO: 0506

CONTRACT FOR: CONSTRUCTION

CONTRACT DATE: 21-Nov-06

YOU ARE DIRECTED TO MAKE THE FOLLOWING CHANGES IN THIS CONTRACT:

1	Add:	Owner requested changes @ Revenue and Planning- COR #39	12,463.00
2	Add:	Owner requested changes @ Human Resources- COR #40	13,331.00

TOTAL 25,794.00

Not valid until signed by both the Owner and Architect.

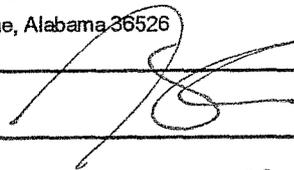
Signature of the Contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

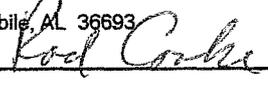
The original (Contract Sum)	\$	7,415,500.00
Net change by previously authorized Change Orders		63,190.00
The (Contract Sum) prior to this Change Order was		7,478,690.00
The (Contract Sum) will be (increased) by this Change Order		25,794.00
The new (Contract Sum) including this Change Order will be		7,504,484.00
The Contract Time will be (increased)		4 Days
The Date of Substantial Completion as of the date of this Change Order therefore is		* 15-Jun-08

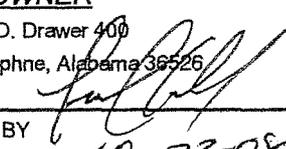
Gatlin Hudson Architects, Inc.
ARCHITECT
P.O. Box 1185
Daphne, Alabama 36526

Rod Cooke Construction, Inc.
CONTRACTOR
3496 Halls Mill Road
Mobile, AL 36693

City of Daphne, Alabama
OWNER
P.O. Drawer 400
Daphne, Alabama 36526

BY 
DATE 10-21-08

BY 
ROD COOKE, PRESIDENT
DATE 10/21/08

BY 
DATE 10-22-08

*** DATE OF SUBSTANTIAL COMPLETION
DISPUTED BY RCCI. TO BE ADDRESSED
IN POTENTIAL FUTURE MEDIATION/ARBITRATION.**

**General Fund
Fiscal Year 2009 Budget**

Draft Rev>Exp, 9-12-08	21,562	
November 2008	58,866	Medical/Dental Employee Contribution Adjustment
Ordinance 2008-59	(19,187)	Police Vehicle Replacement
Ordinance 2008-61	(6,250)	MS4 Monitoring Plan
	<u>54,991</u>	
Buildings & Prop Comm	(2,000)	Display Case for Museum
	<u><u>52,991</u></u>	

Employee COLA Information:

Base Wages	9,782,415
Overtime	<u>637,916</u>
	10,420,331

5% Increase	521,017
Benefits	<u>75,026</u>
Total 5% COLA	596,043

4% Increase	416,813
Benefits	<u>60,021</u>
Total 4% COLA	476,834

3% Increase	312,610
Benefits	<u>45,016</u>
Total 3% COLA	357,626

2% Increase	208,407
Benefits	<u>30,011</u>
Total 2% COLA	238,417

TREASURER'S REPORT

As of October 31, 2008

TO: FINANCE COMMITTEE

FROM: KIMBERLY BRILEY, FINANCE DIRECTOR/TREASURER

<u>ACCT TITLE</u>	<u>BANK</u>	<u>BALANCE</u>
GENERAL FUND & ENTERPRISE FUNDS		
MMA ACCT	COMPASS	\$11,703,419.19
OPERATING ACCT	COMPASS	(\$280,854.07)
PAYROLL ACCT	COMPASS	(\$14,569.00)
		<u>\$11,407,996.12</u>
AGENCY FUND		
MUNICIPAL COURT	COMPASS	\$341,667.26
SPECIAL REVENUES FUND		
SAIL SITE	RBC BANK	\$3,646.22
4 CENT GAS TAX	RBC BANK	\$205,525.04
7 CENT GAS TAX	RBC BANK	\$294,908.56
		<u>\$504,079.82</u>
CAPITAL PROJECTS FUND		
CAPITAL RESERVE	WACHOVIA	\$4,132,108.23
99 WARRANT CONS	REGIONS	\$11,542.43
2006 CONSTRUCTION	WACHOVIA	\$2,028,169.56
		<u>\$6,171,820.22</u>
DEBT SERVICE FUND		
DEBT SERVICE	WACHOVIA	\$1,520,381.02
2006 DEBT SERVICE	RBC BANK	\$211,552.17
		<u>\$1,731,933.19</u>
		<u>\$20,157,496.61</u>

SALES & USE TAXES

ACTUAL COLLECTIONS

	2002	2003	2004	2005	2006	2007	2008
October	671,699.04	636,482.64	697,830.58	833,700.71	932,634.66	944,542.36	867,190.18
November	650,308.98	646,534.10	710,788.74	814,666.03	901,512.38	918,837.95	915,890.97
December	858,086.66	892,208.68	941,151.87	1,091,073.78	1,168,443.68	1,182,584.39	1,120,005.09
January	639,638.85	590,727.65	697,083.68	771,837.83	887,468.11	914,876.33	822,020.87
February	602,215.06	632,654.31	688,421.54	788,825.08	878,123.66	877,975.60	865,625.83
March	710,960.77	705,390.20	848,156.86	917,832.17	1,081,774.83	1,071,598.38	998,616.04
April	629,853.17	692,148.44	752,039.55	863,144.81	968,760.72	960,140.54	963,691.85
May	668,867.28	702,692.15	757,610.49	867,446.44	1,000,424.48	1,021,498.14	957,167.20
June	731,684.73	752,668.04	818,209.20	982,863.46	1,024,091.07	1,066,433.92	997,274.15
July	679,602.58	721,790.90	803,051.14	908,576.13	941,407.68	993,216.66	888,690.34
August	657,027.91	739,993.63	745,320.33	869,818.11	950,539.01	954,421.57	964,626.26
September	644,827.41	715,641.36	830,260.80	998,476.08	967,616.16	965,107.35	960,450.01
Totals	8,144,772.44	8,428,932.10	9,289,924.78	10,708,260.63	11,702,796.44	11,871,233.19	11,321,248.79

FY 2007 BUDGET/ACTUAL COMPARISONS

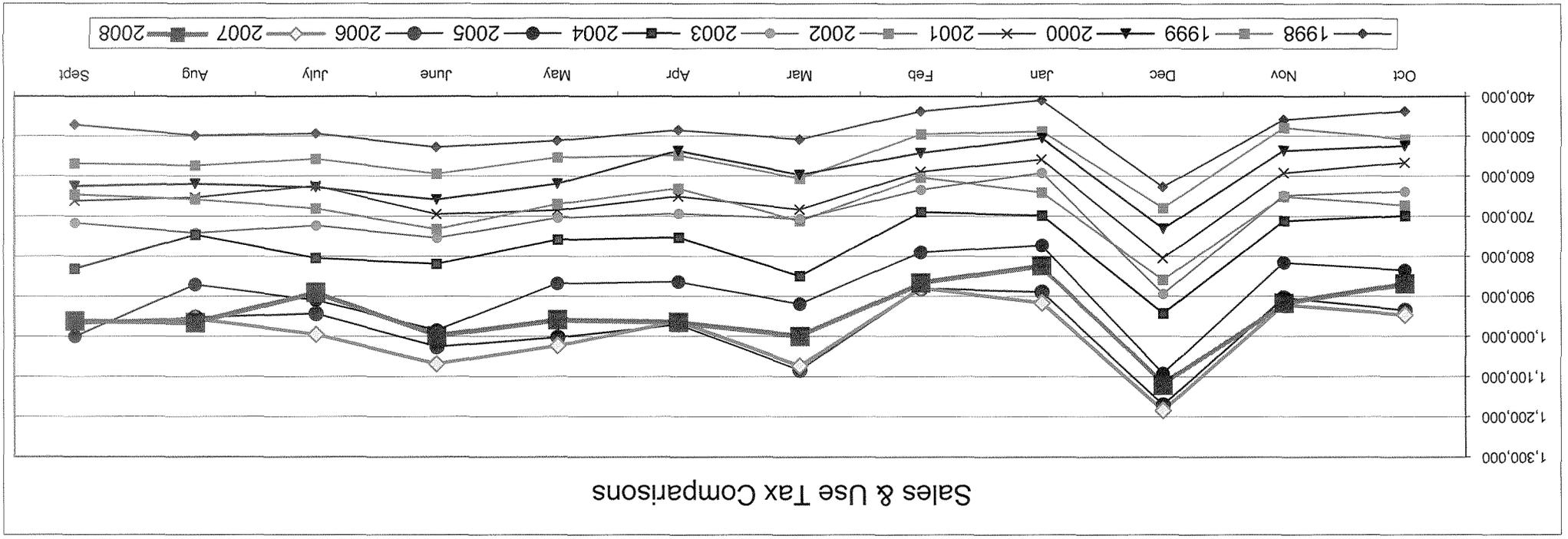
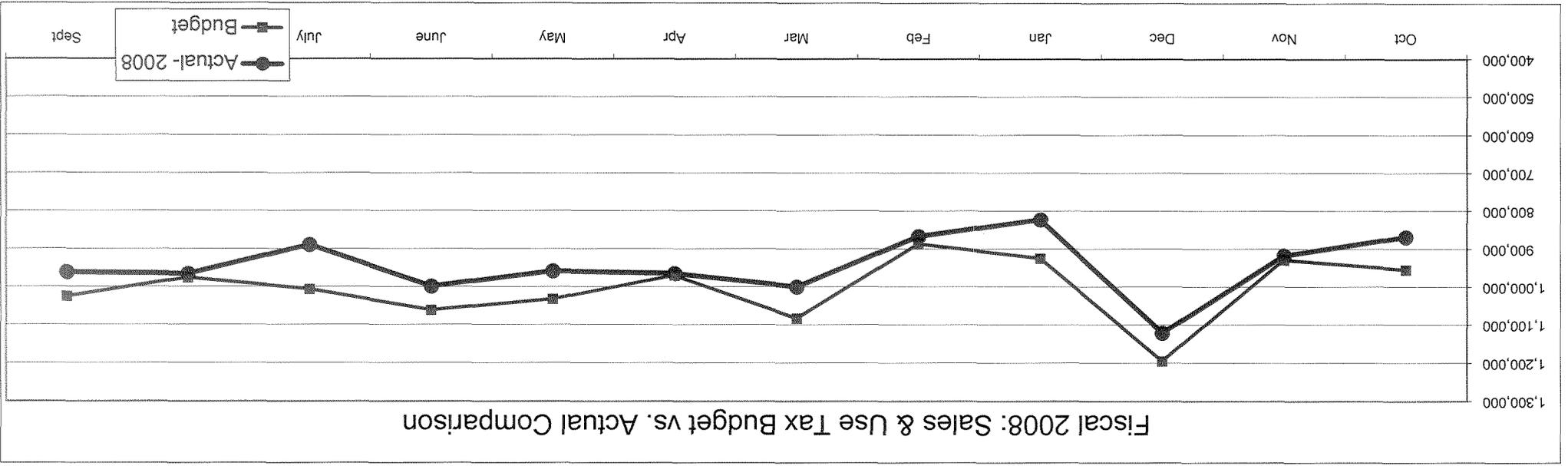
	Actual-2008	Budget	Monthly Variance	YTD Variance	% of Budget
October	867,190.18	953,988	(86,797.82)	(86,797.82)	-9.10%
November	915,890.97	928,026	(12,135.03)	(98,932.85)	-1.31%
December	1,120,005.09	1,194,410	(74,404.91)	(173,337.76)	-6.23%
January	822,020.87	924,025	(102,004.13)	(275,341.89)	-11.04%
February	865,625.83	886,755	(21,129.17)	(296,471.06)	-2.38%
March	998,616.04	1,082,314	(83,697.96)	(380,169.02)	-7.73%
April	963,691.85	969,742	(6,050.15)	(386,219.17)	-0.62%
May	957,167.20	1,031,713	(74,545.80)	(460,764.97)	-7.23%
June	997,274.15	1,061,004	(63,729.85)	(524,494.82)	-6.01%
July	888,690.34	1,005,952	(117,261.66)	(641,756.48)	-11.66%
August	964,626.26	975,079	(10,452.74)	(652,209.22)	-1.07%
September	960,450.01	1,024,647	(64,196.99)	(716,406.21)	-6.27%
Totals	11,321,248.79	12,037,655	(716,406.21)		

FISCAL YEAR COMPARISONS

	<u>\$ Change</u>						<u>Percent Change</u>						
	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	
October	(35,216.40)	61,347.94	135,870.13	98,933.95	11,907.70	(77,352.18)	-5.24%	9.64%	19.47%	11.87%	1.28%	-8.19%	
November	(3,774.88)	64,254.64	103,877.29	86,846.35	17,325.57	(2,946.98)	-0.58%	9.94%	14.61%	10.66%	1.92%	-0.32%	
December	34,122.02	48,943.19	149,921.91	77,369.90	14,140.71	(62,579.30)	3.98%	5.49%	15.93%	7.09%	1.21%	-5.29%	
January	(48,911.20)	106,356.03	74,754.15	115,630.28	27,408.22	(92,855.46)	-7.65%	18.00%	10.72%	14.98%	3.09%	-10.15%	
February	30,439.25	55,767.23	100,403.54	89,298.58	(148.06)	(12,349.77)	5.05%	8.81%	14.58%	11.32%	-0.02%	-1.41%	
March	(5,570.57)	142,766.66	69,675.31	163,942.66	(10,176.45)	(72,982.34)	-0.78%	20.24%	8.21%	17.86%	-0.94%	-6.81%	
April	62,295.27	59,891.11	111,105.26	105,615.91	(8,620.18)	3,551.31	9.89%	8.65%	14.77%	12.24%	-0.89%	0.37%	
May	33,824.87	54,918.34	109,835.95	132,978.04	21,073.66	(64,330.94)	5.06%	7.82%	14.50%	15.33%	2.11%	-6.30%	
June	20,983.31	65,541.16	164,654.26	41,227.61	42,342.85	(69,159.77)	2.87%	8.71%	20.12%	4.19%	4.13%	-6.49%	
July	42,188.32	81,260.24	105,524.99	32,831.55	51,808.98	(104,526.32)	6.21%	11.26%	13.14%	3.61%	5.50%	-10.52%	
August	82,965.72	5,326.70	124,497.78	80,720.90	3,882.56	10,204.69	12.63%	0.72%	16.70%	9.28%	0.41%	1.07%	
September	70,813.95	114,619.44	168,215.28	(30,859.92)	(2,508.81)	(4,657.34)	10.98%	16.02%	20.26%	-3.09%	-0.26%	-0.48%	
Annual \$ Change	284,159.66	860,992.68	1,418,335.85	994,535.81	168,436.75	(549,984.40)	Annual % Change	3.49%	10.21%	15.27%	9.29%	1.44%	-4.63%

TOTAL collections: FY 07	11,871,233
TOTAL est. bdgt coll: FY 08	12,037,655
Budgeted Dollar Variance 07/08	166,422
Budgeted Percent Variance 07/08	1.40%

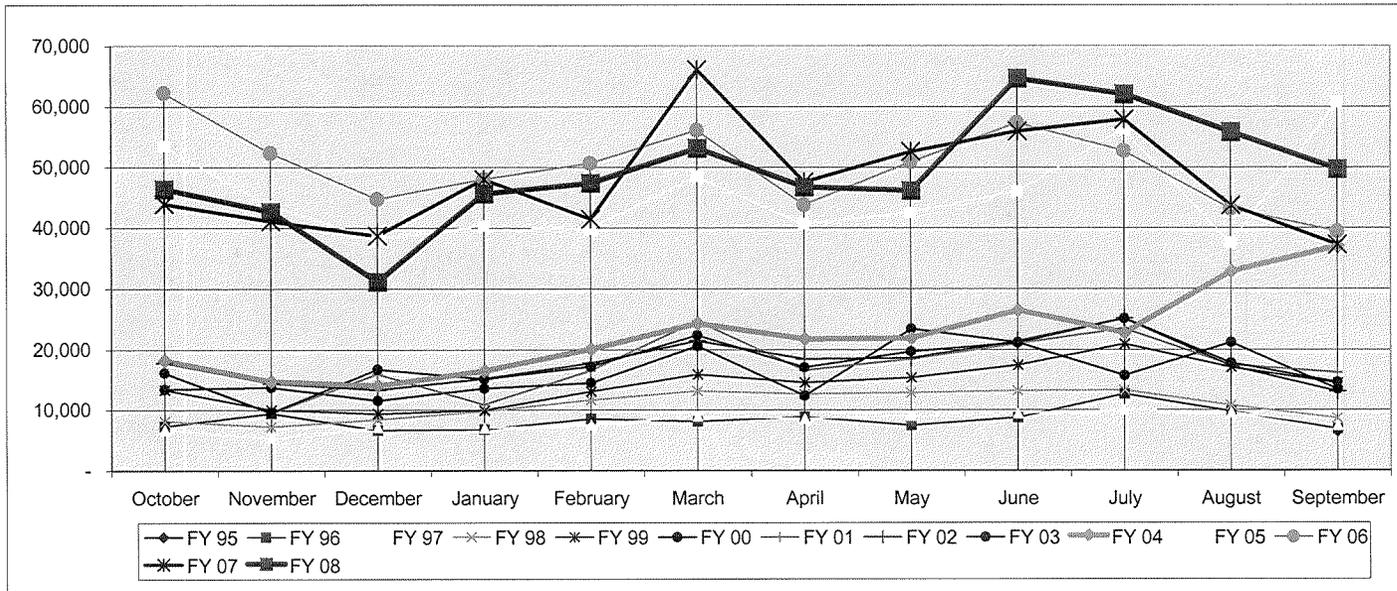
TOTAL collections: 9-30-08	11,321,249
Budgeted: 10-1-07 to 9-30-08	12,037,655
Actual Coll <(>) Budget, 9-30-08	(716,406)
% Over/(Under) Budget, 9-30-08	-5.95%



Monthly Lodging Tax Collections

	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>	<u>FY 06</u>	<u>FY 07</u>	<u>FY 08</u>
October		7,228.60	6,701.69	8,042.55	13,241.96	13,344.97	16,021.98	17,757.16	16,103.81	18,110.90	53,490.95	62,191.49	43,874.01	46,360.47
November		9,371.57	5,419.99	7,156.30	9,963.87	13,712.88	9,378.73	14,346.00	9,488.82	14,652.46	43,652.17	52,326.23	41,028.15	42,599.84
December		6,580.10	7,076.44	8,327.51	9,303.23	11,505.34	15,885.37	13,257.40	16,693.64	13,940.92	38,197.96	44,694.55	38,605.47	31,081.14
January		6,765.39	6,990.72	9,704.80	9,934.03	13,517.89	10,802.39	15,150.55	15,089.26	16,416.20	40,334.81	48,014.80	48,012.19	45,607.80
February		8,466.36	7,536.69	11,579.98	13,024.87	14,425.61	16,482.91	17,680.30	17,174.37	19,952.91	39,797.68	50,684.11	41,381.78	47,340.33
March		8,017.74	8,902.63	13,048.18	15,837.90	20,536.51	24,601.77	21,371.61	22,248.25	24,206.01	48,474.92	56,076.62	66,060.49	53,123.15
April		8,802.85	8,533.40	12,559.65	14,513.45	12,327.50	16,532.24	18,354.06	16,974.57	21,626.29	40,666.33	43,813.91	47,594.84	46,736.02
May		7,427.26	8,958.97	12,786.85	15,280.40	23,309.92	18,386.51	18,526.24	19,610.83	21,785.09	42,479.97	50,871.74	52,564.61	46,145.12
June		8,672.68	9,359.82	13,101.68	17,379.01	21,073.57	20,948.57	21,322.07	21,031.35	26,336.81	46,037.59	57,338.25	55,924.22	64,626.19
July		12,568.56	9,975.46	13,200.77	20,840.98	15,680.49	23,389.72	25,013.71	25,026.81	22,654.15	56,266.23	52,752.31	57,842.80	62,035.23
August		9,721.13	9,549.66	10,730.24	17,009.26	21,117.00	17,432.39	17,223.03	17,749.12	32,788.35	37,501.21	43,139.77	43,701.41	55,792.89
September	<u>6,371.27</u>	<u>6,806.02</u>	<u>7,400.70</u>	<u>8,586.97</u>	<u>14,397.17</u>	<u>13,393.86</u>	<u>16,116.04</u>	<u>12,997.60</u>	<u>14,563.86</u>	<u>36,847.13</u>	<u>60,635.33</u>	<u>39,398.90</u>	<u>37,180.99</u>	<u>49,698.91</u>
Total	6,371.27	100,428.26	96,406.17	128,825.48	170,726.13	193,945.54	205,978.62	212,999.73	211,754.69	269,317.22	547,535.15	601,302.68	573,770.96	591,147.09

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



<u>FY 2008 Budget</u>
620,000
<u>% Budget Collected</u>
<u>9/30/2008</u>
95%

NEW BUSINESSES

October-08

CITY LIMITS		CONTRACTORS	
APPROVED CASH ADVANCE	1	ANGUS MOREE DRYWALL CO	1
BOLTZ PAIN CENTER, LLC	1	COMMERCIAL FLOORING INC	1
COUNTRYWIDE BANK, FSB	1	WHITTEN ELECTRIC	1
THE PARK AT WHISPERING PINES	1	BALLCON INC	1
DREAM CATCHER BEDDING	1	AVID HOME SYSTEMS	1
QUALASTAT INC	1	BALCO SERVICES	1
BRETT N BARBER	1	BIG BEND INSULATION OF FL	1
TURK RENO, INC	1	TYLER JOHNSTON LANDSCAPING	1
JUBILEE AUTO INTERIORS	1	COMPLETE EROSION CONTROL SYSTEM	1
SOLARWORX	1	INTERIOR/EXTERIOR SOLUTIONS	1
TOTAL CITY LIMITS	10	B & B ELECTRIC LLC	1
		HENINGBURG CONSTRUCTION	1
		BIENVILLE FLOORING & INTERIOR	1
		SUNRISE MAINTENANCE	1
		INDUSTRIAL FILTRATION SERVICE	1
		SIGNPLANT	1
		TOTAL CONTRACTORS	16
		TOTAL NEW BUSINESSES	48
OUTSIDE CITY LIMITS			
BANKINGFORMS.COM	1		
INCISIVE SURGICAL INC	1		
HOLLOWAY VENDING	1		
SLUMBER PARTIES, INC.	1		
LEWIS PEST CONTROL, INC.	1		
SOUTHERN DETENTION TECHNOLOGY	1		
CIVCO MEDICAL SOLUTIONS	1		
VERIZON CREDIT INC	1		
BROOM & BUCKET TRUCK CRANE SERVICE	1		
TRINITY INTERIORS INC.	1		
AMERICAN AUDIO, INC	1		
PURE AIR FILTER SALES & SERVICE	1		
ERICSSON INC	1		
REINHART FOODSERVICE	1		
ATRIUM WINDOWS AND DOORS	1		
APPLIED SYSTEMS	1		
B.A.D. TOOL COMPANY	1		
WRIGHT BROS LLC	1		
HOLCIM US INC	1		
FENWAL INC	1		
SCENT AIR	1		
QUIKRETE - PENSACOLA	1		
TOTAL OUTSIDE CITY LIMITS	22		

Buildings and Property Committee Minutes

November 7, 2008

10:00 a.m.

City of Daphne

Conference Room

Committee

Councilman John Lake, Chairman

Mayor Fred Small

Councilman August A. Palumbo

Frank Barnette, Maintenance Supervisor

Deni Biggs, Latina Harrison, Daphne Civic Center

Richard Merchant, Buildings Inspector

Ms. Selena Vaughn

Mr. Bill Caswell

Mr. Al Guarisco

Meeting Began 10:05 A.M.

The meeting began with Councilman Palumbo stating that he had been in touch with Ms. Mickey Boykin with the Daphne Museum and that she would be unable to attend. Ms. Boykin had requested to be present at the meeting to discuss the purchase of a new display case for the Daphne Museum. Ms. Boykin requested that the Committee determine if funding could be provided for the new display case and contact her before their meeting on Monday as Public Works was scheduled to move the old case out on Monday.

Mr. Bill Caswell was present to discuss progress on the renovation project of Bayfront Park Richard Scardamalia Pavilion. Mr. Caswell noted that previously six priority items had been identified which either needed to be done or must be done to bring the pavilion up to code. This includes improving handicap access by reworking the ramp, providing a lift and moving AC units and basically trying to clean things up.

Councilman Palumbo asked about the possibility of raising the ceiling without major structural work or perhaps exposing the ceiling trusses to give the room additional height. Mr. Caswell responded by saying raising the ceiling was not on the high priority list for renovations at this time and that the trusses can be exposed but the result would not be aesthetically pleasing.

Councilman Palumbo requested information from the Civic Center regarding bookings at the Bayfront Park pavilion. Ms. Harrison noted that the facility is booked every week, particularly the weekends, into the year 2010. The time element for the renovations was discussed and Mr. Caswell stated that the renovation would probably

take at least two months. In view of the bookings at the facility, Mr. Caswell stated that the construction crew could possibly work around the booked events. Ms. Biggs stated that this was possible since most of booked events are on the weekend, but any construction taking place on a weekly basis would need to be cleaned up completely as many weddings, receptions and other meetings are booked there every weekend.

Renovation of the Bayfront Park pavilion floor was also discussed and Mr. Caswell stated the floor is so uneven and irregular that carpet would probably provide the best coverage in that it would hide most of the irregularities in the floor. Chairman Lake stated he thought the floor should be given the highest priority in view of its bad condition. It was also noted that the roof has a few good years before replacement would be needed. It was agreed upon by the Committee that the first priority should be for the City to get its own reappraisal of the building.

Motion by Councilman Palumbo to request City Council to appropriate an amount not to exceed \$1000.00 for the purpose of authorizing Mayor Small to procure a reappraisal of the Richard Scardamalia Pavilion, with funds to be appropriated from the lodging tax accrual set aside for Bayfront Park improvement and development. The Committee further approved sending the request to City Clerk David Cohen to be put on the agenda of the next Council meeting. Councilman Palumbo recommended a suspension of the rules in order to expedite the request. **Second** by Mayor Small. **Motion unanimously approved.**

Ms. Selena Vaughn of the Village Point Foundation was present to discuss a pending grant from Impact 100 for Village Point. Ms. Vaughn explained that the grant requested is for \$82,000 and is not available to government municipalities but is available to 501-C3 organizations and would be active for the years 2009 and 2010. However, the grant may be used by Village Point for the improvement of Bayfront Park, which Ms. Vaughn noted could possibly include a 2000 seat amphitheater and wetlands boardwalk and would impact not only the City of Daphne but Baldwin County as a whole.

Ms. Vaughn requested approval from the Committee to move forward with the grant process, providing the City would approve the concept. Ms. Vaughn said even though the grant has not been awarded, Village Point is one of the top three finalist and would find out from Impact 100 by the end of the day on Saturday who would win the grant award. Her request for the Committee, should Village Point win the Grant award, was to proceed with preliminary plans while working in tandem with the City. Chairman John Lake and Councilman Palumbo expressed appreciation for the endeavors of Village Point, noting that the City has in the past supported Village Point, and should they be awarded this grant, would support the concept for the amphitheater and wetlands boardwalk initiated by the grant.

Motion was made by Councilman Palumbo for the Buildings and Property Committee of the Daphne City Council to support the concept of a multi-purpose

amphitheater on City property at Bayfront Park, and the presentation before Impact 100 by the Village Point Foundation. **Second** by Mayor Small. **Motion carried unanimously.**

The Committee further requested that a letter be drafted from the Mayor's office for presentation by Village Point Foundation to Impact 100 from the Buildings and Property Committee of the Daphne City Council in support of a Grant for the development of a multi-purpose amphitheater on City of Daphne Property at Bayfront Park.

The Committee also then discussed with Ms. Selena Vaughn and Mr. Al Guarisco of Village Point Foundation, the possibility of purchasing the property known as Campbell Swamp in Daphne. **Motion** by Chairman Lake to authorize the Committee to give Mayor Small authority to enter into negotiations with Daphne Utilities for the purchase of Campbell Swamp. **Second** by Councilman Palumbo. **Motion unanimously approved.**

Mr. Richard Merchant presented the Building Department Report to the Committee. Mr. Merchant stated the department has had a slow month and only had two new residential permits and one commercial permit request for the month of October. Mr. Merchant also presented a copy of the new Flood Plain Ordinance to the Committee. He further said the ordinance had been reviewed by the Alabama Office of Water Resources and we are now covered through their office instead of directly through FEMA. He stated the AL Office of Water and Resources had completed their audit, reviewed the proposed ordinance and made necessary changes to bring the City into compliance and up to date. In view of the fact that the ordinance has already been reviewed by the City attorney, according to Mr. Merchant, a **Motion** was made by Chairman Lake to send the ordinance to City Council for the purpose of repealing the previous Flood Plain Ordinance, #1998-02, and replace it with the new ordinance number. **Second** by Mayor Small. **Motion unanimously approved.**

A **Motion** was made by Council Palumbo for the Committee to recommend that \$1,500.00 be placed in the FY 2009 budget for the purpose of replacing the display case for the City Museum. **Second** by Mayor Small. **Motion unanimously approved.**

The Committee made note that the old display case would become the property of the City of Daphne.

Mr. Frank Barnett was also present to discuss proposed roof repair and/or replacement on some City buildings, including the Art Guild, Nicholson Center, and Civic Center. Mr. Barnett stated that some minor repairs have been done to the Civic Center already but the repair was very inadequate because the roof damage was much more extensive than previously thought. At this point the City will either need to do a partial repair or complete replacement. **Motion** made by Councilman Palumbo to authorize Mayor Small to bid for the replacement of the Civic Center roof, east

section, and to repair the roof of the Nicholson Center. **Second** by Mayor Small. **Motion unanimously approved.**

Mayor Small stated that the Justice Center will probably need to be next in line for roof repairs and the Recreation Center and Library should also be put on the list for roof repairs in the future. It was also noted by the Committee that repairs to the Art building would be discussed further at a later time.

Councilman Lake requested that the record reflect that the Council supports Mayor Small on the roof repair plan and also looking into the creating of green space and parking space behind the old jail.

Mayor Small presented an updated appraisal for property located at 1618 Sixth Street in Daphne, which is in back of Daphne City Hall. Mayor Small noted the property total appraisal value was listed at \$169,500.00. He further noted that the property would be a valuable asset to the City, considering parking space is limited at City Hall and it is getting difficult to hold events at City Hall because of lack of parking space. A **Motion** was made by John Lake to authorize Mayor Small to make an offer of \$130,000 for the property at 1618 Sixth Street in Daphne, contingent on Council approval and for any offers from property owners to be taken directly to the Council. **Second** by Councilman Palumbo. **Motion unanimously approved.**

The Committee recommended that the Civic Center Ordinance/Lease agreement discussion be placed on the December Buildings and Property Committee. The Committee requested that Ms. Morse, Civic Center Director, send the ordinance and lease agreement to the City Attorney for review before the December meeting. Mayor Small also stated he had received a letter from Baldwin County Homebuilders requesting clarification of Civic Center charges for their trade show in 2009 and requested that Ms. Morse bring the Homebuilders files to the December Buildings and Property meeting. Chairman Lake requested that the meeting be dedicated to the discussion of the Civic Center Ordinance, Lease agreement and the letter from Baldwin County Homebuilders with no other items to be placed on the agenda.

Chairman Lake requested Ms. Biggs to ask the City Clerk's office for a letter given by Wachovia Bank to the City of Daphne, permitting spill-over parking for all future City events at the Civic Center and Recreation Departments.

Motion to adjourn by Councilman Palumbo, **Second** Chairman Lake.

Meeting ended 11:30 a.m.

Public Safety Committee

Wednesday, November 5, 2008

Councilman Greg Burnam, Chairman	Police Chief David Carpenter
Councilman Gus Palumbo	Captain Scott Taylor
Councilman	Captain Daniel Bell
Fire Chief James White	Tracy Bishop - Secretary
PW Sup. Melvin McCarley	

Committee Members Attending:

Councilman Greg Burnam, Chief James White, Chief David Carpenter, Lt. Jud Beedy, and Melvin McCarley

CALL TO ORDER

Councilman Burnam **convened** the meeting at 4:30 p.m.

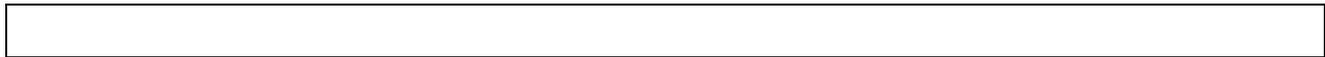
PUBLIC PARTICIPATION –

Mr. Jim Ellis, Jennifer Immel, and Patty Gipson were in attendance wanting feedback on the Lake Forest Blvd/Country Club Drive intersection and what the city had done to enhance the safety of this intersection. Melvin stated that he had placed larger stop signs at the intersection as well as “Stop Ahead” signs before you get to the stop signs. Mr. Ellis stated that he would still like to see speed bumps placed at this intersection before the stop signs. Chief stated that the police department placed the speed trailer at the intersection, and on next months’ stats we will see the results of the “D” runs that were conducted. Melvin also stated that he would send a letter to Riviera to see if they will install another street light at the intersection, making the intersection more visible.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Minutes from October 2008 Meeting

Minutes could not be approved because only one council member was present.



FIRE DEPARTMENT

A. New Business

1. Statistics for September 2008

Chief White went over stats. The list for part time firefighters had been opened. He explained that the response time on the car fire listed on the report was 12 minutes due to the fact that it was on I-10 and there was no cut through on the interstate that the fire truck could use which extended their response time. The mayor stated that he would have Calmetti contact police and fire representatives to see about making a cut through that emergency response units could utilize.

B. Old Business

POLICE DEPARTMENT

A. New Business

- 1.** Statistics for September 2008 were reviewed. Chief stated that accidents were down. The detective division has been pretty busy solving cases. Lt. Beedy presented the Hotel/Motel Registration Ordinance idea suggesting what types of identification to require when guests stay in their facility, and requiring the hotel staff to open their books to police for law enforcement purposes. Councilman Burnam suggested that we send it to Erick at Ross and Jordan and let him put it into Ordinance form to present to the ordinance committee.

B. Old Business

OTHER BUSINESS

ADJOURN

There being no further business to discuss, Mr. Burnam adjourned the meeting at 5:00 p.m. The next meeting will be Wednesday, December 3rd, 2008 at 4:30 p.m. at City Hall Council Chambers.

Respectfully submitted,

Daphne Public Safety Committee

CITY OF DAPHNE
FIRE DEPARTMENT MONTHLY REPORT
Report Period: September 2008

	Current:	FY to Date:
Suppression:		
1-Fire/Explosion:		
10-Fire, Other	0	4
11-Structure Fire/Commercial	0	2
11-Structure Fire/Residential	3	19
12-Fire in Mobile Property used as fixed structure	0	0
13-Mobile Property (vehicle) Fire	2	17
14-Natural Vegetation Fire	1	17
15-Outside Rubbish Fire	3	8
16-Special Outside Fire	2	3
17-Cultivated Vegetable Crop Fire	0	0
2-Overpressure Rupture:	0	0
3-Rescue Call and Emergency Medical Service Incidents:	93	1368
4-Hazardous Conditions (No fire):	3	65
5-Service Call:	18	125
6-Good Intent Call:	7	138
7-False Alarm & False Call:	17	155
8-Severe Weather & Natural Disaster:	1	6
9-Other Situation:	0	2
Total Emergency Calls:	150	1671
Monthly Total Calls:	150	1930
Response Time:		
Highest:	12	13
Lowest:	<1	<1
Average (Minutes/Seconds) :	1/12	4/11
Miscellaneous Reports:		
Training Hours	34	1407.67
Property Loss - \$	\$102,500.00	\$1,730,855.00
Fire Personnel Injuries by Fire/Civilian Injuries by Fire	0/0	1/0
Advance Life Support Rescues	59	
Number of Patients Treated	95	
Total Mutual Aid Given	2	26
Total Mutual Aid Received	1	2
Child Passenger Safety Seat Inspections/Installations	8	114
Fire Prevention Awareness/Education:		
Classes	9	88
Persons Attending	301	3966
Bureau of Fire Prevention:		
Plan Reviews	5	52
Final/Certificate of Occupancy	0	11
General/Annual Inspections	111	1098
General/Re-Inspections (Violation Follow-up - Annual)	2	149
Business Licenses	6	80
Consultations-	0	44
All Other/Misc. Activities	0	13
Total Activities:	124	1347

Authorized by:

James White

Chief James White

CITY OF DAPHNE
FIRE DEPARTMENT MONTHLY REPORT
Report Period: September 2008

Daphne Police Department		Monthly Report					September 2008			
Patrol Division		Detective Division:		JAIL:			Animal Control		Crimes Reported This Month:	
(Capt. Bell/Lt. Hempfleng)		(Capt. Bell/Lt. Beedy)		(Capt. Taylor/Lt. Yelding)			(Capt. Taylor/ Lt. Yelding)			
						YTD				
# Complaints	1,134	# New Cases Received:	64	Total Arrestees Received & Processed:	168	1,883			Arson Investigation	1
# Misd. Arrests	83	# Previous Unsolved Cases:	106	Arrestees by Agency:			#Complaints	93	Burglary – Commercial	2
# Felony Arrests	6	# Cases Solved:	27	Daphne PD	132	1,506	#Follow-ups	128	Burglary – Residence	2
DUI Arrests	17	Resulting in Total Arrests:	13	BCSO	12	102	#Citations	10	Burglary - Vehicle	5
Alias Warrant Arrests	26	Felonies:	10	Silverhill PD	0	0	#Warnings	7	Criminal Mischief	4
Citations	388	Misdemeanors:	3	Spanish Fort PD	23	242	#Felines Captured	23	Disorderly Conduct	0
Close Patrols	492	Houses Searched	0	Troopers	0	26	#Canines Captured	52	Domestic Disturbance	20
Warnings	136			Other Agencies	0	2	#Other Captured	19	False Info to Police	2
Motorist Assists	256						#Returned to Owner	25	Felony Assault	0
Roadway Accidents	39	Warrants:					#Adopted Out	10	Felony Theft	21
Private Property Accidents	17	Bettner Served	53				#Euthanized	24	Harassment	8
Traffic Homicide	0	Agency Assists	30	Highest	30				Identity Theft	5
		Recalls (Pd Fines)	35	Lowest	14				Indecent Exposure	0
DRUG REPORT		Total Warrants Served	118						Kidnapping	0
ROUTINE PATROL/SPECIAL OPS				Meals Served	1,635	27,838			Menacing	1
		Sex Offender:		Medical Cost	\$4,950	\$24,816.83			Misdemeanor Assault	1
# Misd. Marijuana Arrest	4	New Registration:	0	Worker Inmate Hours	349	7,101			Misdemeanor Theft	19
# Felony Marijuana Arrest	1	Contact Verification	1						Murder	0
# Controlled Substance Arrest:	2	Total # registered in Daphne	2						Other Death Investigations	1
# Drug Paraphernalia Arrest	2	DARE:							Public Intoxication	1
Vehicles Searched	53	# Hours Report Writing:	6						Public Lewdness	0
		# Students Instructed SRO	650						Receiving Stolen Property	0
Drugs Seized:	3	# Students Instructed DARE	410						Reckless Endangerment	0
Type: MARIJUANA		# Police Reports by SRO	2						Resisting Arrest	3
Money Seized	0	# Arrest by SRO	2						Robbery	2
Vehicles Seized	0								Sex Crime Investigations	0
		CODE ENFORCEMENT:							Suicide	0
Commercial Vehicle Inspections	5	Warnings:	7						Suicide, attempted	4
		Citations	8						Theft of Services	0
		Warning Compliance							Unauthorized Use of Services	
			17							2
		Follow – Up	0						Weapon Offenses	0
									White Collar Crimes	1
<i>Approved by:</i>		David Carpenter, Chief of Police								

**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:

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 23, 2008
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

CALL TO ORDER:

The number of members present constitutes a quorum and the regular meeting of the City of Daphne Planning Commission was called to order at 6:05 p.m.

CALL OF ROLL:

Members Present:

Fred Small, Mayor
Don Terry
Frank Martin
Jeff Carrico, Chairman
Larry Chason, Vice Chairman
Cathy Barnette, Councilwoman
Ed Kirby

Members Absent:

Chief "Bo" White
Victoria Phelps, Secretary

Staff Present:

William H. Eady, Sr., Director of Community Development
Jan Dickson, Planning Coordinator
Nancy Anderson, GIS Technician
Adrienne Jones, Planner
Misty Gray, Attorney
Lonnie Jones, Code Enforcement Officer

Staff Absent:

Jay Ross, Attorney
Erick Bussey, Associate Attorney
Ashley Campbell, Site Containment Officer

Others Present:

Rob McElroy, General Manager/Utilities Board of the City of Daphne
Danny Lyndall, Operations Manager/Utilities Board of the City of Daphne

The first order of business is the call to order. Please let the record reflect that Chief White and Ms. Phelps are not present.

The next order of business is approval of the minutes.

APPROVAL OF MINUTES:

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF OCTOBER 23, 2008
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

The minutes of September 25, 2008 regular meeting were considered for approval. A copy of the minutes was furnished to us previously. Do any of the Commissioners have any questions or comments?

Chairman: If there are no further additions, deletions, or corrections at this time, the Chair will entertain a motion.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Kirby **to approve the minutes of the September 25, 2008 regular meeting. The Motion carried. Mayor Small abstained due to his absence at the meeting.**

The amended minutes of April 24, 2008 regular meeting were considered for approval. A copy of the minutes was furnished to us previously. Do any of the Commissioners have any questions or comments?

Chairman: If there are no further additions, deletions, or corrections at this time, the Chair will entertain a motion.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Terry **to approve the amended minutes of the April 24, 2008 regular meeting. The Motion carried unanimously.**

The next order of business is not an agenda item. Mr. Eady would like to make a presentation regarding the traffic study for U.S. Highway 98 and County Road 64 prior to beginning the agenda items.

ADMINISTRATIVE PRESENTATION:

Mr. Eady: I met with a representative from the firm which conducted the traffic study for the intersection of U.S. Highway 98 and North Main Street for the Magnolia Place Shopping Center. He will be meeting with the representative from the Alabama Department of Transportation to discuss the intersection and to project the cost of a traffic study. At this point, the recommendation would be to construct a right turn lane for traffic traveling West from County Road 64 onto U.S. Highway 98 and to rework the lighting on U.S. Highway 98.

OLD BUSINESS:

The first order of business under old business is the election of officers.

ELECTION OF OFFICERS:

Chairman: The floor is open for nominations for Chairman.

A **Motion** was made by Mr. Terry and **Seconded** by Ms. Barnette **to nominate Mr. Kirby as Chairman. The Motion carried unanimously.**

Chairman: The floor is open for nominations for Vice Chairman.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
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COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to nominate Mr. Carrico as Vice Chairman. The Motion carried unanimously.**

Chairman: The floor is open for nominations for Secretary.

A **Motion** was made by Mr. Kirby and **Seconded** by Ms. Barnette **to nominate Mr. Terry as Secretary. The Motion carried. Mr. Terry voted Nay.**

The next order of business is the preliminary/final plat for the resubdivision of lots 1 & 2, Ephraim Subdivision.

PRELIMINARY/FINAL PLAT REVIEW:

File SDPF08-13:

Subdivision: Resubdivision of Lot 1 & 2, Ephraim Subdivision

Location: On Wilson Avenue
Area: 4.68 Acres +, (5) lots
Owner: Johnny Ephraim & Charles Harris

An introductory presentation was given by Mr. & Ms. Harris, the owners, requesting preliminary/final plat review of a four-point six eight-acre subdivision consisting of five lots located on Wilson Avenue. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners 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 **to approve the preliminary/final plat for the Resubdivision of Lots 1 & 2, Ephraim Subdivision. The Motion carried unanimously.**

The next order of business is preliminary/final plat review for Handy Lock Self Storage Subdivision.

File SDPF08-14:

Subdivision: Handy Lock Self Storage

THE CITY OF DAPHNE
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COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Location: Northeast of the intersection U. S. Highway 98 and
County Road 64
Area: 5.03 Acres ±, (2) lots
Owner: Eastern Shore Self Storage - Jim Horne
Engineer: Hutchinson, Moore & Rauch - Casey Goolsby

An introductory presentation was given by Mr. Casey Goolsby, representing Hutchinson, Moore & Rauch, requesting preliminary/final plat review of a five-point zero three-acre subdivision consisting of two lots located Northeast of the intersection U. S. Highway 98 and County Road 64. We are reconfiguring the boundaries of the subdivision by relocating the interior property lines, but the property will remain two lots. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners 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 Mayor Small and **Seconded** by Ms. Barnette **to approve the preliminary/final plat for Handy Lock Self Storage Subdivision. The Motion carried unanimously.**

NEW BUSINESS:

The first order of business under new business is to set the dates for the November and December.

SET MEETING DATES FOR NOVEMBER 20 AND DECEMBER 18, 2008:

Discussion of dates proposed for the November and December regular Planning Commission meetings.

A **Motion** was made by Ms. Barnette and **Seconded** by Mayor Small **to set the Planning Commission meeting dates for November 20 and December 18, 2008. The Motion carried unanimously.**

The next order of business is site plan review for the Shoulders of the Central Gulf Coast.

SITE PLAN REVIEW:

File S08-23:

Site: The Shoulders of the Central Gulf Coast

THE CITY OF DAPHNE
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COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

Location: East of Pinehill Road at the end of Roper Lane
Area: 6.36 Acres +
Applicant: The Shoulder - Mr. Phillip Drane, Director
Owner: Marino Family Trust - Valai Marino
Architect: Knodel Architects - Bruce Knodel
Engineer: Speaks & Associates - William Luker

An introductory presentation was given by Mr. Phillip Drane, the director, Mr. Bruce Knodel, architect, and Mr. William Luker, the engineer, requesting site plan review requesting for the construction of a drug and alcohol rehabilitation facility located East of Pinehill Road at the end of Roper Lane. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments?

Mr. Kirby: Commented that this facility has sanitary sewer with the Utilities Board of the City of Daphne, but potable water with the Park City Water Authority. Does this facility have adequate fire flow for fire protection?

Mr. Drane: Until recently we were not aware of their inability to provide fire protection, but we are working with the Park City Water Authority to resolve this issue.

Mr. Chason: You may be able to place a dry fire hydrant in the pond for the use of fire protection.

Mr. Kirby: Questioned whether or not the site plan could be approved or permitting can be issued if there is a question about fire flow for fire protection?

Mr. Eady: No. It could not be permitted.

Mayor Small: I would recommend working it out with the Park City Water Authority and to let them give you a letter to the Utilities Board of the City of Daphne which states they are unable to provide adequate water pressure for fire protection so that you may work at a solution with Daphne Utilities.

Mr. Drane: Without adequate fire flow for fire protection, the State will not give me approval to construct the facility.

Chairman: Mr. Drane, would you like to withdraw or table the project until you have this issue resolved?

Mr. Drane: Table.

Chairman: Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion.

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A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Kirby **to table the site plan for the Shoulders of the Central Gulf Coast until such time the issue of water pressure for fire protection is addressed by the Park City Water Authority and the Utilities Board of the City of Daphne. The Motion carried unanimously.**

The next order of business is master plan review for Bay Community Ministries.

An introductory presentation was given by Mr. Jeff Jordan, representing Forrest Daniell & Associates, requesting master plan review for Bay Community Ministries. The plan shows the expansion of the existing facility, the child/youth and assembly additions, and the future expansion to the East of a nursery, kitchen area, sanctuary, daycare, and additional parking. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Ms. Barnette and **Seconded** by Mayor Small **to approve the master plan for Bay Community Ministries. The Motion carried unanimously.**

The next order of business is site plan review for the Bay Community Ministries Expansion.

File S08-25:

Site: Bay Community Ministries Expansion

Location: Northeast of the intersection of U. S. Highway 90 and Alabama Highway 181
Area: 15.35 Acres +
Owner: Bay Community Church - Jerry Taylor
Architect: Forrest Daniell & Associates - Jeff Jordan
Engineer: Sigma Engineering - Jason Lashley

An introductory presentation was given by Mr. Jeff Jordan, representing Forrest Daniell & Associates, requesting site plan review requesting for the construction of an addition to the child/youth and assembly facility located Northeast of the intersection of U. S. Highway 90 and Alabama Highway 181. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments?

Mr. Kirby: Questioned whether or not there would be another access onto Alabama Highway 181?

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COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.**

Mr. Jordan: Yes sir, but it will be a right-in and right-out only as designated by the Alabama Department of Transportation.

Chairman: Do you propose a deceleration lane? It is important that it meets the State's requirements.

Mr. Jordan: We are also in negotiations with the Alabama Department of Transportation for a deceleration lane, but have been approved for the access onto Alabama Highway 181.

Ms. Barnette: Questioned whether or not the landscape plan had been reviewed and meets the minimum requirements of the Landscape and Tree Ordinance. It looks a little weak.

Mr. Jordan: The landscape plan was designed and certified by Mr. Kent Broom, Landscape Architect, as meeting the minimum requirements of the City of Daphne Landscape Ordinance.

Mr. Eady: Yes ma'am. It meets the requirements.

Ms. Barnette: So you have reviewed it? It looks a little weak. I do not see any sidewalks in the interior of the site plan for pedestrian traffic from the parking lot to the buildings.

Mr. Jordan: Paths are provided in the interior area for pedestrian traffic, but not sidewalks.

Chairman: 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. Kirby and Seconded by Mr. Terry to approve the site plan for the Bay Community Ministries Expansion. The Motion carried unanimously.

The next order of business is site plan review for the Sugar Kettle Café.

File S08-26:

Site: The Sugar Kettle Café

Location: Northeast of the intersection of U. S. Highway 98 and County Road 64

Area: 0.73 Acres \pm

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Applicant: Michelle Young & Kathi Wiggins
Owner: Eastern Shore Self Storage - Jim Horne
Engineer: Matt Ingram

An introductory presentation was given by Mr. Matt Ingram, engineer and owner's representative, requesting site plan review requesting for the renovation of a residential structure to a restaurant facility located Northeast of the intersection of U. S. Highway 98 and County Road 64. This is a three-quarter acre parcel with an East entrance and West exit to the site. The site is flat and will not require detention. I will happy to answer any questions you may have.

Chairman: We received the development traffic count for Handy Lock Self Storage for clarification. Thank you. Do any of the Commissioners have any questions or comments?

Mr. Chason: This site has two accesses. I think this is one two many, and they should eliminate some of the green space and have only one access.

Chairman: 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 Mayor Small and **Seconded** by Mr. Terry **to approve the site plan for the Sugar Kettle Café. The Motion carried. Mr. Chason opposed.**

The next order of business is site plan review for Eastern Shore Neurology & Pain Center.

File S08-27:

Site: Eastern Shore Neurology & Pain Center

Location: On Main Street, Lot 9 of Village Pointe Office Park
Area: 1.55 Acres +
Owner: Eastern Shore Neurology - Dr. Rassan Tarabein
Engineer: Goodwyn, Mills & Cawood - Walter Scott

An introductory presentation was given by Mr. Walter Scott, representing Goodwyn, Mills & Cawood, requesting site plan review requesting for the construction of neurology and pain management office/medical facility located on Main Street.

The proposed development is on lot 9 of Village Pointe Office Park. Since the site preview meeting, the storm water drainage for this site has been redesigned for underground detention. The area South of the retaining wall will not be cleared with the exception of an area for the treatment structure. I will be happy to answer any questions you may have.

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Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: Questioned the distance from the edge of the wall to Yancey Branch?

Mr. Scott: The retaining wall is to the South of the property near the branch. The wall will be constructed first in order to stabilize the site and protect Yancey Branch.

Chairman: 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 Mayor Small and **Seconded** by Mr. Chason **to approve the site plan for Eastern Shore Neurology & Pain Center. The Motion carried. Ms. Barnette opposed.**

The next order of business is master plan review for Trione Soccer & Football Complex.

An introductory presentation was given by Mr. Scott Hutchinson, representing Hutchinson, Moore & Rauch, requesting master plan review for the Trione Soccer & Football Complex. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Ms. Barnette and **Seconded** by Mr. Terry **to approve the master plan for Trione Soccer & Football Complex. The Motion carried unanimously.**

The next order of business is site plan review for Trione Soccer & Football Complex, Phase One.

File S08-28:

Site: Trione Soccer & Football Complex, Phase One

Location: Southwest of the intersection of County Road 13 and Whispering Pines Road

Area: 52.91 Acres +

Owner: The City of Daphne

Engineer: Hutchinson, Moore & Rauch - Scott Hutchinson

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An introductory presentation was given by Mr. Scott Hutchinson, representing Hutchinson, Moore & Rauch, requesting site plan review requesting for the construction of phase one of the complex located Southwest of the intersection of County Road 13 and Whispering Pines Road. This phase will include the construction of two soccer and football fields, potable water, sanitary sewer connections, parking, and the installation of storm water drainage. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments?

Mr. Chason: Why are the parking areas rock or shell instead of asphalt?

Mr. Hutchinson: For financial reasons, the City of Daphne has chosen to do permeable parking and pave the areas at a later date. These areas will be designed to accommodate curbing and paving in the future.

Chairman: 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 Ms. Barnette and Seconded by Mr. Kirby to approve the site plan for Trione Soccer & Football Complex, Phase One. The Motion carried unanimously.

The next order of business is site plan review for Big Daddy Eastern Shore Car Lot.

File S08-29:

Site: Big Daddy Eastern Shore Car Lot
Location: U. S. Highway 98
Area: 1.69 Acres +
Owner: Johnnie Littleton
Engineer: Frank Dagley & Associates - Patrick Tolbert

An introductory presentation was given by Mr. Patrick Tolbert, representing Frank Dagley & Associates, requesting site plan review of the renovation of an existing business facility located on U.S. Highway 98 for an automobile and motorcycle sales facility. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments?

Ms. Barnette: Is there a landscape plan provided?

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Mr. Eady: There is minimal landscaping on the site which is shown on the site plan. The site has an existing concrete parking lot and would be both difficult and expensive to remove the concrete and landscape. There is some landscaping in place. I recommended the rear of the site be grassed. It has been seeded, but not grassed.

Mr. Tolbert: I have inspected the site and it appears to be stable near the bluff area.

Mr. Terry: Does B-1 allow automobile sales and service? The zoning shown on the site plan indicates that the property is zoned B-1.

Mr. Kirby: This area of U.S. Highway 98 is zoned B-1, Local Business, but the type of businesses in this area has always been B-2, General Business, uses.

Chairman: Mr. Eady does this type of business go in a B-1, Local Business, zone?

Mr. Eady: No sir.

Mayor Small: How did we miss this at site preview?

Mr. Chason: I noticed this at the site preview meeting, but thought the zoning shown was an error.

Chairman: This item will have to be tabled or withdrawn until such time a zoning amendment is applied for and approved by the City Council to rezone this property to a B-2, General Business, zone. How long will that take?

Ms. Dickson: A zoning amendment takes approximately three months.

Chairman: Ms. Dickson says a zoning amendment takes three months so you may want to withdraw your site plan until you have your zoning in place.

Mr. Tolbert: We will withdraw the application. Thank you.

The next order of business is the preliminary/final plat review for Consolidated Acres Two Subdivision.

PRELIMINARY/FINAL PLAT REVIEW:

File SDPF08-15:

Subdivision: Consolidated Acres Two

Location: Eight hundred feet South of the intersection of Milton Jones Road and Alabama Highway 181

Area: 8.08 Acres ±, (3) lots

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Owner: Henry "Sandy" Wise
Engineer: S E Civil - Larry Smith

An introductory presentation was given by Mr. Larry Smith, representing S E Civil, requesting preliminary/final plat review of an eight-point zero eight-acre subdivision consisting of three lots located eight hundred feet South of the intersection of Milton Jones Road and Alabama Highway 181 in your extraterritorial planning jurisdiction. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners 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 Mayor Small and **Seconded** by Mr. Chason **to approve the preliminary/final plat for Consolidated Acres Two Subdivision. The Motion carried unanimously.**

The next order of business is the preliminary/final plat review Baldwin Family Division.

File SDPF08-16:

Subdivision: Baldwin Family Division

Location: The intersection of U. S. Highway 98 and Halls Lane
Area: 1.51 Acres +, (4) lots
Owner: Edward & Melodie Baldwin
Engineer: McCrory & Williams - Jimmy Mason

An introductory presentation was given by Mr. Jimmy Mason, representing McCrory & Williams, requesting preliminary/final plat review of a one point five one acre subdivision consisting of four lots located on the North side of the intersection of U.S. Highway 98 and Halls Lane. There are two existing structures on two lots in which the family would like to subdivide the lot to the West into three lots for their children.

Mr. Mason: The second lot which is the primary one being divided has an encroachment of twenty-eight feet on the rear setback line. The attorney will address whether or not this lot can be subdivided with this encroachment. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? Ms. Gray would you like to comment?

Ms. Gray: In my opinion, I do not have a problem with subdividing into

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four lots and isolating the setback violation onto lot 2.

Chairman: Do any of the Commissioners 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 Mayor Small **to approve the preliminary/final plat for Baldwin Family Subdivision. The Motion carried unanimously.**

The next order of business is revised master plan review for Madison Place Subdivision.

An introductory presentation was given by Mr. Joe Bullock, representing Engineering Development Services, requesting revised master plan review for Madison Place Subdivision. The plan has been revised to show the phases for construction purposes, but the number of lots proposes has not changed. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Chason and **Seconded** by Mayor Small **to approve the revised master plan for Madison Place Subdivision. The Motion carried. Ms. Barnette abstained.**

The next order of business is the preliminary plat review for Madison Place Subdivision, Phases Three A.

PRELIMINARY PLAT REVIEW:

File SDP08-03:

Subdivision: Madison Place, Phase Three A

Location: Northeast of the intersection of Parker Lane and Avery Drive

Area: 8.59 Acres +, (21) lots

Owner: Elite Development - Clarence Burke

Engineer: Engineering Development Services - John Avent

**THE CITY OF DAPHNE
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An introductory presentation was given by Mr. John Avent, representing Engineering Development Services, requesting preliminary plat review of an eight-point five nine-acre subdivision consisting of twenty-one lots located Northeast of the intersection of Parker Lane and Avery Drive.

Mr. Avent: This development will stub out into the commercial park for the construction entrance and access for these phases of Madison Place Subdivision. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? He opened the floor to public participation.

Mr. Ted Butler: He requested to address the Planning Commission. I am the business partner for Mr. Mike McIntrye, one of the owners of a lot in Daphne Commercial Park, Phase Two. He had written a letter and faxed it to you regarding his opposition to the access to or from this development entering into a commercial/industrial subdivision because this subdivision, Daphne Commercial Park, is zoned for light commercial and industrial uses. I have never seen a residential subdivision have access through a commercial/industrial subdivision.

Mr. Avent: We approached the representative for the property owners' association five or six months ago. The owners of the park voted. I believe there were two no votes, eighteen yes votes, and two that did not vote. A letter was sent to the developer of Madison Place Subdivision from the property owners' association representative, Mr. Rance Reehl, granting permission for access to the commercial park.

Mr. Butler: I would like to have a copy of that letter.

Mr. Bullock: The letter is on file in the Community Development office or may be obtained from the developer/representative for the Daphne Commercial Park, Mr. Rance Reehl.

The Commission addressed the concerns of the adjacent property owner.

Chairman: Do any of the Commissioners have any questions of comments? He closed public participation.

Mr. Kirby: Is the detention pond landscaped?

Ms. Jones: I wanted it to be landscaped. Mr. Bullock wanted to put up a fence, but Mr. Eady and I discussed it and have agreed that it would be landscaped.

Mr. Avent: Since the detention pond is located in a wooded area, I would like to landscape it during the construction of Phase Four.

Mayor Small: Why are you connecting to the commercial park?

Mr. Eady: To address concerns with regard to emergency vehicle access

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and safety issues.

Chairman: 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. Chason and **Seconded** by Mayor Small **to approve the preliminary plat for Madison Place Subdivision, Phase Three A. The Motion carried. Ms. Barnette abstained.**

The next order of business is the preliminary plat review for Madison Place Subdivision, Phases Three B.

File SDP08-04:

Subdivision: Madison Place, Phase Three B

Location: Northeast of the intersection of Parker Lane and Avery Drive

Area: 8.24 Acres +, (22) lots

Owner: Elite Development - Clarence Burke

Engineer: Engineering Development Services - John Avent

An introductory presentation was given by Mr. John Avent, representing Engineering Development Services, requesting preliminary plat review of an eight-point two four-acre subdivision consisting of twenty-two located Northeast of the intersection of Parker Lane and Avery Drive. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

A **Motion** was made by Mr. Chason and **Seconded** by Mayor Small **to approve the preliminary plat for Madison Place Subdivision, Phases Three B. The Motion carried. Ms. Barnette abstained.**

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

ATTORNEY'S REPORT:

Ms. Gray, attorney: no report.

ADJOURNMENT:

Chairman: Do any of the Commissioners have any 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.**

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COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

There being no further business, the meeting was adjourned at 7:26 p.m.

Respectfully submitted by:

Jan Dickson, Planning Coordinator

APPROVED: November 20, 2008

Jeff Carrico, Vice Chairman

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THE CITY OF DAPHNE
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REGULAR MEETING OF OCTOBER 23, 2008
COUNCIL CHAMBERS, CITY HALL - 6:00 P.M.

City of Daphne Recreation Board Minutes
2605 Hwy 98
Daphne, Al. 36526
September 10, 2008
6:00 pm

Members Present: Chairman Ed Nelson, Matt Cunningham, Kit Smith, Eric Smith and Rick Cleveland

Members Absent: John Peterson and Lynne Thompson-Yates

Advisory Staff Present: David McKelroy, Parks and Recreation Director, Councilman Gus Palumbo and Greg Burnam, Mayor Fred Small and Glenn Vickery.

Call to Order

The meeting was called to order by Chairman Ed Nelson at 6:06 pm.

Review and Approval of Minutes

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

Public Participation

Ms. Dorothy Morrison, Daphne Beautification Committee, requested special attention by given to “Gator Alley” when cutting grass as to not damage or destroy certain plants and shrubs. After discussion, it was recommended by the Recreation Board that City of Daphne horticulturist, Marshall Parsons and his crew be responsible for this area.

Program Reports

Athletics David McKelroy reported for Charlie McDavid who was attending a Baldwin County Youth Football meeting. Youth football will have the BCYFA jamboree at Daphne High School on Saturday, September 13. 53 teams from 10 Baldwin county town/cities will participate in three age groups (7/8, 9/10 & 11/12). Daphne youth soccer will start play on Monday, September 15.

Community Activities Megan Matrone provided information on upcoming events. Brown Bag by the Bay, every Thursday from 11:30 to 1:30 at Mayday Park until October 30. Celtic Celebration, Veteran’s Day Parade and Christmas Parade.

Senior Adults Mary Jensen presented participation information and a monthly calendar for senior adult activities.

Old / New Business

Youth Social Programs Megan Matrone presented information regarding youth social programs for Daphne youth. A survey of Daphne youth will be conducted to determine what activities are desired.

Trione Park Project Construction options were discussed for the newly acquired property at the Trione Sports Complex. Ed Nelson, Kit Smith and Scott Hutchinson from HMR will attend the Council work session to inform the council and get direction from them.

New Sports Complex Council must act on the issue. Councilman Gus Palumbo discussed financing possibilities.

Operational Planning for New Sports Complex Chairman Ed Nelson ask Parks and Recreation Director David McKelroy to gather information about the additional operation expense of a new sports complex (personnel, equipment, operating expenses, etc).

2009 Budget Information Parks and Recreation 2009 budget was discussed. Placing all bay front properties under Lodging Tax Funds was discussed.

Dauphine Acres Park Site Cost estimates and preliminary design for a playground park were presented.

Land Use Ordinance Planning is in the process of updating all Daphne Land Use Ordinances.

Terms of Board Members Discussion was held with regard to the length of terms and times of expiration for board members. Chairman Ed Nelson presented a letter draft to council for consideration in an effort to clear any confusion on times and expiration of service to the board. A motion was made by Kit Smith and seconded by Rick Cleveland and passed for the Chairman Ed Nelson's letter to be forwarded to the City Council for their consideration.

Election of 2009 Officers A motion was made by Rick Cleveland and seconded by Eric Smith to re-appoint Ed Nelson chairman. Motion passed. A motion was made by Kit Smith and seconded by Matt Cunningham to re-appoint Eric Smith vice-chairman. Motion passed.

Recreation Board meeting time After discussion, a motion was made by Rick Cleveland and seconded by Kit Smith to move the meeting time for the Daphne Recreation board from 6:00 pm to 6:30 pm. Motion passed.

Adjourn

The meeting was adjourned at 7:30 pm.



CITY OF DAPHNE
RECREATION BOARD

September 10, 2008

TO: Daphne City Council Members

FROM: Ed Nelson, Chairperson
Daphne Recreation Board

As chairperson of the Recreation Board and on behalf of its members, I respectfully submit the proposals herein described for the city council's consideration and, hopefully, its approval.

Both requests pertain to Ordinance 2006-60 and relate to the following excerpt included in Section II:

"As the terms of members expire, their successors shall be selected for terms of five years each."

In July of 2007, the council honored the board's request to reappoint Matt Cunningham to another term on our board. Because of confusion created by misinterpretation of the current ordinance, it was thought that Mr. Cunningham's appointment was for the same term as his initial appointment, which was for one year. Subsequently, the board re-submitted a reappointment request again this July, along with reappointment requests for Kit Smith and John Peterson. The council honored these requests and the reappointments were confirmed.

This confusion led to a discussion by our board which resulted in the following proposals.

PROPOSAL #1

The current Recreation Board members request revision of Section II to limit subsequent terms to three (3) years instead of the five (5) years currently included.

PROPOSAL #2

If the council accepts Proposal #1, the Recreation Board requests acceptance of terms designated below for current board members. This rotation ensures that staggered terms are maintained with no more than two members terminating board membership in any given year.

(A)BOARD MEMBER	(B)CURRENT TERMINATION	(C)THREE YEAR TERM
Ed Nelson	2009	2012
Rick Cleveland	2010	2013
Erik Smith	2011	2014
Matt Cunningham	(D)2012	2015
John Peterson	(E)2013	2016
Kit Smith	(E)2013	2016
Lynn Thompson-Yates	(D)2012	2015

(A) Even though current member names are included, no assumption is made regarding reappointment. This is intended simply to indicate the termination year of each current member.

(B) Indicates current termination year including those who have been reappointed.

(C) Three year terms would begin after current terms expire

(D) Reappointed in July, 2007

(E) Reappointed in July, 2008

Since initial appointments were made in July of 2006, all subsequent appointments or reappointments shall continue to be addressed in July of each year.

The Recreation Board respectfully request the city council's consideration and, hopefully, acceptance of these two proposals.

Respectfully Submitted,

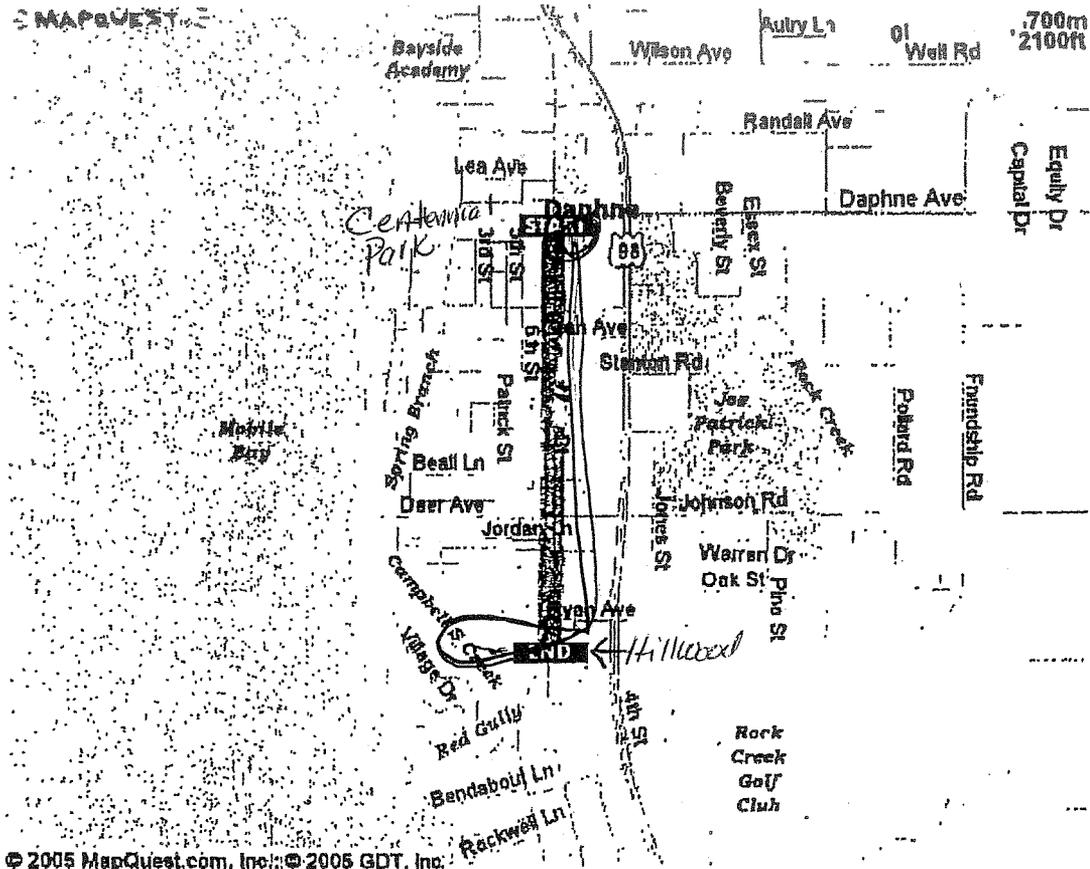
Ed Nelson, Chairperson
 Daphne Recreation Board

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

CITY OF DAPHNE PARADE PERMIT

ORGANIZATION:	<i>Animal Rescue</i>
CONTACT PERSON:	<i>James Pennington</i>
ADDRESS:	<i>35035 Ogden Road Stapleton, AL</i>
PHONE NUMBER (HOME): PHONE NUMBER (BUSINESS): CELL NUMBER:	<i>367-4599</i>
TYPE OF PARADE:	<i>8th Annual 5K & 1 Mile Pet Trot</i>
DATE OF PARADE:	<i>December 20, 2008</i>
ROUTE TO BE TRAVELED:	<i>See Attached Map</i>
APPROXIMATE # OF PEOPLE & CARS:	<i>200-300 People</i>
START TIME:	<i>5K - 8:30 A.M. / 1 Mile Pet Trot - 9:00 A.M.</i>
STOP TIME:	<i>10:30 A.M.</i>
ASSEMBLY AREA/STREET:	<i>Centennial Park</i>
ASSEMBLY TIME:	<i>7:00 A.M.</i>
SPECIAL INSTRUCTIONS:	
DATE APPLIED:	<i>November 3, 2008</i>
APPROVAL	
POLICE: Chief David Carpenter:	<i>[Signature]</i>
FIRE: Chief James White	<i>[Signature]</i>
PUBLIC WORKS: Melvin McCarley	<i>[Signature]</i>
CITY COUNCIL APPROVAL:	
SPECIAL INSTRUCTIONS:	
DATE ROUTED:	
NOTIFICATION:	





**EASTERN
SHORE**
CHAMBER OF
COMMERCE

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

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

Downtown Fairhope
327 Fairhope Avenue
251.928.6387
FAX 251.928.6389

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



October 13, 2008

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

OCT 15 2008

Re: 21st Annual Jubilee Festival – September 26 & 27, 2009

Dear Mayor Small and City Council Members,

The 21st Annual Jubilee Festival is scheduled to be held September 26 & 27, 2009. As always, the continued support of the Mayor and City Council is essential. At this time the festival committee would like to request the following from the City of Daphne:

1. Permission to block Main Street from Magnolia Avenue South to Dryer Avenue. The closing of this area would still allow access by area residents and church visitors.
2. Permission to use Centennial Park for KidsART.
3. Permission to allow children to paint on the back fence in Centennial Park.
4. Assistance from Police and Street Department with street closings and barricades from Friday, September 25, 2009 after 5:00 p.m. until Sunday, September 27, 2009 after 6:00 p.m.
5. Coordination by the Mayor with Riviera Utilities for additional electrical power access at the City Hall entrance utility pole.
6. Permission to use City Hall as headquarters for the festival staff and volunteers.
7. Permission to place temporary banners to help promote the 21th Annual Jubilee Festival.

Specifics of the banners are as follows:

- Banners to read: *Jubilee Festival, September 26th & 27th*
- Banners to be posted 2 weeks prior to event
- Size of Banners to be 120" x 34"
- Locations to include:

Santa Rosa & Main Street
Jubilee Mall
Lawson Road
Highway 98 at Montrose Welcome Sign

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

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

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

Sincerely,

Darrellyn J. Bender
Darrellyn J. Bender
President/CEO

cc: City Council, Eastern Shore Chamber of Commerce Board of Directors, Jubilee Chairs Sally Wagner and Barbara Ladnier.

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

STATE OF ALABAMA)
COUNTY OF BALDWIN)

AGREEMENT

THIS AGREEMENT (“Agreement”) dated _____, 2008 (“Effective Date”) is made by and between BellSouth Telecommunications, Inc., d/b/a AT&T Alabama (“AT&T Alabama” or the “Company”), a Georgia corporation, and the City of Daphne, Alabama, an Alabama municipal corporation (“City”). AT&T Alabama and City shall sometimes be referred to separately as a “Party,” and collectively as the “Parties.”

RECITALS

WHEREAS, as a telephone corporation, AT&T Alabama asserts that it has a statewide franchise granted to it pursuant to Alabama Code Section 23-1-85 (1975) and its predecessors, by operation of law, and under other applicable law to construct, operate and maintain its communications facilities in the public rights of way (“ROW”) throughout the state of Alabama without having to obtain a local franchise or pay franchise fees. This assertion by AT&T Alabama is supported by the opinion of the Alabama Attorney General Opinion 2008-021 issued to Representative Greg Canfield; and

WHEREAS, AT&T Alabama is in the process of modifying its existing telecommunications network to provide an integrated Internet Protocol (“IP”) enabled broadband platform of voice, data and video services (“IP Network”), the video component of which AT&T Alabama asserts is a switched, two-way, point-to-point and interactive service (“IP Video Service”). The IP Network upgrade will involve the use of the public right-of-way in the City (“ROW”).

NOW, THEREFORE, in consideration of and reliance upon the respective representations, promises, concessions, terms and conditions contained herein, the City and AT&T Alabama agree as follows.

1. Term. The term of this Agreement shall be from the Effective Date of this Agreement through December 31, 2013. The term may be extended only upon mutual agreement of the Parties.

A. The Parties agree to consult in the event that, after the Effective Date, any court, agency, commission, legislative body, or other authority of controlling jurisdiction issues a finding that limits the validity or enforceability of this Agreement, in whole or in part. Should the finding be final, non-appealable and binding upon either the City or AT&T Alabama, this Agreement shall be deemed modified or limited to the extent necessary to address the subject of the

finding unless either Party, within thirty (30) days of receipt of the finding, provides written notice to the other party of its election to terminate, in which case this Agreement shall terminate within six (6) months or such earlier period as the Parties mutually may agree. Where the effect of a finding is a modification, the Parties shall enter into good faith negotiations to modify this Agreement in the manner which best effectuates its overall purposes and the intentions of the Parties. Failure to reach a mutually satisfactory modification within ninety (90) days of the commencement of such efforts shall entitle either Party to terminate the Agreement upon the provision of thirty (30) days' written notice.

B. In addition to the termination rights set forth in Section 1(A) above, AT&T Alabama shall have the right to terminate this Agreement and all obligations hereunder upon ninety (90) days written notice to the City, if (a) AT&T Alabama concludes in its reasonable business judgment that IP Video Service in the City is no longer technically, economically or financially consistent with AT&T Alabama's business objectives; (b) Title VI of the Communications Act of 1934, as amended, obligations or any similar obligations are imposed on AT&T Alabama; (c) it becomes clear that AT&T Alabama must offer or provide IP Video Service pursuant to a franchise (cable or otherwise) and/or franchise-like requirements or other local authorization; or (d) the City materially breaches this Agreement and fails to cure such breach within the cure period provided for in Section 9 herein.

C. In addition to the termination rights set forth in Section 1(A) above, the City shall have the right to terminate this Agreement and all obligations hereunder upon ninety (90) days written notice to AT&T Alabama, if AT&T Alabama materially breaches this Agreement and fails to cure such material breach within the cure period provided for in Section 9 herein.

2. Compensation to the City. During the term of this Agreement, AT&T Alabama shall pay to the City a fee equal to 5% of the Gross Revenues from subscription fees collected from each subscriber to AT&T Alabama's IP Video Services product delivered over the IP Network in the City's ROW, including any Gross Revenues from video services included in a bundle of services. The fee ("IP Video Services Provider Fee") shall be identified and passed through on any subscriber bill by AT&T Alabama, and all such fees collected will be forwarded to City quarterly and shall be due 45 days after the end of each quarter. Any fees paid to the City pursuant to this Agreement shall be in lieu of any franchise, business, privilege, or similar fees or taxes.

Payment shall be accompanied by a report, in such form and containing sufficient detail reasonably satisfactory to the City, to determine AT&T's compliance with this provision, not later than forty-five (45) days after the last day of each March, June, September, and December of each year, throughout the term of this Agreement setting forth the Gross Revenue for the quarter ending on said last day. The City shall have the right to audit any such payment for a period of three (3) years after said quarterly due date, and no acceptance of any payment by City shall be deemed final until the period for audit shall have expired. The right to audit shall include the right to review the books and

records of AT&T Alabama during normal business hours or at such other time or times as the Parties may agree.

A. For purposes of this Agreement, Gross Revenues are limited to amounts billed to and collected from AT&T Alabama IP Video Services product subscribers for the following:

- (a) recurring charges for IP Video Services;
- (b) event-based charges for IP Video Services, including but not limited to pay-per-view and video-on-demand charges;
- (c) rental of set top boxes and other IP Video Services equipment;
- (d) service charges related to the provision of IP Video Services, including, but not limited to, activation, installation, and repair; and
- (e) administrative charges related to the provision of IP Video Services, including, but not limited to, service order and service termination charges.

B. For purposes of this Agreement, Gross Revenues shall not include:

- (a) uncollectible fees, provided that all or part of uncollectible fees which is written off as bad debt but subsequently collected fees, less expenses of collection, shall be included in Gross Revenues in the period collected;
- (b) discounts, refunds, and other price adjustments that reduce the amount of compensation received by AT&T Alabama;
- (c) late payment fees;
- (d) maintenance charges;
- (e) amounts billed to IP Video Services subscribers to recover taxes, fees or surcharges imposed upon IP Video Services subscribers in connection with the provision of IP Video Services, including the IP Video Services Provider Fee authorized by this section;
- (f) revenue from the sale of capital assets or surplus equipment or
- (g) charges, other than those described in subsection (a), that are aggregated or bundled with amounts billed to IP Video Services subscribers including but not limited to any revenues received by AT&T Alabama or its affiliates for telecommunications services, information

services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing.

C. (1) "Gross Revenues" which are subject to the IP Video Service Provider Fee paid by AT&T Alabama additionally include a pro rata portion of all revenue collected by AT&T Alabama pursuant to compensation arrangements for advertising (less any commissions AT&T Alabama receives from any third party for advertising) and home-shopping sales derived from the operation of AT&T Alabama's IP Video service within the City.

(2) Advertising commissions paid to third parties (excluding any refunds, rebates, or discounts the Company may make to advertisers) shall not be deducted from advertising revenue included in gross revenue. The allocation of advertising and home-shopping revenue referred to above shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

3. Public, Educational and Governmental ("PEG") Programming. In recognition of the technical architecture of IP Video Services AT&T Alabama will make Public, Educational and Governmental ("PEG") capability available to the City with AT&T Alabama's IP Video Service network, at such time as AT&T Alabama achieves 10% market share of the pay TV subscriber market within City or within 180 days of AT&T Alabama's launch of IP Video Services and subject to reasonable economic and technical feasibility considerations. AT&T Alabama will provide two (2) programming streams or the number of programming streams provided by the incumbent cable company with the most subscribers in the City on the effective date of this Agreement, whichever is greater.

Any operation of any PEG access channel by City shall be the responsibility of City, and AT&T Alabama's only obligation is the responsibility for the transmission of such channel. The City will be responsible to ensure that all transmissions, retransmissions, content, or programming that may be requested to be transmitted over a channel or facility by AT&T Alabama in the future, if any, are provided or submitted to AT&T Alabama, at the AT&T Alabama's designated connection point, in a manner or form that is capable of being accepted and transmitted by AT&T Alabama, without requirement for additional alteration or change in the format or content by AT&T Alabama, over the network of the AT&T Alabama, and which is compatible with the technology or protocol utilized by AT&T Alabama to deliver IP Video Services.

If technically and economically feasible, AT&T Alabama will, at its discretion, use reasonable efforts to interconnect with the incumbent cable provider to provide PEG programming.

4. Emergency Message. AT&T Alabama shall carry all Federal, State and Local alerts provided over the “Federal Emergency Alert System” through AT&T Alabama’s IP Video Services in the event of a public safety emergency, which at a minimum will include the concurrent rebroadcast of local broadcast channels.

5. Customer Service Standards. AT&T Alabama shall comply with the customer service requirements consistent with that set forth in 47 C.F.R. Section 76.309(c), as may be amended from time to time.

6. Obligations of City. During the term of this Agreement, the City will not subject, nor attempt to subject, the provision of IP Video Service over the IP Network to regulation under any cable franchise or similar ordinance. The City further agrees:

(a) To subject the construction and installation of the IP Network to the same process and review as it subjects the installation and construction of AT&T Alabama’s existing telecommunications infrastructure.

(b) Not to unreasonably block, restrict, or limit the construction and installation of the IP Network.

(c) To process any and all applicable permits for the installation, construction, maintenance, repair, removal, and other activities associated with the IP Network in a normal and reasonable manner.

7. Rights of Way. The City shall maintain reasonable police powers over installation of facilities in the public rights of way. AT&T Alabama shall maintain its facilities in a condition which shall not pose unreasonable danger to the safety of the traveling public. AT&T Alabama will comply with the same terms and conditions as are applicable under its existing authorizations for AT&T Alabama’s facilities and equipment in the public ROW with respect to all work involved in the construction, maintenance, repair and upgrade of the IP Network. AT&T Alabama shall make reasonable efforts to notify, consult, and collaborate with the City as to locations where it will construct, implement, or otherwise erect equipment necessitated for the proper working order and/or functioning of its IP Network in the City’s ROW. Nothing in this Agreement shall in any way reduce or expand the City’s authority over the public ROW.

8. Insurance. AT&T Alabama agrees to either obtain a policy of public liability insurance in an amount not less than \$1,000,000 with the City named as an additional insured under such policy or provide the City with proof of self insurance in an amount not less than \$1,000,000.

9. Breach of Agreement. Should either party claim that a breach of any part of this Agreement has occurred, that party will provide prompt written notice to the other, specifying the nature of the breach; and upon receipt the other party shall cure such breach within 60 days.

10. Dispute Resolution. Except as otherwise provided in this Agreement, the Parties shall make diligent good faith efforts to resolve all issues and disputes that arise in the administration of this Agreement through discussions between designated representatives of the Parties and use of a mediator when such discussions have failed.

11. Indemnification.

A. The City shall maintain no responsibility or liability for claims or damages resulting from tangible property damage or bodily injury (including accidental death) arising out of AT&T Alabama's negligent construction, operation, or maintenance of its IP Network or operations authorized hereby. AT&T Alabama shall maintain no responsibility or liability for claims or damages resulting from tangible property damage or bodily injury (including accidental death) arising out of the negligence or willful misconduct of the City.

B. AT&T Alabama shall indemnify and hold the City harmless from and against any claims, judgments, damages and liabilities of every kind and nature (including, but not limited to, reasonable attorneys' fees) arising from or relating to any incumbent video service provider, including, but not limited to, any cable franchise holder, challenging the lawfulness of this Agreement and/or seeking to modify its existing obligations under any franchise agreement with the City.

AT&T Alabama shall assume, at its expense, the sole defense of the claim through counsel selected by AT&T Alabama and shall keep the City fully informed as to the progress of such defense. Upon reasonable request by AT&T Alabama and at AT&T Alabama's expense, the City shall cooperate with AT&T Alabama in the defense of the claim. At its option and expense, the City may retain or use separate counsel to represent it. AT&T Alabama shall maintain control of the defense and resolution or settlement of the claim, including decisions with respect to appeals, except that if the settlement of a claim would adversely affect the City, AT&T Alabama may settle the claim as to the City only with its consent, which consent shall not be unreasonably withheld or delayed.

12. Non-discrimination. AT&T Alabama shall not deny access to its IP Video Services to any group of potential residential customers because of the income of the residents of the local area in which the group resides.

13. Notices. Any notice to be given under this Agreement shall be in writing and may be delivered to either personally, by facsimile or by certified or registered mail with postage prepaid and return receipt requested, addressed as follows:

If to City:

Honorable Fred Small, Mayor
City of Daphne
1705 Main Street, P.O. Box 400
Daphne, Alabama 36526

If to AT&T Alabama:

AT&T Alabama
General Counsel – Alabama
Suite 28A2
600 19th Street N
Birmingham, Alabama 35203

14. Modification. This Agreement may be amended or modified only by a written instrument executed by both Parties.

15. Assignment. AT&T Alabama may not assign or transfer this Agreement or any interest therein, except to any affiliate of AT&T Alabama, without the prior notice to the City. An affiliate shall include an entity that is under the control of AT&T or under the common control of a parent entity that also controls AT&T Alabama.

16. Relationship of the Parties. The Parties understand, acknowledge and agree that by making and entering into this Agreement, the City is not in any way or for any purpose a partner of or joint venturer with AT&T Alabama in the conduct of AT&T Alabama's business or activities as a public utility, nor does this Agreement constitute the City's endorsement of AT&T Alabama's activities as such.

17. Entire Agreement. This Agreement constitutes the entire agreement between the City and AT&T Alabama with respect to the subject matter contained herein and supersedes all prior or contemporaneous discussions, agreements, and/or representations of or between the City and AT&T Alabama regarding the subject matter hereof.

18. Waiver. Failure on the part of either Party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

19. Miscellaneous.

A. AT&T Alabama and the City each hereby warrants that it has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof.

B. The headings used in this Agreement are inserted for convenience or reference only and are not intended to define, limit or affect the interpretation

of any term or provision hereof. The singular shall include the plural; the masculine gender shall include the feminine and neutral gender.

C. AT&T Alabama and the City shall cooperate fully with one another in the execution of any and all other documents and in the completion of any additional actions including, without limitation, the processing of permits that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

D. Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties hereto toward any person or entity not a party to this Agreement, unless otherwise expressly set forth herein.

20. Binding Effect. This Agreement shall be binding upon and for the benefit of each of the Parties and their respective successors and permitted assigns and any parents, subsidiaries or affiliated corporations or entities, as applicable.

21. Counterpart Execution. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile and any signature transmitted by facsimile will be given the same force and effect as an original signature.

22. Force Majeure. In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by an event of force majeure, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference. If such event of force majeure continues for a consecutive period of 365 days, then the Party not so affected by the event of force majeure may terminate this Agreement by giving written notice to the other Party.

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed this Agreement and made the same effective as of this _____ day of _____, 2008.

(Signature page follows)

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

RESOLUTION NO. 2008-61

Retaining Officers & Employees

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, IN THE STATE OF ALABAMA:

SECTION 1: That all classified officers and employees of the City of Daphne so designated under the merit system, are continued by virtue of law; that all other officers and employees of the City paid out of the General Fund of the City are hereby continued in such positions upon the terms and upon the basis of compensation heretofore existing as may be hereafter modified, such to serve at the will of the City Council, or its designee.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this ____ day of _____, 2008.

John Lake,
Council President
Date & Time Signed: _____

Fred Small,
Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen,
City Clerk, MMC

RESOLUTION 2008 - 62

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

WHEREAS, the Department Heads of the City of Daphne have determined that the items listed below are no longer required for public or municipal purposes; and

WHEREAS, the items listed below are recommended for disposal.

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

1- The property listed below is hereby declared to be surplus property, and

Mechanica			
I	7197	Turbo Charger Generator (Donated to FD)	7197
		1989 John Deer Tractor #2555w/Alamo Brush	
Mowing	3024	Cutter	L02555R653220
Parks		1999 John Deere Deck Mower #1145	M01145X180087
FD	809	1990 Ford F350 Crew Cab	2FTJW35H9LCA43610
Street	764	1999 John Deere Deck Mower #1145	M01145X185335

2- The Mayor is authorized to advertise and accept bids through Govdeals.com as contracted for the sale of such personal property, and

3- The Mayor is authorized to sell said property to the highest bidder and deposit any and all proceeds to the General Fund. The Mayor is further authorized to direct the disposition of any property which is not claimed by any bidder.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, this ____ day of _____, 2008.

John Lake, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen, City Clerk MMC

**RESOLUTION 2008- 63
PREPAID TRAVEL**

**BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA
HEREBY AUTHORIZES THE FOLLOWING:**

prepaid travel expenses are approved for the purpose and amount indicated below for the following:

David Cohen, City Clerk, 43rd Annual Municipal Management Training – Institute for City Clerks & Administrators, Birmingham AL, November 19- 21, 2008 - \$105

A complete expense summary with receipts will be submitted and approved by the Mayor upon return from the above.

**APPROVED AND ADOPTED BY THE CITY COUNCIL, CITY OF DAPHNE, ALABAMA on
this ____ day of _____, 2008.**

John Lake, Council President

Date & Time Signed:_____

Fred Small, Mayor

Date & Time Signed:_____

ATTEST:

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

Resolution 2008-64

**SAFE ROUTES TO SCHOOL PROJECT GRANT
COUNTY ROAD 13**

WHEREAS, the City of Daphne proposes to construct a side walk in front of Daphne Middle School and Daphne Elementary School East on County Road 13 to connect to Whispering Pine Road Sidewalk to provide for the health and well being of the school children, general public and be ADA compliant; and

WHEREAS, the City of Daphne intends to allow the Baldwin County Trail Blazers to make application to the Alabama Department of Transportation for grant assistance to develop a multi-use sidewalk at Daphne Middle School and Daphne Elementary East, and

WHEREAS, said programs are limited to funding a maximum of one hundred percent up to \$150,000 of the proposed project cost.

NOW THEREFORE BE IT RESOLVED, that the City of Daphne supports the Trail Blazers application for Safe Routes for School, and

BE IT FURTHER RESOLVED, that in the event a grant is awarded, the City of Daphne understands that it will sign assurances to comply with all applicable Federal and State laws, rules and regulations.

APPROVED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF DAPHNE, ALABAMA, this _____ day of _____, 2008.

John Lake, Council President

Date & Time Signed: _____

Fred Small, Mayor

Date & Time Signed: _____

ATTEST:

David L. Cohen, City Clerk, MMC

Resolution 2008-65

**SAFE ROUTES TO SCHOOL PROJECT GRANT
SCHOOL MASTER PLAN**

WHEREAS, the City of Daphne proposes to design a long range strategy for improving bicycle and pedestrian access for Daphne Middle School and Daphne Elementary School East on County Road 13 from all neighborhoods within a two mile radius of these schools to provide for the health and well being of the school children, general public and be ADA compliant; and

WHEREAS, the City of Daphne intends to allow the Baldwin County Trail Blazers to make application to the Alabama Department of Transportation for grant assistance to develop this design plan for Daphne Middle School and Daphne Elementary East, and

WHEREAS, said programs are limited to funding a maximum of one hundred percent up to \$150,000 of the proposed project cost.

NOW THEREFORE BE IT RESOLVED, that the City of Daphne supports the Trail Blazers application for Safe Routes for School, and

BE IT FURTHER RESOLVED, that in the event a grant is awarded, the City of Daphne understands that it will sign assurances to comply with all applicable Federal and State laws, rules and regulations.

APPROVED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF DAPHNE, ALABAMA, this _____ day of _____, 2008.

John Lake, Council President

Date & Time Signed: _____

Fred Small, Mayor

Date & Time Signed: _____

ATTEST:

David L. Cohen, City Clerk, MMC

ORDINANCE 2008-57

AN ORDINANCE ADOPTING THE FISCAL YEAR 2009 BUDGET

WHEREAS, the Mayor of the City of Daphne has submitted to the City Council a budget for Fiscal Year 2009 which begins October 1, 2008 and ends September 30, 2009; and

WHEREAS, the Mayor believes that the budget before Council is a viable spending plan for the City during the next fiscal year; and

WHEREAS, the City is required to adopt a budget for the next fiscal year by Ordinance; and

WHEREAS, if the amounts budgeted for specific items or purposes are not required to be utilized for such items or purposes, then these amounts may be expended for other municipal items or purposes as approved by the Mayor.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Daphne, Alabama, that the Fiscal Year 2009 budget attached hereto and made a part hereof for the Fiscal Year beginning October 1, 2008 and ending September 30, 2009 is hereby approved and adopted on this the _____ of _____, 2008.

John Lake, Council President
Date & Time Signed: _____

Fred Small, Mayor
Date & Time Signed: _____

ATTEST:

David L. Cohen, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2008-64**

**AN ORDINANCE TO AMEND ECONOMIC
DEVELOPMENT AGREEMENT:
RENAISSANCE CENTER, LLC**

WHEREAS, the City of Daphne and Renaissance Center L.L.C. entered into a certain Economic Development Agreement on December 3, 2007 ("**Economic Development Agreement**"); and

WHEREAS, certain amendments to said **Economic Development Agreement** have been determined to be necessary for the benefit of the project and for clarification of certain rights and responsibilities of the Development; and

WHEREAS, the City Council of the City of Daphne, after due consideration and upon deliberation, has determined it to be in the best interest of the City to approve and pass said amendment to the **Economic Development Agreement**.

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

SECTION 1: That the attached amendment to the **Economic Development Agreement** by and between the City of Daphne an Alabama Municipal Corporation, (**CITY**) and Renaissance Center LLC. an Alabama Limited Liability Company (**DEVELOPER**) and the Renaissance Improvement District be and hereby is approved.

SECTION II: That Mayor Fred Small be and hereby is authorized to execute such amendment to the **Economic Development Agreement** on behalf of the City of Daphne.

SECTION III: EFFECTIVE DATE: That this Ordinance shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne and publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA
ON THE _____ DAY OF _____, 2008

John Lake, Council President
Date and Time Signed: _____

Fred Small, Mayor
Date and Time Signed: _____

ATTEST:

David Cohen, City Clerk MMC

**AMENDMENT TO ECONOMIC
DEVELOPMENT AGREEMENT**

This **AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT** ("Amendment") is hereby made and entered into on and as of the ___ day of _____, 2008, by and among the **RENAISSANCE CENTER, L.L.C.**, an Alabama limited liability company (the "Developer"), the **CITY OF DAPHNE, ALABAMA**, an Alabama municipal corporation ("City"), the **RENAISSANCE IMPROVEMENT DISTRICT**, an Alabama public corporation (the "Improvement District") organized under the provisions of the Chapter 99A of Title 11 of the Code of Alabama (1975) (the "Alabama Code") and the **RENAISSANCE COOPERATIVE DISTRICT**, an Alabama public corporation (the "Cooperative District") organized under the provisions of the Chapter 99B of Title 11 of the Alabama Code. The Developer, the City, the Improvement District and the Cooperative District are collectively referred to as the "Parties".

RECITALS

WHEREAS, the Parties entered into that certain Economic Development Agreement on December 3, 2007 ("**Economic Development Agreement**"), pursuant to which City agreed to provide certain economic development incentives for the Commercial Development (as described therein); and,

WHEREAS, pursuant to the Economic Development Agreement, the City agreed to make a continuing grant to the Cooperative District of the Pledged Grant Funds (as described therein) for thirty (30) years from the initial dated date of the Bonds (as described therein) or until the Bonds are paid in full, whichever occurs first; and,

WHEREAS, the Parties desire to amend the Economic Development Agreement to clarify that the Pledged Grant Funds may be used to pay the administrative expenses of the Cooperative District and the Improvement District, as provided for in their respective annual budgets; and

NOW, THEREFORE, for and in consideration for the foregoing premises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to amend, and do hereby amend, the Economic Development Agreement as follows:

1. The Economic Development Agreement is hereby amended and modified to provide, notwithstanding any existing provision of the Economic Development Agreement to the contrary: (a) that the Pledged Grant Funds may be used to pay the administrative expenses of the Cooperative District and the Improvement District, as provided for in their respective annual budgets for the upcoming fiscal year for such district, and which administrative expenses are generally described in the schedule attached hereto as Exhibit A and shall include, without limitation, the expenses as so

described; and (b) that prior to payment of expenses for any fiscal year, the Cooperative District shall provide a copy of the budget of the Improvement District and Cooperative District indicating for such year the amount of any such expenses and the portion thereof to be paid out of Pledged Grant Funds.

2. Except as amended and modified hereby, the terms and conditions of the Economic Development Agreement shall remain in full force and effect and are hereby ratified, confirmed and approved.

IN WITNESS WHEREOF, the Parties have each hereunto caused their hands to be set on and as of the date first above written by the duly authorized officer or manager thereof.

RENAISSANCE CENTER, LLC

By: _____
As Its:

CITY OF DAPHNE, ALABAMA

By: _____
As Its:

Attest:

As Its:

RENAISSANCE COOPERATIVE DISTRICT

By: _____
As Its:

RENAISSANCE IMPROVEMENT DISTRICT

By: _____
As Its:

EXHIBIT A

Permitted Administrative Expenses

Collection Costs – costs of collection of the District’s assessments

Financial Reporting and Accounting – charges by independent accountants and the District Manager for periodic and annual financial statements

Engineering Services – charges by third party engineers for post-construction and maintenance requirements

Operations and Maintenance Costs – out of pocket costs of operating and maintaining the District facilities

Insurance – premiums for insurance on property, liability and other necessary coverages

Trustee Fees – annual charges for bond trustee

Arbitrage Rebate Calculations – charges by accountants providing rebate calculations to comply with tax requirements

Dissemination Agent Fees – charges by the third party dissemination agent for compliance with continuing disclosure requirements of the Securities Exchange Commission

Management Fees and Expenses – charges by the District manager and out of pocket costs and expenses, per the Management Agreement

Legal Services – charges by District counsel or other attorneys required for ongoing activities of the District

ORDINANCE NO. 2008 - 66

**Ordinance to Rezone Property Located on the Southeast Corner of
Main Street and Van Avenue (13.21 and 5.40 Acres)
Ashley Gates Apartments, Phases I & II**

WHEREAS, the owners of certain real property within the City of Daphne, Alabama, have requested that said property be rezoned from B-2, General Business District to R-4, High Density Multi-Family Residential District to, said property is located on the Southeast Corner of Main Street and Van Avenue, being more particularly described as follows:

Legal Description:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, T5S-R2E, BALDWIN COUNTY, ALABAMA, RUN THENCE SOUTH 2226.67 FEET TO A POINT ON A WESTWARD PROJECTION OF THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE; THENCE ALONG SAID WESTWARD PROJECTION AND ALONG THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE RUN N 89° 51' 14" E 858.28 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 89° 51' 14" E AND ALONG SAID SOUTH LINE OF VAN AVENUE RUN 266.00 FEET TO A POINT; THENCE RUN S 00° 15' 57" E 578.45 FEET TO THE NORTHWEST CORNER OF DAPHNE SQUARE, ACCORDING TO PLAT RECORDED IN MAP BOOK 10, PAGE 125 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE WEST BOUNDARY OF SAID DAPHNE SQUARE RUN S 00° 18' 31" E 704.83 FEET TO THE SOUTHWEST CORNER OF SAID DAPHNE SQUARE; THENCE RUN N 89° 39' 07" W 712.61 FEET TO A POINT; THENCE RUN N 00° 23' 48" E 509.33 FEET TO A POINT; THENCE RUN N 00° 29' 32" E 557.91 FEET TO A POINT; THENCE RUN N 89° 51' 14" E 434.28 FEET TO A POINT; THENCE RUN N 00° 40' 29" W 210.0 FEET TO THE POINT OF BEGINNING. CONTAINING 18.620 ACRES. THIS DESCRIPTION INCLUDES LOT 1 OF VAN AVENUE SUBDIVISION AS PER PLAT RECORDED ON SLIDE NO. 1815-A OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA.

THE FOLLOWING AREA IS TO RETAIN B-2 ZONING AS BUFFER FOR ADJACENT PROPERTY ZONED B-2:

LESS AND EXCEPT A 10 FOOT BUFFER STRIP BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, T5S-R2E, BALDWIN COUNTY, ALABAMA, RUN THENCE SOUTH 2226.67 FEET TO A POINT ON A WESTWARD PROJECTION OF THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE; THENCE ALONG SAID WESTWARD PROJECTION AND ALONG THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE RUN N 89° 51' 14" E 1114.28 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 89° 51' 14" E AND ALONG SAID SOUTH LINE OF VAN AVENUE RUN 10.00 FEET TO A POINT; THENCE RUN S 00° 15' 57" E 578.45 FEET TO THE NORTHWEST CORNER OF DAPHNE SQUARE, ACCORDING TO PLAT RECORDED IN MAP BOOK 10, PAGE 125 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE WEST BOUNDARY OF SAID DAPHNE SQUARE RUN S 00° 18' 31" E 704.83 FEET TO THE SOUTHWEST CORNER OF SAID DAPHNE SQUARE; THENCE RUN N 89° 39' 07" W 492.96 FEET TO A POINT; THENCE RUN N 00° 20' 53" E 10.00 FEET TO A POINT; THENCE RUN S 89° 39' 07" E 482.85 FEET TO A POINT; THENCE RUN N 00° 18' 31" W 694.73 FEET TO A POINT; THENCE RUN N 00° 15' 57" W 578.47 FEET TO THE POINT OF BEGINNING. CONTAINING 17,657 SQUARE FEET OR 0.4054 ACRE.

WHEREAS, the Planning Commission of the City of Daphne on August 28, 2008 has considered said request and set forth an affirmative recommendation to the City Council of the City of Daphne that said property be rezoned; and,

WHEREAS, after proper publication, a public hearing was held by the City Council on Monday, November 17, 2008 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 B-2, General Business District to R-4, High Density Multi-Family Residential District, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA,
THIS ____ day of _____, 2008.**

Greg Burnam, Council President
Date & Time Signed:_____

Fred Small, Mayor
Date & Time Signed:_____

ATTEST:

David L. Cohen
City Clerk, MMC

ASHLEY GATES –BROOKFIELD, L.L.C.
ZONING AMENDMENT
from B2, General Business
to R4, High Density Multi-family Residential
(PROPERTY 18.2146 ACRES)

EXHIBIT "A"

LEGAL DESCRIPTION:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, T5S-R2E, BALDWIN COUNTY, ALABAMA, RUN THENCE SOUTH 2226.67 FEET TO A POINT ON A WESTWARD PROJECTION OF THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE; THENCE ALONG SAID WESTWARD PROJECTION AND ALONG THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE RUN N 89° 51' 14" E 858.28 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 89° 51' 14" E AND ALONG SAID SOUTH LINE OF VAN AVENUE RUN 266.00 FEET TO A POINT; THENCE RUN S 00° 15' 57" E 578.45 FEET TO THE NORTHWEST CORNER OF DAPHNE SQUARE, ACCORDING TO PLAT RECORDED IN MAP BOOK 10, PAGE 125 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE WEST BOUNDARY OF SAID DAPHNE SQUARE RUN S 00° 18' 31" E 704.83 FEET TO THE SOUTHWEST CORNER OF SAID DAPHNE SQUARE; THENCE RUN N 89° 39' 07" W 712.61 FEET TO A POINT; THENCE RUN N 00° 23' 48" E 509.33 FEET TO A POINT; THENCE RUN N 00° 29' 32" E 557.91 FEET TO A POINT; THENCE RUN N 89° 51' 14" E 434.28 FEET TO A POINT; THENCE RUN N 00° 40' 29" W 210.0 FEET TO THE POINT OF BEGINNING. CONTAINING 18.620 ACRES. THIS DESCRIPTION INCLUDES LOT 1 OF VAN AVENUE SUBDIVISION AS PER PLAT RECORDED ON SLIDE NO. 1815-A OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA.

THE FOLLOWING AREA IS TO RETAIN B-2 ZONING AS BUFFER FOR ADJACENT PROPERTY ZONED B-2:

LESS AND EXCEPT A 10 FOOT BUFFER STRIP BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 20, T5S-R2E, BALDWIN COUNTY, ALABAMA, RUN THENCE SOUTH 2226.67 FEET TO A POINT ON A WESTWARD PROJECTION OF THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE; THENCE ALONG SAID WESTWARD PROJECTION AND ALONG THE SOUTH RIGHT OF WAY LINE OF VAN AVENUE RUN N 89° 51' 14" E 1114.28 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE CONTINUING N 89° 51' 14" E AND ALONG SAID SOUTH LINE OF VAN AVENUE RUN 10.00 FEET TO A POINT; THENCE RUN S 00° 15' 57" E 578.45 FEET TO THE NORTHWEST CORNER OF DAPHNE SQUARE, ACCORDING TO PLAT RECORDED IN MAP BOOK 10, PAGE 125 OF THE PROBATE COURT RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE ALONG THE WEST BOUNDARY OF SAID DAPHNE SQUARE RUN S 00° 18' 31" E 704.83 FEET TO THE SOUTHWEST CORNER OF SAID DAPHNE SQUARE; THENCE RUN N 89° 39' 07" W 492.96 FEET TO A POINT; THENCE RUN N 00° 20' 53" E 10.00 FEET TO A POINT; THENCE RUN S 89° 39' 07" E 482.85 FEET TO A POINT; THENCE RUN N 00° 18' 31" W 694.73 FEET TO A POINT; THENCE RUN N 00° 15' 57" W 578.47 FEET TO THE POINT OF BEGINNING. CONTAINING 17,657 SQUARE FEET OR 0.4054 ACRE.

