

**CITY COUNCIL BUSINESS MEETING AGENDA  
BUSINESS MEETING  
1705 MAIN STREET, DAPHNE, AL  
AUGUST 6, 2012  
6:30 P.M.**

**1. CALL TO ORDER**

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

- 3. APPROVE MINUTES:** Council meeting minutes / July 16, 2012  
Council Work Session minutes / July 9, 2012  
Special Called Council meeting minutes / July 23, 2012

**CHANGE COUNCIL WORK SESSION DATE:** August 13, 2012

**CHANGE COUNCIL MEETING DATE:** September 3, 2012 (Labor Day)

**PRESENTATION:** Fenton Jenkins

**4. REPORT STANDING COMMITTEES:**

- A. FINANCE COMMITTEE / Boulware**
- B. BUILDINGS & PROPERTY COMMITTEE - Lake**
- C. PUBLIC SAFETY COMMITTEE – Boulware**
- D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Reese**
- E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - Conaway**

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

- A. Board of Zoning Adjustments – Jones**  
Review minutes / July 10<sup>th</sup>
  
- B. Downtown Redevelopment Authority – Barnette**  
**Nomination:** Patricia A. Vanderpool
  
- C. Industrial Development Board – Conaway**
- D. Library Board – Lake**
- E. Planning Commission – Barnette**  
Review minutes / June 28<sup>th</sup>  
Set Public Hearing date for **September 17, 2012** to consider:  
Revisions to the Zoning Map / Edits January 1, 2012 – July 1, 2012 / Favorable Recommendation
  
- F. Recreation Board – Reese**
- G. Utility Board - Scott**  
Review minutes / June 27<sup>th</sup>

**6. REPORTS OF OFFICERS:**

- A. Mayor's Report**
  - a.) Special Events Permit / Cry Out for America 9/11 Prayer Event / September 11, 2012
  - b.) Bayside Medical Missions / 5K and 1 Mile Fun Run / September 22, 2012
  
- B. City Attorney's Report**

**MOTION:** To approve retaining Cliff Truiett, PE as an expert witness in coastal engineering to review and provide an initial recommendation and opinion regarding Thompson Engineering's design and engineering of the boat ramp at May Day park at an initial cost not to exceed \$7,500.00

C. Department Head Comments

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) Resurfacing US Highway 98 from Mobile Bay Causeway to Scenic Overlook, City of Daphne. .... /Resolution 2012-53
- b.) Office Elected Without Opposition ..... /Resolution 2012-54
- c.) Street Map Revisions. .... /Resolution 2012-55
- d.) Appointing Election Officials. .... /Resolution 2012-56
- e.) Appointing City Attorney. .... /Resolution 2012-57

ORDINANCES:

2<sup>nd</sup> READ

- a.) Appropriation of Funds: Pinehill Road Resurfacing. .... /Ordinance 2012-47
- b.) Amending use of Lodging Tax Proceeds Time Extension. .... /Ordinance 2012-48
- c.) Amending Personnel Policy 1.3.3 Regulating the Political Participation Rights of Employees. .... /Ordinance 2012-49

9. COUNCIL COMMENTS

10. ADJOURN

**CITY OF DAPHNE  
CITY COUNCIL MEETING**

**ROLL CALL**

**CITY COUNCIL:**

**CALL VOTES**

COUNCILWOMAN CONAWAY	PRESENT__	ABSENT__	__
COUNCILWOMAN BARNETTE	PRESENT__	ABSENT__	
COUNCILMAN LAKE	PRESENT__	ABSENT__	__
COUNCILMAN REESE	PRESENT__	ABSENT__	__
COUNCILMAN SCOTT	PRESENT__	ABSENT__	__
COUNCILMAN BOULWARE	PRESENT__	ABSENT__	__
COUNCILMAN PALUMBO	PRESENT__	ABSENT__	__

**MAYOR**

MAYOR YELDING	PRESENT__	ABSENT__	__
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**CITY CLERK:**

DAVID L. COHEN	PRESENT___	ABSENT___	
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**CITY ATTORNEY:**

CITY ATTORNEY JAY ROSS	PRESENT__	ABSENT	
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**MINUTE NOTES:**

**CITY COUNCIL MEETING  
MINUTES**

**NOTES:**

COMMITTEE RECOMMENDATIONS

**JULY 16, 2012  
REGULAR CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.**

**1. CALL TO ORDER**

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

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

The invocation was given by Councilman Scott.

**COUNCIL MEMBERS PRESENT:** Tommie Conaway; John Lake; Kelly Reese; Ron Scott; Derek Boulware; August Palumbo.

**ALSO PRESENT:** Mayor Yelding; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; James White, Fire Chief; David Carpenter, Police Chief; Margaret Thigpen, Civic Center Director; Christine Ciancetta, Deputy Finance Director; David McKelroy, Recreation Director; Vickie Hinman, Human Resources Director; Richard Merchant, Building Official; Adrienne Jones, Planning Director; Richard Johnson, Public Works Director; Tonja Young, Library Director; Willie Robison, BZA; Larry Cooke, BZA; Al Guarisco, Village Point Foundation; Casey Zito, Downtown Redevelopment Authority; Douglas Dugat, Recreation Board.

**ABSENT:** Kim Briley, Finance Director.

Council President Barnette stated that Resolution 2012-51 is being pulled from the agenda on advice from the City Attorney.

**3. APPROVE MINUTES:**

**MOTION BY Councilwoman Conaway to adopt the July 2, 2012 council meeting minutes. Seconded by Councilman Boulware.**

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

**4. REPORT OF STANDING COMMITTEES:**

**A. FINANCE – Boulware**

The minutes for the July 9<sup>th</sup> meeting are in the packet.

**MOTION:** Reject the 2012-O-Safety Shoes/Boots Bid

**MOTION BY Councilman Boulware to reject the 2012-O-Safety Shoes/Boots bid. Seconded by Councilwoman Conaway.**

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

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**MOTION:** To recommend to council to close the 2006 Construction Fund and to transfer funds in the amount of \$715,269 to the Capital Reserve Fund for use on future capital projects.

**MOTION BY Council Boulware to close the 2006 Construction Fund and to transfer funds in the amount of \$715,269 to the Capital Reserve Fund for use on future capital projects. Seconded by Councilman Scott.**

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

**Treasurers Report**

**MOTION BY Councilman Boulware to accept the Treasurers Report as of June 30, 2012, in the amount of \$18,991,181.79. Seconded by Councilman Scott.**

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

**Sales and Use Tax Collections / May 31, 2012**

Sales and Use Tax Collected for May 2012 - \$911,839  
Sales and Use Tax Budgeted for May 2012 - \$908,573  
Under Budget (for April) - \$ 3,266

YTD Budget Collections Variance – Over Budget - \$42,426

**Lodging Tax Collections / May 31, 2012**

The Lodging Tax Collections report shows \$54,740.45 collected for May 2012. Mr. Scott noted Lodging Tax was done by \$3,140 from May 2011 collections.

The next meeting will be August 13<sup>th</sup> at 4:00 p.m. in the Executive Conference room.

**B. BUILDINGS AND PROPERTY COMMITTEE – Lake**  
No report.

**C. PUBLIC SAFETY COMMITTEE – Boulware**  
No report.

**D. CODE ENFORCEMENT / ORDINANCE COMMITTEE – Boulware**  
No report.

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**E. PUBLIC WORKS COMMITTEE/ SOLID WASTE AUTHORITY – Conaway**  
The committee met this afternoon, and the minutes will be in the next packet.

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

**A. Board of Zoning Adjustments – Adrienne Jones**

The minutes for the May<sup>3<sup>rd</sup></sup> meeting are in the packet. There will be meeting August 2<sup>nd</sup> at 6:00 p.m. to hear two (2) appeals.

**B. Downtown Redevelopment Authority – Barnette**

Casey Zito, Chairman, gave a presentation to council on the progress of the Authority. She reported there is good momentum, and a good sound board that are regular at meetings. They are working on a website that will link to downtown merchants, give business possibilities, a little history and list different events held in the downtown area. They have approved the mini-grant applications, and will be accepting applications from downtown business that may need a little aide in making some improvements with the goal to attract other business to the downtown area. This will be a collaborative effort. The grants can also be used to help sponsor downtown events. They have grouped together with downtown businesses and put an ad in the Alabama Coasting magazine which will be put in 5,000 hotel rooms in the area. This helps businesses to advertise when otherwise it would not be affordable for them. She thanked council for the funding that enables them to help the Olde Towne businesses.

The next meeting will be Monday at 5:30 in the council chambers.

**C. Industrial Development Board – Conaway**

The board will meet Monday at 6:00 p.m. in the Executive Conference room.

**D. Library Board – Lake**

No report.

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**E. Planning Commission – Barnette**

The minutes of the May 24<sup>th</sup> meeting are in the packet.

**MOTION BY Councilman Scott to set a Public Hearing date for August 20, 2012 to consider:**

**Rezone: D. R. Horton, Inc.**  
**Location: West of AL Hwy 181, near the intersection of Camberwell Drive and Devonfield Lane**  
**Present Zoning: B-1, Local Business, R-1, Low Density Single Family Residential and R-3, High Density Single Family**  
**Proposed Zoning: R-1, Low Density Single Family**  
**Recommendation: Failed to set forth a favorable recommendation. Although the majority of those present voted in favor of the motion, a super majority would have been necessary for a favorable recommendation**

*Seconded by Councilman Lake.*

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

The Site Review meeting is Wednesday at 10:00 a.m. The regular Planning Commission meeting is next Thursday at 5:00 p.m.

**F. Recreation Board – Reese**

There was a meeting scheduled, but there was not a quorum.

Councilman Reese said that the Ordinance Committee did meet and discussed the alcohol and social media ordinances, and they are still under review.

**G. Utility Board – Scott**

The minutes for the May 30<sup>th</sup> meeting are in the packet. The next meeting will be the last Wednesday of the month which is July 25<sup>th</sup>.

**6. REPORTS OF THE OFFICERS:**

**A. *Mayor’s Report***

- a.) Special Events Permit / Christ the King Church / Prayer for America / October 13, 2012

**MOTION BY Councilman Boulware to approve the Special Events Permit for / Christ the King Church / Prayer for America / October 13, 2012. *Seconded by Councilman Scott.***

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

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***B. City Attorney Report***

No report. Mr. Ross stated that at the next meeting he would like Council to call an Executive Session to discuss pending litigation.

***C. Department Head Comments***

***David McKelroy – Recreation Director*** – announced the Fall sports registration started July 14<sup>th</sup>. They also have soccer and cheerleading registration. The Challenger British Soccer Camp is next week. There will be 85 children and six (6) coaches from the United Kingdom.

***David Cohen – City Clerk*** - announced that city has been successful with the Recreational Trails grant for the bridge that will connect the west side to the east side of Gator Alley. He will submit the second level application. This is a \$124,000 project with an 80/20 match.

Councilman Palumbo asked Ms. Ciancetta for an update on the use of credit cards.

Ms. Ciancetta said that the company is working with the Animal Shelter and Library on the website, and she will be working to get the Civic Center and the Recreation Center on board.

**7. PUBLIC PARTICIPATION:**

***Mr. Chad LeJeune – Market by the Bay*** – spoke regarding free market and anti-business, and restoring the economy.

***Mr. Kevin Spriggs – Owner of the Eastern Shore Motel*** – spoke regarding how the sign ordinance stifles the creative aspect of business in Daphne.

***Mr. Robin LeJeune – 121 Havenwood Circle*** - spoke regarding his appreciation of the city's 4<sup>th</sup> of July celebration at Trione Sports Complex saying he was pleasantly pleased.

***Mr. Willie Robison – 560 Stuart Street*** - spoke regarding his traveling the length and breadth of the state and has heard reports that Daphne is anti-business. He feels it is time to help businesses, and be ready when the ancillary business associated with Air Bus comes knocking.

**MOTION BY Councilman Scott to call a Special Called Council meeting for Monday, July 23, 2012 at 6:30 p.m. to consider a proposed motion regarding the Sign Ordinance. Seconded by Councilman Reese.**

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

Councilman Scott proposed letting LifeSouth hold a Blood Drive at City Hall to help the shortfall of blood donations that the lack of signage has caused, He challenged the Mayor to organize the Blood Drive.

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

**RESOLUTIONS:**

- a.) Bid Award: Self-Contained Breathing Apparatus / Sunbelt Fire Apparatus ..... /Resolution 2012-48
- b.) Bid Award: Thermal Imaging Camera / Sunbelt Fire Apparatus. .... /Resolution 2012-49
- c.) Bid Award: Jail Food Service / Winn-Dixie ..... /Resolution 2012-50
- d.) Fiber Installation to Designated City Buildings Contract. .... /Resolution 2012-51
- e.) Appointing Election Officials. .... /Resolution 2012-52

**Resolution 2012-51 was pulled from the agenda earlier in the meeting.**

MOTION BY Councilman Scott to waive the reading of Resolutions 2012-48, 2012-49, 2012-50 and 2012-52. *Seconded by Councilwoman Conaway.*

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

MOTION BY Councilman Scott to adopt of Resolutions 2012-48, 2012-49, 2012-50. *Seconded by Councilman Boulware.*

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

MOTIONBY Councilman Boulware to adopt of Resolution 2012-52. *Seconded by Councilman Palumbo.*

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

**ORDINANCES:**

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**2<sup>nd</sup> READ**

- a.) **Appropriation of Funds: Resurfacing: Ryan Avenue to Bayfront Drive . . . . . /Ordinance 2012-46**

**1<sup>ST</sup> READ**

- b.) **Appropriation of Funds: Pinehill Road Resurfacing. . . . . /Ordinance 2012-47**
- c.) **Amending use of Lodging Tax Proceeds Time Extension. . . . . /Ordinance 2012-48**
- d.) **Amending Personnel Policy 1.3.3 Regulating the Political Participation Rights of Employees. . . . . /Ordinance 2012-49**

**MOTION BY Councilman Boulware to waive the reading of Ordinance 2012-46. *Seconded by Councilwoman Conaway.***

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

**MOTION BY Councilman Boulware to adopt Ordinance 2012-46. *Seconded by Councilman Lake.***

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

**Ordinances 2012-47, 2012-48 and 2012-49 was a 1<sup>st</sup> Read.**

**9. COUNCIL COMMENTS:**

*Mayor Yelding* said that he will move forward with the Blood Drive.

*Councilman Reese* spoke regarding the comments at the work session from the business sector and comments from the last council meeting that the action council took was great, but they need more. The action that he and Councilman Scott submitted last Wednesday prior to 5:00 p.m. when they requested that a motion be placed on the agenda for this evening to modify the current relaxation of the sign ordinance even more, additionally, but not much. Prior practice of the council has been that an item can be placed on the agenda through the request of two (2) members of the council so long as it is provided to the City Clerk prior to 5:00 p.m. on Wednesday prior to the meeting. He has read the council rules, but did not see anything in the rules that expressly gives the Council President the authority to pull items from the agenda or to

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refuse, in this instance, to place it on the agenda. There is language in Section VI of the council rules that says “that any item including all background material to be placed on the agenda must be turned in by 5:00 p.m. on the Wednesday before the council meeting to the City Clerk subject to review of the Council President.” If “subject to review by the Council President” means that the Council President is vested with absolute discretion to decide whether or not to put an item on the agenda that two (2) council members attempted to place on the agenda, then he thinks that ordinance, council rules Ordinance 2012-21, ought to be amended to divest the Council President of that authority. There is a provision which would allow full council, Section XI, to over-ride the Council President, but now that we have voted to set this special council meeting, I think that is too drastic a measure, I just wanted the business community to know what happened that an attempt was made, and what could have happened tonight was the motion could have stayed on the agenda subject to its deficiencies, address the deficiencies, amended it, and he believes gone forward with it. In any event that is his take on the issue.

*Councilman Scott* agreed with Mr. Reese. He said that when LifeSouth addressed council regarding the potential loss of life this issue needed to be addressed. That is why he asked for the Blood Drive. When LifeSouth said they were being cited, when a sign ordinances gets so silly that we are costing lives, potentially costing lives, then to him that is something that needs to be addressed, and needs to be addressed rapidly, and they attempted to do that, hopefully, the blood drive will offset whatever loss of blood there is, otherwise, they will do their best to have this resolved at least on a 30 day basis by next Monday.

*Council President Barnette* – said that half of what Mr. Reese said is correct, but there are a couple of additional items that she thinks is worth mentioning for the record. The Council President does have the authority to set the agenda, and she has never denied anything ever. She also thinks it is her responsibility to make sure what is presented on the agenda is legal, and the motion that was presented was not legal. She contacted the City Attorney and asked him if it was legal and he said it was not, and so it was not on the agenda, nor will she put things that they know does not meet the criteria in the City of Daphne on the agenda. Had they wanted to attempt to make amendments that could have been done tonight by a simple two-thirds vote. They have done this before when items have not been on the agenda for whatever reason. That is why the motion was not on the agenda.

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REGULAR CITY COUNCIL MEETING  
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**10. ADJOURN:**

**MOTION BY Councilwoman Conaway to adjourn. *Seconded by Councilwoman Lake.***

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

**There being no further business to discuss the meeting adjourned at 7:23 p.m.**

Respectfully submitted by,

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

Certification of Presiding Officer,

\_\_\_\_\_  
Derek Boulware, Council President Pro tem

**JULY 9, 2012**  
**CITY COUNCIL WORK SESSION**  
**1705 MAIN STREET**  
**DAPHNE, AL**  
**6:30 P.M.**

1

**COUNCIL MEMBERS PRESENT:** Tommie Conaway; Cathy Barnette; John Lake; Ron Scott; Derek Boulware; August Palumbo.

**ABSENT:** Kelly Reese.

Also present: Mayor Yelding; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Erick Bussey, Jason Crane, City Attorneys; David McKelroy, Recreation Director, Richard Johnson, Public Works Director; Margaret Thigpen, Civic Center Director; Vickie Hinman, Human Resources Director; Willie Robison, BZA; Toni Fassbender, IDB.

Absent: Jay Ross, City Attorney.

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

**1. ORDINANCES: REGULATING THE USE OF SOCIAL MEDIA BY EMPLOYEES & USE OF ALCOHOLIC BEVERAGE WITHIN THE CITY OF DAPHNE**

**REGULATING POLITICAL PARTICIPATION BY EMPLOYEES**

Mrs. Hinman thanked Council President Barnette for adding this ordinance at the last minute. Mrs. Hinman and Mr. Jason Crane, City Attorney, discussed the ordinance with council. The Personnel Handbook is not current and up-to-date with State code. The city cannot prohibit employees from participating in political activities during their off time. Since the election is in August they wanted to expedite the ordinance.

*Consensus of Council:* Put on agenda for Monday.

**ALCOHOL ORDINANCE**

The Alcohol Ordinance was pulled from the agenda for further review by the Ordinance Committee.

**SOCIAL MEDIA ORDINANCE**

Mrs. Hinman stated the city needs guidelines for employees using social media on city time and with city equipment.

After discussion Mr. Reese requested that the ordinance be sent back to the Ordinance Committee for further review since Mr. Crane had not had the opportunity to digest Mr. Reese's amendments to the ordinance.

*Consensus of Council:* Send Ordinance back to the Ordinance Committee for further review, and to send their recommendations to council.

**2. OPEN DISCUSSION WITH MERCHANTS REGARDING SIGNAGE IN THE CITY OF DAPHNE**

*Mrs. Toni Fassbender – Eastern Shore Toyota* – thanked council for passing the motion at the last council meeting to help the businesses. She feels that signage on the I-10 corridor is very important, and asked council to re-look at the sign provisions of the Land Use and Development Ordinance.

*As a member of the IDB* – Mrs. Fassbender announced that there is a company looking to move to the city, and the board will be meeting with them at the end of the month. She urged council to make the city business friendly to attract business that will be connected to Air Bus.

*Mr. Victor LeJeune – 126 Hope Drive – Market by the Bay* – asked if council would allow businesses to place one (1) banner per business, and if there was a motion next week would council vote for it until they can change the sign provisions. He realizes that this is a temporary fix. He asked if council could take the course of not enforcing the temporary sign provisions until the election is over to let business have the one (1) banner. He said there had not been a problem for the last four (4) to five (5) years, and all of a sudden now there is a problem.

*Mrs. Holly LeJeune – Market by the Bay* – said that the quality of life in Daphne is wonderful, and if they don't take care of the people that pay taxes the quality of life will go down. She said that LifeSouth needs a sign board on the road every day, because it tells people what type of blood is needed. She asked if they did nothing else let LifeSouth put their sign boards out.

*Mr. Howard Haddy – Dirty Harry Dog Wash* – asked since the city is in litigation with Lamar Signs is this meeting doing any good. He said it seems to change from week to week as to what is legal. Council is not consistent. He asked that they put a committee together until after the election.

*Robin LeJeune – Market by the Bay – 121 Havenwood Circle* – stated that if they cannot change the ordinance what is the point of going to committee. He asked the Mayor not to enforce the sign ordinance. He has 92 signature from area businesses that would not come to the council meeting, because they feel the city does not care about them.

*Mr. Kevin Spriggs – Owner of multiple businesses in Daphne* - said he has come before council numerous times before and during the revision of the Land Use and Development Ordinance to request changes to the sign provisions. He feels a residential district needs different treatment than a commercial district.

*Mr. Dane Haygood – 9221 TimberCreek Boulevard* – spoke for the Real Estate community – saying that he was looking to have banners up 24/7. He said that is how real estate works. He said council did not take into consideration everyone's needs. He took the time to participate in the process, but council did not listen and it is a misuse of their time.

***Consensus of Council:*** Most of the council is not opposed to amending the already passed motion to further lessen the burden on businesses. They are willing to sit down with the business owners to discuss changes to the sign provisions.

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CITY COUNCIL WORK SESSION  
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DAPHNE, AL  
6:30 P.M.**

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**3. ADJOURN**

There being no further business to discuss the meeting adjourned at 8:00 p.m.

Respectfully submitted by,

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

Certification of Presiding Officer:

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**Cathy S. Barnette,  
Council President**

**JULY 23, 2012  
SPECIAL CALLED CITY COUNCIL MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 A.M.**

**1. CALL TO ORDER**

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

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

Councilman Lake gave the invocation.

**COUNCIL MEMBERS PRESENT:** Tommie Conaway; Cathy Barnette; John Lake; Kelly Reese; Ron Scott; Derek Boulware; August Palumbo.

Also present: Mayor Yelding; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Erick Bussey, Attorney; Richard Johnson, Public Works Director; Douglas Dugat, Recreation Board; Larry Cooke, BZA.

Absent: Jay Ross, City Attorney.

**3. DISCUSS: SIGNAGE MOTION**

Councilman Scott stated that even though they were able to address some of the sign concerns of the business community during this economic downturn with the summers being especially hard for some businesses, and they were able to address promotional weekends, but they were not able to address things such as banners, signs advertising real estate for sale and sandwich signs that would allow LifeSouth to be able to advertise what type of blood is needed. The only remedy that this council has outside of the process of amending the Land Use Ordinance, which they all know takes a matter of time, is to exercise their authority under Section 33-5(e)(1) of the Land Use Ordinance which is the motion that is in front of council.

**MOTION BY Councilman Scott to exercise the authority of the City Council granted by Section 33-5 (e) (1) of the Land Use Ordinance: the City Council recognizes the economic recession and has determined that this is an on-going economic down-turn that is affecting businesses in the City of Daphne. The City Council has determined that the recession is an occasion in which it can exercise its authority to allow temporary signage and banners in order to stimulate and support local businesses. Therefore, signs and banners as described in this section are authorized in the City of Daphne for 30 days starting July 24, 2012 through Thursday August 23, 2012. Such temporary signs and banners must meet all other provisions of the Land Use & Development Ordinance. Motion does not suspend or replace any provisions of the sign ordinance, and reiterates that all other requirements of the sign ordinance remain under stringent and uniform enforcement. *Seconded by Councilman Reese.***

**AYE ALL IN FAVOR NAY NONE OPPOSED ABSTAIN Barnette, Palumbo**

**MOTION CARRIED**

#### **4. PUBLIC PARTICIPATION:**

*Mr. Chad LeJeune – 109 Hope Drive* – spoke regarding his love of Daphne and enforcement of ordinances. He also thanked council for their support and.

*Mr. Douglas Dugat – 9391 Montpelier Place* – spoke regarding the enforcement of the political sign ordinance.

*Mrs. Dorothy Morrison – Beautification Committee – 26197 Via Del San Francesco* – spoke regarding the gaudy concrete utility poles that are being installed on US Hwy 98 that is destroying the look of Daphne. She asked council if they could require them to put the lines underground.

*Mr. Shelly Asmus – LifeSouth Blood Bank* - said he is willing to be here for the August 20<sup>th</sup> meeting, because they are already 300 units in the hole. He said the sign ordinance is a hindrance to their ability to collect needed blood.

*Mr. Kevin Spriggs – Owner of several businesses in Daphne* - spoke regarding citizens fundamental rights, and encouraged council to re-write the sign ordinance.

*Ms. Jennifer Stewart – LifeSouth Blood Bank* - spoke regarding signs helping them save lives in the community. LifeSouth provides blood for all the area hospitals.

#### **5. COUNCIL COMMENTS:**

*Councilman Lake* says he keeps hearing that Daphne is anti-business, and he disagrees with that statement. He feels Daphne is not a bad place to do business.

*Councilman Palumbo* commented on a presentation he did some time ago for Scenic Alabama. During the presentation he showed photos of Five Points South in Birmingham from 20 years ago, and what it looks like today. It was as trashy as it could get, and today the property is the most expensive real estate in Birmingham. He feels people come to Daphne because of the beauty, and the sign ordinance is responsible.

*Council President Barnette* feels comfortable with her record supporting the land use planning in Daphne. She has been consistent. One real concern at this point is LifeSouth. The City of Fairhope within their ordinance addresses educational, religious, non-profit and charitable organizations allowing some ability to address pressing needs within the community or something like that. That is a deficiency within the city's Land Use Ordinance. She thinks setting up some kind of task force within the business community is a good idea. She believes there are some things that need to be tweaked, but moving rashly is not the way to go, because it starts a very slippery slope.

**JULY 23, 2012**  
**SPECIAL CALLED CITY COUNCIL MEETING**  
**1705 MAIN STREET**  
**DAPHNE, AL**  
**6:30 P.M.**  
**6. ADJOURN**

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

<b>AYE</b>	<b>ALL IN FAVOR</b>	<b>NAY</b>	<b>NONE OPPOSED</b>	<b>MOTION CARRIED</b>
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**There being no further business to discuss the meeting adjourned at 7:19 p.m.**

Respectfully submitted by,

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

Certification by Presiding Officer:

\_\_\_\_\_  
Cathy S. Barnette,  
Council President

**CITY COUNCIL MEETING  
STANDING COMMITTEE RECOMMENDATIONS:**

**FINANCE COMMITTEE REPORT**

**BUILDINGS & PROPERTY COMMITTEE REPORT**

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

**PUBLIC SAFETY/ORDINANCE COMMITTEE REPORT**

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

**CITY COUNCIL MEETING  
REPORTS OF SPECIAL COMMITTEES**

**NOTES:**

**BOARD OF ZONING ADJUSTMENTS REPORT:**

**DOWNTOWN REDEVELOPMENT AUTHORITY REPORT:**

**INDUSTRIAL DEVELOPMENT BOARD:**

**LIBRARY BOARD:**

**PLANNING COMMISSION REPORT:**

**RECREATION BOARD REPORT:**

**UTILITY BOARD REPORT:**

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**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF JULY 10, 2012 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL**

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**Chairman:** the number of members present constitutes a quorum and the regular meeting of the Board of Zoning Adjustment called to order at 6:00 p.m. Let us have roll call.

**Call of Roll:**

Members Present:

Glen Swaney, Vice Chairman  
Frank Lamb  
Billy Mayhand  
Willie Robison, Chairman  
Larry Cooke

Members Absent:

Jim Moss

Staff Present:

Adrienne D. Jones, Director of Community Development  
Tony Hoffman, BZA Attorney  
Pat Houston, Recording Secretary

**Chairman:** we have a quorum and all five members will be voting tonight. The first order of business is approval of the May 3rd, 2012 meeting minutes. If there are not any corrections, additions or deletions to the minutes. The Chair will entertain a motion.

**Approval of Minutes:**

The minutes of the May 3rd, 2012 meeting were considered for approval.

A **Motion** was made by **Mr. Lamb** and **Seconded** by **Mr. Swaney** to **approve the minutes as written.**

**The Motion carried unanimously.**

**Chairman:** before we get into the new business I would like to take just a minute to welcome our new Alternate, Mr. Larry Cooke. Larry has lived in Daphne twenty years and he is very active. He comes to probably ninety-nine percent of all Council meetings. He helps keep tab on the money of the City by attending the Finance Committee meetings each month. So Larry tries to stay abreast of the things that are going on in the City. Once again Larry welcome and thank you for stepping up to the plate and putting your name in the hat.

**New Business:**

Appeal #2012-03 John Powell

**Chairman:** next item on the agenda is Appeal #2012-03 John Powell, a variance request to allow the rear yard setback to be ten-feet in lieu of the required thirty five-feet and the side yard setback to be ten-feet in lieu of the required twenty-feet in order to build a residence to preserve three large Oak trees. The property is located at 702 Magnolia Avenue, which is zoned R-2, Medium Density, Single Family Residential. Ms. Jones if you would please walk us through this.

**Ms. Jones:** [passed out a paper copy of the Power Point Presentation of 702 Magnolia Avenue.] Good afternoon. Can you hear me?

**Chairman:** we are not going to have Power Point tonight?

**Ms. Jones:** we have Power Point, but it can only be viewed by the audience so I have provided you a copy so that you can flip as I go. This property at 702 Magnolia is in Olde Towne Daphne. The current owner is John Powell. The next slide shows you the plat for Magnolia Hills and it was recorded in 1926. It was one of the first subdivisions in the City of Daphne, not the first, but one of the first. Most of the lots were fifty-foot lots and one hundred or two hundred-feet in depth. The next page provides zoning information. It shows the subject property is zoned R-2, Medium Density, Single Family Residential. The required setbacks are thirty five-feet on front and rear, ten-feet on the side interior and twenty-feet on the corner side. The minimum area is fifteen thousand square feet. The next slide provides the list of the variance requested. The first is for the house to encroach twenty five-feet into the thirty five-foot rear setback allowing a ten-foot setback in lieu of thirty five-feet. The second portion of the request is for a proposed attached carport to encroach ten-feet into the twenty-foot corner yard side setback, and the third portion is to establish the lot area at nine thousand eight hundred and ninety-eight square feet in lieu of fifteen thousand square feet, which is required in an R-2 zone. The next slide gives you the applicant's justification for their request. One being the establishment of the subdivision prior to establishing zoning, and the other is the presence of Heritage Oaks on site. There are three of those. There are two outside of the buildable area and one inside of the buildable area. The next slide gives you a comparison of the buildable area and the close development. On the left is the buildable area which is about two thousand four hundred square feet of area that sits in the minimum setback of R-2. The drawing on the right shows you the proposed layout as provided in the drawings with the application. At the bottom of the slide it shows, in red, the differences in the minimum requirements and what is being requested. The next slide shows you the tree that sits in the buildable area of the footprint, of the building. There are a few more pages, but they are similar to the ones that are in your

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booklet. I have a slide that shows a highlight of the outline of the property that is contiguous to the subject property.

**Ms. Jones:** I also have a picture, which is also in your report, of the house that adjoins on Magnolia Avenue, and the adjoining house on Sixth Avenue. The questions that we typically ask when we consider a variance is, first are there any topographical conditions peculiar to this property, and the answer to that is no. Are there self-imposed conditions? No. Is it an unnecessary hardship? Yes. Are there other reasonable options exist that would not create an additional hardship? My answer would be to reduce the footprint of the building to be less of an impact on the rear yard setback. The next question is would relief cause substantial detriment to the public good? My answer is that I am not sure what impact the proposal would have on the adjoining house to the south. So as I stated in the report, before making a final decision, you may consider requesting more information from the applicants to prove that the twenty five-foot request is absolutely necessary, and that evidence could be building floor plans and building elevations, a report from an Arborist on the condition of the existing trees, especially the one that is in the buildable area. So the points of interest here is that the intent of the Zoning Ordinance is allow minor variances to accommodate extraordinary and exceptional conditions. It is reasonable to consider a variance to the setbacks in an effect to protect both the tree and the root of the Heritage Oak tree. I have three questions. Is a twenty five-foot encroachment into the rear yard absolutely necessary in this case? Would it be appropriate to remove the one tree that encroaches and to preserve the other two Oak trees or would such be considered as upholding the intent and purpose of the Landscape and tree protection standards? So in summary I guess my recommendation depends on what your thoughts are if you consider needing additional information or allowing the applicants to bring forth more information to help justify the request then I would be agreeable with that. However, on the other hand if not, just taking the information that we have in our packet, and if you asked me the question as to whether or not a twenty five-foot encroachment would be appropriate then I would say no. The proposed attached carport is questionable, and that would depend on whether the tree would be removed or not. Again, I need something to justify fully that it absolutely had to be located in that location. There is one aspect that I would certainly say yes for you to approve, and that is the minimum area because there is no other area that can be incorporated into the property to make it be fifteen thousand square feet, which R-2 requires. So in that respect, in that regard, I would recommend approval.

**Chairman:** Ms. Jones, when I was in the service I failed compass and map reading in our jungle training and got captured by the enemy. When I was out looking at the property it seemed to me that it faced Sixth Street and not Magnolia.

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**Ms. Jones:** well the proposed frontage for the applicant is for it to front onto Magnolia and the side yard would be Sixth.

**Chairman:** as far as wanting to build?

**Ms. Jones:** correct. The front door will face Magnolia.

**Chairman:** not as it is presently.

**Ms. Jones:** correct.

**Chairman:** I did not think I was looking at the wrong house when I saw it facing east and west. Does anyone have any questions for Ms. Jones?

**Mr. Lamb:** on a corner lot that is real playable where you can say I want an address that says Magnolia or I want an address that says Sixth, and you can orient the house accordingly.

**Ms. Jones:** that is correct, but by definition in our Ordinance it says that the front is the most narrow side of the lot.

**Mr. Lamb:** so regardless how they orient the house the front is Magnolia.

**Ms. Jones:** yes.

**Chairman:** so if the front door was facing the other way it would still be Magnolia.

**Ms. Jones:** yes.

**Chairman:** okay. Does anyone else have any questions for Ms. Jones? Is Mr. Powell here? Mr. Wachter will you be representing Mr. Powell?

**Mr. Wachter:** yes, sir.

**Chairman:** if you would please step up to the microphone and speak directly into it and give us your name and address because this is being recorded. Thank you.

**Mr. Wachter:** my name is Chason Wachter and I am representing Mr. Powell, the property owner, and my address is 118 General Canby Drive, in Spanish Fort, Alabama. You want me to just explain how we got here?

**Ms. Jones:** yes.

**Mr. Wachter:** it all started with three Oaks, trying to save three huge live Heritage Oaks. If you look at the drawings there are only

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two property lines, two setback lines that are being requested to adjust, and that would be the rear facing Magnolia on the south and west end. On the Oak trees you do not only have to consider the size of the tree trunk itself but the huge canopy and the way that the canopy flows.

**Mr. Wachter:** the largest tree itself sits within the building path. So the home is actually configured to save that tree in an "L" shape. The only way you can have a garage or carport would be to put it on the Sixth Street side and do a drive. So the house would actually face Magnolia, but the drive itself would come off of Sixth Street. So that was the only way it could possibly be configured to save that particular Oak tree. The couple that is interested, you know, that was the thing that they fell in love with, these trees, and they do not have an interest in cutting any of the trees down. So to save the trees this is the only way that it could be done to configure that house and make it fit within the area.

**Mr. Swaney:** what is the square footage of the house?

**Mr. Wachter:** the total square footage has not been determined, but we are only talking about around twenty one hundred feet on the first floor and might have some rooms above it. We are probably talking total twenty eight hundred to three thousand. In the footprint itself we are only looking at about twenty one hundred square feet. So it is not a huge home.

**Mr. Swaney:** you did say there are plans for it to be a two-story home?

**Mr. Wachter:** well not a true two-story. It may have a couple of rooms up so it may be a story and a half.

**Mr. Swaney:** will that require some heavy cutting back of the trees?

**Mr. Wachter:** well no, that is why we sort of shaped it the way we did so the canopy can remain. The intent is for the canopy to remain, so the house was pushed back, and the second story is added or new rooms are put up it would be configured to stay out of the canopy itself.

**Mr. Swaney:** I do not see how after a while you could possibly save a couple of those very large limbs on the tree that is closest to the house, on a two-story home.

**Mr. Wachter:** well if you look at the drawing and you see the "L" shape of the house, the front is going to be a porch. So depending on the roof line, and the slope of the roof, the hope is that you can stay out of that canopy that is the whole reason the house was designed this way.

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**Mr. Swaney:** do you at this point in time have drawings of the house plans?

**Mr. Wachter:** we do not have the complete drawings of the house. You know, they did not want to get too far down the road not knowing if this is going to be approved or not. So they have been working on just the footprint of the first floor.

**Mr. Wachter:** that could be something if you requested it that they could determine if it is something that they want to move forward with.

**Chairman:** Mr. Lamb, Mr. Swaney, myself and Mr. Mayhand. Do you remember the house on Captain O'Neal several years ago where it was a similar situation and he went back and reconfigured the house. Do you remember that? One of the problems I have is having no plans we do not know what is going there, and if we granted a variance without plans, that variance, and Ms. Jones correct me if I am wrong, would basically be there with perpetuity. It would be there, not saying that this would happen, but you could come back and change the plans to where you totally do the opposite to what we thought we were approving. Looking at it and I have scribbled all over my book and somebody might ask some of these questions before I ask all of them, but when I was out there looking at the lot it seemed to me as if, as Ms. Jones said, the one tree on the west side, at the end of the house, would probably be the one that you could remove and save the other two and not need a twenty five-foot setback variance. I have a problem with this twenty five-foot there, and also, not having the plans because once the variance is given and I believe the Planning Commission would have to wait on the BZA to grant a variance. Does this have to go to the Planning Commission?

**Ms. Jones:** it has already gone to the Planning Commission to re-plat the lot. They have approved combining Lot's 1 and 2 of Magnolia Subdivision to re-plat the lots as one.

**Mr. Mayhand:** does the same individual own both lots?

**Ms. Jones:** yes.

**Mr. Wachter:** let me make this point. Is there an interest in taking out the tree? I think the request tonight is as stated. I do not think they have an interest in moving forward if that tree has to be taken down.

**Mr. Lamb:** have you established the health of the tree?

**Mr. Wachter:** have I? Or can I?

**Mr. Lamb:** have you?

**Mr. Wachter:** no, we have not established the health of the tree. I mean we can, but we have not done that. I mean the whole point is the closer you get to that tree you have got to deep footers and you are getting into a root system that is the whole point as you look at the shape it is to stay away from that whole root system. I can understand a request on the first floor, but unless it is just the second floor you are worried about, the limbs.

**Mr. Wachter:** you know if you are talking about the other rooms it is an architect issue. They may be willing to go that step, but to me the important thing is, knowing the footprint, and how we are trying to stay out of that area of the tree.

**Mr. Swaney:** I am of kind of the same point of view as the Chairman is and that is simply that we do not have enough information, as I see it.

**Mr. Wachter:** right.

**Chairman:** one of the things that the BZA must look at is and I am going to read it rather than quoting it because sometimes my mind forgets things, but it says "before making a final decision the BZA may consider requesting more information from the applicants to prove that the twenty five-foot request is absolutely necessary. Evidence may include building floor plans and building elevations, a report from an Arborist on the condition of the trees, etc. If this advice is not heeded, then CD recommends denial of the first two requests and approval of the third request." So in asking for additional information or additional plans this would not be the first time this has happened. It has happened in many cases in the past because you have got to look and see what is going there, and go from there.

**Mr. Wachter:** right.

**Mr. Mayhand:** would the owners be opposed to combining the lots?

**Mr. Wachter:** well the lots have been combined.

**Mr. Mayhand:** they are already combined.

**Mr. Wachter:** already.

**Chairman:** however combined it makes nine thousand eight hundred and ninety eight square feet.

**Mr. Lamb:** on the house that is on the corner of College and Old County Road that we saw.

**Chairman:** talking about the Robinson house across from Bayside.

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**Mr. Lamb:** yes. What was the setback on the rear allowed to be reduced to? Was it a ten-foot reduction?

**Ms. Jones:** this was Steve and Daphne Robinson, Appeal #2007-09, located at the northeast corner of Old County Road and Dryer Avenue. The variance was approved to allow a proposed residential structure located at the corner of Old County Road and Dryer Avenue to encroach the rear setback line by twenty-feet.

**Ms. Jones:** if it is zoned R-1 the rear setback is forty-feet, so that was half.

**Mr. Lamb:** that was twenty-feet. Now the one across the street, on the other side of Dryer, where the man wanted to add on to the back of his house in the alley way there, we granted a variance on the back side of that one. You know where the flashing warning light is?

**Ms. Jones:** has that been recently?

**Chairman:** is that the one across from the Olde Daphne Methodist Church, in that area right there?

**Mr. Lamb:** remember he wanted to add on to the back, but he had an encroachment on the back and there was an alley way.

**Chairman:** it backed up to an alley.

**Mr. Lamb:** yeah.

**Ms. Jones:** I do not remember that one.

**Chairman:** I think that was done when Mr. Eady was here.

**Ms. Jones:** okay. I do not have the information on that one. Not here.

**Mr. Lamb:** I remember we had a lot of discussion about that one.

**Mr. Swaney:** I think it is very commendable that you want to save those trees. There are a couple of huge trees on that lot. Again, without knowing what the configuration would be of the house, after looking at this very carefully, I tend to question a two-story house.

**Mr. Wachter:** well it is not a two-story house. It is called a story and a half. It is not a true two-story. It is not a very large house.

**Mr. Lamb:** the problem I have is two setbacks variances, twenty five-feet in the rear and ten-foot on the side.

**Chairman:** going back to the Robinson's house, across from Bayside. Do you know where I am talking about of?

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**Mr. Wachter:** yes, sir.

**Chairman:** they had plans that we were able to look at to determine exactly what was going on that lot, and their same request was in saying that they wanted to save fifteen Oak trees that would surround the house. They had their plans that we could look at, and we could see what was going there, how aesthetically pleasing it would be.

**Chairman:** in saving the Oak trees I am like everyone else, Oak trees, we breathe what they put off, and without the trees we do not live. So I understand that. If you had something that we could visually look at and determine would this take away from the neighborhood or would it add to the neighborhood. Then we could make a decision based on that. Does anyone else have any questions for Mr. Wachter?

**Mr. Swaney:** so the removal of the large tree is out of the question?

**Mr. Wachter:** correct. I mean it can be done. It is just not of any interest to them to pursue it if that is the only option. So we need more information?

**Chairman:** yes. Is there anyone here that wishes to speak against this appeal? Sir, are you opposed to the variance?

**Mr. Wachter:** I have a question.

**Chairman:** okay. Would it be okay if we heard him and then come back to your question?

**Mr. Wachter:** yes, sir.

**Chairman:** again, state your name and address for the record.

**Mr. Miller:** my name is Harold Miller. I have lived here forty-four years right down the street. I own the house next door, the only house on that street. It is in the middle, 1804 Sixth Street. They are looking for a twenty five-foot setback as opposed to a thirty-five and that got my attention. I happen to know these people, they are good people. I would like them to be my neighbors, and I was going to ask you if there is one thing that I want, and I want to turn it over to you all to handle, obviously, I was concerned about where they would put their air conditioning. Instead of thirty five-feet away it would be ten-feet away, roughly, from our deck and patio, what have you. So if it can be moved to another wall, I would let the rest go, that is a concern that I have. I actually own half of the house with my son. My son and his wife live in the house, and he is out of town on business so I am here. If there is a way that can be worked into the agreement that would be a concern we would like you to address.

**Mr. Swaney:** does your home face Sixth Street? Is that right?

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**Mr. Miller:** yes, the only one of those three houses.

**Mr. Swaney:** is your garage is adjacent to this lot?

**Mr. Miller:** well actually we have what is three lots. I have a picture if you want to see it. The story is the subdivision as it is today is not what it was when it started.

**Mr. Miller:** it involved my relatives since 1826, and times got hard and that section from Sixth Street to Main Street the lots changed a little bit, see two lots would have given Bryan a hundred feet on Magnolia. He has got ninety-feet. Later on they sold three lots and the owner built that little house in what would be sixty-feet, and Bryan has ninety, which is enough to do what they want to do. I was concerned about the a/c, the fan going on and off.

**Mr. Lamb:** that is why we have setbacks to protect our adjacent neighbors.

**Mr. Miller:** well that is the only concern I want to voice, and I think we can work that out.

**Chairman:** thank you, sir. Mr. Wachter, you had a question as to where you go from here.

**Mr. Wachter:** I did. Can the proposed buyers speak?

**Chairman:** yes, they can.

**Mr. Wachter:** step up and state your name.

**Ms. Simmons:** good evening, I am Leslie Simmons and my address is 28825 Canterbury Road, Daphne and I am here tonight with my husband Bryan. Thank you so much for hearing us. Before we leave I just wanted to make sure that you understood exactly what it is we want to do. You indicated that if you approved this we can come back and build really anything we wanted to, and I want to make it very clear what our plans are. We do not have a completed house plan because we have already gone to a lot of expense just in preparation for this whole ordeal. The owner of the property is in New Mexico, not I think it is in Arizona, sorry. We agreed to take care of everything for him, including the cleaning up of the lot, and the removal of the two buildings. So, it is going to cost us more to have these house plans put together and then you deny it, and we just had not taken that step farther. We do not want to cut the tree. If we have to cut the tree we are going to forego the purchase of the lot, but the type of house that we are going to build is, and I think it is important for you to know this, it is a cottage style house. We do not want to build a big stucco or brick style home. It would be a wooden house with a metal roof, wrap around porch, a lot of square footage is

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coming from that southern veranda style porch that wraps around, and that is one of the reasons that we have to pull the house back a little further into the property, it is so we can have that porch that wraps around the front and side of the house. We met with a builder and we have gotten a lot of ideas from our builder. I think regarding the A/C units, that it would be on the side of the house, our side, out of your sight. It would not be on the south end of the property that would cause any kind of noise or any type of problem for the Miller's.

**Ms. Simmons:** just one last thing that I would like to add. My husband spent a lot of his childhood in Daphne, and I have spent fifteen, twenty years every summer coming to Daphne, my best friend lived here, and what we are wanting to do is not take away from what is already here. We met in college in 1994, not in Daphne, but knew this is where we wanted to live, and we knew we wanted to be in Olde Daphne. We did not want to be on the east side of Highway 98. We do not want to take away from the character or the charm of Olde Daphne. We want to add to it, and the type of house we want to build is similar to the type of new homes that they built across the street. Across Magnolia they have built cottages, two or three down that street and that is exactly what we want to build. The reason our square footage is a little higher than twenty eight hundred square feet or even up to three thousand square feet is because that is our buffer. It is because there are five of us, we have three children and we want them raised in Olde Daphne. We want them raised with a large yard. If we have to cut a tree and put the house in the middle of the lot then there goes our yard. So, if we pull our house back we have the entire front open for them, you know, I mean that is what we want and that is what we are going for. We are not trying to build something that is going to be an eye sore or something that is going to maim the value of the homes in the neighborhood causing them to go down. If anything, I think it we would improve it. That is all I wanted to say. Thank you.

**Chairman:** does anyone have any questions?

**Mr. Mayhand:** I have a statement I would like to make. Far be it from me to tell you what to do with the tree on the lot you are buying, but I just want to tell you what I go through every Spring and Fall. I have about five or six Live Oaks in my yard and every Fall and every Spring I look up and I want to cut them down because they drop millions of leaves twice a year. I wish I have cut a few of them down when I had the opportunity. I just wanted to say that trees are nice, but they also come with some baggage.

**Ms. Simmons:** we have three Oak trees on our property now. One is in excess of the size of ones on this lot, so we completely understand that.

**Mr. Mayhand:** I just wanted to make sure you did.

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**Ms. Simmons:** we do, but it is worth it.

**Mr. Mayhand:** well come by my house and help out any time.

**Chairman:** does anyone else have any questions? Thank you, Madam. We appreciate it.

**Ms. Simmons:** thank you.

**Mr. Simmons:** I am Bryan Simmons, Leslie is my wife, same address. I just like to say that you guys seem to have all been out to the property and seen what is there currently. I think you guys have had tons of problems with the current owner with what is existing on the property now.

**Ms. Houston:** would you please speak into the microphone.

**Mr. Simmons:** I have known Mr. Miller here for probably ten, eleven, twelve years, very well, and I know his son very well, great people, love them to death. I will put that air conditioning unit wherever you want it.

**Chairman:** Mr. Simmons address the Board please.

**Mr. Simmons:** I will the air conditioning wherever he wants it. It does not matter to me, that is unimportant to me, but what I would like to say is that we would be improving the property whatever we put on the property considering what is on there now. Mr. Miller's son David has complained, to me, several times, about rats and things, from that existing building on the property getting into his house. So there is definitely improvement to be done there. I do not know how, I understand Mr. Miller and his son would like to buy that property, you know, David has told me that a time or two, and that is fine if they want it. I mean, it is not the only lot in Daphne, we can go find something else, but I am not going to cut the tree down because that is what is appealing to us that is why it is so beautiful to us. We want that canopy. We want the tree. We want to protect it. We want to build something pleasing to the neighborhood around it. We think we will have a beautiful home there. We think we would enhance the neighborhood, and if we had to go in and cut that tree or do anything like that then it is really loses its appeal to us, and that is not meaning any disrespect to you guys for recommending that or asking that. It just loses the character of the lot. So we would probably go somewhere else, we are not willing to do that. I think Leslie said that to as well. I just wanted to say Mr. Miller's son David and himself, and I know them very well, he approved the planning of the home in talking with him earlier. Part of the plans for the home on the back side is kind of like a wall of the home would be. You are looking at a slab and part of that would

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be the patio. So there is a buffer there. It is not like the wall of the home would be right there.

**Mr. Swaney:** I guess that is part of the problem that we are having to look and consider the outline of the property without plans.

**Mr. Simmons:** it would have a concrete foundation.

**Mr. Swaney:** that is getting back to the problem that I have. I do not have anything to look at that tells me where or what this would be.

**Mr. Simmons:** well as my wife stated, we have sank a lot of money already and we are not wealthy people like some of you are.

**Chairman:** whoa. I am on a fixed income, which is fixing to be lowered even more.

**Mr. Simmons:** I am just saying that we are really scared to spend a lot more money. It would cost us five, ten thousand more dollars to have a plan drawn up and another five to ten to have the existing houses on the lot removed. So we are kind of at a standstill, and I do not know if it is very smart for us to continue on this road if we do not have some clear, concise, direction. I understand what you guys want to see. I just do not know. We could provide that and you could say well I do not know and I need you to go back and do this or I need you to go do a tree sample test that cost us fifteen hundred or something. I mean it never ends. So I would like something a little more concise from you guys to say exactly what it is you want and let us provide that if we can.

**Chairman:** Mr. Simmons, are you saying you all do not want to move the house back? You want it up where the trees are? Where the current house is? You want to move it back farther so that the trees will not come into play. That is what you want?

**Mr. Simmons:** that is right, not any farther than the existing house. Yes, sir.

**Chairman:** as far as giving you something definitive we cannot tell you what to do. We can make suggestions as to something you may consider because if your appeal is denied tonight you cannot come back for a year on the same situation. If you withdraw your appeal tonight, and let us look at some other ways the house can be reconfigured, so that the trees do not come into play and things of that nature we would have something to go on. We cannot tell you what to do. Mr. Wachter?

**Mr. Wachter:** I have a few questions just to be clear. If we withdrew, do you think the issues are both requested setbacks and more not having the look of the home and how it fits in with the trees?

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**Chairman:** probably both.

**Mr. Wachter:** the reason I am asking is because I do not think there is any other way to do the configuration of the home. We spent hours and hours on this. The reason the carport is on Sixth Street, if you think about it, is that there is a ten-foot setback on the east side, and that is not adjustable. It will not fit there. It can fit on the rear and it cannot fit on the front so it has got to be on that side of the house, to have a car shelter. Supposedly, those were the two absolute lines that had to be adjusted for this to work.

**Mr. Wachter:** I guess what I am asking is if we withdraw due to what you think is the issue of the two lines then we are going to have a standoff. Do you think that it is more of an issue of this home fitting under this tree?

**Chairman:** I cannot speak for any of the other Board members, but as for myself those two issues. I do not have anything to look at and the twenty five-foot setback. I cannot speak for the others that is for me.

**Mr. Lamb:** without a footprint of exactly what you might build, I am not quite sure on the east side if it is twenty-feet. What would you propose rather than encroach that twenty-feet?

**Mr. Wachter:** we did not adjust the east side or the front. The only reason we made adjustments to the house was for the tree, and that is the bottom line. To move it away from the tree we had to move the rear line. The other line for them to have any kind of car shelter had to be adjusted on Sixth Street. If we cannot do those two then there is no way to fit a house on there. I guess what you are saying is that you want the tree down, and the only way to do it with the tree up is not to do those two lines, which there is no way you can fit a house on there is what we are saying. We can look at providing more drawings, but it is not going to help us if we cannot work within these perimeters that we have drawn out for the footprint. It is a clear footprint. It shows the porches and it shows the car shelter. It just does not show the whole ratio. I just want to be sure if we withdraw that I understand what it is that you want to see. So you do not like the setback lines the way they are drawn? You would take the tree down.

**Chairman:** that is what I am having a problem with, those two issues. I do not have anything to look at and with the setbacks.

**Ms. Simmons:** we do not want to cut the tree. We will not cut the tree. Somebody else will have to buy that lot and cut that tree down, but if we keep the permanent setback line on the south side, you would have a very, narrow, shotgun house that none of us in this room would want to live in, especially me with three children. It would be very, very narrow. We are not trying to be greedy or trying

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to build some big house, we are just trying to make it work without cutting the tree. I do not know how clear the rendering is that you have, but I can see it clearly on the Power Point, we had to move it back to give it that cottage appearance with a front porch. It is like an eight to ten-foot deep porch that kind of wraps around, so that is not even our house that is not even living space. So we had to kind of slide the house back, absolutely, as far as we can get it, just to avoid having a tiny little house for five people.

**Mr. Lamb:** have you considered that perhaps an insurance company may not insure your house with the closeness of the big Oak?

**Ms. Simmons:** yes, sir. We checked on everything. Everything. We have even had unofficially an Alabama State Forester, who suggested, and I do not have that in writing, I can get it in writing because he is in Mobile, Alabama, but he suggested that we push that house back as far as we can get it because of the tree. He did not want to officially test that aging tree because of the boring on holes, anyway that was his professional recommendation.

**Mr. Wachter:** so really, I guess, from the Committees standpoint the only way to build from what you are looking at, is not to adjust the line that much. For that lot to buildable you would have to take the tree out is where we are, because to build on it you would have to move the lot line back. So what you are saying is you are having a problem with the line, you wish we would take the tree out.

**Chairman:** do you want to continue with the appeal?

**Mr. Wachter:** I do not think that we can. It would take a year's wait if it is denied. If I am understand correctly, if it goes to a vote and it is denied then I have to wait a year.

**Chairman:** well you have another course of action, if your appeal is denied you can appeal to the Baldwin County Circuit Court in Bay Minette.

**Mr. Wachter:** I think it would be best to withdraw, but withdraw based on your recommendation for more information. Is that correct?

**Chairman:** so you want to withdraw your appeal tonight. You can come back at a later date. Just re-file.

**Mr. Hoffman:** you can table it.

**Chairman:** the one on Captain O'Neal withdraw and came back with new plans and information. Or it can be postponed to another date. When you table something that means you want to take it up again in the meeting that you are presently in.

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**Ms. Jones:** unless you table it for a specific time.

**Chairman:** that way you can postpone it for a specific time. We all use the word table, and we can use the terminology table, but the correct way is to postpone it to whatever date it is you want to use.

**Mr. Wachter:** can we postpone it to whatever the next meeting date is in order to bring that information back?

**Chairman:** that is in August. We have two appeals in August, presently right?

**Ms. Jones:** August 2<sup>nd</sup>.

**Mr. Wachter:** if we postpone it they would have the option of withdrawing after it is postponed? Correct?

**Mr. Hoffman:** correct.

**Mr. Wachter:** that sounds better to me. Is that what you guys want to do? Just to be clear the information requested would be the option you have on the slide.

**Ms. Jones:** yes, I will give you a copy of the report.

**Mr. Lamb:** would it be out of order to vote on establishing the lot area? Or is this all one package?

**Ms. Jones:** all one package.

**Mr. Lamb:** when we vote in the future we will vote on each individual item or all.

**Ms. Jones:** on each individual item.

**Mr. Lamb:** how come we cannot vote on one now if we are going to do them individually? We can establish the lot area tonight.

**Ms. Jones:** it depends on whether they ask you to postpone the whole thing or not.

**Mr. Wachter:** you can break it up to vote on the separate items?

**Mr. Hoffman:** it can be done. It may depend on what additional items you will be providing.

**Chairman:** we have no problem, from what I have gathered from the other Board members, with the lot area. In combining the two lots even though it is less than fifteen thousand square feet, we have no problem with it because Olde Towne Daphne has very unique situations

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in those areas. So you can break that one out and vote on it tonight and have the other two postponed until August 2<sup>nd</sup>. Is that correct?

**Mr. Hoffman:** that is correct.

**Chairman:** is that okay with you Mr. Wachter?

**Mr. Wachter:** say that again.

**Chairman:** we are going to vote on combining the two lots to establish the lot area as nine thousand eight hundred and ninety eight-feet and keep the other two until August 2<sup>nd</sup>.

**Mr. Wachter:** I think that would be the way to go. Okay.

**Chairman:** the Chair will entertain a motion in the affirmative to approve establishing the lot area in Appeal 2012-03.

A Motion was made by **Mr. Lamb** and **Seconded** by **Mr. Swaney** to approve **Appeal #2012-03, John Powell, for a variance to establish the lot area as nine thousand, eight hundred and ninety eight-feet in lieu of the required fifteen thousand square feet. The property is located at 702 Magnolia Avenue, and it is in an R-2, Medium Density, Single Family Residential Zone.**

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

<b>Mr. Swaney</b>	<b>Aye</b>
<b>Mr. Mayhand</b>	<b>Aye</b>
<b>Mr. Lamb</b>	<b>Aye</b>
<b>Mr. Robison</b>	<b>Aye</b>
<b>Mr. Cooke</b>	<b>Aye</b>

**Chairman:** the request for the combining of the two lots is approved. You can pick that up in the Community Development office in the morning after nine o'clock. The other part of this appeal is postponed until August 2<sup>nd</sup>, 2012, six o'clock in the evenings.

**Mr. Wachter:** at that time we can bring in farther information.

**Ms. Jones:** you need to bring it in as soon as you can get it so we can put it in their packet.

**Mr. Lamb:** I would just like to say that the purpose of this Board is to try and maintain the integrity of Land Use and Development Ordinance especially with regards to setbacks. If every setback request was approved then we just may as well disband. We must look at all conditions of the request otherwise we are not being fair to the citizens in the City. We are not trying to give you a hard time we must try to do what is best for all of the citizens of Daphne, and

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we do not want someone in the future to come saying well you approved this one and you approved that one so why cannot you approve mine, and a Judge at Circuit Court might see it the same way, so that is why we are asking all of these questions. We are trying to be fair based on your individual appeal, and get a full understanding on the impact that your request will have not only on this gentleman and the next door neighbor, but also on the City of Daphne. Thank you.

**Mr. Simmons:** Mr. Lamb I disagree with you. If the people of the City of Daphne took a vote, they would not want that tree cut, as oppose to, that house being built a little closer up on the middle of that lot. I understand what you said and I fully respect what you guys are doing and I think it is a good thing. We do need boundaries, and we do need checks and balances and I totally agree with that. If I polled ten people I would probably find nine that would not want that tree cut, just like I do not and that is what I am trying to do here tonight. That is all I wanted to say. I did want to ask a question about the plans. What kind of plans are you guys looking for? Do you want like a sketch of what would be on the lot? Or do you want little house plans?

**Chairman:** personally, I do not any technical drawings. I need where it is going to be, and the story and a half elevation. Things like that. Mr. Wachter is good at that, he can do it.

**Mr. Simmons:** okay.

Chairman: thank you. I appreciate your time. We look forward to seeing you next month. Thank you, Mr. Miller for your concerns. If there is no other business, the Chair will entertain a motion to adjourn.

**Adjournment:**

A **Motion** was made by **Mr. Cooke** and **Seconded** by **Mr. Swaney** to adjourn.

**The motion carried unanimously.**

There being no further business the meeting was adjourned at 6:58 p.m.

**Respectfully submitted by:**

\_\_\_\_\_  
Pat Houston, Recording Secretary

**APPROVED:** August 2, 2012

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Willie Robison, Chairman

/ph

## **Downtown Redevelopment Nomination**

**Patricia A. Vanderpool, MS, LPC, CEAP**

**EAP Lifestyle Management, LLC**

[www.EAPLifestyle.com](http://www.EAPLifestyle.com)

1605 Main Street

Daphne, Alabama 36526

E-mail: [pvanderpool@eaplifestyle.com](mailto:pvanderpool@eaplifestyle.com)

Telephone: 251.621.5360

Fax: 251.621.5361

U.S. Toll-free: 800-788-2077

Germany Toll-free: 0800-182-1074

France Toll-free: 0800-91-2244

UK Toll-free: 0808-234-2238

N. China Toll-free : 10-800-711-0850

S. China Toll-free : 10-800-110-9617

Japan Toll-free : 0034-800-900196

### **EDUCATION**

University of South Alabama

1976 to 1988

Bachelor of Science degree in Arts and Sciences. Major fields of concentration: Psychology and English

1987 to 1990

Master of Science degree in Psychology

### **OCCUPATIONAL RECORD**

Poarch Band of Creek Indians  
Atmore, Alabama

April, 1994 to present

*Family Therapist/Mental Health Consultant.* Main function: serve as a mental health/social and human services consultant for federally recognized tribe. Duties also include providing and coordinating patient care and inservice training; administer EAP services for tribe and its enterprises

Self-employed  
Daphne, Alabama

January, 1993 to present

*Supervising Licensed Professional Counselor.* Duties include family and individual therapy and contracted community presentations and classes for various groups and businesses, insurance providers, EAPs and managed care organizations.

August, 1998 to present

**Owner.** Duties include procurement and administration of employee assistance program services to local and national businesses. Duties additionally entail providing workplace training and providing assessment and referral in the work/life industry and provision of direct and subcontracted short-term problem resolution and counseling. Duties include preparation of RFPs for the government and private industry and serving government and private organizations; provider of critical

**incident response and training. EAP Lifestyle Management, LLC serves employees and management nationally in the U.S. and Canada and globally in the United Kingdom, China, Japan, France and Germany.**

**Author of several articles for workplace distribution; experienced author: web-based training course for Employee Assistance Professionals Association (EAPA) and McKissock (*Fun at Work*).**

**Experienced and well received presenter for businesses, organizations and communities.**

## **PROFESSIONAL ASSOCIATIONS**

White House Council on Women and Girls; Association for Applied and Therapeutic Humor; International Society of Humor Studies; Mobile Chamber of Commerce, Pensacola Chamber of Commerce, Eastern Shore Chamber of Commerce, U.S. Chamber of Commerce; EAP Association; Society for Human Resource Management-National membership as well as memberships in Baldwin County in Alabama and Pensacola, Florida; Member International Who's Who Among Professionals; International Critical Incident Stress Foundation; National Center for Crisis Management; FBI Infragard; American Society of Safety Engineers, Pensacola Opera Guild, Board of Directors: Gulf Regional Childcare Management Agency and Women's Business Enterprise Council – South; University of South Alabama Alumni Association, Women's Business Center Alliance

## **VOLUNTEER ACTIVITIES**

A member of

- Workplace Violence Alliance with Occupational Safety & Health Administration (OSHA); provides symposiums on workplace violence education, intervention and response.
- Clinical Director: City and Tribal Fire Department Critical Incident Stress Management
- Be Ready Alliance Coordinating for Emergencies
- Bioterrorism and stockpiling
- Eastern Shore Chamber of Commerce
- Greater Pensacola Society for Human Resource Management Work/Life Committee
- Gulf Coast Oil Spill Volunteer
- Give an Hour Volunteer

## **PROFESSIONAL**

## RECOGNITION

- Future 30 designation: Mobile Area Chamber of Commerce
- 2002 Mobile's Outstanding Business and Industry finalist
- "Woman to Watch": Women's Business Center
- 2004 state Top 50 Diversity-Owned Businesses: [www.diversitybusiness.com](http://www.diversitybusiness.com)
- 2007 U.S. Top 50 Diversity-Owned Businesses: [www.diversitybusiness.com](http://www.diversitybusiness.com)
- WBE Advocate of the Year nomination: Women's Business Enterprise Council - South
- 2009 Small Business of the Year: Eastern Shore Chamber of Commerce, Alabama
- Guiding Star SAL Award: 15<sup>th</sup> Anniversary Southern Alabama Awards presented by the Women's Business Center
- Certification as Employee Assistance Professional
- Licensed as Supervising LPC
- Women's Business Enterprise National Council Woman-owned Business Certification
- Qualified as Substance Abuse Professional for DOT-regulated businesses
- CCR-registered
- Approved Continuing Education provider for:
  - Nurses (ABNP#1281)
  - HR Professionals

## PUBLICATIONS

- *Financial Fear*
- *Lighten the Load with Humor at Work* (co-authored with The EAP Toolbox)
- McKissock courses
  - *Humor Here & Now*
  - *Parenting*
- Featured in Susan Bari's *Partnering for Profit*
- *Handling Stress*
- *Stress in the Workplace?*
- *Humor When We Need It Most!*
- *Wit at Work*

## REFERENCES

Available Upon Request

THE CITY OF DAPHNE  
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**CALL TO ORDER:**

The number of members present constitutes a quorum. The regular meeting of the City of Daphne Planning Commission was called to order at 5:00 p.m.

**CALL OF ROLL:**

**Members Present:**

Dan Gibson  
Don Terry, Secretary  
Ed Kirby, Chairman  
Larry Chason, Vice Chairman  
Cathy Barnette, Councilwoman  
Chief James "Bo" White

**Members Absent:**

Joe Lemoine  
Bailey Yelding, Jr., Mayor  
\*Victoria Phelps

\*Ms. Phelps resigned - effective June 20, 2012

**Staff Present:**

Adrienne Jones, Director of Community Development  
Jan Dickson, Planning Coordinator  
Nancy Anderson, GIS Manager  
Jay Ross, Attorney  
Richard Johnson, Public Works Director  
Danny Dillard, Site Containment Officer

**Staff Absent:**

Missty Gray, Attorney  
Erick Bussey, Associate Attorney  
Ashley Campbell, Environmental Programs Manager

**Others Absent:**

Rob McElroy, General Manager/Utilities Board of the City of Daphne  
Danny Lyndall, Operations Manager/Utilities Board of the City of Daphne  
Rex Rentz, Code Enforcement Officer/Utilities Board of the City of Daphne

The first order of business is the call to order.

Chairman: Please let the record reflect that Mr. Lemoine and Mayor Yelding are not present.

The next order of business is the approval of the minutes.

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APPROVAL OF MINUTES:

The minutes of the May 24, 2012 regular meeting were considered for approval.

Chairman: A copy of the minutes was furnished to us previously. Do any of the Commissioners have any questions or comments? If there are no 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 minutes of the May 24, 2012 regular meeting, as submitted. The Motion carried unanimously.**

The first order of business under old business is a subdivision preliminary plat extension review for Paradiso Subdivision.

OLD BUSINESS:

SUBDIVISION PRELIMINARY EXTENSION:

File SDPE12-02:

Presentation to be given by Mr. Jay Dickson, representing Volkert & Associates, requesting an extension of time for the approval of the preliminary plat for Paradiso Subdivision. The preliminary plat was approved by the Planning Commission on January 22, 2009. One year extension was granted on December 17, 2010 and January 27, 2011. Tabled by Planning Commission on April 26, 2012 and May 24, 2012.

Chairman: Is there anyone here to make the presentation for Paradiso Subdivision?

Ms. Dickson: No.

Ms. Barnette: Several of the lots need to be removed because they do not meet the current Ordinance so I think we need to deny the extension.

Mr. Chason: Many extensions have come to us, and we have routinely approved them. I think by denying this we may be opening a can of worms.

Chief White: Can I ask what can of worms you are talking about?

Mr. Chason: We have already approved two extensions for this subdivision.

Chairman: I find it is difficult to argue about it if you are not an engineer. I think we can say this is going to be our last extension with these parameters.

Ms. Barnette: I think this was approved in 2009 and has not started. We could look at it differently if they could say they are moving forward with the project.

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**A Motion** was made by Ms. Barnette and **Seconded** by Chief White **to deny the one year extension of time of the approval of the preliminary plat for Paradiso Subdivision.**

Mr. Dickson: I would like to address your comments. This is a viable project which meets the Ordinance. The time frame for construction is unknown. If we allow it to not be extended, we would start over and would come up with the same project.

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

Mr. Terry: Does it meet the "New" Ordinance?

Mr. Dickson: The only part that does not meet the Ordinance is the new part regarding wetland buffers. The two areas which are wetlands is the southern most lot and the common area. The infrastructure and the design are up to standards.

Chairman: Mr. Ross, how many votes is necessary to pass a motion for an extension for a preliminary subdivision.

Mr. Ross: I do not find any Attorney General Opinions on this matter, but I believe that a majority of the members are sufficient.

Chairman: A majority of the nine members on the Planning Commission or a majority of the members which are present.

Mr. Ross: A majority of the members which would be five affirmative votes.

Chairman: Do 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 Chief White **to deny the one year extension of time of the approval of the preliminary plat for Paradiso Subdivision. Ms. Barnette voted in the affirmative, four dissented, Mr. Kirby, Mr. Gibson, Mr. Terry, Mr. Chason, and one abstained, Chief White. The Motion failed.**

**A Motion** was made by Mr. Chason and **Seconded** by Mr. Terry **to grant a one-year extension of the preliminary plat for Paradiso Subdivision until June 28, 2013, and no additional extensions for the subdivision shall be granted. Five voted in the affirmative, Mr. Kirby, Mr. Gibson, Mr. Terry, Mr. Chason, Chief White, and one dissented, Ms. Barnette. The Motion carried.**

The first order of business under new business is a subdivision preliminary/final plat extension review for the Resubdivision of Lot 2, Block A, Historic Malbis Subdivision.

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NEW BUSINESS:

SUBDIVISION PRELIMINARY/FINAL EXTENSION:

File SDPFE12-01:

Presentation to be given by Mr. Dane Haygood, representing H-Properties, requesting an extension of time for the approval of the preliminary/final plat for the Resubdivision of Lot 2, Block A, Historic Malbis Subdivision. The preliminary/final plat was approved by the Planning Commission on July 28, 2011.

An introductory presentation was given by Mr. Dane Haygood, representing H-Properties. I provided a comparison of the past and present Ordinance, but I do not think it would apply to a two-lot subdivision. I will be happy to answer any questions you may have.

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

Mr. Chason: Does it meet the "New" Ordinance?

Mr. Haygood: Yes.

Chairman: Do 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. Terry to grant a one-year extension of the preliminary/final plat for the Resubdivision of Lot 2, Block A, Historic Malbis Subdivision until June 28, 2013. The Motion carried unanimously.**

The next order of business is a site plan review for Trione Street Office Complex.

SITE PLAN REVIEW:

**File SP12-06:**

**Site: Trione Street Office Complex**

**Zoning(s): B-2, General Business**

**Location: 805 Trione Avenue, northeast of the intersection of Main Street and Trione Avenue**

**Area: 0.31 Acres ±**

**Owner: Mid-Bay Ventures, L.L.C. - Ray Hix**

**Architect: DHS Ventures - Courtney Brett**

**Engineer: Jade Consulting - Trey Jinright**

An introductory presentation was given by Mr. Trey Jinright, representing Jade Consulting. This is the renovation of an existing structure at this location. They are adding an additional wing for offices. 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: Are you going to connect the parcel on Trione and Mancini Avenue?

Mr. Jinright: I do not know if he still owns the property on Mancini Avenue.

Mr. Barnette: Is shared parking an option for the park and different users in the downtown area?

Mr. Jinright: I do not think that would be an issue for the owner, but I do not know.

Ms. Barnette: As a member of the Downtown Redevelopment Board, one of our goals is to move B-2, General Business, zoning out of the Olde Towne Daphne District. We would like the owner of this property to consider rezoning it to something other than B-2.

Mr. Gibson: Is the second floor ADA compliant?

Mr. Jinright: It is private. It will be used as one office.

Ms. Barnette: The project is very nice.

Chairman: Do 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. Terry **to approve the site plan for Trione Office Complex. The Motion carried unanimously.**

The next order of business is final plat review for Saint Augustine Subdivision, Phase 2.

**FINAL PLAT REVIEW:**

**File SDF12-02:**

**Subdivision: Saint Augustine, Phase 2**

**Zoning(s): R-A, Rural Agricultural, Baldwin County District 15**

Location: Northeast of County Road 64 on Rigsby Road

Area: 12.91 Acres  $\pm$ , (29) lots

Owner: Breland Homes - Mr. Louis W. Breland

Engineer: Preble-Rish - David Diehl or Jason Estes

An introductory presentation was given by Mr. David Diehl, representing Preble-Rish. We have addressed Baldwin County's comments. The maintenance bond has been submitted, but must be presented to the County Commission for acceptance. We have changed the wording in the owner's certification as requested and provided a copy of the utility tests. I will be happy to answer any questions you may have.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF JUNE 28, 2012  
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

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Chairman: Do any of the Commissioners have any questions or comments? Mr. Dillard is here to address Ms. Campbell's comments?

Mr. Danny Dillard, Site Containment Officer: These are copies of photographs taken on June 26, 2012 and June 28, 2012. There is a large amount of exposed soil remaining which is visible in these photos. This was a concern expressed by Ms. Campbell in Item 1 of her memorandum. The lake is now holding a small amount of water, but the top edges as outlined in Item 2 of her memo are not stable. I did not see any disturbance near the entrance of this phase of the detention pond so it must have been repaired. As outlined in Item 4, around the diversion ditches remain unstable.

Chairman: Do the Commissioners have any further questions or comments? Thank you, Mr. Dillard. There is not a lot of difference in the pictures. In her memorandum, she says, "The site has a tremendous amount of exposed soils. Seed has been implemented and is being watered. During the Planning Commission site review and preconstruction construction meetings, I expressed that the site would have to have vegetation established on all disturbed areas prior to the final inspection. Currently, the lake is dry. It will have a permanent pool eventually. The top edges of the slopes to the lake are not stable. Some disturbance was noted near the entrance of Phase I of the detention pond. The areas around the diversion ditches at the rear lot lines are not stable."

Ms. Barnette: This subdivision is located in the extraterritorial planning jurisdiction. ADEM will not allow them to terminate their NPDES permit until the issues have been addressed and the site is stable.

Chairman: Do 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. Chason *to approve the final plat for Saint Augustine Subdivision, Phase Two. The Motion carried unanimously.***

The next order of business is final plat review for Saint Augustine Subdivision, Phase 3.

**File SDF12-03:**

**Subdivision:** Saint Augustine, Phase 3

**Zoning(s):** R-A, Rural Agricultural, Baldwin County District 15

**Location:** Northeast of County Road 64 on Rigsby Road

**Area:** 14.37 Acres  $\pm$ , (31) lots

**Owner:** Breland Homes - Mr. Louis W. Breland

**Engineer:** Preble-Rish - David Diehl or Jason Estes

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF JUNE 28, 2012  
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

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An introductory presentation was given by Mr. David Diehl, representing Preble-Rish. 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. Chason **to approve the final plat for Saint Augustine Subdivision, Phase Three. The Motion carried unanimously.**

The next order of business is a zoning amendment review for D.R. Horton.

**PETITIONS:**

**ZONING AMENDMENT:**

**File Z12-01: D. R. Horton, Inc.**  
**(Oldfield Subdivision, Common Area 1A, Common Area 2A,**  
**and Lot 142A of Oldfield Subdivision, Phase One)**

**Present Zoning: B-1, Local Business, R-1, Low Density Single Family Residential, and R-3, High Density Multi-Family Residential**

**Proposed Zoning: R-1, Low Density Single Family Residential**

**Location: West of Alabama Highway 181, near the intersection of Camberwell Drive and Devonfield Lane**  
**Area: 5.08 Acres ±**  
**Owner(s): D. R. Horton - Pete Ferrari**  
**Engineer: Preble-Rish - David Diehl**

An introductory presentation was given by Mr. David Diehl, representing Preble-Rish. This is the rezoning of the Resubdivision of Oldfield Subdivision which was approved last month. The rezoning is conditioned upon the ability of the owner, D.R. Horton, Inc., being able to use the home as a sales office. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? The Chair opened the floor to public participation. With no adjacent property owners present, the Chair closed public participation.

Mr. Gibson: Wasn't the agreement that they could use it for three years?

Mr. Diehl: Yes sir.

Mr. Chason: Thank the developer for working with us on this.

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

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF JUNE 28, 2012  
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

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A Motion was made by Mr. Chason and Seconded by Mr. Terry for the favorable recommendation by the Planning Commission to the City Council of Daphne regarding the rezoning of an R-1, Low Density Single Family Residential, R-3, High Density Single Family Residential, and B-1, Local Business, to an R-1, Low Density Single Family Residential, zone for D.R. Horton, Inc. Five voted in the affirmative, Mr. Gibson, Mr. Terry, Mr. Kirby, Mr. Chason, and Chief White, and one abstention, Ms. Barnette. The Motion failed.

Five members voted in the affirmative and one abstention. Although the majority of those present voted in favor of the motion, a super majority would have been necessary for a favorable recommendation.

The next order of business is public participation.

**PUBLIC PARTICIPATION:**

Chairman: Is there anyone who would like to address the Planning Commission? Please state your name and address for the record.

Mr. John Lake, Councilman for District 3: I would like to make a comment. You should move public participation to the front of the agenda in order to allow the public to make comments on agenda items which do not have public participation. I wanted to address some of the issues regarding Paradiso Subdivision.

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

**ATTORNEY'S REPORT:**

Mr. Ross: No report.

The next order of business is commissioner comments.

**COMMISSIONER'S COMMENTS:**

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

Chief White: Have a safe Fourth of July holiday.

Ms. Barnette: Did Ms. Phelps resign officially?

Chairman: Ms. Phelps submitted her official resignation, but hopes to be reappointed if her work were to bring her closer to home. I would like to say that I appreciate her time and effort that she contributed as a member of the Planning Commission.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF JUNE 28, 2012  
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

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The next order of business is director's comments.

**DIRECTOR'S COMMENTS:**

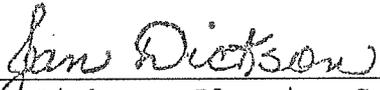
Ms. Jones: I appreciated her participation in the Planning Commission. She continued to remain active by reviewing the information and providing questions and/or comments to the Planning Commission in her absence.

**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.

*There being no further business, the meeting was adjourned at 5:38 p.m.*

*Respectfully submitted by:*

  
\_\_\_\_\_  
Jan Dickson, Planning Coordinator

**APPROVED:** July 26, 2012

  
\_\_\_\_\_  
Ed Kirby, Chairman



CITY OF DAPHNE  
PLANNING COMMISSION AGENDA  
REGULAR MEETING OF JULY 26, 2012 REPORT  
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

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**C. SUBDIVISION REPLAT REVIEW:**

**1. File SRP12-09: (APPROVED)**

**Subdivision:** Garry Andrews Subdivision  
(A replat of 6 and the west 23 feet of Lot 5, Bertagnolli Addition)

**Zoning(s):** *R-1, Low Density Single Family Residential*

**Location:** Southeast of the intersection of College Avenue and Fifth Street

**Area:** 0.28 Acres  $\pm$

**Owner:** Garry Andrews

**Engineer:** Hutchinson, Moore & Rauch - Doug Bailey

**D. ADMINISTRATIVE PRESENTATION:**

- 1. Presentation to be given by Mr. Franklin Lamb, representing Sehoj Property Owners' Association, requesting approval of a property owners association sign in accordance to Article 33, Section 33-10, Permitted Signs. (APPROVED)**
- 2. Presentation to be given by Pat McLaughlin, President, and Mike McLaughlin, Principal, requesting the release of the one hundred four thousand twenty-five dollar performance bond for Oldfield Subdivision, Phase One. (APPROVED)**
- 3. Presentation to be given by Nancy Anderson, GIS Manager, of a revision to the City of Daphne Zoning and Street Map. (APPROVED)**

**5. PUBLIC PARTICIPATION**

**6. ATTORNEY'S REPORT**

**7. COMMISSIONER'S COMMENTS: Discussion by Ed Kirby, the Planning Commission Chairman, regarding accessory buildings. (NO ACTION TAKEN)**

**8. DIRECTOR'S COMMENTS: Discussion by Adrienne Jones, the Director of Community Development, regarding substandard lots of record. (NO ACTION TAKEN)**

**9. ADJOURNMENT- 5:37 P.M.**

**CITY OF DAPHNE, ALABAMA  
ORDINANCE NO. 2012 -**

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**Zoning District Map  
Revision to the City of Daphne  
Land Use and Development Ordinance**

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**WHEREAS**, the Planning Commission of the City of Daphne, Alabama at their regular meeting held on July 26, 2012, favorably recommended to the City Council of the City of Daphne certain amendments to the Zoning District Map approved and adopted by the Daphne Land Use and Development Ordinance No. 2011-54 and amended by Ordinances No. 2011-73 and 2012-19; and

**WHEREAS**, said amendments are necessary due to various rezoning and annexation requests which have been approved since the adoption of Ordinance 2011-54 and Ordinances 2011-73 and 2012-19; and

**WHEREAS**, due notice of said proposed zoning map amendments has been provided to the public as required by law through publication and open display at the City of Daphne Public Library and City Hall; and

**WHEREAS**, a public hearing regarding the proposed Zoning District Map amendments was held by the City Council on September 17, 2012; and

**WHEREAS**, the City Council of the City of Daphne after due consideration and upon recommendation of the Planning Commission believe it in the best interest of the health, safety and welfare of the citizens of the City of Daphne to amend said Zoning District Map as recommended; and

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

**SECTION I: ZONING DISTRICT MAP**

The Zoning District Map referenced hereto as Exhibit "A" shall be the official zoning map of the City of Daphne, Alabama and shall be further designated in Appendix H of Exhibit "A" of the City of Daphne Land Use and Development Ordinance, as set forth in Ordinance No. 2011-54 and its amendments.

**SECTION II: REPEALER**

Ordinances No. 2011-54, Appendix H "Exhibit A", Ordinances No. 2011-73 and 2012-19 is hereby repealed and any Ordinance(s), parts of Ordinance(s) or Resolution(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

**SECTION III: EFFECTIVE DATE**

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THE \_\_\_\_DAY OF \_\_\_\_\_, 2012.**

\_\_\_\_\_  
**CATHY S. BARNETTE,  
COUNCIL PRESIDENT**

\_\_\_\_\_  
**BAILEY YELDING, JR.,  
MAYOR**

**ATTEST:**

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



# Daphne Utilities

## APPROVED MINUTES

### Utilities Board Meeting

City of Daphne Council Chambers ♦ June 27, 2012 ♦ 5:00 p.m.

#### I. Call to Order

The regular June 2012, Board meeting for the Utilities Board of the City of Daphne was held on June 27, 2012 and called to order by Chairman Robert Segalla, at 5:01 p.m.

#### II. Roll Call

*Members Present:* Robert Segalla, Chairman  
Fenton E. Jenkins, Vice Chairman  
Lon Johnston  
Bailey Yelding, Mayor

*Others Absent:* Ron Scott, Secretary/Treasurer

*Others Present:* Jerry Speegle – Board Attorney  
Rob McElroy – General Manager  
Danny Lyndall – Operations Manager  
Teresa Logiotatos – Finance Manager  
Drew Klumpp – Administrative Services Manager  
Lori May-Wilson – Executive Assistant  
Melinda Immel – Volkert & Associates  
Ray Moore - HMR

*Others Absent:* Deloris Brown – Human Resources Manager

#### III. Pledge of Allegiance

The Chairman led the Board and meeting attendees in the Pledge of Allegiance.

#### IV. Approval of Minutes

##### A. Utilities Board Minutes from May 30, 2012:

The Chairman inquired if there were any corrections noted for the submitted Minutes from the May 30, 2012, Utilities Board meeting. No corrections were made.

***MOTION BY Lon Johnston to approve the Minutes for May 30, 2012; Seconded by Mayor Yelding.***

**AYE: JENKINS, JOHNSTON, SEGALLA, YELDING      ABSENT: SCOTT      ABSTAIN:**

**MOTION CARRIED**

#### V. Old Business

Rob McElroy made the presentation for the “Skye’s the Limit” Environmental Achievement Award to Josh Gregorius, an upcoming senior at Daphne High School.

**VI. New Business**

**A. Presentation of Audit – Tara J. Harville w/Robertson, Andreoli & Covington, P.C.**

Teresa Logiotatos gave a brief review of the financials for May 2012 before introducing Tara Harville of Robertson, Andreoli & Covington for the audit review. Ms. Harville examined the audit report and answered questions for the Board. Mr. Johnston expressed his concern regarding the delivery timeframe of the audit in case of issues that would need to be addressed in a timely manner. He also highlighted a few points about the audit and commended the staff on reduction of manpower, refinancing at lower interest rates, inventory control for materials, large-scale grants and the 2011 rate increase. He also pointed out the harmful effects on our financials of the negative economy, negligible capacity and connection fees, large capital expenses exceeding our income and the cost of continued imposed regulations. He expressed his concern for the future of Daphne Utilities and suggested undertaking a new rate study to prepare for rate changes. Chairman Segalla thanked Robertson, Andreoli for the nice job they do for Daphne Utilities as well as Teresa Logiotatos and her staff for making the preparation of the audit easier. Mayor Yelding added that the report was put together well.

**VII. BOARD ATTORNEY'S REPORT**

Mr. Speegle had nothing further to add to his report.

**VIII. FINANCIAL REPORT**

Presented at the start of the audit report.

**IX. GENERAL MANAGER'S REPORT**

**A. GM Report**

Rob McElroy had nothing further to add to his report.

Danny Lyndall advised the Board that a practice-run of the hurricane plan relating to pumps, generators, and small hand-tools took place over the weekend. (5:27 pm - Mayor Yelding stepped out of the meeting.)

Chairman Segalla asked about interference from the recent utility powerlines construction and our lift-stations. Mr. Lyndall stated that those areas are being monitored and addressed as necessary. Chairman Segalla also stated that he is asked frequently about the green paint on the Lake Forest manholes. Mr. Lyndall explained that the entire system is being re-mapped and verified.

Melinda Immel of Volkert & Associates had nothing further to add to her report.

Doug Bailey of HMR had nothing further to add to the report.

**X. BOARD ACTION – None.**

**XI. PUBLIC PARTICIPATION – None.**

**XII. BOARD COMMENTS – None.**

**XIII. ADJOURNMENT –**

*MOTION BY Lon Johnston to adjourn the meeting; Seconded by Fenton Jenkins.*

**AYE: JENKINS, JOHNSTON, SEGALLA      ABSENT: SCOTT, YELDING (for adjournment)**

**ABSTAIN:**

**MOTION CARRIED**

The meeting adjourned at 5:29 pm.

**CITY COUNCIL MEETING  
MAYOR'S REPORT**

**NOTES:**

# CITY OF DAPHNE SPECIAL EVENTS PERMIT

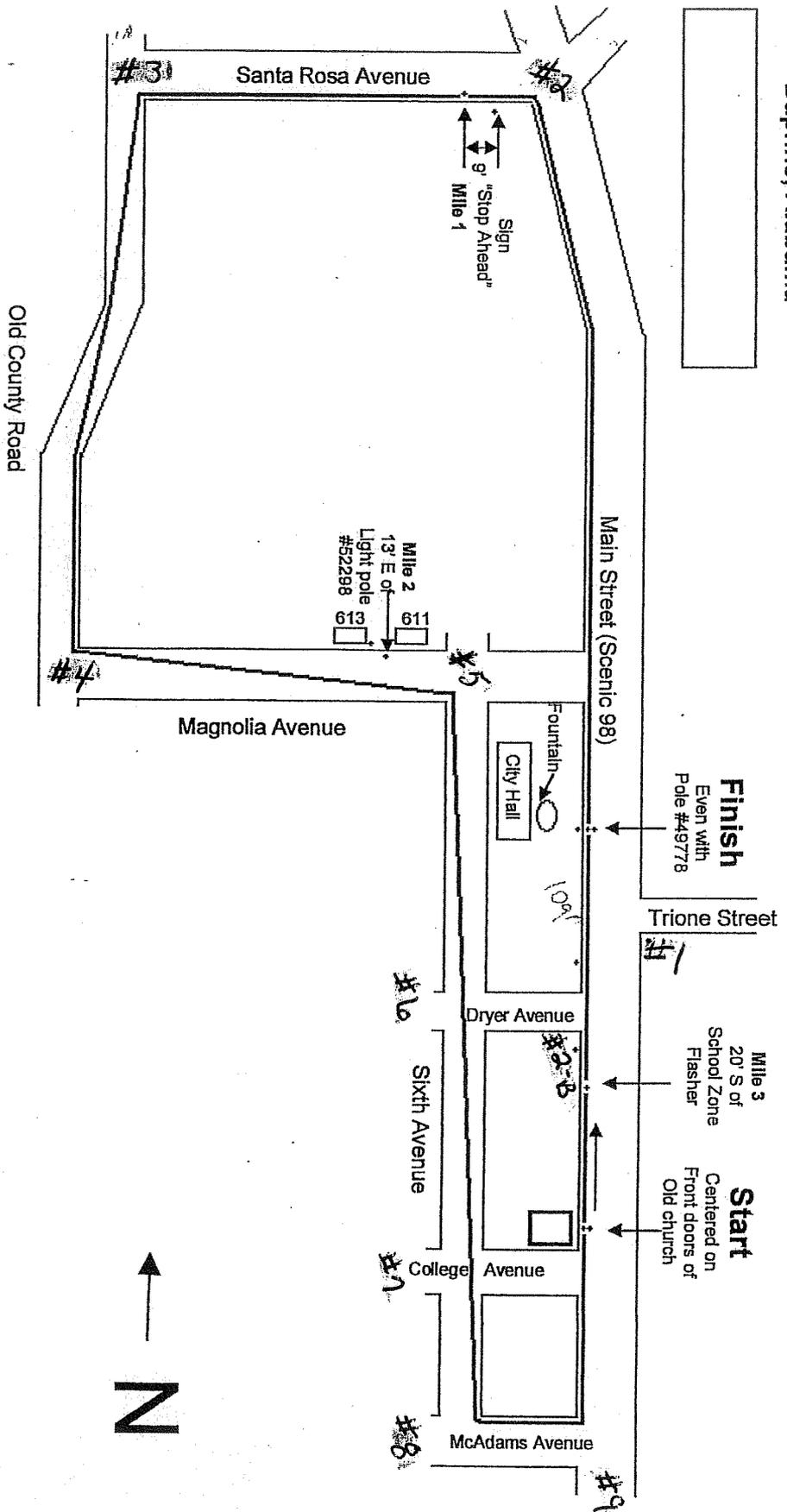
<b>ORGANIZATION:</b>	<i>Cry Out for America 911 Prayer Event</i>
<b>CONTACT PERSON:</b>	<i>Darla Tolbert</i>
<b>ADDRESS:</b>	<i>7350 Blakely Road Spanish Fort, AL 36527</i>
<b>PHONE NUMBER (HOME):</b> <b>PHONE NUMBER (BUSINESS):</b> <b>CELL NUMBER:</b>	<i>580-3014  591-7658</i>
<b>DATE OF EVENT:</b>	<i>September 11, 2012</i>
<b>TYPE OF EVENT:</b>	<i>Prayer for Our Nation</i>
<b>START TIME:</b>	<i>12:00 Noon</i>
<b>STOP TIME:</b>	<i>1:00 P.M.</i>
<b>LOCATION OF EVENT:</b>	<i>City Hall Lawn</i>
<b>APPROXIMATE # OF PEOPLE &amp; CARS:</b>	<i>25-50</i>
<b>SPECIAL REQUEST</b>	
<b>DATE APPLIED FOR PERMIT:</b>	<i>July 24, 2012</i>
<b>APPROVAL</b>	
<b>COUNCIL:</b>	<i>8-06-12</i>
<b>POLICE: Chief David Carpenter:</b>	<i>[Signature]</i>
<b>FIRE: Chief James White</b>	<i>[Signature]</i>
<b>PUBLIC WORKS: Richard Johnson</b>	<i>[Signature]</i>
<b>SPECIAL INSTRUCTIONS:</b>	
<b>DATE ROUTED:</b>	<i>July 24, 2012</i>
<b>NOTIFICATION OF APPROVAL:</b>	

## CITY OF DAPHNE PARADE PERMIT

<b>ORGANIZATION:</b>	<i>Bayside Medical Missions</i>
<b>CONTACT PERSON:</b>	<i>Flor Fellers</i>
<b>ADDRESS:</b>	<i>19195 Scenic Highway 98 Fairhope, AL 36532</i>
<b>PHONE NUMBER (HOME):</b> <b>PHONE NUMBER (BUSINESS):</b> <b>CELL NUMBER:</b>	<i>928-1929 928-4248</i>
<b>TYPE OF PARADE:</b>	<i>5K and 1 Mile Fun Run</i>
<b>DATE OF PARADE:</b>	<i>September 22, 2012      Saturday</i>
<b>ROUTE TO BE TRAVELED:</b>	<i>See Attached Map</i>
<b>APPROXIMATE # OF PEOPLE &amp; CARS:</b>	<i>400 200</i>
<b>START TIME:</b>	<i>8:00 a.m.</i>
<b>STOP TIME:</b>	<i>12:00 Noon</i>
<b>ASSEMBLY AREA/STREET:</b>	
<b>ASSEMBLY TIME:</b>	<i>5:45 A. M.</i>
<b>SPECIAL INSTRUCTIONS:</b>	<i>Each year Melvin helps hang the banner. There are 2 police cars, front and back, as well as the needed people. Same as the past 4 years.</i>
<b>DATE APPLIED:</b>	
<b>APPROVAL</b>	
<b>POLICE:</b> Chief David Carpenter	<i>[Signature] for chief Carpenter</i>
<b>FIRE:</b> Chief James White	<i>[Signature]</i>
<b>PUBLIC WORKS:</b> Richard Johnson	<i>[Signature]</i>
<b>RECREATION :</b> David McKelroy	<i>[Signature]</i>
<b>CITY COUNCIL APPROVAL:</b> 8-06-12	
<b>SPECIAL INSTRUCTIONS:</b>	
<b>DATE ROUTED:</b>	
<b>NOTIFICATION</b>	

# Bayside Medical Missions 5K Run

Daphne, Alabama



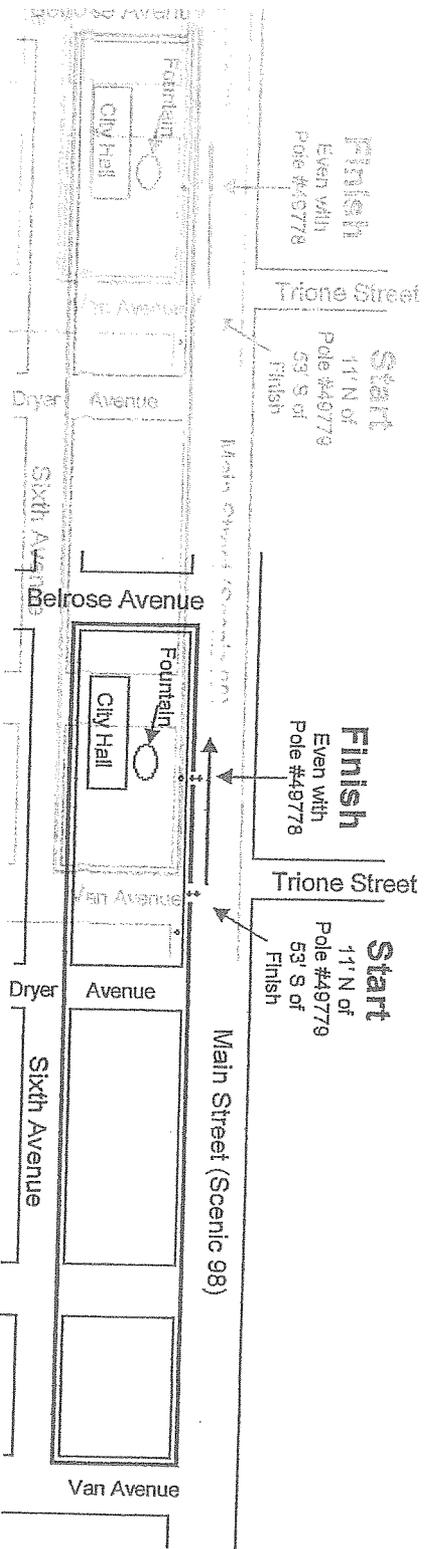
No Diagrams to Scale

Splits: Marked with green paint.  
 Locations are given explicitly on map.  
 Start and Finish marked with  
 green paint

Measured by Jon Bowie (Daphne, AL 251-209-0887)  
 jnbowie@gmail.com  
 17 January 2010  
 Calibrated on AL08007JD  
 Race contact: Denise D'Oliveira (251-505-8777)

# Bayside Medical Missions 1 Mile Fun Run

Daphne, Alabama



No Diagrams to Scale

No Diagrams to Scale

Splits: Marked with green paint.  
Locations are given explicitly on map.  
Staff and Finish marked with green paint  
Measured by Jon Bowler (Daphne, AL 251-209-0887)  
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Race contact: Denise D'Oliveira (251-605-8777)

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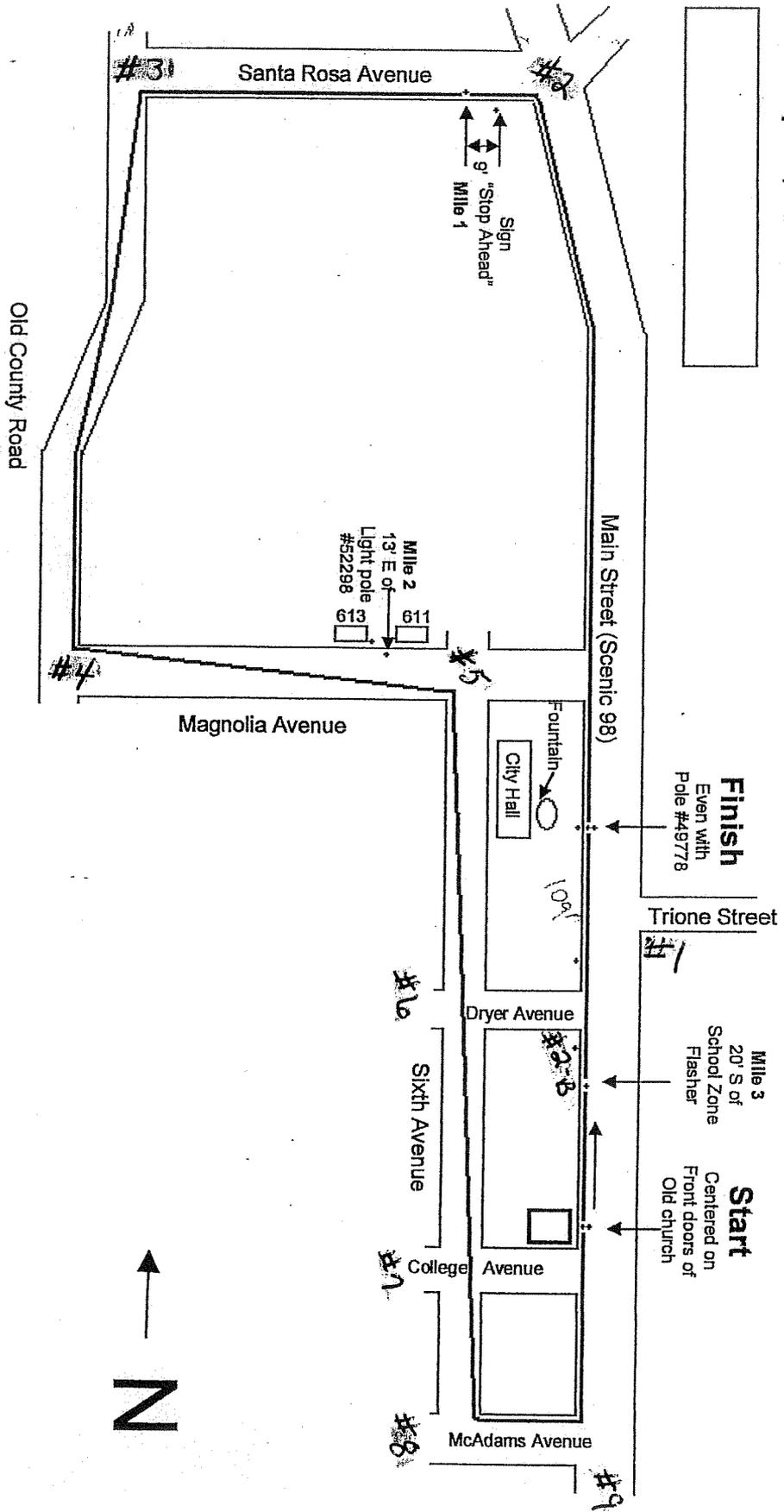
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## CITY OF DAPHNE PARADE PERMIT

<b>ORGANIZATION:</b>	<i>Bayside Medical Missions</i>
<b>CONTACT PERSON:</b>	<i>Flor Fellers</i>
<b>ADDRESS:</b>	<i>19195 Scenic Highway 98 Fairhope, AL 36532</i>
<b>PHONE NUMBER (HOME):</b> <b>PHONE NUMBER (BUSINESS):</b> <b>CELL NUMBER:</b>	<i>928-1929 928-4248</i>
<b>TYPE OF PARADE:</b>	<i>5K and 1 Mile Fun Run</i>
<b>DATE OF PARADE:</b>	<i>September 22, 2012      Saturday</i>
<b>ROUTE TO BE TRAVELED:</b>	<i>See Attached Map</i>
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<b>POLICE:</b> Chief David Carpenter	<i>[Signature]</i> for chief carpenter
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<b>RECREATION :</b> David McKelroy	<i>[Signature]</i>
<b>CITY COUNCIL APPROVAL:</b> 8-06-12	
<b>SPECIAL INSTRUCTIONS:</b>	
<b>DATE ROUTED:</b>	
<b>NOTIFICATION</b>	

**Bayside Medical Missions 5K Run**

**Daphne, Alabama**



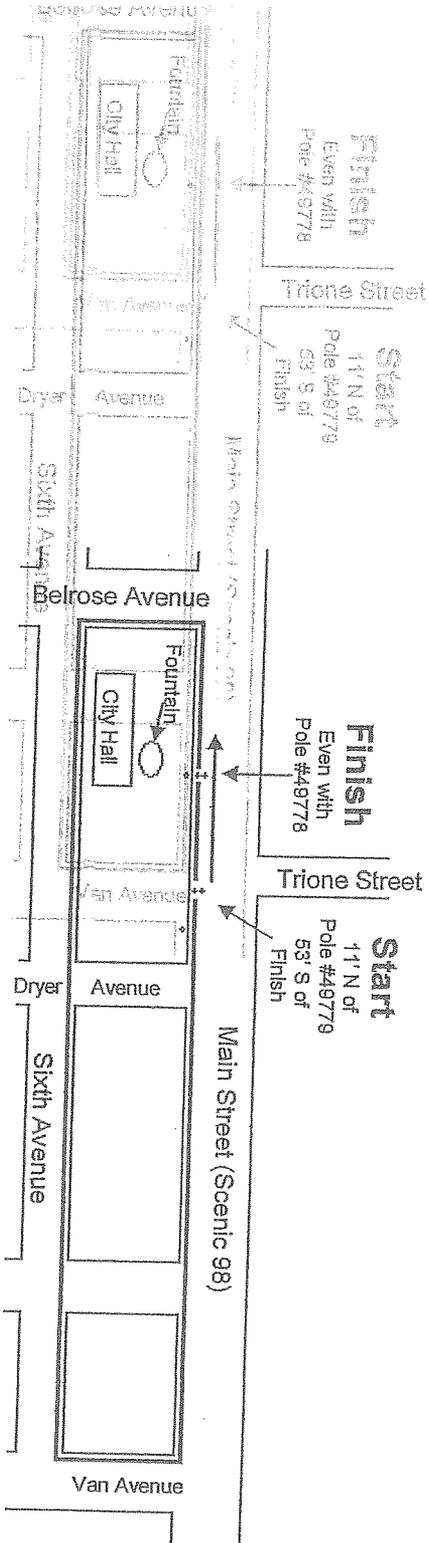
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**Bayside Medical Missions 1 Mile Fun Run**  
**Daphne, Alabama**



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 jnbowie@gmail.com  
 17 January 2010  
 Calibrated on AL08007JD  
 Race contact: Denise D'Oliveira (251-605-8777)

# CITY OF DAPHNE SPECIAL EVENTS PERMIT

<b>ORGANIZATION:</b>	<i>Cry Out for America 911 Prayer Event</i>
<b>CONTACT PERSON:</b>	<i>Darla Tolbert</i>
<b>ADDRESS:</b>	<i>7350 Blakely Road Spanish Fort, AL 36527</i>
<b>PHONE NUMBER (HOME):</b>	<i>580-3014</i>
<b>PHONE NUMBER (BUSINESS):</b>	
<b>CELL NUMBER:</b>	<i>591-7658</i>
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<b>SPECIAL REQUEST</b>	
<b>DATE APPLIED FOR PERMIT:</b>	<i>July 24, 2012</i>
<b>APPROVAL</b>	
<b>COUNCIL:</b>	<i>8-06-12</i>
<b>POLICE: Chief David Carpenter:</b>	<i>[Signature]</i>
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<b>SPECIAL INSTRUCTIONS:</b>	
<b>DATE ROUTED:</b>	<i>July 24, 2012</i>
<b>NOTIFICATION OF APPROVAL:</b>	

**CITY ATTORNEY'S REPORT**

**NOTES:**

**DEPARTMENT HEAD'S COMMENTS**

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

**NOTES:**

RECOMMENDATIONS

**COUNCIL COMMENTS:**

**CITY OF DAPHNE**  
**RESOLUTION 2012-53**

**Resurfacing US Highway 98 from Mobile Bay Causeway to  
Scenic Overlook, City of Daphne, Baldwin County  
Project No. STPAA-0042(523)**

**WHEREAS**, the City of Daphne, Alabama (hereinafter at times referred to as City) is desirous of having certain improvements made within the City Limits of Daphne, in accordance with plans prepared by the Alabama Department of Transportation and designated as Project Number STPAA-0042(523), Resurfacing U.S. 98 from U.S. 90 at Mobile Bay Causeway to U.S. 90 at Scenic Overlook:/I-10 Ramps in Baldwin County.

**WHEREAS**, The Alabama Department of Transportation is now or may later be desirous of receiving Federal Aid for improvement of said highway; and

**WHEREAS**, The Federal Highway Administration, an agency of the United States of America, will not participate in any funding for the construction of said project until and unless the City of Daphne will agree to certain requirements of the Federal Highway Administration. The City of Daphne for the purpose of complying with requirements of the Federal Highway Administration in regard to its funding of improvements of the type and kind in this agreement provided for does hereby pass and adopts the following resolution: No parking will be allowed within the project limits.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, AL** that the plans of said project including alignment, profile, grades, typical sections and paving layouts as submitted to this City and which are now on file in the office of the City Clerk are hereby approved and that the location of said project as staked out by the Alabama Department of Transportation and as shown by said plans referred to are hereby approved and the Alabama Department of Transportation, in cooperation with the Federal Highway Administration, is hereby authorized to proceed with the grading, draining, paving, and otherwise improving and construction of said project in accordance with said plans.

The City by and through its Council hereby grants to the Alabama Department of Transportation the full use of and access to the dedicated widths of any existing streets for the construction of said project and hereby agrees to permit and allow the Alabama Department of Transportation to close and barricade the said project and intersecting streets for as long as necessary while the said project is being graded, drained, paved, and otherwise improved, and hereby agrees that the use of any street or highway for parking within an interchange area will not at any time be permitted.

The City hereby further agrees to adopt or pass such legally effective ordinances and/or laws as will permanently barricade and/or relocate certain intersecting streets as required by the State and to permanently deny or limit access at certain locations as required by the State along said improvements, all of which are more specifically stated as follows: No parking will be allowed within the project limits.

**BE IT FURTHER RESOLVED** by the City, that for and in consideration of the Alabama Department of Transportation in cooperation with the Federal Highway Administration, constructing said highway and routing traffic along the same through the City over said project, such City hereby agrees with the Alabama Department of Transportation and for the benefit of the Federal Highway Administration, that on the above mentioned project the City will not in the future permit encroachments upon the right of way; nor will it pass any ordinances or laws fixing a speed limit contrary to those limits provided for in Title 32, Chapter 5, Code of Alabama 1975, as amended,

and other laws of Alabama; nor will it permit other than parallel parking in areas where parking is permitted; nor will it allow the placing of any informational, regulatory, or warning signs, signals, median crossover, curb and pavement or other markings, and traffic signals without written approval of the Alabama Department of Transportation and the Federal Highway Administration, of the location, form and character of such installations. The traffic control devices and signs installed during construction, and those installed after completion of this project shall be in accordance with the latest edition of the national Manual on Uniform Traffic Control Devices and accepted standards adopted by the Alabama Department of Transportation of the State of Alabama and by the Federal Highway Administration. The City further agrees that subsequent traffic control devices deemed necessary by it in keeping with applicable statutes, rules and regulations to promote the safe and efficient utilization of the highway under the authority of Title 32, Chapter 5, Code of Alabama 1975, and all other applicable laws of Alabama, shall be subject to and must have the approval of the Alabama Department of Transportation of the State of Alabama and of the Federal Highway Administration, prior to installation and the City further agrees that it will enforce traffic and control the same under the provisions of Title 32, Chapter 5, Code of Alabama 1975, and other applicable laws of Alabama.

**BE IT FURTHER RESOLVED** by this Council:

1. That the City agrees to perform all maintenance on crossroads, service drives, or relocated roads that are not designated Federal or State highways that are in the jurisdiction of the City.

It is understood and agreed that no changes in this Resolution or Agreement shall in the future be made without having obtained the prior approval of the Federal Highway Administration.

**THIS RESOLUTION PASSED, ADOPTED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Cathy S. Barnette,  
Council President

\_\_\_\_\_  
Bailey Yelding, Jr.,  
Mayor

ATTEST:

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

I, the undersigned, Clerk of the City of Daphne do hereby certify that the above and foregoing is a true and exact copy of a resolution duly and lawfully adopted by the Council of the foregoing City at its regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, which resolution is on file in the office of the City Clerk.

Given under my hand and the official seal of such City this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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

# CITY OF DAPHNE

## RESOLUTION NO. 2012-54

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### Officer Elected Without Opposition

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**WHEREAS**, Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, provide for and regulate general and special elections in cities and towns of this state, except those cities and towns which have a commission form of government; and

**WHEREAS**, Section 11-46-43 of the Alabama Code of 1975 prohibits write-in candidates in elections held under Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended; and

**WHEREAS**, Section 11-46-26 of the Alabama Code of 1975, as amended provides that if only one person has filed a statement of candidacy or has been nominated for an office for an election to be held pursuant to Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, at the time the deadline for qualification has passed, then such person shall, for all purposes, be deemed elected to such office, and the mayor or other chief executive officer shall not cause the name of such person or the office for which his candidacy was declared to be printed on the ballot, but he shall immediately file a written statement with the governing body of the municipality, attested by the clerk, certifying the fact that only one person filed a statement of candidacy or was nominated for the office preceding the deadline set for an election of municipal officers of the municipality and setting forth the name of such person; and

**WHEREAS**, said Section 11-46-26, as amended, provides that the governing body of the municipality, after receiving such statement, shall adopt a resolution declaring the person named in the statement duly elected to the office described in the statement, and shall issue a Certificate of Election to such person; and

**WHEREAS**, the Mayor of the City of Daphne has filed a written statement with the governing body of the municipality, attested by the clerk, certifying the fact that only one person filed a statement of candidacy for the office of **Councilman for District #6** prior to the deadline and that the name of that person who filed such statement was **Robin LeJeune**.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE** that **Robin LeJeune** be and his is hereby declared duly elected to the office of **Councilman for District #6** in the City of Daphne for the term of office commencing on the first Monday in November, 2012; and

**BE IT FURTHER RESOLVED**, that the Mayor of the City of Daphne be and he hereby is directed to issue a certificate of election to **Robin LeJeune** for the office of **Councilman for District #6** for such term pursuant to the provisions of Section 11-46-25, as amended.

ADOPTED THIS THE \_\_\_\_\_ DAY \_\_\_\_\_, 2012.

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**Cathy S. Barnette,**  
**Council President**

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**Fred Small**  
**Mayor**

**ATTEST:**

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

**CITY OF DAPHNE  
RESOLUTION NO. 2012 - 55**

**REVISIONS TO CITY OF DAPHNE STREET MAP**

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**WHEREAS**, the Planning Commission of the City of Daphne, Alabama at their regular meeting held on July 26, 2012, approved a favorable recommendation to the City Council of the City of Daphne, Alabama for a revision to the City of Daphne Street Map and presented at said meeting; and

**WHEREAS**, said revision to street map is necessary due to additional streets being added to and accepted by the City; and

**WHEREAS**, due notice of said revisions to the City of Daphne Street Map has been provided to the public as required by law through publication and open display at the City of Daphne Public Library and City Hall; and

**WHEREAS**, the City Council of the City of Daphne, Alabama, after due consideration, and upon the recommendation of the Planning Commission of the City of Daphne, believes it is in the best interest of the health, safety and welfare of the citizens of the City to accept the revisions to the City of Daphne Street Map; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, as follows:**

**SECTION I: ADOPTION OF MAP**

THAT the City of Daphne Street Map was considered by the City of Daphne Planning Commission on July 26, 2012, and having made a favorable recommendation to the City Council and said revised map being attached hereto as Exhibit "A" is hereby adopted as the official "City of Daphne Street Map."

**SECTION II: REPEALER**

THAT Resolution No. 2006-22, Resolution No. 2006-66, and Resolution No. 2007-05, Resolution 2007-69, Resolution 2008-02, 2008-41, Resolution 2009-06, Resolution 2009-72, Resolution 2010-22, Resolution 2010-76, 2011-09, Resolution 2011-62, Resolution 2012-05 entitled "City of Daphne Street Map" are hereby repealed in their entirety and any Resolution(s) or parts of Resolution(s) conflicting with the provisions of this Resolution are hereby repealed insofar as they conflict.

**SECTION III: EFFECTIVE DATE**

THAT This Resolution shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne, Alabama.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 2012.**

\_\_\_\_\_  
**CATHY S. BARNETTE,  
COUNCIL PRESIDENT**

\_\_\_\_\_  
**BAILEY YELDING, JR.,  
MAYOR CITY OF DAPHNE**

**ATTEST:**

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

# RESOLUTION NO. 2012 - 56

## APPOINTING ELECTION OFFICIALS MUNICIPAL ELECTION AUGUST 28, 2012

**WHEREAS**, a regular municipal election has been called to be held on the 28<sup>th</sup> day of August, 2012, and a runoff election to be held if necessary, on the 9<sup>th</sup> of October, 2012; and

**WHEREAS**, Section 11-46-27 of the Alabama Code of 1975, as amended, provides in part, that the municipal governing body, not less than 15 days before the holding of any municipal election appoint from the qualified electors of the respective wards or voting districts officers to hold the election; and

**WHEREAS**, Section 11-46-24 of the Code of Alabama, 1975, as amended, provides that where voting places are designated within each district where voting machines are used that the municipal governing body shall appoint election officials to consist of one chief inspector, who shall supervise the conduct of all the other officials and the operation of the voting place, one chief clerk, one returning officer, and for each voting machine to be used at each voting place there shall be appointed two assistant clerks; and

**WHEREAS**, Section 11-46-27 requires the governing body of the municipality to appoint from the qualified electors of the City one inspector; one returning officer and two clerks who shall meet on the day of election at such place and hour as the municipal governing body may designate for the purpose of receiving, counting, and returning the absentee ballots at such election.

**WHEREAS**, the City Council of the City of Daphne recognizes the time spent by those who are to perform the duties of election officials and shall be compensated as follows:

- |     |             |          |
|-----|-------------|----------|
| 1.) | Inspector   | \$200.00 |
| 2.) | Chief Clerk | \$150.00 |
| 3.) | Clerk       | \$125.00 |

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Daphne, Alabama that the election officials for said election shall be as follows:

**ABSENTEE ELECTION OFFICIALS:** Inspector: Henry Lawson  
Chief Clerk: Douglas Kaye  
Clerk: Elnora Jackson

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**  
this \_\_\_\_ day of \_\_\_\_\_, 2012.

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**Cathy S. Barnette,**  
**Council President**

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**Bailey Yelding, Jr.,**  
**Mayor**

**ATTEST:**

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

**RESOLUTION NO. 2012-57**

**Appointing the City Attorney**

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

**SECTION I:** That Jay Ross is hired to serve as City Attorney for the City of Daphne upon the basis of compensation heretofore existing.

**SECTION II:** That Resolution No. 2008-59, is hereby repealed in its entirety and any Resolution(s) or parts of Resolution(s) conflicting with the provisions of this Resolution are hereby repealed insofar as they conflict.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Cathy S. Barnette,**  
**Council President**

\_\_\_\_\_  
**Bailey Yelding, Jr.,**  
**Mayor**

**ATTEST:**

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

**ORDINANCE 2012-47**

**Pinehill Road Resurfacing**

**WHEREAS**, Ordinance 2011-81 approved and adopted the Fiscal Year 2012 Budget on November 21, 2011; and

**WHEREAS**, subsequent to the adoption of the Fiscal Year 2012 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2012 budget; and

**WHEREAS**, Pinehill Road needs repairs and resurfacing; and

**WHEREAS**, the asphalt for the project (\$35,536) will be purchased by the City from the City's current bid contract; and

**WHEREAS**, construction cost for this project is below \$50,000; and

**WHEREAS**, quotes were obtained for the construction of the project with the low quote being \$41,264 from Asphalt Services, Inc.;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Daphne, Alabama, that funds in the amount of \$82,500 (*Materials/Testing/Construction*) and hereby appropriate from the Four Cent Gas Tax Fund and made a part of the Fiscal Year 2012 budget for the Pinehill Road Resurfacing project.

**APPROVED AND ADOPTED** by the Mayor and City Council of the City of Daphne, Alabama, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Cathy S. Barnette, Council President**

\_\_\_\_\_  
**Bailey Yelding, Jr., Mayor**

**ATTEST:**

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

**ORDINANCE 2012-48**  
**Amending Use of Lodging Tax Proceeds-**  
**Time Extension**

**WHEREAS**, Ordinance No. 2009-28 as adopted May 18, 2009, respectively, provide for the levy and imposition of a Lodging Tax until September 30, 2009; and

**WHEREAS**, subsequently, Ordinance 2009-55 as adopted October 19, 2009 amended the use of Lodging Tax proceeds and set an expiration date of October 31, 2012; and

**WHEREAS**, the city council deems that allocations be extended to October 31, 2015 for the purpose of bay front property debt service, future acquisition, development and maintenance of bay front property, industrial development, downtown redevelopment, and ground related capital for recreation.

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

**SECTION 1:** Section I of Ordinance 2000-34 repealing and replacing Section 1 of 2000-25 is hereby amended as follows:

The lodging taxes which are collected for the period of October 1, 2012 through October 31, 2015 are hereby divided as follows:

1. Five percent (5%) shall be paid quarterly and used for the purpose of providing funding to the IDB for the implementation of strategies, action items, and tactics included in the Strategic Economic Development Plan as approved and adopted in Resolution 2000-31 by Daphne City Council June 19, 2000.
2. Five percent (5%) shall be paid quarterly and used for the purpose of providing funding for Downtown Redevelopment Authority.
3. All debt service incurred for bay front property, which is approximately \$160,000 a year, will be paid from lodging tax proceeds.
4. The remainder of the lodging tax proceeds shall be divided evenly between continued bay front uses (acquisition, development and maintenance) and ground related capital for recreation- which does not include such items as trucks or maintenance of fields.

All other provisions of Section I of Ordinance 2000-25 shall remain in full force and effect.

SECTION II: SEVERABILITY CLAUSE – The provision of this ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction such declaration shall not affect the part that remains.

SECTION III: EFFECTIVE DATE- This ordinance shall be in full force and effect upon its adoption by the City Council of the City of Daphne, Alabama, and upon publication as provided by law.

**APPROVED AND ADOPTED** by the Mayor and City Council of the City of Daphne, Alabama, this \_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Cathy Barnette, Council President**

\_\_\_\_\_  
**Bailey Yelding, Jr., Mayor**

**ATTEST:**

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

**CITY OF DAPHNE  
ORDINANCE NO. 2012-49**

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**AN ORDINANCE REPEALING CITY OF DAPHNE PERSONNEL POLICY NO.  
1.3.3 REGULATING THE PARTICIPATION RIGHTS OF CITY OF DAPHNE  
EMPLOYEES IN POLITICAL ACTIVITIES AND ADOPTING A NEW  
ORDINANCE REGULATING THE PARTICIPATION RIGHTS  
OF CITY OF DAPHNE EMPLOYEES IN  
POLITICAL ACTIVITIES**

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**WHEREAS**, the City Council of the City of Daphne has previously adopted City of Daphne Personnel Policy 1.3.3; and

**WHEREAS**, Personnel Policy 1.3.3 as currently set out in the City of Daphne Employee Handbook provides that employees are strictly prohibited from engaging or participating in political activity involving the jurisdiction in which they are employed; and

**WHEREAS**, the City Council of the City of Daphne, after due consideration believes that Personnel Policy 1.3.3 should be repealed in its entirety and replaced with a new policy regulating employee participation in political activity in a manner consistent with current Alabama law;

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

**SECTION I: GENERAL PROVISIONS.**

- (A) No law enforcement officer, firefighter, peace officer, or any other person in the employment of the City of Daphne, when off duty, out of uniform, and acting as a private citizen, shall be denied the right to participate in political activities to the same extent as any other citizen of the State of Alabama.
- (B) The provisions of this Ordinance shall in no way interfere with or inhibit any law enforcement officer, firefighter, peace officer, or other person in the employment of the City of Daphne's right to vote in any municipal, county, state or national election.

**SECTION II: CONFLICT WITH OTHER ORDINANCES.**

That any Ordinance or Personnel Policy heretofore adopted by the City Council of Daphne, Alabama, which is in conflict with this Ordinance, be and is hereby replaced to the extent of such conflict.

**SECTION III: SEVERABILITY.**

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

**SECTION IV: EFFECTIVE DATE.**

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS \_\_\_ DAY OF \_\_\_\_\_, 2012.**

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**CATHY BARNETTE,  
COUNCIL PRESIDENT**

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**BAILEY YELDING,  
MAYOR**

**ATTEST:**

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**DAVID COHEN,  
CITY CLERK, MMC**