

**CITY OF DAPHNE
CITY COUNCIL ORGANIZATIONAL MEETING
AGENDA
1705 MAIN STREET, DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

2. INVOCATION / PLEDGE OF ALLEGIANCE

Invocation by Mr. Greg Kennedy, Christ Presbyterian Church

3. OATHS OF OFFICE:

OATH OF OFFICE ADMINISTERED BY JUDGE JODY BISHOP

Bailey Yelding, Jr	Mayor
Pat Rudicell	District 2

OATH OF OFFICE ADMINISTERED BY JUDGE LYN STUART

Tommie Conaway	District 1
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OATH OF OFFICE ADMINISTRED BY JUDGE PAM BASCHAB

John Lake	District 3
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OATH OF OFFICE ADMINISTERED BY JUDGE JOSEPH LANGFORD FLOYD

Randy Fry	District 4
Ron Scott	District 5
Robin LeJeune	District 6

OATH OF OFFICE ADMINISTRED BY JUDGE JAMES H. REID

Dane Haygood	District 7
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4. ROLL CALL

5. ELECT COUNCIL PRESIDENT

6. ELECT COUNCIL PRESIDENT PRO-TEM

7. MOTION: Establish time and place of regular meetings to be held each month.(1st & 3rd Monday at 6:30 p.m. as contained in Council Rules of Procedure)

8. **MOTION: Adopt Rules of Procedure / Ordinance 2012-63**
9. **RETAIN OFFICERS & EMPLOYEES /**
 - a.) City Clerk / David Cohen / Resolution 2012-84
 - b.) Treasurer / Kim Briley / Resolution 2012-85
 - c.) Fire Chief / James “Bo” White / Resolution 2012-86
 - d.) Police Chief / David Carpenter / Resolution 2012-87
 - e.) City Attorney / Jay Ross / Resolution 2012-88
 - f.) Employees Under Merit System / Resolution 2012-89
 - g.) City Judge / Ken Hitson / Resolution 2012-90
 - h.) City Prosecutor / James Scroggins / Resolution 2012-91
10. **ASSIGNMENT OF COMMITTEES / Resolution 2012-92**
11. **RATIFY USE OF PRESENT BANK DEPOSITORIES AND SIGNATORIES TO THE CITY ACCOUNTS / ORDINANCE 2012-64**
12. **WHATEVER ELSE IS DEEMED NECESSARY**
13. **ADJOURN TO REGULAR SCHEDULED BUSINESS MEETING**

**CITY OF DAPHNE
CITY COUNCIL MEETING**

ROLL CALL

CITY COUNCIL:

CALL VOTES

COUNCILWOMAN CONAWAY	PRESENT__	ABSENT__	__
COUNCILMAN RUDICELL	PRESENT__	ABSENT__	
COUNCILMAN LAKE	PRESENT__	ABSENT__	__
COUNCILMAN FRY	PRESENT__	ABSENT__	__
COUNCILMAN SCOTT	PRESENT__	ABSENT__	__
COUNCILMAN LEJEUNE	PRESENT__	ABSENT__	__
COUNCILMAN HAYGOOD	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

RESOLUTION NO. 2012-84

Retaining Officers & Employees

City Clerk

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

SECTION 1: That David L. Cohen, an appointed employee, is elected and appointed to continue as City Clerk of the City of Daphne upon the basis of compensation heretofore existing.

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

Council President

Bailey Yelding, Jr,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

RESOLUTION NO. 2012-85

Retaining Officers & Employees

Treasurer

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

SECTION 1: That Kimberly Briley, an appointed employee, is elected and appointed to continue as Treasurer for the City of Daphne upon the basis of compensation heretofore existing.

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

Council President

Bailey Yelding, Jr.,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

RESOLUTION NO. 2012-86

Retaining Officers & Employees

Fire Chief

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

SECTION 1: That Fire Chief James “Bo” White, an appointed employee, is elected and appointed to continue as the Fire Chief for the City of Daphne upon the basis of compensation heretofore existing.

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

Council President

Bailey Yelding, Jr.,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

RESOLUTION NO. 2012-87

Retaining Officers & Employees

Police Chief

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

SECTION 1: That Chief David Carpenter, an appointed employee, is elected and appointed to continue as the Chief of Police for the City of Daphne upon the basis of compensation heretofore existing.

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

Council President

Bailey Yelding, Jr.,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

RESOLUTION NO. 2012-88

Retaining Officers & Employees

City Attorney

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

SECTION 1: That Jay Ross is appointed to continue as City Attorney for the City of Daphne upon the basis of compensation heretofore existing.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this ____ day of _____, 2012.

Council President

Bailey Yelding, Jr.,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

RESOLUTION NO. 2012-89

Retaining Officers & Employees Under Merit System

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

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

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

Council President

Bailey Yelding, Jr.,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

RESOLUTION NO. 2012-90

Retaining Officers & Employees

City Judge

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

SECTION 1: That Ken Hitson is appointed to continue as City Judge for a one (1) – two (2) year term for the City of Daphne upon the basis of compensation heretofore existing.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this ____ day of _____, 2012.

Council President

Bailey Yelding, Jr.,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

RESOLUTION NO. 2012-91

Retaining City Prosecutor

WHEREAS, the City is desirous of retaining the services of a Prosecutor for the purpose of representing the City in its Municipal Court and in the Baldwin County Circuit and District Courts on appeal.

WHEREAS, the Prosecutor, by these presents, hereby agrees to use his experience and expertise in representing the City.

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

SECTION 1: That James Scroggins is appointed to continue as City Prosecutor for the City of Daphne upon the basis of compensation heretofore existing.

SECTION 2: The City Council authorizes the Mayor to enter in a contract with the Prosecutor.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this ____ day of _____, 2012.

Council President

Bailey Yelding, Jr.,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

SERVICE CONTRACT:

DAPHNE CITY PROSECUTOR

This contract, entered into on this ____ day of _____, 2012, by and between the CITY OF DAPHNE, ALABAMA, (hereinafter referred to as “City”), a municipal corporation organized under the laws of the State of Alabama and James Maurice Scoggins, (hereinafter referred to as “Prosecutor”).

WHEREAS, the City is desirous of retaining the services of Prosecutor for the purpose of representing the City in its Municipal Court and in the Baldwin County Circuit and District Courts on appeal; and

WHEREAS, Prosecutor, by these presents, hereby agrees to use his experience and expertise in representing the City.

WHEREAS, the parties hereto desire to more fully set forth the terms of their Agreement.

NOW THEREFORE, THE PREMISES CONSIDERED, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. The City agrees to retain Prosecutor to perform the functions and duties as City Prosecutor for the year beginning on ____, 2012 and ending on October ____, 2013, unless sooner terminated as provided hereinafter.
2. **Duties of Prosecutor** – Prosecutor agrees to provide services to the City, including representation of the City of Daphne at all hearings before the Municipal Court of the City of Daphne and any appeals to the Baldwin County Circuit Court or Baldwin County District Court. In addition, Prosecutor agrees to perform other services routinely required of the City Prosecutor and shall, upon request by the Mayor or City Council, report to the City concerning various matters relating to Prosecutor’s activities and functions.
3. **Compensation for Services:** The parties hereto agree that the total compensation to be paid by the City to the Prosecutor during the 12 month term of this Agreement is hereby set at the sum of **THIRTY THOUSAND (\$ 30,000) DOLLARS** to be paid upon receipt of a monthly itemized statement reporting services provided. Furthermore, an additional sum of \$ 100 per hour, not to exceed **TEN THOUSAND (\$ 10,000) DOLLARS**, during the 12 month term of this Agreement shall be paid for representation of the City of Daphne in cases appealed to Baldwin County upon receipt of a monthly itemized statement. All sums requested and paid shall be considered as full and final compensation for all expenses incurred by the Prosecutor in the performance of his duties for each respective month.
4. **Termination of Agreement** - It is agreed and understood by the parties to this Contract that either party may terminate this Contract upon thirty (30) days written notice to the other party. Notice shall be effective upon delivery to the party to be notified. In the

event of termination, City agrees to pay to the Prosecutor a portion of one month's compensation which shall be prorated based upon the number of days during the final month of employment which Prosecutor has been employed prior to the effective date of termination.

5. **Indemnification** – City agree to indemnify, defend, and hold harmless the Prosecutor against any legal action or claim arising out of an alleged act or omission occurring in the performance of the Prosecutor's duties; provided, however, that the Prosecutor shall not be indemnified for any willful, intentional, or malicious conduct by the Prosecutor.
6. **Extension of Contract** – Parties agree that prior to the expiration of this Contract, unless sooner terminated as provided herein above, the City shall re-evaluate the Prosecutor's services and shall arrange a meeting at a mutually agreeable time with the Prosecutor to discuss the extension of this Contract. Any extension negotiated between the City and the Prosecutor, and the terms of such extension shall be agreed upon in writing by the parties hereto.
7. This Contract shall be construed according to the laws of the State of Alabama.
8. If any provision of this Contract is held to be void or unenforceable by a Court of competent jurisdiction, the remaining portions of this Contract shall remain in full force and effect notwithstanding such determination.

IN WITNESS WHEREOF, the parties have hereinto set their hands on the ____ day of _____, 2012.

CITY OF DAPHNE

By: _____
Bailey Yelding, Jr.,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

CITY PROSECUTOR

James Maurice Scroggins

RESOLUTION NO. 2012-92

City Council Committee Assignments

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

That the City of Daphne City Council committee assignments are as follows:

COMMITTEES:

- A.) Finance Committee:**
Tommie Conaway
Ron Scott
John Lake
Dane Haygood

- B.) Buildings & Property Committee**
Dane Haygood
Pat Rudicell
Randy Fry

- C.) Public Safety Committee**
Robin LeJeune
Pat Rudicell
Randy Fry
Ron Scott

- D.) Code Enforcement / Ordinance Committee**
Robin LeJeune
Pat Rudicell
Randy Fry
Ron Scott

- E.) Public Works Committee**
Tommie Conaway
John Lake
Ron Scott
Robin LeJeune

- F.) Downtown Redevelopment**
Tommie Conaway

- G.) **Library Board**
John Lake
Pat Rudicell
- H.) **Industrial Development Board**
Dane Haygood
- I.) **Planning Commission**
Ron Scott
- J.) **Recreation Board**
Robin LeJeune
- K.) **Utility Board**
Randy Fry

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

Council President

Bailey Yelding, Jr.,
Mayor

ATTEST:

David L. Cohen,
City Clerk, MMC

**CITY OF DAPHNE
ORDINANCE 2012-63**

**AN ORDINANCE ADOPTING THE RULES OF PROCEDURE IN ALL
INSTANCES FOR MEETINGS OF THE CITY COUNCIL**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA that the Order Procedure in All Instances for Meetings of the City Council shall be as follows:

SECTION I:

That the Rules of Procedure herein contained shall govern the deliberations and meetings of all of the Council of the City of Daphne, Alabama.

SECTION II:

That the regular meetings of the City Council shall be held on the first and third Mondays of each month, which meeting shall convene at 6:30 p.m. at the City Hall Council Chamber and all meetings, regular and special, shall be opened to the public, except when Council meets in executive session as authorized by State law. The regularly scheduled work session will be held on the Monday between the first and second council meeting at 6:30 p.m. at the City Hall Council Chambers. Items for the agenda must be turned in by 5:00 p.m. on the Wednesday before the council meeting and work session.

SECTION III:

That special meetings may be held at the call of the presiding officer by serving notice on each member of the Council not less than twenty-four hours before the time set for such special called meeting. All special meetings may be held as provided by Section 11-43-50 Code of Alabama, 1975 (as amended). Furthermore, any two (2) Council members shall have the right to call for a special meeting. Notice of all special meetings shall be posted on the council approved bulletin board and appropriate customary media notified, and shall be accessible to the public twenty-four hours prior to such scheduled meeting.

SECTION IV:

A Quorum shall be determined as provided by Section 11-43-40, Code of Alabama, 1975, (as amended).

SECTION V:

That the order of business of each council meeting shall be as follows:

1. Call to Order
2. Roll Call/Invocation/Pledge of Allegiance
3. Approval of the Minutes of the Previous Meeting(s)
4. Reports of Standing Committees:
 - Finance Committee
 - Building/Property Committee
 - Code Enforcement/Ordinance Committee
 - Public Safety
 - Public Works/Solid Waste Committee
5. Reports of Special Boards and Commissions
 - Board of Zoning Adjustment
 - Downtown Redevelopment Authority
 - Industrial Development Board
 - Library Board
 - Planning Commission
 - Recreation Board
 - Utility Board
6. Report of Officers:
 - a. Mayors Report
 - b. City Attorney Report
 - c. Department Heads Report
7. Public Participation
8. Resolution, Ordinances and Other Business
9. Council Comments
10. Adjournment

SECTION VI:

That any item including all background material to be placed on agenda must be turned in by 5:00 p.m. on the Wednesday before the council meeting to the City Clerk subject to the review of the Council President. The council packet will be sent to the full City Council by 12:00 p.m. Friday before the City Council Meeting.

SECTION VII:

That no member shall speak more than twice on the same subject without permission of the presiding officer, and after all other council members have had the opportunity to speak.

SECTION VIII:

That no individual who is not a member of the City Council or the Mayor shall be allowed to address the same while in session without permission of the presiding officer and for not more than three (3) minutes, unless approved by the presiding officer. No person shall be allowed to address the Council on any matter which shall be the subject of a public hearing scheduled by the Council until the meeting under which the public hearing on that matter is scheduled to be heard. An individual wishing to speak to the council with permission of the Council President or Presiding Officer will be allowed 5 minutes. The individual must provide in writing a synopsis of the topic to be discussed. This synopsis is to be delivered to the City Clerk by the Wednesday before the council meeting at 5:00 p.m.

SECTION IX:

That those motions to reconsider must be made by a council member who voted with the majority at the same or next succeeding meeting of the Council.

SECTION X:

That whenever it shall be required by one or more members the "ayes" and the "nays" shall be recorded and any member may call for a division on any question.

SECTION XI:

That all questions of order shall be decided by the presiding officer of the Council with the right of appeal to the full Council.

SECTION XII:

That the presiding officer of the Council may, at his or her discretion, call any members to take the chair to allow him or her to address the Council or make a motion or discuss any other matter at issue.

SECTION XIII:

That motions to lay any matter on the table shall be first in order, and on all questions, the last amendment, the most distant day, and the largest financial sum shall be first put.

SECTION XIV:

That Council may meet in executive session only for purposes authorized by State law. When a council person makes a motion for executive session for an enumerated purpose, the presiding officer shall put the motion to vote. If the majority of the council shall vote in favor of the Motion for executive session the body shall then move into executive session for discussion of the matter for which executive session was called. No action may be taken in an executive session. When the discussion has been completed, the council shall resume its deliberations in public.

SECTION XV:

That a motion for adjournment shall always be in order.

SECTION XVI:

That the rules of the Council may be amended in the same manner as any other ordinance of general or permanent nature.

SECTION XVII:

That the rules of the Council may be temporarily suspended by unanimous vote of all members present.

SECTION XVIII:

That the chair of each respective committee, or the council member acting for him or her, shall submit and make report to the Council when so requested by the presiding officer or any member of the Council.

SECTION XIX:

That all ordinances, resolutions or propositions submitted to Council which require the expenditure of money will lie over until the next Council meeting; provided that such ordinance, resolution or propositions may be considered earlier by unanimous consent of the Council members present at such meeting by roll call vote and provided further that this rule shall not apply to the current expenses of, or contracts previously made with, or regular salaries of officers, or wages of employees of the City.

SECTION XX:

That all motions, resolutions, ordinances or other business required to be in writing shall be prepared and supplied to all Council members by twelve noon one full city work day before the Council meeting in which it is to be presented. (e.g. if City offices are not open, the Friday before the Monday council meeting, then the writings and documentation shall be supplied to each city council member by placing same in each member's mailbox at City Hall by noon Thursday.)

- a. It is desired that information be supplied to the City Clerk in time to be made part of the agenda packet.
- b. When a work session is called or scheduled between two council meetings, all motions, resolutions, ordinances or other business required to be in writing shall be presented in substantially the same form as that which is required for presentation at council meeting.
- c. Notwithstanding Sections a. and b., hereinabove, in the situation of an actual emergency sections a. and b., hereinabove, shall not apply. For purposes herein an actual emergency exist from failure to act will result in an immediate and irrefutable harm to the City or any of its citizens and otherwise it was physically impossible to comply with notice requirements set forth herein as the same may be determined by the presiding officer of the Council.

SECTION XXI:

That the City Clerk, City Engineer, City Attorney, Chief of Police and Fire Chief and such other officers and employees shall attend all meetings of the City Council, and shall otherwise remain in the Council Chamber for such length of time as the Council, presiding officer or Mayor may direct.

SECTION XXII:

That the City Council may have the ability to have a discussion on any motion.

SECTION XXIII:

That Roberts' Rules of Order be and is hereby adopted as the rules of procedure for this Council in those situations which cannot be resolved by the rules set forth in this Ordinance.

SECTION XXIV:

The City Council will set all public hearings by a majority vote. At all public hearings after the initial presentation all questions and comments are limited to three (3) minutes per speaker.

SECTION XXV:

All motions that come from committees must still be seconded.

SECTION XXVI:

That Ordinance 2009-21 be and is hereby repealed in its entirety and that other ordinance(s), parts of ordinance(s) or resolutions(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

SECTION XXVII:

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

SECTION XXVIII:

This Ordinance shall take effect and be enforced from and after approval by the City Council of the City of Daphne upon publication required by law.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this the _____ day of _____, 2012.

CITY OF DAPHNE, AN ALABAMA MUNICIPAL CORPORATION

COUNCIL PRESIDENT

**BAILEY YELDING, JR.,
MAYOR**

ATTEST:

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

ORDINANCE NO. 2012-64

An Ordinance setting forth the authorization of certain City Officials as designated signatories on various accounts of the City of Daphne, Alabama.

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

SECTION 1: The following Officers of the City of Daphne, Alabama, be and hereby are officially designated as the appropriate and authorized signatories on the various City accounts of the City of Daphne, Alabama:

Mayor	Bailey Yelding, Jr.
Treasurer/Finance Director	Kimberly Briley
Councilmember	John L. Lake
Councilmember	Pat Rudicell

SECTION 2: All checks, drafts, and all other financial transfers shall be signed by two (2) of the above-designated signatories.

SECTION 3: Any ordinance or resolution previously adopted which in any way conflicts with this Ordinance is hereby deemed repealed in its entirety with the exclusion of Resolution 2007-67 which prescribes signatories for the Confiscated Funds account.

SECTION 4: The provisions 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 remaining parts.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, THIS _____ day of _____, 2012.

Council President

**Bailey Yelding, Jr.,
Mayor**

ATTEST:

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

CITY COUNCIL BUSINESS MEETING AGENDA

BUSINESS MEETING

1705 MAIN STREET, DAPHNE, AL

NOVEMBER 5, 2012

7:00 P.M. (AFTER THE ORGANIATIONAL MTG.)

1. CALL TO ORDER

2. ROLL CALL/INVOCATION / PLEDGE OF ALLEGIANCE

- 3. APPROVE MINUTES:** Council Meeting Minutes / October 15, 2012
Special Called Council Meeting Minutes / October 16, 2012
Council Work Session Minutes / **NO QUORUM / NO ACTION**

PROCLAMATION: America Recycles Day / November 15, 2012

MOTION: Change November 12, 2012 Work Session Date (*Veterans Day*)

4. REPORT STANDING COMMITTEES:

- A. FINANCE COMMITTEE /**
- B. BUILDINGS & PROPERTY COMMITTEE -**
- C. PUBLIC SAFETY COMMITTEE –**
Review minutes / October 10th

- D. CODE ENFORCEMENT/ORDINANCE COMMITTEE -**
- E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY -**

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

- A. Board of Zoning Adjustments –**
- B. Downtown Redevelopment Authority –**
- C. Industrial Development Board –**
- D. Library Board –**
- E. Planning Commission –**
Review minutes / September 27th
 - a.) Set a Public Hearing Date for December 3, 2012 to consider Rezoning & Annexation of:

GCOF Retreat at Tiawasee

Location: Southwest of the intersection of Tiawasee Boulevard and County Road 13
Present Zoning: RSF-2 Single Family District, Baldwin County District 15
Requested Zoning: R-3, High Density Single Family Residential District, City of Daphne
Recommendation: No Recommendation / Motion to set forth an unfavorable recommendation failed. Six members were present three voted in the affirmative and three dissented

- F. Recreation Board –**
- G. Utility Board -**

6. REPORTS OF OFFICERS:

A. Mayor’s Report

- a.) Parade Permit / American Foundation of Suicide Prevention “Out of Darkness” / 5K & 1 Mile Fun Run / October 20, 2013
- b.) Parade Permit / Mystic Order of Persephone / Mardi Gras / February 8, 2012 / Rain Date February 10,2012
- c.) ABC License / Uncorked Fine Wines II / 040 – Retail Beer (On or Off Premises) / 060 – Retail Table Wine (On or Off Premises)
- d.) ABC License / The Fresh Market / 050 – Retail Beer (Off Premises Only) / 070 – Retail Table Wine (Off Premises Only)
- e.) National League of Cities Voting Delegate / Boston, Massachusetts / December 1, 2012

B. City Attorney’s Report

C. Department Head Comments

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

NO RESOLUTIONS

ORDINANCES:

2ND READ

- a.) **Appropriation of Funds: Police Vehicle Replacement...../Ordinance 2012-60**
- b.) **Regulating the Use of Alcoholic Beverages in Public Places
the City of Daphne...../Ordinance 2012-61**
- c.) **Regulating Personal Use of Social Media by Employees...../Ordinance 2012-62**

1ST READ

- d.) **Consenting to the Lease of Certain Property by the
Utilities Board of the City of Daphne to the City of Daphne..... /Ordinance 2012-65**

9. COUNCIL COMMENTS

10. ADJOURN

**CITY OF DAPHNE
CITY COUNCIL MEETING**

ROLL CALL

CITY COUNCIL:

CALL VOTES

COUNCILWOMAN CONAWAY	PRESENT__	ABSENT__	__
COUNCILMAN RUDICELL	PRESENT__	ABSENT__	
COUNCILMAN LAKE	PRESENT__	ABSENT__	__
COUNCILMAN FRY	PRESENT__	ABSENT__	__
COUNCILMAN SCOTT	PRESENT__	ABSENT__	__
COUNCILMAN LEJEUNE	PRESENT__	ABSENT__	__
COUNCILMAN HAYGOOD	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

**OCTOBER 15, 2012
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER

Council President Pro Tem Derek Boulware called the meeting to order at 6:35 p.m.

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE:

The invocation was given by Willie Robison.

COUNCIL MEMBERS PRESENT: Tommie Conaway; John Lake; Kelly Reese arrived at 6:40 p.m.; Ron Scott; Derek Boulware.

ABSENT: Cathy Barnette; August Palumbo.

ALSO PRESENT: Mayor Yelding; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Scott Hetrick, City Attorney; James White, Fire Chief; Margaret Thigpen, Civic Center Director; Tonja Young, Library Director; David McKelroy, Recreation Director; Richard Johnson, Public Works Director; David Carpenter, Police Chief; Richard Merchant, Building Official; Adrienne Jones, Planning Director; Christine Ciancetta, Deputy Finance Director; Suzanne Henson; Senior Accountant; Rick Whitehead, IT; Jane Ellis, Mayor's Assistant; Larry Cook, BZA; Willie Robison, BZA; Al Guarisco, Village Point Foundation; Chester McConnell, Environmental Advisory Board; Selena Vaughn, Village Point Foundation; Dorothy Morrison, Beautification Committee; Randy Fry, Councilmember elect, District 4; Robin LeJeune, Councilmember elect, District 6; Pat Rudicell, Councilmember elect, District 2; Dane Haygood, Councilmember elect, District 7.

ABSENT: Kim Briley, Finance Director; Vickie Hinman, Human Resources Director;.

3. APPROVE MINUTES:

MOTION BY Councilwoman Conaway to adopt the October 1, 2012 council meeting minutes. Seconded by Councilman Scott.

AYE Conaway, Lake, Scott, Boulware

NAY NONE OPPOSED

MOTION CARRIED

NOTE: Councilman Reese arrived at 6:40 p.m.

PRESENTATION: Freedom Shrine Documents / The Exchange Club

The Exchange Club gave a presentation on the donated copies of important documents that are part of America's history that are hanging in the lobby.

**OCTOBER 15, 2012
REGULAR CITY COUNCIL MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

4. REPORT OF STANDING COMMITTEES:

A. FINANCE – Boulware

Councilman Scott reported the minutes for the October 8th meeting are in the packet.

MOTION BY Councilman Scott to accept the Treasurers Report as of September 30, 2012, in the amount of \$18,845,224.67. *Seconded by Councilwoman Conaway.*

AYE ALL INFAVOR NAY NONE OPPOSED MOTION CARRIED

The next meeting will be November 12th 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

The minutes for the October 10th meeting are in the packet. The Alcohol Ordinance is on the agenda, but the City Attorney has sent an amendment that can be made at the November 5th meeting.

E. PUBLIC WORKS COMMITTEE/ SOLID WASTE AUTHORITY – Conaway

The minutes for the September 17th meeting are in the packet.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Adrienne Jones

The minutes for the August 2nd meeting are in the packet along with a report for the October 4th meeting. The board elected officers at the October 4th meeting, Willie Robison, Chairman; Frank Lamb, Vice Chairman; James Moss, Secretary.

B. Downtown Redevelopment Authority – Barnette

No report.

C. Industrial Development Board – Conaway

No report.

D. Library Board – Lake

The board met last week, but there was not a quorum.

**OCTOBER 15, 2012
REGULAR CITY COUNCIL MEETING
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DAPHNE, AL
6:30 P.M.**

E. Planning Commission – Barnette

Mrs. Jones stated that the minutes for the July 26th meeting, and the report for the September 25th meeting are in the packet. The Commission set forth a favorable recommendation to set a Public Hearing for amendments to the Land Use Ordinance.

MOTION BY Councilman Scott to set a Public Hearing for November 19, 2012 6:30 p.m. to consider amendments to the Land Use and Development Ordinance:

- 1.) Article 8 / Definition of Terms / Prefabricated / Accessory Structures, Prefabricated**
- 2.) Article 9, Section 12 (g) / Accessory Structures**

Seconded by Councilman Lake.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

Mrs. Jones reported that the Commission elected officers at the last meeting Ed Kirby, Chairman; Larry Chason, Vice Chairman; Don Terry, Secretary. She stated that the Commission sent forth a favorable recommendation for the Vacation of Easement on the agenda this evening.

F. Recreation Board – Reese

No report.

G. Utility Board – Scott

There will be a meeting to discuss the budget Thursday at 5:00 p.m.

6. REPORTS OF THE OFFICERS:

A. *Mayor's Report*

- a.) Parade Permit / American Foundation of Suicide Prevention “Out of Darkness” / 5K Walk & 1 Mile Walk / October 21, 2012

MOTION BY Councilman Scott to approve the Parade Permits for American Foundation of Suicide Prevention “Out of Darkness” / 5K & 1 Mile Walk / October 21, 2012. *Seconded by Council Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

B. *City Attorney Report*

No report.

**OCTOBER 15, 2012
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C. Department Head Comments

James White – Fire Chief – reported that October 7-13 a Fire Safety Program “Find Two Ways Out” will be presented at all area elementary schools. The Fire Department is once again offering free smoke detectors and installation which is made possible by a grant from Wal Mart. They are currently raising funds for Breast Cancer Awareness by selling pink t-shirts available at the Daphne Fire Department Fire Station #2 on Main Street.

David McKelroy – Recreation Director – reported that Brown Bag by the Bay has three (3) more weeks from 11:30 a.m. – 1:30 p.m. at May Day Park. Mobile Bay Football has rented Trione Sports Complex with 90 teams that will be using six (6) of the fields and some in Fairhope which will be good for Daphne hotels since Fairhope doesn’t have many hotels.

Margaret Thigpen – Civic Center Director – reported there will be an open house at the Civic Center on October 25th at 4:00 p.m. There will be Movie Night next Sunday, October 28th at a cost of \$1.00. There will be an open house at Bayfront on October 30th, the general election will be November 6th, and Ballroom Dance tickets are on sale.

Adrienne Jones – Planning Director – reported that the Planning Commission Site Review meeting is Wednesday at 10:00 a.m. There is a Low Impact meeting temporarily scheduled for October 29th.

7. PUBLIC PARTICIPATION:

Mr. James Austin – Spanish Fort – spoke regarding what he perceives as a campaign violation in the late filing of economic interest papers by a candidate.

Mr. Willie Robison – 560 Stuart Street – thanked council for the last four (4) years of service, and wished the new council well in serving the citizens of Daphne. He commended Mrs. Jones for being so organized.

Mr. Kevin Spriggs – Owner of Businesses in Daphne – spoke regarding the alleged campaign violation of late filing as not being consequential. He said overturning an election is very serious, and when you overturn an election it should be for a very serious violation.

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8. RESOLUTIONS, ORDINANCES, ORDERS AND OTHER BUSINESS:

RESOLUTIONS:

- a.) Vacation of Easement(s) / J.R. & Mellissa Allstun
 Lots 101 & 102, Lake Forest Subdivision, Unit 14. /Resolution 2012-76
- b.) Acceptance of Property / W. Andrew Johnson &
 Michael Kipping. /Resolution 2012-77
- c.) Prepaid Travel / David Cohen. /Resolution 2012-78
- d.) Bid Award: Fiber Installation & Service / JMF Solutions. /Resolution 2012-79
- e.) Bid Award: Lake Forest Road Improvements, Phase II /
 Asphalt Services, Inc. /Resolution 2012-80
- f.) Investment Account Manager & Investment 2012 Construction
 Fund. /Resolution 2012-81
- g.) Declaring Certain Property Surplus. /Resolution 2012-82

MOTION BY Councilman Scott to waive the reading of Resolutions 2012-76, 2012-77, 2012-78, 2012-79, 2012-80, 2012-81 and 2012-82. *Seconded by Councilwoman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2012-76. *Seconded by Councilman Reese.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2012-77. *Seconded by Councilwoman Conaway.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

OCTOBER 15, 2012
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MOTION BY Councilman Scott to adopt Resolution 2012-78. *Seconded by Councilman Reese.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2012-79. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2012-80. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2012-81. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Resolution 2012-82. *Seconded by Councilwoman Conaway.*

AYE Conaway, Reese, Scott, Boulware NAY Lake

MOTION CARRIED

ORDINANCES:

1ST READ

- a.) Appropriation of Funds: Wireless Service / Internal City Network & Fiber Service / Civic Center / Recreation Center/Ordinance 2012-59
- b.) Appropriation of Funds: Police Vehicle Replacement. /Ordinance 2012-60
- c.) Regulating the Use of Alcoholic Beverages in Public Places the City of Daphne. /Ordinance 2012-61
- d.) Regulating Personal Use of Social Media by Employees. /Ordinance 2012-62

OCTOBER 15, 2012
 REGULAR CITY COUNCIL MEETING
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MOTION BY Councilman Scott to suspend the rules to consider Ordinance 2012-59. Seconded by Councilwoman Conaway.

ROLL CALL VOTE

Conaway	Aye	Scott	Aye
Lake	Aye	Boulware	Aye
Reese	Aye		

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to waive the reading of Ordinance 2012-59. Seconded by Councilman Reese.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Scott to adopt Ordinance 2012-59. Seconded by Councilman Reese.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

9. COUNCIL COMMENTS:

Mayor Yelding thanked the council for suspending the rules on Ordinance 2012-59, because of the urgency to get this done.

Councilman Lake commented that he was sorry that Councilwoman Barnette could not be present for the last meeting. He mentioned that her husband was in the hospital and that Councilman Palumbo had eye surgery so he could not be here either. He said it was a pleasure serving with both of them, and hopes the city will do something to recognize both of them in the future. He commended all the council members for working well together for the last four (4) years.

Councilman Reese said he appreciated the honor to serve, and thanked the council members who saw fit to put him on the council.

Councilwoman Scott – said that he has spent eight (8) years serving with Councilwoman Barnette and Councilman Palumbo, and four (4) with Councilman Boulware and less with Councilman Reese, although they did not always agree, and did not always get their way and had

**OCTOBER 15, 2012
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different visions for the city they always had the interest of the City of Daphne at heart. It is an investment.

Councilman Boulware – acknowledged his father, who was in the audience. He thanked God for the opportunity, his family, citizens, fellow councilmen and the Mayor for their support of the last four (4) years. He is grateful for the opportunity to serve the citizens, and will remain dedicated to Daphne, State and Country. He wished the Mayor well, and good fortune and best in his term of office.

10. ADJOURN:

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

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

There being no further business to discuss the meeting adjourned at 7:20 p.m.

Respectfully submitted by,

David L. Cohen, City Clerk, MMC

Certification of Presiding Officer,

Council President

**OCTOBER 16, 2012
 CITY OF DAPHNE, AL
 SPECIAL CALLED CITY COUNCIL MEETING
 1705 MAIN STREET
 10:00 A.M.**

1. CALL TO ORDER

Council President Barnette called meeting to order at 10:00 a.m.

ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Councilman Scott gave the invocation.

COUNCIL MEMBERS PRESENT: Tommie Conaway; Cathy Barnette; John Lake; Ron Scott.

ABSENT: Kelly Reese; Derek Boulware; August Palumbo.

Also present: Mayor Yelding; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk.

2. CANVASS VOTES OF MUNICIPAL ELECTION/ Resolution 2012-83

Mr. Cohen read the tally of the votes for each district and machine, and read the provisional ballot votes. (Provisional ballot results are spread out upon these minutes.) The votes were as follows:

MAYOR

VOTING MACHING #	NAME OF PRECINCT	<i>Guide Line</i>	Derek Boulware	Bailey Yelding, Jr.	<i>Guide Line</i>
1	District # 1	<i>1</i>	48	223	<i>1</i>
2	District # 1	<i>2</i>	73	363	<i>2</i>
		<i>3</i>			<i>3</i>
1	District # 2	<i>4</i>	175	158	<i>4</i>
2	District # 2	<i>5</i>	159	207	<i>5</i>
		<i>6</i>			<i>6</i>
1	District # 3	<i>7</i>	109	160	<i>7</i>
2	District # 3	<i>8</i>	65	155	<i>8</i>
		<i>9</i>			<i>9</i>
1	District # 4	<i>10</i>	334	239	<i>10</i>
2	District # 4	<i>11</i>	68	86	<i>11</i>
3	District # 4	<i>12</i>	0	0	<i>12</i>
		<i>13</i>			<i>13</i>
1	District # 5	<i>14</i>	153	113	<i>14</i>
2	District # 5	<i>15</i>	36	37	<i>15</i>
3	District # 5	<i>16</i>	0	0	<i>16</i>
		<i>17</i>			<i>17</i>
1	District # 6	<i>18</i>	146	50	<i>18</i>
2	District # 6	<i>19</i>	268	171	<i>19</i>
3	District # 6	<i>20</i>	3	1	<i>20</i>
		<i>21</i>			<i>21</i>

**OCTOBER 16, 2012
 CITY OF DAPHNE, AL
 SPECIAL CALLED CITY COUNCIL MEETING
 1705 MAIN STREET
 10:00 A.M.**

1	District # 7	22	126	48	22
2	District # 7	23	307	190	23
3	District # 7	24	7	2	24
		25			25
	Absentee Votes	26	55	50	26

Sub-Total (including Absentee)			2132	2253	
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Provisional Votes			0	0	
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TOTAL VOTES			2132	2253	
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MAYOR - BAILEY YELDING, JR.

MOTION BY Councilman Lake to waive the reading of Resolution 2012-83. Seconded by Councilwoman Conaway.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Lake to adopt Resolution 2012-83. Seconded by Councilwoman Conaway.

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

3. ADJOURN

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

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

**OCTOBER 16, 2012
CITY OF DAPHNE, AL
SPECIAL CALLED CITY COUNCIL MEETING
1705 MAIN STREET
10:00 A.M.**

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED
AT 10:11 AM.**

Respectfully submitted by:

**David L. Cohen,
City Clerk**

Certified by Presiding Officer:

Council President



BOARD OF REGISTRARS

MEMBERS

PATSY T. CLARK - (251) 937-0229
CHAIRPERSON
ALBERT LIPSCOMB - (251) 937-0304
JULIA DONAHUE - (251) 937-0349

Baldwin County
119 West 2nd Street
P. O. Box 1507
Bay Minette, Alabama 36507-1507
Office: (251) 937-0305
Fax: (251) 580-2522

TOLL FREE NUMBERS
EASTERN SHORE
(251) 990-4614
SOUTH BALDWIN
(251) 972-6877

STATE OF ALABAMA
COUNTY OF BALDWIN

CERTIFICATION

We the undersigned members of the Board of Registrars in and for Baldwin County, Alabama do hereby certify to the City Clerk/Elections Manager Daphne, Alabama the receipt of the following voters casting Provisional Ballots in the Daphne Municipal Run-off Election held on October 9, 2012.

Total number of Provisional Ballots cast were - 20

We do further certify that said list reflects actions taken in regard to the ballots. Done this 15th day of October, 2012.

BALDWIN COUNTY BOARD OF REGISTRARS

Patsy T. Clark, Chairman

Albert Lipscomb, Member

Julia Donahue, Member

BALDWIN

Processed: 10/10/2012 3:24 PM
Printed: 10/10/2012 3:25 PM

Provisional Ballot Detail Report

2012 DAPHNE MUNI RUN-OFF, 10/9/2012 00:00:00
Based on Voted Precinct

Registrant ID SSN	Registrant Name Residential Address	Ballot Number PIN	Type Returned	Res Prec Voted Prec	Status	Reason
050015127 --7915	VALRIE, JACQUELINE BROWN 1209 ARMSTEAD AVE DAPHNE, AL 36526	04081944	Absentee 10/10/2012 13:35	0490.06	REJECTED	NO/MISSING IDENTIFICATION
050050500 --1133	FASSBENDER, FREDERICK WILSON 103 PIPPIN CIR DAPHNE, AL 36526	02271947	Absentee 10/10/2012 13:47	0490.16	REJECTED	NO WITNESS
673431543 --3922	BOOTHE, JOAN F 29882 SAINT BARBARA ST DAPHNE, AL 36526	11011927	Absentee 10/10/2012 13:50	0071.04	REJECTED	NO WITNESS
673076885 --0061	THOMAS, GEORGIA ANN 112 GEORGIA AVE DAPHNE, AL 36526	08051957	Poll Voter 10/10/2012 13:09	0071.01	REJECTED	NOT REG AT TIME OF ELECTION
673076874 --7170	DACUS, WENTER RAE 112 GEORGIA AVE DAPHNE, AL 36526	10181979	Poll Voter 10/10/2012 13:14	0071.01	REJECTED	NOT REG AT TIME OF ELECTION
050034346 --5556	CHANDLER, KIMBERLY ELAINE 39770 HANNIS WILLIAMS RD BAY MINETTE, AL 36507	11141967	Poll Voter 10/10/2012 13:17	0160.04	REJECTED	NOT REG AT TIME OF ELECTION
050058908 --	HOOKS, JAMES ALPHONSO PO BOX 86 DAPHNE, AL 36526	01111957	Poll Voter 10/10/2012 13:22	0490.14	REJECTED	NOT REG AT TIME OF ELECTION
050032443 --8533	CHATHAM, ROBERT AARON 790 C DAPHNE AVE DAPHNE, AL 36526	01081958	Poll Voter 10/10/2012 13:25	0490.15	REJECTED	VOTED IN WRONG DISTRICT
673673871 --	JOHNSON, KEISHAWNA JABRAE 28251 N 6TH AVE DAPHNE, AL 36526	01291991	Poll Voter 10/10/2012 13:33	0490.08	REJECTED	NOT REGISTERED IN COUNTY
673673931 --3260	PEARL, KATHERINE M 601 MCADAMS AVE DAPHNE, AL 36526	08121973	Poll Voter 10/10/2012 13:53	0490.17	REJECTED	NOT REG AT TIME OF ELECTION
673432593 --4376	PETTY, JOSHUA MICHAEL 24804 BOSEYSHELL AVE DAPHNE, AL 36526	07031991	Poll Voter 10/10/2012 13:57	0230.01	REJECTED	VOTED IN WRONG PRECINCT

BALDWIN

Processed: 10/10/2012 3:24 PM
Printed: 10/10/2012 3:25 PM

Provisional Ballot Detail Report

2012 DAPHNE MUNI RUN-OFF, 10/9/2012 00:00:00
Based on Voted Precinct

Registrant ID SSN	Registrant Name Residential Address	Ballot Number PIN	Type Returned	Res Prec Voted Prec	Status	Reason
050090344 -4360	PHILLIPS, RUBY WILLIAMS 24490 HOLY CROSS DR DAPHNE, AL 36526	11121945	Poll Voter 10/10/2012 14:00	0490.05	REJECTED	VOTED IN WRONG DISTRICT
673659804 -9519	WINSTON, GRACIE S 909 JONES ST DAPHNE, AL 36526	08081992	Poll Voter 10/10/2012 14:09	0490.06	REJECTED	NOT REG AT TIME OF ELECTION
673223472 -6038	RUDOLPH, BRANDI DESHA 25483 A POLLARD RD DAPHNE, AL 36526	08091990	Poll Voter 10/10/2012 14:12	0490.01	REJECTED	VOTED IN WRONG DISTRICT
050094844 -0002	RUDOLPH, CHARLESETTA 25483 A POLLARD RD DAPHNE, AL 36526	09161960	Poll Voter 10/10/2012 14:19	0490.01	REJECTED	VOTED IN WRONG DISTRICT
050009792 -1945	QUAITES, SHIRLEY ADAMS 24475 HOLY CROSS DR DAPHNE, AL 36526	12131935	Poll Voter 10/10/2012 14:23	0490.05	REJECTED	VOTED IN WRONG DISTRICT
050068137 -5682	KAYE, DOUGLAS ADAIR, JR 26218 VIA DEL SAN FRANCESCO DAPHNE, AL 36526	12251940	Poll Voter 10/10/2012 14:28	0490.15	REJECTED	VOTED BY ABSENTEE
673221906 -5720	HOBBS, GREGORY L 31233 A US HIGHWAY 31 SPANISH FORT, AL 36527	10181959	Poll Voter 10/10/2012 14:32	0071.02	REJECTED	VOTED IN WRONG PRECINCT
050088498 --	PICKETT, KATHY VERONICA PO BOX 69 DAPHNE, AL 36526	08101958	Poll Voter 10/10/2012 14:35	0490.01	REJECTED	VOTED IN WRONG PRECINCT
020451495 -6447	SEWELL, JAMES LEROY 1309 JOHNSON RD DAPHNE, AL 36526	02011955	Poll Voter 10/10/2012 14:43	0490.06	REJECTED	NOT REG AT TIME OF ELECTION

Provisional Ballot Statistics

2012 DAPHNE MUNI RUN-OFF, 10/09/2012

Status	Reason	Poll	Abs.	Early	Total
ACCEPTED					
	ABSENTEE BALLOT NOT RETURNED	0	0	0	0
	BALLOT NOT MAILED OR HAND-DELIVERED	0	0	0	0
	CHALLENGE OF VOTER UPHELD	0	0	0	0
	CHECK WITH LOCAL REGISTRARS OFFICE	0	0	0	0
	DISQUALIFYING FELONY CONVICTION	0	0	0	0
	I.D.	0	0	0	0
	INSUFFICIENT DOCUMENTATION	0	0	0	0
	MENTALLY INCOMPETENT IN COURT	0	0	0	0
	MISSING ID PROVIDED	0	0	0	0
	MISTAKENLY LEFT OFF LIST	0	0	0	0
	NO SIGNATURE ON PROVISIONAL BALLOT	0	0	0	0
	NO SIGNATURES ON ROSTER	0	0	0	0
	NO WITNESS	0	0	0	0
	NO/MISSING IDENTIFICATION	0	0	0	0
	NOT REG AT TIME OF ELECTION	0	0	0	0
	NOT REGISTERED IN COUNTY	0	0	0	0
	NOT REGISTERED IN STATE	0	0	0	0
	REFUTES REG.	0	0	0	0
	REGISTERED IN OTHER COUNTY	0	0	0	0
	STATUS	0	0	0	0
	UPDATED TO CORRECT PRECINCT	0	0	0	0
	VOTED BY ABSENTEE	0	0	0	0
	VOTED IN WRONG DISTRICT	0	0	0	0
	VOTED IN WRONG PRECINCT	0	0	0	0
	VOTED MORE THAN 1 PROVISIONAL BALLOT	0	0	0	0
	Total ACCEPTED	0	0	0	0
REJECTED					
	ABSENTEE BALLOT NOT RETURNED	0	0	0	0
	BALLOT NOT MAILED OR HAND-DELIVERED	0	0	0	0
	CHALLENGE OF VOTER UPHELD	0	0	0	0
	CHECK WITH LOCAL REGISTRARS OFFICE	0	0	0	0
	DISQUALIFYING FELONY CONVICTION	0	0	0	0
	I.D.	0	0	0	0
	INSUFFICIENT DOCUMENTATION	0	0	0	0
	MENTALLY INCOMPETENT IN COURT	0	0	0	0
	MISSING ID PROVIDED	0	0	0	0

Provisional Ballot Statistics

2012 DAPHNE MUNI RUN-OFF, 10/09/2012

Status	Reason	Poll	Abs.	Early	Total
REJECTED					
	MISTAKENLY LEFT OFF LIST	0	0	0	0
	NO SIGNATURE ON PROVISIONAL BALLOT	0	0	0	0
	NO SIGNATURES ON ROSTER	0	0	0	0
	NO WITNESS	0	2	0	2
	NO/MISSING IDENTIFICATION	0	1	0	1
	NOT REG AT TIME OF ELECTION	7	0	0	7
	NOT REGISTERED IN COUNTY	1	0	0	1
	NOT REGISTERED IN STATE	0	0	0	0
	REFUTES REG.	0	0	0	0
	REGISTERED IN OTHER COUNTY	0	0	0	0
	STATUS	0	0	0	0
	UPDATED TO CORRECT PRECINCT	0	0	0	0
	VOTED BY ABSENTEE	1	0	0	1
	VOTED IN WRONG DISTRICT	5	0	0	5
	VOTED IN WRONG PRECINCT	3	0	0	3
	VOTED MORE THAN 1 PROVISIONAL BALLOT	0	0	0	0
	Total REJECTED	17	3	0	20
SUSPENSE					
	ABSENTEE BALLOT NOT RETURNED	0	0	0	0
	BALLOT NOT MAILED OR HAND-DELIVERED	0	0	0	0
	CHALLENGE OF VOTER UPHELD	0	0	0	0
	CHECK WITH LOCAL REGISTRARS OFFICE	0	0	0	0
	DISQUALIFYING FELONY CONVICTION	0	0	0	0
	I.D.	0	0	0	0
	INSUFFICIENT DOCUMENTATION	0	0	0	0
	MENTALLY INCOMPETENT IN COURT	0	0	0	0
	MISSING ID PROVIDED	0	0	0	0
	MISTAKENLY LEFT OFF LIST	0	0	0	0
	NO SIGNATURE ON PROVISIONAL BALLOT	0	0	0	0
	NO SIGNATURES ON ROSTER	0	0	0	0
	NO WITNESS	0	0	0	0
	NO/MISSING IDENTIFICATION	0	0	0	0
	NOT REG AT TIME OF ELECTION	0	0	0	0
	NOT REGISTERED IN COUNTY	0	0	0	0
	NOT REGISTERED IN STATE	0	0	0	0
	REFUTES REG.	0	0	0	0

Provisional Ballot Statistics

2012 DAPHNE MUNI RUN-OFF, 10/09/2012

Status	Reason	Poll	Abs.	Early	Total
SUSPENSE					
	REGISTERED IN OTHER COUNTY	0	0	0	0
	STATUS	0	0	0	0
	UPDATED TO CORRECT PRECINCT	0	0	0	0
	VOTED BY ABSENTEE	0	0	0	0
	VOTED IN WRONG DISTRICT	0	0	0	0
	VOTED IN WRONG PRECINCT	0	0	0	0
	VOTED MORE THAN 1 PROVISIONAL BALLOT	0	0	0	0
	Total SUSPENSE	0	0	0	0
Grand Total		17	3	0	20

OCTOBER 22, 2012
CITY COUNCIL WORK SESSION
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

1

COUNCIL MEMBERS PRESENT: Tommie Conaway; John Lake; Kelly Reese Ron Scott.

ABSENT: Cathy Barnette; Derek Boulware; August Palumbo.

Also present: Mayor Yelding; David Cohen, City Clerk; Rebecca Hayes, Assistant City Clerk; Jay Ross, City Attorney; Richard Johnson, Public Works Director; Margaret Thigpen, Civic Center Director; James White, Fire Chief; David Carpenter, Police Chief; Tonja Young, Librarian; David McKelroy, Recreation Director; Adrienne Jones, Planning Director; Kim Briley, Finance Director; Christine Ciancetta, Deputy Finance Director; Vickie Hinman, Human Resources Director; Ken Hitson, City Judge; Jim Scroggins, City Prosecutor; Denise Penry, Public Works Accountant; Rick Whitehead, IT; Larry Cook, BZA.

David Cohen, City Clerk, called the meeting to order at 6:35 p.m., and stated there was not a quorum for a meeting.

PROCLAMATION

City of Daphne America Recycles Day November 15, 2012

- WHEREAS** The City of Daphne residents generate more than 6319.82 tons of garbage and 3440.87 tons of trash that is buried in our landfill; and
- WHEREAS** The City of Daphne residents are on track to recycle more than 1839 tons of recycle through the curbside and drop-off recycling program and 1750 tons of vegetative debris; and
- WHEREAS** “Recycle Daphne”, a program of the City of Daphne is the largest municipal recycling program in Baldwin County serving Daphne and surrounding residents daily.
- WHEREAS** Recycling saves precious energy, conserves valuable natural resources, protects the environment, reduces landfill needs and has a positive economic impact; and
- WHEREAS** The City of Daphne, Baldwin County and its residents can do more to help the State of Alabama meet its 25% waste-reduction and recycling goals by just recycling 10% more; and
- WHEREAS** Waste reduction and the purchase of recycled-content products are critically important elements of an environmentally responsible waste management program; and
- WHEREAS** America Recycles Day is a national promotion to help raise awareness about recycling and buying recycled products; and
- WHEREAS** The theme of America Recycles Day 2012 is, “I Recycle”; and
- WHEREAS** The City of Daphne is hosting America Recycles 2012 events titled “I Recycle Daphne” to celebrate the worthwhile cause of recycling and is giving away fun prizes for residents who commit to do more to make recycling work; and

Now, therefore, I Mayor Bailey Yelding, proclaim November 15, 2012

America’s Recycles Day

In the City of Daphne

Given under my hand and the Executive Seal of
the City this 15th day of November 2012.

**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

Public Safety Committee

Wednesday, October 10, 2012

Councilman Derek Boulware
Councilman Kelly Reese
Councilman Ron Scott
Fire Chief James White
Public Works, Melvin McCarley

Police Chief David Carpenter
Captain Scott Taylor
Captain Daniel Bell
Tracy Bishop - Secretary

Committee Members Attending:

Councilman Ron Scott, Chief David Carpenter, Chief James White, Melvin McCarley, and Pat Rudicell.

CALL TO ORDER

Councilman Scott convened the meeting at 4:30 p.m.

PUBLIC PARTICIPATION – Bobbie Rentz, 174 Robbins Blvd, 626-2809 was in attendance voicing her concerns about traffic backing up at Hwy 90/Hwy 181 intersection. She stated that she comes west on Hwy 90 every morning and has to sit through 4 or 5 lights before she can turn right. She wanted to know if a right turn lane could be put at that intersection. She was informed that is the State of Alabama roadway and she could do a petition and tell the Department of Transportation that she was referred by the Public Safety Committee to try and get something started. Councilman Scott commented that we had complaints before on this intersection and they were referred to the State of Alabama. She was also asked to call Lee Reach with the Department of Transportation in Mobile. Melvin stated that he would ask Richard Johnson to talk to him also. Chief Carpenter added that they would probably do a study first then probably co-op with the City of Daphne to install a turn lane. Councilman Scott stated that the city is a member of the MPO (Metropolitan Planning Organization) and they are to do \$1 million in transportation improvements between Fairhope, Daphne, and Spanish Fort and she could go to them also.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Minutes from August and September 2012 meetings could not be approved because there was not a quorum.

POLICE DEPARTMENT

New Business – Chief Carpenter stated that stats show that they have been pretty busy. He stated that we've had two deaths from natural causes this week and The Computer Guy (business) was broken into on Tuesday night between 10-12pm. Chief Carpenter explained his monthly report to Pat Rudicell. He stated that the speed limit on Hwy 181 is now 55 mph.

B. Old Business – None

FIRE DEPARTMENT

A. New Business – Chief White stated his stats were not in the package, he will double up next month. Councilman Scott asked Chief White that in 4 years would it be good to move the polling place from Fire Station #2 to Daphne High School? Chief White agreed. Scott also asked about the connection to Johnson Road to Profit Drive. White stated that the new fire truck delivery is May 2013 and the road should be completed by then.

B. Old Business-

OTHER BUSINESS :

ADJOURN

There being no further business to discuss, Mr. Scott made a motion to adjourn the meeting at 5:00 p.m. The next meeting will be Wednesday, November 14, 2012 at 4:30 p.m. at City Hall Council Chambers.

Respectfully submitted,
Daphne Public Safety Committee

A handwritten signature in cursive script that reads "Jay Bishop". The signature is written in black ink and is positioned below the typed name of the committee.

Patrol Division	Detective Division: (Capt. Bell/Lt. Beedy)		JAIL: (Capt. Taylor/Lt. Yelding)		Animal Control (Capt. Taylor/Lt. Yelding)		Crimes Reported This Month:
(Capt. Bell/Lt. Hempfleng)							
# Complaints	1,186	# New Cases Received: 89	Total Arrestees Received & Processed: 182	YTD			
# Misd. Arrests	63	# Previous Unsolved Cases: 57	Arrestees by Agency:	2,063			Arson 0
# Felony Arrests	3	# Cases Solved: 44	Daphne PD 104	1,290	#Complaints 52		Burglary - Commercial 2
DUI Arrests	13	Resulting in Total Arrests: 14	BCSO 11	127	#Follow-ups 115		Burglary - Residence 6
Alias Warrant Arrests	19	Felonies: 11	Spanish Fort PD 51	451	#Citations 1		Burglary - Vehicle 21
Citations	328	Misdemeanors: 3	Silverhill PD 14	143	Warnings 31		Criminal Mischief 5
Close Patrols	519	Houses Searched 0	Troopers 2	45	#Felines Captured 28		Disorderly Conduct 1
Warnings	241		Other Agencies 0	7	#Canines Captured 25		Domestic Disturbance 26
Motorist Assists	281				#Other Captured 6		False Info to Police 1
Roadway Accidents	71	Warrants:			#Returned to Owner 17		Felony Assault 1
Private Property Accidents	25	Served 45			#Adopted Out 15		Felony Theft 10
Traffic Homicide	0	Agency Assists 9	Highest 33		#Euthanized 52		Harassment 9
		Recalls (Pd Fines) 5	Lowest 26				Identity Theft 2
DRUG REPORT		Total Warrants Served 59					Indecent Exposure 1
ROUTINE PATROL/SPECIAL OPS			Meals Served 2,136				Kidnapping 0
# Misd. Marijuana Arrest	0	Sex Offender:	Medical Cost \$1,831.50	19,152			Menacing 2
# Felony Marijuana Arrest	1	New Registration: 1	Worker Inmate Hours 221	\$17,847.31			Misdemeanor Assault 3
# Controlled Substance Arrest	1	Contact Verification 5		1,853			Misdemeanor Theft 18
# Drug Paraphernalia Arrest	2	Total # registered in Daphne 7					Murder 0
Vehicles Searched	17	DARE:					Other Death Investigations 3
		# Hours Report Writing: 0					Public Intoxication 1
		# Students Instructed SRO 105					Public Lewdness 0
Drugs Seized:	0	# Students Instructed DARE 105					Receiving Stolen Property 0
Type:	0	# Police Reports by SRO 0					Reckless Endangerment 1
Money Seized	0	# Arrest by SRO 0					Resisting Arrest 0
Vehicles Seized							Robbery 0
		CODE ENFORCEMENT:					Sex Crime Investigations 2
Commercial Vehicle Inspections	103	Warnings: 5					Suicide 0
		Citations 1					Suicide, attempted 0
		Warning Compliance					Theft of Services 0
		Follow - Up 22					Unauthorized Use of Services 0
		50					Weapon Offenses 0
							White Collar Crimes 5

David Carpenter

**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:

To: Office of the City Clerk
From: Adrienne D. Jones, 
Community Development Director
Subject: Planning Commission Minutes and Report
Date: October 29, 2012

MEMORANDUM

Attached please find a copy of the approved minutes for the City of Daphne Planning Commission regular meeting of September 27, 2012 and the report of October 25, 2012 for placement on the Monday, November 5, 2012 City Council agenda for review.

Should you have any questions or comments in this regard, please do not hesitate to call.

ADJ/jd

From the Office of

Adrienne D. Jones
Community Development Director
P. O. Box 400
Daphne, Alabama 36526
251-621-3184 ph
251-621-3185 fx

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 27, 2012
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

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 5:05 p.m.

CALL OF ROLL:

Members Present:

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

Members Absent:

Bailey Yelding, Jr., Mayor

Staff Present:

Adrienne Jones, Director of Community Development
Jan Dickson, Planning Coordinator
Britton Bonner, Attorney

Staff Absent:

Richard Johnson, Public Works Director
Ashley Campbell, Environmental Programs Manager
Richard Merchant, Building Official
Jay Ross, Attorney
Misty Gray, Attorney

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 Mayor Yelding is not present.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 27, 2012
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

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

APPROVAL OF MINUTES:

The minutes of the July 26, 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 Mr. Chason and Seconded by Mr. Lemoine to approve the minutes of the July 26, 2012 regular meeting, as submitted. The Motion carried. Mr. Terry abstained due to his absence at the meeting.

NEW BUSINESS:

The first order of business is an administrative presentation for AT&T.

ADMINISTRATIVE PRESENTATION:

An introductory presentation was given by N. Andrew Rotenstreich, representing Haskell-Slaughter, regarding a proposal for the placement of an AT&T temporary telecommunications site (a cell on wheels-COW) to be located at the Daphne Justice Center, 1502 U.S. Highway 98. The temporary site would remain in operation until such time a permanent site, a one hundred and eighty-foot monopole telecommunications tower, is constructed. In order to achieve this, we need a recommendation from the Planning Commission to the City Council regarding placement of the (cell on wheels-COW), at this location.

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

A Motion was made by Ms. Barnette and Seconded by Mr. Terry for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the placement of an AT&T temporary telecommunications site (a cell on wheels-COW) to be located at the Daphne Justice Center, 1502 U.S. Highway 98. The Motion carried unanimously.

The next order of business is a public hearing for a revision to the Land Use and Development Ordinance, Article 9, Section 12 (g) and Definitions.

PUBLIC HEARINGS:

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 27, 2012
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**

3rd amendment to Ordinance 2011-54, Land Use and Development Ordinance, a revision to Article 9, Section 12 (g), add Fabricated accessory structures are intended for storage. Any and all prefabricated accessory structures shall conform to the following requirements: 1. Shall be no more than 18 ft (eighteen feet) in length; 2. Shall not be used as a habitable unit; 3. Shall not be served by heat or plumbing; and, 4. Does not need to be placed on a permanent foundation.

4th amendment to Ordinance 2011-54, Land Use and Development Ordinance, a revision to Article 8, Definitions, add Prefabricated (prefab or factory built). Any structure, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. A building which is wholly or in substantial part manufactured at an off-site location to be assembled on-site; and Accessory Structures, Prefabricated. An accessory structure that is pre-built or purchased in a kit in prefabricated sections. It is not designed or intended to be used as a habitable unit and is not designed to be served by central heat, or sanitary plumbing and does not need to be placed on a permanent foundation. A non-habitable unit that is pre-built or purchased in a kit in prefabricated sections.

Chairman: Do any of the Commissioners have any questions or comments? If not, the Chair will open the floor for public participation.

Mr. Ouellette: The third amendment to the Ordinance says the length shall be no more than eighteen feet, but it does not specify a width which should be no more than twelve feet. Why?

Chairman: There should be a twelve-foot maximum for an accessory building.

Ms. Barnette: The width is a valid component.

Mr. Lemoine: Why does the amendment say fabricated?

Mr. Chason: If it is not prefabricated and delivered to the site, then it may not be an accessory building and would be considered to be a fabricated structure of another different type. Should we add a width or change it to a square footage requirement? Are we in a hurry to pass the amendments to the Land Use Ordinance?

Chairman: No, but we are doing it as a preventive measure to prevent another building for going in like the one in Park City.

Mr. Chason: I think we need the Building Official's comments before we move forward.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 27, 2012
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

Ms. Barnette: Can we forward it with a favorable recommendation and the suggested changes, and if he has an issue with those changes we can hold it over?

Ms. Jones: If he has a problem with it, we could pull it or bring it back to the Planning Commission for review.

Mr. Ouellette: The other question I had is how many can you put on a lot?

Mr. Chason: If we make the regulation too long, it will give them a loophole. This amendment will give the Building Official the authority to say what the applicant is putting on the property is a dwelling or an accessory building.

Chairman: Is there anyone else? If there are no further comments, public participation is closed. Do any of the Commissioners have any questions or comments? If there is no objection, the Chair will entertain a motion.

A Motion was made by Mr. Chason and **Seconded** by Ms. Barnette *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the adoption of a proposed revision to Ordinance 2011-54, of the Land Use and Development Ordinance, 3rd Amendment, Article 9, District Provisions, Section 12(g), with the addition of the maximum square footage of two hundred and twenty (220) square feet, and the 4th amendment, a revision to Article 8, Definitions, as read. The Motion carried unanimously.*

The next order of business is a site plan review for the French Settlement Pool.

SITE PLAN REVIEW:

File S12-08:

Site: French Settlement Pool

Zoning(s): R-2, Medium Density Single Family Residential

Location: Common area 4, French Settlement Subdivision, Phase 1A, northwest of Longue Vue Boulevard and Felicity Lane

Area: 3.3 Acres ±

Owner: Spa Daphne, L.L.C.

Engineer: Poly Surveying - Vince LaCoste

An introductory presentation was given by Mr. Vince LaCoste, representing Polysurveying. This is a site plan for the construction of a community pool in Common Area 4 of French Settlement Subdivision, Phase 1A on County Road 13. I will be happy to answer any questions you may have.

**THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 27, 2012
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**

Mr. LaCoste: Mr. Bryan Marshburn, Hudson Realty Capital, is here also on behalf of the French Settlement Property Owners' Association to answer any questions you may have.

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

Chason: Mr. Marshburn, are you a part of Daphne Spa, L.L.C. or a property owner in the subdivision?

Mr. Marshburn: No.

Mr. Chason: The reason I am asking is if your signature is on the indemnification form for the common area or the subdivision that makes you personally responsible for the maintenance of the detention pond. The operating property owners' association president has to take that responsibility off of your shoulders once everything is turned over to the property owners' association when he has executed the appropriate document.

Mr. Marshburn: I only work for the management company which is funding the project. Once the project is complete, the company will be turning the common area over to the property owners' association.

Mr. Chason: You also need an agreement between the owner and/or owners of French Settlement Subdivision, Phase 1A and 1B, and the adjacent property owner to the north in order to direct storm water into the off-site pond which was to be located in the next phase. Do we need these issues resolved before we move forward with the project?

Ms. Jones: You could approve the site plan, contingent upon the execution of a document obtaining an easement for the off-site detention pond, and the property owners' association presenting the indemnification documents prior to the issuance of a site disturbance permit for the project.

Mr. Chason: We would need to have an agreement and/or an easement to the off-site detention pond?

Mr. LaCoste: I would rather do an agreement. If I obtain an easement, it would require a vacation of easement process if the easement were to ever need to be moved.

Ms. Jones: The adjacent property owner could go through the vacation of easement process if the property to the north of French Settlement Subdivision, Phases 1A and 1B is developed.

Mr. LaCoste: I would prefer to have an agreement rather than an easement unless there is a drainage pipe in the easement.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 27, 2012
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

Mr. Chason: I think you will find that the off-site detention pond is connected by a drainage pipe to the pond in this subdivision.

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

A Motion was made by Mr. Chason and **Seconded** by Ms. Barnette **to approve the site plan for French Settlement Pool, contingent upon the appropriate party presenting an indemnification form for French Settlement Subdivision, Phase 1A & 1B and an easement being granted to the property owners' association of these phases to the offsite detention pond for maintenance. The Motion carried unanimously.**

The next order of business is subdivision replat review for J. R. & Melissa Allstun.

SUBDIVISION REPLAT REVIEW:

File SRP12-10:

Subdivision: J. R. & Melissa Allstun

Zoning(s): R-3, High Density Single Family Residential

Location: 133 and 135 Broadmoor Drive, Lot 101 and 102, Lake Forest Subdivision, Unit 14

Area: 0.31 Acres ±

Owner: J. R. & Melissa Allstun

Surveyor: Moore Surveying - Seth Moore

An introductory presentation was given by Mrs. Melissa Allstun, an owner, requesting a subdivision replat of Lots 101 and 102 of Lake Forest Subdivision, Unit 14 located at 133 and 135 Broadmoor Drive. It is simply a replat to eliminate an interior lot line between the two lots to combine them in order to make it one lot. I will be happy to answer any questions you may have.

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

A Motion was made by Ms. Barnette and **Seconded** by Mr. Terry **to approve the subdivision replat review for J.R. and Melissa Allstun, Lots 101 and 102 of Lake Forest Subdivision, Unit 14, 133 and 135 Broadmoor Drive. Motion carried unanimously.**

The next order of business is a vacation of easement review for J. R. & Melissa Allstun.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 27, 2012
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

PETITIONS:

VACATION OF EASEMENT REVIEW:

File VOE12-01: J. R. & Melissa Allstun

Zoning(s): R-3, High Density Single Family Residential

Location: 133 and 135 Broadmoor Drive, Lot 101 and 102, Lake Forest
Subdivision, Unit 14

Area: 0.31 Acres ±

Owner: J. R. & Melissa Allstun

Surveyor: Moore Surveying - Seth Moore

An introductory presentation was given by Mrs. Melissa Allstun, an owner, requesting a vacation of easement for Lots 101 and 102 of Lake Forest Subdivision, Unit 14 located at 133 and 135 Broadmoor Drive. I will be happy to answer any questions you may have.

Chairman: Do 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. If there is no objection, the Chair will entertain a motion.

A Motion was made by Ms. Barnette and **Seconded** by Mr. Terry *for the affirmative recommendation by the Planning Commission to the City Council of Daphne for the vacation of easement for J.R. and Melissa Allstun, Lots 101 and 102, Lake Forest Subdivision, Unit 14, 133 and 135 Broadmoor Drive. The Motion carried unanimously.*

The next order of business is the election of officers.

ELECTION OF OFFICERS:

Chairman: I would like to open the floor to nominations.

Mr. Terry: I would like to recommend we retain the same officers as we have in 2012.

Chairman: If there are no other recommendations, the nominations are closed. Do any of the Commissioners have any questions or comments? If not, the Chair will entertain a motion.

A Motion was made by Mr. Terry and **Seconded** by Mr. Lemoine *to retain the same officers: Ed Kirby, Chairman, Larry Chason, Vice Chairman, and Don Terry, Secretary. The Motion carried unanimously.*

The next order of business is public participation.

THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 27, 2012
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

PUBLIC PARTICIPATION:

No public participation.

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

ATTORNEY'S REPORT:

Chairman: Is there an attorney's report?

Mr. Britton Bonner: No report.

Ms. Jones: Just an introduction. Mr. Britton Bonner is Jay Ross's new partner at the Adams & Reese law firm.

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

The next order of business is commissioner comments.

COMMISSIONER'S COMMENTS:

No comments.

The next order of business is director's comments.

DIRECTOR'S COMMENTS: - Low Impact/Green Infrastructure Questionnaire:

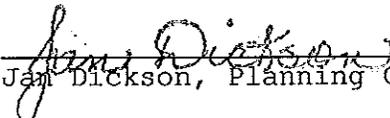
Ms. Jones: We have received an extension of time for the grant so we will begin working on a draft ordinance to present to Planning Commission and City Council. I attended the recent meeting sponsored by the Eastern Shore Chamber of Commerce. The topics were the potential impact of the Airbus on the Eastern Shores and the need to prepare to develop high end office buildings and more commercial/industrial space.

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 5:45 p.m.

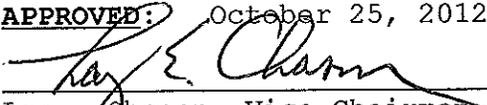
Respectfully submitted by:



Jan Dickson, Planning Coordinator

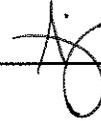
THE CITY OF DAPHNE
PLANNING COMMISSION MINUTES
REGULAR MEETING OF SEPTEMBER 27, 2012
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

APPROVED: October 25, 2012



Larry Chason, Vice Chairman

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 25, 2012 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.



1. **CALL TO ORDER** **DATE OF REPORT: OCTOBER 29, 2012**
2. **CALL OF ROLL** **LARRY CHASON, CATHY BARNETTE, CHIEF WHITE,
DON TERRY, DAN GIBSON, AND MAYOR YELDING**

3. **APPROVAL OF MINUTES:**

*Review of minutes for the regular meeting of September 27, 2012. (**APPROVED AS SUBMITTED**)*

4. **NEW BUSINESS:**

A. **SITE PLAN REVIEW:**

1. **File SP12-09: (**APPROVED**)**

Site: **Macedonia Missionary Baptist Church (Parking Lot)**

Zoning(s): ***R-3, High Density Single Family Residential***

Location: Southeast of the intersection of S. Guarisco and Mancini Avenue

Area: 2.2 Acres ±

Owner: Macedonia Missionary Baptist Church - Hercules Williams

Engineer: Hutchinson, Moore & Rauch - Scott Hutchinson

2. **File SP12-11: (**APPROVED**)**

Site: **Jubilee Ridge Condominiums, Phase Two**

Zoning(s): ***R-4, High Density Multi-Family Residential***

Location: Southeast of the intersection of County Road 64 and Pollard Road

Area: 15.35 ±

Owner: Jubilee Ridge, L.L.C. - J. Myles Reed

Engineer: Hatch Mott MacDonald - John Peterson

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 25, 2012 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

B. D. R. HORTON OFFICE EXPANSION:

1. SUBDIVISION REPLAT REVIEW:

File SRP12-11: (APPROVED)

Subdivision: Replat of Lots 12 & 13, Block C, Daphne Business Park, Unit Two

Zoning(s): C/I, Commercial/Industrial

Location: 25366 Profit Drive, Lot 12 & 13, Daphne Business Park, Unit Two

Area: 3.65 Acres ±

Owner: D.R. Horton, Inc. & Rosemary Chambers

Engineer: Preble-Rish - Steve Pumphrey

2. SITE PLAN REVIEW:

File SP12-10: (APPROVED)

Site: D. R. Horton Office Expansion

Zoning(s): C/I, Commercial/Industrial

Location: Southeast of Stanton Road and Profit Drive

Area: 3.65 Acres ±

Owner: D. R. Horton, Inc.

Engineer: Preble-Rish - Steve Pumphrey

C. PRELIMINARY/FINAL PLAT REVIEW:

1. File SDPF12-05: (APPROVED, WITH THE STIPULATION THERE MAY BE A PARKING DEFICIENCY FOR LOT 1 WHICH MAY REQUIRE PLANNING COMMISSION REVIEW)

Subdivision: Marino Family

Present Zoning: B-2, General Business

Location: Southwest of the intersection of U.S. Highway 98 and Daphne Avenue

Area: 3.95 Acres ±, (2) lots

Owner: Marino Family Trust - Vilai Marino

Engineer: Wattier Surveying -Mark Wattier

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 25, 2012 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

2. **File SDPF12-06: (APPROVED)**

Subdivision: Orchard Farms, Resubdivision of Powers Subdivision

Present Zoning: *RSF-1, Single Family District, Baldwin County District 15*

Location: Northeast of the intersection of Alabama Highway 181 and Wexford Lane

Area: 59.5 Acres \pm , (6) lots

Owner: Powers Real Estate & Woerner Investments

Engineer: Hutchinson, Moore & Rauch - Scott Hutchinson

D. THE RETREAT AT TIAWASEE:

1. **MASTER PLAN:**

MPA12-04:

Presentation to be given by Mr. Steve Pumphrey, representing Preble-Rish, requesting a master plan review for the Retreat at Tiawasee. (ACCEPTED AS SKETCH PLAN FOR CITY COUNCIL CONSIDERATION FOR ZONING AMENDMENT AND ANNEXATION, WITH THE FOLLOWING CONCERNS: ADEQUACY OF GREEN SPACE, LOCATION OF ACCESS, COMPATIBILITY OF DENSITY, AND NAME CHANGE)

2. **PETITIONS: (SIX MEMBERS WERE PRESENT AND THE MOTION FAILED TO SET FORTH A UNFAVORABLE RECOMMENDATION. THREE MEMBERS VOTED IN THE AFFIRMATIVE AND THREE MEMBERS DISSENTED)**

(a) **ZONING AMENDMENT:**

File Z12-03: GCOF Retreat at Tiawasee

Present Zoning: *RSF-2, Single Family District, Baldwin County District 15*

Proposed Zoning: *R-3, High Density Single Family Residential*

Location: Southwest of the intersection of Tiawasee Boulevard and County Road 13

Area: 31.53 Acres \pm

Owner(s): GCOF Retreat at Tiawasee - Nathan Cox

Engineer: Preble-Rish - Steve Pumphrey

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 25, 2012 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

- (b) **ANNEXATION REVIEW: (SIX MEMBERS WERE PRESENT AND THE MOTION FAILED TO SET FORTH A UNFAVORABLE RECOMMENDATION. THREE MEMBERS VOTED IN THE AFFIRMATIVE AND THREE MEMBERS DISSENTED)**

Presentation to be given by Mr. Steve Pumphrey, representing Preble-Rish, requesting annexation of a thirty-one point five three acre parcel into the City of Daphne located southwest of the intersection of Tiawasee Boulevard and County Road 13 with R-3, High Density Single Family Residential, zoning. The subject property is currently zoned RSF-2, Single Family District, Baldwin County District 15. GCOF Retreat at Tiawasee, owner.

E. ADMINISTRATIVE PRESENTATION:

Discussion by Ashley Campbell, the Environmental Programs Manager, regarding an amendment to Ordinance 2011-54, Land Use and Development Ordinance, a revision to Article 10 and Article 18. (NO ACTION TAKEN)

5. PUBLIC PARTICIPATION

6. ATTORNEY'S REPORT

7. COMMISSIONER'S COMMENTS

8. DIRECTOR'S COMMENTS:

- (a) Set Low Impact Development/Green Infrastructure committee meeting for Monday, October 29, 2012 at 9:00 a.m.
- (b) Meeting Deadline Schedule for 2012-2013 (APPROVED)

9. ADJOURNMENT - 7:05 P.M.



**2013
PLANNING COMMISSION
MEETING & SUBMITTAL SCHEDULE**

S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
JANUARY							FEBRUARY							MARCH							APRIL						
		1	2	3	4	5						1	2	3	4	5	6	7	8	9	1	2	3	4	5	6	
6	7	8	9	10	11	12	3	4	5	6	7	8	9	10	11	12	13	14	15	16	7	8	9	10	11	12	13
13	14	15	16	17	18	19	10	11	12	13	14	15	16	17	18	19	20	21	22	23	14	15	16	17	18	19	20
20	21	22	23	24	25	26	17	18	19	20	21	22	23	24	25	26	27	28	29	30	21	22	23	24	25	26	27
27	28	29	30	31			24	25	26	27	28			31							28	29	30				
12/31/12 deadline for January							BCBE Spring Break 25-29																				
MAY							JUNE							JULY							AUGUST						
			1	2	3	4	2	3	4	5	6	7	8		1	2	3	4	5	6					1	2	3
5	6	7	8	9	10	11	9	10	11	12	13	14	15	7	8	9	10	11	12	13	4	5	6	7	8	9	10
12	13	14	15	16	17	18	16	17	18	19	20	21	22	14	15	16	17	18	19	20	11	12	13	14	15	16	17
19	20	21	22	23	24	25	23	24	25	26	27	28	29	21	22	23	24	25	26	27	18	19	20	21	22	23	24
26	27	28	29	30	31		30							28	29	30	31				25	26	27	28	29	30	31
SEPTEMBER							OCTOBER							NOVEMBER							DECEMBER						
1	2	3	4	5	6	7			1	2	3	4	5						1	2	1	2	3	4	5	6	7
8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9	8	9	10	11	12	13	14
15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16	15	16	17	18	19	20	21
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23	22	23	24	25	26	27	28
29	30						27	28	29	30	31			24	25	26	27	28	29	30	29	30	31				

LEGEND	
	Deadline for Next Month's Meeting @ 4 p.m.
	Regular Planning Commission Meeting @ 5 p.m.
	Site Preview Meeting @ 10 a.m.
	City Holidays

Subject to modifications as needed for inclement weather, city emergencies and/or closures.

SET A PUBLIC HEARING DATE

DECEMBER 3, 2012

TO CONSIDER:

- 1.) Rezoning & Annexation of GCOF Retreat at Tiawasee
Location: Southwest of the intersection of Tiawasee
Boulevard and County Road 13

Present Zoning: RSF-2, Single Family District, Baldwin
County District 15

Requested Zoning: R-3, High Density Single Family
Residential District, City of Daphne

Recommendation: No Recommendation / Motion to set forth
an unfavorable recommendation failed.
Six members were present three members
voted in the affirmative and three dissented

To: Office of the City Clerk
From: Adrienne D. Jones, Director of Community Development
Subject: GCOF Retreat at Tiawasee
Zoning Amendment and Annexation Review
Date: October 29, 2012

MEMORANDUM

PRESENT ZONING: RSF-2, Single Family District, Baldwin County District 15

PROPOSED ZONING: R-3, High Density Single Family Residential, City of Daphne

LOCATION: Southwest of the intersection of Tiawasee Boulevard and County Road 13

RECOMMENDATION: At the Thursday, October 25, 2012, regular meeting of the Daphne Planning Commission, six members were present and the motion to set forth an unfavorable recommendation failed. Three members voted in the affirmative and three dissented.

Attached please find documentation from the Office of Community Development. An Ordinance shall be provided by the Office of the City Attorney for placement on the City Council agenda of Monday, November 5, 2012 to request to set the public hearing for Monday, December 3, 2012.

Thank you,
ADJ/jd

cc: file

attachment(s)

1. Community Development Report(s)
2. Conceptual Master Plan
3. Map of property
4. Zoning Amendment application
5. Petition for Annexation
6. Legal description
7. Correspondence to Adjacent Property Owners
8. Adjacent property owners' list
9. Tiawasee Trace POA Resident Petition



Planning
Commission



Zoning Amendment & Annexation
Review

COMMUNITY DEVELOPMENT

**ZONING AMENDMENT & ANNEXATION REVIEW
THE RETREAT AT TIAWASEE**

Section 11-52-85 of the Code of Alabama allows “pre-zoning of property”. In this case, both requests have been submitted concurrently and are moving on the same path. The Planning Commission will make a recommendation to Council for zoning and also make a recommendation for annexation.

Code of Alabama Section 11-52-85

Pre-zoning of territory proposed for annexation by municipality. (Highlights by staff)

(a) A municipality which exercises its authority to zone territory within its corporate limits may pre-zone territory proposed for annexation into the corporate limits of the municipality prior to the effective date of the annexation by complying with this article. If all the requirements, including all notice and public hearing requirements, of this article are met, the zoning shall become effective upon the date the territory is annexed into the corporate limits, or upon the date the zoning process is completed, whichever is later.

(b) A municipality which exercises its authority to zone territory within its corporate limits shall pre-zone territory as provided in subsection (a) and issue a statement of zoning classification to an affected property owner if the individual property owner residing in the area to be annexed requests in writing that a zoning determination be made pursuant to this section prior to being annexed.

(c) Any pre-zoning established by a municipality pursuant to this section for territory proposed for annexation shall be null and void as to any portion of the territory that is not annexed into the corporate limits within 180 days of the initiation of annexation proceedings as provided by law.

(d) Nothing contained in this section shall allow a municipality to zone territory outside the corporate limits of the municipality that is not in the process of being annexed into the corporate limits of a municipality as provided by law.

(e) Section 6-5-127 shall be applicable to any property pre-zoned pursuant to this section.

(Act 2009-629, p. 1926, §1.)

COMMUNITY DEVELOPMENT
ZONING AMENDMENT & ANNEXATION REVIEW
THE RETREAT AT TIAWASEE

Owner: GCOF Retreat at Tiawasee

Existing Conditions: 31.53 of vacant land

Existing Zoning: Unincorporated Baldwin County RSF-2, Single Family

Proposed Zoning: R-3, High Density Single Family Residential district

Surrounding Zonings/Uses:

North - (R-1) Low Density Single Family zoned lots and houses

South- (R-3) High Density Single Family zoned lots and houses

East- (R-1) Low Density Single Family residential, undeveloped land

West-(RSF-2) Unincorporated Baldwin County, Single Family zoned undeveloped land

Existing Utility Service Providers:

Sewer – Daphne Utilities

Gas- Daphne Utilities

Electric—Riviera Utilities

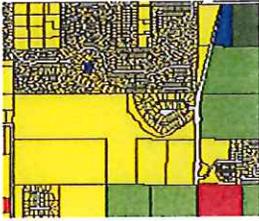
Affected City Service Providers:

Fire Protection—Station 3 (Lawson Road)

Police Protection—Police Beat 3

Public Works

Baldwin County Schools—School district zones are not set by municipal boundaries, therefore school districting will not be affected by annexation.



Comprehensive Plan

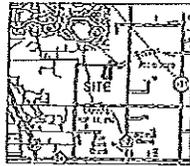
The current Comprehensive Plan designates the subject property as residential. The proposed use is consistent and compatible with the comprehensive plan in regard to land use. Therefore the reversionary clause is not recommended and should not be applicable to this property.



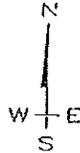
Community Development Recommendation: Approval of R-3 zoning and annexation into the corporate limits.

Adjoining property owner notices have been distributed, a zoning notification sign has been posted, and the notice for a public hearing for this petition has been properly advertised in the Bulletin in accordance with applicable sections of the Code of Alabama.

2011 AND 2012 ZONING MAPS
 2011 AND 2012 ZONING MAPS



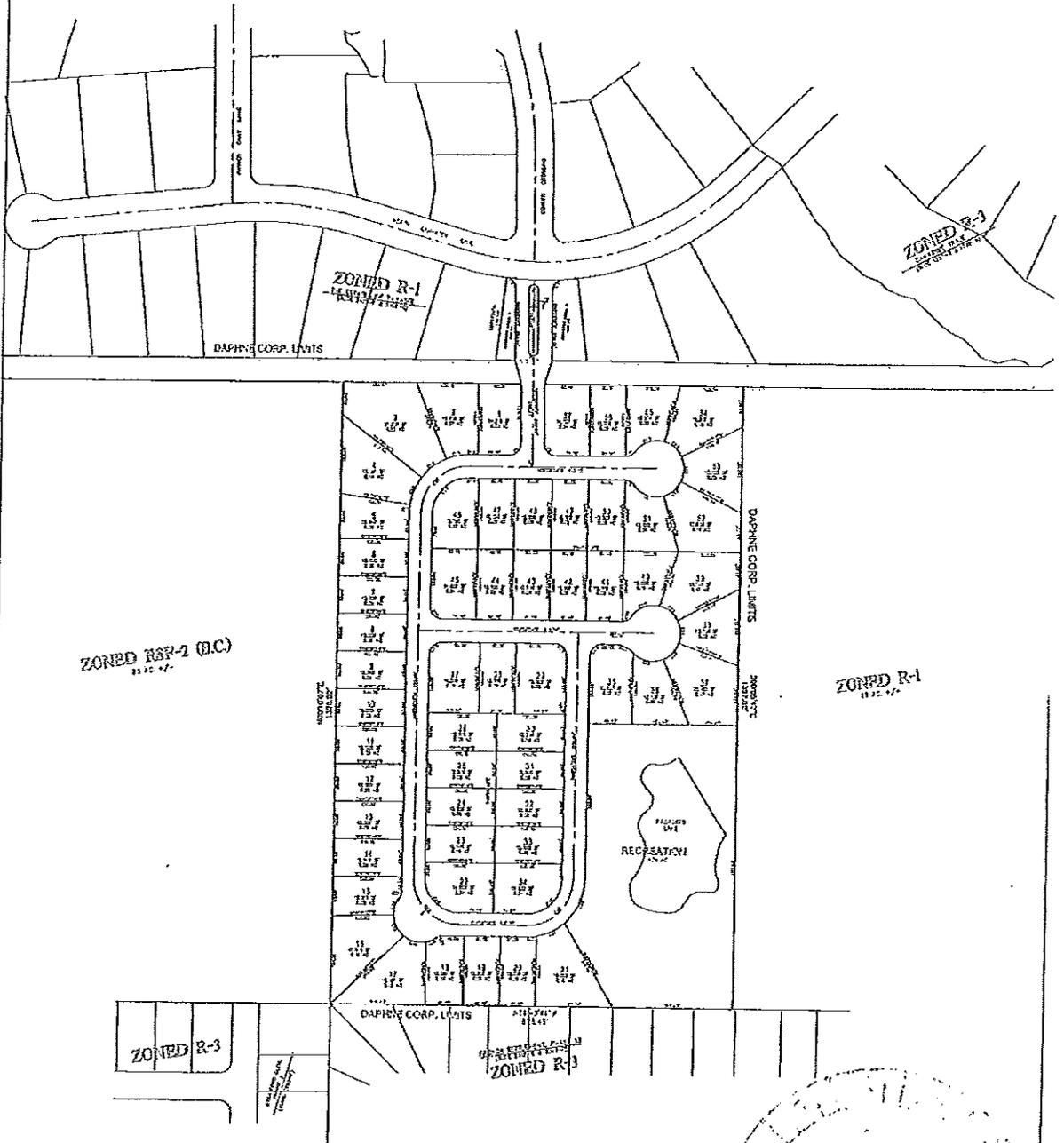
2011 AND 2012 ZONING MAPS
 1" = 1 MILE



100' 0" 100' 0" 100' 0" 100' 0"
 1" = 100'

SUMMARY

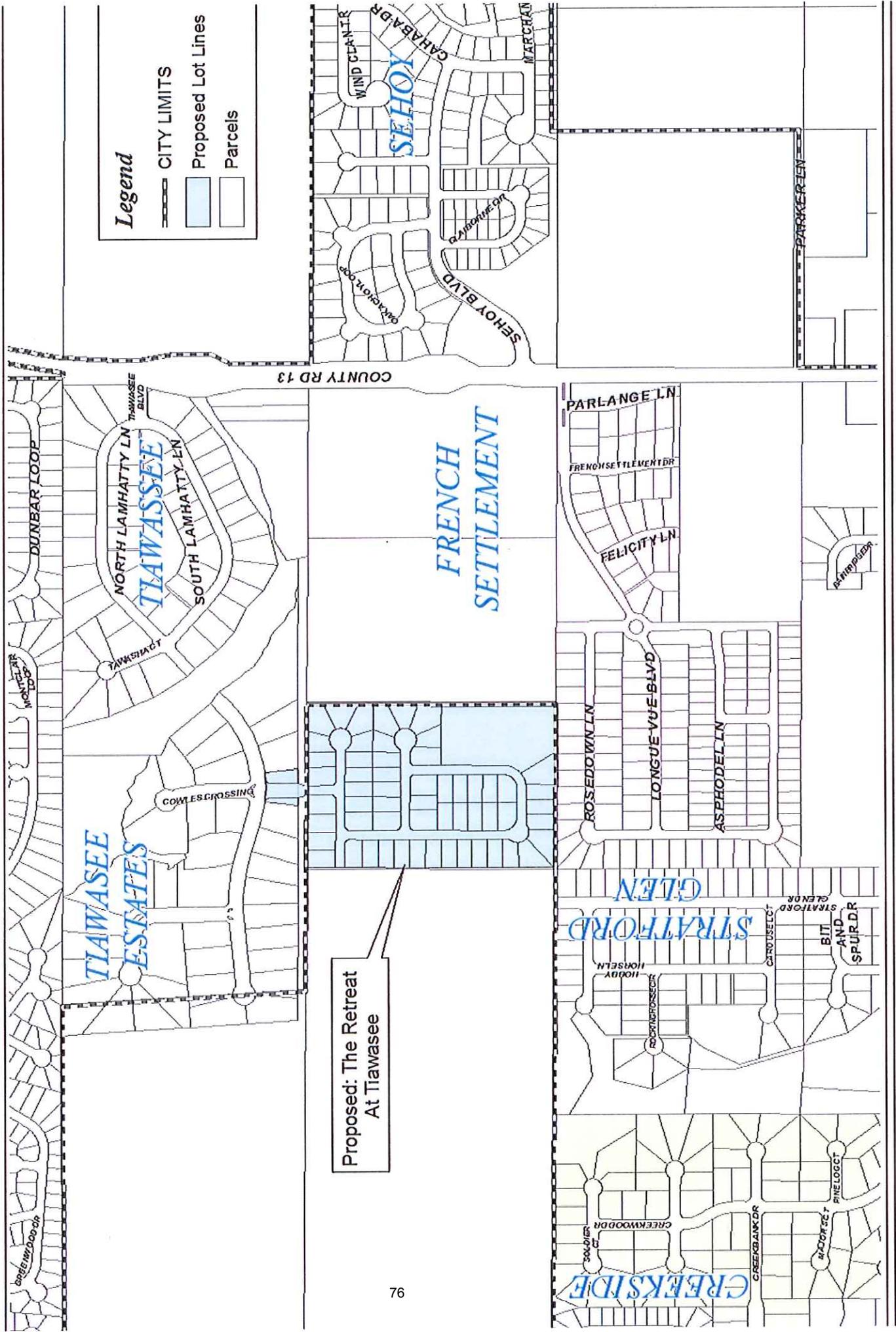
TOTAL AREA 27.43 AC.
 TOTAL LOTS 57
 DENSITY 2.1 / AC.
 COMMUNITY AREA 4.93 AC. (18%)
 MIN. LOT SIZE 12,500 S.F.
 TYP. LOT 60' X 150'



The Retreat at Tiawasee
 Master Plan



PREBLE RISH L.L.C.
 CONSULTING ENGINEERS & ARCHITECTS
 200 N. W. 10th St. - Ft. Lauderdale, FL 33304
 Phone: 954.575.1100
 Fax: 954.575.1101
 www.preble-rish.com



THE CITY OF DAPHNE
PLANNING DEPARTMENT
APPLICATION FOR ZONING AMENDMENT

Application Number: Z12-03 Date Plat Submitted: Sept. 25, 2012
Date Presented: Oct. 25, 2012

Name of Owner: GCOF RETREAT AT TIAWASEE

Address: 32128 BROKEN BRANCH CR SPANISH FORT, AL 36527 Telephone# 621-1887
(Street or P.O. Box) (City) (State) (Zip Code)

Name of Authorized Agent, if other than owner: PREBLE-RISH

Address: 9499 BELLATON AVE DAPHNE, AL 36526 Telephone# 990-9950
(Street or P.O. Box) (City) (State) (Zip Code)

Subdivision: TO BE KNOWN AS THE RETREAT AT TIAWASEE

Lot(s): _____ Unit _____

- Two (2) copies of legal description of the subject property.
- Two (2) copies of subdivision plat or site plan drawn to scale, (28" x 36").
- List of the names and mailing addresses for the adjacent property owners (Date Submitted: 09-25-12).

Meeting Dates:

Planning Commission: October 25, 2012

City Council: _____

Reason(s) for requesting the Zoning Amendment:

TO DEVELOP A SINGLE FAMILY RESIDENTIAL NEIGHBORHOOD


SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE (Nathan Cox)

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

APPLICATION FOR ZONING AMENDMENT

STATE OF ALABAMA)
COUNTY OF BALDWIN)
CITY OF DAPHNE)

This is to certify that I (we) the undersigned am the owner(s) of said property and do hereby request the City of Daphne to grant a Zoning Amendment for said property for the reasons outlined herein:

1) Description of property for which amendment is requested:

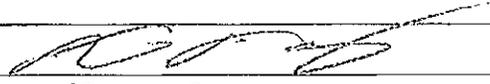
- a) Address _____
- b) Name of Subdivision TO BE KNOWN AS THE RETREAT AT TIAWASEE
- c) Lot numbers involved in change N/A
- d) Total acreage of change 34.62 AC 31.53
- e) Recorded in Map Book N/A Page _____
- f) Owned in whole by the undersigned? YES
- g) If owned in part, name(s) of co-owner(s) : _____

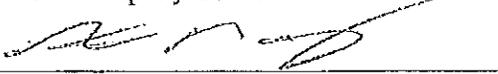
2) Zoning change requested:

- a) Present classification of property RSF-2 (BALDWIN COUNTY)
- b) Reclassification desired R-3
- c) Character of neighborhood R-3 & R-2 & R-1 & R-4

3) Certifications:

- a) Owner's Name GCOF RETREAT AT TIAWASEE
- b) Address 32128 BROKEN BRANCH CIRCLE SPANISH FORT, AL 36527
- c) Telephone Number 621-1887
- d) Date 9/24/2012


Signature of Property Owner


Signature of Property Owner

(Nathan L. Cox)

STATE OF ALABAMA
COUNTY OF BALDWIN

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

(_____)

The undersigned, GDF Retreat at Tlavasee, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as GDF Retreat at Tlavasee property to be annexed into the City of Daphne, a municipal corporation incorporated under the laws of the State of Alabama, and submits the following in support of its petition:

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

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

3. Owner: The Petitioner, GDF Retreat at Tlavasee, is the owner of the Property hereby sought to be annexed into the corporate limits of the City of Daphne.

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

R-3 Zoning

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

DATED this 24th day of September,
2012

Respectfully submitted,

GCOF Retreat at Tiawasee
Name of Corporation

By: [Signature]

Its: MANAGER

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that Nathan L. Cox, whose name as Manager of GCOF Retreat at Tiawasee, an Alabama corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily on the day same bears date.

GIVEN under my hand and official seal on this the 24th day of September, 2012.

Mary Dorgan Gore (NOTARY SEAL)
NOTARY PUBLIC
My commission expires: June 13, 2015

GCOF RETREAT AT TIAWASEE

ZONING AMENDMENT REVIEW

SOUTHWEST OF THE INTERSECTION OF TIAWASEE
BOULEVARD AND COUNTY ROAD 13

EXHIBIT "A"

STATE OF ALABAMA)
COUNTY OF BALDWIN)

COMMENCING AT THE NORTHWEST CORNER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA AS RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA, REAL PROPERTY BOOK 256, PAGE 274; THENCE RUN SOUTH 00°00'19" EAST, 840.93 FEET TO THE NORTH RIGHT OF WAY OF PARKER ROAD (80' R/W); THENCE RUN ALONG THE SAID NORTH RIGHT OF WAY NORTH 89°32'20" EAST, 42.92 FEET TO THE EAST RIGHT OF WAY OF POLLARD ROAD; THENCE RUN ALONG THE EAST RIGHT OF WAY SOUTH 00°00'19" EAST, 403.14 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH 89°50'14" EAST, 3490.21 FEET; THENCE RUN SOUTH 89°48'53" EAST, 786.31 FEET; THENCE RUN SOUTH 11°19'19" EAST, 51.02 FEET; THENCE RUN NORTH 89°49'05" WEST, 796.66 FEET; THENCE RUN SOUTH 00°05'47" EAST, 1327.82 FEET; THENCE RUN NORTH 89°48'41" WEST, 878.46 FEET; THENCE RUN NORTH 00°10'07" EAST, 1328.02 FEET; THENCE RUN NORTH 89°49'02" WEST, 2617.56 FEET TO THE EAST RIGHT OF WAY OF POLLARD ROAD (80' R/W); THENCE RUN ALONG SAID EAST RIGHT OF WAY NORTH 00°00'19" WEST, 48.51 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINING 31.53 ACRES, MORE OR LESS, LYING IN SECTION 9, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

REFERENCE: THE RETREAT AT TIAWASEE

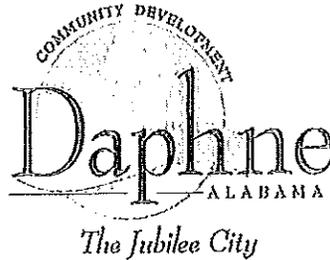
*Annexation & Zoning
Same Legal*

BAILEY YELDING, JR.
MAYOR

DAVID L. COHEN, MMC
CITY CLERK

KIMBERLY M. BRILEY
FINANCE DIRECTOR/TREASURER

ADRIENNE D. JONES
DIRECTOR COMMUNITY DEVELOPMENT



COUNCIL MEMBERS
TOMMY B. CONAWAY
DISTRICT 1
CATHY BARNETTE
DISTRICT 2
JOHN LAKE
DISTRICT 3
KELLY REESE
DISTRICT 4
RON SCOTT
DISTRICT 5
DEREK BOULWARE
DISTRICT 6
AUGUST A. PALUMBO
DISTRICT 7

October 11, 2012

NOTICE OF PUBLIC HEARING

A petition for REZONING will be considered by the Daphne Planning Commission for the proposed Retreat at Tiawasee containing 31.53 acres +/- located southwest of the intersection of Tiawasee Boulevard and County Road 13 to be rezoned from RSF-2, Single Family Residential District, Baldwin County District 15, to an R-3, High Density Single Family Residential, zone, upon annexation into the corporate limits of the City of Daphne.

Said petition will also be considered by the Daphne City Council pursuant to Alabama Code 11-52-79. The application is available for review at City Hall in the Department of Community Development, 1705 Main Street, during regular business hours. An informal site preview meeting will be held on Wednesday, October 17, 2012 at 10:00 a.m. in the Council Chambers of City Hall. The public is invited to attend; limited participation may be allowed by the chairman.

The public hearing will be held by the Daphne Planning Commission on Thursday, October 25, 2012 at 5:00 p.m. in the Council Chambers of City Hall. You may submit your views in writing, in person, by fax or by representation.

A request for master plan approval has also been submitted. Said plan is also available for review.

Sincerely,
Adrienne D. Jones
Director of Community Development

GCOF Retreat at Tiawasee

COMMUNITY DEVELOPMENT
1705 MAIN STREET P.O. BOX 400 DAPHNE ALABAMA 36526
TELEPHONE: (251) 621-3184 FAX: 621-3185

GOOF RETREAT AT TIWASEE LLC

ZONING AMENDMENT

ADJACENT PROPERTY OWNER'S LIST

1	BLASCHAK, SCOTT ETAL BLASCHAK, LEIGH	565 STUART ST	DAPHNE	AL	36526
2	COBB, JONATHAN PATRICK ETAL COBB, AMANDA	8807 ROSEDOWN LANE	DAPHNE	AL	36526
3	COCHRAN, JOSHUA ETAL COCHRAN, JENNIFER	8813 ROSEDOWN LANE	DAPHNE	AL	36526
4	EASTERN SHORE ACQUISITIONS I L L C	32128 BROKEN BRANCH CIR	SPANISH FORT	AL	36527
5	HINCHLIFFE, HERBERT C ETAL HINCHLIFFE, M	27570 STRATFORD GLEN DR	DAPHNE	AL	36526
6	LOMAX, MATTHEW T ETAL LOMAX, EMILY S	212 1ST AVE	SARALAND	AL	36571
7	MALBIS PLANTATION INC	29470 ST HWY 181	DAPHNE	AL	36526
8	PROVISION INVESTMENTS I L L C	32128 BROKEN BRANCH CIR	SPANISH FORT	AL	36527
9	ROBERTS, MELVIN & IRENE T	7986 PARK DRIVE	DAPHNE	AL	36526
10	ROWELL, NORMAN SHAWN ETAL MCGHEE-ROWELL,	27825 CO RD 13	DAPHNE	AL	36526
11	ROWLEY, CRAIG S	8819 ROSEDOWN LANE	DAPHNE	AL	36526
12	SE PROPERTY HOLDINGS I L L C	P O BOX 3500	NEWARK	OH	43058
13	SPA DAPHNE I L L C	1591 HAYLEY LANE SUITE 102	FORT MEYERS	FL	33907
14	TRULAND HOMES INC	9945 SPANISH FORT BLVD STE G	SPANISH FORT	AL	36527
15	WOODLAND BAY GROUP INC C/O GARY MCKNIGHT	858 CREEK DRIVE	FAIRHOPE	AL	36532

**LETTER OF OPPOSITION
RECEIVED 10/25/12 AT
PLANNING COMMISSION
PUBLIC HEARING**

Tiawasee Trace Property Owners Association

We, the undersigned, are concerned citizens of the City of Daphne who wish to address the proposal listed as item "D" on the agenda of the City of Daphne Planning Commission meeting scheduled for October 25, 2012. This proposal involves the master plan review and annexation of approximately 31 acres of property for the development of The Retreat at Tiawasee, a 57-lot high density residential subdivision.

There are a number of concerns that affect some of the undersigned differently than others. First, a big concern of the residents of the existing Tiawasee Trace and Tiawasee Estates subdivisions is the traffic from heavy machinery and dump trucks that will accompany the development. When the Estates subdivision was developed, the developer utilized the access to Pollard Road and directed construction vehicles and crews to use that access. The use of the heavy machinery will further damage the roadways in the subdivision which will also be subject to much heavier traffic once the subdivision is developed and built out. Any traffic improvements should be subject to an updated traffic impact study.

The undersigned citizens request that the name Tiawasee not be part of the additional subdivision name. The Retreat of Tiawasee should not be connected by name or by road to Tiawasee Trace. Having another subdivision with the name Tiawasee takes the uniqueness away from the original Tiawasee Trace.

The undersigned citizens believe that these requests are reasonable and in the best interest of all current owners and the future owners of lots in these subdivisions. The requirements requested will not add any undue burden on the developer and will alleviate damage to the streets maintained by the City and protect its citizens who use County Road 13 on a daily basis.



CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 25, 2012 **REPORT**
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

B. D. R. HORTON OFFICE EXPANSION:

1. SUBDIVISION REPLAT REVIEW:

File SRP12-11: (APPROVED)

**Subdivision: Replat of Lots 12 & 13, Block C, Daphne Business Park,
Unit Two**

Zoning(s): *C/I, Commercial/Industrial*

**Location: 25366 Profit Drive, Lot 12 & 13, Daphne Business Park, Unit
Two**

Area: 3.65 Acres ±

Owner: D.R. Horton, Inc. & Rosemary Chambers

Engineer: Preble-Rish - Steve Pumphrey

2. SITE PLAN REVIEW:

File SP12-10: (APPROVED)

Site: D. R. Horton Office Expansion

Zoning(s): *C/I, Commercial/Industrial*

Location: Southeast of Stanton Road and Profit Drive

Area: 3.65 Acres ±

Owner: D. R. Horton, Inc.

Engineer: Preble-Rish - Steve Pumphrey

C. PRELIMINARY/FINAL PLAT REVIEW:

**1. File SDPF12-05: (APPROVED, WITH THE STIPULATION THERE
MAY BE A PARKING DEFICIENCY FOR LOT 1 WHICH MAY
REQUIRE PLANNING COMMISSION REVIEW)**

Subdivision: Marino Family

Present Zoning: *B-2, General Business*

**Location: Southwest of the intersection of U.S. Highway 98 and Daphne
Avenue**

Area: 3.95 Acres ±, (2) lots

Owner: Marino Family Trust - Vilai Marino

Engineer: Wattier Surveying -Mark Wattier

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF OCTOBER 25, 2012 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

- (b) ANNEXATION REVIEW: (SIX MEMBERS WERE PRESENT AND THE MOTION FAILED TO SET FORTH A UNFAVORABLE RECOMMENDATION. THREE MEMBERS VOTED IN THE AFFIRMATIVE AND THREE MEMBERS DISSENTED)

Presentation to be given by Mr. Steve Pumphrey, representing Preble-Rish, requesting annexation of a thirty-one point five three acre parcel into the City of Daphne located southwest of the intersection of Tiawasee Boulevard and County Road 13 with R-3, High Density Single Family Residential, zoning. The subject property is currently zoned RSF-2, Single Family District, Baldwin County District 15. GCOF Retreat at Tiawasee, owner.

E. ADMINISTRATIVE PRESENTATION:

Discussion by Ashley Campbell, the Environmental Programs Manager, regarding an amendment to Ordinance 2011-54, Land Use and Development Ordinance, a revision to Article 10 and Article 18. (NO ACTION TAKEN)

5. PUBLIC PARTICIPATION

6. ATTORNEY'S REPORT

7. COMMISSIONER'S COMMENTS

8. DIRECTOR'S COMMENTS:

- (a) Set Low Impact Development/Green Infrastructure committee meeting for Monday, October 29, 2012 at 9:00 a.m.

- (b) Meeting Deadline Schedule for 2012-2013 (APPROVED)

9. ADJOURNMENT - 7:05 P.M.

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2012-**

**ORDINANCE TO ANNEX PROPERTY CONTIGUOUS
TO THE CORPORATE LIMITS OF THE CITY OF DAPHNE**

WHEREAS, on the 24th day of September, 2012, GCOF Retreat at Tiawasee, being the owner of all real property hereinafter described, did file with the City Clerk a petition asking that the said tracts or parcels of land be annexed into and become part of the City of Daphne, Alabama; and

WHEREAS, said petition did contain the signatures of all owners of the described territory and a map of said property showing its relationship to the corporate limits of the City of Daphne, Alabama; and

WHEREAS, the City Council of the City of Daphne, Alabama did determine that it is in the public interest that said property be annexed into the City of Daphne, Alabama and it did further determine that all legal requirements for annexing said real property have been met pursuant to Sections 11-42-20, et seq., Code of Alabama, 1975;

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

SECTION ONE: ANNEXATION

The City Council of the City of Daphne, Alabama finds that and declares as the legislative body of the City of Daphne, Alabama that it is in the best interest of the citizens of the City of Daphne, Alabama and the citizens of the affected area, to bring the territory described in Section 2 of this Ordinance into the City of Daphne, Alabama effective _____.

SECTION TWO: DESCRIPTION OF TERRITORY

The boundary lines of the City of Daphne, Alabama, be, and the same are hereby altered or rearranged so as to include all the territory hereto before encompassed by the corporate limits of the City of Daphne, Alabama and in addition thereto the following described property, to-wit:

Owner: GCOF Retreat at Tiawasee

COMMENCING AT THE NORTHWEST CORNER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA AS RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA, REAL PROPERTY BOOK 256,

PAGE 274; THENCE RUN SOUTH 00°00'19" EAST, 840.93 FEET TO THE NORTH RIGHT OF WAY OF PARKER ROAD (80' ROW); THENCE RUN ALONG THE SAID NORTH RIGHT OF WAY NORTH 89°32'20" EAST, 42.92 FEET TO THE EAST RIGHT OF WAY OF POLLARD ROAD; THENCE RUN ALONG THE EAST RIGHT OF WAY SOUTH 00°00'19" EAST, 403.14 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH 89°50'14" EAST, 3490.21 FEET; THENCE RUN SOUTH 89°48'53" EAST, 786.31 FEET; THENCE RUN SOUTH H°19'19" EAST, 51.02 FEET; THENCE RUN NORTH 89°49'05" WEST, 796.66 FEET; THENCE RUN SOUTH 00°05'47" EAST, 1327.82 FEET; THENCE RUN NORTH 89°48'41" WEST, 878.46 FEET; THENCE RUN NORTH 00°10'07" EAST, 1328.02 FEET; THENCE RUN NORTH 89°49'02" WEST, 2617.56 FEET TO THE EAST RIGHT OF WAY OF POLLARD ROAD (80' ROW); THENCE RUN ALONG SAID EAST RIGHT OF WAY NORTH 00°00'19" WEST, 48.51 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINING 31.53 ACRES, MORE OR LESS, LYING IN SECTION 9, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

SECTION III: PUBLICATION

This Ordinance shall be published as provided by law and a certified copy of the same shall be filed with the Office of the Judge of Probate of Baldwin County, Alabama.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS THE _____ DAY OF _____, 2012.

Council President

**Bailey Yelding, Jr.,
Mayor**

ATTEST:

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

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2012-**

**ORDINANCE TO ANNEX PROPERTY CONTIGUOUS
TO THE CORPORATE LIMITS OF THE CITY OF DAPHNE**

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WHEREAS, said petition did contain the signatures of all owners of the described territory and a map of said property showing its relationship to the corporate limits of the City of Daphne, Alabama; and

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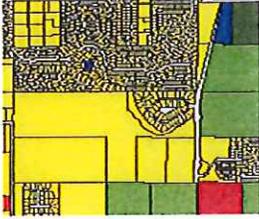
APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS THE _____ DAY OF _____, 2012.

Council President

**Bailey Yelding, Jr.,
Mayor**

ATTEST:

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



Comprehensive Plan

The current Comprehensive Plan designates the subject property as residential. The proposed use is consistent and compatible with the comprehensive plan in regard to land use. Therefore the reversionary clause is not recommended and should not be applicable to this property.



Community Development Recommendation: Approval of R-3 zoning and annexation into the corporate limits.

Adjoining property owner notices have been distributed, a zoning notification sign has been posted, and the notice for a public hearing for this petition has been properly advertised in the Bulletin in accordance with applicable sections of the Code of Alabama.

**CITY COUNCIL MEETING
MAYOR'S REPORT**

NOTES:

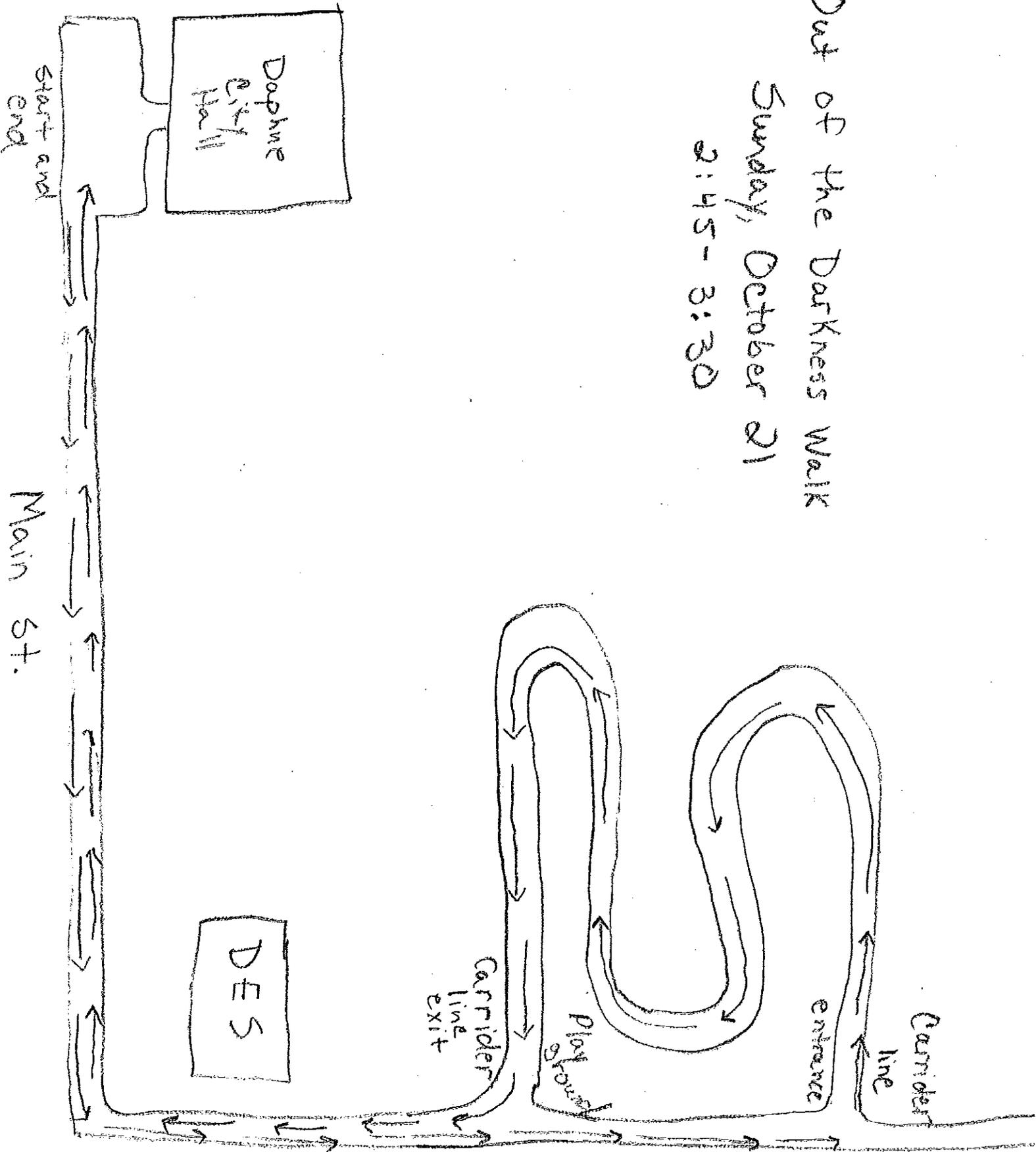
CITY OF DAPHNE PARADE PERMIT

ORGANIZATION:	<i>American Foundation of Suicide Prevention</i>
CONTACT PERSON:	<i>Lydia Barber</i>
ADDRESS:	<i>606 Oak Ridge West Daphne, Al 36526</i>
PHONE NUMBER (HOME): PHONE NUMBER (BUSINESS): CELL NUMBER:	<i><u>jlbarbaer@bellsouth.net</u> 455-6453</i>
TYPE OF PARADE:	<i>Out of the Darkness Walk</i>
DATE OF PARADE:	<i>October 20, 2013</i>
ROUTE TO BE TRAVELED:	<i>SEE Attached Map</i>
APPROXIMATE # OF PEOPLE & CARS:	<i>350 - 400</i>
START TIME:	<i>2:45 p.m.</i>
STOP TIME:	<i>3:30 p.m.</i>
ASSEMBLY AREA/STREET:	<i>City Hall</i>
ASSEMBLY TIME:	<i>1:00 p.m.</i>
SPECIAL INSTRUCTIONS:	<i>Use sidewalks</i>
DATE APPLIED:	<i>October 8, 2012</i>
APPROVAL	
POLICE: Chief David Carpenter	<i>David Carpenter</i>
FIRE: Chief James White	<i>James White</i>
PUBLIC WORKS: Richard Johnson	<i>Richard Johnson</i>
RECREATION : David McKelroy	<i>David McKelroy</i>
CITY COUNCIL APPROVAL: 11-0512	
SPECIAL INSTRUCTIONS:	
DATE ROUTED:	<i>October 8, 2012</i>
NOTIFICATION	

Out of the Darkness Walk

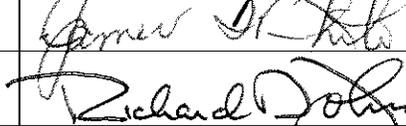
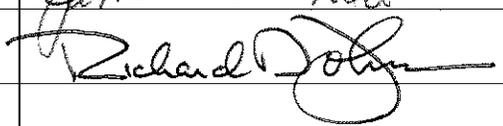
Sunday, October 21

2:45 - 3:30



CITY OF DAPHNE

PARADE PERMIT

ORGANIZATION:	<i>Mystic Order of Persephone</i>
CONTACT PERSON: ADDRESS:	<i>Torrey Berry 11441 County Road 54 Daphne, AL 36526</i>
PHONE NUMBER: (HOME) PHONE NUMBER: (BUSINESS) CELL NUMBER:	<i>625-6496 423-0088</i>
DATE OF PARADE:	<i>February 8, 2012 / Rain Date February 10, 2012</i>
TYPE OF PARADE:	<i>Mardi Gras</i>
ROUTE TO BE TRAVELED:	<i>From Civic Center down Main St. - turn @College Ave.- turn right on 6th St. - turn right on Belrose Ave. - turn left on Main St. & back to Civic Center</i>
APPROXIMATE # OF PEOPLE & CARS:	<i>700 people / 25 Units</i>
ASSEMBLY TIME:	<i>5:45 P.M.</i>
START TIME:	<i>6:45 P.M.</i>
STOP TIME:	<i>8:15 P.M.</i>
ASSEMBLY AREA/STREET:	<i>Civic Center</i>
SPECIAL REQUESTS:	
DATE APPLIED FOR PERMIT:	<i>October 23, 2012</i>
APPROVAL	
POLICE: David Carpenter:	
FIRE: James White:	
PUBLIC WORKS: Richard Johnson:	
CITY COUNCIL: 11-05-12	
DATE ROUTED:	<i>October 23, 2012</i>
NOTIFICATION:	
RECEIVED PROOF OF INSURANCE: RECEIVED PARADE PERMIT FEE: 101	<i>October 30, 2012 November 1, 2012</i>

Uncorked Fine Wines

CASE NO. 2012-8

ABC LICENSE ROUTING

DATE RECEIVED BY REVENUE DIV. See attach. (initial) _____
 DATE FORWARDED TO POLICE DEPT. See attach. _____
 DATE RECEIVED BY POLICE DEPT. See attach. _____

DATE: APPROVED _____ DISAPPROVED _____

POLICE DEPT SIGNATURE See Att.

DATE RETURNED TO REVENUE DIV. 10-22-12 HG
 DATE FORWARDED TO CITY CLERK 10-23-12 HG
 DATE RECEIVED BY CITY CLERK 10-23-12 RH
 SCHEDULED DATE ON AGENDA 11-05-12 RH

Council Action: _____ APPROVED _____ DISAPPROVED _____ TABLED

COMMENTS: _____

Rescheduled for Council Agenda Date: _____

Council Action: _____ APPROVED _____ DISAPPROVED _____ TABLED

COMMENTS: _____

DATE RETURNED TO REVENUE DIV.: _____

DATE RETURNED TO TAXPAYER _____
OR TO ABC FIELD OFFICE _____ (per taxpayer request)

* Has a current location
& ABC license. Please approve.
HC7

BACKGROUND CHECK REQUEST

BACKGROUND CHECKS REQUESTED: LOCAL: STATE:

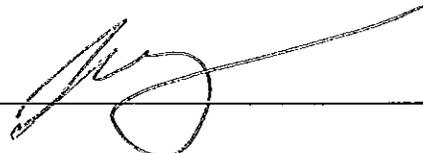
DATE APPLICATION RECEIVED BY REVENUE: 10/18/12 aa

DATE FORWARDED TO POLICE DEPARTMENT: 10/18/12 aa

DATE RECEIVED BY POLICE DEPARTMENT: 10-22-12 AA

DATE APPLICATION RETURNED TO REVENUE: 10-22-12 AA

APPROVED DISAPPROVED

POLICE DEPARTMENT SIGNATURE: 

REVENUE DEPARTMENT SIGNATURE: A. Allen



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20121018090550758



Type License: 040 - RETAIL BEER (ON OR OFF PREMISES) State: \$150.00 County: \$75.00
 Type License: 060 - RETAIL TABLE WINE (ON OR OFF PREMISES) State: \$150.00 County: \$75.00
 Trade Name: **UNCORKED FINE WINES II** Filing Fee: \$100.00
 Applicant: **UNCORKED FINE WINES II INC** Transfer Fee:
 Location Address: 1800 MAIN ST STE A DAPHNE, AL 36526
 Mailing Address: 1800 MAIN ST STE A DAPHNE, AL 36526
 County: BALDWIN Tobacco sales: NO Tobacco Vending Machines:
 Sale of Products Containing Ephedrine: NO Type Ownership: CORPORATION
 Book, Page, or Document info: INST 1362928 Do you sell Draft Beer: N
 Date Incorporated: 10/09/2012 State incorporated: AL County Incorporated: BALDWIN
 Date of Authority: 10/09/2012 Alabama State Sales Tax ID: 0000000

Name: Title: Date and Place of Birth: Residence Address:

STEVEN PAUL SAVARESE JR 6639040 - AL	VICE PRESIDENT	03/25/1981 EL DORADO, KS	9441 SANIBEL LOOP DAPHNE, AL 36526
LAURI JILL RECTOR 6926825 - AL	SECRETARY / TREASURER	03/08/1962 BILOXI, MS	11078 LAKE CIRCLE DAPHNE, AL 36526
KEITH DAVID RECTOR 7103744 - AL	PRESIDENT	02/20/1956 JAPAN	11078 LAKE CIRCLE DAPHNE, AL 36526

Has applicant complied with financial responsibility ABC RR 20-X-5-.14? YES
 Does ABC have any actions pending against the current licensee? NO
 Has anyone, including manager or applicant, had a Federal/State permit or license suspended or revoked? NO
 Has a liquor, wine, malt or brewed license for these premises ever been denied, suspended, or revoked? NO
 Are the applicant(s) named above, the only person(s), in any manner interested in the business sought to be licensed? YES
 Are any of the applicants, whether individual, member of a partnership or association, or officers and directors of cooperation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this act? NO
 Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage, or distilled liquors permit or license issued under authority of this act? NO
 Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate or other licensee, or from any firm, association or corporation operating under or regulated by the authority of this act? NO

Contact Person: KEITH RECTOR
Business Phone: 251-625-8808
Fax:

Home Phone: 251-209-6276
Cell Phone: 251-209-6276
E-mail: UNCORKEDFINEWINES@BELLSOUTH.NET

PREVIOUS LICENSE INFORMATION:
Trade Name:
Applicant:

Previous License Number(s)
License 1:
License 2:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20121018090550758



Initial each

Signature page

KR
 KR

In reference to law violations, I attest to the truthfulness of the responses given within the application.
 In reference to the Lease/property ownership, I attest to the truthfulness of the responses given within the application.

KR

In reference to ACT No. 80-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.

KR

In reference to Special Retail or Special Events retail license, I agree to comply with all applicable laws and regulations concerning this class of license, and to observe the special terms and conditions as indicated within the application.

KR

In reference to the Club Application information, I attest to the truthfulness of the responses given within the application.

KR

In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.

KR

In accordance with Alabama Rules & Regulations 20-X-5-.01(4), any social security number disclosed under this regulation shall be used for the purpose of investigation or verification by the ABC Board and shall not be a matter of public record.

KR

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

KR

I hereby swear and affirm that I have read the application and all statements therein and facts set forth are true and correct, and that the applicant is the only person interested in the business for which the license is required.

Applicant Name (print):

Signature of Applicant: *[Handwritten Signature]*

Notary Name (print): *Betty G. Dean*

Notary Signature: *Betty G. Dean* Commission expires: *11/10/15*

Application Taken: *10/19/12* App. Inv. Completed:
 Submitted to Local Government:
 Received in District Office: Reviewed by Supervisor:

Forwarded to District Office:
 Received from Local Government:
 Forwarded to Central Office:

Fresh Market

CASE NO. 2012-9

ABC LICENSE ROUTING

DATE RECEIVED BY REVENUE DIV. 10/30/12 (initial) HG
DATE FORWARDED TO POLICE DEPT. 10/31/12 HG
DATE RECEIVED BY POLICE DEPT. 10-31-12 RH
DATE: APPROVED [Signature] DISAPPROVED _____
POLICE DEPT SIGNATURE [Signature]
DATE RETURNED TO REVENUE DIV. 11-1-12 RH
DATE FORWARDED TO CITY CLERK 11-1-12 aa
DATE RECEIVED BY CITY CLERK 11-01-12 RH
SCHEDULED DATE ON AGENDA 11-05-12 RH

Council Action: _____ APPROVED _____ DISAPPROVED _____ TABLED

COMMENTS: _____

Rescheduled for Council Agenda Date: _____

Council Action: _____ APPROVED _____ DISAPPROVED _____ TABLED

COMMENTS: _____

DATE RETURNED TO REVENUE DIV.: _____

DATE RETURNED TO TAXPAYER _____
OR TO ABC FIELD OFFICE _____ (per taxpayer request)



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
 ALCOHOL LICENSE APPLICATION
Confirmation Number: 20121030075342016



If applicant is leasing the property, is a copy of the lease agreement attached? **YES**
 Name of Property owner/lessor and phone number: **L-A DAPHNE LLC 205-965-1051**
 What is lessors primary business? **REAL ESTATE**
 Is lessor involved in any way with the alcoholic beverage business? **NO**
 Is there any further interest, or connection with, the licensee's business by the lessor? **NO**

Does the premise have a fully equipped kitchen? **YES**
 Is the business used to habitually and principally provide food to the public? **YES**
 Does the establishment have restroom facilities? **YES**
 Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? **NO**

Will the business be operated primarily as a package store? **NO**
 Building Dimensions Square Footage: **16500** Display Square Footage:
 Building seating capacity: **0** Does Licensed premises include a patio area? **YES**
 License Structure: **ONE STORY** License covers: **ENTIRE STRUCTURE**
 Number of licenses in the vicinity: **3** Nearest: **.1**
 Nearest school: **5 miles** Nearest church: **2 miles** Nearest residence: **.5 blocks**
 Location is within: **CITY LIMITS** Police protection: **CITY**

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

Name:	Violation & Date:	Arresting Agency:	Disposition:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20121030075342016



Initial each

Signature page

TC

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TC

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TC

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TC

In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.

TC

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TC

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

TC

I hereby swear and affirm that I have read the application and all statements therein and facts set forth are true and correct, and that the applicant is the only person interested in the business for which the license is required.

Applicant Name (print): *Tammy Clotinger POA*

Signature of Applicant: *Tammy Clotinger POA*

Notary Name (print): *Betty G. Dean*

Notary Signature: *Betty G. Dean*

Commission expires: *11/10/15*

Application Taken: *10/30/12* App. Inv. Completed:

Submitted to Local Government:

Forwarded to District Office:

Received from Local Government:

Received in District Office:

Reviewed by Supervisor:

Forwarded to Central Office:

NATIONAL LEAGUE of CITIES

2012 Officers

President
Ted Ellis
Mayor
Bluffton, Indiana

First Vice President
Marie Lopez Rogers
Mayor
Avondale, Arizona

Second Vice President
Chris Coleman
Mayor
Saint Paul, Minnesota

Immediate Past President
James E. Mitchell, Jr.
Council Member
Charlotte, North Carolina

Executive Director
Donald J. Borut

August 30, 2012

David L. Cohen
City Clerk
City of Daphne
PO Box 400
Daphne, AL 36526-0400

Dear City Clerk Cohen:

The National League of Cities (NLC) Annual Business Meeting will be held on Saturday, December 1, 2012, at the conclusion of the Congress of Cities and Exposition in Boston, Massachusetts. As a direct member city, your city is entitled to vote at this meeting. Based on population as of the 2010 Census, each member city casts between one and twenty votes. The number of votes for each population range can be found below.

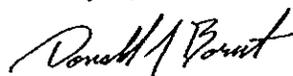
POPULATION	VOTES	POPULATION	VOTES
Under 50,000	1 vote	500,000 – 599,999	12 votes
50,000 – 99,999	2 votes	600,000 – 699,999	14 votes
100,000 – 199,999	4 votes	700,000 – 799,999	16 votes
200,000 – 299,999	6 votes	800,000 – 899,999	18 votes
300,000 – 399,999	8 votes	900,000 and above	20 votes
400,000 – 499,999	10 votes		

To be eligible to cast a city's vote, a voting delegate and alternate must be officially designated by the city using the enclosed credentials form. This form will be forwarded to NLC's Credentials Committee. NLC bylaws expressly prohibit voting by proxy. City elected officials should be made aware of this request so that decisions can be made as to who will be the voting delegate and alternate(s).

At the Congress of Cities, the voting delegate must pick up and sign for the city's voting card at the Credentials Booth before the Annual Business Meeting and must be present at the Annual Business Meeting to cast the city's vote. The Credentials Booth will be open during scheduled times throughout the Congress of Cities and Exposition.

Please return the completed form to NLC by fax (202-626-3109) before **October 31, 2012**, and keep the original for your files. If you have any questions, please contact Mae Davis, Member Relations Representative at mdavis@nlc.org or 202-626-3150; or contact Gail Remy, Director of Member Relations at remy@nlc.org, or 202-626-3026.

Thank you,



Donald J. Borut
Executive Director





CREDENTIALS FORM

NATIONAL LEAGUE OF CITIES · 2012 CONGRESS OF CITIES AND EXPOSITION · BOSTON, MASSACHUSETTS

At the Annual Business Meeting on Saturday, December 1, 2012, from 2:30 p.m. to 4:30 p.m., each direct member city of the National League of Cities (NLC) is entitled to cast from one to 20 votes based upon the city's population per the 2010 census, through its designated voting delegate. Please indicate below your city and state, your voting delegate and alternate(s), and sign and date the form. The form should be faxed to NLC at 202-626-3109, by the October 30, 2012, deadline.

The official voting delegate and alternate(s) for the city/town/village of:

Daphne, AL (1)

VOTING DELEGATE:

1. NAME: _____

TITLE: _____

ALTERNATE VOTING DELEGATE(S):

2. NAME: _____ TITLE: _____

3. NAME: _____ TITLE: _____

FOR OFFICE USE ONLY
(DO NOT WRITE IN THIS SPACE)

Voting card issued to:

(signature)

Votes: (1)

1 _____ 2 _____ 3 _____

PLEASE SIGN AND FAX THIS FORM TO NLC BY OCTOBER 30, 2012
ATTENTION: MAE DAVIS, MEMBER RELATIONS REPRESENTATIVE
FAX: 202-626-3109

Signature (city representative): _____

Title: _____ Date: _____

CITY ATTORNEY'S REPORT

NOTES:

DEPARTMENT HEAD'S COMMENTS

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

NOTES:

RECOMMENDATIONS

COUNCIL COMMENTS:

ORDINANCE 2012-60

Appropriation: (4) Police Vehicle Replacements

WHEREAS, Ordinance 2012-58 approved and adopted the Fiscal Year 2013 Budget on October 1, 2012; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2013 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2013 budget; and

WHEREAS, the police department has a plan to replace vehicles every six to seven years in order to maintain high performance and thereby reduce maintenance costs and provide additional protection to police officers in the event of accidents and high speed responses; and

WHEREAS, due to the budget restraints replacement of Police vehicles has not been able to stay on schedule; and

WHEREAS, four (4) vehicles (Chevy Tahoes) are requested to be purchased from the state bid contract to replace older vehicles.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that the Fiscal Year 2013 Budget is hereby amended to include a General Fund appropriation in the amount of \$170,700 for the replacement of four police vehicles.

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

**CITY OF DAPHNE
ORDINANCE NO. 2012-61**

**AN ORDINANCE REPEALING CITY OF DAPHNE ORDINANCE NOS. 1993-16
AND 1993-21 AND ADOPTING A NEW ORDINANCE
REGULATING THE USE OF ALCOHOLIC BEVERAGES
WITHIN THE CITY OF DAPHNE, ALABAMA.**

WHEREAS, the City Council of the City of Daphne, adopted Ordinances 1993-16 and 1993-21 regulating the use of alcoholic beverages, in 1993; and

WHEREAS, the City Council of the City of Daphne, after due consideration believes that Ordinances 1993-16 and 1993-21 should be repealed and replaced with and a new Ordinance regulating the use of alcoholic beverages, repealing Ordinances 1993-16 and 1993-21 in their entirety.

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

SECTION I: REPEAL

This Ordinance specifically repeals Ordinances 1993-16 and 1993-21 in their entirety.

SECTION II: ADOPTION OF NEW ALCOHOL USE REGULATIONS.

1. Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Public place” means any public street, alley, public way, right-of-way, sidewalk, or any public park, public playground, public parking lot, public building, public pier, or any other public property located within the corporate limits of the City of Daphne, Alabama.

“Special event” means a short-term, usually outdoor, event wherein any public place is to be temporarily used for the purposes of conducting the activity, such as a block party, festival, rodeo, bar-b-cue, cook-off, wine-tasting, beer-tasting, fundraiser, marathon, walk-a-thon, bike-a-thon, jogging activity, or any other similar organized activity whether for profit or not for profit.

“Adult person” means any person of legal drinking age (currently 21 years old or older).

“Alcoholic beverage” means any fluid or solid capable of being converted into a fluid, suitable for human consumption and having an alcoholic content of more than one-half of one percent of alcohol by volume, including but not limited to wine, spirits, distilled or rectified liquors, beer, ale, and other malt beverages, containing more than one-half of one percent of alcohol by volume.

“Open container” means any container which is immediately capable of being consumed from, or the seal of which has been broken.

“Nonprofit” means any bona fide charitable, benevolent, eleemosynary, educational, cultural, or governmental institution or organization, or any event held for nonprofit purposes regardless of whether the sponsor is a for-profit or nonprofit organization.

2. General Prohibition. Except as provided by this Ordinance, it shall be unlawful under this Ordinance for any person to drink or consume any alcoholic beverage in any public place, or to sell, purchase, exhibit, possess, carry, or transport any alcoholic beverage in an open container in any public place.
3. City Functions. Notwithstanding the general prohibition of this Ordinance, the Mayor or Council may permit or authorize the moderate social consumption of alcoholic beverages in designated public places by adult persons who are City officials, employees, agents, or representatives, and by invited guests of the City in connection with an official City function, such as, for example, a business development reception at City Hall for businesses considering relocation to the City. No person may carry or transport into or out of the designated public place of the City function any alcoholic beverages in open containers.
4. Daphne Civic Center and Bayfront Pavilion. Notwithstanding the general prohibition of this Ordinance, at any special event, private party, or private function inside the Daphne Civic Center or at the Bayfront Pavilion (including only the interior rooms and the outdoor deck) authorized by the issuance of a permit to use those facilities, adult persons attending such special event, private party, or private function may consume or possess alcoholic beverages in open containers within such facilities. No person may carry or transport into or out of the Civic Center or the Bayfront Pavilion any alcoholic beverages in open containers. Sales of alcohol at the Civic Center or the Bayfront Pavilion are allowed only if permitted by and properly licensed by all of the appropriate and necessary governmental and state regulatory agencies. The existing permit process for such events at the Civic Center or the Bayfront Pavilion shall not be changed or affected by this Ordinance.
5. Specially Permitted Events. Notwithstanding the general prohibition of this Ordinance, at any special event in a designated public place (other than Civic Center or the Bayfront Pavilion) authorized by the issuance of a special event permit, adult persons attending such special event may consume or possess alcoholic beverages in open containers within the designated public space covered by the permit. No person may carry or transport into or out of the designated public space covered by the permit any alcoholic beverages in open containers. Sales of alcohol at a specially permitted event by vendors are allowed only if permitted by and properly licensed by all of the appropriate and necessary governmental and state regulatory agencies. No special event permit shall be granted for an event lasting longer than _____ consecutive calendar days. No more than _____ such special event permits will be issued to any one person or

organization within a single calendar year. In the event of inclement weather cancelation of a permitted event, another permit must be applied for and obtained pursuant to the provisions of this Ordinance.

6. Application For Special Event Permit. A person seeking issuance of a special event permit for a special event in which consumption or possession of alcoholic beverages by adult persons in public places is desired by the event sponsor shall file an application with the City Clerk on forms provided by him. Each application must comply with the following provisions:

- (1) *Time for filing.* An application for a special event permit shall be filed with the City Clerk not less than fifteen (15) days nor more than thirty (30) days before the date on which it is proposed to conduct the special event.
- (2) *Late applications.* Where good cause is shown by the applicant, the Mayor shall have the authority to consider any application hereunder which is filed less than ten (15) days before the date such special event is proposed to be conducted.
- (3) *Contents.* The application for a special event permit shall set forth the following information:
 - a. The name, address and telephone number of the applicant;
 - b. If the special event is designated to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the City Clerk a communication in writing from the person proposing to hold the special event, authorizing the applicant to apply for the permit on his behalf;
 - c. If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization;
 - d. The name, address and telephone number of the person who will be the special event chairman and who will be responsible for its conduct;
 - e. The date when the special event is to be conducted;
 - f. The location of the special event;
 - g. The general purpose of the special event, the estimated or approximate number of persons who will participate in the special event, the numbers and types of vehicles, if any, which will participate in the special event, and a description of any entertainment which will be part of such special event;
 - h. The hours when such special event will start and terminate;
 - i. A statement as to whether the special event will occupy all or only a portion of the streets or other public places proposed to be utilized;
 - j. The specific assembly and dispersal locations, the specific route and the plans, if any, for disassembly and dispersal;
 - k. Whether any music will be provided, either live or recorded;
 - l. The number, types and locations of all loudspeakers and amplifying devices to be used;

- m. An assurance that the applicant will make provision for adequate police presence, if any, and that the applicant will conform to necessary fire prevention rules, regulations and guidelines;
 - n. an assurance that the applicant will make provision for garbage and litter cleanup associated with the special event during and after the special event in the specified area;
 - o. An assurance that the applicant will cause all booths, stands, signs and any other movable fixtures pertaining to the event to be removed immediately after the special event;
 - p. Any additional information which the City Clerk shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- (4) *Processing Fee.* There shall be paid at the time of filing the application for special event permit a processing fee of ____ dollars (\$__.00).
7. Standards for Issuance of Special Event Permit. The City Clerk shall issue a special event permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, the City Clerk, in consultation with the Police Chief, Fire Chief, and the Heads of the Public Works and Parks and Recreation Departments, where applicable, finds that:
- (1) The consumption of alcoholic beverages or the possession of alcoholic beverages at the special event will not pose an adverse risk to the health and safety and peace of the City's residents or pose an adverse risk to City property or private property.
 - (2) The conduct of the special event will not substantially interrupt the safe and orderly movement of traffic contiguous to its location.
 - (3) The conduct of the special event will not require the diversion of so great a number of police officers of the city to properly police the site and areas contiguous thereto as to prevent normal police protection to the city.
 - (4) The concentration of persons and vehicles at the location of the special event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.
 - (5) The conduct and location of such special event will not interfere with the movement of firefighting equipment in route to a fire.
 - (6) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.
 - (7) The special event is not to be held for the sole purpose of advertising any product, goods or event, and is not designated to be held purely for private profit.
8. Notice of Rejection or Alternative Permit. The City Clerk shall act upon the application for a special event permit within ten (10) days after the filing thereof. If the City Clerk disapproves the application, the City Clerk shall mail to the applicant within eleven (11) days after the date upon which the application was filed, a notice of the City Clerk's action, stating the reasons for denial of the permit. The City Clerk, in denying an application for a special event permit, shall be empowered to authorize the conduct of the special event on a date, at a time, or at a location different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within three (3) days after notice of the action by the City

Clerk, file a written notice of acceptance with the City Clerk. An alternate special event permit shall conform to the requirements of and shall have the effect of a special event permit under this article.

9. Revocation of Special Event Permit. The City Clerk and the Police Chief each shall have the authority to revoke a special event permit issued hereunder upon failure of the applicants or participants to comply with the standards for issuance and provisions herein set forth. Such authority may be delegated to the officers or such other person designated by the City Clerk or Police Chief to supervise the special event.
10. Appeal. An applicant who has been denied a permit or whose permit was revoked may file a written appeal of the decision with the Mayor within ten (10) days of the denial or revocation. The Mayor will issue a decision on the appeal within ten (10) days of receipt of the appeal. The time for a decision may be lengthened or shortened by the Mayor in extenuating circumstances.
11. Notice of Permit to Other City Officials. Immediately upon the issuance of a special event permit, the City Clerk shall send a copy thereof to the Police Chief, Fire Chief, and the Heads of the Public Works and Parks and Recreation Departments,
12. Contents of Permit. Any permit granted under this Ordinance may contain conditions reasonably calculated to reduce or minimize dangers and hazards to vehicular or pedestrian traffic and the public health, safety and welfare, including but not limited to changes or restrictions on the starting and ending times of the special event or the number of participants from those sought in the application. Each special event permit shall state the following information:
 - (1) Starting time and ending time;
 - (2) The specific portions of the streets or other public places allowed to be occupied by the special event;
 - (3) Special regulations of activities within the designated public space covered by the special event permit, including but not limited to controlled access by fencing and gating, wristband identification of persons admitted to any such controlled zone, wristband identification of adult persons authorized to consume or possess alcoholic beverages in open containers, loudspeaker limits and controls, enhanced security measures, and entertainment controls.
 - (4) Entrance criteria for the special event which may include but are not limited to prohibiting persons from entering with weapons, alcoholic beverages, pets, skates, bicycles, and other items which may be dangerous, disruptive, or inconvenient in crowded conditions, and prohibiting entry by persons appearing to be intoxicated.
 - (5) Such other information as the City Clerk may from time to time deem necessary in order to enforce this Ordinance.
13. Duties of Permittee. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The special event chairman or other person heading or leading such activity shall carry the special

event permit upon his person during the conduct of the special event.

14. Public Conduct During Special Events.

- (a) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any special event assembly or with any person attending a special event or their property.
- (b) *Parking at site of special event.* The Police Chief and designated officers shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the location of a special event. When necessary, the Police Chief shall cause signs to be posted to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.
- (c) *One drink on-street limit.* No person shall consume or possess in an open container more than one alcoholic beverage at any time at a permitted special event.
- (d) *Size limited to 16 ounces.* No alcoholic beverage served at any special event shall exceed 16 fluid ounces in size. No person attending the special event within the permitted public place shall consume or hold in possession any open alcoholic beverage container which exceeds 16 fluid ounces in size.
- (e) *Drinking from bottle or glass prohibited.* It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a bottle or glass or to possess in an open bottle, or glass any alcoholic beverage in any public place even during a permitted special event.
- (f) *Drinking alcohol in parked motor vehicle prohibited.* It shall be unlawful for any person to consume any alcoholic beverages while in the confines of a motor vehicle when the vehicle is parked on any city street, alley, way or parking lot.
- (g) *Public Intoxication.* No person shall become so intoxicated at any special event through the consumption of alcoholic beverages as to disturb the peace and enjoyment of the event by other attendees or the peace and enjoyment of City residents and others within the City.

15. Special Event Fees and Performance Obligations. The City Clerk is authorized to establish and amend from time to time a schedule of use fees and performance bond obligations for special events governed by this Ordinance. Any initial or amended schedule of fees shall be publically posted for ten calendar days before the fees and obligations are to take effect. *Provided, however,* neighborhood parties or block parties shall be exempt from any such special event use fees or performance bond obligations so long as no commercial activity is conducted, no admission fee is charged, and members of the general public are not allowed access.

16. Fines. Any person violating the provisions of this Ordinance shall be guilty of an offense against the City of Daphne and for each such offense shall be fined not less than \$25.00 and no more than \$100.00. For any second or subsequent offense, said fine shall not be less than \$50.00 and no more than \$200.00.

SECTION III: CONFLICT WITH OTHER ORDINANCES.

That any Ordinance 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 IV: 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 V: EFFECTIVE DATE.

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

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ DAY OF _____, 2012.

CITY COUNCIL PRESIDENT

**BAILEY YELDING, JR.,
MAYOR**

ATTEST:

**DAVID COHEN
CITY CLERK, MMC**

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

**AN ORDINANCE REPEALING CITY OF DAPHNE ORDINANCE NOS. 93-16
AND 93-21 AND ADOPTING A NEW ORDINANCE
REGULATING THE USE OF ALCOHOLIC BEVERAGES
WITHIN THE CITY OF DAPHNE, ALABAMA.**

WHEREAS, the City Council of the City of Daphne, adopted Ordinances 93-16 and 93-21 regulating the use of alcoholic beverages, in 1993; and

WHEREAS, the City Council of the City of Daphne, after due consideration believes that Ordinances 93-16 and 93-21 should be repealed and replaced with and a new Ordinance regulating the use of alcoholic beverages, repealing Ordinances 93-16 and 93-21 in their entirety.

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

SECTION I: REPEAL

This Ordinance specifically repeals Ordinances 93-16 and 93-21 in their entirety.

SECTION II: ADOPTION OF NEW ALCOHOL USE REGULATIONS.

1. Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Public place” means any public street, alley, public way, right-of-way, sidewalk, or any public park, public playground, public parking lot, public building, public pier, or any other public property located within the corporate limits of the City of Daphne, Alabama.

“Special event” means a short-term, usually outdoor, event wherein any public place is to be temporarily used for the purposes of conducting the activity, such as a block party, festival, rodeo, bar-b-cue, cook-off, wine-tasting, beer-tasting, fundraiser, marathon, walk-a-thon, bike-a-thon, jogging activity, or any other similar organized activity whether for profit or not for profit.

“Adult person” means any person of legal drinking age (currently 21 years old or older).

“Alcoholic beverage” means any fluid or solid capable of being converted into a fluid, suitable for human consumption and having an alcoholic content of more than one-half of one percent of alcohol by volume, including but not limited to wine, spirits, distilled or rectified liquors, beer, ale, and other malt beverages, containing more than one-half of one percent of alcohol by volume.

“Open container” means any container which is immediately capable of being consumed from, or the seal of which has been broken.

“Nonprofit” means any bona fide charitable, benevolent, eleemosynary, educational, cultural, or governmental institution or organization, or any event held for nonprofit purposes regardless of whether the sponsor is a for-profit or nonprofit organization.

2. **General Prohibition.** Except as provided by this Ordinance, it shall be unlawful under this Ordinance for any person to drink, consume, sell, purchase, or exhibit any alcoholic beverage in any public place, or to possess, carry, or transport any alcoholic beverage in an open container in any public place.
3. **City Functions.** Notwithstanding the general prohibition of this Ordinance, the Mayor or Council may permit or authorize the moderate social consumption of alcoholic beverages in designated public places by adult persons who are City officials, employees, agents, or representatives, and by invited guests of the City in connection with an official City function, such as, for example, a business development reception at City Hall for businesses considering relocation to the City. No person may carry or transport into or out of the designated public place of the City function any alcoholic beverages in open containers.
4. **Daphne Civic Center and Bayfront Pavilion.** Notwithstanding the general prohibition of this Ordinance, at any special event, private party, or private function inside the Daphne Civic Center or at the Bayfront Pavilion (including only the interior rooms and the outdoor deck) authorized by the issuance of a permit to use those facilities, adult persons attending such special event, private party, or private function may consume or possess alcoholic beverages in open containers within such facilities. No person may carry or transport into or out of the Civic Center or the Bayfront Pavilion any alcoholic beverages in open containers. Sales of alcohol at the Civic Center or the Bayfront Pavilion are allowed only if permitted by and properly licensed by all of the appropriate and necessary governmental and state regulatory agencies. The existing permit process for such events at the Civic Center or the Bayfront Pavilion shall not be changed or affected by this Ordinance.
5. **Specially Permitted Events.** Notwithstanding the general prohibition of this Ordinance, at any special event in a designated public place (other than Civic Center or the Bayfront Pavilion) authorized by the issuance of a special event permit, adult persons attending such special event may consume or possess alcoholic beverages in open containers within the designated public space covered by the permit. No person may carry or transport into or out of the designated public space covered by the permit any alcoholic beverages in open containers. Sales of alcohol at a specially permitted event by vendors are allowed only if permitted by and properly licensed by all of the appropriate and necessary governmental and state regulatory agencies. No special event permit shall be granted for an event lasting longer than _____ consecutive calendar days. No more than _____ such special event permits will be issued to any one person or organization within a single calendar year. In the event of inclement weather

cancellation of a permitted event, another permit must be applied for and obtained pursuant to the provisions of this Ordinance.

6. Application For Special Event Permit. A person seeking issuance of a special event permit for a special event in which consumption or possession of alcoholic beverages by adult persons in public places is desired by the event sponsor shall file an application with the City Clerk on forms provided by him. Each application must comply with the following provisions:
- (1) *Time for filing*. An application for a special event permit shall be filed with the City Clerk not less than fifteen (15) days nor more than thirty (30) days before the date on which it is proposed to conduct the special event.
 - (2) *Late applications*. Where good cause is shown by the applicant, the Mayor shall have the authority to consider any application hereunder which is filed less than ten (15) days before the date such special event is proposed to be conducted.
 - (3) *Contents*. The application for a special event permit shall set forth the following information:
 - a. The name, address and telephone number of the applicant;
 - b. If the special event is designated to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the City Clerk a communication in writing from the person proposing to hold the special event, authorizing the applicant to apply for the permit on his behalf;
 - c. If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization;
 - d. The name, address and telephone number of the person who will be the special event chairman and who will be responsible for its conduct;
 - e. The date when the special event is to be conducted;
 - f. The location of the special event;
 - g. The general purpose of the special event, the estimated or approximate number of persons who will participate in the special event, the numbers and types of vehicles, if any, which will participate in the special event, and a description of any entertainment which will be part of such special event;
 - h. The hours when such special event will start and terminate;
 - i. A statement as to whether the special event will occupy all or only a portion of the streets or other public places proposed to be utilized;
 - j. The specific assembly and dispersal locations, the specific route and the plans, if any, for disassembly and dispersal;
 - k. Whether any music will be provided, either live or recorded;
 - l. The number, types and locations of all loudspeakers and amplifying devices to be used;
 - m. An assurance that the applicant will make provision for adequate police presence, if any, and that the applicant will conform to

- n. necessary fire prevention rules, regulations and guidelines;
 - n. an assurance that the applicant will make provision for garbage and litter cleanup associated with the special event during and after the special event in the specified area;
 - o. An assurance that the applicant will cause all booths, stands, signs and any other movable fixtures pertaining to the event to be removed immediately after the special event;
 - p. Any additional information which the City Clerk shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- (4) *Processing Fee.* There shall be paid at the time of filing the application for special event permit a processing fee of ____ dollars (\$__.00).

7. Standards for Issuance of Special Event Permit. The City Clerk shall issue a special event permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, the City Clerk, in consultation with the Police Chief, Fire Chief, and the Heads of the Public Works and Parks and Recreation Departments, where applicable, finds that:

- (1) The consumption of alcoholic beverages or the possession of alcoholic beverages at the special event will not pose an adverse risk to the health and safety and peace of the City's residents or pose an adverse risk to City property or private property.
- (2) The conduct of the special event will not substantially interrupt the safe and orderly movement of traffic contiguous to its location.
- (3) The conduct of the special event will not require the diversion of so great a number of police officers of the city to properly police the site and areas contiguous thereto as to prevent normal police protection to the city.
- (4) The concentration of persons and vehicles at the location of the special event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.
- (5) The conduct and location of such special event will not interfere with the movement of firefighting equipment in route to a fire.
- (6) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.
- (7) The special event is not to be held for the sole purpose of advertising any product, goods or event, and is not designated to be held purely for private profit.

8. Notice of Rejection or Alternative Permit. The City Clerk shall act upon the application for a special event permit within ten (10) days after the filing thereof. If the City Clerk disapproves the application, the City Clerk shall mail to the applicant within eleven (11) days after the date upon which the application was filed, a notice of the City Clerk's action, stating the reasons for denial of the permit. The City Clerk, in denying an application for a special event permit, shall be empowered to authorize the conduct of the special event on a date, at a time, or at a location different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within three (3) days after notice of the action by the City Clerk, file a written notice of acceptance with the City Clerk. An alternate special event permit shall conform to the requirements of and shall have the effect of a special event permit under this article.

9. Revocation of Special Event Permit. The City Clerk and the Police Chief each shall have the authority to revoke a special event permit issued hereunder upon failure of the applicants or participants to comply with the standards for issuance and provisions herein set forth. Such authority may be delegated to the officers or such other person designated by the City Clerk or Police Chief to supervise the special event.
10. Appeal. An applicant who has been denied a permit or whose permit was revoked may file a written appeal of the decision with the Mayor within ten (10) days of the denial or revocation. The Mayor will issue a decision on the appeal within ten (10) days of receipt of the appeal. The time for a decision may be lengthened or shortened by the Mayor in extenuating circumstances.
11. Notice of Permit to Other City Officials. Immediately upon the issuance of a special event permit, the City Clerk shall send a copy thereof to the Police Chief, Fire Chief, and the Heads of the Public Works and Parks and Recreation Departments,
12. Contents of Permit. Any permit granted under this Ordinance may contain conditions reasonably calculated to reduce or minimize dangers and hazards to vehicular or pedestrian traffic and the public health, safety and welfare, including but not limited to changes or restrictions on the starting and ending times of the special event or the number of participants from those sought in the application. Each special event permit shall state the following information:
 - (1) Starting time and ending time;
 - (2) The specific portions of the streets or other public places allowed to be occupied by the special event;
 - (3) Special regulations of activities within the designated public space covered by the special event permit, including but not limited to controlled access by fencing and gating, wristband identification of persons admitted to any such controlled zone, wristband identification of adult persons authorized to consume or possess alcoholic beverages in open containers, loudspeaker limits and controls, enhanced security measures, and entertainment controls.
 - (4) Entrance criteria for the special event which may include but are not limited to prohibiting persons from entering with weapons, alcoholic beverages, pets, skates, bicycles, and other items which may be dangerous, disruptive, or inconvenient in crowded conditions, and prohibiting entry by persons appearing to be intoxicated.
 - (5) Such other information as the City Clerk may from time to time deem necessary in order to enforce this Ordinance.
13. Duties of Permittee. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The special event chairman or other person heading or leading such activity shall carry the special event permit upon his person during the conduct of the special event.
14. Public Conduct During Special Events.
 - (a) *Interference.* No person shall unreasonably hamper, obstruct, impede or

- interfere with any special event assembly or with any person attending a special event or their property.
- (b) *Parking at site of special event.* The Police Chief and designated officers shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the location of a special event. When necessary, the Police Chief shall cause signs to be posted to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.
 - (c) *One drink on-street limit.* No person shall consume or possess in an open container more than one alcoholic beverage at any time at a permitted special event.
 - (d) *Size limited to 16 ounces.* No alcoholic beverage served at any special event shall exceed 16 fluid ounces in size. No person attending the special event within the permitted public place shall consume or hold in possession any open alcoholic beverage container which exceeds 16 fluid ounces in size.
 - (e) *Drinking from bottle or glass prohibited.* It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a bottle or glass or to possess in an open bottle, or glass any alcoholic beverage in any public place even during a permitted special event.
 - (f) *Drinking alcohol in parked motor vehicle prohibited.* It shall be unlawful for any person to consume any alcoholic beverages while in the confines of a motor vehicle when the vehicle is parked on any city street, alley, way or parking lot.
 - (g) *Public Intoxication.* No person shall become so intoxicated at any special event through the consumption of alcoholic beverages as to disturb the peace and enjoyment of the event by other attendees or the peace and enjoyment of City residents and others within the City.
15. Special Event Fees and Performance Obligations. The City Clerk is authorized to establish and amend from time to time a schedule of use fees and performance bond obligations for special events governed by this Ordinance. Any initial or amended schedule of fees shall be publically posted for ten calendar days before the fees and obligations are to take effect. *Provided, however,* neighborhood parties or block parties shall be exempt from any such special event use fees or performance bond obligations so long as no commercial activity is conducted, no admission fee is charged, and members of the general public are not allowed access.
16. Fines. Any person violating the provisions of this Ordinance shall be guilty of an offense against the City of Daphne and for each such offense shall be fined not less than \$25.00 and no more than \$100.00. For any second or subsequent offense, said fine shall not be less than \$50.00 and no more than \$200.00.

SECTION III: CONFLICT WITH OTHER ORDINANCES.

That any Ordinance 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 IV: 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 V: EFFECTIVE DATE.

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

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ DAY OF _____, 2012.

CITY COUNCIL PRESIDENT

**BAILEY YELDING
MAYOR**

ATTEST:

**DAVID COHEN
CITY CLERK, MMC**

**CITY OF DAPHNE
ORDINANCE NO. 2012-62**

**AN ORDINANCE REGULATING THE PERSONAL USE OF SOCIAL MEDIA
BY EMPLOYEES OF THE CITY OF DAPHNE BY IMPLEMENTING
AND CREATING A SOCIAL MEDIA PERSONNEL POLICY
FOR CITY OF DAPHNE EMPLOYEES**

WHEREAS, the City of Daphne recognizes that many employees utilize social media such as personal websites, web logs (blogs), wikis, social networks (e.g., Facebook®, MySpace®, LinkedIn®, etc.), online forums, and virtual worlds, as communication tools; and

WHEREAS, the City of Daphne respects the rights of employees to use these media during their personal time away from work on their own personal computer devices; and

WHEREAS, the City of Daphne takes no position on employees' decisions to participate in social media activity; and

WHEREAS, the City Council of the City of Daphne, after due consideration, believes that social media activity by employees should be regulated and appropriate guidelines should be created in accordance with existing City of Daphne personnel policies;

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

SECTION I: ADDITION TO EMPLOYEE HANDBOOK CHAPTER ONE

That the following new section be added to Chapter One of the Employee Handbook:

1.9. SOCIAL MEDIA POLICY

Definitions. "Social media activity" includes, includes all types of postings on the Internet, including but not limited to, postings on social networking sites, (such as Facebook, MySpace or LinkedIn); blogs and other on-line journals and diaries; bulletin boards and chat rooms; microblogging, such as Twitter®; and postings of video or audio on media-sharing sites, such as YouTube®. "Social media activity" also includes permitting, or failing to remove, posts by others where the employee can control the content of postings, such as on a personal page or blog.

Application. Employees who engage in social media activity should be aware that their postings, even if done off premises and while off duty, could have an adverse effect on the City's interests. To reduce that risk, the city has adopted this Policy which is

applicable to all City employees and to all social media activity of such employees even if the activity is done off duty, while using personal electronic resources, and whether or not the employee posts anonymously or using a pseudonym. Employees who are expressly authorized to engage in social media activity on the City's behalf are required to comply with separate guidelines. In the event an area is not covered specifically by this policy, the City relies on the professionalism and judgment of its employees to ensure that social media activity is used appropriately.

Guidelines and Prohibitions. All social media activity will be subject to all City policies, rules, regulations, and guidelines. In addition, the City adopts these specific guidelines and prohibitions:

- The City prohibits employees from engaging in social media activity while on duty during working time, which excludes meal breaks or other break periods when employees are not expected to be working.
- The City prohibits employees from engaging in social media activity utilizing any of the City's electronic resources, unless specifically authorized in writing by the City.
- The City prohibits employees from texting or other social media activity while driving on City business or while driving any City vehicle, whether the employee is on duty or off duty.
- Supervisory employees must not gain access to the restricted social media page of a subordinate (for example, by sending or accepting a "friend" request) unless there is a valid City business purpose for doing so. Any such access to a subordinate's restricted social media page should be limited to that which is necessary to accomplish the City's business purpose. Any employee may reject, without fear of retaliation, any request from any other employee, or manager, or supervisor that, if accepted, would permit access to a restricted social media page (such as a "friend" or "like" or connection request).
- Employees are prohibited from acting as or purporting to act as a spokesperson on behalf of the City or posting comments as a representative of or purporting to be a representative of the City without express written authorization. Employees must make clear to their readers that the views expressed in any posting are their views alone and do not reflect the views of the City.
- Employees are prohibited from disclosing information of the City that is confidential and/or proprietary when engaging in social media activity.
- Employees are prohibited from posting images or videos of other employees/co-workers taken or made while the employee/co-worker is working or otherwise in their employment capacity.

- Employees are prohibited from posting any nonpublic, confidential, and/or proprietary images of any City premises and property.
- While engaged in social media activity, employees are prohibited from displaying the City of Daphne logo or letterhead or using materials belonging to the City, including promotional and marketing materials, without express written permission or authorization.
- Employees are prohibited from using use a City-issued email address to register for any social media account or site, or as an identifier needed to participate in any social media activity, or otherwise while engaging in social media activity for non-business purposes; provided, however, employees may reference the City as their employer and include contact information (including City-issued email addresses) on social and professional networking sites only, such as LinkedIn.

Enforcement. The City may view and monitor any employee's publicly-accessible website, web blog, or other social media forum for which the employee is responsible at any time. The City will, in its discretion, review social media activity to the fullest extent permitted by applicable law. If an employee engages in social media activity in violation of this Policy anonymously or using a pseudonym, the City will, in appropriate circumstances, take steps to determine the employee's identity. Employees will be held accountable for engaging in social media activity that violates this Policy. Failure to comply with this Policy may result in disciplinary action up to and including, termination of employment. The City also reserves the right to report suspected unlawful conduct to appropriate law enforcement authorities and take any other available legal remedy.

SECTION II: CONFLICT WITH OTHER ORDINANCES.

That any Ordinance 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.

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.

COUNCIL PRESIDENT

**BAILEY YELDING, JR.,
MAYOR**

ATTEST:

**DAVID COHEN,
CITY CLERK, MMC**

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2012 - 65
AN ORDINANCE CONSENTING TO THE LEASE OF CERTAIN PROPERTY BY THE
UTILITIES BOARD OF THE CITY OF DAPHNE TO THE CITY OF DAPHNE**

WHEREAS, the Utilities Board of the City of Daphne (“Daphne Utilities”) is required to receive the consent of the City of Daphne under the provisions of Ala. Code § 11-50-314(a)(10) before it leases property; and

WHEREAS, the management of Daphne Utilities has determined that it is in the best interest of Daphne Utilities to lease certain of its property to Algae Systems, LLC as described in detail on Exhibit A; and

WHEREAS, the Board of Directors of Daphne Utilities has approved the lease of the property to Algae Systems, LLC as described in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED that the council of the City of Daphne does hereby consent to the lease by Daphne Utilities of the property described on Exhibit A, to Algae Systems, LLC.

Adopted and Approved by the City Council of the City of Daphne, Alabama this _____ day of _____, 2012.

Council President

**Bailey Yelding, Jr.,
Mayor**

Attest:

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

EXHIBIT A

GROUND LEASE

THIS AGREEMENT OF LEASE, made and entered into as of this 12th day of October, 2012, by and between THE UTILITIES BOARD OF THE CITY OF DAPHNE, a public corporation (hereinafter called "Lessor"), and ALGAE SYSTEMS, LLC, a Delaware limited liability company (hereinafter called "Lessee"):

W I T N E S S E T H:

1. PREMISES AND DEMISE. Lessor, for and in consideration of the rents hereinafter referred to, and upon the covenants and conditions herein contained, does hereby demise, lease, and let unto Lessee that certain real property located in Baldwin County, Alabama, more particularly described and shown on Exhibit "A" attached hereto and made a part hereof, which property shall sometimes be hereinafter referred to as the "Leased Premises." Lessor and Lessee acknowledge that situated on the Leased Premises is an office building, natural gas compressor and existing plant infrastructure. The rear half of the office building and the natural gas compressor and existing plant infrastructure will continue to be used by Lessor for its own purposes. A depiction of the office building is attached hereto as Exhibit "B" and the approximate rear half of that office building is cross-hatched. The cross-hatched, rear portion of the office building and the natural gas compressor and existing plant infrastructure are not the subject of this lease and do not form part of the Leased Premises, Lessor retains the exclusive right to use such rear portion of the office building and natural gas compressor and existing plant infrastructure, and Lessor retains for itself, its agents, servants, employees, and contractors, and shall have the right of ingress and egress over the

Leased Premises to access the retained property. The use by Lessor, its agents, servants, employees, and contractors, of the retained property and the right of ingress and egress shall not be deemed a violation of Lessee's right of quiet enjoyment of the Leased Premises.

TO HAVE AND TO HOLD the Leased Premises, together with the rights, privileges, easements and appurtenances thereunto appertaining, for and during the term hereinafter set forth.

2. CONDITION OF LEASED PREMISES. At the commencement of the term, Lessee shall accept the Leased Premises in its existing condition, as is and where is (subject to latent defects). No representation, statement, or warranty, express or implied, has been made by or on behalf of Lessor as to such condition or as to the use that may be made of the Leased Premises. In no event shall Lessor be liable for any defect in such property (other than latent defects) or for any limitation on its use, nor shall the rent hereunder be withheld, diminished, or abated on account of any defect or limitation on use.

3. TERM. This lease is for a primary term of five (5) years, with the term to commence on the date of execution hereof by both parties; provided, however, that Lessee may terminate the lease at any time. Lessor shall deliver vacant possession of the Leased Premises upon such execution except for the retained portions of the Leased Premises.

4. RENT. Lessee agrees, binds, and obligates itself, its successors and assigns, to pay Lessor the following consideration:

A. As more particularly described in paragraph 6 hereof, Lessee intends to construct upon the Leased Premises a boardwalk and pier, which Lessor and Lessee acknowledge will require a significant expenditure of money and will enhance the Leased Premises. Lessee shall submit the plans for the improvements to Lessor for Lessor's approval prior to construction. As part of the consideration for this lease, at the end of the term Lessee shall leave such improvements in place so that they will inure to the benefit of Lessor. Such improvements shall be maintained in good condition and repair during the term of the Lease and upon termination. Any other permanent improvements to the Leased Premises shall be subject to written approval and consent of the Lessor, which shall not be unreasonably withheld, conditioned, or delayed.

B. Incident to its use of the Leased Premises, Lessee anticipates that it will effect enhancements to certain of Lessor's fixed assets located on the Leased Premises. As part of the consideration for this lease, at the end of the term Lessee shall leave such enhancements to Lessor's fixed assets in place so that they will inure to the benefit of Lessor.

C. If Lessee makes any other improvements of a permanent nature to the Leased Premises, such improvements shall not be removed by Lessee so that they will inure to the benefit of Lessor.

D. If Lessee makes any other improvements to the Leased Premises, regardless of nature, which Lessee could remove from the Leased Premises at the end of the term but within thirty (30) days after the end of the term does not remove from the Leased Premises, such improvements shall be deemed abandoned and thereafter may

be retained by Lessor as its property. If Lessor determines that any such improvements are not acceptable, then Lessee shall remove such improvements within thirty (30) days of notice from Lessor to remove.

Lessor acknowledges and agrees that any and all improvements made to the Leased Premises by Lessee and which became the property of the Lessor at the end of the term shall be left thereon by Lessee in their existing condition, which shall be in good condition and repair.

5. USE. The Leased Premises may be used as part of and incident to the wastewater to fuel technology that Lessee is developing. The Lessee intends to develop a pilot plant on the Leased Premises and among other things position floating biogenerators in that portion of Mobile Bay abutting the Leased Premises, and use of the Leased Premises by Lessee shall include those on shore operations that are necessary to support the activities for which the floating biogenerators are intended.

6. IMPROVEMENTS. Lessee is hereby given the right, at any time and from time to time during the term hereof, to construct improvements upon the Leased Premises. Included among the improvements that Lessee intends to construct upon the Leased Premises are a boardwalk and pier. The Lessee agrees that it is to secure all necessary U.S. Corps of Engineers and other governmental permits before undertaking construction of the boardwalk and pier. Lessee agrees to provide to Lessor, at no cost to Lessor, for informational purposes, copies of all plans and specifications developed by Lessee and approved by the Corps for the construction of the boardwalk and pier.

The separate and several rights and privileges above given and granted unto Lessee are subject to the following terms and conditions:

A. Lessee shall not demolish any buildings, fixtures or other permanent improvements now existing on the Leased Premises or any substantial part thereof.

B. Lessee will comply at all times and in all respects with all applicable laws, ordinances, building, safety, fire, sanitation, environmental and ecological rules and codes insofar as the use of the Leased Premises shall be concerned and will not by any act or omission render Lessor liable for any violation thereof, but, on the contrary, will indemnify Lessor and hold Lessor harmless from and against any and all claims, actions, suits, proceedings, losses, costs, and expenses, including attorney's fees, filed against , incurred by, or involving the Lessor which arise from or out of Lessee's failure to comply with such rules or codes; provided, however, that Lessee shall not be obligated to perform any structural alterations or alterations to the building system to comply with such laws, etc., unless such compliance is required by Lessee's specific manner of use or Lessee's alteration to the Leased Premises.

C. If, as a result of any permitted construction and/or activity or work by Lessee or at its discretion, any labor, material, and/or mechanic's lien shall be filed against Lessor or any portion of the Leased Premises, Lessee shall, at its own cost and expense, defend or satisfy the same and hereby covenants that it shall indemnify and hold Lessor harmless from any such liabilities, suits, penalties, claims, and demands, including reasonable attorney fees, resulting from any such lien being filed as aforesaid.

If, in connection with the foregoing, Lessee disputes the validity of any such lien claim, within thirty (30) days after Lessee receives notice that a lien has been filed, Lessee shall cause such lien to be bonded off and shall prosecute its contest of the validity of the lien until ultimately resolved.

D. Upon the expiration of the term or extended term, as the case may be, subject to the provisions of paragraph 4 hereof, any and all improvements of a permanent nature then existing on the Leased Premises shall revert to the Lessor.

7. TAXES. Lessee shall pay annually and before the same becomes delinquent all ad valorem taxes levied or assessed at any and all times during the term and extended term of this lease against the Leased Premises and any and all improvements constructed or situated thereon; provided, however, that the foregoing shall not restrict Lessee's right to challenge any such taxes. Lessee shall submit proof of all such payments to Lessor on or before the delinquent date thereof, including not only ad valorem and personal property taxes but also special assessments for public improvements. Under no circumstances shall Lessee be obligated to pay any income, inheritance, estate, or succession taxes or any liens in the nature of any such described taxes or any other tax which may be levied or assessed against Lessor with respect to or because of the income or other benefit derived by Lessor from this lease. As to ad valorem and real property taxes levied and assessed against the Leased Premises which are due and payable during the first year and the last year of the term or extended term of this lease, as the case may be, a proper apportionment of such taxes

shall be made to cover the fraction of such year included within the term or extended term of this lease.

8. INDEMNITY AND WAIVER OF SUBROGATION. Lessee agrees not to hold Lessor responsible or liable in damages by abatement of rent or otherwise, and to indemnify Lessor and hold Lessor harmless from and against any liability for any and all damage to property or injury to persons sustained by Lessee, its agents, servants, or employees or any other person due to any improvements made by Lessee on the Leased Premises becoming out of repair or due to the happening of any accidents or occurrence on or about the Leased Premises which occur as a result of Lessee's negligence, and Lessee waives any claim it may have against Lessor with respect to such damages or injuries and shall attempt in good faith to cause its property insurance carriers to waive their respective rights of subrogation which might arise as a result of any such damages or injuries.

Lessor agrees not to hold Lessee responsible or liable, and to indemnify Lessee and hold Lessee harmless from and against any liability for any and all damage to property or injury to persons sustained by Lessor, its agents, servants, or employees, or any other person due to the happening of any accidents or occurrence which occur as a result of Lessor's negligence, and Lessor waives any claim it may have against Lessee with respect to such damages or injuries and shall attempt in good faith to cause its property insurance carriers to waive their respective rights of subrogation which may arise as a result of any such damages or injuries.

9. INSURANCE.

A. During the term hereof Lessee will provide and maintain at its cost and expense public liability and property damage liability insurance in policies naming Lessor as an additional insured against all claims (including all costs and expenses of defending same) for the loss of life or injuries to persons or property occurring upon, in, or about the Leased Premises, with a combined single limit of \$1,000,000, listing Lessor as additional insured. Such insurance shall also include within its coverage claims arising from environmental matters, hazardous materials release, and contamination of the Leased Premises occurring as a result of either of the foregoing. If Lessee undertakes any activities in the Leased Premises for which workers compensation coverage for its employees is required, Lessee shall procure that amount of workers compensation coverage as is required by Alabama law.

B. Within thirty (30) days after the commencement of this lease, Lessee shall deliver to Lessor one or more certificates of insurance evidencing the insurance coverage carried by Lessee in the manner set forth in subparagraph A above.

C. Not less than fifteen (15) days prior to the expiration date of each policy or policies theretofore furnished or carried pursuant to the provisions of this lease, Lessee shall deliver to Lessor an endorsement or other written evidence of insurance in substitution therefor evidencing the renewal of such policy or policies about to expire.

D. All policies of insurance to be carried by Lessee hereunder shall be in responsible companies reasonably satisfactory to Lessor and duly authorized to transact business in the State of Alabama. All such policies shall contain a provision

that the insurer will provide not less than ten (10) days written notice to Lessor of cancellation or termination of such insurance coverage.

E. Lessor shall insure the existing buildings and improvements on the Leased Premises against such types of losses and in such amounts and with such companies as Lessor deems appropriate.

10. REPAIRS. During the term hereof, the Lessee shall have no obligation to repair the buildings and improvements located or to be located upon the Leased Premises except for (i) those building and improvements that Lessee constructs upon the Leased Premises, and (ii) those repairs that become necessary by virtue of Lessee's activities on the Leased Premises.

11. UTILITY SERVICE. Lessee shall pay for all utility services used in or at the Leased Premises in reasonable proportion with Lessor to the extent that Lessor also uses such utilities. Currently, all such utility services are in the name of the Lessor, and the parties hereto intend to maintain such arrangement. Accordingly, Lessor agrees to pay for all utilities consumed at the Leased Premises and then bill Lessee for such costs. Lessee agrees to reimburse Lessor for such utility costs within twenty (20) days after its receipt of an invoice from Lessor for such utility costs. Lessor shall not be liable for any interruption or failure in the supplying of any such utility services to the Leased Premises other than an interruption or failure caused by the negligence or intentional act of Lessor, its agents, servants, or employees or caused by a default by Lessor under the terms of this lease.

12. ENCUMBRANCE OF LEASEHOLD INTEREST. Lessee shall have no right to mortgage its leasehold interest in the Leased Premises.

13. ENVIRONMENTAL MATTERS.

A. Lessee hereby represents and warrants that during its use and occupancy of the Leased Premises, neither Lessee nor its officers, employees, or agents, shall cause any hazardous substances, hazardous materials, toxic substances, or other similar or regulated substances, residues, or wastes, pollutants, petroleum products and by-products, or asbestos to be generated, released, spilled, leaked, pumped, emitted, emptied, discharged, escaped, leached, dumped, disposed, stored (other than in approved containers or tanks), or deposited on, over, beneath, or within the Leased Premises. Lessee shall, at Lessee's own expense, provide all information required by, and comply with all requirements of all governmental authorities under applicable Federal, state, and local laws, ordinances, statutes, rules, and regulations arising out of its operation of its facilities on the Leased Premises.

B. Lessor hereby represents and warrants that during the term hereof neither Lessor nor its officers, employees, or agents shall cause any hazardous substances, hazardous materials, toxic substances or other similar or regulated substances, residues, or wastes, pollutants, petroleum products and by-products, or asbestos to be generated, released, spilled, leaked, pumped, emitted, emptied, discharged, escaped, leached, dumped, disposed, stored (other than in approved containers or tanks), or deposited on, over, beneath, or within the Leased Premises.

Lessor covenants and agrees to remediate any of the foregoing which it released on the Leased Premises during the term.

C. Lessee hereby covenants and agrees that it will indemnify Lessor and Lessor's mortgagee, if any, from and against any and all claims, losses, damages, response costs, and expenses arising out of or in any way related to a breach of Lessee's environmental representations, including, but not limited to, the following:

(1) claims of third parties (including governmental agencies) for damages, penalties, response costs, injunctive or other relief;

(2) expenses, including fees of attorneys and experts, of reporting to any governmental agency the existence of hazardous substances, hazardous wastes, pollutants, or contaminants caused by Lessee; and

(3) any and all expenses or obligations, including attorneys' fees incurred at, before, and after any trial or appeal therefrom, whether or not taxable as cost, including, without limitation, attorneys' fees, deposition costs, copying and telephone charges, and other expenses, all of which shall be paid by Lessee when accrued.

D. If Lessee or Lessor shall cause any hazardous substances, hazardous materials, toxic substances, or other similar or regulated substances, residues, or wastes, pollutants, petroleum products and by-products, or asbestos to be or become present over, under, in, or within the Leased Premises and Lessee or Lessor, respectively, fails to respond to the presence thereof in a timely manner, whether or not such response is mandated by a governmental authority, then the other

party shall have the right, but not the obligation, in its sole discretion, to undertake, at the cost and expense of the releasing party, such response to the presence of such hazardous substances, hazardous materials, toxic substances, or other similar or regulated substances, residues or wastes, pollutants, petroleum products and by-products, or asbestos caused by the releasing party as the other party deems necessary and appropriate, and the releasing party shall reimburse the other party for all response costs and expenses, including the fees of attorneys and experts, incurred by the other party in responding to the presence of such above described items caused by the releasing party.

E. Notwithstanding the foregoing, the Lessee shall have the right to bring upon the Leased Premises those hazardous materials that are incident to its use, provided that at all times Lessee shall conduct its operations in compliance with all rules, regulations, laws, permits, and other regulatory items applicable to the hazardous materials used by Lessee at or on the Leased Premises.

14. DEFAULT. Upon the happening of any one or more of the events expressed below in succeeding subparagraphs A through G, Lessor shall have, in addition to all rights and remedies available to Lessor provided by law, the right, at the option of Lessor, to annul and terminate this lease and thereupon re-enter and take possession of said premises and all of the improvements thereon contemplated by Section 4 above. The events of default to which reference is hereinabove made are as follows:

A. In the event Lessee should fail to pay any one or more of said installments of rent/compensation as and when the same become due.

B. In the event an execution or other legal process is levied upon the property of Lessee constructed on said premises or upon the interest of Lessee in this lease or upon the Leased Premises and not stayed within a reasonable time after levy.

C. In the event a petition in bankruptcy or a petition under the Bankruptcy Act, or any amendment thereto, is filed by Lessee, or Lessee is adjudicated a bankrupt.

D. In the event a general assignment for the benefit of creditors is made by Lessee, other than assignments made as collateral security for financing as expressly allowed hereunder.

E. In the event of the appointment of a receiver for the Leased Premises which is not stayed within a reasonable time.

F. In the event of the occurrence on the Leased Premises of an act by Lessee which constitutes a release under the Lessor's NPDES permit applicable to the Leased Premises.

G. In the event Lessee violates in any material respect any of the other terms, conditions, or covenants on the part of Lessee herein contained.

The foregoing subparagraphs A through G to the contrary notwithstanding, and any statutory remedy of the Lessor to the contrary notwithstanding, Lessor shall not exercise any right in the event of a default described in said subparagraphs A and G except and unless Lessor shall have first given Lessee written notice of the default

claimed, specifying in reasonable detail the default claimed, and allow Lessee ten (10) days, in the case of a default described in subparagraph A, or thirty (30) days, in the case of a default described in subparagraph G, to cure such default, or within such thirty (30) day period demonstrates that it is in good faith diligently attempting to cure the default complained of and actually does cure the same within one hundred twenty (120) additional days.

15. NO WAIVER. The failure by a party to insist upon a strict performance of any of the covenants of this lease or exercise any option herein contained shall not be construed as a waiver of same; on the contrary, the right or option shall continue and remain in full force and effect as long as the event giving rise to such right or option remains uncured. The receipt by Lessor of rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach unless expressed in writing.

16. CASUALTY. In the event of damage to or destruction of the improvements on the Leased Premises by fire or other casualty, each party shall have the right, but not the obligation, to repair and restore those improvements which it has constructed on the Leased Premises. Each party shall be entitled to make claim for the insurance proceeds payable under its policies of casualty insurance with respect to the damage caused to the improvements which it has constructed on the Leased Premises.

17. CONDEMNATION.

A. Total Condemnation. If, as a result of condemnation, the whole of the Leased Premises is taken, or such portion is taken as will make the remaining

premises unusable for the purposes herein leased in the judgment of Lessee reasonably exercised, then this lease shall terminate and the term hereby granted shall cease.

B. Partial Condemnation. If a part only of the Leased Premises be condemned by any such condemning authority, and such lesser taking shall not in Lessee's sole discretion render the remaining premises unusable to Lessee, then this lease shall not terminate.

C. The Award and Adjustments. In the case of a condemnation, the entire award shall be payable to the Lessor, subject to proportionate sharing with the Lessee as determined in good faith by the parties.

18. QUIET ENJOYMENT. Lessee, upon the payment of the rent herein reserved and upon the performance of all the terms of this lease, shall at all times during the term of this lease peaceably and quietly enjoy the Leased Premises without any disturbance from Lessor or from any other person claiming through Lessor.

19. SUCCESSORS AND ASSIGNS. Every provision hereof applicable to Lessor and to Lessee shall bind, apply and run in favor of their respective successors in interest, heirs, assigns, executors, administrators or personal representatives, as the case may be.

20. SUBLETTING AND ASSIGNMENT. Without the consent of Lessor, Lessee may assign this lease to a wholly owned subsidiary or to its parent entity. Subject as aforesaid, Lessee shall not assign this lease in whole or in part or to sublet all or any part of the Leased Premises without the prior written consent of Lessor, which

consent shall not be unreasonably withheld or delayed. No assignment or subletting by Lessee shall affect the obligation of Lessee to perform all of the covenants and conditions required to be performed by Lessee under the terms of this lease. Lessor shall have the right to assign or transfer Lessor's right, title and interest in and to this lease without the consent of the Lessee. Within twenty (20) days after any such sublease or assignment by Lessee, Lessee shall deliver to Lessor a duplicate original of each instrument of sublease or assignment or modification thereof.

21. NOTICES. All notices, demands, communications, or elections to exercise any option hereunder, whether intended for Lessor or Lessee, shall be in writing and may be served or delivered in person or by Federal Express, to the address of the party intended as the recipient thereof as such address is hereinbelow stated, or to such other address as the parties hereto may at any time, and from time to time, designate in writing. The time of giving notice shall be reckoned from the day of delivery if delivered to the intended recipient in person, or from the day of posting, if mailed. The present addresses of the parties hereto are:

LESSOR: The Utilities Board of the City of Daphne
Attention: Rob McElroy, General Manager
900 Daphne Avenue
Daphne, Alabama 36526

LESSEE: Algae Systems, LLC
Attention: Matt Atwood, CEO
2533 Double Diamond Parkway, Suite 4481
Reno, NV 89521

22. FORCE MAJEURE. If Lessor or Lessee is delayed, hindered, or prevented from performing any act required hereunder by reason of strikes, lockouts,

labor troubles, inability to procure materials, failure of power, restrictive government laws or regulations, riots, insurrection, the act, failure to act, or default of the other party, war, or other reason beyond its reasonable control, then performance of the act shall be excused for the period of the delay.

23. GOVERNING LAW. This agreement shall be governed by, and it is to be construed according to, the laws of the State of Alabama.

24. RIGHT OF ENTRY. The Lessor and its agents may enter upon the Leased Premises upon reasonable notice (which may be provided orally) at all reasonable times to examine its condition and use, so long as such right is exercised in a manner that does not interfere with the Lessee in the conduct of its business on the Leased Premises or in the enjoyment of the Leased Premises by sublessees, patrons, invitees, or guests of the Lessee.

25. COMPLIANCE WITH LAWS. Lessee shall, at its own expense, comply with all laws, orders, and regulations of Federal, state, and municipal authorities and with any lawful direction of any public officer which shall impose any duty upon Lessee with respect to the Leased Premises as provided in paragraph 6B above. Lessee shall, at its own expense, obtain all required licenses or permits for the conduct of its business on the Leased Premises.

26. ATTORNEY'S FEES. In the event of any controversy arising under or relating to the interpretation or implementation of this lease or any breach thereof, the prevailing party shall be entitled to payment for all costs and expenses, including attorney's fees, both at the trial and appellate levels, incurred in connection therewith.

27. WASTE and REPORTING REQUIREMENTS. Lessee shall commit no waste upon the Leased Premises. The occurrence of any event which would constitute a reportable event under the Lessor's NPDES permit shall be considered an act of waste. Lessee shall provide regular, periodic test reports to Lessor on water contaminant test results.

28. MEMORANDUM OF UNDERSTANDING. Contemporaneously with the execution of this Lease, the Lessor and the Lessee shall enter into a Memorandum of Understanding relating to operations on the Leased Premises and reporting requirements to the Lessor. This Memorandum of Understanding is incorporated into this Lease by reference. All terms of this Memorandum of Understanding shall be enforceable terms of agreement between the Lessee and the Lessor and any breach or violation of those terms shall also be deemed an event of default under paragraph 14 of this Lease.

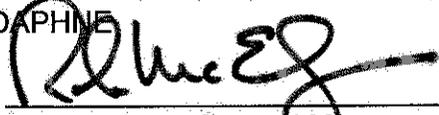
29. RIGHT OF FIRST REFUSAL TO PURCHASE. In the event Lessor receives an offer to purchase the Leased Premises, which offer the Lessor desires to accept, prior to accepting such offer Lessor shall transmit to Lessee a copy of such offer and written affirmation that Lessor desires to accept such offer. Lessee shall have a period of ten (10) days from its receipt of such offer to advise Lessor in writing whether or not Lessee is willing to purchase the Leased Premises upon the terms stated in such offer. If Lessee states that it is willing to so purchase the Leased Premises on such terms, Lessor and Lessee shall promptly execute a sale and purchase agreement setting forth the terms from the other offer. If Lessee states that it is not willing to

purchase the Leased Premises on such terms, then Lessor shall be free to proceed with a sale of the Leased Premises to the other offeror on terms no less favorable to Lessor than contained in the initial offer; provided that any such sale shall be explicitly subject to the existence and terms of this lease.

IN WITNESS WHEREOF, the Lessor and Lessee have caused this instrument to be executed, in duplicate, all as of the day and date first above set forth.

LESSOR:

THE UTILITIES BOARD OF THE CITY
OF DAPHNE

By: 
Rob McElroy, General Manager

LESSEE:

ALGAE SYSTEMS, LLC

By: _____
As Its: _____

The effectiveness of this lease is subject to the approval thereof by the City Council of the City of Daphne, Alabama.

purchase the Leased Premises on such terms, then Lessor shall be free to proceed with a sale of the Leased Premises to the other offeror on terms no less favorable to Lessor than contained in the initial offer; provided that any such sale shall be explicitly subject to the existence and terms of this lease.

IN WITNESS WHEREOF, the Lessor and Lessee have caused this instrument to be executed, in duplicate, all as of the day and date first above set forth.

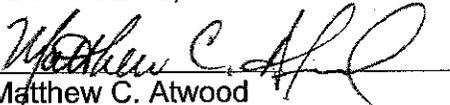
LESSOR:

THE UTILITIES BOARD OF THE CITY
OF DAPHNE

By: _____
Rob McElroy, General Manager

LESSEE:

ALGAE SYSTEMS, LLC

By: 
Matthew C. Atwood
President & CEO

The effectiveness of this lease is subject to the approval thereof by the City Council of the City of Daphne, Alabama.

EXHIBIT "A"

All that part of the North half of the South half of Lot Two (2) of the division of the Louis D'Olive Spanish Grant in Township 5 South, Range 2 East, Baldwin County, Alabama, according to the division thereof recorded in Record Book "G-1", Probate Records, Baldwin County, Alabama, lying West of U. S. Highway No. 98 (Ala. State Highway Department Project No. 635-3), Being that part lying west of said highway of the North Half of that certain property conveyed to Aura Douglas by deed recorded in Deed Book 63, Pages 28-29, Baldwin County Probate Records, by Charles and Marie G. Alphonse, and more particularly described as follows: From the Southeast corner of Section 5, Township 5 South, Range 2 East, run South 58 links and West 118 chains 33 links to an iron pipe on the west side of the Old Bay Shore Highway (formerly Ala. Highway No. 89), thence run West 359.6 feet to highway right of way monument P. C.438 + 12.52; thence run North 20 degrees 00 minutes 20 seconds West 243 feet to a concrete monument, the Southeast corner of the property herein described, for a point of beginning; thence run North 89 degrees 50 minutes West 1896 feet to a point or corner on the Eastern margin of Mobile Bay, thence run Northwardly following the meanders of the bay shore to a point situated North 16 degrees 39minutes East 232.4 feet from the last mentioned corner; thence run North 89 degrees 23 minutes East 134.5 feet to an old cedar stake; thence run South 89 degrees 44 minutes East 398.5 feet to another old cedar stake; thence run North 89 degrees, 55 minutes 37 seconds east 1224.76 feet to an iron fence post set in concrete corner of the west side of said Highway No. 98; thence Southwardly along the West margin of said highway, on a chord bearing South 17 degrees 21 minutes 20 seconds East 240.55 feet to the point of beginning.

EXHIBIT "B"

