

**CITY COUNCIL BUSINESS MEETING AGENDA**  
**1705 MAIN STREET, DAPHNE, AL**  
**APRIL 15, 2013**  
**6:30 P.M.**

- 1. CALL TO ORDER**
- 2. ROLL CALL / INVOCATION / Reverend Jerry Buzzard / Daphne Baptist Church**
- 3. APPROVE MINUTES:** Council meeting minutes / April 1, 2013  
Council Work Session minutes / April 8, 2013

**4. REPORT STANDING COMMITTEES:**

**A. FINANCE COMMITTEE / Conaway**

Review minutes / April 8<sup>th</sup>

**1.) Resolutions:**

- a.) Approving School Tax Holiday / **Resolution 2013-28**

**2.) Financial Reports:**

- a.) Treasurers Report / March 31, 2013
- b.) Sales & Use Tax Collections / February 28, 2013
- c.) Lodging Tax Collections / February 28, 2013

**B. BUILDINGS & PROPERTY COMMITTEE- Davis**

Review minutes / April 1<sup>st</sup>

**C. PUBLIC SAFETY - Rudicell**

**D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Fry**

Review minutes / April 10<sup>th</sup>

**E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - LeJeune**

Review minutes / March 18<sup>th</sup>

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

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

**B. Downtown Redevelopment Authority - Conaway**

**C. Industrial Development Board – Davis**

**D. Library Board - Lake**

**E. Planning Commission – Scott**

Review Special meeting minutes / February 7<sup>th</sup>

Review meeting minutes / February 28<sup>th</sup>

Set Public Hearing date for **May 20, 2013** to consider and advertise:

Annexation: The Retreat at Tiawasee, LLC

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

Present Zoning: Rsf-2, Single Family District, Baldwin County

Requested Zoning: R-2, Medium Density Single Family Residential District, City of Daphne

**F. Recreation Board - LeJeune**

**G. Utility Board - Fry**

Review minutes / January 30<sup>th</sup>

6. REPORTS OF OFFICERS:

A. *Mayors Report*

- a.) **MOTION:** To authorize the Public Works Director to issue the RFQ to local engineering firms per Resolution 2013-08

B. *City Attorney's Report*

C. *Department Head Comments*

*City Clerk Report:* ABC License / Southern Napa / 140 – Special Events Retail

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) Declaring Certain Property Surplus ...../Resolution 2013-24
- b.) Acceptance of Right-of-Way Located from Well Road to County Road 13. .... /Resolution 2013-25
- c.) Acceptance of Street and Drainage / Located in the Tiawasee Trace Subdivision. .... /Resolution 2013-26
- d.) Acceptance of Streets and Drainage / Located in Caroline Woods Subdivision, Phase Two, B. .... /Resolution 2013-27
- e.) Approving the City of Daphne's Participation in the State of Alabama Sales Tax Holiday. .... /Resolution 2013-28
- f.) Support for Auburn University Writing of a Grant for Sustainable Development for Stormwater and Sediment Reduction in D'Olive Bay Watershed. .... /Resolution 2013-29

ORDINANCES:

2<sup>nd</sup> READ

- g.) Provide a One-Time Discretionary Bonus to Certain Employees. .... /Ordinance 2013-20
- h.) Adopting Council Rules of Procedure. .... /Ordinance 2013-21

1<sup>ST</sup> READ

- i.) An Ordinance to Control Public and Private Outdoor Lighting. .... /Ordinance 2013-23

9. COUNCIL COMMENTS

10. ADJOURN

**CITY OF DAPHNE  
CITY COUNCIL**

**ROLL CALL**

**CITY COUNCIL:**

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 DAVIS	PRESENT___	ABSENT___

**MAYOR:**

MAYOR HAYGOOD	PRESENT___	ABSENT___
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**CITY CLERK:**

REBECCA HAYES	PRESENT___	ABSENT___
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**CITY ATTORNEY:**

JAY ROSS	PRESENT___	ABSENT___
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**APRIL 1, 2013  
CITY COUNCIL MEETING  
BUSINESS MEETING  
1705 MAIN STREET  
DAPHNE, AL  
6:30 P.M.**

**1. CALL TO ORDER:**

Councilman Scott called the meeting to order at 6:30 p.m.

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

Rabbi Donald Kunstadt of the Springhill Avenue Temple gave the invocation.

**3. COUNCIL MEMBERS PRESENT:**

Tommie Conaway; Pat Rudicell, John Lake; Randy Fry; Ron Scott; Robin LeJeune; Joe Davis, III.

Also present: Mayor Haygood; Rebecca Hayes, City Clerk; Jay Ross, City Attorney; Richard Merchant, Building Official; David Carpenter, Police Chief; James White, Fire Chief; Christine Ciancetta, Deputy Finance Director; Margaret Thigpen, Civic Center Director; David McKelroy, Recreation Director; Adrienne Jones, Director of Community Development; Richard Johnson, Public Works Director; Rick Whitehead, IT Coordinator; Scott Hutchinson, Hutchinson, Moore & Rauch; Willie Robison, BZA; Dorothy Morrison, Beautification Committee & DRA; Larry Cooke, BZA; Al Guarisco, Village Point Foundation; Tomasina Werner, Beautification Committee; Kyle Navarro, Attorney, Adams & Reese; Dr. Foster, Daphne High School; Tom Hartner, Daphne Middle School; David Tarwater, Baldwin County Board of Education; Denise D'Oliviera, S.E.E.D.S.

Absent: Kim Briley, Finance Director; Vickie Hinman, HR Director; Tonja Young, Library Director.

**3. APPROVE MINUTES:**

**March 18, 2013 Council meeting minutes and March 24, 2013 Council Retreat minutes**

The March 18, 2013 council meeting minutes were amended to include comments from Mrs. Daphne Robinson during the public hearing to rezone property for Lynn Browne. The minutes stand approved as amended.

The March 24, 2013 council retreat minutes were amended to change the contact for the Cultural Center and Amphitheater to council liaison instead of Councilman Rudicell. The minutes stand approved as amended.

**CERTIFICATE OF CONGRATULATIONS:** Robert McKillion / Secondary Teacher of the Year

Mayor Haygood read and presented the certificate to Mr. McKillion.

Mr. Tarwater presented information regarding Mooresville Graded School District (about 20 miles north of Charlotte, North Carolina) as the best school system in America. They are trying

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to emulate that school system. Update council on the Digital Renaissance Leadership Program. He would like council involved in this process. Mr. Hartner and Dr. Foster spoke regarding the importance of this program in the schools. The community is about to improve, city and schools will have a common goal. Kids will be trained to work on computers. Dr. Foster said that Daphne High School is an Internationally Rated School now. They are implementing challenged based learning with word problems, teaching students how to solve problems in a cooperative manner, real world problems. They are also focusing on changing and improving ACT scores.. It will take some time, about a couple of years. They are also focused on college or career development. Denise D'Oliviera reported that they are working to develop new partnerships with the community.

**PROCLAMATION:** Child Abuse Prevention Month / Ms. Jessica Ware

Mayor Haygood read and presented the proclamation to Ms. Ware.

**PRESENTATION:** Optimist Club Oratorical Contest Champion / Vice President Beth Henson  
/ Kristen Smith

Ms. Smith could not be present at the meeting this evening.

**4. REPORT OF STANDING COMMITTEES:**

**A. *FINANCE COMMITTEE* – Conaway**

The next meeting will be April 8<sup>th</sup> at 4:00 p.m. in the Executive Conference room.

**B. *BUILDINGS & PROPERTY COMMITTEE* - Davis**

The committee met before the council meeting and dealt with needs. Search and Rescue will be coming with a plan to expand their facilities.

**C. *PUBLIC SAFETY COMMITTEE* – Rudicell**

The next meeting will be April 10<sup>th</sup> at 4:30 p.m.

**D. *CODE ENFORCEMENT/ORDINANCE COMMITTEE* – Fry**

The next meeting will be April 10<sup>th</sup>.

**E. *PUBLIC WORKS COMMITTEE* – LeJeune**

The next meeting will be April 15<sup>th</sup> at 5:00 p.m.

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

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

There will not be a meeting in April.

**B. *Downtown Redevelopment Authority* – Conaway**

The March 28<sup>th</sup> minutes are in the packet. The next meeting will be April 24<sup>th</sup> at 5:30 p.m.

**C. *Industrial Development Board* – Davis**

The minutes for the March 25<sup>th</sup> meeting are in the packet. Mr. Davis said they are working on an ongoing project with Algae Systems, and other projects that are in the early stages. There are a number of things happening with IDB.

**D. *Library Board* – Lake**

The minutes for the December, January and February meetings are in the packet. He mentioned some statistics from the minutes, and said the Mango language database is available at the library, and can be accessed from home with a library card. The next meeting will be the April 11 at 4 p.m. at the Library.

**E. *Planning Commission* – Scott**

The commission met last Thursday, and the minutes will be in a future packet. The commission recommended the annexation of the Retreat at Tiawasee, LLC. The next meeting will be the last Thursday of the month.

**F. *Recreation Board* – LeJeune**

The next meeting will be April 10<sup>th</sup> at the Recreation Center.

**G. *Utility Board* – Fry**

The next meeting will be April 24<sup>th</sup> at 5:00 p.m. in the council chambers.

**6. REPORTS OF OFFICERS:**

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

- a.) Parade Permit / Southern Nappa / 5K Run/ May 11, 2013
- b.) Parade Permit / Christ the King / 1 Mile Fun Run / April 26, 2013

**MOTION BY Councilman Lake to approve the Parade Permit for / Southern Nappa / 5K Run / May 11, 2013 and Parade Permit for / Christ the King / 1 Mile Fun Run / April 26, 2013. *Seconded by Councilwoman Conaway.***

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

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

Mr. Ross requested council to have an Executive Session at the end of the meeting for about 15 minutes to discuss pending litigation.

***C. Department Head Comments***

***Margaret Thigpen – Civic Center Director*** – reported that Ballroom Dance will be April 19<sup>th</sup>.

***David Carpenter – Police Chief*** – reported they made an arrest in the case where a child received medicine in an Easter egg.

***Tonja Young – Library Director*** - Mayor Haygood reported for Ms. Young that the WWII Series will be Thursday in the council chambers.

***David McKelroy – Recreation Director*** - reported the Easter Egg Hunt was successful, and Brown Bag by the Bay will be Thursday from 11:30-1:30 at May Day Park. Lisa Mills will be performing Thursday and Joe Lewis next Thursday. The Sunday Series will be Sunday April 21<sup>st</sup> with the Baldwin Pops performing.

***Vickie Hinman – Human Resources Director*** - Mayor Haygood reported for Mrs. Hinman that there are two (2) job announcements Children's Librarian and Account Tech.

***City Clerk Report – Rebecca Hayes***

a.) AL League of Municipalities Annual Convention Voting Delegate / May 18-21, 2013

**MOTION BY Councilman Rudicell to appoint Councilman John Lake as voting delegate to the Alabama League of Municipalities Convention May 18-21, 2013, and Mayor Dane Haygood as 2<sup>nd</sup> Alternate. *Seconded by Councilman Davis.***

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

**7. PUBLIC PARTICIPATION:**

***Ms. Annie Root – President of Bay Rivers Art Guild (BRAG)*** – spoke regarding making BRAG more visible, and recognizing that BRAG is a vital entity of the city. She would like the Jubilee Festival reconfigured to include BRAG. They are financially struggling and asked council for help. She wanted people to know that BRAG is not just for old women it is for people of all ages.

***Mr. Willie Robison – 560 Stuart Street*** – spoke regarding limiting Public Participation comments to just things on the agenda. He is against limiting public comments.

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8. RESOLUTIONS & ORDINANCES:

**RESOLUTIONS:**

- a.) **Rename the Southern Entrance of Deerwood Drive /  
Deerwood Drive South. .... /Resolution  
2013-23**

**MOTION BY Councilwoman Conaway to waive the reading of Resolution 2013-23.  
Seconded by Councilman LeJeune.**

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

**MOTION BY Councilwoman Conaway to adopt Resolution 2013-23. Seconded by  
Councilman Fry.**

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

**ORDINANCES:**

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

- a.) **Zoning Amendment: Lynne R. Brown / R-2, Medium Density Single  
Family Residential District to R-6,  
Garden or patio Home District. .... /Ordinance 2013-14**
- b.) **Appropriation of Funds: Profit Drive Extension:  
Additional Appropriation. .... /Ordinance 2013-15**
- c.) **Appropriation of Funds: Road Striping & Marking Projects . . . . /Ordinance 2013-16**
- d.) **Lodging Tax Fund Appropriation: ADECA Pedestrian Bridge  
@D'Olive Creek West . . . . . /Ordinance 2013-17**
- e.) **Designating Signatories on Various Accounts of the  
City of Daphne. .... /Ordinance 2013-18**
- f.) **Intergovernmental Service Agreement with Baldwin County /  
Round-a-bout @ County Road 13 & County Road 64. .... /Ordinance 2013-19**

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I<sup>ST</sup> READ

g.) Provide a One-Time Discretionary Bonus to Certain Employees. . . . . /Ordinance 2013-20

h.) Adopting Council Rules of Procedure. . . . . /Ordinance 2013-21

i.) Reclassification of Assistant City Clerk Position . . . . . /Ordinance 2013-22

MOTION BY Councilman LeJeune to waive the reading of Ordinances 2013-14, 2013-15, 2013-16, 2013-17, 2013-18 and 2013-19. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Lake to adopt Ordinances 2013-15, 2013-16, 2013-17, 2013-18 and 2013-19. *Seconded by Councilman LeJeune.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Lake to adopt Ordinance 2013-14. *Seconded by Councilman LeJeune.*

AYE Scott NAY Conaway, Rudicell, Lake, Fry, LeJeune, Davis

MOTION FAILED

MOTION BY Councilman Lake to suspend the rules to consider Ordinance 2013-22. *Seconded by Councilwoman Conaway.*

ROLL CALL VOTE

Conaway	Aye	LeJeune	Aye
Rudicell	Aye	Davis	Aye
Lake	Aye	Scott	Aye
Fry	Aye		

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

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**MOTION BY Councilman Lake to waive the reading for Ordinance 2013-22. *Seconded by Councilwoman Conaway.***

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

**MOTION BY Councilman Lake to adopt Ordinance 2013-22. *Seconded by Councilwoman Conaway.***

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

**ORDINANCES 2013-20 AND 2013-21 WERE 1<sup>ST</sup> READ.**

**9. COUNCIL COMMENTS:**

*Councilwoman Conaway* commended the schools in Daphne, and is proud of them, and wants to support them. She thanked the Mayor and Council President for the Council Retreat, it was very productive, and she looks forward to moving forward with the ideas from the retreat.

*Councilman Lake* enjoyed Mrs. Roots presentation regarding BRAG. He wants to see how council can help them with their endeavors. He said he enjoyed the retreat, and looks forward to others.

*Councilman LeJeune* said the Beautification Committee meeting is Wednesday, April 3<sup>rd</sup> at Public Works. He said his son takes art on Wednesday's so it is not just for old women.

*Councilman Davis* thanked Mr. McKillion for his cutting edge aspect in education. He congratulated Daphne High School for becoming a Blue Ribbon School, he said that was an accomplishment for any school, and there is always ways to do things better. He said he will always tell why he votes for or against an issue, and will continue to speak candidly to the chair and citizens.

*Council President Scott* outlined the six (6) Action Items from the Council Retreat saying he has asked a council person to take on a task. They are as follows:

1. Strategic Plan – Councilman Davis / Will work with Mayor and staff
2. Annexation – Councilman Fry
3. Grant Writing – Councilwoman Conaway
4. Pay Scale – Councilman LeJeune
5. Nicholson Center – Councilman Lake

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6. Public/Private Partnership for Amphitheater and Cultural Center - Councilman Rudicell / Will work with Village Point Foundation

An Extra Item that discussed at the Council Retreat:

7. Recreation – Councilman LeJeune

*Mayor Haygood* thanked Mrs. Root and her associates for coming to the meeting. He said he has become more enlightened regarding teachers and how valuable they are, they are passionate, talented and committed. He will continue to find ways to help Daphne schools.

**10. ADJOURN:**

**MOTION BY Councilman Lake to adjourn into Executive Session for 15 minutes to discuss pending litigation. *Seconded by Councilman LeJeune.***

**City Attorney, Jay Ross, certified that the foregoing stated reason was appropriate according to the Alabama Open Meetings Act.**

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

**THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 8:15 P.M.**

Respectfully submitted by,

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Rebecca A. Hayes,  
City Clerk

Certification of Presiding Officer:

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Ron Scott,  
Council President

**APRIL 8, 2013**  
**CITY COUNCIL WORK SESSION**  
**1705 MAIN STREET**  
**DAPHNE, AL**  
**6:30 P.M.**

1

**COUNCIL MEMBERS PRESENT:** Tommie Conaway; Pat Rudicell; John Lake; Randy Fry; Ron Scott; Robin LeJeune.

Also present: Mayor Dane Haygood; Rebecca Hayes, City Clerk; Britton Bonner, Attorney; Richard Johnson, Public Works Director; Adrienne Jones, Director of Community Development; David McKelroy, Recreation Director; Ashley Campbell, Environmental Programs Manager; Joe Lemoine, Planning Commission; Kyle Navarro, Attorney, Adams & Reese.

Absent: Jay Ross, City Attorney.

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

**1. SUPPORT LETTER FOR AUBURN UNIVERSITY SPONSORED GRANT / ASHLEY CAMPBELL:**

The grant is to study the watershed, and they will allow the city to use their information to select the best stormwater management practice to minimize cost and maximize stormwater reduction which will be a great tool in helping Daphne be more cost effective. Auburn is sponsoring and writing the grant. Spanish Fort and Lake Forest Property Owners Association support the grant. The city will receive digital files to use. This will need to be submitted in resolution form.

Consensus of Council was to put this on the agenda for Monday.

**2. SHARE THE ROAD / REFERRED FROM PUBLIC SAFETY**

Mr. Doug Sims with Team Share the Road requested that the City of Daphne adopt an ordinance requiring motorist to leave a safe distance between the motor vehicle and the bicycle of not less than three (3) feet when passing a cyclist.

Consensus of Council was to send this to the Ordinance Committee for consideration.

**3. SIGNAGE / MAYOR HAYGOOD**

Mayor Haygood presented council with a list of proposed changes (*list is spread out upon these minutes*) to the sign ordinance in order to get things moving, and to see what council is looking for as regards changes to the provision. He reviewed some of the points with council.

**I. A-Frame Sign**

- A. Location: Front Door
  - i. Limit one per business with 20 feet of an entrance
- B. Limited to business hours
- C. Real Estate on ROW – on weekends

**II. Roadside Promotional Signage**

- A. City Council can grant exception to allow during the week (Life South, The Haven)

- B. Roadside
  - i. Limit one per road entrance
- C. Limited to business hours
- D. Limited to weekends

**III. Banners**

- A. Size
- B. Temporary in nature – 30 days (Publix King Cake Banner)
- C. Professional – Not Handwritten - Professional
- D. Larger Size for . . . . 50 SF
  - i. I-10
  - ii. State Hwy
  - iii. Dual Frontage

**IV. Building Signage**

- A. Percentage of building frontage
- B. Luminosity
- C. Back of building
- D. I-10 (Eastern Shore Toyota)

**V. Inflatables**

- A. Limited to weekends
- B. Not on ROW
- C. Limited to business hours

**VI. Tents**

**VII. Political Signs**

- A. Moved into Sign Ordinance
- B. Changes
  - i. Clarify ROW
  - ii. 15' TO 16' max

**VIII. Commercial Real Estate Signs**

- A. Define
- B. Non-Permitted
- C. Size 32S.F.
- D. I-10 (64SF) on the State Highway and Interstate
- E. Allow Banner in lieu of rigid signs

**IX. Digital Signage**

- A. Frequency of message change
- B. Luminosity
- C. Size restrictions

- X. **New Store/Grand Opening**
  - A. Major Remodel (Winn Dixie)
  - B. Building Permit Exceed threshold
  
- XI. **Monument/Pylon Signage**
  - A. Multi-tenant (Colonial Plaza)
  - B. Monument 1500 SF Bay 15K
    - i. 15 SF per tenant
  - C. Protect Downtown District
  - D. Entice monument signage with additional square footage

**DISCUSS ALLOWING SIGNAGE BY BUSINESS USAGE**

- \* **Permanent**
- \* **During Business Hours**
- \* **Promotional**
  - Weekends
  - Grand Openings
  - Holidays
  - Approved Functions
- \* **Real Estate Signs**
- \* **Political**

**WHERE DO WE GO FROM HERE**

- \* **PROCEDURE**
- \* **TIMELINE**
- \* **EXTEND CURRENT PROMOTIONAL PERIOD**

Consensus of council was to take time to review the Mayors proposal, and make notes of what they would like to see in the revision and to place this on the May work session.

**4. WHATEVER ELSE IS DEEMED NECESSARY**

*a.) Lamar Lawsuit*

Mayor Haygood discussed with council the Lamar Signs lawsuit saying that the judge has ordered mediation and has given the dates of May 14<sup>th</sup> or May 16<sup>th</sup> at the courthouse.

Council discussed the mediation order, and the consensus of the council was for the City Attorney to negotiate with Lamar to see if they have a better offer than the last one before they agree to mediation.

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*b.) Action Items from Council Retreat*

Council President Scott asked council members to have a written statement to update the council of their progress with their item for the next work session agenda.

**5. ADJOURN**

There being no further business to discuss the meeting adjourned at 8:05 p.m.

Respectfully submitted by,

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Rebecca A. Hayes,  
City Clerk

Certification of Presiding Officer:

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Ron Scott,  
Council President

**REPORT  
OF  
STANDING COMMITTEES**

**CITY OF DAPHNE**  
**FINANCE COMMITTEE MINUTES**  
**April 8, 2013**  
**4:00 P.M.**

**I. CALL TO ORDER/ROLL CALL**

The meeting was called to order at 4:00 pm. Present were Chairperson Mrs. Conaway, Councilman Ron Scott, Councilman Joseph Davis, Finance Director Kim Briley, Deputy Finance Director Christine Ciancetta, Senior Accountant Suz anne Henson and Accounting Technician Sue Moody.

Mayor Dane Haygood arrived at 4:03 and Councilman John Lake arrived at 4:04.

Also in attendance were Human Resource Director Vickie Hinman, Public Works Director Richard Johnson, Recreation Director David McKelroy, Chief White, Chief Carpenter, Library Director Tonya Young, Civic Center Director Margaret Thigpen, Revenue Officer Heather Gwynn, and Councilman Pat Rudicell.

Councilman Robin LeJeune arrived at 4:55 and Councilman Randy Fry at 5:05.

**II. PUBLIC PARTICIPATION**

**A. FY2012 AUDIT/CAFR - Mr. Mark Chapman & Mrs. Kelli Rice, Smith Dukes and Buckalew.**

Mr. Mark Chapman reviewed the Fiscal Year 2012 CAFR/Audit Report. Mr. Chapman stated that Mrs. Briley, with her staff, prepared the bulk of the report and noted this was the first year that the City of Daphne had prepared a CAFR (Comprehensive Annual Financial Report) to submit for the GFOA Accounting Award.

Mr. Chapman noted that the CAFR is highly recognized by credit rating agencies and shows compliance to evolving financial reporting standards. Mr. Chapman stated that the City's CAFR had been submitted to the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting Program and he anticipates the City will receive that award. Mr. Chapman stated that all went well in the audit and that there were no notable conditions. Mr. Chapman also noted that next year the Pension Liability would be required to be reported in the Financial Statements.

**III. HUMAN RESOURCES BUSINESS**

**A. Update on Human Resources Department Activity**

Mrs. Vickie Hinman reviewed the Human Resource Report including open position status.

**Positions**

Asst. City Clerk  
GIS Technician  
Fire Fighter  
Police Officer (2)  
Children's Librarian  
Accounting Technician

**Status**

Posting: April 5-19  
DOH: April 8, 2013  
Scheduling Interviews  
Testing  
Reviewing Applications  
Posting: April 1-15

Safety Committee Meeting discussed the hiring a new service company was hired due to the recent fire inspection and the Voice Evacuation system issues at the Civic Center. The Fire Inspector announced Emergency Operations Plan training will be scheduled for June.

Other Human Resources' projects or meetings:

- Conference calls/training with Kronos regarding new server and upgrades.
- Reviewing Personnel Handbook
- March 20-New Employee Orientation
- Relay for Life-TV Raffle-May 3
- Written test Police Officer candidates (38)-April 1
- Physical Agility Test-Fire Fighters - March 21 and 22
- Physical Agility Test-Police Officers-April 17

Mrs. Hinman discussed Loss Control Dividends and noted that due to the City's lower cost the City was awarded the Silver Certificate Award.

## **IV. CURRENT BUSINESS**

### **A. Financial Reports**

1. Treasurer's Report: March 31, 2013

The Treasurer's Report totaling \$ 18,141,326.94 was presented by Mrs. Briley

***Motion by Councilman Scott to accept the Treasurer's Report as of March 31, 2013 in the amount of \$18,141,326.94. Seconded by Councilman Davis. Motion carried.***

2. Sales and Use Taxes: February 28, 2013

Sales & Use taxes collected were \$1,004,349.50. Mrs Briley stated collections collected were over budget by \$83,251.44 for the month of February and \$278,813.64 YTD. Mrs. Henson noted that Eastern Shore Park collections are included in this total and noted on the report as well.

3. Lodging Tax Collections, February 28 , 2013

The monthly lodging taxes collected were \$54,207.03. Discussion continued that this was higher than collections for February, 2012.

4. Summary Statement: Revenues & Expenditures w/Comparatives, March 31, 2013

Mrs. Briley reviewed the Revenues & Expenditures report w/comparatives to the previous six years for YTD as of March 31, 2013. Mrs. Briley noted that the total revenues over expenditures for 3/31/13 is \$376,271.

5. Revenue, Expenditures, Personnel, & Operating Comparatives, March 31,

Mrs. Briley presented a comparative report including bar charts for comparatives for years: FY06 – FY13.

6. Report: New Business Licenses – March 31, 2013

Mrs. Conaway reviewed the Business Licenses report. There were 54 new business and 0 closed for March 2013.

7. Bills Paid Reports – March 31, 2013

Report were reviewed and no noted changes. Mrs. Conaway inquired about the Boys & Girls Club payment. Mrs. Briley stated the Mayor approved the check request and returned it to Accounts Payable this morning. Mrs. Briley noted that the check would be processed in tomorrows check run.

## **B. Appropriation Request:**

### **1. FY2013 PERSONNEL/CAPITAL REQUEST**

Mayor Haygood presented a FY13 Personnel/Capital Equipment request spreadsheet that has been updated from the original request spreadsheet included in with the FY2013 Budget. Mayor Haygood had prioritized the list of items for discussion noting that #6-10 were not critical needs. All department heads discussed their requests in detail as follows:

- Court - Judge Hoyt discussed the need to add back a Court Magistrate. Judge Hoyt noted there were previously three employees in this department and the previous Judge decided to reduce the number of employees to two. Judge continued that due to the on-call requirements and work load three employees are needed. The Judge discussed that other municipalities have more than three and they are smaller Cities. Mr. Lake noted that an increase in pay was approved when the employee count was decreased. Judge said that he could obtain comparative salary ranges from surrounding municipalities if needed.
- Police – Chief Carpenter noted that Daphne is behind in its officer count according to the annexations and population to officer requirements.
- Fire – Chief White noted his request to reclassify three firefighters to Lieutenants was needed for crew supervision.
- Public Works – Richard Johnson discussed permanent employees vs. temp employees and the need for a Yard Manager to check equipment in/out from the PW equipment yard. Mr. Johnson noted that all equipment was replacement equipment except: barricades, Sweeper attachment, and tractor & bush hog.
- Recreation – David McKelroy discussed he would like to bring the employee count back to where it had been in previous years and noted that currently salary employees are absorbing the additional hours of work required.
- Library – Tonja Young discussed how the Library Aide position has evolved and all the new young adult activities this position oversees/initiates. Mrs. Young also discussed reclassifying the IT position back to its previous grade. Mrs. Young also discussed the drawings for the proposed new addition to the Library were just structural drawings – blueprints would have to be obtained.
- Civic Center – Margaret Thigpen discussed that the Bayfront decking is a liability issue. Mr. Scott noted this could come from the Lodging Tax fund.

Discussion continued on the Personnel and Equipment requests.

## **C. Back-To-School Tax Holiday (RESOLUTION)**

Councilman Lake asked about Sales Tax benefit for teachers to purchase classroom supplies. Discussion continued that County and State were waiving Sales Tax.

***Motion by Councilman Davis to adopt the Back-To-School Sales Tax Holiday resolution . Seconded by Councilman Scott. Motion carried.***

Mrs. Conaway asked if Council had Discretionary Funds? Mrs. Briley noted at one time the City Attorney had looked into this and found that a Class 8 city cannot have discretionary funds.

## **V. OLD BUSINESS**

No old business was discussed at the time.

## **VI. ADJOURN**

Meeting adjourned at 5:54.



March 27, 2013

To the Mayor and City Council  
City of Daphne, Alabama  
Daphne, AL 36526

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component unit, each major fund, and the aggregate remaining fund information of the City of Daphne, Alabama for the year ended September 30, 2012. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards and *Government Auditing Standards*, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our engagement letter dated September 23, 2010 and with subsequent discussions. Professional standards also require that we communicate to you the following information related to our audit.

#### Significant Audit Findings

##### *Qualitative Aspects of Accounting Practices*

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the City of Daphne, Alabama are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during 2012. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate(s) affecting the financial statements was:

Management's estimate of depreciation expense and accumulated depreciation is based on the estimated useful lives of capital assets purchased. We evaluated the key factors and assumptions used to develop those estimates in determining that they are reasonable in relation to the financial statements taken as a whole.

Page Two:

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosure affecting the financial statements was:

The disclosures of long-term debt in the notes to the financial statements.

The financial statement disclosures are neutral, consistent, and clear.

*Difficulties Encountered in Performing the Audit*

We encountered no significant difficulties in dealing with management in performing and completing our audit.

*Corrected and Uncorrected Misstatements*

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit's financial statements taken as a whole.

*Disagreements with Management*

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

*Management Representations*

We have requested certain representations from management that are included in the management representation letter dated March 27, 2013.

*Management Consultations with Other Independent Accountants*

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the governmental unit's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Page Three:

*Other Audit Findings or Issues*

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the governmental unit's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

*Other Information in Documents Containing Audited Financial Statements*

With respect to the supplementary information accompanying the financial statements, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

This information is intended solely for the use of the Mayor, City Council and management of the City of Daphne, Alabama and is not intended to be and should not be used by anyone other than these specified parties.

*Smith, Duke & Bulkeley, L.L.P.*

## Suzanne Henson

**From:** Suzanne Henson <financesenioraccountant@daphneal.com>  
**Sent:** Tuesday, March 26, 2013 6:38 PM  
**To:** 'Mayor Dane Haygood'  
**Subject:** CAFR - Certificate of Achievement for Excellence in Financial Reporting Program

Mayor

I know you have asked several questions about the CAFR so I thought I would send you a link to some information. Below is a link to review what the CAFR is about and also a screenshot showing what Cities in Alabama have received awards for their CAFR.

If you have additional questions I am sure Kim would be glad to answer them.

thanks

[http://www.gfoa.org/downloads/GFOA\\_2011CertificateProgram.pdf](http://www.gfoa.org/downloads/GFOA_2011CertificateProgram.pdf)

### What are the benefits?

Users of the financial statements will have access to a high quality report promoting better transparency to citizens and other stakeholders. Credit rating agencies and other interested parties may view the award as a positive factor in decision making. Also, as accounting and financial reporting standards evolve, participation helps to ensure that your financial report fully implements those standards.

GFOA of the US & Canada - 2010 Program Results - Windows Internet Explorer  
http://www.gfoa.org/index.php?option=com\_wrapper&Itemid=756

Search for Winners

Number of Winners	State	Agency Name
1	AL	Auburn
2	AL	Birmingham
3	AL	Brewton
4	AL	Decatur
5	AL	Dothan
6	AL	Eufaula
7	AL	Fairhope
8	AL	Hoover
9	AL	Huntsville
10	AL	Mobile
11	AL	Montgomery
12	AL	Talladega City
13	AL	Tuscaloosa
14	AL	Wetumpka

Done

4/15/2013 CM

**Dane Haygood**  
Mayor

**Vickie Hinman**  
Human Resources Director



*The Jubilee City*

**Sherree Hilburn**  
Payroll and Benefits Coordinator

**Michele Hanson**  
Human Resources Assistant

April 4, 2013

**HUMAN RESOURCES DEPARTMENT**  
**ACTIVITY REPORT**

**Positions**

Asst. City Clerk  
GIS Technician  
Fire Fighter  
Police Officer (2)  
Children's Librarian

**Status**

Posting: April 5-19  
DOH: April 8  
Scheduling Interviews  
Testing  
Reviewing applications

**Safety Committee Meeting:** A fire inspection at the Civic Center found the batteries were dead in the alarm system and the Voice Evacuation system was not functioning. A new service company and contract has been implemented due to these discoveries and repairs. The Fire Inspector announced Emergency Operations Plan training will be scheduled for June.

The cat was removed from the Public Works department, but unfortunately another stray cat has had a litter of kittens in the crawl space.

Other Human Resources' projects or meetings:

- Conference calls/training with Kronos regarding new server and upgrades.
- Reviewing Personnel Handbook
- March 20 – New Employee Orientation
- Relay for Life – TV Raffle –May 3
- Written test Police Officer candidates (38) – April 1
- Physical Agility Test – Fire Fighters – March 21 and 22
- Physical Agility Test – Police Officers- April 17

Human Resources Department  
P.O. Box 400 Daphne, Alabama 36526  
Phone: (251) 621-3075 • Fax: (251) 621-4506

# TREASURER'S REPORT

As of March 31, 2013

TO: FINANCE COMMITTEE

FROM: KIMBERLY BRILEY, FINANCE DIRECTOR/TREASURER

<u>ACCT TITLE</u>	<u>BANK</u>	<u>BALANCE</u>
<b>GENERAL FUND &amp; ENTERPRISE FUNDS</b>		
MMA ACCT	COMPASS	\$7,908,548.72
OPERATING ACCT	COMPASS	(\$717,814.20)
PAYROLL ACCT	COMPASS	\$0.00
CREDIT CARD DONATION ACCT (\$500 transf frm GF to open acct)	COMPASS	\$443.64
		<u>\$7,191,178.16</u>
<b>INVESTMENT FUND</b>	RAYMOND JAMES (investment \$4,828,875.15)	\$5,224,571.01
<b>AGENCY FUNDS</b>		
MUNICIPAL COURT	COMPASS	\$426,519.66
<b>SPECIAL REVENUE FUNDS</b>		
SAIL SITE	PNC BANK	\$6,166.15
4 CENT GAS TAX	PNC BANK	\$353,527.98
7 CENT GAS TAX	PNC BANK	\$370,775.07
		<u>\$730,469.20</u>
<b>CAPITAL PROJECT FUNDS</b>		
CAPITAL RESERVE	WELLS FARGO	\$931,049.77
2012 CONSTRUCTION	REGIONS	\$160,212.35
2012 CONSTRUCTION INVESTMENT ACCT	RAYMOND JAMES	\$1,895,801.92
		<u>\$2,987,064.04</u>
<b>DEBT SERVICE FUNDS</b>		
DEBT SERVICE	WELLS FARGO	\$1,475,767.25
2006 DEBT SERVICE	PNC	\$105,757.62
		<u>\$1,581,524.87</u>
		<u>\$18,141,326.94</u>

PRIOR YEAR BALANCE March 31, 2012

\$18,020,228.32

# SALES & USE TAXES

## ACTUAL COLLECTIONS

	FY 2013 BUDGET/ACTUAL COMPARISONS													
	2007	2008	2009	2010	2011	2012	2012 Eastern Shore Park		2013 Eastern Shore Park		Actual: 2013	Budget	Monthly Variance	YTD Variance
October	944,542.36	867,190.18	806,503.85	764,641.13	800,512.03	864,727.27	-	919,399.50	99,865.87	1,019,065.37	925,763	93,902.37	93,902.37	10.15%
November	918,837.95	915,890.97	801,075.91	761,955.37	819,834.09	845,342.45	-	910,116.86	101,697.10	1,011,813.96	924,116	87,697.76	181,600.13	9.49%
December	1,182,584.39	1,120,005.09	1,078,330.45	1,004,037.20	1,121,383.45	1,165,135.62	-	1,141,639.06	124,412.44	1,266,051.50	1,252,860	13,191.55	194,791.68	1.05%
January	914,876.33	822,020.87	755,541.41	723,504.28	817,230.14	809,785.59	-	803,032.70	92,684.49	895,717.19	894,947	770.52	195,562.20	0.09%
February	877,975.60	865,625.83	748,620.87	733,335.60	840,768.01	845,101.34	-	901,887.85	102,461.65	1,004,349.50	921,098	83,251.44	278,813.64	9.04%
March	1,071,598.38	998,616.04	863,535.78	916,657.55	976,181.39	1,018,721.43	-	-	-	-	1,108,559	-	-	0.00%
April	960,140.54	963,691.85	823,173.33	809,588.73	916,556.59	911,438.60	-	-	-	-	1,004,237	-	-	0.00%
May	1,021,486.14	957,167.20	829,099.81	862,254.54	889,945.33	911,839.30	-	-	-	-	1,014,317	-	-	0.00%
June	1,086,453.92	997,274.15	868,309.52	887,262.68	946,206.78	995,894.44	118,255.09	-	-	-	1,122,289	-	-	0.00%
July	993,216.66	898,690.34	808,113.93	839,192.33	902,457.24	898,566.91	111,626.17	-	-	-	1,047,748	-	-	0.00%
August	954,421.57	964,626.28	831,984.35	790,713.80	871,437.04	909,570.34	111,697.42	-	-	-	1,021,696	-	-	0.00%
September	965,107.35	918,551.15	825,257.74	841,035.40	863,630.36	898,557.39	106,103.65	-	-	-	1,031,560	-	-	0.00%
<b>Totals</b>	<b>11,871,233.19</b>	<b>11,279,349.93</b>	<b>10,039,546.95</b>	<b>9,934,178.61</b>	<b>10,766,122.45</b>	<b>11,074,680.68</b>	<b>447,682.33</b>	<b>4,676,075.97</b>	<b>520,921.55</b>	<b>5,196,997.52</b>	<b>12,268,590</b>	<b>278,813.64</b>		

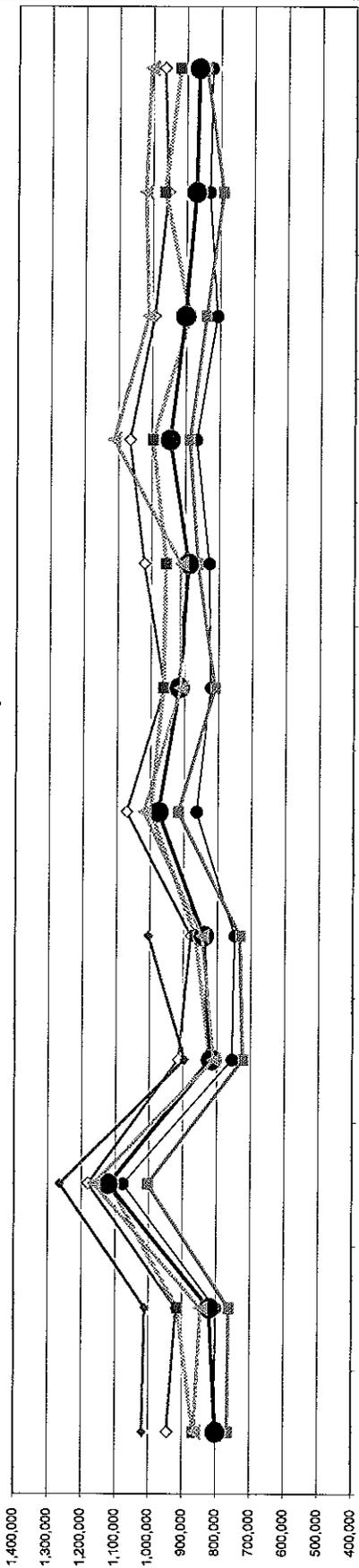
## FISCAL YEAR COMPARISONS

No	\$ Change	Percent Change													
		2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2012-2013		2009-2009		2009-2010	2010-2011	2011-2012	2012-2013
October	(77,352.18)	(60,686.33)	(41,862.72)	35,870.90	64,215.24	154,338.10	October	October	-8.19%	-7.00%	-5.19%	4.69%	8.02%	8.02%	17.85%
November	(2,946.98)	(114,815.06)	(39,120.54)	57,878.72	25,508.36	166,471.51	November	November	-0.32%	-12.54%	-4.88%	7.60%	3.11%	3.11%	19.69%
December	(62,579.30)	(41,674.64)	(74,293.25)	117,346.25	43,752.17	100,915.88	December	December	-5.23%	-3.72%	-6.89%	11.69%	3.90%	-0.91%	8.66%
January	(92,855.46)	(66,479.46)	(32,037.13)	93,725.86	(7,444.55)	85,931.60	January	January	-10.15%	-8.05%	-4.24%	12.95%	-0.91%	-0.91%	10.61%
February	(12,349.77)	(117,004.96)	(15,285.27)	107,432.41	4,333.33	159,248.16	February	February	-1.41%	-13.52%	-2.04%	14.65%	0.52%	0.52%	18.84%
March	(72,982.34)	(135,080.26)	53,121.77	59,523.84	42,540.04	-	March	March	-6.81%	-13.53%	6.15%	6.49%	4.36%	4.36%	-
April	3,561.31	(140,518.52)	(13,584.60)	106,947.86	(5,097.99)	-	April	April	0.37%	-14.58%	-1.65%	13.21%	-0.56%	-0.56%	-
May	(64,330.94)	(128,067.39)	33,154.73	27,690.79	21,893.97	-	May	May	-6.30%	-13.39%	4.00%	3.21%	2.46%	2.46%	-
June	(69,159.77)	(128,964.63)	18,953.16	58,944.10	167,942.75	-	June	June	-6.49%	-12.93%	2.18%	6.64%	17.75%	17.75%	-
July	(104,526.32)	(80,576.41)	31,078.40	63,264.91	107,735.64	-	July	July	-10.52%	-9.07%	3.85%	7.54%	11.94%	11.94%	-
August	10,204.69	(132,641.91)	(41,270.55)	80,723.24	149,630.72	-	August	August	1.07%	-13.75%	-4.96%	10.21%	17.19%	17.19%	-
September	(46,556.20)	(93,293.41)	15,777.66	22,594.96	141,030.68	-	September	September	-4.82%	-10.16%	1.91%	2.69%	16.33%	16.33%	-
<b>Annual \$ Change</b>	<b>(591,863.26)</b>	<b>(1,239,802.98)</b>	<b>(105,368.34)</b>	<b>831,943.84</b>	<b>756,240.56</b>	<b>666,905.25</b>	<b>Annual % Cha</b>	<b>Annual % Cha</b>	<b>-4.99%</b>	<b>-10.99%</b>	<b>-1.05%</b>	<b>8.37%</b>	<b>7.02%</b>	<b>7.02%</b>	<b>6.02%</b>

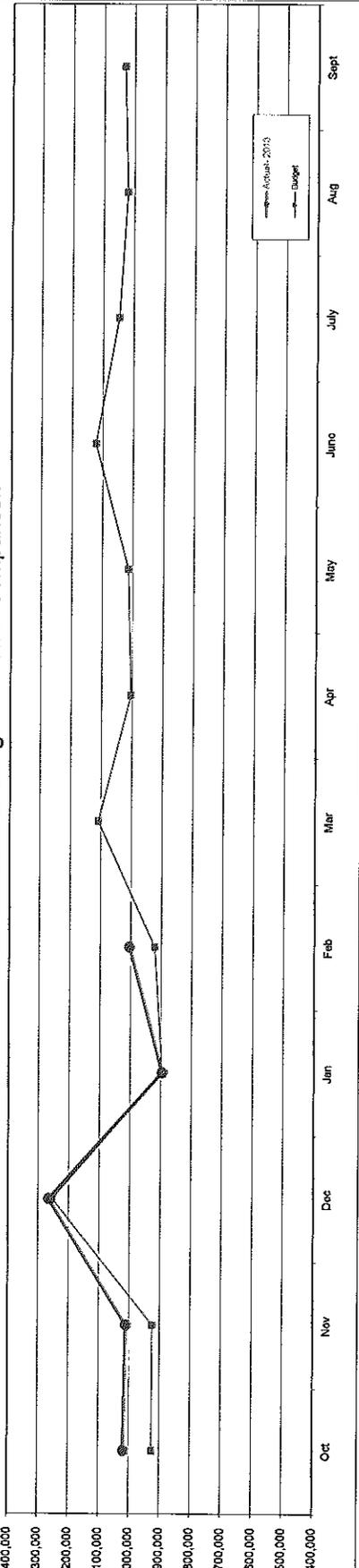
<b>TOTAL collections thru: 2-28-13</b>	<b>5,196,998</b>
<b>Budgeted thru: 2-28-13</b>	<b>4,918,184</b>
<b>Actual Colls (&lt;) Budget: 2-28-13</b>	<b>278,814</b>
<b>% Over/(Under) Budget: 2-28-13</b>	<b>5.67%</b>

<b>TOTAL collections: FY 12</b>	<b>11,522,363</b>
<b>TOTAL est. Bdgt coll: FY 13</b>	<b>12,268,590</b>
<b>Budgeted Dollar Variance 12 &amp; 13</b>	<b>746,227</b>
<b>Budgeted Percent Variance 12&amp;13</b>	<b>6.48%</b>

### Sales & Use Tax Comparisons



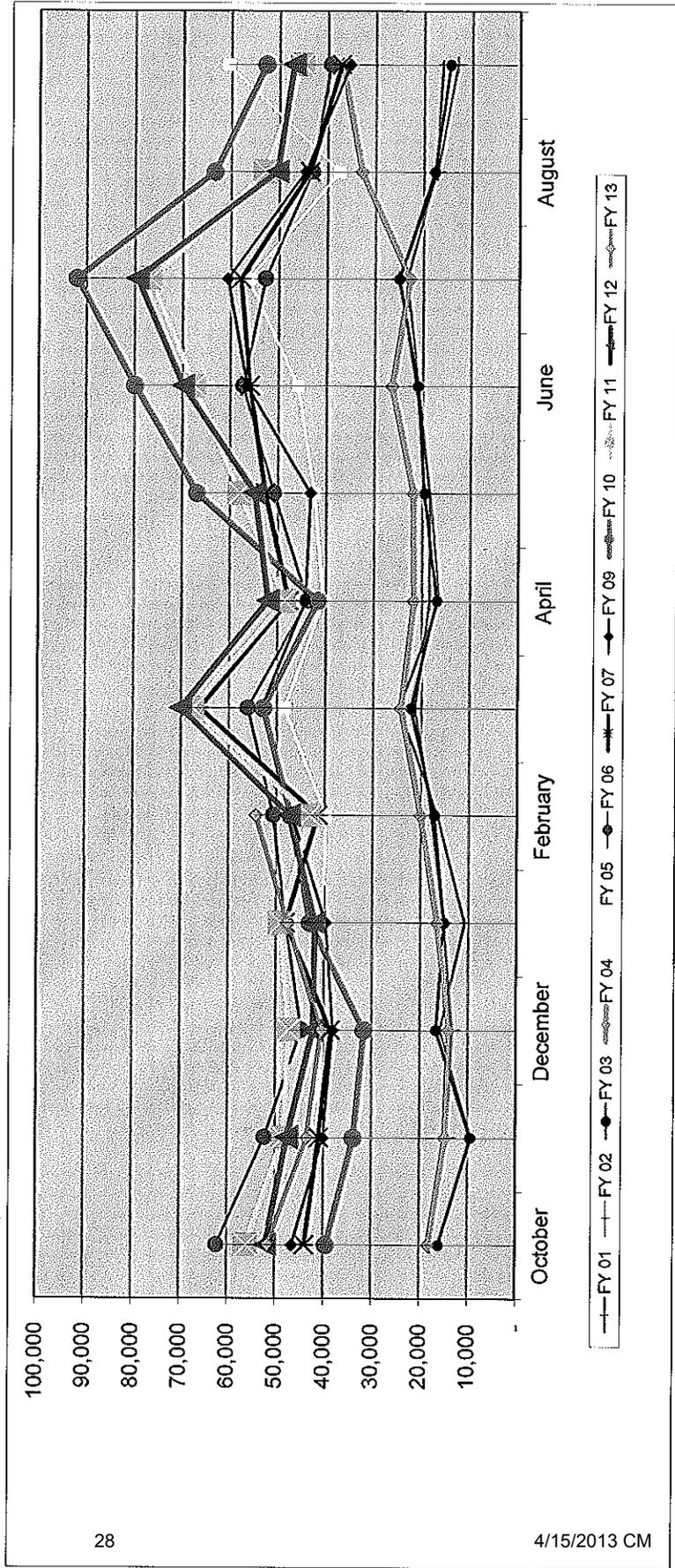
### Fiscal 2013 Sales & Use Tax Budget vs. Actual Comparison



# Monthly Lodging Tax Collections

	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13
	17,757.16	16,103.81	18,110.90	53,490.95	62,191.49	43,874.01	46,360.47	46,543.20	39,405.56	56,001.39	52,002.53	51,578.40
	14,346.00	9,488.82	14,652.46	43,652.17	52,326.23	41,028.15	42,599.84	40,178.69	33,763.37	48,329.73	47,568.08	43,459.48
	13,257.40	16,693.64	13,940.92	38,197.96	44,694.55	38,605.47	31,081.14	38,144.69	31,571.38	47,210.56	42,279.22	40,495.14
	15,150.55	15,089.26	16,416.20	40,334.81	48,014.80	48,012.19	45,607.80	39,706.04	42,883.70	49,006.12	41,917.34	47,548.01
	17,680.30	17,174.37	19,952.91	39,797.68	50,684.11	41,381.78	47,340.33	46,699.01	46,998.32	43,052.68	47,346.50	54,207.03
	21,371.61	22,248.25	24,206.01	48,474.92	56,076.62	66,060.49	53,123.15	53,230.85	52,771.52	67,422.43	70,058.33	
	18,354.06	16,974.57	21,626.29	40,666.33	43,813.91	47,594.84	46,736.02	44,277.75	41,531.05	48,487.83	51,939.06	
	18,526.24	19,610.83	21,785.09	42,479.97	50,871.74	52,564.61	46,145.12	43,293.74	66,820.96	57,880.48	54,740.45	
	21,322.07	21,031.35	26,336.81	46,037.59	57,338.25	55,924.22	64,626.19	56,494.11	79,822.84	67,544.77	69,822.91	
	25,013.71	25,026.81	22,654.15	56,266.23	52,752.31	57,842.80	62,035.23	60,619.78	91,906.47	76,631.86	79,417.80	
	17,223.03	17,749.12	32,788.35	37,501.21	43,139.77	43,701.41	55,792.89	44,636.82	63,323.58	52,820.33	50,417.73	
	12,997.60	14,563.86	36,847.13	60,635.33	39,398.90	37,180.99	49,698.91	35,430.62	52,662.79	45,216.75	46,968.89	
	212,999.73	211,754.69	269,317.22	547,535.15	601,302.68	573,770.96	591,147.09	549,255.30	643,461.54	659,604.93	654,478.84	237,288.06

Ord 1997-28 adopted December 8, 1997, incr levy from 3% to 4%.



**GENERAL FUND**

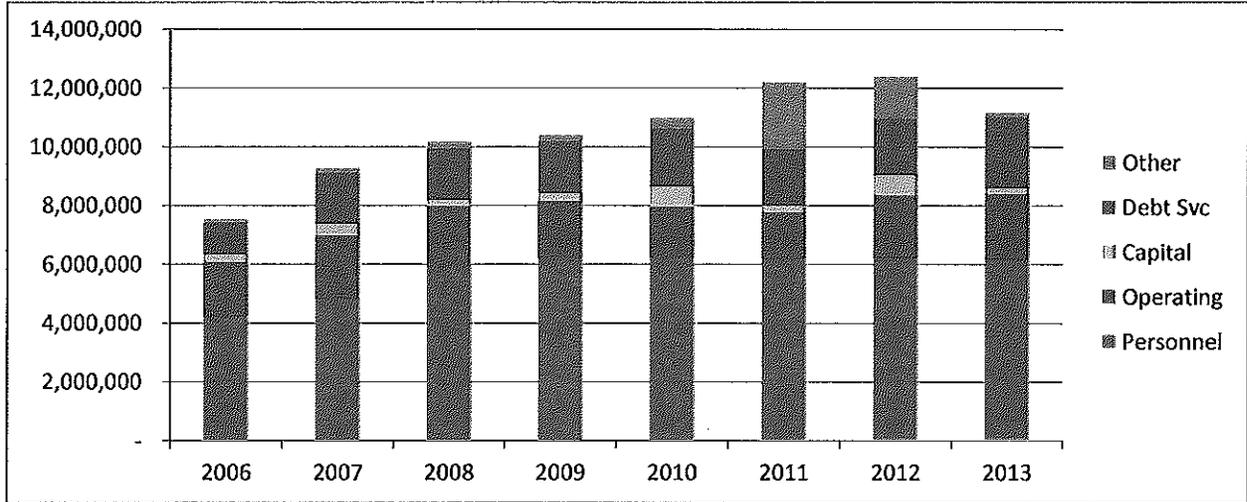
Summary Statement of Revenues and Expenditures  
For the Month Ended March 31, 2013

with comparatives: 3-31-2006; 3-31-2007; 3-31-2008; 3-31-2009; 3-31-2010; 3-31-2011; 3-31-2012; and, 3-31-2013

	3/31/2006	3/31/2007	3/31/2008	3/31/2009	3/31/2010	3/31/2011	3/31/2012	3/31/2013	Amended Budget	Budgetary Variance Over/(Under)	% Budget	
<b>Revenues</b>												
Sales, Use, & Luxury Taxes	5,007,158	5,074,970	4,854,099	4,448,651	4,259,282	4,669,786	4,814,741	5,472,651	12,957,590	(7,484,939)	-58%	
Payment in Lieu of Taxes	145,059	214,878	211,419	210,359	208,852	199,298	199,616	163,282	2,285,000	(2,121,718)	-93%	
Ad Valorem Taxes	2,899,445	3,396,596	3,365,729	4,042,088	4,251,648	3,906,416	3,775,199	3,547,498	4,602,000	(1,054,502)	-23%	
Licenses & Permits	1,629,873	1,782,218	1,983,530	1,529,056	1,494,110	1,531,767	1,625,255	1,810,475	1,851,000	(40,525)	-2%	
Other Revenues	881,826	766,790	692,128	668,936	794,227	676,749	640,987	537,902	1,338,183	(800,281)	-60%	
<b>Total Revenues</b>	<b>10,563,362</b>	<b>11,235,453</b>	<b>11,106,905</b>	<b>10,899,090</b>	<b>11,008,120</b>	<b>10,984,016</b>	<b>11,055,797</b>	<b>11,531,809</b>	<b>23,033,773</b>	<b>(11,501,964)</b>	<b>-50%</b>	
<b>Expenditures</b>												
<b>General Government</b>												
Personnel	717,973	775,756	901,014	959,748	890,890	870,982	853,314	858,564	1,985,610	(1,127,046)	-57%	
Operating Capital	436,276	572,814	491,417	594,639	558,052	462,951	711,368	730,097	1,635,487	(905,390)	-55%	
	69,750	-	-	-	-	-	-	-	-	-	#DIV/0!	
	1,223,999	1,348,570	1,392,431	1,554,387	1,448,942	1,333,933	1,564,682	1,588,661	3,621,097	(2,032,436)	-56%	
<b>Public Safety</b>												
Personnel	2,135,244	2,499,058	3,368,792	3,498,450	3,663,435	3,662,403	3,667,723	3,615,101	7,896,889	(4,281,788)	-54%	
Operating Capital	559,340	622,154	702,975	541,651	473,568	405,034	548,475	539,571	1,235,525	(695,954)	-56%	
	12,285	85,574	2,930	70,840	121,179	-	554,270	72,154	170,700	(98,546)	-58%	
	2,706,869	3,206,787	4,074,697	4,110,941	4,258,182	4,067,438	4,770,468	4,226,825	9,303,114	(5,076,289)	-55%	
<b>Public Works</b>												
Personnel	938,184	1,114,816	1,047,190	1,124,962	1,075,290	1,098,177	1,138,092	1,147,515	2,475,145	(1,327,630)	-54%	
Operating Capital	589,036	665,023	585,905	575,168	447,397	448,723	589,020	639,974	1,676,128	(1,036,154)	-62%	
	186,410	61,759	11,062	-	378,747	39,010	140,913	35,282	312,500	(277,218)	-89%	
	1,713,630	1,841,397	1,644,157	1,700,129	1,901,433	1,585,910	1,867,965	1,822,770	4,463,773	(2,641,003)	-59%	
<b>Parks &amp; Recreation</b>												
Personnel	441,799	450,022	595,321	588,415	587,130	554,708	569,675	552,151	1,260,820	(708,669)	-56%	
Operating Capital	240,066	261,728	270,704	255,902	241,139	254,502	250,544	298,964	778,115	(479,151)	-62%	
	10,500	256,357	200,000	192,000	201,700	176,000	-	82,150	-	82,150	#DIV/0!	
	692,364	968,107	1,066,025	1,036,317	1,029,969	985,210	820,219	933,265	2,038,935	(1,105,670)	-54%	
<b>Total Departmental</b>	<b>4,233,200</b>	<b>4,839,452</b>	<b>5,912,317</b>	<b>6,171,574</b>	<b>6,216,744</b>	<b>6,186,271</b>	<b>6,228,744</b>	<b>6,173,331</b>	<b>13,618,464</b>	<b>(7,445,133)</b>	<b>-55%</b>	
Personnel	1,824,717	2,121,719	2,051,001	1,967,359	1,720,156	1,571,210	2,099,408	2,208,606	5,325,255	(3,116,649)	-59%	
Operating Capital	278,945	403,689	213,992	262,840	701,626	215,010	695,183	189,585	483,200	(293,615)	-61%	
	6,336,863	7,364,861	8,177,310	8,401,774	8,638,526	7,972,491	9,023,335	8,571,522	19,426,919	(10,855,397)	-56%	
<b>Other Financing Sources &amp; Uses</b>												
Debt Proceeds	-	-	-	-	353,700	-	-	-	-	306,500	(306,500)	
Transfers to Debt Service	(1,068,017)	(1,731,175)	(1,750,893)	(1,767,709)	(1,964,408)	(1,929,926)	(1,919,623)	(2,432,803)	(3,313,048)	(880,245)	27%	
Other Transfers & Uses	(110,906)	(171,624)	(233,113)	(228,055)	(360,608)	(2,285,668)	(1,443,249)	(151,214)	(575,439)	(424,225)	74%	
<b>Total Other Financing Sources/Uses</b>	<b>(1,178,923)</b>	<b>(1,902,799)</b>	<b>(1,984,006)</b>	<b>(1,995,764)</b>	<b>(1,971,316)</b>	<b>(4,215,593)</b>	<b>(3,362,872)</b>	<b>(2,584,016)</b>	<b>(3,581,987)</b>	<b>(1,610,971)</b>	<b>45%</b>	
<b>Total Revenues Over Expenditures</b>	<b>3,047,577</b>	<b>1,967,793</b>	<b>945,589</b>	<b>501,552</b>	<b>398,278</b>	<b>(1,204,069)</b>	<b>(1,330,410)</b>	<b>376,271</b>	<b>24,867</b>	<b>964,404</b>		
Unreserved Fund Balance, 10-01	5,968,130	8,298,621	10,050,583	10,510,392	11,226,993	12,087,465	10,965,330	9,946,859				
Release of Encumbrances	-	-	-	-	-	173,100	-	-				
Unreserved Fund Balance, 3-31	9,015,707	10,266,414	10,996,173	11,011,944	11,625,271	11,056,496	9,634,920	10,323,130				

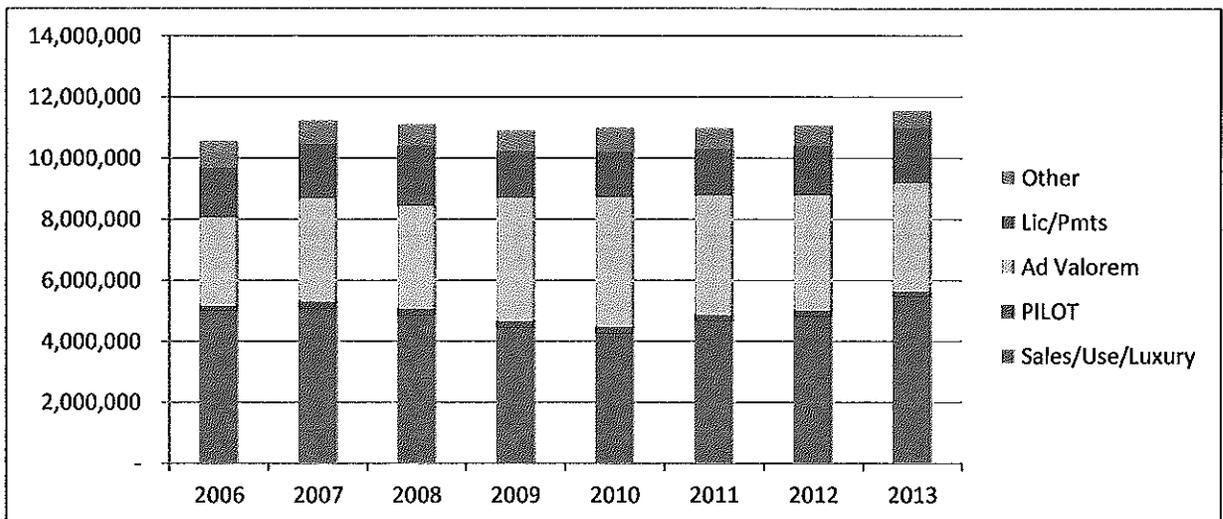
## Expenditures AS of March 31,

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Personnel	4,233,200	4,839,452	5,912,317	6,171,574	6,216,744	6,186,271	6,228,744	6,173,331
Operating	1,824,717	2,121,719	2,051,001	1,967,359	1,720,156	1,571,210	2,099,408	2,208,606
Capital	278,945	403,689	213,992	262,840	701,626	215,010	695,183	189,585
Debt Svc	1,068,017	1,731,175	1,750,893	1,767,709	1,964,408	1,929,926	1,919,623	2,432,803
Other	110,906	171,624	233,113	228,055	360,608	2,285,668	1,443,249	151,214
	7,515,785	9,267,659	10,161,316	10,397,537	10,963,542	12,188,085	12,386,207	11,155,539



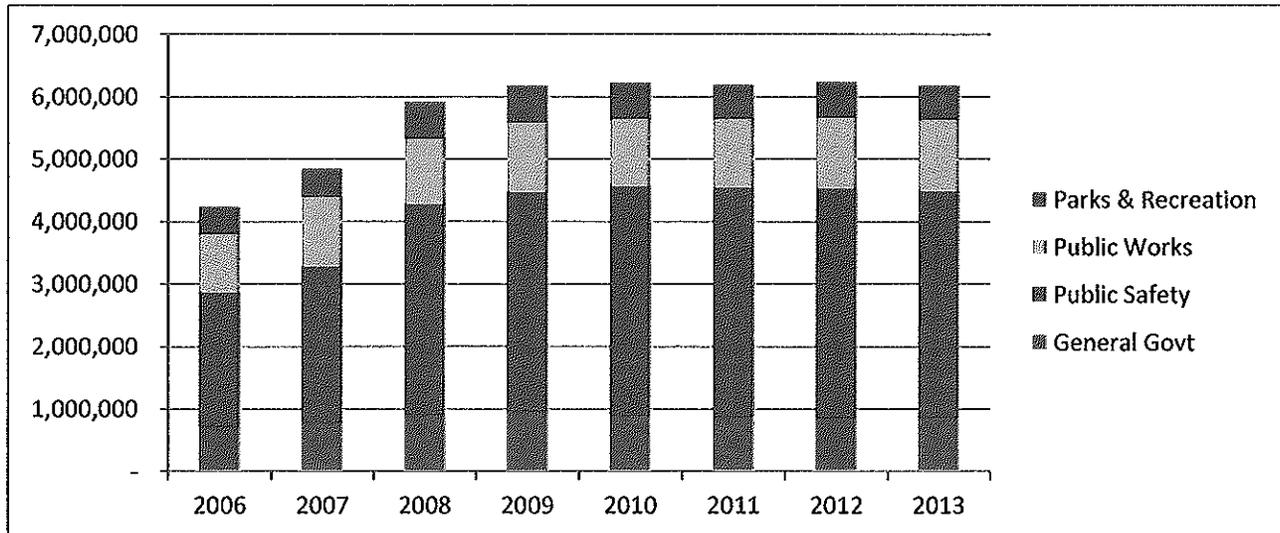
## Revenues AS of March 31,

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Sales/Use	5,007,158	5,074,970	4,854,099	4,448,651	4,259,282	4,669,786	4,814,741	5,472,651
PILOT	145,059	214,878	211,419	210,359	208,852	199,298	199,616	163,282
Ad Valorem	2,899,445	3,396,596	3,365,729	4,042,088	4,251,648	3,906,416	3,775,199	3,547,498
Lic/Pmts	1,629,873	1,782,218	1,983,530	1,529,056	1,494,110	1,531,767	1,625,255	1,810,475
Other	881,826	766,790	692,128	668,936	794,227	676,749	640,987	537,902
	10,563,361	11,235,452	11,106,905	10,899,090	11,008,119	10,984,016	11,055,798	11,531,808



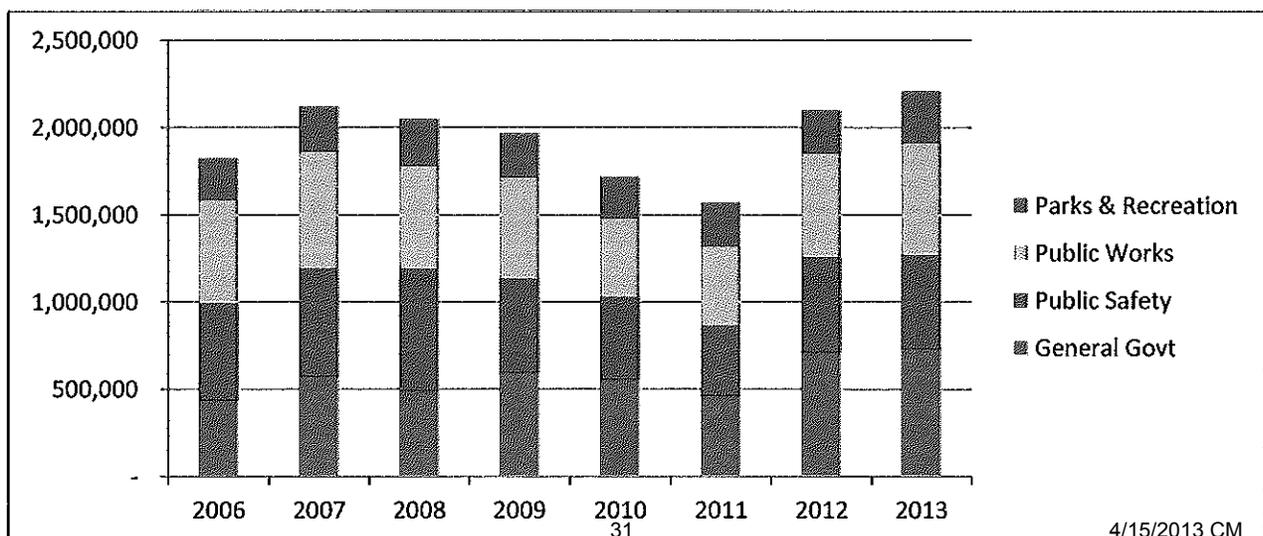
## Personnel As of March 31,

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
General Govt	717,973	775,756	901,014	959,748	890,890	870,980	853,314	858,564
Public Safety	2,135,244	2,499,058	3,368,792	3,498,450	3,663,435	3,662,403	3,667,723	3,615,101
Public Works	938,184	1,114,616	1,047,190	1,124,962	1,075,290	1,098,177	1,138,032	1,147,515
Parks & Recreation	441,799	450,022	595,321	588,415	587,130	554,708	569,675	552,151
<b>Total</b>	<b>4,233,200</b>	<b>4,839,452</b>	<b>5,912,317</b>	<b>6,171,575</b>	<b>6,216,745</b>	<b>6,186,268</b>	<b>6,228,744</b>	<b>6,173,331</b>



## Operating As of March 31,

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
General Govt	436,276	572,814	491,417	594,639	558,052	462,951	711,368	730,097
Public Safety	559,340	622,154	702,975	541,651	473,568	405,034	548,475	539,571
Public Works	589,036	665,023	585,905	575,168	447,397	448,723	589,020	639,974
Parks & Recreation	240,066	261,728	270,704	255,902	241,139	254,502	250,544	298,964
<b>Total</b>	<b>1,824,718</b>	<b>2,121,719</b>	<b>2,051,001</b>	<b>1,967,360</b>	<b>1,720,156</b>	<b>1,571,210</b>	<b>2,099,407</b>	<b>2,208,606</b>



# NEW BUSINESSES

## March-13

CITY LIMITS		CONTRACTORS	
<b>RETAILERS</b>		DC LAWN	1
		ONE CALL PLUMBING	1
		DALE POIROUX PLUMBING	1
<b>ALL OTHER</b>		ADVANCED INTEGRATED SECURITY	1
SKEETER SOLUTIONS	1	HC SERVICES	1
SHINEBRIGHT WINDOWS	1	SOURCE REFRIGERATION & HVAC	1
PRYVAYL	1	RIVERA CONSTRUCTION	1
XQUISITE HAIR STUDIO	1	AFA CONSTRUCTION	1
ALABAMA INDUSTRIAL PRODUCTS	1	BERNHARDT ROOFING & GENERAL CONTRACTING	1
SODEXO MAGIC LLC	1	LT MAINTENANCE	1
SIGN LANGUAGE GRAPHICS	1	MJ DEATON ENTERPRISES	1
KALEINA CRAIG FITNESS	1	EASTERN SHORE SHUTTER CO.	1
THOMAS HOSPITAL AUXILLIARY	1	BDH SCAPES	1
<b>TOTAL CITY LIMITS</b>	<b>9</b>	IRRIGATION & LIGHTING AUTHORITY	1
<b>OUTSIDE CITY LIMITS</b>		BAY LANDSCAPING INC	1
SOUTHERN GREASE HAULING	1	POINT BREAK	1
BIG CHARLIE'S PRODUCE	1	ROBERT CLARK HOMES INC	1
NINO MOLE	1	DIVERSIFIED COMMERCIAL BUILDERS	1
CRESCENT JEWELERS	1	BO SMITH ROOFING & PAINTING	1
B&B PET STOP	1	COONER CONSTRUCTION	1
NEFF RENTAL LLC	1	<b>TOTAL CONTRACTORS</b>	<b>20</b>
SWEET MAMA'S	1	<b>INSURANCE</b>	
ALLIED PEST MANAGEMENT	1	CENTAURI SPEACIALTY INSURANCE	1
ADAMS STEWART ARCHITECT	1	ES & C-ALABAMA LLC	1
FOREIGN LANGUAGES & GLOBAL STUDIES	1	<b>TOTAL INSURANCE</b>	<b>2</b>
NINKY'S ANTIQUES & GIFTS	1	<b>TOTAL NEW BUSINESSES IN DAPHNE</b>	
LARRY JORDAN	1	<b>54</b>	
NANCY WEAVER	1	<b>CLOSED BUSINESSES IN DAPHNE</b>	
SUZANNE ST. LAURENT	1	<b>TOTAL CLOSED BUSINESSES IN DAPHNE</b>	
SHEILA WATSON	1	<b>0</b>	
THOMAS ROCKS GEMS	1		
MATT STONE	1		
THE DRAGONFLY EMPORIUM	1		
NATALIE BEACH	1		
WILLOW BRIDGE	1		

## FY 2013 BUDGET - NEW CAPITAL EQUIPMENT REQUESTS

5	\$25,000	Legislative	Vehicle - SUV (State Bid: Ford Explorer-\$23,471 / Hyundai Elantra - \$14,258 / Ford Fusion \$17,648)
4	\$25,000	City Hall	Core Switches & Virtualization: Blade Chassis, Blade Servers, Disk Space, & Virtualization Software
2	\$85,000	Building Maintenance	City Hall Roof Repair (Old Section of City Hall)
5	\$20,000	Janitorial	Vehicle - Minivan / Econovan
	\$155,000	General Government Total	
	\$170,700	Police	(4) Vehicles if 4 New Patrol Officers Approved (\$42,675/ea incl equip)
	\$20,000	Police	Officer Equipment if 4 New Patrol Officers Approve
	\$190,700	Police Total	
6	\$25,000	Fire	Extrication Equipment
3	\$26,000	Fire	Administrative Vehicle (1) - to replace 2003 Model
4	\$26,000	Fire	Administrative Vehicle (1) - to replace a1999 Model
	\$77,000	Fire Total	
4	\$25,000	Search & Rescue	(1) 2012 Carolina Skiff 25 CC Boat w T-Top, 115 HP Yamaha Outboard Engine, and Trailer
9	\$25,000	Search & Rescue	(1) 2012 Carolina Skiff 25 CC Boat w T-Top, 115 HP Yamaha Outboard Engine, and Trailer
7	\$60,000	Search & Rescue	2012 Diamondback 18 x 8 Airboat and Trailer
	\$110,000	Search & Rescue Total	
	\$377,700	Public Safety Total	
4	\$18,000	PW Admin	Traffic Counter System
3	\$140,000	SW Trash	Knuckleboom Truck
	\$140,000	Solid Waste Total	
4	\$25,000	Street	Sweeper attachment for Cat 924G
7	\$30,000	Street	Barricades
6	\$20,000	Street	Changeable Message Sign
	\$75,000	Street Total	
	\$25,000	Grounds	LED Traffic Lights
5	\$45,000	Grounds	Chemical Storage Room
	\$70,000	Grounds Total	
3	\$25,000	Mowing	(1) Crew Cab Truck
3	\$25,000	Mowing	(1) Crew Cab Truck
6	\$66,000	Mowing	Tractor (Closed In)
5	\$12,000	Mowing	11" Bush Hog
	\$128,000	Mowing Total	
2	\$60,000	Mechanical	Service Truck w/Crane
7	\$12,477	Mechanical	18,000 lb. Lift
6	\$6,875	Mechanical	Video Camera System
5	\$15,000	Mechanical	A/C System for Parts Room
7	\$10,500	Mechanical	Hydraulic Filter System
	\$104,852	Mechanical Total	
	\$535,852	Public Works Total	
3	\$45,000	Recreation	New Flooring
3	\$50,000	Recreation	Nicholson Center Roof
2	\$18,000	Boys & Girls Club Bldg	2 Heating and AC units Boys & Girls Club
2	\$10,000	Parks	Gator Alley Boardwalk Repairs (- Lodging Tax)
7	\$10,600	Parks	Mower - John Deere Z960A 60"
6	\$11,000	Parks	Mower - John Deere Z960A 72"
8	\$16,000	Parks	Field Groomer - John Deere 1200A
	\$115,600	Parks Total	
6	\$160,000	Library	Roof is 17 years old. Small roof repairs done FY2012 Replaced: \$270,000 / Repaired \$160k
10	\$1,000,000	Library	Drawings have been made to build a "new" Library addition on the Old Main St side of the library; however, we might save money by enclosing the plaza area between the library and senior center that is rarely used
	\$1,160,000	Library Total	
	\$1,320,600	Recreation & Library Total	
	\$20,000	Garbage	Replacement Arm - Vehicle Overhaul
	\$450,000	Garbage	Transfer Station
	\$470,000	Garbage & Recycling Total	
?	\$23,500	Civic Center	Airwall
6	\$50,000	Civic Center	Roof
	\$73,500	Civic Center Total	
6	\$20,000	Bayfront	Decking
	\$20,000	Bayfront Total	
	\$93,500	Civic Center & Bayfront Total	
	\$2,952,652	TOTAL CAPITAL REQUESTS	
	\$3,501,736	TOTAL FY 2013 BUDGET - NEW REQUESTS***PERSONNEL + CAPITAL	

FY 2013 BUDGET - NEW REQUESTS					
Wages	Benefits	Wages & Benefits Total	Description		Emp Count Inc/(Dec)
\$29,557	\$8,867	\$38,424	Court	COURT MAGISTRATE	1
\$29,557	\$8,867	\$38,424	General Gov - Court Total		1
\$37,220	\$16,130	\$53,350	Police Patrol	POLICE OFFICER (PS20-1) - Addition	1
\$37,220	\$16,130	\$53,350	Police Patrol	POLICE OFFICER (PS20-1) - Addition	1
\$37,220	\$16,130	\$53,350	Police Patrol	POLICE OFFICER (PS20-1) - Addition	1
\$37,220	\$16,130	\$53,350	Police Patrol	POLICE OFFICER (PS20-1) - Addition	1
\$148,880	\$64,520	\$213,400	Police Total		
\$6,900	\$2,070	\$8,970	Fire Total	FIRE LIEUTENANT (PF22) - Reclassify 3 Firefighters to Fire Lieutenants	0
\$155,780	\$66,590	\$222,370	Public Safety Total		4
\$31,300	\$15,690	\$46,990	Streets	YARD MANAGER (16-1) - New Position	1
\$21,290	\$13,360	\$34,650	Grounds	PUBLIC SERVICE WORKR (6-1) - Addition	1
\$21,290	\$13,360	\$34,650	Mowing	PUBLIC SERVICE WORKR (6-1) - Addition	1
\$21,290	\$13,360	\$34,650	Mowing	PUBLIC SERVICE WORKR (6-1) - Addition	1
\$42,580	\$26,720	\$69,300	Mowing Total		
\$95,170	\$55,770	\$150,940	Public Works Total		4
\$34,310	\$15,475	\$49,785	Recreation	PROGRAM COORDINATOR (19-1) - New Position	1
\$21,290	\$13,360	\$34,650	Sports Parks	PUBLIC SERVICE WORKR (6-1) - Addition	1
\$21,290	\$13,360	\$34,650	Sports Parks	PUBLIC SERVICE WORKR (6-1) - Addition	1
\$42,580	\$26,720	\$69,300	Sports Parks Total		
\$8,090	\$2,427	\$10,517	Library	RECLASSIFY LIBRARY TECHNICIAN POSTION TO THE IT POSITION: GRADE 14 - WHICH IS THE POSITION/GRADE THE LIBRARY PREVIOUSLY HAD	
\$5,960	\$1,788	\$7,748	Library	RECLASSIFY LIBRARY AIDE TO YOUNG ADULT LIBRARIAN AT PT : 31 HOURS/WK - INCREASE FROM \$11.98/HR TO 15.51/HR	
\$14,050	\$4,215	\$18,265	Library Total		
\$90,940	\$46,410	\$137,350	Recreation & Library Total		3
\$371,447	\$177,637	\$549,084	TOTAL PERSONNEL REQUESTS		11

**RESOLUTION NO. 2013-**

**A RESOLUTION APPROVING THE CITY OF DAPHNE'S  
PARTICIPATION IN THE STATE OF ALABAMA SALES  
TAX HOLIDAY FOR THE YEAR 2013**

**BE IT RESOLVED**, by the City Council of the City of Daphne, Alabama as follows:

Section 1. Section 4 of Alabama Act No. 2006-574 grants municipal governments authority to provide for the exemption of certain covered items from the payment of municipal sales tax during a period commencing at 12:01 a.m. on the first Friday in August of each year and ending at twelve midnight the following Sunday under the same terms, conditions and definitions as provided for the state sales tax holiday.

Section 2. The City of Daphne grants approval for the exemption of certain covered items from the payment of municipal sales tax for the period commencing at 12:01 a.m. Friday, August 2, 2013 and ending at twelve midnight Sunday, August 4, 2013 under the same terms, conditions and definitions as provided for by Act No. 2006-574 and Alabama Department of Revenue Rule 810-6-3-.65.

Section 3. This Resolution shall become effective upon adoption.

**APPROVED AND ADOPTED** by the City Council of the City of Daphne, Alabama, this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
**Dane Haygood, Mayor**

**ATTEST:**

\_\_\_\_\_  
Rebecca Hayes, City Clerk

**Buildings & Property Committee Meeting**  
**Monday, April 1, 2013 5:30 PM**  
**Daphne City Hall**

**Committee**

Councilman Joe Davis, Chair  
Councilman Randy Fry  
Councilman Pat Rudicell  
Mayor Dane Haygood  
Richard Merchant, Building Official  
Frank Barnett, Maintenance Supervisor  
Margaret Thigpen, Civic Center Director  
Rick Whitehead, IT Coordinator

**Committee Minutes (Summary)**

Present: Mayor Dane Haygood, Frank Barnett, Councilman Randy Fry, Jane Ellis, Councilman Pat Rudicell, Richard Johnson, Margaret Thigpen, Rick Whitehead, David McKelroy, Council President Ron Scott, Councilman Joe Davis, Richard Merchant.

- A.) Minutes from March Meeting:** Joe Davis called the meeting to order. **Motion made by Randy Fry to approve minutes from March Meeting. Pat Rudicell made the second. Motion approved.**
- B.) BRAG:** Annie Root had requested an opportunity to report on the activities and projects the group has been working on. She was unable to attend.
- C.) DAPHNE Search and Rescue:** Ronnie Champion and Tommy Bozeman gave an update on their group and the need for more space for meetings, training and storage. The volunteers have grown and some of the equipment that is stored outside is beginning to weather and rust. They asked about two properties the City owns. One being the Eastern Star building and the Nicholson Center. They would prefer the use of the Nicholson Center as it would give them the space they need. Would like to modify to have 4 or 5 bays. Largest piece of equipment is 26' trailer. David McKelroy said that he does have some indoor soccer and basketball teams that want to practice there from time to time but not on a regular basis. The committee asked Ronnie and Tommie to bring back to the committee some ideas/needs for consideration including the Nicholson Center and other options. Give the committee their top five priorities. Tommie said he felt like for a short term solution they could use the Eastern Star building.

**D.) 1994 GMC Truck** – Richard Johnson explained that this was basically an exchange of vehicles. **Motion made by Pat Rudicell and a second by Randy Fry to move forward.**

**E.) Civic Center** – Margaret presented her monthly revenue reports along with upcoming events. (Attached) The follow up survey that is sent to the client after their event are showing positive feedback. Margaret said that the clients receive a handwritten thank you note. Joe Davis offered to send special thank you notes/phone calls if Margaret wanted him to.

**F.) Building Inspection** – Reporting 161 permits for the month for a total of \$8M in total business \$56,000 in fees.

**G.) Building Maintenance** – The Merchants Marine flag is up at Patriot's Point.

**Meeting Adjourned**

## B & P April 2013

- **Civic Center**

- **\$17,554.50** - March 2013 Revenue Vs **\$12,208.00** – March 2012 Revenue
  - **\$102,712.00** – FY 2013 YTD Actual Rev. VS  
**\$81,464.50** - FY 2012 YTD Actual Revenue
    - **\$187,300.00**– FY 2013 YTD Projected Yr. End Rev.  
**\$168,603.35** FY 2012 Year End Revenue
- **\$24,817.50** – March 2013 Deposits vs. **\$18,142.00** March 2012 Deposits
  - **\$104,342.00** - FY 2013 Deposits
- 10 events; 12 days used (not including set up days)
- 2013 FY Discounts = **\$13,127.50**
- **Special Events:**
  - **Ballroom Dance** – **\$2,280.00**

- **Bayfront**

- **\$5,575.00** – March 2013 Revenue Vs. **\$4,227.00** – March 2012 Revenue
  - **\$28,822.00** –2013 YTD Actual Revenue Vs.  
**\$25,556.00** - FY 2012 YTD Actual Revenue
    - **\$55,318.00** – FY 2013 YTD Projected Yr. End Rev.  
**\$59,431.00** - FY 2012 Year End Revenue
- **\$6,693.50** – March 2013 Deposits Vs. **\$4,123.00** March 2012 Deposits
  - **\$33,621.50** – FY 2013 Deposits
- 10 events; 10 days used (not including set up days)
- 2013 FY Discounts = **\$2860.00**

- **Public Events:**

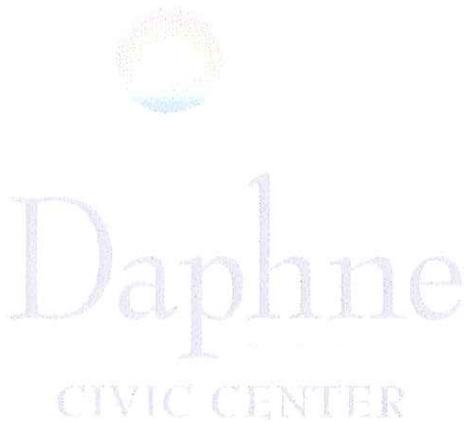
- Baldwin County Job Fair – April 16, 2013
- Ballroom Dance – April 19, 2013; 116 tickets sold
- Sunset Series at Bayfront – April 21, 2013
- Jack N Jill Consignment – April 29-May 3, 2013

- **Other Events to Note:**

- Tourism/Hotel Meeting – April 5, 2013
- U of South AL - OBGYN Education Conference – April 11-13. 2013
- To Be Pregnancy Crisis Center Fundraiser – April 20, 2013
- Foley High School Prom – April 26-27, 2013

- **Misc**

- Survey – Used since June 2012 - 47 Survey's filled out to date
  - Heard about us – 2 top ways
    - Word of mouth
    - Attended another event
  - 46 would recommend us and/or use us again
- State Travel Guide
- Availability at the CC & BF
  - CC 8 total Saturdays left in 2013
  - BF 7 total Saturdays left in 2013



## **Ordinance Committee**

*Wednesday, April 10, 2013*

*1705 Main Street*

*Daphne, AL*

*5:30 p.m.*

*Councilman Randy Fry, Chairman*

*Councilman Ron Scott*

*Councilman Robin LeJeune*

*Councilman Pat Rudicell*

### **CALL TO ORDER/ROLL CALL**

#### **I. CALL TO ORDER:**

Chairman Fry called the meeting to order at 5:30 p.m.

**MEMBERS PRESENT:** Randy Fry, Chairman; Pat Rudicell; Ron Scott; Robin LeJeune.

Also present: Rebecca Hayes, recording secretary; Captain Danny Bell; Mrs. Mary Jansen; Shelly Ballington; Lynn Williams Cook.

#### **II. APPROVE MINUTES / NO MINUTES TO APPROVE / NO QUORUM MARCH 13, 2013**

#### **III. PUBLIC PARTICIPATION:**

***Mrs. Mary Jansen – Owner of the Record Bar*** - spoke regarding Lucy's Love Shop coming to the shopping center where her business is located saying she is not against a lingerie shop, she is concerned about the reflection of the storefront atmosphere. She would like it to be laid out exactly what would be in the store, what is allowed and what is not allowed.

***Mrs. Felicia Johnson – Owner of Rosie's*** – spoke regarding her concern for the nature of the business.

***Ms. Gail Deerman – Owner of the building*** - has no problem with the business coming into her building. She thinks it will be a good source of revenue, and she does not understand how it comes under the category of Adult Entertainment.

***Ms. Shelly Ballington***, owner of Lucy's Love Shop Franchises, spoke to the committee regarding her business as to what they have in the stores, etc. She related the different places where there are franchises, and that there are no problems with them being there. She requested that the business be removed from under the category of Adult Entertainment, because the majority of items sold in the store is lingerie. She said the rule "No one over 18 admitted" was a store policy, because she did not want children coming in and going through the lingerie, but if that was a problem she would be willing to amend it. They do not have magazines in the store. It is a couple's store. She wants to work together with the city so that both parties are comfortable.

The location for the proposed shop is in the shopping center with Rosie's, Trade Winds Beauty Salon and Badcock's on Highway 98. It is the end building between Badcock's and the other buildings in the center.

**IV. ORDINANCE REVIEW / DISCUSSION**

***a.) Adult Entertainment / Novelty Shop / Ordinance 2003-09***

Mr. Kyle Navarro, City Attorney, reviewed his proposal of changes to Ordinance 2003-09. One of the additions was a 1,000 feet setback between each similar business to protect from clustering of these types of businesses, and to protect the city from blight that this clustering would cause. Also, the business would have to get a permit from Community Development at a cost before they could apply for their business license. Code Enforcement will enforce the ordinance, and will have fines attached from \$50 - \$500 and jail.

The committee discussed the word “preponderance” in the ordinance, and Kyle will do more research on this, time restriction and the age for employment by these businesses, and he is also researching escort agencies and adult hotels. He will research and get with Mr. Ross to see which category Lucy’s Love Shop will fits into.

Kyle will have a draft of the ordinance for the May meeting.

***b.) To Control Public and Private Outdoor Lighting / Ordinance 2003-31***

Kyle recommended striking the word “residential” from Section B-1 / Luminaire restrictions / in the sentence that reads: “No direct light from any private outdoor luminaire owned by any owner or tenant of any ~~residential~~ property shall direct light upon any residential property, house or structure not owned by that owner or tenant”, which will address the problem the home owner had with a business shining a light on their home.

**MOTION BY Councilman Scott to recommend to council the following amendment to Ordinance 2003-31, Section B-1: Striking the word “residential” from Section B-1 Luminaire restrictions / in the sentence that reads: “No direct light from any private outdoor luminaire owned by any owner or tenant of any ~~residential~~ property shall direct light upon any residential property, house or structure not owned by that owner or tenant.” Seconded by Councilman Rudicell.**

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

***c.) Share the Road / Proposed Ordinance***

Kyle handed out a proposed ordinance requiring motorist to leave a safe distance between the motor vehicle and the bicycle of not less than three (3) feet when passing a cyclist.

The committee discussed the proposed ordinance and requested Mrs. Hayes to distribute the proposed ordinance to the Police Department, Municipal Judge and the City Prosecutor for review and recommendations, and to bring back to next meeting.

***d.) Door to Door Solicitation / Ordinance 1995-08 & 2010-47***

Kyle said that he has not had a chance to work on this ordinance, but he will work on tightening it up for the May meeting.

**V. OTHER BUSINESS**

No other business to discuss.

**VI. ADJOURN**

**MOTION BY Councilman Scott to adjourn. Seconded by Council Rudicell.**

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

There being no further business to discuss the meeting adjourn at 6:45 p.m.

Respectfully submitted

Code Enforcement / Ordinance Committee

**I. CALL TO ORDER**

The March meeting of the Public Works Committee was called to order at 5:00 PM

Present:

Councilwoman Tommie Conaway, Councilman John Lake, Councilman Ron Scott, Councilman Robin LeJeune (Chairman), Richard D. Johnson-Director Public Works, Sandra Cushway-Administrative Assistant Public Works, Dorothy Morrison-Daphne Beautification Committee, Randy Davis-Volkert,

**II. PUBLIC PARTICIPATION & CORRESPONDENCE**

- A. Work Request Report for February 2013 was reviewed. No Comments.
- B. Vehicle/Equipment Maintenance Reports for February 2013 were reviewed – Richard reported that most of the maintenance in Solid Waste is due to equipment being installed on new truck. Councilman LeJeune asked if 57K was the average amount for this time of the year. Richard responded that he would confirm that number, but that he believes it is a little lower than previous years.
- C. Public Participation – None
- D. Correspondence – None

**III. OLD BUSINESS**

- A. Minutes from February 18, 2013 Meeting were reviewed and accepted as written. Motion by Councilwoman Conaway to accept minutes. Motion seconded by Councilwoman Lake.
- B. Mosquito Report – no report submitted or reviewed. (not currently in spraying season). Marjorie Bellue and Graham Cox have passed the Public Health Certification exam which brings the City into compliance for new guidelines regarding mosquito spraying.
- C. Street Sweeper Reports for February 2013 were reviewed. Limited street sweeping was done due to special projects.

**IV. NEW BUSINESS**

- A. None

**V. DIRECTOR'S REPORT**

- A. FY14 Sidewalk Proposal and Appropriation (Request to add sidewalk on South side of Van Avenue on easement in front of Ashley Gates Apartments). Richard reported that Ashley Gates Apartments have requested a sidewalk on the easement in front of the complex. This would entail 610' of sidewalk. Will add to FY14 for consideration.
- B. All bridges are required to be inspected every two years. We had one bridge that had capacity changes to weight restrictions. The bridge on Bayview Dr and D'Olive. Volkert inspects the bridges for the City. It was recommended that repairs and scouring be completed. Richard feels that this work can be completed in-house.
- C. Pot hole on Rollinghill – French drain installed. Problem is a result of a natural spring beneath it. Plans are to mill it, patch it and then fill it.

**VI. DAPHNE SOLID WASTE DISPOSAL AUTHORITY**

- A. Monthly Equipment Use Report for February 2013 was reviewed.
- B. Monthly Recycle Tonnage Report (Tonnage Comparison) for February 2013 was reviewed. Increase in tonnage this month. E-Recycling material is picked up at no charge to the City.

- Looking into potentially getting paid for e-recycling.
- C. Solid Waste New Customer Report for February 2012 was reviewed. Nine (9) new residential customers in the City this past month. So far, 68 new residents this fiscal year with many more new homes currently under construction. New subdivision being developed (Jubilee Ridge has requested garbage service. Currently there are 8-12 houses. There will be 114 new homes once completed. Estimated completion date is 90-120 days).

**VII. MUSEUM COMMITTEE**

- A. No Committee meeting this month. (Committee meetings will be held every other month)

**VIII. BEAUTIFICATION COMMITTEE**

- A. Minutes for February 3, 2013 Meeting were reviewed. There is a lot of activity sprucing up the City this month (pot holes being filled, Crape Myrtles being planted, removal of dead trees, etc.)
- B. Three (3) new members added to the Beautification Committee.
- C. Councilman LeJeune commented that originally Crape Myrtles were to be planted 6' behind the curb. ALDOT has since changed that to 12'. This change is being challenged.

**IX. ENVIRONMENTAL ADVISORY COMMITTEE**

- A. February 22, 2013 Meeting Minutes (none received)

**X. ENGINEER'S REPORT**

- A. HMR: No additional report
- B. Volkert: No additional report

**XI. FUTURE BUSINESS**

- A. Next Meeting for March 18, 2013 was announced

**XII. ADJOURNMENT**

Meeting adjourned at 4:50 PM

**REPORT  
OF  
SPECIAL BOARDS**

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
SPECIAL MEETING OF FEBRUARY 7, 2013  
COUNCIL CHAMBERS, CITY HALL - 4:00 P.M.

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**CALL TO ORDER**

The number of members present constitutes a quorum. The regular meeting of the City of Daphne Planning Commission was called to order at 4:05 p.m.

**CALL OF ROLL:**

**Members Present:**

Joe Lemoine  
Don Terry, Secretary  
Ed Kirby, Chairman  
Larry Chason, Vice Chairman  
Ron Scott, Councilman

**Members Absent:**

Chief James "Bo" White  
Charles Smith  
Dan Gibson

**Staff Present:**

Adrienne Jones, Director of Community Development  
\*Jan Vallecillo (Dickson), Planning Coordinator  
Lonnie Jones, Code Enforcement Officer  
Jay Ross, Attorney

\*Excused at 5:15 p.m.

**Staff Absent:**

Missty Gray, Attorney

**Others Present:**

John Lake, Councilman  
Robin LeJeune, Councilman  
Dane Haygood, Mayor

The first order of business is the call to order.

Chairman: Please let the record reflect that Mr. Smith, Chief White and Dan Gibson are not present. Mayor's seat on Planning Commission is vacant pending appointment of a representative.

The next order of business is a proposed revision to Ordinance 2011-54, the Land Use and Development Ordinance, Article 33, Sign Provisions.

**ADMINISTRATIVE PRESENTATION:**

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
SPECIAL MEETING OF FEBRUARY 7, 2013  
COUNCIL CHAMBERS, CITY HALL - 4:00 P.M.

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Chairman: Ms. Jones am I waiting?

Mr. Ross: You are ok with what you have. You have a quorum.

Chairman: I have a quorum to call the meeting to order, but I what about six members being present for six affirmative votes? It is in the book.

Mr. Ross: I understand what is in the book.

Ms. Jones: Go ahead and start the meeting.

Chairman: I would like to call the meeting to order. Under new business, we are going to be discussing the changes to the Sign Ordinance. Before we get started, I am going to ask Mr. Ross if we can proceed with only five members present or do we need six affirmative votes in order to send this to the City Council. I think I have six members now. The Mayor is you going to sit up here?

Mayor Haygood: No. I think Jay had made the determination that five members is sufficient.

Chairman: That is what we were just discussing. I asked if five members are going to be sufficient. Before I called the meeting to order, we were a discussion as to if I had enough members present. We do have a quorum, but do we have enough members present in order to send a recommendation to the City Council?

Mr. Ross: I am reading about the quorum issue now in the Land Use and Development Ordinance. I think you are fine with making a recommendation to the City Council based on the number of members you have present here which is five.

Chairman: Ok.

Mr. Ross: We may come back and ask for a modification of some of the language in here.

Chairman: Ok. Ms. Jones, do you want to go through this with us first before we hear from the public?

Ms. Jones: This is the 5<sup>th</sup> proposed amendment to the Land Use and Development Ordinance which was approved in 2011 as Ordinance 2011-54. In drafting that particular Ordinance, it was the Planning Commission's consensus to not touch or work on the Sign Ordinance. We are here today because the City Council has expressed an interest in working on the Sign Ordinance, and the Planning Commission is ready to move forward in that accord. What we have here a revision that speaks to only two things, the first are A-frame signs, and the other is a temporary promotional banner. What I have proposed and what the Planning Commission has looked at is the definition of A-frame menu board sign and the temporary promotional banner. I think that everyone in the Ordinance has a copy of the proposal.

Ms. Jones: If not, there are some on the podium. I have also provided language that would need to be removed in order to prevent any conflict in the language. I am going to assume that everybody was on the sign list, and the Commission had a chance to review it. I will turn it back over to you, Chairman. If anyone has questions, then we will go from there.

Chairman: I believe everyone here has a copy of the proposed changes. I had asked that we look at any overlay districts to make sure we do not have a conflict with what we are proposing, and the signage that is allowed in an overlay district. Do any of the Commissioners have any questions or comments? You can see what has been struck out, and you can see what has been added. I guess what is already here has been underlined. Is that correct, Ms. Jones?

Ms. Jones: The information that is underlined is being added, except for the definitions. In each sub-header, I tried to show what was being done. For example, the red at the top of the page says we are adding these terms to the definition section. As you can see on the third item, it says we are striking existing language and replacing it with the following language. Each subsection has what it is we are proposing to do with it. It states whether it is new or changed.

Chairman: Ok.

Ms. Jones: There is one item on page number two, under Section 33-5 (h), where it talks about temporary promotional banner provisions where it says at the bottom there is a question as to whether or not temporary promotional banners shall adhere to the provisions herein, except where provided otherwise. I do not think there is anywhere else that is provided otherwise so I just wanted to bring attention to that and ask if you knew of any other places where it would be mentioned. I did not see anything in our overlay districts.

Chairman: Ok. Sitting here looking at locations and specifications on page one for A-frame menu board, it says that said menu board shall not obstruct the view of or impede pedestrian or vehicular traffic along any right-of-way or interior driveway. Does that allow the menu board to be put on the right-of-way? Here again in old town Daphne, the buildings face the right-of-way. If you put out a menu board for a restaurant downtown, it would be on the right-of-way.

Ms. Jones: Right. That is true.

Chairman: The sidewalk is actually on the right-of-way in the Olde Towne Daphne District. If you prohibited those signs for being on the right-of-way, you would prohibit them in this district. I am just trying to clarify this? At what point would a sign be allowed on the right-of-way? We have an overall size, but I am just trying to clarify where they can be used. I think that is the only question I would have. All advertising is prohibited on any right-of-way according to the Land Use Ordinance, as it is written.

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Ms. Jones: I think the key here is it shall not impede pedestrian or vehicular traffic along any right-of-way.

Mr. Scott: I think the purpose of not having a sign on the right-of-way is because we maintain the right-of-way of which the City mows. It is because our guys have to stop and remove them. It should not be there. It is different in a residential subdivision where the homeowner mows his own yard. This type of sign in the right-of-way would not be illegal.

Chairman: I understand exactly what you are saying. There is a section that deals with real estate signs. We have never asked anyone to take a real estate sign down.

Mr. Scott: A political sign is someone's yard is the same way.

Chairman: Not as long as they maintain it.

Mr. Scott: The clarification we need is there shall be no signs in a maintained right-of-way. If you say that, I think that solves most of the problem.

Chairman: Maybe that would do it. We do not do anything on sidewalks in old town Daphne. We do not sweep them. I do not think we do much to the sidewalks.

Mr. Chason: Just where we require sidewalks, did we provide in this for the proper and improper locations for temporary banners shouldn't we provide permitted and non-locations of sandwich signs? It does not seem right that you would define the location of one and not the other. The problem I would see with that, especially with multi-tenant buildings, the motivation is to get a sign out as far as you can. We may find that you will not be able to walk or ride on the sidewalk in front of a business because of a sandwich sign. I wish I could give you a definition of how to say where they should be properly located. Maybe it should be within so many feet of the front door and not to impede pedestrian or vehicular traffic. I do think if we are going to locate and specify a location for banners that we should locate and specify a location for sandwich signs, as well.

Chairman: Well, somebody correct me if I am wrong, but we have sandwich boards in front of restaurants in old town Daphne.

Mr. Chason: We do not limit them to restaurants.

Chairman: No. We don't, but I am just saying that has been the use of a sandwich board. It has been mostly for a restaurant or for a sale. It advertises the sale of that unit. Maybe the definition should be so close to a door. It would fit that it would have to be adjacent to the front of the building. That would eliminate them from being against the front of the building and being anywhere else on the sidewalk, except at the front of the building.

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Chairman: It would also have to be on the parcel and near the building that this business controls. It could be a special on books at Books-A-Million. It could be a restaurant advertising a special on Thursday or it could be whatever.

Mr. Chason: I can just say signage for multi-tenant businesses whether they are businesses or offices have always been a problem because the size limitations on signs. You only have a certain amount of space to work with. If you have to allocate that with quite a few businesses you are only allowed a certain size field to put that signage on. What ends up happening, the signage on that field is so small that it does not do them any good. I think going to a sandwich sign one more avenue of advertising. A promotional banner helps, but a sandwich sign is in addition to your signage to call attention to your location. We are trying to help, but we do not want to let the cat out of the bag.

Chairman: Would it serve us on the location and specification provision to say that it has to be placed next to the wall area controlled by the business advertising? I am trying to come up with my words here.

Mr. Chason: It is tough. Maybe when we get to the public hearing portion of the meeting someone will have a suggestion of a way to handle that. My point is, when we take discussion and move forward with this, we need to define what our broader purpose is in allowing sandwich signs.

Chairman: This is something totally new. Our Ordinance does not allow sandwich signs at all at present. Now we are allowing them at almost any business. I think we need to set the location. It says it shall not impede pedestrian or vehicular traffic. If you are looking at downtown Daphne, maybe if we say it should be placed next to the frontal face of the building that would work.

Mr. Chason: It should be placed within a reasonable distance to the entrance of the business.

Chairman: I think it would work better if it was not placed in the middle of the sidewalk, somewhere close to the front of the business. They are going to put it somewhere close to the door.

Mr. Chason: It is probably going to be fine until people complain then you are going to have put some teeth in the Ordinance in order to do something about it.

Mr. Scott: Reasonable is kind of tough to define.

Mr. Lemoine: If you tell them it has to be away from pedestrian and vehicular traffic, then sidewalks are off limits. They will have to find another place to put that sign other than the sidewalk. The sidewalk is there for pedestrians. It is not for sandwich signs.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
SPECIAL MEETING OF FEBRUARY 7, 2013  
COUNCIL CHAMBERS, CITY HALL - 4:00 P.M.

DRAFT

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Chairman: I do not think that is the answer, Mr. Lemoine, because when you get out to Jubilee Square Shopping Center, the sidewalk goes from the traffic lane to the building. That would prevent them from having anything out there. If you prevent them from being on the sidewalks, you can just about go back to not having them at all.

Mr. Terry: We have set the definition for them. What if we just say it is not to impede pedestrian traffic? There should not be any motorized traffic on the sidewalk.

Mr. Chason: There are some kids that ride on the sidewalk with bicycles, joggers, and people pushing strollers.

Chairman: I was thinking about the old part of town. We are already restricting the signage because of the size of the building. They actually need something along these lines to help advertise whatever special there might be.

Mr. Scott: On page four with regard to business or calendar days, you could argue the fourteen days either way. I do think it should be calendar days because some businesses are open seven days a week.

Chairman: Where is that?

Mr. Scott: On page four, on the last page of the handout, the revision to Section 33-10, (h), Promoting or Advertising Conventions and Grand Openings.

Chairman: Let me catch up to that. There seems to be some questions on page three. Let's see. Did I skip a page? Do we have anything we need to discuss on page two?

Mr. Lemoine: Can we go back to page one for a second?

Chairman: Ok.

Mr. Lemoine: It is the fourth paragraph down. It says inclement weather. Do we have a definition of inclement weather?

Chairman: Where are we talking about?

Mr. Lemoine: About four paragraphs down.

Mr. Terry: It is under sandwich signs.

Mr. Lemoine: It is where it says replace with the following language. What constitutes inclement weather?

Chairman: It really does not say that it has to be removed during inclement weather.

Mr. Lemoine: It says it should be readily removed during non-business hours and/or inclement weather.

Mr. Terry: It says moved not removed.

Mr. Scott: It is defining it there. It says any double or single-faced A-frame menu board sign which is readily moved and stored during non-business hours and/or inclement weather.

Mr. Lemoine: So we are not concerned about inclement weather?

Chairman: It is the definition, in my opinion.

Ms. Jones: Also on the first page, in our reference to the location and specifications for an A-frame menu board, we are only listing retail establishments or restaurants as the types of uses which can use an A-frame sign. The suggestion is that it is allowed for office uses, as well as, and in particular real estate offices and Life South. That was the issue with Life South. They had an A-frame sign by the right-of-way. Are we making it too narrow by saying retail establishments or restaurants? Should we say commercial uses?

Mr. Scott: I am comfortable with that. You know our blood bank had other issues besides a sandwich sign. Churches are probably one of the largest users of the sandwich signs I have seen in the community. I do not know that we should just limit it to restaurants and retail.

Chairman: Maybe we should say commercial establishment rather than retail and restaurants.

Mr. Lemoine: I agree with that. It should be opened up.

Ms. Jones: Retail establishment, restaurant, and/or institutional establishment so it will take care of churches, hospitals and schools.

Chairman: I still think the A-frame sign should be placed closer to the door at the front of the building instead of out in the parking lot. For example, the YMCA, it is going to be either in the parking lot or on the right-of-way. I do not think it needs to be in a right-of-way.

Mr. Scott: It does not need to be in a maintained right-of-way. I agree with you.

Chairman: So where are we? What did we come up with?

Ms. Jones: I am hearing having the option of the A-frame sign location near the front of the building. We have not come up with anything for multi-tenant businesses. Mr. Chason brought that up. You need to address that.

Chairman: If you have a multi-tenant business, are we getting into the thing where we are going to allow one for each business.

Chairman: Especially, when they only have one entrance going in? We start opening up these cans and how are we going to do this?

Mr. Scott: You can only have one sign per door entrance.

Chairman: If you are going to do that, you are going to have to come up with something which says they can only have one sign per entrance. Maybe that is the answer to all of it.

Mr. Ross: You need to be specific enough in whatever you do so the Code Enforcement Officer can follow the guidelines and not leave too much to chance or vagueness.

Mr. Chason: I think one of the things that would help would be to exclude offices. I think the purpose of the sandwich sign and a promotional banner is for a retail business to get the advertisement of a product out there. As I sit here and think about the potential abuses, I think that an office use would be one of the potential abusers. I think they probably need to be restricted from a sandwich sign. The point is we are trying to help retail, institutional businesses advertise products in a close proximity to where that product or service is being offered.

Mr. Scott: Not insurance signs.

Mr. Chason: Not insurance, offices, or real estate for that matter. We have for sale signs, but to have a sandwich sign in front of a real estate office saying new listing is going to become a lot of extra clutter. I think what we want to do and what we have said are restaurants, hotels, and churches. Those are the types of places that offer goods and services. They may have something in particular they want to promote. This is the method to promote it.

Chairman: Let me ask this. Go back to locations and specifications that is what we are dealing with. Let's say institutional, retail establishment or restaurants to be placed adjacent to the entrance and let it go at that.

Mr. Chason: I think it is close, but I think we need to get to the public input part.

Chairman: I am trying to get us close to it so we can move on until we get to the public input or maybe I will split this. I am going to do it a little different. Do any of the Commissioners have any questions or comments? I am going to open the floor to public participation from the audience, but only on A-frame signs. Do I have anyone in the audience that would like to address this? I have one coming up, and I will get yours next sir.

Ms. Vallecillo: Please ask the speaker to identify himself.

Mr. Lake: I am John Lake, a resident of Daphne. The first thing I would like to say is I am glad you got the sound fixed because in the cheap seats you could not hear the first part of this discussion. That is the first thing I would like to say.

Mr. Lake: Also, I listened to what Mr. Kirby had to say. You may not know, but I understand it. He had to enforce this Ordinance for many years, and he knows some of the pitfalls you are going to come up against. You have to realize there are going to be people that are going to try to manipulate the system and try to get around it. I am listening to what you have to say about the A-frame signs. That was put in the Ordinance for a reason. There was some abuse that was done in years past that people did with these signs. One of the things you mentioned was putting them in the right-of-way and using them as an obstruction. Everyone had them. Actually some of them were getting quite large. Some of them make the sign for the business look like it was small. I hope that you will look at that. I notice you said hotels. I was wondering why you said hotels. Why would a hotel be getting an A-frame sign? Restaurants, I can understand because they have daily specials. There needs to be something about it being viewable from the road. If they have a large footprint, then they should have something that is viewable from the road. They should have something that is viewable, but not creating clutter. I will also say that with the A-frame sign that it has to be specific. What about motels and the other types of hotels. If you just say hotel in the Ordinance, it is going to make everyone say they are a hotel. I do not think they need an A-frame sign. I think maybe sandwich shops need to. I do not think we need to let them go all over the place so they are pervasive. I think that it will become clutter. That is one of the reasons we did the Sign Ordinance to keep down visual clutter on the main thoroughfares and to keep the aesthetics of our community. If we do not have a livable community, then it is not a place to live. People will move away. Also, I do want to say I thought we were talking about doing a committee which would have individuals on both sides of this to kind of work on some of these issues.

Chairman: Eventually Mr. Lake when we start working on the other parts of the Sign Ordinance, and we will probably do that.

Mr. Lake: It will be good to have a committee, and Mr. Kirby knows this. The committee has also helped to sell it to the community. It has relieved a lot of fears in the community of our Sign Ordinance and prevented it from being stripped apart and destroyed. If you do not have that, you are going to have a lot of people with a lot of concerns.

Chairman: Thank you, John.

Mr. Chason: John, had some good comments, and I have a suggestion of a way to deal with this because there are so many cases. Ms. Jones, how about going to the Table of Permitted Uses where we have all of our business types listed, on several pages, and put a column in for both sandwich and banners or put them together, and put a letter in the box like we do to either say that business would be allowed by right to have a sandwich sign or banner, prohibited or available upon appeal to the Planning Commission?

Chairman: I understand what you are saying, but that would make it an enforcement issue in which every time the Code Enforcement Officer sees one, he would have to look in the book to see if it can be there.

Chairman: We need to have something in which the Code Enforcement Officer can go down the street and to easily say it is or it isn't without looking it up on an I-pad or in the book. So many different businesses are rated one way, but they may look like something else.

Mr. Chason: John made the comment about distinguishing between a hotel and a motel. In our Land Use Ordinance, the Table of Permitted Uses does distinguish those. It distinguishes between an extended stay, mini warehouses, office buildings, and all of the different uses. When you look in there, that is the most exhaustive list we have.

Chairman: I understand, but I just believe it will be an enforcement issue. In having done that and having to pick out where you need to stop, you have to make a decision pretty quick.

Mr. Chason: Unless you open it up to any and every one, you have that problem because you have to decide is that an office is that retail or what is it. You are going to have the same enforcement problem.

Chairman: You can ride down the road and tell whether or not that is a retail establishment or an office building.

Mr. Lemoine: I agree with him.

Mr. Chason: What the Code Enforcement Officer would do is pull in, open to the Table of the Permitted Uses, and say you are going to have to pull your sandwich sign. If they come in and apply for a business license and ask will I be allowed one, they can be told at that time if they are.

Chairman: Let me say this, we have called a special meeting here to try to work this out with what we have already been working on. If we want to change it, that is fine. We are not going to make any kind of recommendation until that is done. We have to sit down and decide if we are going to allow it or not allow it. I am back to the purpose of this meeting. What this meeting was called for is so we could get a recommendation to City Council in order for them to act on it in a timely manner and not two or three months from now. I understand what you are saying. We could go down and list every one of them. For those of you that have a comment, I would ask that you keep them short because we are still on page one and have several more pages to go. I appreciate your comments.

Mr. Dugat: I will try my best. I have a problem doing that. I am Douglas Segal. For those who do not know me, I am a rather timid person. I have trouble stating my opinions on things, but I will try my best. The Sign Ordinance is useless until the City is willing to enforce it. If you think it is being enforced, then I would welcome anyone to give me five minutes, and I can take you to signs that are in violation of the Ordinance. If the City is going to regulate them, they need to regulate the Ordinance, and they need to regulate themselves. I think if we are going to work on the Sign Ordinance, then I think there needs to be one Sign Ordinance. You have a Political Sign Ordinance and a General Sign Ordinance, and neither one is enforced.

Mr. Dugat: When they are enforced, they are only enforced partially and biasedly. When you start talking about businesses, I am a firm supporter of businesses. I think that is what has been lacking in Daphne. I am just a citizen. I am retired. I have the best job that I have ever had. Businesses pay a lot of our bills, and we need to take care of them. If we list that certain businesses can do this and certain businesses can do that, then as I read the constitution of the United States that is illegal. It would be considered discrimination. Now I am for common sense signage, but when you get as technical as the Ordinances are now and not enforced, then you do not have anything. Thank you.

Chairman: I am going to say one thing in response. When you only have one person in the City of Daphne to enforce all of the Ordinances in the City of Daphne, then a lot of stuff does not get done.

Mr. Dugat: May I make an additional comment?

Chairman: Yes sir.

Mr. Dugat: If you drive down U.S. Highway 181, we have a strip of land that is annexed by the City of Daphne in which you have twinkle signs nailed to utility poles. They are illegal, but have been there more than two years.

Chairman: I understand.

Mr. Dugat: She is someone's friend.

Chairman: Thank you.

Mr. Dugat: I do not consider myself special in anyway nor do I consider anyone else special. If they are a motel, hotel, café, or a restaurant, then the same rules need to apply to everyone.

Mr. Irvine: I am in the real estate and development business. Honestly, I cannot remember yesterday, let alone twenty-five years ago as to who wrote the original Sign Ordinance. You might have been. I remember I was on the committee and Sam Woodham was Chairman. I would suggest to you that timeliness be removed from your vocabulary. I know you have been working on it for a while, but you should not rush a Sign Ordinance through. When we originally wrote it, all that we had to contend with is U. S. Highway 98 or the four-lane. The model we tried to avoid being like was Airport Boulevard. That was the basis of what we did. We have a much more developed situation. Now we have U.S. Highway 98, U.S. Highway 90, and Alabama Highway 181. We have multi-use and mixed-use buildings. We have three overlay districts and residential zones. I would suggest strongly because of things that have been mentioned here about the constitution that you wait on taking action on this. In that Mr. Ross is the astute attorney that he is, he may or not agree with this, but I think the constitution is something we must consider and people rights. It does bother me when we give the right to one person and not to the other one.

Mr. Irvine: If you give everyone the right to sandwich signs, you will have them all over town. You will have to throw your Sign Ordinance out the window. You are going to have permanent A-frames signs. Wherever they are in a temporary fashion, they are permanently temporary right now. With that being said, I would like to see you form a committee charged with setting up different districts because you have different districts with different sign needs. You need to consult the people in the businesses that need those signs. Do not put something in place that next month people will need to ask for variances. They will have all kinds of upset emotions and things. That is just my suggestion for you to just back off a little bit. You need to set up a committee for the districts. You need to decide what you want to do as a City and go for it. Thank you.

Chairman: Thank you.

Ms. Romanchuk: I am Frieda Romanchuck. I agree with what Starke Irvine and John Lake said about the committee approach. I was on the committee with Mr. Kirby for the last large change. I would love to see you guys do this. Of course, I could not hear because the microphones were not on. It was like we are on page one, page four and whatever. I am going to stick with the first item. That is sandwich signs. If we could, can we look at the width of the sidewalk in front of the businesses. If the sidewalk is only three or four feet wide, there may not be enough space. The sidewalks in Jubilee Square Shopping Center, the sidewalks are much wider. That may have to be one of the considerations. I do not think you should do it piece meal.

Chairman: Thank you. Is there anyone else who would like to address the Commission? If there is anyone that would like to comment on anything else, we will go ahead and entertain them now. If there are none, I will close public participation.

Ms. Jones: I just wanted to say we are tasked, basically by the City Council, to get this language out. It is not that we are trying to rush this. That is why I feel comfortable in moving whatever their priority is out of the way. We will also do additional work on the Sign Ordinance. We will not necessarily be rushed, not that we are rushed now, but the key is it has been established by City Council that they have priorities. We are trying to meet their priorities with regard to A-frame signs and temporary promotional banners. We still have some more work to do.

Chairman: In trying to meet these priorities, we have come up with some road blocks. We are listening to our public, and we are listening to our Commissioners. We do not have an answer, and we are not through the A-frame part yet. I am going to say we are going to move on and come back to this. Are we going to think about it a little more? Maybe we can sit here and try to work it out.

Ms. Jones: Another key thing to consider is the City Council will review this. If they have changes after the public hearing at that point, they may make changes too. I do not think you necessarily have to ponder it too much because they are going to be pondering it as well. Mr. Ross will be doing the legal review to make sure that it is defendable.

Chairman: Well, I know there are some differences of opinion if we send this with a recommendation and they make changes, as to whether or not it should come back to us so we can look at their changes. It has always been my understanding, with my tenure on the Planning Commission, that we send it, but if they do not like it, they send it back. They are not supposed to just make changes to it. If that is the case, then we just might as well get up and go home. That is my opinion. I hate to say it that way, but we are trying to work on it and do it, but it would not mean anything. Basically, we are wasting our time. We just need to know what is going to happen. Is the City Council going to change it, vote on it, and pass it or are they going to send it back to us and let us see what they want to do? My understanding has always been the Land Use Ordinance has always been the property of the Planning Commission, so to speak, but the Ordinance has to be passed by the City Council. Somebody needs to clear it up. All right, Mr. Ross.

Mr. Ross: I would not want to speak what the City Council is going to do nor what their intentions are. Your description of how things have historically occurred where the Planning Commission has interfaced with the City Council is correct. In that the Planning Commission makes a recommendation on zoning ordinances, like this. If the City Council likes it, then they can adopt the ordinance. If they do not like it, they can suggest what the changes ought to be. It would then come back to the Planning Commission to create an Ordinance consistent with the changes the City Council wanted it to be. I guess, however, in the end you are correct the City Council gets to make the decision. The last two or three City Councils I have been associated with have welcomed the advice of the Planning Commission. Again, I do not know exactly what our Council wishes to do. I suspect they would probably do it that way, but other people in the audience can speak to that issue better than I could.

Chairman: Ok. Thank you. We are still dealing with sandwich boards. Gentleman, we have not gotten past the location yet.

Ms. Jones: Well, what I have done is typed in what I heard you say. You can tell me if I heard correctly. You can tell me if I typed it correctly. It is here on the overhead.

Mr. Scott: I can only speak as one Council member. The genesis of this whole change came because there was an election. We had four new council members all of which campaigned, if they campaigned, on the fact that we needed to tweak the Sign Ordinance. They were all elected, and elections do have consequences. With that being said, the City Council through the Mayor asked Ms. Jones to start working on these revisions. Of course, it has to come to the Planning Commission. The election indicated that some changes needed to be made. I think that is the genesis. I think as far as the speed is concerned, the City Council passed a one hundred and eighty day temporary situation that basically allowed what the community wanted to be allowed. I do think anyone in the business community is being harmed now during this period of time. If necessary, the City Council could extend that for some period of time. We want to do it right.

Mr. Scott: Eventually, if the City Council says yes, but the Planning Commission says we are never going to do it that way, then I think legally the City Council has the right to ultimately make the decision. Is that not correct Mr. Ross?

Mr. Ross: I believe you are correct.

Mr. Scott: I want to have a good relationship with this body or at least I hope so since I sit on it.

Chairman: I did not mean to infer we were not going to work together. I was just trying to establish what I have always been taught by legal prior to this. This is the way things are supposed to work. I see right now we are not going to have anything to send today. I just do not think we are going to be able to come to a consensus. We might if we stay here to eight or nine o'clock tonight. I really do not have a problem with that. I am trying to read what you wrote.

Ms. Jones: I will read it. "One A-frame menu board is allowed per retail establishment, restaurant and/or institutional establishment. Said menu board placement shall be located near the front entrance of an establishment and shall not obstruct the view of or impede pedestrian or vehicular traffic along any right-of-way or interior driveway."

Chairman: I understand Larry's comment about the Table of Permitted Uses. It may have to come to that when we work some more of the Sign Ordinance. This would be a list of what can and can't be done. Are you ok with this so we can move forward?

Mr. Chason: It is just as I sat and thought about permitting these, I know from being in the rental business and understanding how people think. If a lawyer can put out a sandwich sign, he will. Does he need one? No. That is clutter.

Chairman: I think we have probably taken care of that right there.

Mr. Chason: That is the only reason for putting it in the Table of Permitted Uses. That is an exhaustive list of what we have dealt with since the beginning of the Ordinance. We have added to it. I know I rely on the Table of Permitted Uses a lot. I go to it, and I see what is shown in certain zoning designations. It is a good feeling if you go to the Table, and a use is permitted by right. It is also a good feeling when you may have an idea that is unique and you look in there, and you are allowed to come in and talk about it to see if you can get it approved. If there are instances where they may be considered clutter, then we can put in there the signs are not permitted. I do not think it would take thirty or forty minutes to run through. During the first pass, you would be able to say yes, no or maybe. That would be all but a handful that would need to be discussed.

Ms. Jones: One thing to also consider is any Ordinance can be amended. We can always add that to the Table. We do not necessarily have to do that tonight. It can be something that we work toward.

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

Mr. Scott: I guess if I were Ms. Jones I would ask you to define near.

Mr. Jones: Right there where it says shall be located near the front entrance of the establishment. It is just like our Smoking Ordinance. We have to draw a line to say is it going to be ten or twenty feet. That is not going to be enforceable in court when it comes about. The Smoking Ordinance says twenty feet from the front entrance or any main entrance.

Mr. Ross: It lacks the specificity, but that can be hammered out. I agree with Lonnie on that.

Mr. Terry: I agree also. You are going to put your sign close to the building. You are not going to be able to put it a block away.

Mr. Ross: We just need to define what near is. We need to create a definition for the word "near" for the purpose of this.

Chairman: I would say "near" would be within ten feet.

Mr. Ross: Then you have something.

Mr. Lemoine: With a building like the YMCA on Whispering Pines Road, ten feet would put it at the base of the steps going into the building. It would put it about fifty yards from the street so it would not have any effect on passersby.

Chairman: I do not think we are trying to get sandwich signs out for street advertising.

Mr. Scott: I do not believe a sandwich sign is meant for the street. It is for when you are walking by, and you are close to the proximity of the building. I do not think it was meant for a message like do not forget to renew your annual membership. The size is something that will prohibit it from being able to bring traffic from the street. When we get to banners, then that will be something that will be able to get attention from the street. We will talk about the two different types or sizes depending on what type of street frontage it is on. Whether or not the business is on U.S. Highway 98 or Main Street will make the difference.

Mr. Lemoine: I would like to disagree with that statement. If you are putting it for a restaurant, and the restaurant is five feet from the sidewalk where is the person who owns the business going to put it? He is going to put the sign as close to the sidewalk as possible. Why? In order to catch the eye of traffic going by for something special that is going on that day in order for them to stop by, buy it, or to take part in it.

Mr. Scott: That is certainly true on Main Street where you have slower traffic. Where we have faster traffic, I do think we could argue it.

Chairman: Do any of the Commissioners have any questions or comments on this? What about ten feet?

Mr. Terry: I do not know.

Ms. Fassbender: May I say something?

Chairman: Yes. You kind of missed it a little while ago.

Ms. Fassbender: My name is Toni Fassbender. I live in Daphne. I am also the manager and/or the chairperson for the Eastern Shore Park POA. I am going to say something about Sam's since we are talking about sandwich boards. The general manager could not be here tonight, but she said she did not understand why the signs could not be by the gas pumps. The manager now and the prior general manager had that comment as well. I did not understand it until Lonnie said it has to be within ten or twenty feet of the front door. You may want to take that into consideration as well. It is something that affects a part of a business which is really big.

Chairman: Can I make a comment about the distance? I understand smoking has to be at least twenty feet from any main entrance. That is contained within the Smoking Ordinance. It has to be more than twenty feet, but it does have a number. I know what you are saying Lonnie. I picked ten feet. They are not twenty feet away because normally a menu board sign is that close to the entrance in order to catch someone's eye as they start in the door with a special or something. I am going to say this. Life South had their sign way up on the edge of the pavement. They should have never been allowed to have done that. I allowed them to do it. Lonnie allowed it. They have moved. Have they not?

Mr. Jones: Life South has moved. We had problems, and that is how it got back in front of Planning and Zoning. They had sandwich signs and banners out on the right-of-way. They were not even on their street. The signs are on County Road 64.

Chairman: We are trying to help them do what they do, but sometimes they push the envelope. Do you think ten feet is the proper distance? Tell me something. It is too close. Did I hear someone say it is too close? Come on up Starke if you would like to speak.

Mr. Irvine: Is it ok if I say something? This is what I am talking about. You are going to open up sandwich signs and allow restaurants and all kinds of people to do it. What about the restaurant that might be in Wal-Mart? They are going to want it out on the highway. They are not going to want it by the door.

Chairman: I am right here saying I do not believe sandwich boards fit on the highway. I do not think you can see them going down the highway. If you get them off of the right-of-way, I do not think you can ever read what it on it going on down the highway.

Mr. Irvine: My point is going back to the committee recommendation. That eliminates the crowd coming in here screaming and hollering about I want this and I want that. It is going to be chaos. You are stepping on somebody toes no matter what direction you go.

Chairman: I understand. What did they say about a compromise? No one is one hundred percent happy. Come on Mr. Willie. Do not expound long.

Mr. Robison: Mr. Kirby and Planning Commission, thank you. Having been at a City Council meeting a couple of weeks ago and being on both sides of the issue with the Sign Ordinance, I will say this is very pragmatic and he tried to help me out when our business was in Montrose. He came by to speak with us and allowed us to do certain things that helped the business there, but it did not infringe on the right-of-way. I think Mr. Chason had a good idea. You put it in the book. When I worked and was a manager, I did not want anyone to tell me that it will not work. I wanted them to show me a way that it could work. However, it may be hard to do it. If Mr. Jones has to stop and look in a book to see if it is allowed by right or by the Planning Commission approval, then sometimes you have to do that. When you go out and you start doing a carte blanche type thing on the Sign Ordinance, remember this every tub stands on its on bottom. You have to be able to be practical about it. No pun intended, but the blood bank on U.S. Highway 98, Life South, blood which is the blood of any City, had their signs way up by U. S. Highway 98. If it had to be ten feet from the building, it would have been on Merritt Drive, and you would not have been able to see it. You would not have known they were there. There may be instances when ten feet may be too close like Sam's was brought up earlier. Their sign is up by the building. It is not the people of the City of Daphne. You have been appointed to that position so you are accountable. Just because you are elected does not mean to me that you are more accountable than the person who is stepped up to volunteer their time to serve the City of which they love. Thank you.

Chairman: Thank you, Mr. Willie.

Mr. Scott: Just to tell you one suggestion that has been made. That is to add this to the City Council's work session coming up Monday to kind of go through the process and to talk about that it may be a little more difficult than we first thought. The last thing we want to do is to rush anything through. We want this body to know that the City Council appreciates all of the work and effort you have put in. We do not want anyone here to feel rushed. The City Council has the ability to temporarily do something until we all feel comfortable with what we come up with. I think the reason the Council did not look at creating a committee we thought this was two simple things to handle. Obviously, it is not so we may change our mind now.

Chairman: The City does not issue a permit for a sandwich board. We do not require a permit or fee. This is something that has always been. They do not have to come down and get a permit nor do not have to apply. Actually, we have to enforce this without knowing who has one. All we can do is see who has got one. Another thing I wanted to respond to is about Sam's. Sam's can have a gas price sign out at the pump. They chose not to. Any service station can have a pricing sign.

Mr. Chason: We have the pump topper things.

Chairman: The sign can actually be electronic where only the price can change. It is not an electronic sign so to speak, but it is allowed. If you go by Exxon, they have an electronic changeable price sign. They do it from indoors. I understand Exxon changes its prices about every thirty-seven minutes, but it would allow them to change the price. They do not have to go out there and do that.

Mr. Scott: Wasn't there some kind of restriction on Sam's because it was not available to the general public? I thought they could not advertise to the public.

Chairman: It may as well be because it is a member's only. It may be a restriction, but service stations are allowed a pricing sign. You have to have a Sam's card and a credit card in order to buy gas out there too.

Mr. Chason: This is wording that we have looked at several times. We have made additions and corrections. I am comfortable with what we have right here. I do not know why we would not see this forward. The only thing we have been talking about since we have been here is how to determine when it is appropriate and when it is not and the location. Basically, we need to tell Code Enforcement that right there. If you want to put within twenty feet of the main entrance, I do not care what you put. He just needs something he can hang his hat on. If it is out by the side of the road, it is not appropriate. It is not close to the main entrance. I will say this, if you will remember when we worked on the major revisions to the Land Use Ordinance and voted to send it forward, I was not totally comfortable with some of the provisions we put in there. I am not trying to delay this. I asked and Mr. Ross worded a paragraph in the beginning of the Ordinance that allowed an applicant a shorter time period to come into the Planning Commission to appeal an interpretation of the Ordinance. Of which, they all do a wonderful job, but all of a sudden the feedback I was getting was once the person was out in the field the intent of what the Planning Commission approved was not being allowed. The complaint was the Ordinance gets written, the Planning Commission works on an applicant, but once it is approved then it falls into the hands of the various department heads. We put a paragraph in the beginning allowing a person to come in and ask is this what the Planning Commission intended or not. Do you remember that?

Mr. Ross: I do. You are exactly correct.

Mr. Chason: No one has used it yet, but it is in there. I do not have a problem in the case of signs in defining a distance so Lonnie will know it is the defined distance. But to also allow them if they have a special circumstance and what to appeal it, let's give us some latitude to modify that number. It is their problem. They will have to bring it to us.

Mr. Jones: That is going to be on an individual basis right?

Mr. Chason: That is correct. It is.

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF FEBRUARY 28, 2013  
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

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Chairman: With that being said, if there is no objection, the Chair will entertain a motion.

Mr. Gibson: Can you make the motion to include there will not be an approval of another addition until there is access from another direction? Can you do that? We do things like that all of the time?

Mr. Chason: I am not sure I understand that. Can you say that again?

Mr. Gibson: What I am saying is for instance say someone wanted to do another addition and tie into the road up there on the left side of the T, and they add another fifty lots.

Mr. Chason: Dan, I do not think I can include that in my motion, if I do not know exactly what is being proposed. It could be that the next subdivision alleviates all of this concern about congestion on County Road 13 in the mornings. I do not want to restrict it from happening because it may be an upgrade.

Mr. Gibson: That is what I am talking about an upgrade. It could be another entrance and exit for this subdivision.

Mr. Chason: I think all we can do is wait until that happens. It is like I told them we do not get to choose the order that this happens. We have to wait until it comes to us and act on it at that time. While we have a motion and a second to approve this, I would just like to say I really do appreciate the public participation. This has been a lively debate by the people that live there. From my prospective, your involvement in the process had improved the process. It has improved the product that we are voting on. You have gotten an R-3 zoning changed to an R-2 which helps with setbacks. You have gotten the number of lots reduced from fifty-eight to forty-seven. You have also gotten some upgrades on County Road 13 at no expense at the entrance of your subdivision. You have gotten all of that as a result of you coming and being a part of this process. I will just say that growth is inevitable in this City. I have been here for a long time, and I would say that I would like to live by the lady back there. Every time we look at an expansion, you look at it as if these strangers are going to come in. We are in the business of helping this City develop orderly. It is a nice place to live. You are nice people. The people that are going to buy in the development or this phase are going to be nice people. This is going to be big lots. I would like to thank you for participating. I hope you understand the position we are in. They have met all of the requirements of this Ordinance, and they are here trying to do a good job. They are local developers. Thank you.

**A Motion was made by Mr. Chason and Seconded by Mr. Smith to approve the preliminary plat for the Retreat at Tiawasee, subject to the submission and processing of an application for annexation with rezoning to R-2, Medium Density Single Family Residential. The Motion carried unanimously. E.g., Outcome of the City Council process does not supercede preliminary plat approval.**

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Ms. Jones: "Said menu board placement shall be located within twenty feet of the front entrance of said establishment and shall not obstruct the view of or impede pedestrian or vehicular traffic along any right-of-way or interior drive way. The Planning Commission may consider locations other than noted herein, if an inherent hardship exists on the property. In no case will such sign be allowed in the right-of-way."

Chairman: Makes sense to me.

Mr. Chason: Sounds good.

Chairman: Does that take care of our sandwich board signs? Ok, let's go to the banners. We still have banners to deal with. All right, on page two, it looks as if we have eliminated the words with frontage. It just says entities abutting. This is in the location and specification for a temporary promotional banner. We have always allowed a temporary promotional banner, but it has been limited to twenty square feet across the City. It has always had to be supported by the front of the building and parallel to the front. It could never be out on stakes. It could never be out on the right-of-way. It could never be on an accessory structure. It had to be on the building. Here we are dealing with certain streets which would still be limited to twenty to thirty square feet. It says twenty to thirty, and I thought we were limiting it to twenty. That is ok. On U.S. Highway 98, U. S. Highway 90, County Road 64, and State Road Highway 181, it would be limited to fifty square feet. It will still be located on the front of the building. It will still not be allowed on the right-of-way.

Chairman: On the higher speed road, the consensus was they could not be seen. Do any of the Commissioners have any questions or comments?

Ms. Jones: Mr. Gibson stopped by the office the other day, and he mentioned it may be appropriate to allow sixty square feet. Rather than having one sixty square foot sign, if a business has more than one frontage, they could have a thirty square foot sign per each road frontage rather than just one sign.

Chairman: I would like to see just one temporary banner. I can see going to a bigger one for the highway, but I would rather see just one. Again, if we start allowing that split, we will have signage everywhere. Ms. Fassbender, I am going to allow you to say what you want to say. Go ahead.

Ms. Fassbender: I was just going to ask a question. I was trying to figure out where we would fall in this. It says twenty to thirty feet, but we are on Interstate 10.

Chairman: It is a temporary banner on the front of the building to promote something for your customers that come in.

Ms. Fassbender: Our customers often come from the interstate.

Chairman: They have to come around to come in the front. The larger banners are on streets in which the speed limit is higher like U. S. Highway 98.

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Mr. Chason: As to banners, I have two comments. One is I think you are going to see banners that are special made. In a small town you see one they have bought to advertise something else, and they flip it over and write something on it with a marks-a-lot. It is going to say whatever. I think those should not be allowed. Also, I will go back to the same thing. I would hate to see offices having a banner to say we are having a special on divorces or something like that. We do not need to allow certain types of businesses to have banners. Let's put it this way. Just think how many you will be able to eliminate if you take out the ones right now that you know do not need a banner. In this whole exercise to try to allow people promotional banners, we are trying to do that, but if we do not take out people we know need to be removed from that group, then we are going to get too many banners.

Chairman: In our current Ordinance, we do not take anybody out. If it is a commercial entity, then we allow them to have a promotional banner. Most of the businesses we are talking about do not do banners.

Mr. Chason: I am here to tell you I have been a landlord. I am telling you I put in my leases the tenant has to comply with City Ordinances because frankly I am not the one that is going to go out there to tell them to take it down or to measure it. We have worked on this. If Lonnie tells them it has to come down, then it comes down. I have to fight that battle. You are going to have certain types of businesses that are going to utilize the banner provision. Personally, I am having a real tough time trying to figure out why it is a problem. I think our Ordinance is full of situations where you say you can and you can't. I think banners are one of those areas. We know who needs banners. The reason we are talking about it is in certain applications would have merit. But if you open it up, people are going to say not to do this and to not change the Ordinance. If you just open it up, we are going to regret we ever tried to help because it is going to open up the box. They are going to be everywhere. I do not see a problem. There are some people who do not need a banner, and we need to tell them who they are up front.

Mr. Scott: I have just one comment and maybe Mr. Ross can comment. Typically though, when we restrict things, don't we restrict them with a zoning classification? You cannot do this in R-1 or you can do this in B-1 or C/I. When we tell an automobile dealer you can do this, but a motel can't. Can you do that?

Mr. Ross: You have to have a good reason why you would do that. I like it when it is uniform across the zone. However, we have specific zoning for overlay districts too.

Mr. Scott: I think the overlay district is where we get into it.

Mr. Chason: I think it is going to come back to the businesses to whom pay sales taxes. We are really trying to help them generate sales and to pay more sales tax. I hate to put that on the table, but that is a lot of why we are doing this. Those who have a professional business do not pay sales tax.

Mr. Chason: Why are we going to let them clutter streets with banners when they are not going to do what we started out to do? We are trying to help a clothing store sell clothes. We are trying to help a restaurant sell food. We do not need to help a contractor draw in people. Well, he would pay a sales tax on material.

Mr. Lemoine: There are any businesses that I know of that do not pay a sales tax for something.

Mr. Chason: Lawyers do not.

Mr. Lemoine: Don't they buy printers or paper?

Mr. Chason: The people they buy from can have a banner.

Mr. Lemoine: You are using sales tax as the reason for not allowing it.

Mr. Chason: I understand you can't, but that is the line in the sand. You are allowing that person to put up a banner on the highway. As I think about it, a CPA can put up a banner on the highway, and he does not pay sales tax. What does he need a banner for? I am not saying that sales tax should be the criteria. I am saying it should go through the Table of Permitted Uses. That is going to be in the back of your head when you are looking at it. You are helping generate sales permitted by right. Can we ask Adrienne and Lonnie? How do you feel about the concept of saying or restricting banners to certain types of businesses? Lonnie, don't you have instances where people attempt to put up banners that are not doing anything, but cluttering the landscaping. They are not really offering a product. It really is not a promotion. It is an advertisement. They can go to the yellow pages for that.

Mr. Jones: Yes. I have been through two or three mayors. What I do is a balancing act. We do have some banners that have come down and have been up for a while. They do not do anything. They were for advertising of a daycare. I get told here to be lenient, but then I am told to enforce it. There are banners out there that do not do anything. I have talked to some of the businesses. That is like having a promotional weekend every weekend. If you put up balloons every weekend after a while, it is going to lose its effect. Go to Loxley or Bay Minette, and they do it all of the time. It does not do anything anymore. If you do it every day, it has lost its effect. It is like the temporary promotional banner. Unless I am going to stop doing a lot of other things, how am I going to monitor the thirty-day deal? I will be honest with you. I try to help the businesses. You can put up a twenty-foot promotional banner for thirty days until somebody complains you can leave it up. Monitoring one for thirty days is not something that is really enforceable unless that is all that I am going to do. I hope I answered your question. I know that I kind of got off track a little bit.

Mr. Chason: I think what it does it goes to the point that I do not need to know when it went up and has it been up for thirty days. I think if I saw it in December and now it is June, I am going to stop and ask them to take it down. I am not worried about anybody challenging whether or not they got their thirty days.

Mr. Chason: I do not think the City of Daphne would want to go to a business and say it is the thirty one days so get that banner down today. I do not think record keeping needs to exist. Some people are going to be compliant. We have people up here off of the Interstate that come in and asked can we do this or can we do that? We have a group of people who would rather ask for forgiveness than permission. They are out there with wide-open abuse.

Mr. Jones: You are exactly right there. I know that it has been up for two months. Mr. Kirby can tell you the same thing. Once you get in front of the Judge, if you do not have documentation, it does not matter. It is just like what we were talking about a while back. This Ordinance is intended for this, but if that is not what it says. It does not matter about the intent. It is what we have here on paper that we have to go by. It is not what our intentions are.

Chairman: I will say this, and I said it while ago. You only have one person that is only allowed to work forty hours a week. He cannot do it all by himself. I asked for help ten years ago, and it never came forth. He can only do so much. I am just going to say that in his defense because I have been in his shoes.

Mr. Scott: I know the revenue department appraises houses for taxes purposes. They have a camera. They may take one hundred pictures per day. They are date stamped, and they download it to some file. It ends up some place. It is a part of the appraisal process. You need a camera that has a date stamp. We do not have to use it for anything unless all of a sudden it becomes an issue. If there is a citation, then at least you have some documentation. I do not think that is real cumbersome. We can certainly get you those types of tools if you do not have them. I am not asking you take a picture of all of the banners in town. I do not think that is it unless it becomes an issue. If someone says a banner has been up for more than thirty days, then go out there and take a picture. If it is up thirty days from then, at least you have documentation. You know that is something you can go to court with.

Chairman: Ok. Let's get back to this.

Mr. Jones: Mr. Kirby, the way that it is written now they can have it up for thirty days and must take it down for twenty-four hours.

Chairman: We have always said a temporary promotional banner was allowed for thirty days. It was done that way to keep a banner from getting into such bad shape and looking ratty. That meant they had to get a different one.

Mr. Chason: We can add in thirty days per quarter. After that, it has to come down for two months.

Chairman: Well.

Mr. Scott: This reminds me of what a good friend told me one time. Never move an ash tray in your house because you will end of redecorating your whole house. I think that is what we are trying to do.

Chairman: I am going to allow you to speak and then public participation is closed.

Ms. Fassbender: I wanted to speak on the next part.

Chairman: This is it. The A-frame signs and banners are all we are dealing with.

Ms. Fassbender: Ok. I am going to tell you all of it right now. We are in the car business as most of you know. We do not put up a lot of banners and things, but sometimes we do have something that is really special like zero percent financing. We do not know when it is going to happen. If we put up something and something really spectacular comes along, and you limit it to one banner in a quarter, then we lose. We do not like to lose because we have a lot to pay for. I mentioned before the size of the banners. I know you have tried to cover it here by giving two to five feet. I am sorry. It says twenty to fifty square feet. I guess you did that based off the size of buildings.

Chairman: No. We did the larger sign based on the speed limit on the highway in front of the building. You would have a chance to read a larger banner. That was based strictly on a business being allowed that on these named streets.

Ms. Fassbender: We are in a commercial park as you know. We are not businesses next to each other. We are pretty large. We have eighty thousand square feet. I am pretty sure Sam's and Lowe's have the same, as well. I believe this is the problem with our signage which is a whole different issue. I am not going to use your time talking about that because eventually it will come. I know you have put a lot of thought and work into this, but if somehow it could be tied to the size of the building. It is not all the same thing. A twenty square foot banner on our building looks like little bitty. I would like you to consider that. Another thing I wanted to mention was on the special occasions, you have tethered inflatable items listed as something you can have on a special occasion, but not on promotional weekends. I do not know if that is a typo by just being left out, if it was intended, or what.

Chairman: I believe it was intended.

Ms. Fassbender: So you can have it on special occasions, but you cannot have it one weekend a month?

Chairman: It gets out of hand.

Mr. Ross: It is my recollection, as is yours, it was not going to be once a month. It was only going to be on special occasions. I recall as you do.

Ms. Fassbender: Only the other inflatables?

Chairman: Well, I hate to mention this.

Ms. Fassbender: Are you going to talk about my gorilla?

Chairman: I am going to talk about your gorilla. It gets out of hand.

Ms. Fassbender: The gorilla was only there once a month.

Chairman: It was intended to be only on special occasions.

Ms. Fassbender: It was approved even before we got it. Look, we have been down this road before.

Chairman: I am not aware of that, anyway.

Ms. Fassbender: It was approved. We spend a lot of money on it, and we had to send it away. The Fire House Sub people had the same thing. It has been proven when we have special weekends whether they are every weekend or once a month, our business goes up twenty-seven percent. When we were here before with the Fire House Sub people, they proved that their sales went up twenty-five percent every time. Now that is significant. We want to pay more taxes to you. We want to do more business and be able to pay for our building and to give the City more taxes. Also, we are in a commercial park. You know it is not an eye sore. When you get into inflatables, then why do you let people bring them into subdivisions?

Chairman: I am not aware we do that either, but I will take your word for it.

Ms. Fassbender: Those jumping things and slides kids use are inflatables. I mean it is the same thing. That is my two cent on it.

Chairman: Thank you, ma'am.

Ms. Jones: I just asked Ms. Jones because I do not have my copy with me, but the City Council had opened up the promotional weekend to every weekend until May 29, 2013. I cannot say for sure, but I thought they did include inflatables. I do not know if anyone else here has a copy. I have a copy, but it is in my office. I would have brought it if I had known it was coming up.

Chairman: I have never received a copy of it.

Mr. Jones: Every weekend until May 29, 2013 they get to have their promotional weekend. I am not exactly sure, but I thought it allowed for inflatables.

Chairman: I thought it only allowed what we would normally allow for a promotional weekend. I did not know there were extra stipulations to it.

Mr. Jones: When I went back and read it, it starts on the last Friday of the month, but it does not start until six o'clock on Saturday morning. In the past, we have always let them start on Friday morning. When they came out with this, the City Council said they could begin Thursday night after midnight.

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Chairman: Well, I am going to read this, "On the last Friday of each month, commencing no earlier than six a.m., the following Saturday and Sunday, as well as Monday, if Monday shall coincide with a National holiday (Labor Day, Memorial Day, or Fourth of July) and/or any other State recognized holiday, retail and commercial establishments duly licensed to do business within the corporate limits shall be permitted to display a reasonable number of three of the following: streamers, bunting, balloons and flags."

Mr. Scott: Excuse me. I think what you need to look at is not there. "The City Council may from time to time recognize special occasions in which temporary promotional signs will be allowed. On these occasions temporary signs and banners not exceeding fifty square feet, temporary flags, tethered inflatable items, bunting, and pennants." That is what the City Council passed.

Mr. Jones: Right.

Chairman: Intent does not count. When you read that, it was for the City Council to authorize the occasion and not the product to be used.

Mr. Jones: I am not arguing with anybody about it. What I am saying is I did not know anything about it. I would go to a business to talk to them, and they would say hey I get to do this every weekend. I was left out of the loop. I did not know anything about it. I called the Clerk's office and had Becky read it to me. I had her email me a copy of it. I thought like Mr. Scott was saying, it did allow that up until May 29, 2013. Mr. Scott is that what you were thinking?

Chairman: I am assuming that the City Council said every weekend is a special occasion.

Mr. Scott: No, Mr. Kirby. What the City Council decided and what the wording says is the occasion is the continuing recession in order to help the businesses. We did not say every weekend is a special occasion. We said the occasion is the continuing recession. If that was a little flexible that was the interpretation. Was that not correct, Mr. Ross?

Mr. Ross: It was. You are correct.

Chairman: What now?

Mr. Ross: That is correct.

Mr. Jones: Mr. Scott, do you remember did it allow for inflatables?

Mr. Scott: It did.

Mr. Jones: I was not sure. I thought it did, but I did not want to come out and say it.

Mr. Scott: It says tethered inflatable items.

Chairman: I guess any of you inflatable items are tethered.

Mr. Jones: I apologize. I did not know anything about it until a while ago. I tried to call your office. I cannot call everybody every time the City Council changes something. I did call your office and speak to someone and told them. You were not there. You were out of town. I do not do it for all of the businesses. I do not have time, but I did do it for you. I did call some of the dealerships and let them know about it.

Chairman: I allowed Ms. Fassbender to come up. I will allow you to speak.

Mr. Dugat: Besides what I had said before, since the time that I have been in Daphne, if your recommendations are not listened to any better than ours, you are not accomplishing a great deal. I am not knocking the City Council. I am not knocking anybody. When I made the comment about the Sign Ordinance not being enforced, I did not recognize Lonnie. When I had a problem, I went to Lonnie. He said we have no problem. I went to the Police Chief he said we do not have a problem. When Lonnie gets special instructions from elected officials, he almost has to follow them if he wants to stay employed. That is what went on. We talked about banners. The City is not following the Banner Ordinance. It does not give me a problem, but there is a wood frame in front of Trione Park where banners are put up routinely that does not meet the Ordinance. We talk about inflatables. I live in Sehoj Subdivision. They have real strict rules, if you disagree with them. Otherwise, if you had come in the subdivision at Christmas time you would have seen a Santa Claus that was taller than a house. It did not bother me because that is a special occasion. No problem. All of these things need to come from a reasonable origin. I would like to make one suggestion for this committee. Please consider electronic signs. They will eliminate half of your headaches. If you know of a more attractive sign than an electronic sign, then I would like to see it. I stand up here in front of the City Council, and they say that signage is related to quality of life. Now excuse me, I am a dumb country boy from Texas, but that does not hold air. You know if we listen to we, the people, which is the first three words of the U.S. Constitution, the Constitution of Alabama, and in most states, so that in my position, your position or in Ron's position, that is who we are supposed to be representing. I do not mean this is a negative way. It is a suggestion to move forward.

Chairman: Thank you. I know that we all have got to go. Are we going to be able to get this to a consensus so we can send this to the City Council? Are we ok with the fifty square feet on the named streets? Are we ok with the twenty to thirty square feet on the other named streets? We have removed temporary promotional banners on the last Friday of the month from the promotional weekend. We left off on promotional items. On page number four, I assume that it is up to us to select calendar or business days. It needs to be one way or the other and not to have you pick. It was always calendar days. It has never been business days. If it was fourteen business days, it would turn into three weeks. It has always been fourteen calendar days. For grand opening and conventions, I am still ok with the same scenario. Do I have any discussion on that point? I think we are down to the point of accepting a motion to send a recommendation to City Council.

Mr. Jones: May I say something? This is kind of getting off base again here a little bit. When a business has a grand opening, they can only have one grand opening per lifetime.

Chairman: That is enough.

Mr. Jones: I understand. It was told to me. I hate to keep going back on stuff like this, but my job is a balancing act. Winn Dixie asked me if they could have a grand opening, and they have been here forever. I told them no. I turned them down and I was told if a business has two or three million dollars to remodel their business, they can be allowed a grand opening. I was asked to let them have a grand opening.

Chairman: Let me say this. Do we know if they had ever had a grand opening before?

Mr. Jones: No. That was before my time. Did they?

Chairman: I do not remember. Here again, that is something we do not sell a permit for.

Mr. Jones: Yes, we do.

Chairman: We had never sold them a grand opening permit. I had several businesses that came late because they had never had a grand opening.

Mr. Jones: I did not know, but I knew the new Mayor may have to face this. If you consider they have spent two or three million dollars on a remodel, then you have to go to the other side and think about the mom and pop store that spends one thousand dollars. That may be all they had to make their business better. This is something that is going to come up again later on down the road. One more thing and I will be done. Terry Thompson, Toyota and Nissan have called me. They cannot have a grand opening, but once a year they will have a special sales event. It may be something for you to consider. I am not here to say this is something I want. All I do is to enforce the Ordinances that the Council sets forth. It would be something to think about.

Chairman: That would be something to take under consideration when we work on the rest of changes to the Sign Ordinance.

Mr. Jones: I know that I got off base, but I just wanted to throw that in so we can be thinking about it. They only get one grand opening. If General Motors or Toyota is having a major sales event, they cannot participate in it unless it falls on their promotion weekend. When they have a sales event like that, it only goes for a couple of days. Like I said, I am not trying to convince anybody. I am just trying to give you something to think about. All I do is enforce Ordinances. I do have a lot of businesses talk to me, and I try to help our businesses if I can.

Chairman: I understand. Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion. We had this special called meeting for this purpose.

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A Motion was made by Mr. Terry and Seconded by Mr. Lemoine *for an affirmative recommendation by the Planning Commission to the City Council of Daphne for the proposed revision to Ordinance 2011-54, the Land Use and Development Ordinance, Article 33, Sign Provisions, for A-frame signs and temporary promotional banners. The Motion carried unanimously.*

Ms. Jones: As long as we understand the revision is going to include the language we added and removed here tonight.

Chairman: The revision will include the changes that we made.

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

**ATTORNEY'S REPORT:**

Mr. Ross: No report.

The next order of business is commissioner comments.

**COMMISSIONER'S COMMENTS:**

No comment.

The next order of business is director's comments.

**DIRECTOR'S COMMENTS:**

Ms. Jones: This is a compilation of the provisions for the Sign Ordinance for the City of Daphne. It includes our political signs, Article VIII, Article IX, and all of our overlay provisions. The reason I compiled this is to prepare us when we are ready to get to the next section. However we get there, by committee or by default. I wanted everyone to have the same book with the same page to reference. We will all have the same book so we will not have to flip through the Land Use Ordinance to find one thing or another.

Mr. Scott: Can you be at a work session Monday night, if we put this on the agenda for the work session?

Ms. Jones: I will be glad too. Also, the second page is an outline or a schedule to keep us on task. I have one for the audience as well. This depends on what the City Council does on Monday night, but it gives you a schedule of where the A-frame signs and temporary promotional banners will go from here. On 13th, I will submit it to the Clerk's office, to ask that a public hearing be set by the City Council. If all goes well April 1st will be the second read, and it will be adopted. That is always subject to change, of course. For the other revisions or the changes we will want to make, I hope to have a first draft to you by February 20th. Everybody is invited to come. Again, if the City Council decides they want to set a committee or however we have to work our way through it, then we will. This is just my outline of where we could be if everything goes well.

Ms. Jones: If we did have it ready by March 28<sup>th</sup>, we would have another hearing like we had today. We would talk about the two drafts that we have gone through. I plan on having two drafts before we have a public hearing. If we get good input, then we could have it to the City Council by April and possibly have it approved in June. We are looking to April for the language we did tonight and June for the other changes. Monday night, the City Council set a one hundred and eighty day moratorium on adult entertainment and tattoo parlors. I had calls this same week on these entities to inquire about the process they need to go through because the Land use and Development Ordinance is not clear about what process they would follow. I asked the City Council to set a moratorium so we do not get caught behind another ice machine. I have two schedules in here just in case we got caught up, and we could not follow Schedule A. I am looking ahead and to get us on track. This is in addition to our site plans, subdivision plats, and all of the other stuff we have to do. We have got our hands full. I am ready.

**ADJOURNMENT:**

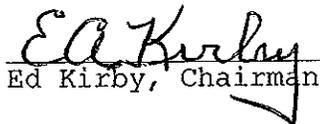
Chairman: Do any of the Commissioners have any further questions or comments? If there is no objection, the Chair will entertain a motion to adjourn.

*There being no further business, the meeting was adjourned at 6:15 p.m.*

*Respectfully submitted by:*

  
Jan Vallecillo (Dickson), Planning Coordinator

**APPROVED:** March 28, 2013

  
Ed Kirby, Chairman

THE CITY OF DAPHNE  
PLANNING COMMISSION MINUTES  
REGULAR MEETING OF FEBRUARY 28, 2013  
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

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**CALL TO ORDER**

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

**CALL OF ROLL:**

**Members Present:**

Joe Lemoine  
Dan Gibson  
Don Terry, Secretary  
Ed Kirby, Chairman  
Charles Smith  
Larry Chason, Vice Chairman  
Ron Scott, Councilman  
Chief James "Bo" White

**Staff Present:**

Adrienne Jones, Director of Community Development  
Jan Vallecillo (Dickson), Planning Coordinator  
Kyle Navarro, Adams and Reese  
Richard Johnson, Public Works Director  
Ashley Campbell, Environmental Programs Manager

**Staff Absent:**

Jay Ross, Attorney  
Misty Gray, Attorney  
Britton Bonner, 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 all members are present.

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

**APPROVAL OF MINUTES:**

The minutes of the January 31, 2013 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.

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A Motion was made by Mr. Terry and **Seconded** by Mr. Lemoine **to approve the minutes of the January 31, 2013 regular meeting. The Motion carried unanimously.**

**NEW BUSINESS:**

The next order of business is site plan review for Popeyes Fast Food Restaurant.

**NEW BUSINESS:**

**SITE PLAN REVIEW:**

**File SP13-03:**

**Site:** Popeyes Fast Food Restaurant

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

**Location:** On the west side of U. S. Highway 98, north of Van Avenue

**Area:** 0.74 Acres ±

**Owner:** Webb Family Limited Partnership - Scottie Webb

**Developer:** Daphne Properties, L.L.C. - Byron Evans

**Engineer:** Jade Consulting - Trey Jinright

An introductory presentation was given by Mr. Trey Jinright, representing Jade Consulting. I apologize for not being at the site preview meeting. I am here representing the owner of Popeyes, Daphne Properties, L.L.C. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? Which entrance did you decide you were going to use to access the site?

Mr. Jinright: The existing one.

Chairman: Did you submit the revised maintenance agreement?

Ms. Vallecillo: He doesn't know what you are talking about.

Chairman: At the site preview meeting, we had asked that you submit a revised indemnification form because we could not tell who signed the form.

Mr. Jinright: The form was signed by Bryan Evans.

Chairman: We asked that the form be resubmitted with the name typed or written beside the signature on the form so that in the future, if it were necessary to pull the form that person would know who signed it. Didn't we? Have we gotten that yet?

Ms. Jones: The form you have in your packet has Bryan Evans written at the bottom.

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Ms. Jones: If you would like a revised copy from them, then we can have that as something we need to get before we schedule the preconstruction meeting.

Chairman: I have a printed name of the notary Evans.

Mr. Smith: You cannot read what the name is of the responsible party.

Ms. Jones: Bryan Evans is not the notary. He is the person who signed the form.

Chairman: Ten years from now, no one is going to know that is Bryan Evans.

Mr. Smith: I believe she is saying we can approve it pending the submission of the form.

Chairman: I know we can do that. I want to make sure we get it.

Mr. Terry: Did you address Ms. Campbell's comments?

Ms. Campbell: Yes.

Mr. Terry: Never mind.

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. Scott and Seconded by Mr. Chason to approve the site plan for Popeyes Fast Food Restaurant, contingent upon the submission of clarification of the maintenance of detention indemnification form to staff prior to the issuance of a site disturbance permit. The Motion carried unanimously.**

The next order of business is final plat review for Caroline Woods Subdivision, Phase 2B.

**FINAL PLAT REVIEW:**

**File SDF13-01:**

**Subdivision: Caroline Woods, Phase 2B**

**Present Zoning: R-4, High Density Single Family Residential**

**Location: Northeast of the intersection of Parker Lane and Whispering Pines Road, North of Madison Place Subdivision and West of Daphne Commercial Park, Phase Two**

**Area: 3.98 Acres ±, (16) lots**

**Owner: Plan B Investments, L.L.C. - Jacob Cunningham**

**Engineer: Preble-Rish - Steve Pumphrey**

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An introductory presentation was given by Mr. Steve Pumphrey, representing Preble-Rish. This is the final plat. I think we have met of the conditions with staff so I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? Have you addressed all of Mr. Johnson and Ms. Campbell's comments?

Mr. Johnson and Ms. Campbell: Our comments have been addressed.

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 Mr. Terry **to approve the final plat for Caroline Woods Subdivision, Phase 2B. The Motion carried unanimously.**

The next order of business is final plat review for Dunmore Subdivision, Phase Two, Part C, Phase II.

**File SDF13-02:**

**Subdivision:** Dunmore, Phase Two, Part C, Phase II

**Present Zoning:** *R-2, Medium Density Single Family Residential, and R-3, High Density Single Family Residential*

**Location:** On the East side of Alabama Highway 181 and Dunmore Drive

**Area:** 25.01 Acres  $\pm$ , (58) lots

**Owner:** Hearthstone Multi-Asset Entity - Steve Mathison, Vice President

**Engineer:** Rester & Coleman Engineers - Daryl Russell

An introductory presentation was given by Mr. Daryl Russell, representing Rester & Coleman Engineers. We are here to request final plat approval for Dunmore Subdivision, Part C, Phase II. I think we have addressed all of the staff comments. I will be happy to answer any questions you may have.

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

Mr. Chason: I have one. Back when you were in the preliminary plat stages on this phase of this subdivision, there was an issue we discussed at the meeting about the ditch along the south property line. There was a dispute about what was going to be done with that. I am curious about what the final resolve was on that.

Mr. Russell: That was before my time I guess. I am not sure what the issue was regarding the south property line.

Mr. Chason: Is it still an open ditch?

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Mr. Russell: Yes it is.

Mr. Chason: Ok. Then I think I know how it got resolved. That is fine. I just remember there being a discussion item when we looked at this during preliminary review. I never knew how it got fixed.

Mr. Johnson: Mr. Chairman if I could, part of that ditch not only borders the phase you are discussing tonight, but also the prior phase to the east of it. It has a long row of beautiful Live Oaks. As you may remember, this body discussed having a sloped paved flume, but ultimately the developer came back and asked that it be allowed to be grassed for maintenance reasons and to save the trees. The caveat is that the maintenance of the ditch is responsibility of the developer, not the City of Daphne and will remain so until ultimately it is that of the POA.

Mr. Chason: Thank you.

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 Mr. Terry to approve the final plat for Dunmore Subdivision, Phase Two, Part C, Phase II. The Motion carried unanimously.**

The next order of business is preliminary plat review for the Retreat of Tiawasee.

**PRELIMINARY PLAT REVIEW:**

**File SDP13-01:**

**Subdivision: The Retreat at Tiawasee**

**Present Zoning: RSF-2, Single Family District, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne**

**Location: South of the intersection of Cowles Crossing and North Lamhatty Lane**

**Area: 27.48 Acres ±, (48) lots**

**Owner: GCOF Retreat at Tiawasee, L.L.C. - Nathan Cox**

**Engineer: Preble-Rish - Steve Pumphrey and John Avent**

An introductory presentation was given by Mr. Steve Pumphrey, representing Preble-Rish. I know I went over some of this at the work session. I will go over this again to get us from where we were the last time to where we are tonight. I will be repeating a little of what I said then.

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Mr. Pumphrey: As you know, we submitted a master plan, if you will, to the City of Daphne initially with fifty-seven lots with an eighty-foot lot width. We were requesting annexation with a zoning of R-3, High Density Single Family. At that meeting there was a lot of discussion, and it was decided not to give master plan, but rather sketch plan approval so it could be revisited when we came back. It was probably a good thing because as we stand here before you tonight, we have made some changes. The result came from looking at things such as traffic. We had a traffic engineer come in and do a traffic study. The number of lots called for major improvements to the intersection of Tiawasee Boulevard and County Road 13. The improvements called for a new lane leaving the development and left turn lane. One of the biggest improvements would be the left turn lane. If you have been out there, there is a landscaped median. It would require tearing most of that out in order to construct a left turn lane. The developer then began looking at a way to diminish the improvements to that intersection. He chose to change the zoning request to R-2, Medium Density Single Family Residential, and reduce the number of lots from fifty-seven to forty-eight lots. In doing that, he made the lots one hundred feet wide. As time went along there was talk that there may be some controversy over the annexation. Well, at least from the developer's standpoint that is so he chose to withdraw the petition for annexation. At that time, when he changed the lot width to one hundred feet, we knew we complied with the Baldwin County zoning requirements. That is why we are before you tonight with a preliminary plat. Actually at last week's meeting we stated there is a clause in the Land Use and Development Ordinance which says if a proposed residential subdivision is going to be served by the Utilities Board of the City of Daphne, it shall annex into the City of Daphne. I stand before you like I did last week after talking to the developer. The developer is not opposed or has he ever been opposed to being annexed into the City of Daphne. If that is the requirement, he is more than glad to do that. I think at this point we would like to know if the subdivision plat meets with your approval. What we intended to do all along was to pursue the portion we knew we could address. Once we met all of the conditions and the regulations of Baldwin County, then it is pretty straightforward. We have talked to Baldwin County, and they are somewhat on hold pending the action of the City. If the City is going to annex this property, then they are out of the picture. That is the long and short of how we got back here again with the preliminary plat. I have a couple of people here tonight with me from my office including the engineer. I will be happy to answer any questions you may have.

Chairman: Do any of the Commissioners have any questions or comments? I guess my comment would be we do not have a petition for annexation, but we have an application for preliminary plat review for a subdivision.

Mr. Scott: Can't we approve the subdivision plat contingent to the requirement for adherence to the Land Use and Development Ordinance which requires annexation? Upon approval of the annexation into the City of Daphne by the City Council, the subdivision plat would still be approved. If the City Council were to deny the annexation of the property, then the developer would be free from that obligation. The developer would be free to go to Baldwin County and develop it under the County's regulations.

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Chairman: Does the subdivision meet the zoning requirements of R-2? So it meets the requirements of the Land Use Ordinance for R-2, and it meets the Baldwin County regulations. Both? If it were turned down with regard to annexation, it would meet Baldwin County regulations.

Ms. Jones: Yes.

Mr. Chason: Isn't the annexation a mute point because it is in the extraterritorial planning jurisdiction, and we have to approve the subdivision regardless?

Chairman: It is in our extraterritorial planning jurisdiction, but we do have the regulation that says if you are going to use our utilities it has to be annexed.

Mr. Chason: Based on what the applicant says, I do not have any problem with a caveat that they do pursue it. My point is even if the City Council were to turn down the annexation, we have still done what we have to do in terms of reviewing and approving and/or disapproving the plat.

Chairman: That is true.

Mr. Scott: It is my understanding the City Council does not have to accept the annexation. There is no requirement we accept it. From what I am told, the City Council will look at two issues. The first is it advantageous to the City of Daphne to annex the property? Second, is it zoned correctly? That being the case, they will make a decision. If the City Council were to deny the annexation of the property, then the developer will have met his obligation. It is up to the City Council if they want it in the City or not.

Chief White: I have a question for the Councilman. Wouldn't we still be providing basic City services even if we did not annex it?

Mr. Scott: Yes sir. I do not see any reason why the City Council would not accept it, but it is the Council's prerogative. As far as the police and fire department, I assume we would still respond to areas outside of the City. I assume it would be the sheriff first and then police and fire. You would be called away if a call from the City came. I do not know if that has ever happened, but we would still be providing water and sewer. We would be providing those services which we provide to a number of areas which are not in the City. The Ordinance says if it is contiguous to the City of Daphne and has City services which they identify as water and sewer are available, it is required to be annexed as a part of the subdivision approval. I think this body can only do what the Ordinance says. A separate part is whether or not the City Council accepts the annexation into the City or not. My understanding is we will be providing them with water and sewer regardless. We would be providing them other services like we do with Chamberlain Trace, Chelcey Place Subdivision, and other areas.

Chairman: Do any of the Commissioners have any questions or comments? He opened the floor to public participation. If you would like to speak, do you have someone who can do the presentation for everybody?

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Ms. Bergan: I am Mary Ann Bergan. I live at 8838 North Lamhatty Lane. I know everyone cannot see this. I am here tonight representing my neighbors. We are opposed to this subdivision. If I had to sum it up into one word, it would be access. It would not be traffic. It would be access. Access comes first and traffic comes next. As they say if you build it, they will come. I want to start off by looking at the big picture. This is our subdivision Tiawasee Trace here. There are fifty-four lots and maybe six of them are vacant. This is the Estates of Tiawasee. There are thirty-four lots right now. There approximately four lots occupied and six under construction. This is what they are proposing. They are proposing to come through an R-1 lot into our neighborhood. Now the plat I have is a little different. This is the plat they presented to the City Council last month. As you can see, it has changed. These are not cul-de-sacs anymore. They actually continue onto this property. That is part of our problem as well. It is the access they are creating. They are planning their access through our neighborhood even though the parcel they are developing has their access onto Pollard Road. The representative of the owner at last week's site preview meeting said he recalled this coming to the County when he was at the County to subdivide this property. This used to be one large parcel, and they came before the County to subdivide. They were able to do that because they had a fifty-foot access to a public right-of-way. That is what we want. We want their access to be somewhere else. They have provided a stub-out to all of the adjacent properties. We have been told that you cannot build a bridge across the creek. That is why they are planning to come this way. All of a sudden you see a stub-out right here. These people cannot build across the creek which is a majority part of their property. They are going to want to come this way to the stub-out right here. There are seventy-eight acres total. There are forty-eight acres east of the creek. If they were to develop R-2 lots, it would be approximately another seventy-six more lots. If they were to develop R-3 lots, it would be maybe ninety lots. Stratford Glen Subdivision has a stub-out right here as well. They could have access through the creek, through Stratford Glen, the Estates, and Tiawasee Trace Subdivision. If the developer which has the largest part of his land on this side develops, he will have to access through the creek as well. If the developer here has all of these stub-outs, it is likely that this developer will too. There is another fifty-two acres up here. There is thirty-one acres on the east side of the creek which will be another fifty-one or fifty-two lots. They cannot cross the creek so they are coming this way. Depending on which way they are going, they are going to go through our neighborhood or Stratford Glen Subdivision. I do not have anything here, but this was the future phase of French Settlement Subdivision. I know the developer has some property in French Settlement Subdivision so the connection to here is likely to happen as well. It is the access that our neighborhood has a problem with.

Mr. Gibson: Will you point to County Road 13 for me please?

Ms. Bergan: This is County Road 13, Whispering Pines Road and Pollard Road. I am sorry. I should have done that from the beginning. It is about a square mile. That is what we are talking about. You are not just asking us to accept the forty-eight lots on this parcel of land. We are looking at the big picture here not just this subdivision. It is the access that we have a problem with.

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Ms. Bergan: I just want to read Article V, Section 1 (b), from the Land Use and Development Ordinance, regarding the Duties and the Powers of the Planning Commission. "Will be charged with the duty to review, apply and monitor the enforcement of this Ordinance in accordance with the Comprehensive plan or portions thereof which are adopted?" I can name at least three sections of the Comprehensive Plan which talk about protecting and preserving established neighborhoods, and the plan of action in the housing section and in the land use. The Land Use says, "To manage growth in a manner which will be compatible with and comparable to adjacent properties." This does not compliment. It complicates. The last thing I would like to end on is kind of a personal note of sorts. If I had this little guy out here right now, and he wanted to go out and ride his bike, I would say stay in the neighborhood. He can do that right now, but in eight years when I tell him to stay in the neighborhood, I do not know what that will mean. I do not know what the neighborhood will be with all of these connections.

Chairman: Thank you.

Mr. Bergan: Hello. My name is Shane Bergan. I live at 8838 North Lamhatty Lane. I am a licensed professional engineer in several states including Alabama. I am also a licensed professional traffic operations engineer. My wife and I relocated to Daphne last Spring. We had numerous options of subdivisions we could live in. We chose Tiawasee Trace Subdivision mainly due to the small scale of the neighborhood, and it was a dead end. I grew up in a similar neighborhood. I enjoyed roaming the neighborhood with very little traffic. As previously presented, our neighborhood is being threatened. Before long there will be one giant neighborhood with the possibility of eight or nine POA's. None of it was master planned to be that way, but now onto more technical matters. This Commission was told during their work session, that the Comprehensive Plan had a roadway extension through Tiawasee Trace Subdivision. On the first page of the hand out is that road map. It clearly shows this road is south of Tiawasee Trace. It shows Tiawasee Trace was in place when the plan was approved. The wording in the plan says that a new connector road will connect Park Drive to County Road 13. It does not say this road has to be straight. This road way could curve. If I use this map, this road way could curve down, come across on the south side of these properties, and to tie into County Road 13 at Sehoj Subdivision. We heard that the POA at Sehoj Subdivision would like to have a traffic device near their entrance. This new road tying into County Road 13 would give them another access for traffic control device such as a round about. This road could serve several other purposes. One is it could connect to Stratford Glen so they would have a second access. French Settlement could tie to it and give them a second access. The City is also spending lots of money on their new recreational facilities on Park Drive. This new road would provide direct access to those recreational facilities. I asked the City Council at their last meeting to put a moratorium on development of these undeveloped areas. That includes the Retreat and the piece to the north, west, and east. The purpose of the moratorium would be to conduct a road corridor study to determine the best location for this road. If the City had this information, they could ask that the right-of-way be set aside in the future when development come forth. The City of Daphne and Fairhope have done this before for development on Alabama Highway 181. They restricted construction and development until an access management plan and storm water study was completed.

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Mr. Bergan: We were also told that a road to the west was not feasible due to environmental concerns in crossing the creek and due to costs. The crossing can be done. The wetlands can be mitigated. The creek can be crossed using a box culvert and not a bridge. The second page of your hand out shows an aerial photo of that creek which shows a temporary crossing which was built by the previous developer when they were building the Estates of Tiawasee. As you can see, the creek is not that large. If they can put down some boards to cross it, why can't they build a box culvert? Other projects that have been built or are planned across wetlands have been done. They include the Baldwin Beach Express, County Road 13 across Fly Creek, Well Road, and the D'Olive Bridge which the City has just recently received funding for. As far as the cost is concern, a large cast-in place box culvert cost approximately one hundred and forty-five dollars. That cost is based off of prices from projects I have just been recently involved in. Now the whole road from their site to Pollard Road, I estimated it to be approximately one point four million dollars. That may sound like a lot of money. At the same time by them trying to tie to our neighborhood through the lots in the Estates and the cost of housing, it is approximately one million dollars for those lots combined. They also changed their plan to R-2 zoning so they could tie to the Estates and reduced the plan by nine lots. That is approximately three point two million they have lost on that. They have also said they need to construct a right turn lane. That will cost approximately two hundred thousand dollars. That doesn't include the cost of the new right-of-way or the relocation of utilities. The City of Daphne would have to mill and overlay the streets of Tiawasee Trace and the Estates of Tiawasee sooner due to the construction, traffic, and the new residents. I brought up the construction of the right turn lane because they said they have had a traffic study done. Has a copy been turned into the City for review? The Baldwin County subdivision regulations state that, "A traffic study will be performed by the County for any subdivision which has more than fifty lots or a phase that increases an existing subdivision to more than fifty lots, and the developer will front the cost to the County." I know we are here today, and you are not the County as far as the extraterritorial planning jurisdiction. Their regulations say the developer will meet whomever's regulations are more stringent. The representative for the developer also said a left turn lane was not necessary from our subdivision by them decreasing the number of lots. There are no warrants for left turn lanes. On minority streets it is typically done by the level of service or by delay. Who made the determination that the left of service was such that a left turn lane was not needed. Did they count traffic or use old information that is posted on the ALDOT web page? If they counted traffic, did they do it doing a period when the school was in session? Did they take in to account the told build-out of Tiawasee Trace and the Estates of Tiawasee? Did they forecast the traffic into the future at a minimum of the year 2020 because all of this property will not be built out in the next few years? All of these items could have a serious impact on their traffic analysis. Article XI, Section 1 of the Land Use and Development Ordinance says, "The Planning Commission shall not approve a subdivision of land or site development plans if, from adequate investigations conducted by all public agencies concerned, it has been determined that is not in the best interest of the public or the proposed development is not suitable for platting or subdividing purposes." This subdivision is not in the best interest of Tiawasee Trace Subdivision.

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Mr. Bergan: It will not protect our established neighborhood. Article XI, Section 3 states, "Proposed improvements in all subdivision developments within the extraterritorial planning jurisdiction shall be in conformance with existing approved plans, maps, ordinances, and design standards of the City of Daphne or Baldwin County, whichever is the more restrictive." This development is not in compliance with the Comprehensive Plan, especially, in the transportation section. We ask that the Planning Commission deny the subdivision based on what we have discussed. Does anyone have any questions about what I have talked about?

Mr. Chason: I would like to know why the residents did not come and oppose the second phase of Tiawasee Trace? What is the name of it?

Ms. Jones: The Estates.

Mr. Chason: Why are you opposing this expansion when you did not oppose the other expansion?

Mr. Bergan: We do not believe there was an actual public hearing for the Estates of Tiawasee because they came into the City of Daphne as R-1.

Mr. Chason: There was a public hearing. I was here for it.

Mr. Bergan: Ok. That was before my time. I did not know. I moved here last year.

Chairman: There was a public hearing. Will you come up to the podium and identify yourself ma'am?

Ms. Mims: My name is Paige Mims. I live at 8908 South Lamhatty. Gary McKnight approached our property owners' association with the plans for the Estates. It was not a second phase of Tiawasee Trace. He came to our POA with all of the plans and said that he would be raising our property values. He said I will be building estate size homes which will sell for five hundred thousand dollars, and this will be estate size lots. This will be better for your property. He redid the entrance to our neighborhood. He came to us to ask our opinion on it. We did not oppose it. Of course, if I had known all of this, I would have opposed it. He built it out with no stub-outs. All of them were ending in cul-de-sacs. It was fifty lots which would be adding to our property values. I do not foresee this development adding to our property values. The Estates of Tiawasee did not have stub-outs. It had cul-de-sacs. That is why we did not oppose it.

Chairman: Thank you.

Mr. Chason: My question is how is this different from Gary McKnight's addition?

Mr. Bergan: Our final plat on Tiawasee Trace Subdivision did have a stub-out which says future right-of-way. Gary proposed the Estates with a complete street network going all the way through. This is different because the Planning Commission is allowing for one lot to be vacated and become the right-of-way for a City street. This will open up to the subdivision to the south and open up to others.

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Mr. Bergan: It does not make it safe for any neighborhood in the City of Daphne. If a house burns down, I can purchase a lot and put a road through it. That is basically is what has happened.

Mr. Chason: Didn't Mr. McKnight develop the first phase, Tiawasee Trace?

Chairman: He did.

Mr. Chason: When he developed the second phase, he built the road that you showed us a picture of.

Mr. Bergan: No. That was for construction purposes only.

Mr. Chason: I mean the picture you have is of that construction road.

Mr. Bergan: Right.

Mr. Chason: My question is why didn't you come in at that time and ask for his access to be off of Pollard Road? There was a road built for construction traffic to come in and out. There was an addition to your subdivision contemplated at that time so why didn't you oppose it? That was many years ago. There are more stringent requirements. Mr. Chairman, I have to ask because I heard the first young lady say several times that you cannot cross the creek, but I heard you say you can cross that creek. I think you are accurate. You can cross that creek. It is just a permitting and mitigating process. In the future, it is possible should that land she took the cover off of which I believe belongs to the Malbis family is developed. If that property is developed, in your opinion, as an engineer is it not possible that an access could be built across the creek at that time?

Mr. Bergan: I think one should be built now.

Mr. Chason: My question to you is, she said it is not possible.

Mr. Bergan: She said that because at the first Planning Commission meeting we were here for and the City Council meetings, the staff and/or the representative of the developer said the creek cannot be crossed.

Mr. Chason: You are a professional. You know that at some time when that land is developed that an access, a bridge, or a crossing can be obtained at that point coming off of Pollard Road.

Mr. Bergan: It can.

Mr. Chason: So it is possible that at some point when the Malbis property is developed you will gain another access in and out of your subdivision off of Pollard Road. Is that not right?

Mr. Bergan: Yes. If it goes back through there that is our point that is their access is to Pollard Road.

Mr. Chason: But he doesn't own this? Malbis owns the eighty acres.

Mr. Bergan: But not the fifty-foot right-of-way going across.

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Mr. Chason: Malbis owns the property you say that you would like to see an access built on located on the north side of this property. That access that you speak of belongs to the City is that not correct?

Chairman: The fifty feet is not there anymore.

Mr. Johnson: I do not believe it is.

Chairman: It was done away with. I cannot remember who it was. Was it the French Settlement Subdivision or the lady that owns the Innisfree Subdivision? It was never a dedicated right-of-way. It was just fifty feet of property.

Mr. Chason: I think that discussion came up when Gary McKnight presented his second phase. At that time, he said that was not an option for two reasons. One was the lady that lives on County Road 13 had either vacated, fenced off, or done away with the title issue of that property or whatever it was. The other issue was two bridges would have to build across the property that now belongs to whoever owns French Settlement or the group which bought that development. My point is sir is that one presenter says you cannot do this, and the other one says you can. I understand your concerns about access, but connectivity is just part of it. All of the subdivision west of scenic 98 in old Daphne was not built at one time. It was all built in series, and all of those streets ended up connecting. Those are all subdivisions that go from south of our City limits all the way up to Magnolia Place. That is just the nature of development. It happens from neighborhood to neighborhood. We do not have any control over the order that comes in. I just think the point is that this process had begun when Gary McKnight adding the second phase which added to the first phase. The only difference is, it is not him here presenting it. It is the same process.

Mr. Bergan: It is different because the second phase is larger lots with larger houses.

Mr. Chason: Sir, I can tell you, and I will stand corrected. When is the last time we looked at a plat with one hundred foot wide lots?

Chairman: A long time.

Mr. Chason: It has been a long time since we have seen a plat with one hundred foot lots. We are seeing eighty, seventy, sixty, and fifty foot wide lots. That is ninety-nine percent of what we have looked at for the last eight or nine years. Since I have been here, this is the biggest lots that I have seen.

Mr. Bergan: That is good, but our point is if you want to call it Mr. McKnight's or what is there was a complete street network. There are no stub-outs. It was never planned to go further. They are no stub-outs in the Estates of Tiawasee. This does not exist. This is platted as an R-1 lot.

Mr. Chason: The cul-de-sac east and west does it go to the property line?

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Mr. Bergan: No. The property line is back here.

Mr. Chason: There is a lot behind there, but there is no potential extension?

Mr. Bergan: No.

Mr. Chason: I suppose that is because of the fifty feet.

Chairman: That could be.

Mr. Gibson: Is the cul-de-sac where the construction traffic came in?

Mr. Bergan: That is correct. While they were building the bridge, they probably crossed the creek about right here. Until they could get the bridge built, they crossed the creek. Once it was built, they started using the bridge to go in and out.

Chairman: That did not preclude the cul-de-sac being taken out and an extension of the road. We have seen that done before. That is fine as long as the original developer still owns that lot. It does not mean that he cannot take the cul-de-sac out and extend it.

Mr. Bergan: I understand.

Chairman: Let me say this, we talk about the cul-de-sacs being taken out of the part going back to the east. I am looking at a plat that has a T in there and not a cul-de-sac. The two cul-de-sacs that you are saying are going to be taken out have a turn around T in them.

Mr. Bergan: Are you talking about for this one?

Chairman: Those two cul-de-sacs that you say are being taken out and go to through streets there have a T at the end of them.

Mr. Bergan: This is the plat for the Retreat which was presented to the City Council last month. This is the first time we have seen this one so we did not have access to this one to draw it in.

Ms. Jones: Chairman, there may be someone else who would like to speak for the public hearing.

Chairman: Let me go on. Is there someone else who would like to address the Commission?

Ms. Strickland: We will be continuing part of this conversation. My name is Ann Strickland. I am a resident of Tiawasee Trace Subdivision. I live at 8799 North Lamhatty. Before I begin my discussion, I would like to clarify the Estates of Tiawasee is not Phase Two. It is a separate subdivision. Tiawasee Trace is one subdivision. The Estates of Tiawasee is a separate subdivision. They were connected through a box culvert, but they are separate subdivisions and not a part of the same subdivision. In reference to not being able to build over the creek from the first presenter, that was the opinion of the developer because they do not want to build over the creek.

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Ms. Strickland: I would like to clarify those two points. In the packet that you have just received, the first item lists Article V, Duties and Powers of the Planning Commission, a, "Shall be the function and duty of the Commission to make and adopt a master plan for the physical development of the municipality including any areas outside of its boundaries which in the Commission's judgement bear relation to the planning of such municipality." Going back to the roadway discussion, we would like for the decision of the roadway to be made by the Planning Commission and not by the developer. We feel like a plan has been presented by the developer to connect a series of local roads through neighborhoods which is going to impact subdivisions which are already developed or have the potential to be developed and are currently on undeveloped property. On the third page of your packet, you have a time line of events that have taken place. I would like to call your attention to three dates. The first being March 14, 2012, this is in reference to lots in the Estates of Tiawasee. I do have a map or a plat of that which we will look at in a few minutes. Lots 33 and 34 were replatted to become one lot. For the record the recording information is 2466B. At the same time 5A, 9A, 19A, and 37A were all replatted. At that time, the owners of the Estates chose to combine ten different lots. Lots 33 and 34 were a part of that and made 33A. Skipping down to September 6, 2012 in which that is my next highlighted section. Eastern Shore Acquisitions was the owner of Lot 33A at that time. They sold that lot to GCOF Retreat of Tiawasee, L.L.C. I have attached that warranty deed in case you have any questions regarding that. After the sale of the property on September 24, 2012, Eastern Shore Acquisitions which is the previous owner of that lot filed a vacation of Lot 33A. The other lots were not vacated, but these two were. Eastern Shore Acquisitions was not the owner of this lot. GCOF is the owner and was the owner at the time of the vacation. We question the validity of that vacation because they were not the owners of the lot at that time. I have attached a copy of those items for you because all of these items come into question for the access to the Retreat. Now if you will turn your pages to your first large map. This is an enlarged section of the City of Daphne Zoning Map so you can have an ariel idea of the undeveloped property. You will notice the section in the middle which is sectioned off for the Retreat. The lines that you see there, the property lines, run all the way to Pollard Road. That is the legal description of this property. They have a right-of-way which is a part of this property that runs all the way to Pollard. That is their legally purchased access point. In their legal description, it states to the point of beginning and the end going back toward Pollard Road. If you will turn to your next map, this is the full plat of the Estates of Tiawasee. You will notice here that there are no stub-outs. I know you talked about some cul-de-sacs. I am not worried about the cul-de-sacs because they are not in question for the Retreat. What is in question is Lot 34. We assume that it is called Lot 34. Lot 34 has been vacated, and Lot 33 and 34 have been combined. Lot 34 is the one in question because they are wanting to use it as an access. If you will turn to the next page, I have enlarged it for you so you can narrow it down to just that lot.

Chairman: I do not mean to cut you short, but some of the things you are going over we have already heard.

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Ms. Strickland: Sure. I just want to make some different points here. Lot 34 is the proposed access they are looking to use at this time. This lot is zoned R-1 which is residential. There is not a cul-de-sac or modification in this plat. It exists like this now. In order for them to use this lot as an access point, this lot must be modified. Which means the plat for the Estates must be modified. If Lot 34 is no longer going to be part of the plat or a part of that subdivision, then Lot 33 and 35 become corner lots. Corner lots have different setback lines which you can see directly across the street in Lots 3 and 8. The setback lines change. There are modifications in easements in corner lots. That is an issue because if you turn to the next page and look at Lot 35, a home has already been built. It is practically complete at this time. I have given you a picture of that. Lot 34 is the proposed access. Lot 35 is a home that is being built which would become a corner lot. Before this can be approved, the Estate plat has to be modified because currently the access point is a part of their plat. The final page in my packet, and I will finish with this. It is Definition 295 out of the Daphne Land Use and Development Ordinance, Spot Zoning states "The rezoning of a lot, lots, or parcel of land, located within the limits of an existing zoning district, to the benefit an owner for a use incompatible with surrounding land uses and that does not further the comprehensive zoning plan." If they want to use Lot 34 for an access, then it needs to be modified and spot zoned. They are proposing what would be comparable to R-2. This lot is located in the City of Daphne. It has been annexed so it would have to be rezoned. The plat for the Estates would have to be modified and brought back to the Planning Commission. It would require a modification of this plat to change that lot. That is all that I have. Do you have any questions?

Chairman: Thank you. Is there anyone else that has anything different, they would like to present? Quickly please, if you would.

Mr. Gibson: Use the microphone please.

Ms. Johnson: I am Mary Jane Johnson. My husband and I live at 8825 North Lamhatty Lane, Tiawasee Trace Subdivision, Daphne. I am opposed to access through Tiawasee Trace Subdivision. First, I would like to read a scripture, Psalms 16, 5 and 6, "Lord, you have assigned me my portion and my cup. You have made my lot secure. The boundary lines have fallen for me in pleasant places. Surely, I have a delightful inheritance." Obviously, David was talking about his secure relationship with God. Isn't it amazing how he uses property descriptions of which most could understand like boundaries, pleasant places, and delightful inheritance to paint the picture of security? My husband took a job in Mobile in 1996. We came to look at the area and decided we wanted to live in Daphne. In 1997, we rented a house at the back of Lake Forest near Lawson Road. We have four children. Three were in school at the time so that meant two schools. I was the designated driver. I learned quickly we had to be at the end of Dunbar Loop by 7:15 a.m. in order not to suffer long lines to get out of Lake Forest. At 7:18 a.m., just three minutes later was too late. Now sixteen years later, I hear my neighbors speak of morning traffic leaving Tiawasee Trace as they go to work and take kids to school. At present, it seems to be tolerable.

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Ms. Johnson: What happens when nonresident developers put a neighborhood within a neighborhood, within a neighborhood, and it puts an incumbrance on the small neighborhood streets of Tiawasee Trace by making it a thoroughfare. We have to wonder would will be the quality of life for the residents of Tiawasee Trace. Will this create an unnecessary loss of tranquility for the residents of Tiawasee Trace? Chief White, thank you to you and your department of brave men which stand ready to help the residents of Daphne at any given moment. Will this decision allow Chief White's department to have the best response time? What about the turn in at Tiawasee Trace. It is up and over a blind hill, over a bridge, and then a ninety-degree turn into the proposed neighborhood? Also, what about the fire sirens blasting in Tiawasee Trace? What about the police sirens blasting in Tiawasee Trace? What about the ambulances sirens or the rumbling of the construction trucks as they navigate our neighborhood? Will this create an unnecessary loss of tranquility for the residents of Tiawasee Trace? The children. The most important. Children today are assaulted today by all kinds of things. Bullying, attacks by fellow students, and even teachers. They should have the secure place of home to run to feel love and to be safe. Remember David's description? Parents should not fear allowing their children to play in the front yard. Parents that watch their teenager back out of the drive way and hoping to not hear a crash. You may think that sounds bazar, but look at the media. Too frequently bazar, unexplained things happen. Will this create an unnecessary loss of tranquility for the residents of Tiawasee Trace? Finally, I have one distinction among my neighbors in Tiawasee Trace. My husband and I have lived here the longest since 1998. We had the opportunity to meet the developers of Tiawasee Trace and the owners of the surrounding property. I believe with my whole heart that it was never their intention to have one property go through another, thereby, being an unnecessary loss of tranquility. Thank you for letting me speak, but also thank you for your service to the City of Daphne.

Chairman: Thank you. Is there anyone else? Jason did you have something you wanted to say?

Mr. Avent: I am John Avent with Preble-Rish. I just wanted to say a few things.

Chairman: Mr. Avent you are standing for the project is that correct?

Mr. Avent: I am.

Chairman: Is there anyone else on the public participation side? With that being said, I will close public participation. Ok. Now you go ahead.

Mr. Avent: I am sorry. I thought I was a part of the public participation. I wanted to go back to the comment about Lot 34 and address the issue of setbacks. The setbacks for Lot 33 and 35 would not have to be modified. If you look at the plat that is proposed, they are two common areas which are common area one and two. The common areas are on both sides of the right-of-way so the setbacks do not need to be modified on the adjacent property. That subdivision is still legal and the setbacks should stay where they are. If the right-of-way took up the common areas, then the setbacks would have to be modified. I just wanted to make that clear.

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Chairman: My understanding is that all of the streets in the subdivision are zoned what the subdivision is zoned.

Ms. Jones: That is correct.

Chairman: If this is an R-1 subdivision, the access is going through this lot, then the street is an R-1 street. If I am correct?

Ms. Jones Yes. We will say the land underneath is the same zoning. We do not consider streets and rights-of-way to be zoned property.

Chairman: It is still R-1. That was my question.

Ms. Jones: I just wanted to bring one thing up regarding the preliminary plat for the Estates of Tiawasee. Jan brought you a copy of a map that was in the file of the Estates of Tiawasee. That map actually shows what the future development was supposed to be for the entire area behind that would run out to Pollard Road, as well as, the subject property. That map shows in the basic configuration that you have crossing from north to south. It shows the access point even back in 2008. I also that it is important for the neighbors to know that the original overall scheme, although it did not go through annexation and zoning, was for the property on Pollard Road to be R-4, Multi-family. I think the proposal that has been presented to us complies with the Land Use plan. Connectivity is not only an issue with the Comprehensive Plan, but also with the Complete Streets Program that the City has also adopted. I do not see a reason to not approve the plat as it is presented, if it is annexed into the City or is developed in the ETJ. Of course, it would be better for it to be in the city limits because we would have our full review of the project by the City, and it would also have City Services upon its approval. That is all I have.

Mr. Scott: I have just one comment. Mr. Johnson pointed out if we do not annex it into the City, then our garbage trucks will be coming into Tiawasee. The County garbage trucks will be coming in the same access assuming it is approved by the County. It would be double wear and tear on the roads. Also, Baldwin County picks up once a week. If you look at garbage cans in the County, you will see they are overflowing because of once a week pick up. We mitigate that in some cases because we have recycle. That is almost like taking away an extra garbage can for most folks, particularly with the roll outs. There are a number of reasons for annexation. I feel strongly the property will be developed. Also, I feel strongly that based upon our Ordinance, and the desire to accommodate as many people as possible, it would be better off if this subdivision is in the City. We heard a quote from David, and I happen to be reading Proverbs this month. Proverbs, Chapter 16, Verse 2 says "A person's ways seem pure to them, but motives are weighed by the Lord." I think that is what we are trying to do. I think like the Lord we are trying to determine what is in the best interest of the City and the neighborhood. I think upon approval of the subdivision, we need to require by this body for it to be presented for annexation to the City Council. It is up to the City Council what they do with it.

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

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Chairman: With that being said, if there is no objection, the Chair will entertain a motion.

Mr. Gibson: Can you make the motion to include there will not be an approval of another addition until there is access from another direction? Can you do that? We do things like that all of the time?

Mr. Chason: I am not sure I understand that. Can you say that again?

Mr. Gibson: What I am saying is for instance say someone wanted to do another addition and tie into the road up there on the left side of the T, and they add another fifty lots.

Mr. Chason: Dan, I do not think I can include that in my motion, if I do not know exactly what is being proposed. It could be that the next subdivision alleviates all of this concern about congestion on County Road 13 in the mornings. I do not want to restrict it from happening because it may be an upgrade.

Mr. Gibson: That is what I am talking about an upgrade. It could be another entrance and exit for this subdivision.

Mr. Chason: I think all we can do is wait until that happens. It is like I told them we do not get to choose the order that this happens. We have to wait until it comes to us and act on it at that time. While we have a motion and a second to approve this, I would just like to say I really do appreciate the public participation. This has been a lively debate by the people that live there. From my prospective, your involvement in the process had improved the process. It has improved the product that we are voting on. You have gotten an R-3 zoning changed to an R-2 which helps with setbacks. You have gotten the number of lots reduced from fifty-eight to forty-seven. You have also gotten some upgrades on County Road 13 at no expense at the entrance of your subdivision. You have gotten all of that as a result of you coming and being a part of this process. I will just say that growth is inevitable in this City. I have been here for a long time, and I would say that I would like to live by the lady back there. Every time we look at an expansion, you look at it as if these strangers are going to come in. We are in the business of helping this City develop orderly. It is a nice place to live. You are nice people. The people that are going to buy in the development or this phase are going to be nice people. This is going to be big lots. I would like to thank you for participating. I hope you understand the position we are in. They have met all of the requirements of this Ordinance, and they are here trying to do a good job. They are local developers. Thank you.

**A Motion was made by Mr. Chason and Seconded by Mr. Smith to approve the final plat for the Retreat at Tiawasee, subject to the submission and processing of an application for annexation with rezoning to R-2, Medium Density Single Family Residential. The Motion carried. Mr. Gibson abstained E.g., Outcome of the City Council process does not supercede preliminary plat approval.**

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Chairman: Thank you again for being a part of this. I concur with Mr. Chason's words. We appreciate it. Mr. Johnson do you want to wait a minute before you begin your presentation?

The next order of business is administrative presentation of the Daphne Road Evaluation Fiscal Year 2013 and the Eastern Shore Metropolitan Planning Organization.

**ADMINISTRATIVE PRESENTATION:**

An introductory presentation was given by Richard Johnson, Public Works Director. I promise I will keep it brief and allow you to ask questions at the end. This body probably hears more about two subjects than anything else. That is always traffic and drainage. With traffic we talk about the level of service, but we also need to be cognizant of the level of maintenance for the quality of the driving surfaces we have to move that traffic along. Upon coming to the City, there were a lot of things I felt we could work on that would allow not only the Planning Commission, but also the City Council and our Mayor to become more proactive in planning rather than reactive. With reactive, you are always on the defense. You are not making progress. If you get on the offense, you begin to move forward. You feel as if you have a plan in place. This began with a group of citizens and engineers that compiled a list of streets in Lake Forest Subdivision and gave them a grade. For those who have been on Planning Commission, they may have given it to you. Another engineer who was seeking work made a presentation to the Public Works Committee showing how they had been hired to do work from Katrina FEMA dollars to evaluate all of the roads in Gulfport and Biloxi, Mississippi. It was really neat what they had done, but it cost around one hundred and twenty or thirty thousand dollars. We just do not have that kind of money. We made it our goal in Public Works to steal from the best of both of those things to develop a format to go out and evaluate our roads. We established a scoring criterion which basically gives the road a rank. We have several examples of defects based upon the Federal, State and the County criteria for road evaluations and come up with a ten-point scale. As we did this, we provided examples of roads in our area so you could see what the score means. We then wanted to bring the information together in multiple ways which were easy to digest and were searchable. We learned to use the Microsoft program called access. It is a database program. The beauty about the information it produces is it can be easily imported into GIS and turned into a graphical database. That is why we were committed to learning how to use it. I will digest a report of what we have and present it to you in an electronic format. Finally, what came from this is the City Council members and the Mayor asked what is the life span of a road. The life span of a road is approximately twenty years. If that is correct, then five percent of the roads need to be resurfaced every year in order to make sure when it is twenty years that we are back to that starting point. We put together some preliminary costs of what it would take for the City to get into a twenty-year cycle of maintenance. Again, as I said we based the scoring of the defects from a zero to a ten and provided examples.

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Mr. Johnson: We have confirmed we have approximately one hundred and thirty-five point miles of City maintained roads in the City of Daphne. These do not include our State roads which are Alabama Highway 181, U.S. Highway 90, and U.S. Highway 98. These are the roads that we have the responsibility to maintain. We do landscape maintenance on those roads. We do mowing, cleaning, and landscaping on those roads. We do not have the responsibility of drainage or other maintenance. We were able to update our maintenance information through this process. We established a rating system for our roads. We got it ready to import into GIS. We have started that process. We were able to update the asphalt condition which is very important. Also, in this process, we have an ID for every road segment. One road may have multiple segments. We have roads divided it into logical segments. We can better define that road if we have to do a work order by identifying it by road segment. From our work order program we will be able to say this work was done on this segment or it was striped at this time. Finally, what we got was geometrical data which is very important. We will know how wide it is at the beginning, the end, the midpoint, and the length which is all of the information you would need to calculate what the resurfacing would cost. We put the report together for our Council members by district which is important for ranking. Roads are in the district by name. I will make it available to you. It is also on our website. It has all of the City roads by name and by rank. We have an example of a field form we used to evaluate it. Nice surface pictures of the roads that we were evaluating, and what was the overall scoring criterion. This page is the list of the top five percent of the worst roads. The list is from worst to best. Any roads that were not paved are not on this list. As you can see, Randall Avenue has the designation of being the worst paved road in the City of Daphne. This is a good example that there are roads in every district in the City that have issues. We developed a paving calculator program which gave us a good ball park budgetary estimation of what it would cost. In order to do seven miles of road today, it would be approximately one million and one hundred and thirty thousand dollars a year to resurface those roads. The program we have gone through has provided Public Works with the data required to start getting this body, as well as, the City Council a way to make roads a priority rather than a perceived need. The scoring criterion was very academic. The road was evaluated on its merit and not where it is located. Of course, if the road were a collector or an arterial road would take precedence over a residential street. It will allow us to provide you, the City Council, and the Mayor with information so you can go from there. I will get a copy to Ms. Jones so she can give it to you. It still has some defects in it. We find things we have missed or mis-spellings. We are excited that we have this part done, and we are starting to use this information. Any questions?

Mr. Scott: In addition to this, this is a fabulous tool for the City to work with. Also, Mr. Johnson is in the process of cataloging our storm water drainage systems. He is also going to catalog all of the City facilities so we can evaluate things like the roofs, the air conditioners, and the carpet. With my eight years on the City Council, when something went bad, they came to us and said hey we need money.

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Mr. Scott: We are going to try to get our arms around this from a planning stand point. I am excited about what Mr. Johnson and his department has done.

Mr. Johnson: I have to give credit where credit is due. The City Council entered into a program which allowed me to have an intern. He has spent six months of his internship beating the pavement of Daphne and gathering this information. He has done a good job. To give you a hint of things to come, we are working on inventory of City. We own a lot of property and some of which we did not know about. We are going to use the same database to put it in a manageable and digestible form. Our Environmental Department and Public Works went together and purchased a Trimble unit. It is basically a survey G.P.S. unit. In this PDA unit, we can put any type of menu you want on it. The unit will calculate the longitude and latitude of the pipe so that it can be captured into the access program of GIS. I cannot tell you how long it will take to gather this information, but I hope to be presenting a report this time next year of how much pipe we have in the ground, how many junction boxes we have, and where they all are flowing to. It is going to help our engineers. When they come to us with a project, we will be able to tell them where the pipes are, the kind of material, and the elevation so we are getting there. Slowly, but surely.

Ms. Jones: MPO.

Mr. Johnson: Just to kind of give an update. I am kind of glad the residents of Tiawasee gave you a copy of the functional classification map. How long is the Comprehensive Plan out? About ten years? Is that how long it was?

Mr. Scott: It is thirteen years.

Mr. Johnson: Excuse me. I stand corrected. As you know, the City of Daphne is a part of the Metropolitan Planning Organization of the Eastern Shore. We are a big part of it. The greatest urbanized area is comprised of Daphne and our traditional ETJ. The Policy Board has been formed. The Technical Advisory Committee has been formed and is functioning. The Citizen's Advisory Board met for the first time this week. The next and final committee for right now will be the Pedestrian and Cycling Committee. They will all be advisory to the policy board. Our first order of business will be to make a functional classification map for the whole study area. It basically covers all of Spanish Fort, Daphne, Fairhope, what we would call Belforest, Robertsdale, and even part of Loxley, except for the part that goes up to the northeast, and the north side of Foley for all practical purposes. What that will do is when you start working on the Comprehensive Plan, it will give you the latest and greatest functional classification map. Between the County and the cities we were gathering data from approximately seventy-seven roads right now. Hopefully next week, we will submit to our local ALDOT, it will go to the Federal Highway Department, and we will get a new functional classification map back. Why is that important?

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Mr. Johnson: When we are having discussion about what we should or should not do, we should not be referring a thirteen-year old out-of-date document. That map that you see is now where close to what our road system is today. The other thing is for the MPO to spend money, it must be a collector or greater road. We are making sure that the roads that are serving as collectors are correctly identified for that purpose. That is an exciting thing. Depending on how long the Feds take, we will have a map in probably six months from now.

The next order of business is public participation.

**PUBLIC PARTICIPATION:**

Chairman: Is there anyone here that would like to address the Commission?

Ms. Bergan: I am Mary Ann Bergan. I live at 8838 North Lamhatty. I am not going to speak on the previous topic. I want to charge this Commission with two things. Mr. Johnson commented on one of them. Since the Comprehensive Plan is so outdated, we have eliminated one road, and there are only two more roads in general which are left which is the extension of Johnson Road and County Road 13. I charge you with updating the Comprehensive Plan. Second, last week Mr. Chason you said at the site review meeting you wanted to simplify the process and hear the subdivision, annexation, and the zoning all at the same time. Please do something about that. This is our fourth public hearing in four months. As a resident and a participate in the public participation, a change that would help it move along quicker would be very much appreciated.

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

**ATTORNEY'S REPORT:**

Mr. Navarro: No report.

Chairman: Who is our new attorney? My name is Kyle Navarro. I am an attorney at Adams and Reese with Jay Ross. He is out of town today so I am standing in. I will come by and meet all of you after the meeting.

The next order of business is commissioner comments.

**COMMISSIONER'S COMMENTS:**

Chairman: We need to discuss changing the meeting time for site preview meetings. The consensus is that we would like to go back to have the meetings on Wednesday morning at 8:30 a.m. instead of 10:00 a.m.

The next order of business is director's comments.

**DIRECTOR'S COMMENTS:**

Ms. Jones: A reminder about the University of North Alabama training classes that are set for Friday, March 8 and Saturday, March 9, 2013.

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Ms. Jones: You will be getting an email reminder next week. We will be providing lunch for you on Saturday. I talked to the Mayor about his appointment. He is not going to serve on the Planning Commission. When I talked to him Tuesday, he had narrowed it down to two people, but he did not know who he was going to choose. I did invite him to send those two people to the classes next week so they would be abreast of the information. Also, we can all be on the same page with our do's, don't's, and the like.

Mr. Smith: Part of that training was supposed to be in a remote setting wasn't it?

Ms. Jones: Both of the classes are going to be here. We do have the citizen's guide or the home study course which can be done online. You can do that at anytime.

Mr. Smith: So I do not need to do it by next Friday?

Ms. Jones: Absolutely not.

Chief White: Is it the same as it was before?

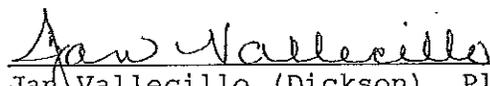
Ms. Jones: It is the same. Mr. Scott, we will need you as the Council man to get monies in order to update the Comprehensive Plan. It is just something we need you to do.

**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 6:36 p.m.*

*Respectfully submitted by:*

  
\_\_\_\_\_  
Jan Vallecillo (Dickson), Planning Coordinator

**APPROVED:** March 28, 2013

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

**CITY OF DAPHNE**  
**PLANNING COMMISSION AGENDA**  
**REGULAR MEETING OF MARCH 28, 2013** **REPORT**  
**COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**

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1. **CALL TO ORDER:**                      **DATE: MARCH 29, 2013**
  
2. **CALL OF ROLL:**                      **ED KIRBY, LARRY CHASON, DON TERRY, DAN GIBSON,  
JOE LEMOINE, RON SCOTT, CHIEF WHITE, AND  
CHARLES SMITH**
  
3. **APPROVAL OF MINUTES:**

*Review of minutes for the special minutes of February 7, 2013 and regular meeting of February 28, 2013. (SPECIAL MINUTES - APPROVED AS SUBMITTED. REGULAR MEETING - APPROVAL WITH REVISION TO THE MINUTES RELATIVE TO THE MOTION FOR THE RETREAT OF TIAWASEE SUBDIVISION, PRELIMINARY PLAT TO REFLECT THAT EIGHT MEMBERS WERE PRESENT AND THE MOTION CARRIED TO SET FORTH A FAVORABLE RECOMMENDATION. SEVEN MEMBERS VOTED IN THE AFFIRMATIVE AND ONE DISSENTED)*

4. **NEW BUSINESS:**

A. **PRELIMINARY/FINAL PLAT REVIEW:**

1. **File SDPF13-02:**                      **(APPROVAL SUBJECT TO COMPLIANCE WITH  
DEFICIENCIES OUTLINED IN BALDWIN  
COUNTY MEMORANDUM)**

**Subdivision: Billy Goat Bluff**

***Present Zoning: Unzoned, in the extra-territorial planning jurisdiction***

**Location:**                      On the south side of Redfern Road, one-quarter mile east of Rigsby Road  
**Area:**                              19.73 Acres ±, (3) lots  
**Owner:**                            James T. Martin  
**Engineer:**                        Preble-Rish - Steve Pumphrey

2. **File SDPF13-03:**                      **(APPROVED)**

**Subdivision: TimberCreek Commercial, Phase Two, Northwest  
Quadrangle, Resubdivision of Lot 4, Resubdivision of 4A**

***Present Zoning: B-2, General Business***

**Location:**                      Northwest of the Alabama Highway 181 and Crossover Lane, TimberCreek Commercial Subdivision, Phase Two, Northwest Quadrangle, Resubdivision of Lot 4  
**Area:**                              1.56 Acres ±, (2) lots  
**Owner:**                            Nickolas M. & Mary N. Stratus  
**Developer:**                      D3 Daphne, L.L.C. - E. H. Camp  
**Engineer:**                        Coleman Engineering Group of McCrory & Williams - Daryl Russell

**CITY OF DAPHNE**  
**PLANNING COMMISSION AGENDA**  
**REGULAR MEETING OF MARCH 28, 2013 REPORT**  
**COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**

---

**B. THE RETREAT AT TIAWASEE:**

**1. PETITIONS:**

**(a) ZONING AMENDMENT: (UNANIMOUS FAVORABLE RECOMMENDATION TO CITY COUNCIL)**

**File Z13-02: GCOF Retreat at Tiawasee**

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

**Proposed Zoning: *R-2, Medium Density Single Family Residential***

**Location: Southwest of the intersection of Tiawasee Boulevard and County Road 13, south of the intersection of Cowles Crossing and North Lamhatty Lane**

**Area: 31.53 Acres ±**

**Owner(s): GCOF Retreat at Tiawasee, L.L.C. - Nathan Cox**

**Engineer: Preble-Rish - Steve Pumphrey**

**(b) ANNEXATION REVIEW: (UNANIMOUS FAVORABLE RECOMMENDATION TO CITY COUNCIL)**

**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, south of the intersection of Cowles Crossing and North Lamhatty Lane with R-2, Medium Density Single Family Residential, zoning. The subject property is currently zoned RSF-2, Single Family District, Baldwin County District 15. GCOF Retreat at Tiawasee, L.L.C., owner.**

**C. ADMINISTRATIVE PRESENTATION:**

**1. PETITION FOR STREET ACCEPTANCE:**

**a. File AP13-01: (FAVORABLE RECOMMENDATION TO CITY COUNCIL)**

**Presentation to be given by Mr. Richard Johnson, Public Works Director, requesting acceptance of the right-of-way and maintenance of the extension of Well Road - 7.18 acres ±; 2067.16 linear feet ±.**

**b. File AP13-02: (FAVORABLE RECOMMENDATION TO CITY COUNCIL)**

**Presentation to be given by Mr. Richard Johnson, Public Works Director, requesting acceptance of the right-of-way and maintenance of a portion of North Lamhatty Lane - 0.28 acres ±; 209 linear feet ±.**

**CITY OF DAPHNE**  
**PLANNING COMMISSION AGENDA**  
**REGULAR MEETING OF MARCH 28, 2013** **REPORT**  
**COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.**

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c. **File AP13-05: (FAVORABLE RECOMMENDATION TO CITY COUNCIL)**

Presentation to be given Adrienne Jones, Director of Community Development or Richard Johnson, Public Works Director, recommending acceptance of all right-of-ways contained within Caroline Woods Subdivision, Phase Two B. Said right-of-ways being Kari Lane (532 linear feet) and a portion of Barrington Lane (120 linear feet).

2. **ADMINISTRATIVE PRESENTATION:**

**DAPHNE UTILITIES WATER TREATMENT PLANT:**

a. **File AP13-03: (APPROVAL OF MODIFICATION TO SITE PLAN, PERMISSION GRANTED FOR THE FOUR LIVE OAKS TO BE PLANTED AT THE DISCRETION OF THE UTILITIES BOARD OF THE CITY OF DAPHNE OR THE PUBLIC WORKS DIRECTOR)**

Presentation to be given by Ms. Melinda Immel, Volkert, Inc., requesting a modification to the approved landscape plan for the Daphne Utilities Water Treatment Plant.

5. **PUBLIC PARTICIPATION**
6. **ATTORNEY'S REPORT**
7. **COMMISSIONER'S COMMENTS**
8. **DIRECTOR'S COMMENTS**
9. **ADJOURNMENT**

**SET DATE FOR PUBLIC HEARING**

**MAY 20, 2013**

**TO CONSIDER:**

Annexation: The Retreat at Tiawasee, LLC

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

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

Requested Zoning: R-2, Medium Density Single Family Residential District, City of Daphne

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: April 1, 2013

## MEMORANDUM

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

**PROPOSED ZONING:** R-2, Medium Density Single Family Residential, City of Daphne

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

**RECOMMENDATION:** At the Thursday, March 28, 2013, regular meeting of the Daphne Planning Commission, eight members were present, and the motion set forth a favorable recommendation carried unanimously for acceptance of zoning amendment and annexation.

Attached please find documentation from the Office of Community Development. An Ordinance was previously provided by the Office of the City Attorney and shall be amended to reflect the new meeting date, the action of the Planning Commission, and the public hearing date for placement on the City Council agenda of Monday, April 15, 2013 to request to set the public hearing for Monday, May 20, 2013.

Thank you,  
ADJ/jd

cc: file

attachment(s)

1. Community Development Report(s)
2. Map of property
3. Zoning Amendment application & Petition for Annexation
4. Legal description
5. Correspondence to Adjacent Property Owners
6. Adjacent property owners' list
7. Opposition letter(s) & information provided at Planning Commission public hearing

# Planning Commission



## Zoning Amendment & Annexation Review GCOF Retreat at Tiawasee, LLC

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*March 2013 Planning Report*

**COMMUNITY DEVELOPMENT**

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

**Owner:** GCOF Retreat at Tiawasee, LLC

**Existing Conditions:** 31.53 acres of vacant land

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

**Proposed Zoning:** R-2, Medium 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

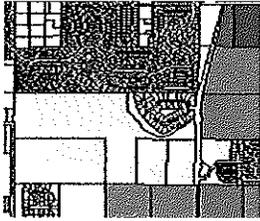
**Affected City Service Providers:**

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.



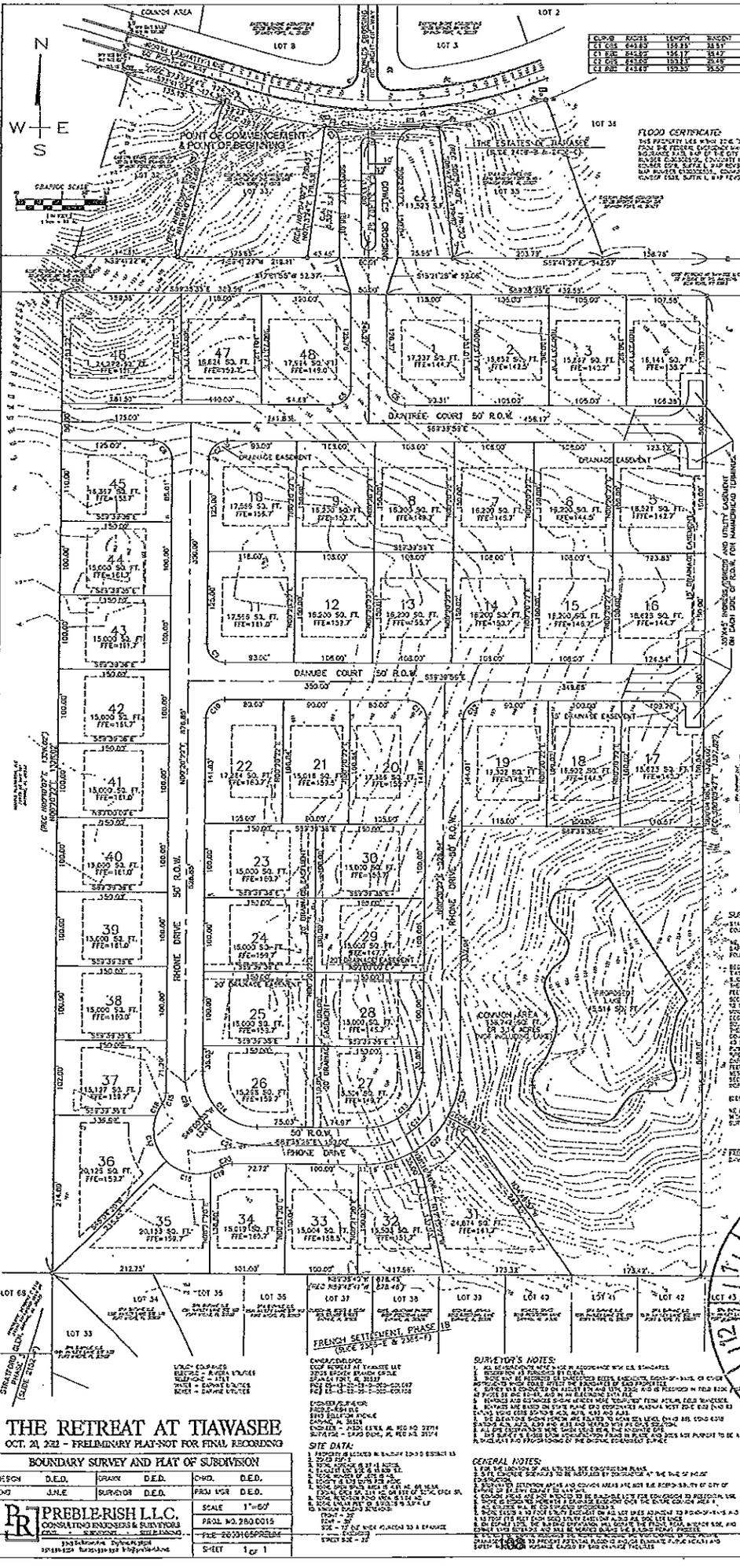
### **Comprehensive Plan**

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-2 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 Courier in accordance with applicable sections of the Code of Alabama.*



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

Application Number: 213-02 Date Plat Submitted: March 13, 2013

Date Presented: March 28, 2013

Name of Owner: GCOF RETREAT AT TIAWASEE, LLC

Address: 32128 BROKEN BRANCH CR, SPANISH FT, AL 36521 Telephone # 621-1887  
(Street or P.O. Box) (City) (State) (Zip Code)

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

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

Subdivision: THE RETREAT AT TIAWASEE (PRESENTLY PRELIMINARY PLAT APPROVAL)

Lot(s): 1-48 (PROPOSED) 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: March 13, 13).

Meeting Dates:

Planning Commission: March 28, 2013

City Council: \_\_\_\_\_

Reason(s) for requesting the Zoning Amendment:

PROPERTY IS PRESENTLY IN BALDWIN COUNTY DISTRICT 15 ZONED RSF-2 (15,000 S.F. MIN. LOT SIZE).

DUE TO THE RECENTLY APPROVED PRELIMINARY PLAT OF A SUBDIVISION PROPOSING TO CONNECT TO CITY

UTILITIES-ANNEXATION IS REQUIRED. THE COMPATIBLE CITY ZONING IS R-2.



SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

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

Revised: March 18, 2004

APPLICATION FOR ZONING AMENDMENT

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

This is to certify that I (we) the undersigned am (are) 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 THE RETREAT AT TIAWASEE (PRELIMINARY PLAT).
- c) Lot numbers involved in change NONE RECORDED AT THIS TIME.
- d) Total acreage of change 31.53 AC.
- e) Recorded in Map Book NA 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-2
- c) Character of neighborhood R-1 & R-3, RSF-2 (COUNTY)

3) Certifications:

- a) Owner's Name GOLF RETREAT AT TIAWASEE, LLC
- b) Address 32128 BROKEN BRANCH CIRCLE, SPANISH FT., AL 36527
- c) Telephone Number 621-1887
- d) Date 3-12-13

Signature of Property Owner



Signature of Property Owner

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

(GCOF Retreat At )  
Tiawasee

The undersigned, GCOF RETREAT AT TIAWASEE, LLC, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as GCOF RETREAT AT TIAWASEE 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, GCOF RETREAT AT TIAWASEE, LLC, 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-2 ZONING

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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 13 day of MARCH,  
2013.

Respectfully submitted,

GCOP RETREAT AT TIAWASEE  
Name of Corporation

By: [Signature]

Its: Member

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that NATHAN COX whose name as MEMBER of GCOP 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 13 day of MARCH, 2013.

Wanda LoCosto (NOTARY SEAL)  
NOTARY PUBLIC  
My commission expires: 11-19-2016

**GCOF RETREAT AT TIAWASEE**

**ANNEXATION REVIEW**

**SOUTH OF THE INTERSECTION OF COWLES  
CROSSING AND NORTH LAMHATTY LANE**

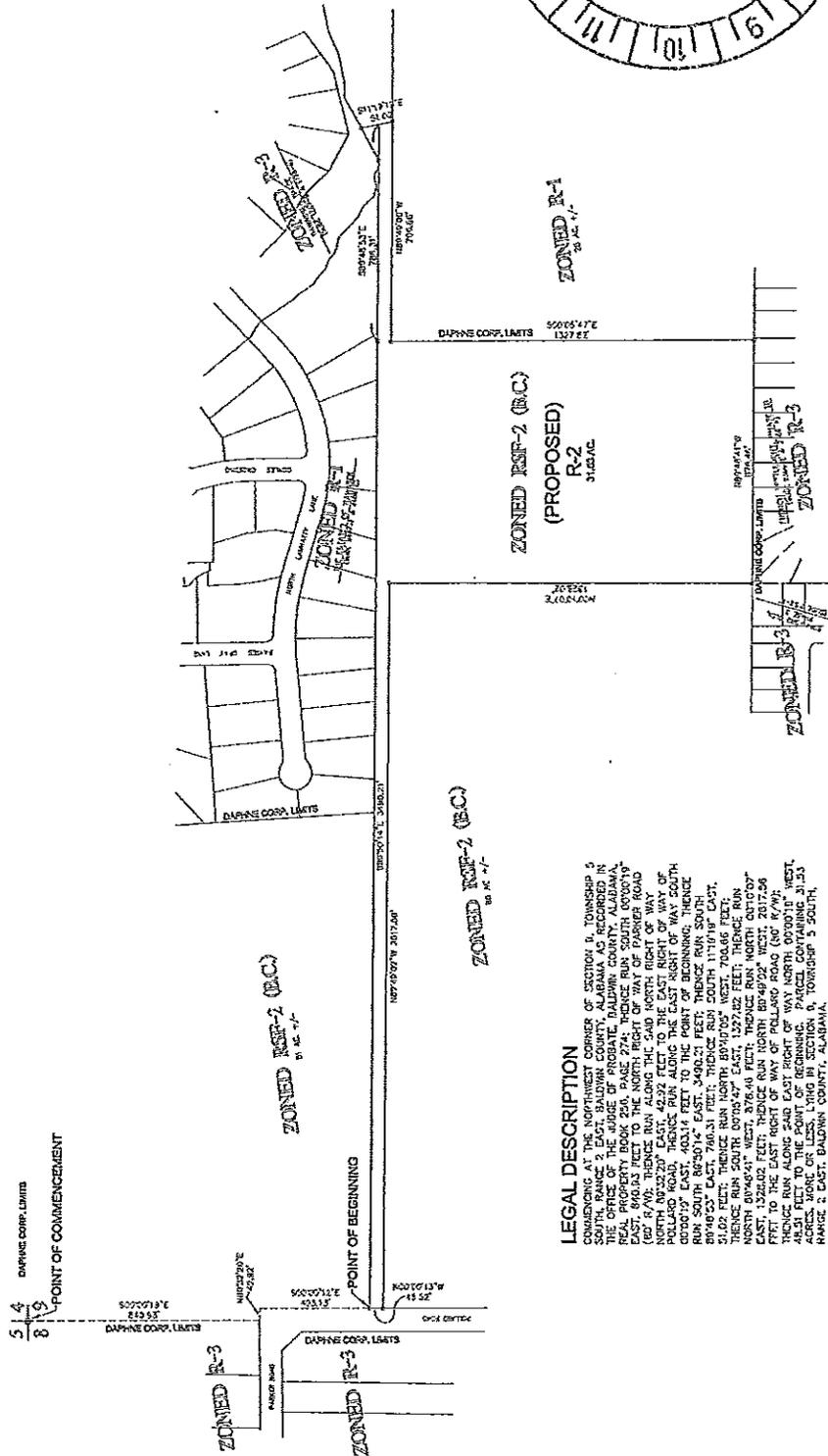
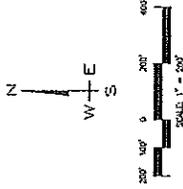
**EXHIBIT "A"**

**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**

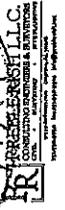
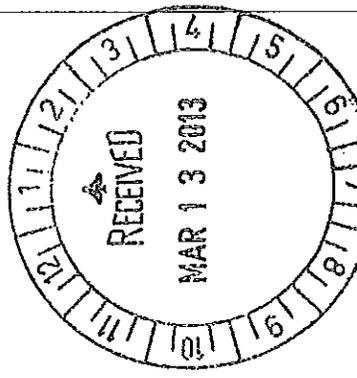
# GCOF RETREAT AT TIAWASEE, LLC EXHIBIT "B"



### LEGAL DESCRIPTION

COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 5 NORTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA, AND PROCEEDING IN THE SENSE OF THE CURVE OF THE CURVE OF PROGRATE, BALDWIN COUNTY, ALABAMA, REAL PROPERTY BOOK 226, PAGE 274; THENCE RUN SOUTH 05°00'19" EAST, 646.63 FEET TO THE NORTH RIGHT OF WAY OF PARKER ROAD NORTH; THENCE RUN ALONG THE 34.6' NORTH RIGHT OF WAY OF PARKER ROAD, THENCE RUN ALONG THE EAST RIGHT OF WAY OF POLLARD ROAD, THENCE RUN ALONG THE EAST RIGHT OF WAY SOUTH 03°00'15" EAST, 403.14 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH 86°20'14" EAST, 349.21 FEET; THENCE RUN SOUTH 51°06'25" EAST, 160.51 FEET; THENCE RUN SOUTH 17°19'18" EAST, 51.06 FEET; THENCE RUN SOUTH 122°42'22" EAST, 122.42 FEET; THENCE RUN SOUTH 07°05'27" EAST, 122.42 FEET; THENCE RUN NORTH 01°46'41" WEST, 876.46 FEET; THENCE RUN NORTH 01°10'09" EAST, 132.62 FEET; THENCE RUN NORTH 89°49'22" WEST, 2817.56 FEET TO THE EAST RIGHT OF WAY OF POLLARD ROAD (60' R/W); THENCE RUN ALONG THE EAST RIGHT OF WAY OF POLLARD ROAD, 463.81 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINING 31.25 ACRES, MORE OR LESS, LYING IN SECTION 6, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

(DESCRIPTION COPIED FROM RECORD DEED - BING # 1306252, WITH CORRECTIONS MADE TO ELIMINATE OVERLAP WITH PLAT OF THE ESTATES OF TIAWASEE)



DANE HAYGOOD  
MAYOR

BECKY HAYES  
INTERIM CITY CLERK

KIMBERLY M. BRILEY  
FINANCE DIRECTOR/TREASURER

ADRIENNE D. JONES  
DIRECTOR/ COMMUNITY DEVELOPMENT



COUNCIL MEMBERS  
TOMMY B. CONAWAY  
DISTRICT 1  
PAT RUDICELL  
DISTRICT 2  
JOHN LAKE  
DISTRICT 3  
RANDY FRY  
DISTRICT 4  
RON SCOTT  
DISTRICT 5  
ROBIN LEJEUNE  
DISTRICT 6  
JOE DAVIS, III  
DISTRICT 7

March 14, 2012

### NOTICE OF PUBLIC HEARING

Petitions for REZONING & ANNEXATION 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-2, Medium 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, March 20, 2013 at 8:30 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, March 28, 2013 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.

Sincerely,  
Adrienne D. Jones  
Director of Community Development

GCOF Retreat at Tiawasee

GCOF RETREAT AT TIAWASEE 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 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 L L C	9945 SPANISH FORT BLVD STE G	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	STRASSNER, DOUGLAS	6845 HWY. 90, SUITE 105	DAPHNE	AL	36526
13	SPA DAPHNE 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
16	GODBOLD INVESTMENTS LLC	103 CLUBHOUSE DRIVE	FAIRHOPE	AL	36532

**OPPOSITION  
LETTER AND SUBMITTALS**

**GCOFF LLC.**

**ZONING AMENDMENT & ANNEXATION PETITION**

STANKOSKI, LLP

ATTORNEYS AND COUNSELORS

8335 GAYFER ROAD EXTENSION  
POST OFFICE BOX 529  
FAIRHOPE, ALABAMA 36533

J. CLARK STANKOSKI  
D. ROBERT STANKOSKI, JR.  
JOSHUA P. MYRICK  
ROBERT K. NICHOLS, III

TELEPHONE: 251-928-0123  
FACSIMILE: 251-929-1000  
WWW.STANKOSKILLP.COM

March 26, 2013

City of Daphne Planning Commission  
1705 Main Street  
Daphne, Alabama 36526

Re: Tiawasee Trace Property Owner's Association, Inc.

Dear Commission Members:

This letter is to advise that I have been retained to represent the Tiawasee Trace Property Owners Association, Inc. (hereinafter referred to as the "Trace") as it relates to the development of a proposed property in the same general area as the Trace. Several members of the Trace recently attended a hearing of the City of Daphne Planning Commission on February 28, 2013 concerning the approval of preliminary plat and/or subdivision of the project known as the Retreat of Tiawasee (hereinafter referred to as the "Retreat").

As the Commission knows, after the Trace was developed, an adjoining subdivision known as the Estates of Tiawasse (hereinafter referred to as the "Estates") was approved and shared connectively to County Road 13 by traveling through the Trace. At the time the Estates were developed, the master plat showed no further outgoing connections with any neighboring developments or parcels of real estate. The Retreat is now attempting to utilize the infrastructure of the Estates and the Trace for its subdivision.

It is my understanding this is the second occasion the Retreat has come before the Planning Commission in an attempt to gain approval for the subdivision and annexation. It is further my understanding, following the first occasion an unfavorable recommendation was made to the Daphne City Council. The Retreat apparently changed the dimension of the lots and now is seeking approval of the revised subdivision.

Initially, it appears the Estates, under the direction and control of the Retreat, has changed its master plat by amending its covenants and restrictions to vacate an entire platted lot providing a new connection point for ingress and egress to the Retreat. This fact was presented by my clients at the last Commission meeting.

3-28-13  
COPY  
Submitted  
4:45P  
4/15/2013 CM

City of Daphne Planning Commission  
March 25, 2013  
Page Two

My clients additionally argued to the Commission that the Retreat contains its own right-of-way providing an additional access which would not overburden the existing infrastructure. Whether or not this access is cost feasible to the developer is not an issue of concern for my clients. Furthermore, whether or not my clients objected to the connectivity of the Estates to the Trace is also immaterial to the issue of allowing this new subdivision to be approved and annexed.

After reviewing the transcript from the hearing, it is clear my clients adequately addressed these issues as well as argued that such a development runs contra to the City of Daphne Comprehensive Plan. Despite such objections, it appears the Commission ignored the arguments and is attempting to allow the subdivision to proceed. My clients respectfully request the Commission reconsider its earlier decision and deny the annexation and approval.

Finally, my clients believe the vote approving the measure was not accurate. The motion to approve the preliminary plat was passed by voice vote and not by roll vote. It appeared to my clients that several members of the Commissions abstained from the vote which was not noted for the record. As such, the vote should never have passed.

Prior to adopting and/or approving the minutes from the last hearing, please allow this letter to serve as the request of my clients to make sure record is absolutely clear as to which Commission members voted for the motion and which Commission members abstained from voting. The approval of minutes which do not accurately reflect the manner in which the business was conducted may become an issue if this matter is argued in front of the City Council or in the Circuit Court of Baldwin County at a later date.

I appreciate your attention in this matter, and if you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

*D. Robert Stankoski, Jr.*

*(electronic signature for email purposes)*

D. Robert Stankoski, Jr.  
Attorney At Law

DRSjr/cws

cc: Tiawasee Trace Property Owners Association, Inc.



# City of Daphne Community Development Master Plan, Zoning Amendment, Annexation Review

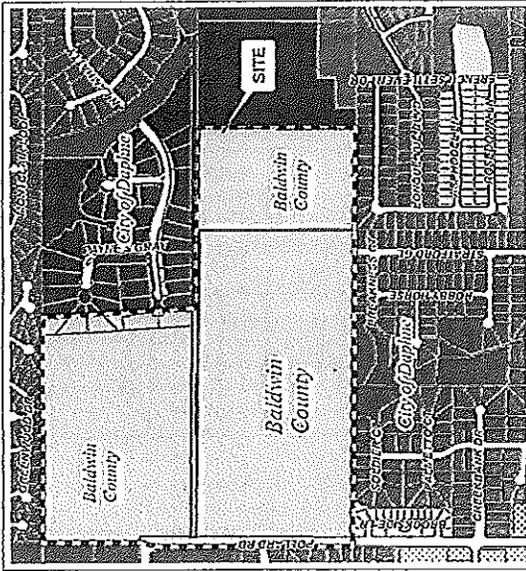
October 25, 2012

Inch = 400 Feet



# GCOF / The Retreat at Tiawasee SW of intersection of Tiawasee Blvd & Co Rd 13 MPA12-04 and Z12-03

Zoning Detail



Legend

1 inch = 1,000 feet

- CITY LIMITS
- R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL
- R-2 MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL
- R-3 HIGH DENSITY SINGLE FAMILY RESIDENTIAL
- R-4 HIGH DENSITY SINGLE & MULTI-FAMILY RESIDENTIAL
- R-5 MOBILE HOME RESIDENTIAL
- B-1 LOCAL BUSINESS
- B-2 GENERAL BUSINESS
- B-3 PROFESSIONAL BUSINESS
- C/I COMMERCIAL/INDUSTRIAL
- MU MULTI-USE
- GOLF COURSE
- ET JURISDICTION

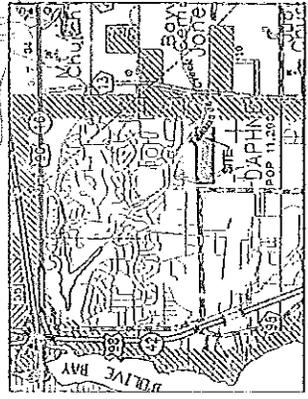
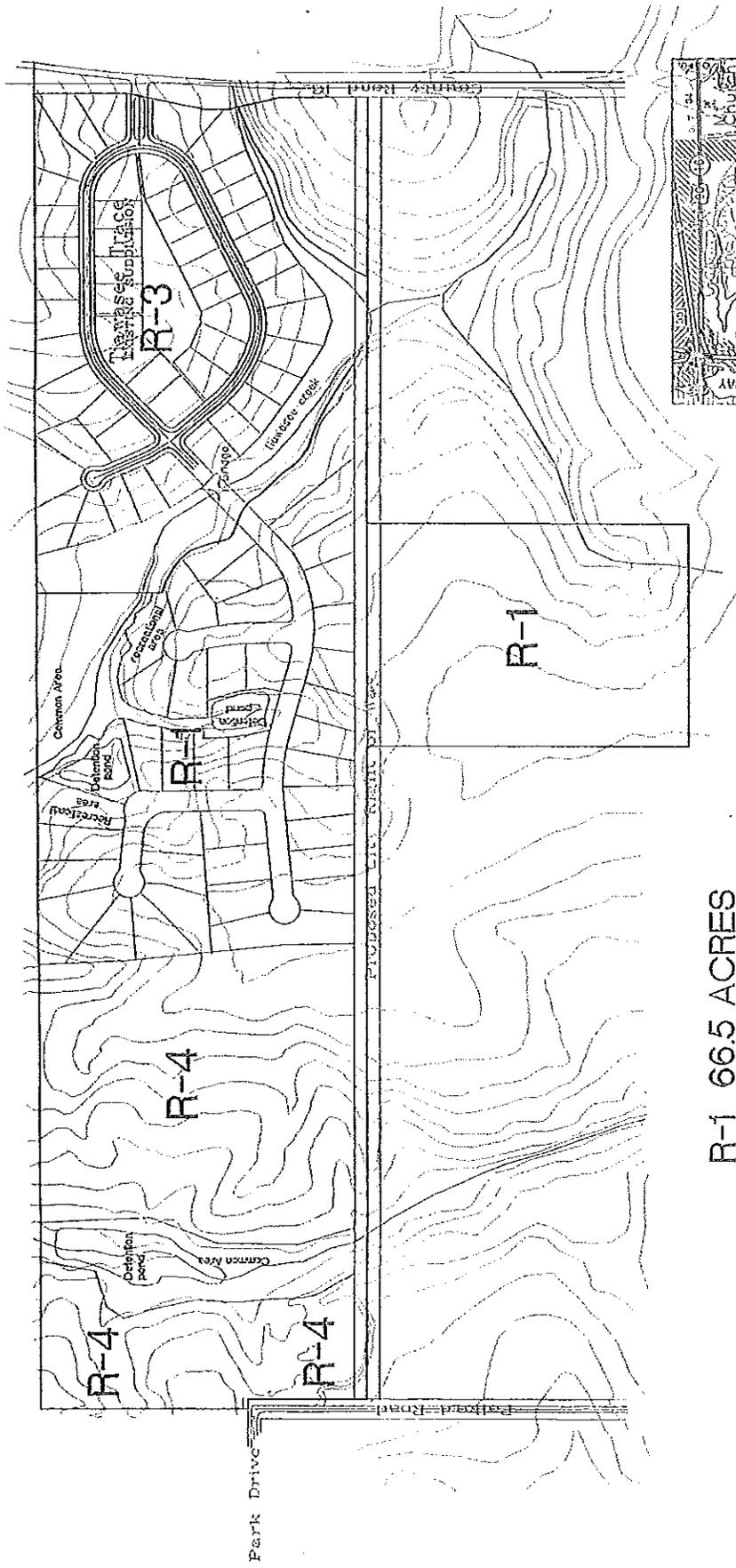
This information is provided for informational purposes only. It is not intended to be used as a legal document. The City of Daphne reserves the right to change the information at any time without notice. The City of Daphne is not responsible for any errors or omissions in this information. All information is based on the best available information at the time of publication. The City of Daphne is not responsible for any errors or omissions in this information. All information is based on the best available information at the time of publication. The City of Daphne is not responsible for any errors or omissions in this information. All information is based on the best available information at the time of publication.

Presented  
to PC  
3.28.13

From Ann  
Strickland in  
Opposition to  
Requests

4/15/2013





R-1 66.5 ACRES  
 R-3 34.5 ACRES  
 R-4 45 ACRES

*Presented to  
 P. C. 3/29/13  
 in opposition to  
 requests*

**ESTATES OF TLAWASEE**

LOCAL NORTH

VICINITY MAP (ACTS)

MASTER PLAN

THE ESTATES OF TLAWASEE PHASE 1

SCALE: 1"=40' DATE: February 7, 2007 DRAWN BY: GANES APPROVED BY: BRUSZALSKI SHEET 11

3207 INTERNATIONAL DR., SUITE G  
 MOBILE, ALABAMA  
 PHONE: (251) 476-4750  
 FAX: (251) 476-4723  
 EMAIL: mobile@mcw.com

**McCroy Williams**  
 INCORPORATED  
 ENGINEERS SURVEYORS

REVISION	DATE

**ORDINANCE NO. 2013-**

**FOR THE ANNEXATION OF CERTAIN PROPERTY TO THE CORPORATE LIMITS  
OF THE MUNICIPALITY OF THE CITY OF DAPHNE, ALABAMA**

**GCOF Retreat at Tiawasee, LLC  
(Located Southwest of the intersection of Tiawasee Trace Boulevard and County Road 13)  
(31.53 acres)**

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

**WHEREAS**, the owners of the property described in Section 2 of this Ordinance have signed and filed a written petition with the City Clerk of the City of Daphne, Alabama, requesting that such property be annexed to the corporate limits of the City of Daphne, Alabama; and,

**WHEREAS**, all of such property is located and contained within an area contiguous to the corporate limits of the City of Daphne, Alabama and does not lie within the corporate limits or police jurisdiction of any other municipality; and,

**WHEREAS**, said petition contains an accurate description of the property or territory proposed to be annexed together with a map of said property showing its relationship to the corporate limits of the City of Daphne; and,

**WHEREAS**, said petition has been presented to the Planning Commission of the City of Daphne on March 28, 2013, and a favorable recommendation was **approved** for the City Council to consider said request for annexation and said property **shall be zoned R-2, Medium Density Single Family Residential District**; and

**WHEREAS**, after proper publication, a public hearing was held by the City Council on May 20, 2013 concerning the petition for annexation; and,

**WHEREAS**, the City Council of the City of Daphne, Alabama has determined that it is in the best interest of said City that the property described in Section 2 hereof be annexed to the corporate limits of the City of Daphne, and that all the requirements of Sections 11-42-21 through 11-42-24, Code of Alabama, 1975, as amended have been complied with by said Petitioner.

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

**SECTION 1: CONSENT TO ANNEXATION.** The City Council of the City of Daphne, Alabama does by this Ordinance assent to the annexation of the property described in Section 2 of this Ordinance to the corporate limits of the City of Daphne, Alabama, and does by the adoption of this Ordinance, extend and rearrange said corporate limits to embrace and include such property.

**SECTION 2: THE PROPERTY.** That property requested to be annexed into the City of Daphne is described in Exhibit "A", attached hereto and made a part of this Ordinance as if fully set out herein.

**SECTION 3: MAP OF PROPERTY.** The property hereby annexed to the City of Daphne, Alabama, is set forth and described in Exhibit "B" and attached hereto a map of the property showing its relationship to the corporate limits of the municipality of the City of Daphne and made a part of this Ordinance.

**SECTION 4: PUBLICATION.** This Ordinance shall be published as required by Section 11-42-21, Code of Alabama, 1975, as amended, and the property described herein shall be annexed to the corporate limits of the City of Daphne, Alabama, upon such publication.

**SECTION 5: PROBATE COURT.** A description of the property described in this Ordinance shall be filed in the Office of the Judge of Probate of Baldwin County, Alabama, as required by Section 11-42-21, Code of Alabama, 1975, as amended.

LEGAL:

**“Exhibit A”**

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.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
**Dane Haygood,**  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**Rebecca A. Hayes,**  
**City Clerk**

**GCOF RETREAT AT TIAWASEE**

**ANNEXATION REVIEW**

**SOUTH OF THE INTERSECTION OF COWLES  
CROSSING AND NORTH LAMHATTY LANE**

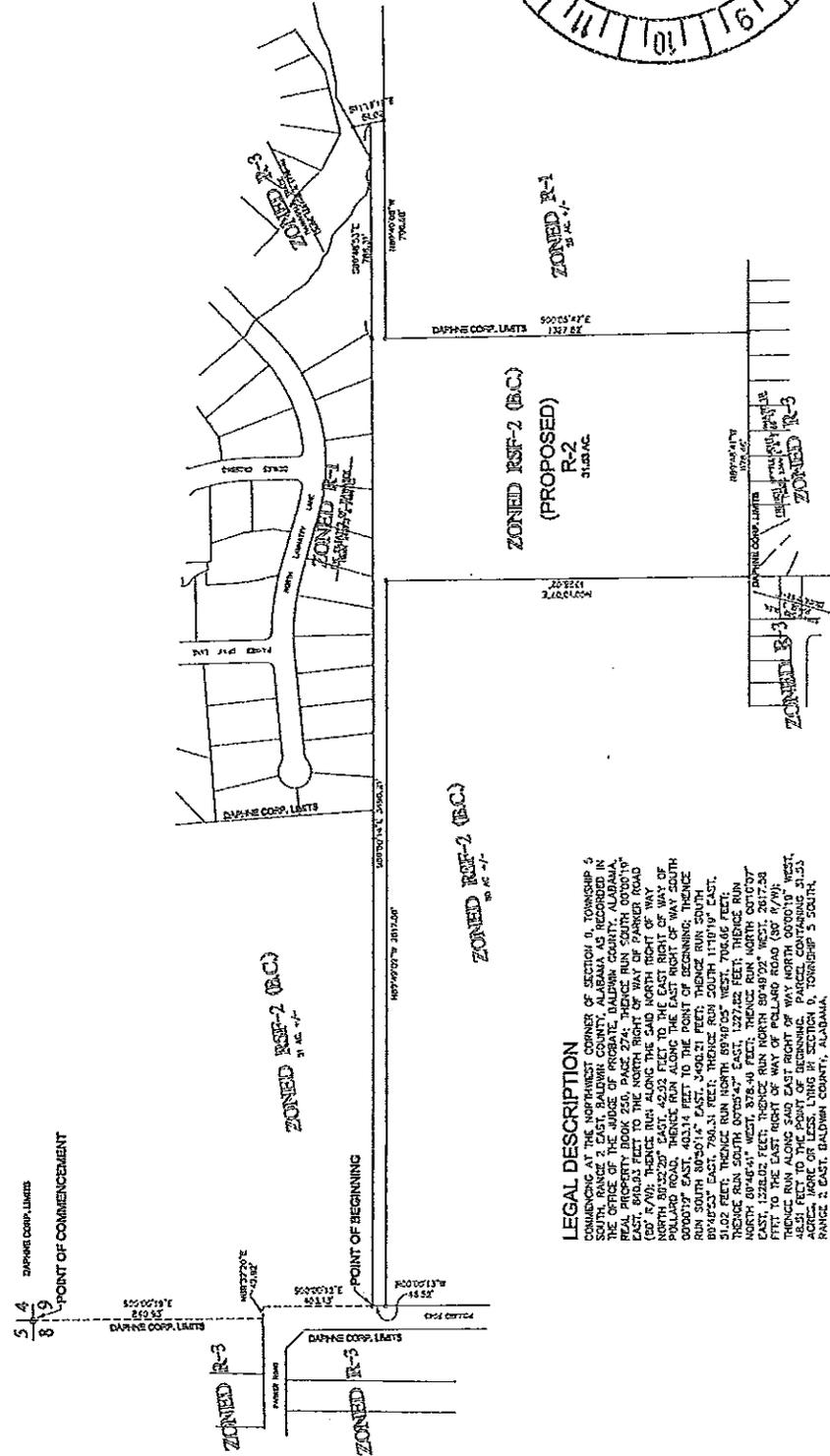
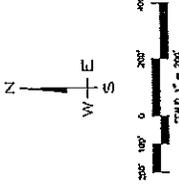
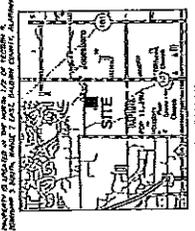
**EXHIBIT "A"**

STATE OF ALABAMA)  
COUNTY OF BALDWIN)

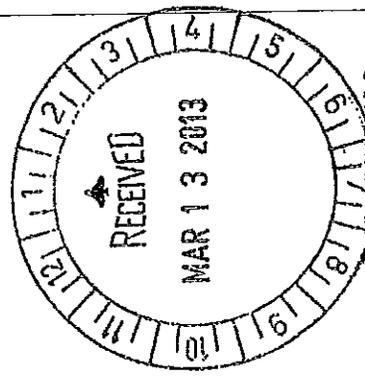
COMMENCING AT THE NORTHWEST CORNER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA AS RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA, REAL PROPERTY BOOK 256, PAGE 274; THENCE RUN SOUTH 00°00'19" EAST, 840.93 FEET TO THE NORTH RIGHT OF WAY OF PARKER ROAD (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

# GCOF RETREAT AT TIAWASEE, LLC EXHIBIT "B"



**LEGAL DESCRIPTION**  
 COMMENCING AT THE NORTHWEST CORNER OF SECTION 10, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA AS RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA, BEING THE DEED OF DONOR, DAPHNE CORPORATION, BALDWIN COUNTY, ALABAMA, EAST, 804.81 FEET TO THE NORTH RIGHT OF WAY OF PARKED ROAD (60' R/W); THENCE RUN ALONG THE SAID NORTH RIGHT OF WAY OF PARKED ROAD NORTH 89°32'29\"/>





Accepted by:

*Robert Segalla*  
Chairman, Daphne Utilities

Daphne Utilities

# APPROVED MINUTES

## Utilities Board Meeting

City of Daphne Council Chambers ♦ January 30, 2013 ♦ 5:00 p.m.

### I. Call to Order

The regular January 2013, Board meeting for the Utilities Board of the City of Daphne was held on January 30, 2013 and called to order by Chairman Robert Segalla, at 5:00 p.m.

### II. Roll Call

**Members Present:**

Robert Segalla, Chairman  
Lon Johnston  
Randy Fry

**Others Absent:**

Fenton E. Jenkins, Vice Chairman

**Others Present:**

Jerry Speegle – Board Attorney  
  
Danny Lyndall – Operations Manager  
Teresa Logiotatos – Finance Manager  
Drew Klumpp – Administrative Services Manager  
Deloris Brown – HR Manager  
Lori May-Wilson – Executive Assistant  
Melinda Immel – Volkert & Associates  
Ray Moore - HMR

**Others Absent:**

Rob McElroy – General Manager

### III. Pledge of Allegiance

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

### IV. Approval of Minutes

#### A. Utilities Board Minutes from November 28, 2012:

The Chairman inquired if there were any corrections for the submitted Minutes from the November 28, 2012, Utilities Board meeting. No corrections were made.

**MOTION BY Lon Johnston to approve the Minutes for November 28, 2012; Seconded by Randy Fry.**

**AYE: JOHNSTON, SEGALLA, FRY**

**ABSENT: JENKINS**

**ABSTAIN:**

**MOTION CARRIED**

#### B. Utilities Board Minutes from December 17, 2012 Utilities Board Special Meeting:

The Chairman inquired if there were any corrections for the submitted Minutes from the December 17, 2012 Utilities Board Special Meeting. No corrections were made.

***MOTION BY Lon Johnston to approve the Minutes for the December 17, 2012 Utilities Board Special Meeting; Seconded by Randy Fry.***

**AYE:** JOHNSTON, SEGALLA, FRY

**ABSENT:** JENKINS

**ABSTAIN:**

**MOTION CARRIED**

**No regular Utilities Board meeting was held for December 2012, therefore no minutes were submitted.**

**V. Old Business**

**A. Algae Systems at old Maintenance Facility – update**

Danny Lyndall updated the Board regarding the Algae Systems project at the old Maintenance Facility.

**B. Communications Site Lease with JMF Solutions - update**

Jerry Speegle advised that the lease had been take care of and approved by the City of Daphne and that construction would begin very soon.

**VI. New Business**

No new business was addressed.

**VII. BOARD ATTORNEY'S REPORT**

Mr. Speegle advised that an approximate 30-minute executive session would be necessary to address impending litigation.

**VIII. FINANCIAL REPORT**

Teresa Logiotatos highlighted the financial reports for the Board stating that even with the warm winter, figures were developing normally. She advised that the audit is still underway and that the audit presentation would be in March or April. She and Danny Lyndall answered Mr. Johnston's question regarding "fire line availability" as well as his request for comment on the large variance for "Group Insurance". Mr. Johnston remarked that he was glad that the figures are showing Daphne Utilities closer to budget figures. Chairman Segalla asked about the return check fee, to which Drew Klumpp answered that Daphne Utilities charges \$25 which is industry standard.

**IX. GENERAL MANAGER'S REPORT**

**A. GM Report**

Chairman Segalla and Lon Johnston gave admirable and praiseworthy recognition to the late Mayor Bailey Yelding and the positive impact he made on the City of Daphne and a moment of silence was given in his honor. Mr. Johnston also recommended expediting the conclusion of sewerage of the City of Daphne as a tribute to Mayor Yelding's tireless efforts for this task.

Danny Lyndall had nothing further to add to the report for the General Manager or Operations Report. Drew Klumpp informed the Board of a policy he has prepared regarding bill payment and extensions policies for customers. Chairman Segalla inquired of Deloris Brown of the "train the trainer" program for heavy equipment. She informed him that previous training was on various equipment, but this was the first time offering the "train the trainer" program in house.

Code Enforcement Officer Rex Rentz gave the Board a presentation on cross-connection contamination prevention.

Melinda Immel advised the Board that the final inspection of the Bayview Lift Station project was complete; this station along with the by-pass pump is operational. Danny Lyndall answered Chairman Segalla's question regarding the project budget. He stated that Daphne Utilities was well under budget for the Bayview Lift Station. Melinda Immel additionally answered questions pertaining to upcoming lift-station projects priority.

Ray Moore had nothing to add to his report.

**X. PUBLIC PARTICIPATION – Ruth Bolton addressed the Board to thank the Daphne Utility Board for the support of the family for Mayor Bailey Yelding.**

**XI. BOARD ACTION -**

RESOLUTION 2013-01 – Easements for Jubilee Square Shopping Center

***MOTION BY Lon Johnston approve Resolution 2013-01 Easements for Jubilee Square Shopping Center; Secoded by Randy Fry.***

**AYE:** Johnston, Fry, Segalla,

**ABSENT:** Jenkins

**ABSTAIN:**

**MOTION CARRIED**

**XII. BOARD COMMENTS – None**

Jerry Speegle recommended executive session to 1) discuss the general reputation, character and possibly job-performance of certain non-public employees, 2) also for the possibility of pending or threaten litigation for approximately 30 minutes.

Chairman Segalla advised no additional business will be discussed after executive session.

***MOTION BY Lon Johnston to adjourn for Executive Session for the purpose of discussing the general reputation, character and possibly job-performance of certain non-public employees, and also 2) for the possibility of pending or threaten litigation for approximately 30 minutes; Secoded by Randy Fry.***

**AYE:** Johnston, Fry, Segalla,

**ABSENT:** Jenkins

**ABSTAIN:**

**MOTION CARRIED**

Executive session adjourned at 5:32 pm.

**XIII. ADJOURNMENT –**

***MOTION BY Lon Johnston to adjourn the meeting; Secoded by Randy Fry.***

**AYE:** Johnston, Fry, Segalla,

**ABSENT:** Jenkins

**ABSTAIN:**

**MOTION CARRIED**

The meeting adjourned at 5:15 pm.

**REPORT  
OF  
OFFICERS**

**Becky Hayes**

---

**From:** Richard Johnson <directorpw@daphneal.com>  
**Sent:** Friday, April 05, 2013 2:46 PM  
**To:** 'Becky Hayes'; 'David Cohen'  
**Cc:** 'Councilman Scott'; 'Mayor Dane Hagood'  
**Subject:** For the April 15th City Council Meeting  
**Attachments:** Revised 04-05-2013 Professional Engineering Services RFQ.docx; Engineering Services Agreement 2013.docx

Becky:

The Mayor has approved the request, if the Council President is agreeable a motion is in order for the agenda:

***Request (in the form of a Motion) from the Mayor authorizing the Public Works Director to issue the attached RFQ to local engineering firms. Per the fulfillment of Resolution 2013-08.***

Here is my recommendation for an implementation timeline of Resolution 2013-08:

- April 15, 2013 (City Council) – Request from the Mayor for Public Works Director to issue the attached RFQ to local engineering firms.
- April 15-29, 2013 - Mayor, Finance, City Attorney, and Public Works review and prepare final version of Professional Service Agreement for Project Engineering Services (Early Draft Attached)
- April 15-29, 2013 - Mayor, Finance, City Attorney, Public Works, and HMR prepare final version of Professional Service Agreement for "On Call" Engineering Services with HMR. (Preliminary Draft Not Yet Complete)
- March 30 – April 3, 2013 - Mayor, PW Director, and EP Manager as a committee review and rank proposals based on strength of listed criteria.
- May 6, 2013 (City Council) – Consider via Ordinance tied to Professional Service Agreement for Project Engineering to accept, amend, or reject the Mayor's recommendation of qualifying engineering firms for City Projects (1<sup>st</sup> Read).
- May 6, 2013 (City Council) – Consider Ordinance tied to Professional Service Agreement for "On Call" Engineering Services with HMR (1<sup>st</sup> Read).
- May 20, 2013 (City Council) – Consider via Ordinance tied to Professional Service Agreement for Project Engineering to accept, amend, or reject the Mayor's recommendation of qualifying engineering firms for City Projects (2<sup>nd</sup> Read).
- May 20, 2013 (City Council) – Consider Ordinance tied to Professional Service Agreement for "On Call" Engineering Services with HMR (2<sup>nd</sup> Read).
- By June 1<sup>st</sup> - All Agreements are fully executed and Resolution 2013-08 is fully implemented.

Yours,

**CITY OF DAPHNE  
RESOLUTION 2013-08**

**Repealing Resolution 2009-73 and Establishing Policy for Procurement of "On Call" and  
Project Engineering Services for the City of Daphne**

**WHEREAS**, Resolution 2009-73 established HUTCHINSON, MOORE AND RAUCH, L.L.C. as the City's sole engineer for all projects within the City of Daphne; and

**WHEREAS**, the CITY OF DAPHNE desires to maintain a relationship with HUTCHINSON, MOORE AND RAUCH, L.L.C. for reoccurring "On Call" Engineering Services; and

**WHEREAS**, the CITY OF DAPHNE desires to establish a protocol for the equitable assignment of Engineering Services on a rotational basis to qualified Engineering Firms for City projects; and

**WHEREAS**, Resolution 2009-73 is in conflict with the desires of the CITY OF DAPHNE to open Project Engineering Services up to qualified Engineering Firms for City projects on an equitable basis; and

**WHEREAS**, the CITY OF DAPHNE shall determine and select qualified Engineering Firms through a Request For Qualifications (RFQ); and

**WHEREAS**, the CITY OF DAPHNE desires to enter into a contract for professional services with qualified Engineering Firms to provide project engineering services; and

**WHEREAS**, the CITY OF DAPHNE desires to enter into a contract for professional services solely with HUTCHINSON, MOORE AND RAUCH, L.L.C. to provide "on call" engineering services; and

**WHEREAS**, should city officials determine that a particular engineering firm is better qualified, or brings unique resources to a particular project or service need, the Daphne City Council may assign such work to that engineering firm regardless of predetermined project assignment order;

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

1. That Resolution 2009-73 is hereby repealed in its entirety; and
2. That HUTCHINSON, MOORE AND RAUCH, L.L.C. is designated as the sole provider of "on call" engineering services; and
3. That Engineering Firms for Project Engineering Services will be qualified and selected through a Request For Qualifications (RFQ); and
4. That the City of Daphne desires to enter into separate contracts for both professional services for "On Call" and Project Engineering Services with the named and/or qualified engineering firms; and
5. That should a different engineering firm be determined to be necessary, due to qualifications or unique resources, the same shall be first approved by the City Council in advance of any contract for the same.

ADOPTED AND APPROVED on this the 18<sup>th</sup> day of February, 2013.

  
\_\_\_\_\_  
DANE HAYGOOD,  
MAYOR

ATTEST:

  
\_\_\_\_\_  
REBECCA A. HAYES  
INTERIM CITY CLERK

# **REQUEST FOR QUALIFICATIONS (RFQ) For Engineering Services City of Daphne**

The City of Daphne seeks proposals from qualified firms or individuals to provide engineering and other professional services related to Civil Engineering/Surveying for Transportation and Drainage Infrastructure Projects.

## **Professional Engineering Services – Minimum Qualifications**

1. Be full service Engineering Firm offering Land Survey and Civil Engineering services maintaining a main or divisional office in Baldwin County, Alabama.
2. Hold a Certificate of Authorization in Land Surveying and Engineering from the Alabama State Board of Licensure for Professional Engineers and Land Surveyors.
3. Maintain a resident Professional (Civil) Engineer in a Baldwin County Office.
4. Meet the City's minimum Insurance coverage requirements.
5. Have expertise and experience in CIVIL ENGINEERING FOR TRANSPORTATION and DRAINAGE INFRASTRUCTURE.
6. Have Municipal and Utility experience in Baldwin or Mobile Counties.
7. Be PRE-QUALIFIED with ALDOT for consultants with service type(s): CONSTRUCTION ENGINEERING & INSPECTION (CITY/COUNTY) – with active contracts.

Automatic Disqualifier – No Engineering Firm will be considered for Qualification by the City if currently in litigation with the City of Daphne. No reconsideration will be made by the City until 12 months have passed from the time of agreeable resolution of the litigation.

## **Professional Services Categories:**

- A. ***Civil Engineering/Surveying for Transportation and Drainage Infrastructure Projects:*** The City maintains a Capital Improvement and Capital Maintenance Project List that is executed as capital dollars become available. The City desires to prequalify Engineering Firms and begin assigning these Projects to all pre-qualified Engineering Firms on an equitable rotation basis.

## **Proposal Details:**

Proposals will be received until **4:00 P.M. (C.S.T.) on April 29, 2013** at City of Daphne Public Works Department, P.O. Box 400, 26435 Public Works Road, Daphne, AL 36526. Late proposals will not be considered. There will be no formal bid opening.

No facsimiles or emailed proposals will be accepted. Provide two (2) paper and one (1) PDF on disk in the submittal.

The City of Daphne reserves the right to (1) reject any or all proposals not in compliance with RFQ procedures if it is in the best interest of the public to do so, (2) to take no action on the accepted RFQ's (3) waive informalities in the proposals, (4) to select the proposals which appear to be in the best interest of the City, and (5) limit the number of qualifying firms to be selected.

# REQUEST FOR QUALIFICATIONS (RFQ) For Engineering Services City of Daphne

**Proposal Content:**

For consistency in proposals, please arrange content in the order listed in the table below, i.e., introductory letter first, information about insurance coverage second, etc. Please note the maximum number of pages allowed for each section. An explanation of the information sought about the content is set out below.

Proposal Content	Maximum No. of Pages
1. Introductory Letter	1
2. Insurance Coverage	1
3. Firm Qualifications	2
4. Resident Professional (Civil) Engineer Qualifications	1
5. Key Personnel Qualifications	3
6. Quality of Municipal and Utility Client Service	4
7. Supporting Information (including Resident Engineer's resume, office location, and key personnel resumes)	No Limit

**1. INTRODUCTORY LETTER**

An executive summary of the firm's history and relationship to the community including a statement in the letter naming the person or persons authorized to represent the consultant in any negotiations and sign any contract that may result.

**2. INSURANCE COVERAGE**

Coverage shall meet or exceed the City's required insurance coverage as described in the City's Professional Services Agreement. Provide a statement indicating that the firm has in effect or can obtain the insurance coverage required by the City (do not provide insurance certificates with the proposal).

**3. FIRM QUALIFICATIONS**

Provide a statement that portrays the firm's qualifications as related to the local office and experience in relation to the described work. The response should address the following:

- a. General qualifications and experience of the firm. Please limit information to that which is specific to the local office.
- b. Specific areas of expertise applicable to the described work.
- c. Similar projects, by type, location and total project cost, which have been performed by the firm. Do not include projects that current personnel performed for another firm. (Please note proposals may be excluded from further consideration if projects are included that the firm did not perform)
- d. If including a subconsultant, include their role in the described work: prime consultant or sub-consultant.

**REQUEST FOR QUALIFICATIONS (RFQ)  
For Engineering Services  
City of Daphne**

**4. RESIDENT PROFESSIONAL (CIVIL) ENGINEER QUALIFICATIONS**

Provide a statement that portrays how the qualifications and experience of the firm's proposed Resident Professional (Civil) Engineer relate to the described work. Only provide information for those personnel that the firm is proposing to perform the work. Qualifications should describe experience as it relates to municipal and/or utility work.

**5. KEY PERSONNEL QUALIFICATIONS**

Provide a statement that portrays how the qualifications and experience of the firm's proposed key personnel relate to the described work. Only provide information for those personnel that the firm is proposing to perform the work. Under this contract, the response should address the following:

- a. Qualifications and experience of principals and proposed key personnel with respect to the work as described in this RFQ. Identify any applicable registrations. Clearly note projects performed by personnel that were performed for another firm.
- a. If subconsultants are included to assemble a project team, their qualifications and experience of proposed key personnel should be described with respect to the relevant category or subcategory of work.

**6. QUALITY OF MUNICIPAL and UTILITY CLIENT SERVICE**

One of the City's interests will be the commitment of the consultant's project team during the life of the project. The consultant's demonstrated commitment to the project will be a consideration in future engagements with the consulting firm. Provide a statement (4 pages) that demonstrates the quality of service provided to Municipal and/or Utility clients and provide a minimum of five references with the names, addresses and telephone numbers of current and past clients for whom the proposer has provided similar professional services.

**7. SUPPORTING INFORMATION**

This supporting information at a minimum shall include Resident Engineer's resume, office location and key personnel resumes. The proposer may also include any other information deemed pertinent to this RFQ.

**Questions or Additional Information:**

Richard D. Johnson, P.E.  
Public Works Director  
26435 Public Works Road  
Daphne, AL 36526

Phone: (251) 621-3182  
Fax: (251) 621-3189  
Cell: (251) 379-1305  
Email: [directorpw@daphneal.com](mailto:directorpw@daphneal.com)

WHEREAS, the City desires to use qualified Consulting Engineers to perform certain professional planning, programming, and engineering services as outlined in the Scope of Services;

WHEREAS, the qualified Consulting Engineers desires to perform said professional services for the City;

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter stipulated to be kept and performed, the parties (as listed in Appendix A) hereto agree as follows:

## **ARTICLE I - SCOPE OF SERVICES**

The City will assign Projects to the pre-qualified Consulting Engineer (to be referred to as Engineer) on an equitable rotation basis. The Scope for each individual Project will be prepared by the City Public Works Director in conjunction with the selected Engineer.

Once a Scope is agreed upon for a Project, the selected Engineer will prepare a Construction Cost Estimate and schedule required to complete that Project and will submit that to the City for approval. The professional services to be provided will be based on the enclosed fee schedule. Once the Project Scope and corresponding Professional Fee Cost Estimate and schedule have been approved by the City, a fee agreement will be prepared for that Project in accordance with Method of Payment.

### *SECTION I - GENERAL SERVICES*

The Engineer shall perform certain professional engineering services relating to infrastructure improvements and other Projects as authorized by the City, as follows:

- A. Survey, Design, and Letting
  1. Attend meetings regarding proposed projects.
  2. Prepare preliminary layouts and sketches if needed.
  3. Prepare preliminary construction cost estimates.
  4. Field surveys for design and layout.
  5. Design the work.
  6. Prepare detailed contract drawings and specifications for construction.
  7. Prepare construction estimates of quantities and cost.
  8. Assembling and mailing Contract Documents on behalf of the City.
  9. Assist the City in receiving bids.
  10. Tabulate bids and make recommendations concerning award.
  11. Assist the City in the award of the Contract.

## B. Construction Services

1. Attend meeting with the City officials as required and assist in administering the construction contracts.
2. Recover and/or furnish reference line and bench marks for control of the work.
3. Review shop drawings and manufacturer's drawings pertaining to the improvements for compliance with the design concept.
4. Review laboratory, mill and shop tests of materials to be incorporated into the work.
5. Provide field reviews of the work and interpret the plans and specifications by periodic visits to the site by one or more design engineers.
6. Provide the services of a resident project representative, and assistants if required, in order that the work under progress shall have continuous close review. The ENGINEER will endeavor to protect the City against defects and deficiencies in the work of contractors, but does not guarantee the work or performance of the contractors. Duties, Responsibilities, and Limitations of Authority of Resident Project Representative have been attached to this Agreement in Appendix B.
7. The ENGINEER is not responsible under this Agreement to act as foreman, superintendent, and safety engineer or for the safety of the contractor's personnel.
8. Review and approve contractor's estimates for work performed for payment by the City.
9. Make final review of the construction upon completion and revise the construction drawings to show the project "record drawing", and certify that in accord with knowledge required to meet professional engineering standards of practice, the project was built in accordance with the Construction Contract Plans and Specifications.
10. Field measure pay quantity items of work for preparation of final construction estimate for approval by contractor and payment by the City.
11. The City will provide Laboratory services for all soils studies and reports and for all inspectors and tests requiring the services of a laboratory throughout the construction of the project.
12. The ENGINEER will furnish the City with up to a reasonable number of sets of all plans, reports, and specifications. Additional sets will be furnished at cost.

## C. Work Not Included

Specialized services, unless specifically stated in the established Project Scope, such as laboratory testing of materials, subsurface borings and activities of a similar nature, which require specialized equipment and technicians are not part of this Agreement. These special services also include the performance of property, or boundary surveys, services on calculations of special assessment, or operating manuals and operator training. The ENGINEER is not responsible under this Agreement to audit contractor's payrolls or records, or to check payrolls for compliance with wage rates or to act as foreman, superintendent, safety engineer, or for the safety of the contractors personnel, or to enforce governmental

clauses made part of the construction contract as to consideration of the City receiving governmental loans or grants.

## *SECTION II - SPECIAL SERVICES*

At the written request of the City, the Engineer shall accomplish such special services as required by the City. When the Engineer is requested to provide special services, such services may be provided by Engineer's own forces or through subcontracts with other professionals. However, contracts with other professionals for special services must have the written approval of the City before the work is initiated. Special services which may be requested include, but are not necessarily limited to the following:

- A. Land Surveys and Engineering as necessary to establish property boundaries and prepare descriptions, and prepare property maps required for property right-of-way or easement acquisition purposes.
- B. Soils and Material Investigations including test borings, laboratory and field testing of soils and materials and related reports as required for design and construction quality control purposes.
- C. Engineering Surveys (other than required for design and construction) to include topographic surveys, base fine surveys, cross section surveys, aerial photography, etc., as required and approved by the City.
- D. Assistance to the City as expert witness in litigation arising from development or construction of any project.
- E. Accomplishment of special surveys and investigations, and the preparation of special reports and drawings as may be requested or authorized in writing by the City.
- F. Prepare pre-applications and applications for federal and/or state assistance grants for funding of projects.
- G. Assist the City, or other engineers engaged by the City, as requested in the development of information required to complete and submit permit applications or permit compliance responses.
- H. Attend meetings with the City and other governmental agencies as requested during planning and permitting processes.
- I. Perform other services as requested by the City.

## **ARTICLE II - GENERAL PROVISIONS**

### *SECTION I - RESPONSIBILITIES OF THE CITY*

The Engineer agrees to provide professional services for all services included in Article I - Scope of Services and the City agrees to pay the Engineer as compensation for its services as specified below:

Fees - It is mutually agreed that compensation to the ENGINEER will be as follows:

- A. For all work associated with Survey, Design, and Letting as specified in General Services, the fee shall be based on either (a) a percentage of the estimated\* construction cost of each individual construction project as specified below, or (b) a lump sum basis for each individual construction project, as authorized by the City.

\*If the project is undertaken by the City, fees shall be corrected based on "Actual" Construction cost.

The percentage of construction cost for determination of Survey, Design, and Letting fees based on a percentage of construction costs shall be in accordance with the following:

CONSTRUCTION COSTS		SURVEY, DESIGN, & LETTING PHASE – FEE %	
\$	\$	GDBP*	RRR**
Less than	\$ 100,000	10.5%	9%
\$ 100,000	\$ 250,000	9.5%	8%
\$ 250,000	\$ 500,000	8.5%	7%
\$ 500,000	\$ 750,000	7.75%	6.25%
\$ 750,000	\$1,000,000	7.5%	6%
\$1,000,000	\$2,000,000	7%	5.5%
\$2,000,000	\$4,000,000	6.75%	5.25%
\$4,000,000	And above	6.25%	5%

\*GDBP – Grading, Drainage, Base, and Pavement Projects

\*\*RRR - Resurfacing, Restoration and Rehabilitation Projects

It is mutually agreed that the ENGINEER's Design fee by this method shall not be less for construction cost in the lower range of one construction step than is available by utilizing the maximum construction cost and percentage for the preceding lower construction step.

For all work associated with Survey, Design, and Letting required to complete detailed plans and specifications for individual construction projects, payment shall be made periodically, based on City approved percentage of completion of the plans and specifications for each project.

- B. For all work associated with construction services as specified in Construction Services, the fee shall be based on either (a) a percentage of the construction cost of each individual construction project as specified below, or (b) a lump sum basis for each individual construction project, as authorized by the City. The percentage of construction

costs for determination of construction services fees based on a percentage of construction costs shall be in accordance with the following:

CONSTRUCTION COSTS		CONSTRUCTION (CE&I) PHASE – FEE %	
\$	\$	GDBP*	RRR**
Less than	\$ 100,000	12.75%	11.25%
\$ 100,000	\$ 250,000	11.5%	10%
\$ 250,000	\$ 500,000	10.5%	9%
\$ 500,000	\$ 750,000	9.5%	8%
\$ 750,000	\$1,000,000	9.25%	7.75%
\$1,000,000	\$2,000,000	8%	6.5%
\$2,000,000	\$4,000,000	7.75%	6.25%
\$4,000,000	And above	7.5%	6%

\*GDBP – Grading, Drainage, Base, and Pavement Projects

\*\*RRR - Resurfacing, Restoration and Rehabilitation Projects

It is mutually agreed that the ENGINEER's Construction Services fee by this method shall not be less for construction cost in the lower range of one construction step than is available by utilizing the maximum construction cost and percentage for the preceding lower construction step.

The length of time covered by the above fee shall be the length of time in calendar days in which construction contractors will have to complete the various contracts and will be agreed upon by the City and the ENGINEER prior to issuance of contract documents and will be so stated therein. The City will reimburse the Engineer for Construction Phase Services required in completion of the project beyond the agreed to calendar days due to the delinquency or insolvency of the contractor or for any reason beyond the control of the Engineer, other than time extensions granted the contractor due to an increase in the scope of work.

No additional compensation shall be paid to the Engineer until project time is exceeded 110% of contracted calendar days. Compensation shall be made on the basis of on a cost of average daily fee basis calculated as follows:

$$\text{Average Daily Fee} = \frac{(\text{Const. Cost} \times \text{Fee \%})}{(\# \text{ Contract Days})}$$

Payment to be made within 30 days after receipt of certified invoices by the Engineer.

- C. For all work associated with Special Services as specified in that section, The City shall submit a scope of work requested to the selected or qualified engineer(s). The selected

or qualified engineer(s) shall submit a "lump sum" quote for the Special Services outlined in the scope of work. The selected or qualified engineer(s) shall be paid on a lump sum basis for each individual Special Service construction project, as authorized by the City. The quoted fee shall remain fixed unless the City changes the scope of work significantly altering construction cost or quantities in excess 10% of the original bid cost. Prior to acceptance of the change order or a significant change in scope of work, the engineer must submit an amended quote for approval. This fee change should correlate with the same percentage rate increase of the construction cost.

- D. Partial payments for all services performed by the Engineer under the terms of the Agreement shall be made no more often than monthly to the Engineer by the City upon receipt and approval of invoices and other evidence of performance as may be deemed necessary by the City. The City is allowed up to forty-five (45) days of the date of invoice to make payment of properly submitted and approved invoices.
- E. For Projects involving a supplemental agreement, the scope of services and amount of compensation to be paid will be included herein.
- F. The City will pay the Engineer for special services performed by sub-consultants at the actual invoice amount times a factor of 1.10 for assisting and coordinating the sub-consultants services. Prior to the City authorizing the employment of sub-consultants, the full provisions of Article II, Section I, Subsection C apply.
- G. The City as purchaser of the services described herein shall pay any applicable sales tax in the manner and in the amount as required by law.

### *SECTION III - MISCELLANEOUS*

- A. Extra Work: It is mutually understood and agreed that the City will compensate the Engineer for services resulting from significant changes in general scope of a project or its design, including but not necessarily limited to, change in size, complexity. Project schedules, character of construction, revisions to previously accepted studies, reports, design documents or contract documents and for preparation of documents for separate bids, when such revisions are due to causes beyond the Engineer control and when requested or authorized by the City. Compensation for such extra work when authorized by the City shall be mutually agreed upon prior to beginning the extra work.
- B. Extra Work caused by deficiency in design: It is mutually understood and agreed that extra work cause by errors and omissions of the engineer shall not be subject to compensation by the City and shall be the sole burden of the engineer. In addition if said deficiencies in design lead to project time overruns the obligation of the engineer to manage the construction remains without any expectation of compensation for the additional time.
- C. Ownership of Documents and Electronic Media: All documents and electronic media including Drawings, CAD files and Specifications prepared or furnished by Engineer (and Engineer's independent professional associates and consultants) pursuant to this Agreement are instruments produced for and shall be owned by the City. If these documents are reused by the City or others on extensions of the Project or on any other project will be at Owner's sole risk and without liability or legal exposure to the original Engineer, or to Engineer independent professional associates or consultants, and the

City shall indemnify and hold harmless the Engineer and Engineer's independent professional associates and consultants from all claims, damages, losses and expenses including attorney's fees arising out of or resulting therefrom.

- D. Responsibility of the Engineer: The Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the Engineer under this Agreement. These services when performed in accordance with acceptable engineering and architectural practices shall be the limit of the Engineers responsibility under this Agreement. The Engineer shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and other services.
- E. Responsibility for Claims and Liability: To the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, employees, agents and independent professional associates and consultants, and of any of them I to the City and anyone claiming by, through or under the City, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to Engineer's services, the project or this agreement from any cause or causes whatsoever, including but not limited to the negligence, errors, omissions, strict liability or breach of contract Engineers or Engineer's officers, director, employees, agents or independent professional associates or consultants, or any of them, shall be the maximum compensation required to satisfy all injuries, claims, losses, expenses, or damages, including punitive damages.
- F. Insurance: Engineer shall furnish the City with Certificate of Insurance from a carrier approved by the Finance Director confirming following coverages:

Comprehensive and Business Liability

Bodily Injury and Property Damage	Limits of Liability
Each Occurrence	\$500,000.00
General Aggregate	\$2,000,000.00
Products Completed	
Operations Aggregate	\$2,000,000.00

Workers' Compensation and Employers Liability

Workers' Compensation	Statutory
Bodily Injury	
Each Accident	\$100,000.00
Disease Each Employee	\$100,000.00
Disease - Policy Limit	\$500,000.00

Automobile

Bodily Injury Per Person/Occurrence	\$500,000.00/\$500,000.00
Property Damage	\$100,000.00
Uninsured Motorist Per Person/Occurrence	\$100,000.00/\$300,000.00

- G. Termination: In the event of failure by the Engineer to fulfill in timely and proper manner his obligations under this Agreement, or if the Engineer violates any of the covenants, contracts, or stipulations of this Agreement, the City shall thereupon have the right to terminate that Engineer's involvement in this Agreement by written notice to the Engineer of such termination, specifying the effective date thereof at least five days before the effective date of such termination.
  
- H. Contract Period: All contracts, agreements, provisions and stipulations of this Agreement shall remain in full force for a period of three (3) years from the date of the Agreement, and for such periods as the contract time may be extended by mutual written agreement between the City and the participating Engineer(s).
  
- I. Successors and Assigns:
  - 1. The City and Engineer each is hereby bound and the partners, successors, executors, administrators and legal representatives of the City and Engineer (and to the extent permitted by paragraph 2, the assigns of the City and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.
  - 2. Neither the City nor Engineer shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Engineer from employing such independent professional associates and consultants as Engineer may deem appropriate to assist in performance of services hereunder.
  - 3. Nothing under this Agreement shall be construed to give any right or benefits in this Agreement to anyone other than the City and Engineer, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the City and Engineer and not for the benefit of any other party.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement in duplicate as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST:

The City of Daphne

\_\_\_\_\_  
Signature  
City Clerk

\_\_\_\_\_  
Signature  
Mayor

**Appendix A – Approved Consulting Engineers**

1. **Firm  
Address  
City, State, Zip**

**ATTEST:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

2. **Firm  
Address  
City, State, Zip**

**ATTEST:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

3. **Firm  
Address  
City, State, Zip**

**ATTEST:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**Appendix A – Approved Consulting Engineers (Continued)**

**4. Firm  
Address  
City, State, Zip**

**ATTEST:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**5. Firm  
Address  
City, State, Zip**

**ATTEST:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**6. Firm  
Address  
City, State, Zip**

**ATTEST:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

## Appendix B – Resident Construction Surveillance Representative (Page 1/3)

### A. General

Resident Construction Surveillance Representative is Engineer's Agent, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding his actions. Resident Construction Surveillance Representative's dealings in matters pertaining to the on-site work shall in general be only with the Engineer and Contractor, and dealings with subcontractors shall only be through or with the full knowledge of Contractor. Written communication with the City will be only through or as directed by Engineer.

### B. Duties and Responsibilities

Resident Construction Surveillance Representative will:

1. Conferences: Attend preconstruction conferences. Attend progress meetings and other job conferences as required in consultation with Engineer.
2. Schedules: Review the progress schedule, schedule of Shop Drawing submissions and schedule of values prepared by Contractor.
3. Representative:
  - a. Serve as Engineer's Representative with Contractor, working principally through Contractor's superintendent and assist him in understanding the intent of the Contract Documents. Assist Engineer in serving as the City's Representative with Contractor when Contractor's operations affect the City's on-site operations.
  - b. As requested by Engineer, assist in obtaining from the City additional details or information, when required at the job site for proper execution of the Work.
4. Advise Engineer and Contractor or its superintendent immediately of the commencement of any Work requiring a Shop Drawing or sample submission if the submission has not been approved by Engineer.
5. Review of Work, Rejection of Defective Work, Inspections and Tests:
  - a. Conduct, on-site observations of the Work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to Engineer whenever he believes that any work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or does not meet the requirements of any inspections, tests or approval required to be made or had been damaged prior to final payment; and advise Engineer when he believes Work should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

Appendix B – Resident Construction Surveillance Representative (Page 2/3)

- c. Verify that tests, equipment and systems start-ups and operating and maintenance instructions are conducted as required by the Contract instructions are conducted as required by the Contract Documents and in presence of the required personnel', and that Contractor maintains adequate records thereof; observe, record and report to Engineer appropriate details relative to the test procedures and start-ups.
    - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the outcome of these inspections and report to Engineer.
  6. Interpretation of Contract Documents: Transmit to Contractor Engineer's clarifications and interpretations of the Contract Documents.
  7. Modifications: Consider and evaluate Contractors suggestions for modifications in Drawings or Specifications and report them with recommendations to Engineer.
  8. Records and Reports:
    - a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, submissions, reproductions of original Contract Documents including all addenda, change orders, field orders, additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, Progress Reports, and other Project related documents.
    - b. Keep a diary or log book recording hours on the job site, weather conditions, data relative to questions of extras or deductions, list of visiting officials and representatives of manufacturers, fabricators, suppliers and distributors, daily activities,' decisions, observations in general and specific observations in more detail as *in* the case of observing test procedures. Send copies to Engineer.
    - c. Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.
    - d. Furnish Engineer periodic reports as required of the Work and Contractor's compliance with the approved progress schedule.
    - e. Consult with Engineer in advance of scheduling major tests, inspections or start of important phases of the Work.
    - f. Report immediately to Engineer upon the occurrence of any accident.
  9. Payment Requisitions: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward them with recommendations to Engineer, noting particularly their relation to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.

10. Completion:

- a. Before Engineer issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- b. Conduct final inspection in the company of the Engineer, the city and the Contractor and prepare a final list of items to be completed or corrected.
- c. Verify that all items on final list have been completed or corrected and make recommendations to Engineer concerning acceptance.

C. Limitations of Authority

Except upon written instructions of Engineer, Resident Construction Surveillance Representative:

1. Shall not authorize any deviation from the Contract Documents or approve any substitute materials or equipment.
2. Shall not exceed limitations on Engineer's authority as set forth in the Contract Documents.
3. Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.
4. Shall not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences of procedures of construction.
5. Shall not advise on or issue directions as to safety precautions and programs in connection with the Work.
6. Shall not authorize the City to occupy the Project in-whole or in part, unless it is in the City's best interest.
7. Shall not participate in specialized field or laboratory test, unless directed by the City.
8. Shall not accept shop drawings or submittals, as these shall be made to the Engineer.

already has alcohol + business license

CASE NO. \_\_\_\_\_

ABC LICENSE ROUTING

DATE RECEIVED BY REVENUE DIV. 3-12-13 (initial) aa

DATE FORWARDED TO POLICE DEPT. 3-12-13 aa

DATE RECEIVED BY POLICE DEPT. 3-14-13 [Signature]

DATE: 3/14/13 APPROVED  DISAPPROVED

POLICE DEPT SIGNATURE [Signature] Brian Gulsby

DATE RETURNED TO REVENUE DIV. 3-14-13 [Signature]

DATE FORWARDED TO CITY CLERK 3-22-13 aa

DATE RECEIVED BY CITY CLERK 3-22-13 RH

SCHEDULED DATE ON AGENDA 4-15-13 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: 20130312103428289



If applicant is leasing the property, is a copy of the lease agreement attached? YES  
 Name of Property owner/lessor and phone number: ROCKWELL RENTALS INC 251-928-9265  
 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? NO  
 Does the establishment have restroom facilities? YES  
 Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? YES

Will the business be operated primarily as a package store? NO  
 Building Dimensions Square Footage: 3300 Display Square Footage:  
 Building seating capacity: 20 Does Licensed premises include a patio area? NO  
 License Structure: ONE STORY License covers: OTHER  
 Number of licenses in the vicinity: 1 Nearest: .01  
 Nearest school: .1 miles Nearest church: .1 miles Nearest residence: 2 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: 20130312103428289**



**Initial each**

**Signature page**

JAC  
 JAC

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.

JAC

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.

JAC

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.

JAC

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

JAC

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

JAC

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.

JAC

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.

JAC

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): *Jim Cox*

Signature of Applicant: *JAC*

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

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

Application Taken: *3/12/13* 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:



**STATE OF ALABAMA**  
**ALCOHOLIC BEVERAGE CONTROL BOARD**  
 ALCOHOL LICENSE APPLICATION  
 Confirmation Number: 20130312103428289



**Private Clubs / Special Retail / or Special Events licenses ONLY**

**Private Club**

Does the club charge and collect dues from elected members?  
 Number of paid up members:  
 Are meetings regularly held?  
 How often?  
 Is business conducted through officers regularly elected?  
 Are members admitted by written application, investigation, and ballot?  
 Has Agent verified membership applications for each member listed?  
 Has at least 10% of members listed been confirmed and highlighted? Agent's Initials:  
 For what purpose is the club organized?  
 Does the property used, as well as the advantages, belong to all the members?  
 Do the operations of the club benefit any individual member(s), officer(s), director(s), agent(s), or employee(s) of the club rather than to benefit of the entire membership?

**Special Retail**

Is it for 30 days or less?  
 More than 30 days?  
 Franchisee or Concessionaire of above?  
 Other valid responsible organization:  
 Explanation:

**Special Events / Special Retail (7 days or less)**

Starting Date: 05/11/2013 Ending Date: 05/11/2013  
 Special terms and conditions for special event/special retail:  
 LICENSE IS NON-RENEWABLE.  
 NO ALCOHOL TO LEAVE THE FESTIVAL AREA.  
 NO CONTAINERS LARGER THAN 16OZ.  
 BEER ONLY.

**Other Explanations**

License Covers: 60 X 80 TENT

Receipt Confirmation Page

Receipt Confirmation Number: **20130312103428289**  
Application Payment Confirmation Number: **5183584**

Payment Summary	
Payment Item	Fee
Application Fee for License 140	\$50.00
<b>Total Amount to be Charged</b>	<b>\$50.00</b>

**License Payment Confirmation Number:**

Payment Summary			
Payment Item	County Fee	State Fee	Total Fee
140 - SPECIAL EVENTS RETAIL	\$212.00	\$150.00	\$362.00
			\$0.00
<b>Total Amount to be Charged</b>	<b>\$212.00</b>	<b>\$150.00</b>	<b>\$362.00</b>

Application Type

Application Type: APPLICATION

Applicant Information

License Type 1: 140 - SPECIAL EVENTS RETAIL  
License Type 2:  
License County: BALDWIN  
Business Type: LLC  
Trade Name: SOUTHERN NAPA  
Applicant Name: SOUTHERN NAPA LLC  
Location Address: 2304 MAIN ST  
DAPHNE, AL 36526  
Mailing Address: 2304 MAIN ST  
DAPHNE, AL 36526  
Contact Person: JIM COX  
Contact Home Phone: 251-802-2664  
Contact Business Phone: 251-802-2664  
Contact Fax: 251-375-2445  
Contact Cell Phone: 251-802-2664  
Contact Email Address:  
Contact Web Address:

**RESOLUTIONS**  
**&**  
**ORDINANCES**

## RESOLUTION 2013 - 24

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

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

**WHEREAS**, the items listed below are recommended for disposal.

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

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

DEPT	EQ/VEH#	DESCRIPTION	VIN
Mowing	1199	1994 GMC C3500 TRUCK	1GDJC34N4RE530289

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

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

**ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA**, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Dane Haygood, Mayor

**ATTEST:**

\_\_\_\_\_  
Rebecca A. Hayes, City Clerk

**CITY OF DAPHNE  
RESOLUTION 2013-25**

**Acceptance of Right-of-Way located from  
Well Road to County Road 13**

**Whereas**, the Baldwin County Board of Education, hereby granted unto the City of Daphne, Alabama that certain permanent right-of-way and easement located from Well Road to County Road 13 and more particularly described herein; and,

**Whereas**, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of the City of Daphne in its regularly scheduled meeting of March 28, 2013 reviewed the proposal for acceptance of said right-of-way and granted favorable recommendation for the acceptance of the same; and,

**Whereas**, the City Council of the City of Daphne believes it is in the best interest of the citizens of the City for the City to accept said permanent right-of-way and easement; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE**, that the below described permanent right-of-way and easement located from Well Road to County Road 13 is hereby accepted by the City of Daphne, Alabama as a City right-of-way for maintenance:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN N-0021'00"-E, 120.00 FEET TO A POINT; THENCE RUN S-8939'50"-E, 2607.31 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF COUNTY ROAD 13; THENCE RUN S-0025'10"-W, ALONG SAID WEST RIGHT-OF-WAY LINE, 120.00 FEET TO A POINT; THENCE RUN N-8939'50"-W, LEAVING SAID WEST RIGHT-OF-WAY LINE, 2607.16 FEET TO THE POINT OF BEGINNING, CONTAINING 7.18 ACRES, MORE OR LESS.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

**THE CITY OF DAPHNE,  
AN ALABAMA MUNICIPAL CORPORATION**

\_\_\_\_\_  
**DANE HAYGOOD,  
MAYOR**

**ATTEST:**

\_\_\_\_\_  
**REBECCA A. HAYES,  
CITY CLERK**

To: Office of the City Clerk  
From: Adrienne D. Jones,  
Director of Community Development  
Subject: Acceptance of the right-of-way and  
maintenance thereof for the extension  
of Well Road to County Road 13  
Date: April 1, 2013

## MEMORANDUM

**LOCATION:** Well Road to County Road 13

**RECOMMENDATION:** At the Thursday, March 28, 2013, regular meeting of the Daphne Planning Commission, eight members were present, and the motion set forth a **favorable recommendation** carried unanimously for acceptance of the right-of-way.

Attached please find said documentation for placement on the Monday, April 15, 2013 City Council agenda.

Thank you,  
ADJ/jv

cc: file  
Richard Johnson, Public Works Director

attachment(s)

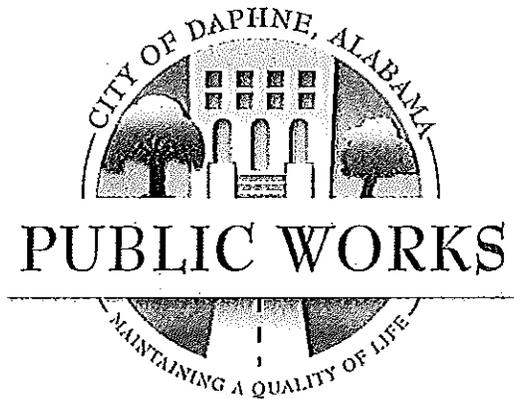
1. Memorandum from the Public Works Director
2. Resolution
3. Map of Property

Dane Haygood  
Mayor

Rebecca Hayes  
Interim City Clerk

Kimberly Briley  
Finance Director/Treasurer

Richard D. Johnson, P.E.  
Director of Public Works



FILE COPY

Tommie Conaway  
District 1

Pat Rudicell  
District 2

John L. Lake  
District 3

Randy Fry  
District 4

Ronald Scott  
District 5

Robin LeJeune  
District 6

District 7

To: Honorable Mayor Dane Haygood

Cc: Adrienne Jones – Director of Community Development; City Clerk; File

From: Richard D. Johnson, P.E.  
Public Works Director

A handwritten signature in black ink, appearing to read "Richard D. Johnson", is written over the printed name and title.

Date: February 5, 2013

**RE: Acceptance of ROW and Maintenance of Well Road Extension**

In the fall of 2012 the extension of Well Road was completed to County Road 13. This road was improved per the development standards of the City of Daphne. The Project has been closed out and the work has been inspected and accepted by the Project Engineers and the Public Works Director.

I am asking that you make a formal request of the Planning Commission to deliberate on and make recommendation to the City Council to take the following actions related to the extension of Well Road:

1. Accept the Rights-Of-Way Easement as Granted by the Baldwin County Board of Education
2. Bring into the City road inventory for maintenance.

If I can be of further assistance, do not hesitate to contact me.

Yours,

RDJ

Attachments: R.O.W. Easement, legal description, map

WELL ROAD EXTENSION – LEGAL DESCRIPTION

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN N-00°21'00"-E, 120.00 FEET TO A POINT; THENCE RUN S-89°39'50"-E, 2607.31 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF COUNTY ROAD 13; THENCE RUN S-00°25'10"-W, ALONG SAID WEST RIGHT-OF-WAY LINE, 120.00 FEET TO A POINT; THENCE RUN N-89°39'50"-W, LEAVING SAID WEST RIGHT-OF-WAY LINE, 2607.16 FEET TO THE POINT OF BEGINNING, CONTAINING 7.18 ACRES, MORE OR LESS.

**CITY OF DAPHNE  
RESOLUTION 2013-\_\_**

**Acceptance of Right-of-Way located from  
Well Road to County Road 13**

**Whereas**, the Baldwin County Board of Education, hereby granted unto the City of Daphne, Alabama that certain permanent right-of-way and easement located from Well Road to County Road 13 and more particularly described herein; and,

**Whereas**, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of the City of Daphne in its regularly scheduled meeting of March 28, 2013 reviewed the proposal for acceptance of said right-of-way and granted favorable recommendation for the acceptance of the same; and,

**Whereas**, the City Council of the City of Daphne believes it is in the best interest of the citizens of the City for the City to accept said permanent right-of-way and easement; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE**, that the below described permanent right-of-way and easement located from Well Road to County Road 13 is hereby accepted by the City of Daphne, Alabama as a City right-of-way for maintenance:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN N-0021'00"-E, 120.00 FEET TO A POINT; THENCE RUN S-8939'50"-E, 2607.31 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF COUNTY ROAD 13; THENCE RUN S-0025'10"-W, ALONG SAID WEST RIGHT-OF-WAY LINE, 120.00 FEET TO A POINT; THENCE RUN N-8939'50"-W, LEAVING SAID WEST RIGHT-OF-WAY LINE, 2607.16 FEET TO THE POINT OF BEGINNING, CONTAINING 7.18 ACRES, MORE OR LESS.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

**THE CITY OF DAPHNE,  
AN ALABAMA MUNICIPAL CORPORATION**

\_\_\_\_\_  
**RON SCOTT  
COUNCIL PRESIDENT  
DATE AND TIME SIGNED: \_\_\_\_\_**

\_\_\_\_\_  
**DANE HAYGOOD  
MAYOR  
DATE AND TIME SIGNED: \_\_\_\_\_**

**ATTEST:**

\_\_\_\_\_  
**REBECCA HAYES, CITY CLERK**



**CITY OF DAPHNE**  
**RESOLUTION 2013 -26**

**Acceptance of Street and Drainage  
Located in the Tiawasee Trace Subdivision**

**Whereas**, the Planning Commission of Daphne granted final plat approval for Tiawasee Trace Subdivision on August 28, 1997 and for Estates of Tiawasee Subdivision on September 25, 2008; and,

**Whereas**, the City Council of the City of Daphne, Alabama accepted streets and drainage for Tiawasee Trace subdivision as recorded in the Baldwin County Judge of Probate Office as slide #1778-B, on April 19, 1999, Resolution 1999-30; and,

**Whereas**, the City Council of the City of Daphne, Alabama accepted streets and drainage for The Estates of Tiawasee subdivision as recorded in the Baldwin County Judge of Probate Office as slide #2407-F in April 6, 2009, Resolution 2009-21; and,

**Whereas**, a portion of North Lamhatty Lane was not included in either Resolution for acceptance, an inspection was made by the Director of the Division of Public Works, and has recommended acceptance of said right-of-way;

**Whereas**, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of the City of Daphne in its regularly scheduled meeting of March 28, 2013 reviewed the proposal and made a favorable recommendation for the acceptance of the same; and,

**Whereas**, the City Council of the City of Daphne believes it is in the best interest of the citizens of the City for the City to accept said right-of-way; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE**, that the below described right-of-way, a portion of North Lamhatty Lane, contained within Tiawasee Trace Subdivision is hereby accepted by the City of Daphne, Alabama as a city street for maintenance:

From the western corner of Lot 14 (POINT OF BEGINNING), Tiawasee Trace Subdivision, as recorded with the Judge of Probate on Slide 1778-B, Section 9, Township 5 South, Range 2 East, Baldwin County, Alabama, thence run North 43°-49'-06" West, 60.0 feet to a point, thence run South 46°-10'-26" West ± 209 feet to a point, thence run North 58°-15'-47" West 61.91 feet to a point, thence run North 46°-10'-26" East ± 196 feet to the POINT OF BEGINNING, containing 0.28 ± acres more or less.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

**THE CITY OF DAPHNE,  
AN ALABAMA MUNICIPAL CORPORATION**

\_\_\_\_\_  
**DANE HAYGOOD, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**REBECCA A. HAYES, CITY CLERK**

To: Office of the City Clerk  
From: Adrienne D. Jones, ~~Director of Community Development~~  
Subject: Acceptance of a portion of the right-of-way and maintenance of North Lamhatty Lane  
Date: April 1, 2013

## MEMORANDUM

**LOCATION:** A portion of North Lamhatty Lane (the bridge and the approach)

**RECOMMENDATION:** At the Thursday, March 28, 2013, regular meeting of the Daphne Planning Commission, eight members were present, and the motion set forth a **favorable recommendation** carried unanimously for acceptance of the right-of-way.

Attached please find said documentation for placement on the Monday, April 15, 2013 City Council agenda.

Thank you,  
ADJ/jv

cc: file  
Richard Johnson, Public Works Director

attachment(s)

1. Memorandum from the Public Works Director
2. Resolution
3. Resolution No. 1999-30, Tiawasee Trace and recorded plat
4. Resolution No. 2009-21, the Estates of Tiawasee and recorded plat

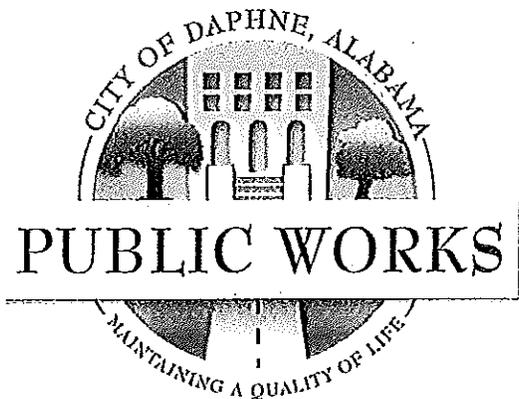
FILE COPY

Dane Haygood  
Mayor

Rebecca Hayes  
Interim City Clerk

Kimberly Briley  
Finance Director/Treasurer

Richard D. Johnson, P.E.  
Director of Public Works



Tommie Conaway  
District 1

Pat Rudicell  
District 2

John L. Lake  
District 3

Randy Fry  
District 4

Ronald Scott  
District 5

Robin LeJeune  
District 6

District 7

To: Honorable Mayor Dane Haygood

Cc: Adrienne Jones – Director of Community Development; City Clerk; File

From: Richard D. Johnson, P.E.  
Public Works Director

Date: February 20, 2013

**RE: Acceptance of ROW and Maintenance of a Portion of North Lamhatty Lane**

Due to phasing issue with the development of Tiawasee Trace and The Estates of Tiawasee a portion of North Lamhatty Lane was omitted from street acceptance by the City. This R.O.W. and the roadway contained in, was improved per the development standards of the City of Daphne. The Project has long been closed out and the work was inspected and accepted by the Project Engineers and the Public Works Director at that time. In fact, the City has been conducting routine inspections and maintenance since the roadway was open.

I am asking that you make a formal request of the Planning Commission to deliberate on and make recommendation to the City Council to take the following actions related to this portion of North Lamhatty Lane:

1. Accept the Rights-Of-Way as noted on the Recorded Plats of Tiawasee Trace/Estates.
2. Officially bring into the City road inventory for maintenance.

If I can be of further assistance, do not hesitate to contact me.

Yours,

RDJ

Attachments: legal description, recorded plats (Slides 1778-B & 2407-F)

A Portion of North Lamhatty Lane

**Legal Description:**

*From the western corner of Lot 14 (POINT OF BEGINNING), Tiawasee Trace Subdivision, as recorded with the Judge of Probate on Slide 1778-B, Section 9, Township 5 South, Range 2 East, Baldwin County, Alabama, thence run North 43°-49'-06" West, 60.0 feet to a point, thence run South 46°-10'-26" West ± 209 feet to a point, thence run North 58°-15'-47" West 61.91 feet to a point, thence run North 46°-10'-26" East ± 196 feet to the POINT OF BEGINNING, containing 0.28 ± acres more or less.*

**Layman's Description:**

*A 60 foot Rights-Of-Way, with a centerline distance of ± 203 feet, connecting Tiawasee Trace Subdivision (Slide 1778-B) to The Estates of Tiawasee (Slide 2407-F), Via North Lamhatty Lane, as noted on the Final Plat of Tiawasee Trace Subdivision (Slide 1778-B) as "Future Right Of Way", containing ± 0.28 Acres lying in Section 09, Township 5 South, Range 2 East, City of Daphne, Baldwin County, Alabama.*

Prepared By:

Richard D. Johnson, P.E.  
Director of Public Works  
P.O. Box 400  
Daphne, AL 36526

**RESOLUTION 1999-30**

**Acceptance of Streets and Drainage  
located in Tiawasee Trace Subdivision**

Whereas, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval and recommends acceptance of the streets located in Tiawasee Trace; and,

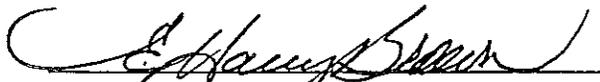
Whereas, an inspection was made by the Public Works Director. All reports, as well as, all other related documents are on file and the streets and drainage have been installed in conformity with City standards; and,

Whereas, the Utilities Board of the City of Daphne has accepted the utilities of Tiawasee Trace; and,

Whereas, the developer has provided to the City a two-year construction warranty bond for maintenance of improvements as required by the City of Daphne Land Use and Development Ordinance; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS**, that Tiawasee Trace Subdivision, according to the plats by McCrory & Williams, recorded in the Judge of Probate, Baldwin County, Alabama, and said streets being named North Lamhatty Lane, South Lamhatty Lane, Tiawasee Boulevard, and Tawasha Court are hereby accepted by the City of Daphne, Alabama as a City street for maintenance.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE 19th DAY OF April, 1999.**

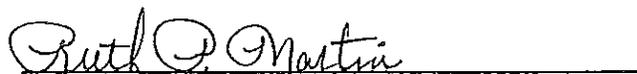
  
MAYOR E. HARRY BROWN

**ATTEST:**

  
RUTH P. MARTIN, CITY CLERK

**COUNTY OF BALDWIN )  
STATE OF ALABAMA )**

I, Ruth P. Martin, City Clerk of the City of Daphne, Alabama, do hereby certify the foregoing to be a true and exact copy of a resolution adopted by the City Council of the City of Daphne, Alabama at its meeting on the 19th day of April, 1999.

  
Ruth P. Martin, City Clerk, CMC



RESOLUTION 2009-21

Acceptance of Streets and Drainage  
Located in the Estates of Tiawasee Subdivision

Whereas, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval to the Estates of Tiawasee Subdivision on September 25, 2008, and the City of Daphne hereby recommends acceptance of said street(s) located in the Estates of Tiawasee Subdivision; and,

Whereas, an inspection has been made by the Director of Community Development, and all reports, as well as, all other related documents have been provided stating that said street(s) and storm water drainage have been installed in conformity with city standards; and,

Whereas, an inspection has been made by the Director of the Division of Public Works who has accepted said streets and storm water drainage of the Estates of Tiawasee Subdivision; and,

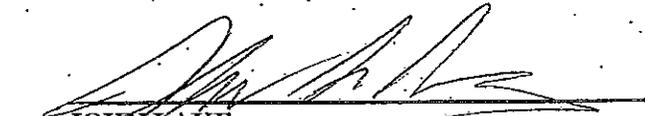
Whereas, the Utilities Board of the City of Daphne has accepted the utilities of the Estates of Tiawasee Subdivision; and,

Whereas, the developer has provided to the City a two-year maintenance warranty bond as required and requests acceptance and dedication of the same for maintenance of said improvements as outlined in Article XVII, entitled Subdivision Review of the City of Daphne Land Use and Development Ordinance; and,

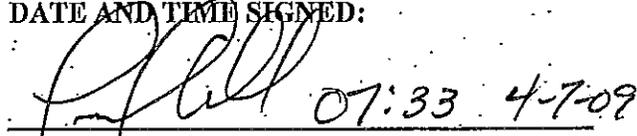
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS, that the Estates of Tiawasee Subdivision according to the plat drawn by McCrory & Williams, Inc., as recorded in the office of the Judge of Probate, Baldwin County, Alabama, and said street(s) being named Cowles Crossing, Payne's Gray, and North Lamhatty are hereby accepted by the City of Daphne, Alabama as a city street for maintenance.

ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE 6<sup>TH</sup> DAY OF APRIL, 2009.

THE CITY OF DAPHNE,  
AN ALABAMA MUNICIPAL CORPORATION

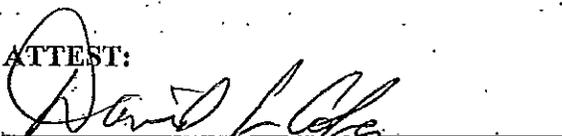
  
JOHN LAKE

COUNCIL PRESIDENT 8:16 PM 4-6-09  
DATE AND TIME SIGNED:

  
07:33 4-7-09

FRED SMALL  
MAYOR  
DATE AND TIME SIGNED:

ATTEST:

  
DAVID L. COHEN, CITY CLERK, MMC



**CITY OF DAPHNE**

**RESOLUTION 2013-27**

**Acceptance of Streets and Drainage  
Located in Caroline Woods Subdivision, Phase Two, B**

**Whereas**, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval to Caroline Woods Subdivision, Phase Two, B on February 28, 2013, and the City of Daphne hereby recommends acceptance of said street(s) located in Caroline Woods Subdivision, Phase Two, B; and,

**Whereas**, an inspection was made by the Director of Community Development. All reports, as well as, all other related documents have been provided stating that said streets and storm water drainage have been installed in conformity with city standards; and,

**Whereas**, an inspection was made by the Director of the Division of Public Works, and has accepted said streets and storm water drainage of Caroline Woods Subdivision, Phase Two, B; and,

**Whereas**, the Utilities Board of the City of Daphne has accepted the utilities of Caroline Woods Subdivision, Phase Two, B; and,

**Whereas**, the developer has provided to the City a two-year maintenance bond in the amount of \$7,719.00 as required and requests acceptance and dedication of the same for maintenance of said improvements as outlined in Article XVII, entitled Procedures for Subdivision Review of the City of Daphne Land Use and Development Ordinance; and,

**Whereas**, the developer has caused the plat to be recorded on slide 2481-E of the records in the Baldwin County Judge of Probate Office; and,

**Whereas**, the City Council of the City of Daphne believes it is in the best interest of the citizens of the City for the City to accept said right-of-way; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS**, that Caroline Woods Subdivision, Phase Two "B," fifty-foot rights-of-ways being named Kari Lane (532 linear feet) and a portion of Barrington Lane (120 linear feet) are hereby accepted by the City of Daphne, Alabama as city streets for maintenance.

**ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

**THE CITY OF DAPHNE,  
AN ALABAMA MUNICIPAL CORPORATION**

\_\_\_\_\_  
**DANE HAYGOOD, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**REBECCA A. HAYES,  
CITY CLERK**

To: Office of the City Clerk  
From: Adrienne D. Jones,  
Director of Community Development  
Subject: Caroline Woods Subdivision, Phase Two B,  
Acceptance of Roads and Rights-of-Ways  
Date: April 1, 2013

## MEMORANDUM

**LOCATION:** Northeast of the intersection of Parker Lane and Whispering Pines Road, North of Madison Place Subdivision and West of Daphne Commercial Park, Phase Two

**RECOMMENDATION:** At the March 28, 2013, regular meeting of the City of Daphne Planning Commission, eight members were present. The motion carried unanimously for a **favorable recommendation** for the acceptance of Kari Lane and a portion of Barrington Lane as a city street(s) for maintenance.

Attached please find said documentation for placement on the Monday, April 15, 2013 City Council agenda.

Thank you,  
ADJ/jv

cc: file  
Richard Johnson, Public Works Director

attachment(s)

1. Resolution
2. Correspondence from project engineer requesting acceptance
3. Record plat of Caroline Woods, Phase 2B
4. Petition of Acceptance of Roads and Rights-of-Ways
5. Copy of Maintenance Bond



March 1, 2013

Ms. Adrienne Jones  
Planning Director, City of Daphne  
P.O. Box 400  
Daphne, Alabama 36526

**RE: Caroline Woods Phase 2A**

Dear Ms. Jones:

I, Jason Estes, a professional engineer registered in the State of Alabama, Registration Number 22714, do hereby certify that the streets and drainage system **CAROLINE WOODS, PHASE 2B** have been constructed under my supervision in accordance with the approved construction plans.

I further certify I have checked all test reports and that all construction materials have been installed in accordance with the typical sections, profiles, and plan details and meet minimum requirements as set out in the State of Alabama Highway Department's Standard Specifications for Highway Construction, latest edition and current revisions.

Therefore, I hereby request that the City of Daphne accept the streets for **CAROLINE WOODS, PHASE 2B**.

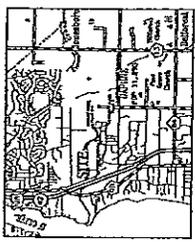
Sincerely,

A handwritten signature in black ink, appearing to read 'Jason N. Estes', written over a white background.

JASON N. ESTES, P.E.  
Project Engineer

9949 Bellaton Ave. Daphne, AL 36526  
251.990.9950 fax 251.990.9910

PROPERTY IS LOCATED IN FRAGMENTAL SECTION 8 AND GRANT SECTION 18  
TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA



**CERTIFICATION OF APPROVAL OF UTILITIES**  
I, the undersigned, being duly sworn, depose and say that the utility lines shown on the plat are in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the utility lines are shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATE OF APPROVAL BY RIVERA UTILITIES (ELECTRIC)**  
I, the undersigned, being duly sworn, depose and say that the electric utility lines shown on the plat are in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the electric utility lines are shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATE OF APPROVAL BY TELEPHONE (AT&T)**  
I, the undersigned, being duly sworn, depose and say that the telephone utility lines shown on the plat are in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the telephone utility lines are shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATION OF APPROVAL OF STREETS**  
I, the undersigned, being duly sworn, depose and say that the streets shown on the plat are in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the streets are shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATION OF APPROVAL FOR THE CITY**  
I, the undersigned, being duly sworn, depose and say that the plat is in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the plat is shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATION OF APPROVAL FOR RECORDING**  
I, the undersigned, being duly sworn, depose and say that the plat is in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the plat is shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATION OF APPROVAL FOR RECORDING**  
I, the undersigned, being duly sworn, depose and say that the plat is in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the plat is shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATION OF APPROVAL FOR RECORDING**  
I, the undersigned, being duly sworn, depose and say that the plat is in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the plat is shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATION OF APPROVAL FOR RECORDING**  
I, the undersigned, being duly sworn, depose and say that the plat is in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the plat is shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATION OF APPROVAL FOR RECORDING**  
I, the undersigned, being duly sworn, depose and say that the plat is in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the plat is shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATION OF APPROVAL FOR RECORDING**  
I, the undersigned, being duly sworn, depose and say that the plat is in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama. I further depose and say that the plat is shown in accordance with the applicable laws and regulations of the State of Alabama and the local ordinances of the City of Marietta, Alabama.

**CERTIFICATION OF APPROVAL FOR RECORDING**  
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**OWNER'S NOTES**

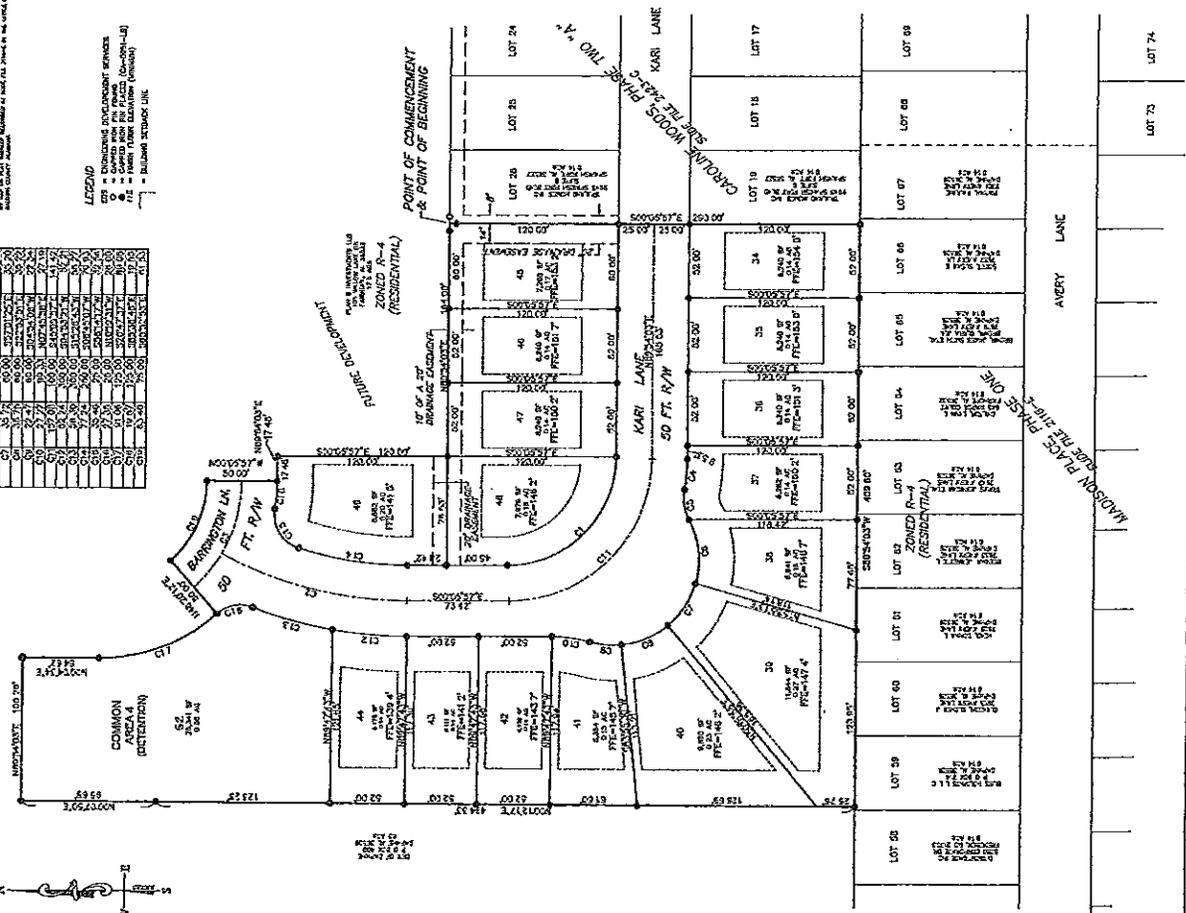
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**LEGEND**

- ESR = Existing easement

2481-E

ZONED R-3  
(RESIDENTIAL)



**SITE DATA**  
ZONING: R-3  
LOT AREA: 0.55 AC (14,000 SQ FT)  
TOTAL AREA: 0.55 AC (14,000 SQ FT)  
DENSITY: 4.02 UNITS/AC

**SETBACKS:**  
FRONT: 25 FT  
REAR: 25 FT  
SIDE: 6 FT  
SIDE STREET: 20 FT

**UTILITIES:**  
WATER SERVICE  
SEWER SERVICE  
DRAINAGE UTILITIES  
TELEPHONE SERVICE - AT&T

**GENERAL NOTES:**  
1. FOR THE LOCATION OF ALL UTILITIES, SEE CONSTRUCTION PLANS.  
2. COMMON AREA 4 IS THE BETWEEN POND AREA AND IS OWNED BY AND WILL NOT BE MAINTAINED BY THE CITY OF MARIETTA.  
3. THIS IS A SUBDIVISION OF COMMON AREA 4.  
4. THIS IS A SUBDIVISION OF COMMON AREA 4.  
5. THIS IS A SUBDIVISION OF COMMON AREA 4.  
6. THIS IS A SUBDIVISION OF COMMON AREA 4.  
7. THIS IS A SUBDIVISION OF COMMON AREA 4.  
8. THIS IS A SUBDIVISION OF COMMON AREA 4.  
9. THIS IS A SUBDIVISION OF COMMON AREA 4.  
10. THIS IS A SUBDIVISION OF COMMON AREA 4.

**PREPARED BY:**  
FRANK B. INVESTMENTS, LLC  
1000 W. MARKET STREET  
MARIETTA, AL 36007  
PH: 205-45-05-00-0-000-033-000

**STATE OF ALABAMA**  
COUNTY OF BALDWIN

**NOTARY PUBLIC**  
I, the undersigned, being duly sworn, depose and say that I am a Notary Public in and for the State of Alabama, and that I am qualified to perform the duties of a Notary Public in and for the State of Alabama.

**STATE OF ALABAMA**  
COUNTY OF BALDWIN

**NOTARY PUBLIC**  
I, the undersigned, being duly sworn, depose and say that I am a Notary Public in and for the State of Alabama, and that I am qualified to perform the duties of a Notary Public in and for the State of Alabama.

**STATE OF ALABAMA**  
COUNTY OF BALDWIN

NAME	D.E.D.	DATE	DATE	DATE	DATE
DAVID S. BOUL					

**BOUNDARY SURVEY AND PLAT OF SUBDIVISION**  
JANUARY 22, 2013 - SHEET 1 OF 1 SHEETS

**PREBLE-NISH LLC**  
CONSTRUCTION SERVICES & SURVEYING  
1000 W. MARKET STREET  
MARIETTA, AL 36007  
PH: 205-45-05-00-0-000-033-000

**FRANK B. INVESTMENTS, LLC**  
1000 W. MARKET STREET  
MARIETTA, AL 36007  
PH: 205-45-05-00-0-000-033-000

**DAVID S. BOUL**  
1000 W. MARKET STREET  
MARIETTA, AL 36007  
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PH: 205-45-05-00-0-000-033-000

CITY OF DAPHNE  
PETITION FOR ACCEPTANCE  
OF ROAD(S) AND/OR RIGHTS-OF-WAY

SUBDIVISION NAME: CAROLINE WOODS, PHASE 2B

LOCATION: northwest of the intersection  
of parker lane + whispering  
pines

THIS ACCEPTANCE OF ROADS AND RIGHTS-OF-WAY is made this 28<sup>th</sup> day of Jan., 2013 by Plan B Investments hereinafter called the Subdivider, owner of certain property located in Baldwin County, Alabama known as Subdivision to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

WHEREAS, the Subdivider has agreed to the dedication of the roads and rights-of-way located in said subdivision to the City of Daphne, and further warrants that said roads and rights-of-way are complete and are in compliance with the minimum standards as outlined for construction in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled Subdivision Review, and Article XI, Minimum Requirements and Required Improvements. The Subdivider further warrants that the same are free from defects from any cause and are free and clear of any liens and encumbrances; and,

WHEREAS, the Subdivider does hereby agree to provide a Maintenance Bond, as outlined in Article XVII, entitled Subdivision Review, in an amount equal to ten (10) percent of the total street and drainage improvements (\$ 7,719.00 ) in the subdivision for a period of two (2) years after the date of their acceptance and dedication of the same to the City. Said bond shall be required by the City as a condition to the acceptance and dedication of any new roads or rights-of-way within the City; and,

WHEREAS, the Project Engineer acting on behalf of the Subdivider does hereby certify that all roads and rights-of-ways are complete and are in compliance with the minimum standards as outlined for construction in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled, Subdivision Review, and Article XI, Minimum Requirements and Required Improvements.

WHEREAS, the City of Daphne, Alabama, acting by and through the recommendation of the City of Daphne Planning Commission, has agreed to accept the responsibility for the maintenance of the roads and rights-of-way of said subdivision subject to a two (2) year maintenance period as described above; and,

WHEREAS, the City of Daphne has agreed to accept the property within the confines of the road right-of-way which does not include drainage or utility easements or any other improvements outside of these confines.

CITY OF DAPHNE  
PETITION FOR ACCEPTANCE  
OF ROAD(S) AND/OR RIGHTS-OF-WAY

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the recommendation of the City of Daphne Planning Commission at their regular meeting of February 28, 2013. That said subdivision according the plat recorded in the Judge of Probate, Baldwin County, Alabama and said streets being named Kari Drive + Barrington Lane

are hereby accepted for maintenance by the City of Daphne, Alabama as a city street.

IN WITNESS WHEREOF, the Subdivider has caused the execution of this dedication as of the date set forth above.

Respectfully submitted,

Plan B Investments, LLC - Jacob Cunningham  
Name of Individual or Corporation

By: Jacob Cunningham  
Its: MBR

STATE OF ALABAMA    )  
COUNTY OF BALDWIN )

I, the undersigned Notary Public in and for said State and County, hereby certify that whose name as Jacob Cunningham of Plan B Inv LLC, an Alabama corporation or as owner of Manager 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 or owner and with full authority, executed the same voluntarily on the day same bears date.

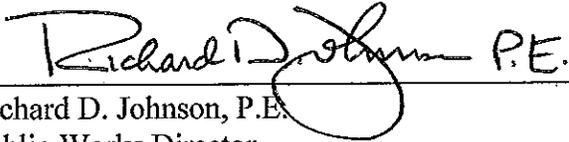
Given under my hand and official seal on this the 2<sup>nd</sup> day of January, 2013.

Lisa A Hurd (NOTARY SEAL)  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: July 28, 2014  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

**CITY OF DAPHNE**  
**PETITION FOR ACCEPTANCE**  
**OF ROAD(S) AND/OR RIGHTS-OF-WAY**

Recommendation:

 P.E.

Richard D. Johnson, P.E.  
Public Works Director  
City of Daphne



Adrienne D. Jones  
Director of Community Development  
City of Daphne

Approval:



Ed Kirby  
Planning Commission Chairman  
City of Daphne

# MAINTENANCE BOND

BOND NUMBER 21BCSGE9295

KNOW ALL MEN BY THESE PRESENTS, That we, Summit Industries, LLC  
P. O. Box 1040, Magnolia Springs, AL 36555  
(hereinafter called the Principal), and HARTFORD FIRE INSURANCE COMPANY (hereinafter called the Surety),  
are held and firmly bound unto City of Daphne

(hereinafter called the Obligee), in the full and just sum of Seven Thousand Seven Hundred Nineteen  
& no/100-----(\$7,719.00)----- Dollars,  
lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves,  
our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Principal has entered into a certain contract with Plan B Investments, LLC (Owner) for  
Roadway and Drainage for Caroline Woods Subdivision, Phase 2B

which contract has been or is about to be completed and accepted.

AND WHEREAS, specifications and contract provided that Summit Industries, LLC  
should guarantee the project free from defects caused by faulty workmanship and materials for a period of  
2 years, general wear and tear excepted.

NOW, THEREFORE, if the said project shall be free from defects of workmanship and materials, general  
wear and tear excepted, for a period of 2 years, then this obligation shall be null and void; otherwise to  
remain in full force and effect.

Signed, sealed and delivered 2/1/13

Witness as to

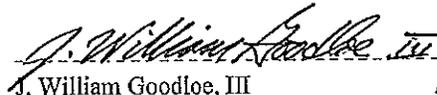
Principal

Summit Industries, LLC



(Seal)

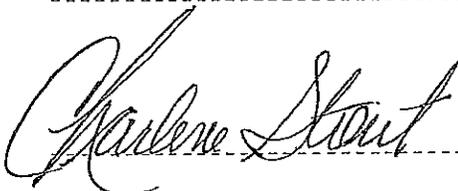
HARTFORD FIRE INSURANCE COMPANY



(Seal)

J. William Goodloe, III

Attorney-in-fact



**RESOLUTION NO. 2013-28**

**A RESOLUTION APPROVING THE CITY OF DAPHNE'S  
PARTICIPATION IN THE STATE OF ALABAMA SALES  
TAX HOLIDAY FOR THE YEAR 2013**

**BE IT RESOLVED**, by the City Council of the City of Daphne, Alabama as follows:

Section 1. Section 4 of Alabama Act No. 2006-574 grants municipal governments authority to provide for the exemption of certain covered items from the payment of municipal sales tax during a period commencing at 12:01 a.m. on the first Friday in August of each year and ending at twelve midnight the following Sunday under the same terms, conditions and definitions as provided for the state sales tax holiday.

Section 2. The City of Daphne grants approval for the exemption of certain covered items from the payment of municipal sales tax for the period commencing at 12:01 a.m. Friday, August 2, 2013 and ending at twelve midnight Sunday, August 4, 2013 under the same terms, conditions and definitions as provided for by Act No. 2006-574 and Alabama Department of Revenue Rule 810-6-3-.65.

Section 3. This Resolution shall become effective upon adoption.

**APPROVED AND ADOPTED** by the City Council of the City of Daphne, Alabama, this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
**Dane Haygood, Mayor**

**ATTEST:**

\_\_\_\_\_  
Rebecca A. Hayes, City Clerk

## RESOLUTION 2013-29

### RESOLUTION IN SUPPORT OF THE

**Auburn University's Alabama-Mississippi Sea Grant Proposal for the creation of a modeling tool that will aid in the cost-efficient selection and placement of stormwater Low Impact Development (LID) best management practices (BMPs). The BMPs will focus on protecting water quality by reducing overall sediment impacts in D'Olive Creek Watershed.**

**Whereas**, the D'Olive Creek Watershed located on the Eastern Shore of Mobile Bay and including portions of the Cities of Daphne and Spanish Fort, and part of the unincorporated area of Baldwin County, Alabama drains 7,700 acres and contributes to the health and vitality of its receiving waters in Mobile Bay, and

**Whereas**, the landscape of this Watershed includes steep and rugged terrain with 23 miles of streams running through highly erodible soil types receiving, on average, five and a half feet of precipitation, annually, and

**Whereas**, the landscape of this Watershed has undergone extensive commercial and residential development since the 1970s, and

**Whereas**, conversion of the natural landscape to impervious cover has caused increases in volume and velocity of stormwater runoff in this watershed resulting in increased flooding, channel erosion, degraded habitats and infrastructure, and deteriorated water quality in its tributaries and creeks ultimately transporting non-point source pollution and sediment into Mobile Bay, and

**Whereas**, five streams in this Watershed – D'Olive Creek, Tiawasee Creek, Joe's Branch, and un-named tributaries to D'Olive and Tiawasee Creek – are listed on the 2010 Alabama 303(d) list for impairment by siltation caused by changing land uses, and

**Whereas**, of the 23 miles of streams in this Watershed, two miles have been currently substantially degraded, four miles are currently undergoing degradation, and six face potential degradation, and

**Whereas**, a Comprehensive Watershed Management Plan for the D'Olive Creek, Tiawasee Creek, and Joe's Branch Watersheds completed in August, 2010, provides evaluations of problems within this watershed and recommends conceptual corrective measures to address them,

**Whereas**, the grant proposal's modeling tool integrates simulation based on sound science and engineering principles with cost estimation tools and optimization to support users in selecting the best solutions on the basis of cost and effectiveness,

**Whereas**, developers, resource managers, government officials, planners and others professional would benefit from the use of the modeling tool,

**Now, therefore be it resolved by the legislative body of the City of Daphne** to support the Auburn University's Alabama-Mississippi Sea Grant Proposal.

ADOPTED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

CITY OF DAPHNE, ALABAMA  
AN ALABAMA MUNICIPAL CORPORATION

\_\_\_\_\_  
DANE HAYGOOD, MAYOR

ATTEST:

\_\_\_\_\_  
REBECCA A. HAYES, CITY CLERK

**CITY OF DAPHNE**

**ORDINANCE NO. 2013-20**

**AN ORDINANCE TO PROVIDE A ONE-TIME DISCRETIONARY BONUS  
TO CERTAIN EMPLOYEES**

**WHEREAS**, the City Council of the City of Daphne, after due consideration, desires to provide certain current employees with a one-time discretionary bonus as an appreciation for their years of dedicated service to the City.

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

**SECTION I: TERMS OF PROVISION OF BONUS**

1. That each current employee of the City who meets the eligibility requirements of this Ordinance shall be eligible for a one-time discretionary bonus as defined by this Ordinance.
2. That as a first eligibility requirement, the employee must have been employed by the City for at least one (1) year as of the effective date of Ordinance 2012-58.
3. That as a second eligibility requirement, the employee must have been at the maximum step of the pay grade applicable to such employee as of the effective date of Ordinance 2012-58 and thus did not receive an increase in pay during January 10-23, 2013 pay period as specified by Ordinance 2012-58.
4. That the gross amount of the one-time discretionary bonus paid to each eligible employee shall be in the amount of 1.9% of the annual salary in effect for employee at the time of the adoption of this Ordinance.
5. That the City shall withhold the usual required payroll taxes from the one-time discretionary bonus payment.
6. That to allow sufficient processing time by the Payroll Department, the one-time discretionary bonus shall be paid on the first payday following the effective date of this Ordinance, whichever is later.

**SECTION II: REPEALER**

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

**SECTION III: SEVERABILITY**

If any section, subsection, sentence, clause, phase 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, Alabama and publication as required by law.

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA** on this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Dane Haygood, Mayor

**ATTEST:**

\_\_\_\_\_  
Rebecca A. Hayes, City Clerk

**CITY OF DAPHNE  
ORDINANCE 2013-21**

**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.

**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. Public Participation
5. Reports of Standing Committees:
  - Finance Committee
  - Building/Property Committee
  - Code Enforcement/Ordinance Committee
  - Public Safety
  - Public Works/Solid Waste Committee
6. Reports of Special Boards and Commissions
  - Board of Zoning Adjustment
  - Downtown Redevelopment Authority
  - Industrial Development Board
  - Library Board
  - Planning Commission
  - Recreation Board
  - Utility Board
7. Reports by Department Heads
8. Report of Officers:
  - a. Mayor's Report
  - b. City Attorney's Report
  - c. City Clerk's Report
9. Resolution, Ordinances and Other Business
10. Council Comments
11. 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 or work session 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 or work session.

**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:**

- A. Public Participation. At the designated time in the order of business, any member of the public may address the City Council except that 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. 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.
  
- B. Presentations to Council. An individual wishing to make a presentation 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 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:**

The Council may meet in executive session only for purposes authorized by State law and only after the City Attorney certifies the stated purposes for the executive session are 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. The estimated length of the executive session shall be stated prior to the 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 or 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, Fire Chief, Finance Director, Public Works Director, Human Resources Director, Building Departments Director, Community Development Director, Parks and Recreation Director, Library Director, Civic Center Director and such other officers and department head 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 the current edition of 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:**

That Ordinance 2012-63 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 XXVI:**

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 XXVII:**

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 CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.**

**CITY OF DAPHNE,  
AN ALABAMA MUNICIPAL CORPORATION**

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**DANE HAYGOOD,  
MAYOR**

**ATTEST:**

---

**REBECCA A. HAYES,  
CITY CLERK**

**CITY OF DAPHNE  
ORDINANCE NO. 2013-23**

**AN ORDINANCE TO CONTROL PUBLIC  
AND PRIVATE OUTDOOR LIGHTING**

**WHEREAS**, the City Council of the City of Daphne, Alabama finds that the improper use of outdoor lighting is a threat to the health, safety and welfare of the citizens of the City of Daphne, Alabama; and

**WHEREAS**, the City Council of the City of Daphne, Alabama finds that the proper placement, orientation, distribution and fixture type and size of outdoor lighting promotes the public health, safety and welfare; and,

**WHEREAS**, the City Council of the City of Daphne, Alabama wishes to promote the public health, safety and welfare by encouraging lighting that provides safety, utility and security, as well as preventing glare on public roadways and to protect the privacy of adjoining properties:

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

**SECTION I. DEFINITIONS**

A. For the purpose of this Ordinance, the following words and phrases shall have the meaning respectively ascribed to them by this section unless taken specific exception to elsewhere in this ordinance.

1. **Direct Light**. Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.
2. **Fixture**. The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.
3. **Foot-candle**. A quantitative unit of measure referring to the measurement of illumination incident at a single point. One foot-candle is equal to one lumen uniformly distributed over an area of one square foot.

4. **Glare**. Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.
5. **Grandfathered luminaires**. Luminaires not conforming to this code that were in place at the time this code was voted into effect. When an ordinance "grandfathers" a luminaire, it means that such already-existing outdoor lighting does not need to be changed unless a specified period is specified for adherence to the code.
6. **Height of Luminaire**. The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.
7. **Indirect Light**. Direct light that has been reflected or has scattered off of other surfaces.
8. **Lamp**. The component of a luminaire that produces the actual light.
9. **Lumen**. A unit of luminous flux. One footcandle is one lumen per square foot. For the purposes of this Ordinance, the lumen-output values shall be the INITIAL lumen output ratings of a lamp.
10. **Luminaire**. A complete lighting unit consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. A luminaire is also commonly referred to as a fixture.
11. **Outdoor Lighting**. The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.
12. **Temporary Outdoor Lighting**. The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than 14 days, with at least 180 days passing before being used again unless otherwise approved by the city council.

**SECTION II. REGULATIONS****A. REGULATIONS**

All public and private outdoor lighting installed in the City of Daphne shall be in conformance with the requirements established by this Ordinance.

**B. LUMINAIRE RESTRICTIONS**

1. Private outdoor luminaires shall not exceed 30,000 lumens and shall not exceed forty (40) feet in height. No direct light from any private outdoor luminaire owned by any owner or tenant of any property shall direct light upon any residential property, house or structure not owned by that owner or tenant. The intentional directing of light upon the personal property, house or structure of another shall not be subject to any grandfather provision as provided in this ordinance.

2. With the exception of outdoor sports luminaries, public outdoor luminaires shall not exceed 55,000 lumens. Outdoor sports luminaries shall not exceed 200,000 lumens.

**C. EXCEPTIONS**

1. All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this Ordinance.

2. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires used must be red and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task.

3. Law Governing Conflicts. Where any provision of federal, state, county, or town statutes, codes, or laws conflicts with any provision of this Code, the most restrictive shall govern unless otherwise regulated by law.

4. Temporary circus, fair, carnival, or civic uses.

5. Lighting necessary for construction is exempt from this Code provided said lighting is discontinued immediately upon completion of the construction work.

**D. OUTDOOR ADVERTISING SIGNS**

1. Luminaries used to illuminate outdoor advertising sign shall direct light only on the intended advertising sign and shall not direct light upon any other structure.
2. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within shall not cause glare. Dark backgrounds with light lettering or symbols are preferred, to minimize detrimental effects.
3. Compliance Limit. Existing outdoor advertising structures shall be brought into conformance with this Code within ten years from the date of adoption of this provision.

**E. RECREATIONAL FACILITIES**

1. Any light source permitted by this Code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all the following conditions are met:
  - a.) All events shall be scheduled so as to be completed before or as near to 10:30 p.m. as practicable. Under no circumstances shall an event begin after 11:00 p.m. except to conclude scheduled events that were in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.
  - b.) The lighting fixtures shall be specified in the Lighting Plan, mounted and aimed so that the illumination falls within the primary playing area and immediate surrounding so that no direct light illumination is directed off site.

**F. PROHIBITIONS**

5. Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising is prohibited. The use of laser source light or any similar high intensity light may be permitted pursuant to the provisions of Section II (G).
2. Searchlights. The operation of searchlights for advertising purposes is prohibited. The use of searchlights or any similar high intensity light may be permitted pursuant to the provisions of Section II (G).

**G. TEMPORARY OUTDOOR LIGHTING**

Any temporary outdoor lighting that conforms to the requirements of this Ordinance shall be allowed. Nonconforming temporary outdoor lighting may be permitted by the City Council after considering: (1) the public and/or private

benefits that will result from the temporary lighting; (2) any annoyance or safety problems that may result from the use of the temporary lighting; and (3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the City Council, who shall consider the request at a duly called meeting of the City Council. A failure by the City Council to act on a request within the time allowed shall be construed a denial of the request.

### **SECTION III GRANDFATHERED LUMINAIRES**

- A. All luminaires lawfully installed prior to the effective date of this Ordinance shall be grandfathered. However, any luminaire that replaces a grandfathered luminaire, or any grandfathered luminaire that is moved, must meet the standards of this Ordinance. Advertising signs are grandfathered only for a period of ten years from effective date of this Ordinance.
- B. Grandfathered luminaires that direct light toward streets or parking lots that cause disability glare to motorists or cyclists should be either shielded or re-directed within 90 days of notification, so that the luminaires do not cause a potential hazard to motorists or cyclists.

### **SECTION IV. PENALTY**

#### **A. VIOLATION**

It shall be an offense for any person to violate any of the provisions of this Ordinance. Each and every day during which the violation continues shall constitute a separate offense.

#### **B. VIOLATIONS AND LEGAL ACTIONS**

If after investigation, the Code Enforcement Officer finds that any provision of the Ordinance is being violated, he shall give notice by hand delivery or by certified mail, return-receipt requested, of such violation to the owner and/or to the occupant of such premises, demanding that violation be abated within thirty (30) days of the date of hand delivery or of the date of mailing of the notice. If the violation is not abated within the thirty-day period, the Code Enforcement Officer may institute actions and proceedings, either legal or equitable, to enjoin, restrain, or abate any violations of this Ordinance and to collect the penalties for such violation, including the issuance of a municipal offense citation.

**C. PENALTIES**

A violation of this Ordinance, or any provision thereof, shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for any individual, corporation, association, or other legal entity for each violation. The imposition of a fine under this Code shall not be suspended. Each day of violation after the expiration of the thirty-day period provided in paragraph two (2) above shall constitute a separate offense for the purpose of calculating the civil penalty.

**D. SUMMONS AND COMPLAINT**

This Ordinance shall also be subject to enforcement by the issuance of a summons and complaint pursuant to the provisions of Ordinance No. 1993-02, as the same may be from time to time amended.

**SECTION V. SEVERABILITY**

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

**SECTION VI. REPEALER**

City of Daphne Ordinance number 2003-31 is hereby repealed in its entirety. All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed insofar as they conflict.

**SECTION VII. EFFECTIVE DATE**

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF DAPHNE,  
ALABAMA, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

CITY OF DAPHNE

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DANE HAYGOOD, MAYOR

ATTEST:

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REBECCA A. HAYES, CITY CLERK