

**CITY COUNCIL BUSINESS MEETING AGENDA
1705 MAIN STREET, DAPHNE, AL
SEPTEMBER 3, 2013
6:30 P.M.**

- 1. CALL TO ORDER**
- 2. ROLL CALL / INVOCATION** / Reverend Stuart Davidson / Eastern Shore Baptist Church
- 3. APPROVE MINUTES:** Council meeting minutes / August 19, 2013

PRESENTATION: Certificate of Appreciation / Ms. Amelia Alawine

4. REPORT STANDING COMMITTEES:

- A. FINANCE COMMITTEE** / Conaway
- B. BUILDINGS & PROPERTY COMMITTEE-** Davis
- C. PUBLIC SAFETY - Rudicell**
Review minutes / August 14th
- D. CODE ENFORCEMENT/ORDINANCE COMMITTEE - Fry**
- E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY - LeJeune**
 - a.) **MOTION:** To authorize the Mayor to enter into a Memorandum of Understanding with Kamco Daphne, LLC for Right-of-Way improvements at Bayfront Drive and Main Street
 - b.) **MOTION:** Authorize the Mayor, Council President and Public Works Director to identify and submit projects to the Metropolitan Planning Organization

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 Sign Committee minutes/ July 23rd, July 30th, August 6th, August 13th
- F. Recreation Board - LeJeune**
- G. Utility Board - Fry**

6. REPORTS OF OFFICERS:

- A. Mayors Report**
 - a.) Parade Permit / Gem of Champions / 5K Run / Walk / October 19, 2013
- B. City Attorney's Report**
- C. Department Head Comments**
City Clerk Report

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) Community Contribution: Ruff Wilson Youth Organization. /Resolution 2013-43

ORDINANCES:

2ND READ

- a.) Amend Land Use & Development Ordinance / Common Space & Recreation Provisions / Definitions & Terms – No Clear Zone Definitions & Terms – Related to Community Standards Ordinance. /Ordinance 2013-46

1ST READ

- a.) Amend Employee Handbook / Revise Discrimination and Harassment Prevention / Chapter 1, 7 & 8. /Ordinance 2013-47
- b.) Amend Employee Handbook / Reorganize Chapter 9. /Ordinance 2013-48
- c.) Amend Employee Handbook / Reorganize Chapter 11. /Ordinance 2013-49
- d.) Adopting Council Rules of Procedure. /Ordinance 2013-21

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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**AUGUST 19, 2013
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1. CALL TO ORDER:

Council President Scott called the meeting to order at 6:33 p.m.

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE:

Reverend Paul Matthews with Jubilee Baptist Church gave the invocation.

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; Sarah Toulson, Assistant City Clerk; Jay Ross, City Attorney Kyle Navarro, Attorney; David Carpenter, Police Chief; James White, Fire Chief; Margaret Thigpen, Civic Center Director; Vickie Hinman, HR Director; David McKelroy, Recreation Director; Richard Johnson, Public Works Director; Adrienne Jones, Director of Community Development; Suzanne Henson, Senior Accountant; Tonja Young, Library Director; Danny Dillard, Building Inspection; Tomasina Werner, Beautification Committee; Dorothy Morrison; Beautification and Downtown Redevelopment Authority; Rob McElroy, General Manager of Daphne Utilities; Willie Robison, BZA; Al Guarisco, Village Point Foundation; Larry Cook, BZA; Bob Segalla, Utility Board..

Absent: Michael Hoyt, Municipal Judge; Richard Merchant, Building Official.

3. APPROVE MINUTES:

August 5, 2013 Council meeting minutes

The August 5, 2013 council meeting minutes stand approved with the following amendments to the votes to adopt Resolution 2013-42 and Ordinance 2013-44 - adopting the main motions as amended:

MOTION BY Councilman Fry to adopt Resolution 2013-42 as amended. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Lake to adopt Ordinance 2013-44 as amended. *Seconded by Councilman Rudicell.*

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

MOTION CARRIED

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August 12, 2013 Council Work Session Minutes

There were no corrections to the August 12, 2013 Council Work Session minutes, and the minutes stand approved as written.

August 12, 2013 Strategic Plan meeting minutes

There were no corrections to the August 12, 2013 Strategic Plan meeting minutes, and the minutes stand approved as written.

Public Hearing:

a.) Amendments to the Land Use & Development Ordinance:

- 1.) Repeal Article 11-14(h) Common Open Space Provisions in its entirety and Replace with Article 11-14(h) Open Space and Recreation Provisions
- 2.) Amend Article 8 Definition of Terms to Add “No Clear Zone”
- 3.) Amend Articles 8 & 35 Definition of Terms and Table of Permitted Uses as related to the Community Standards Ordinance 2013-38

Mrs. Adrienne Jones gave the presentation.

Councilman Lake asked if in the ordinance open space and recreation provision it said the developer would be given a credit if they are close to an existing open space or recreational area or planned recreational area, would they be required to subsidize or help pay for, like the 125 acres the city will be developing behind Wal-Mart, but the city does not have the money to develop it, but it is a planned park, would the developer be required in lieu of not having to give up the open spaces, and developing that space, be required to subsidize, pay more money towards helping to develop that park.

Mrs. Jones said that is a good question for the city attorney, Mr. Jay Ross.

Mr. Ross asked Mr. Lake to restate his question.

Councilman Lake said if you are going to give a credit to a developer, lets say he is going to be developing a 10 acre lot of land and the lots to sell, and he will be required to make so much of that land available for open spaces and recreational uses for that development, but because he is close to a city park or close to a potential city park he doesn't have to, can he be given a credit for that and not have to develop that , and could sell that property instead for a residential unit, however, even though that park has not been developed should they not have some kind of requirement that he be able to assist in developing that facility, because it is to his advantage that he be close to a park that is developed and is also to the community's advantage. So is there a provision in the ordinance that the developer be required to assist in subsidizing the development of that planned park or existing park.

Mr. Ross said he thinks the answer is yes it is all about how you word it in terms of proximity to existing or future city owned or maintained or developed park. Yes, it can be done.

Councilman Lake asked if it is in the ordinance.

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Mrs. Jones said it is not in this ordinance.

Mr. Ross said they could create something to accomplish what Mr. Lake wants.

Mr. Lake said so it would have to be added to this ordinance.

Mr. Ross said you would have to create more definitions to accomplish what Mr. Lake wants. Clearly the state law would allow that to occur if that is what the council wants.

Councilman Lake said the developer if he is able to sell two (2) more extra lots he is going to clearly show beneficial economic gain from that development, and the city is going to be getting an impact from that so they could be receiving something to help them in creating those parks or up-keeping those parks that he is getting credit for, because it will help the developer sell his property, and it will also help the city. He is looking at it from both sides. It is not fair that the citizens of Daphne, and it should be put in the ordinance.

Mr. Ross said they are part of the way there, although it doesn't fulfill Mr. Lakes request the way it is written, but it can be done.

Council President Scott said he knows the original intent was they have had some situations that there was so much open space, and they have the property owners associations that did not have the financial wherewithal to maintain this amount of acreage. That is one of the intents to make it something that was much more manageable. If you looked at the language where it says "credit will be given" did the Planning Commission not say "requiring" in order to be given that credit.

Mr. Ross said he would like more specificity in view of future interpretation by a different board.

Council President Scott said Mr. Lake has a point. If you have two (2) lots and they are \$35,000 a piece what percentage of that, Mr. Lake, would you think was fair, and keep in mind, it might take five (5) years to sell those two (2) \$35,000 lots. So you are going to put some money up front towards something.

Councilman Lake said that is something that could be worked out in the Planning Commission process. It could be said when those lots are sold that money be transferred to the recreation committee or something along those lines, because that would assist the developer because if the seller is trying to sell the lots it would be to his advantage to buy into an existing park that does not put a burden on the property owners, because you are right across the street from a park, and they are going to help develop that park so it is an advantage to him and takes the burden off the citizens of Daphne. It is one of those things where everybody wins.

Council President Scott said you would have to determine which would be the last two (2) lots to be sold, and you would have to have some way to put a lien on them so that they can close.

Mr. Ross said you could do that at the time of the approval of the subdivision.

Councilman Davis said he is thankful for the definition of the "No Clear Zone". He thinks that is much needed. He hopes that would apply, not only to new subdivisions, but also to additional phases that go

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into existing subdivisions. He is also interested in the bottom of page 33 where it references, and it is underlined "Replanting and reforestation shall be required when more than ½ of the utility easement is destroyed or removed by a utility company." Is there any reference to who pays for that or is it a shared thing or is it something that would already be covered in a deed or an agreement of some type? Subdivisions that he is familiar with have buffer zones and wilderness areas, and in those there have been times when utility companies have gone in and with a 20 foot right-of-way clear cut 50 feet, and all those trees are felled and then you want to reforest that and the question then becomes does the individual house lot owner whose lot backs up to it who pays or is it the developer, does the utility company or is there some composite way of doing that. Has that been addressed? Do you know if there had been discussion on this?

Mrs. Jones said no, they have not addressed that. She knows in TimberCreek there is the wilderness area that is owned by the property owners association, and she knows they are working there clearing in the area between the commercial and business part and the residents back there, and she is not sure what the resolve was, but there was a significant amount of clearing by the utility company in conjunction with the utility line.

Councilman Davis said with the eminent growth that is coming he thinks it is very important that they have business growth, but there is going to be residential growth as well, and they need to have sufficient buffers both for quiet enjoyment and utilization of both the business and the community. He thinks it is very important that the "No Clear Zone" definition gets permeated without future developments, not just new subdivisions. TimberCreek will be very much pleased that that is done.

Mrs. Jones said she does not have a definite answer as to who pays for the reforestation.

Councilman Davis said that becomes significant when you have 28 acres that meandered between a business section and a residential section, and the reforestation when you cut down 11 inch trees, and replace them with little saplings. There is not a lot of buffer there for a while.

Council President Scott opened the Public Hearing at 6:54 p.m.
No one spoke for or against the proposed amendment to the Land Use and Development Ordinance.

Council President Scott closed the Public Hearing at 6:55 p.m.

4. REPORT OF STANDING COMMITTEES:

A. *FINANCE COMMITTEE* – Conaway

The minutes for the August 12th meeting are in the packet.

Treasurers Report

The ending balance as of June 30, 2013 was \$17,034,606.99. The ending balance as of July 31, 2013 was \$15,852,989.02.

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Sales and Use Tax Collections / June 30, 2013

Sales and Use Tax collection ending June 30, 2013 was \$1,097,507.32. Collections were down \$24,781 from what was budgeted.

Lodging Tax Collections / June 30, 2013

Collections ending June 30, 2013 were \$71,090.69

MOTION BY Councilwoman Conaway to set a Special Finance Committee meeting for August 28, 2013 at 4:00 p.m. *Seconded by Councilman Lake.*

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

NAY Lake

MOTION CARRIED

B. BUILDINGS & PROPERTY COMMITTEE - Davis

The minutes for the August 5th meeting are in the packet. The next meeting will be September 3rd.

C. PUBLIC SAFETY COMMITTEE – Rudicell

The next meeting will be September 11th at 4:30 p.m.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Fry

The next meeting will be September 11th after the Public Safety meeting. The will be considering revisions to the Employee Handbook and a Land Disturbance and Discharge Ordinance.

E. PUBLIC WORKS COMMITTEE – LeJeune

The committee met before the council meeting, and the Environmental Advisory Board minutes are in the packet.

MOTION BY Councilman LeJeune to support participation in the NOAA Community Resilience Index Program. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

5. REPORTS OF SPECIAL BOARDS & COMMITTSIONS:

A. Board of Zoning Adjustments – Adrienne Jones

No meeting. No report.

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B. Downtown Redevelopment Authority – Conaway
The next meeting will be August 28, 2013 at 5:30 p.m.

C. Industrial Development Board – Davis
There was not a meeting in July. The next meeting will be August 26th at 6:00 p.m.

D. Library Board – Lake
The Bookmark contest has started. The Library was awarded a \$2,000 grant from Target. They also received a \$25,000 LSTA grant which will pay for health related materials.

E. Planning Commission – Scott
The Site Review meeting will be Wednesday, and the Planning Commission meeting will be next Thursday at 5:00 p.m.

F. Recreation Board – LeJeune

**a.) MOTION: To appoint two members to the Recreation Board:
One 3 year opening and one (1) year opening / Designate**

Nominees:

- a.) Lawrence Yelding
- b.) David Dueitt
- c.) Victor LeJeune
- d.) Jolie J. Jones

Nomination for the one (1) year opening

Councilman Lake nominated Mr. David Dueitt.
Councilman Rudicell nominated Lawrence Yelding.

**VOTE FOR LAWRENCE YELDING TO FILL THE ONE (1) YEAR POSITION /
TERM TO END 2014.**

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

NOMINATIONS FOR THE THREE (3) YEAR POSITION

Councilman Lake nominated Mr. David Dueitt.

**VOTE FOR DAVID DUEITT TO FILL THE THREE (3) YEAR POSITON / TERM TO
END 2015.**

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

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G. Utility Board – Fry

Mr. Rob McElroy, General Manager for Daphne Utilities, made an announcement saying there will be a Public Hearing August 28, 2013 at 6:00 p.m. to consider a rate increase.

6. REPORTS OF OFFICERS:

A. Mayor’s Report

a.) Parade Permit / Mystic Order of Persephone / February 28, 2014 / Rain Date March 1, 2014

MOTION BY Councilman Lake to approve the Permit for the Mystic Order of Persephone / February 28, 2014 / Rain Date March 1, 2014. *Seconded by Councilwoman Conaway.*

AYE	ALL IN FAVOR	NAY	NONE	OPPOSED	MOTION CARRIED
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B. City Attorney’s Report

No report.

C. Department Head Comments

Margaret Thigpen – Civic Center Director – reported the deck at Bayfront Park has been completed. Tickets for the Taste of the Eastern Shore is almost sold out. The Special Election is September 24th, and the General Election is November 5th.

David Carpenter – Police Chief – reported today was the first day of school, and there were traffic problems throughout the city.

James White – Fire Chief – reported that the new fire truck will be delivered within five (5) to seven (7) days.

Vicki Hinman – Human Resource Director – reported the Benefits Fair was a success, and she thanked the council members for attending. She also thanked Mr. Ross for the \$250 Visa card grand prize which went to Nancy Seales with the Library.

David McKelroy – Recreation Director – they are winding up with the fall registration with 750 young people participating. Daphne football starts Monday, with the first game Friday at 7:00 p.m.

Richard Johnson – Public Works Director – reported there have been 21 new garbage customers and two (2) commercial.

Adrienne Jones, Community Development Director – reported the Sign Committee will meet tomorrow.

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City Clerk Report – Rebecca Hayes –
No report.

7. PUBLIC PARTICIPATION

Mr. David Dueitt – Lake Forest – spoke regarding Air Bus, moving forward with the Sports Complex, and the poisoned oak trees.

Mr. Willie Robison – 560 Stuart Street – spoke regarding the poisoned oak trees and the proposed Utility rate increase.

Mr. Don Ouellette – Elizabeth Drive – spoke regarding the proposed new Senior Citizen Center.

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

NO RESOLUTIONS

ORDINANCES:

2ND READ

- a.) **Amending Chapter 1 of the Employees Handbook: Privately-Owned Firearms and Ammunition in the Workplace /Ordinance 2013-43**
- b.) **Regulating the Keeping of Dogs, Cats, Domesticated Animals, Livestock or Fowl within the City of Daphne. /Ordinance 2013-45**

1ST READ

- a.) **Amend Land Use & Development Ordinance / Common Space & Recreation Provisions / Definitions & Terms – No Clear Zone Definitions & Terms – Related to Community Standards Ordinance . . . /Ordinance 2013-46**

MOTION BY Councilman Fry to waive the reading of Ordinance 2013-43. *Seconded by Councilman LeJeune.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

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MOTION BY Councilman Fry to adopt Ordinance 2013-43. *Seconded by Councilman LeJeune.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

MOTION BY Councilman Fry to withdraw the second read for Ordinance 2013-45 for further revisions. *Seconded by Councilman Lake.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

ORDINANCE 2013-46 IS 1ST READ.

9. COUNCIL COMMENTS:

Councilman Rudicell said the manager of the Winn-Dixie store asked him to relay his appreciation for the Police Department's response to the shoplifting matter.

Councilman Lake said the Benefits Fair was great! He thanked the Library for the grant for health materials. He spoke regarding the proposed Utility rate increase, and he mentioned the poisoned used on the oak trees can leak into the water system and damage the environment.

Councilman Fry asked everyone to be careful and watch for children since school has started.

Councilman LeJeune said they need to bring the rhetoric down regarding the oak trees. The implication is a business is maliciously killing trees. There are other trees dying in the city, and before this gets out of control it should be checked out first.

Councilman Davis said August 28th is a busy time with meetings. He met with the superintendent of the Utilities and toured some of the facilities, and the facilities are old and in need of repair. Rate increases are a tough topic, and he cannot see the operational matters happening without a rate increase. He encouraged everyone to talk with their neighbors and come out and voice their opinions.

Councilwoman Scott said the poisoning of the oak trees is being looked into to see what happened. He said it could be due to too much water, and trees are dying in Fairhope. He said there was an increase in utility rates two (2) years ago which was the first increase in 10 years. The city has a first class utility and they want to keep it that way.

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Mayor Haygood said kudos to Public Works mowing and grounds for jumping on projects especially at I-10. He appreciates their efforts.

10. ADJOURN:

MOTION BY Councilman Rudicell to adjourn the meeting. *Seconded by Councilman LeJeune.*

AYE ALL IN FAVOR NAY NONE OPPOSED MOTION CARRIED

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

Respectfully submitted by,

Rebecca A. Hayes, City Clerk

Certification of Presiding Officer,

Ron Scott, Council President

CITY OF DAPHNE
OFFICE OF THE MAYOR

PROCLAMATION

Appreciation for Ms. Amelia Alawine

WHEREAS, Amelia Alawine has been an employee of the City of Daphne for 24 years; and

WHEREAS, she began her service to the city on October 19, 1989; and

WHEREAS, during Ms. Alawine's tenure with the city she has served as a receptionist, was promoted to Accounts Receivable Clerk, and on September 17, 1998 transferred to the Daphne Animal Shelter as a Shelter Technician; and

WHEREAS, she carried out her duties of customer service, assisting the Animal Control Officers with pet adoptions and the reclaiming of impounded animals, dispensing animal licenses, collecting fees and educating the public about state and local laws on the treatment and sheltering of animals; and

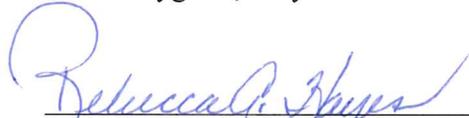
WHEREAS, Ms. Amelia Alawine retired August 30, 2013 as a long-time faithful and loyal employee of the City of Daphne.

NOW THEREFORE, the Mayor and City Council of the City of Daphne, Alabama proclaim their appreciation to Ms. Amelia Alawine for her untiring efforts in her service to the City of Daphne, and wish her success and happiness in her retirement.




Dane Haygood, Mayor

Attest:


Rebecca A. Hayes, City Clerk

**REPORT
OF
STANDING COMMITTEES**

Public Safety Committee

Wednesday, August 14, 2013

Councilman Pat Rudicell
Councilman Randy Fry
Councilman Robin LeJeune
Councilman Ron Scott
Fire Chief James White
Public Works, Melvin McCarley

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

Committee Members Attending:

Councilman Pat Rudicell, Councilman Ron Scott, Councilman Robin LeJeune, Councilman Randy Fry, Kenny Hanak, Chief Carpenter, Lt. Beedy, Melvin McCarley.

CALL TO ORDER

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

PUBLIC PARTICIPATION – Vickie and Sherree from Human Resources was in attendance as representatives from the Safety Committee. They mentioned that Dan Castrillo had a concern about traffic going too fast at Gator Alley/Main St before he passed away. There are rumble strips already but they are installed almost at the bridge. They asked was there a way to add more rumble strips further up the hill? Or a flashing light? Melvin said that there was already a flashing light. Sherree stated that it was not working. Melvin said it was working the other day when they started this. He went up there and checked and both sides were working.

The biggest problem is the large amount of traffic up there. Melvin stated that they have done all they know to do. They have crosswalk signs with arrows where the crosswalks are. Melvin said he was up there the other day and there was a lady with a buggy trying to cross. She stood there for at least 5 minutes because traffic was so bad. He stated he wanted to get out there and stop traffic for her to get across because the traffic was so bad. He stated that there are safety things up there but he would add more rumble strips further up the hill if needed. Councilman Rudicell asked what the process was to get other devices other than rumble strips? Councilman Scott asked about changing the speed limit to 25 mph, he advised that 35 mph is too fast going around that curve and Dan was right, someone is going to get hit.

Sherree said that Dan brought it up to the safety committee just a month before he passed away and he was really adamant about it. He was very safety conscious and they feel that they just need to do something. Councilman Scott stated that Fairhope has green signs that say "State Law – Pedestrians have Right of Way" in the middle of the road. He said that we are in the process of resurfacing that part of N. Main Street which will make it go even faster. He asked if we can increase the width of the crosswalk? Melvin answered that the thermal plastic will be new when the road is resurfaced and will be easier to see. Scott asked Melvin to look into a neon sign. Melvin stated that flashing lights cost \$20,000. Councilman Fry stated that we had looked at putting a crossing sign at Potters Mill to slow traffic down but not sure that it would even work. He stated he was just throwing it out as an option. Rudicell stated that this issue will come up time and time again at Potters Mill. People are for and against it. Rudicell asked if it would be appropriate to place one at Gator Allen? Melvin said that it would never stay there. Sherree asked if the asphalt was marked with the word "Crossing"? Melvin said yes it has markings but not the word "Crosswalk" and state law says you must have a sign at a crosswalk with an arrow pointing down and that's what is there. There's a flashing light before you get to the crosswalk and crosswalk signs on both sides with arrows pointing down as State of Alabama and

Federal government requires. Melvin stated on this signage stuff, the state and federal governments did away with a lot of the signage we used to put up.

Sherree stated she knows there's a flashing crosswalk sign going south on Main St. at Christ the King and then one at W.J. Carroll but none northbound. Melvin stated that there are school crossing flashing lights. Sherree stated she knew that but that she didn't see one northbound. Chief stated that there is one at Christ the King at Van Avenue and one for W.J. Carroll at Johnson Road. Melvin stated that by Friday 8/16/2013 he would erect the message board stating "School in Progress". Parts have been ordered for the flashing light at W.J. Carroll but haven't come in yet.

Councilman Scott stated that we can't put up a speed bump on North Main due to the fire trucks. Melvin stated that cars going downhill look like they are going faster than they are. Melvin can put a traffic counter out to give actual speeds if wanted. He stated it can run for a week and give all the data needed. Councilman Scott wants a 25mph sign installed at the section of road by Gator Alley (from the Riviera Plant to the bridge). Councilman Rudicell told Sheree that if she has any other safety concerns from the safety committee that involves public safety, please bring them to us. Melvin stated that we could have solved all of this beforehand. Sheree said that they did. The Safety Committee discussed it and they decided to bring it to Public Safety because it is a safety concern.

APPROVAL OF MINUTES FROM PREVIOUS MEETING

Minutes from July 10, 2013. Councilman Scott made a motion to accept the minutes with a second by Councilman LeJeune. Motion passed.

POLICE DEPARTMENT

- A. New Business – Chief went over the stats. He stated that our detectives have been very busy. Our recruits are doing very well and will be in the academy for 10 weeks. We have a Detective retiring in January 2014. Councilman Rudicell asked about school traffic plans. Chief advised that the police department ramps up patrolling for the first few weeks. All available officers are on the streets. Councilman Scott reviewed the Country Club Drive speed trailer results and Melvin advised that he had installed the 25 mph sign on Country Club.

Chief Carpenter advised that alligator season opened on Friday night all the way to the Gulf. Was wondering if Gator Allen would be in jeopardy? Councilman LeJeune mentioned that hunters cannot get any closer than 100' from a residential area like Hampton Inn. Chief mentioned maybe using old boom to block the opening to Gator Alley. LeJeune stated that State property cannot be blocked. Councilman Scott asked about lights and cameras at Gator Alley for security and Carpenter stated that would come from Parks and Rec. Councilman Scott asked that we forward these minutes to Building and Properties to see about acquiring cameras and lights from the lodging tax.

Jean Mills called Councilman Scott about the curve in front of her house close to the light on Windsor Drive. Some cars almost end up in her yard. Scott asked Melvin to erect a 25 mph sign and the speed trailer in her yard for few days to help.

- B. Old Business – Councilman Rudicell asked about Christ the King crosswalk. Melvin got the crosswalks down but had to order the school zone signs.

FIRE DEPARTMENT

A. New Business – Hanak went over his stats. Chief White is on his way back from Ocala, Florida after doing the 2nd inspection on the new fire truck. It is almost ready. He stated that they had a firefighter resign but that they had a list in place with some good candidates. One firefighter is in Mobile Fire School right now.

B. Old Business-

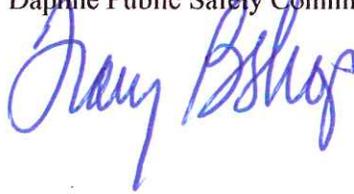
OTHER BUSINESS :

Melvin mentioned to Councilman Rudicell that they got the new traffic counters in and they are working great.

ADJOURN

There being no further business to discuss, Mr. Rudicell made a motion to adjourn the meeting at 5:20 p.m. Mr. LeJeune seconded. The next meeting will be Wednesday, September 11, 2013 at 4:30 p.m. at City Hall Council Chambers.

Respectfully submitted,
Daphne Public Safety Committee



City of Daphne – Public Works Committee

Meeting Date: August 19 22, 2013

Notice of Action Taken

Agenda Item #	Description	Action Taken	Forwarded To	Person to Implement	Notes
III.D.	Memorandum of Understanding (MOU) between the City and Kamco Daphne, LLC – for R.O.W. Improvements at Bayfront and Main Street.	Committee made an affirmative motion to the full City Council to pass a motion to authorize the Mayor to negotiate and enter into MOU.	City Clerk	City Clerk PW Director Mayor	City Clerk is to include the Motion on the September 3, 2013 City Council Business Meeting Agenda for action by the Council. Mayor & PW Director to finalize MOU details with Kamco Daphne, LLC
IV.A.	Capital Road Projects for FY 2014	Committee made an affirmative motion to advance the proposed projects to the Finance Committee for consideration in the FY14 Capital Budget.	Deputy Finance Director	Deputy Finance Director	Include the submitted Capital Road Projects on the agenda of the special called Finance Committee Meeting on 08/28/2013 for consideration for funding.
IV.A.	FY14 Eastern Shore MPO Projects Submittals	Committee made an affirmative motion to the full City Council to pass a motion to authorize the Mayor, Council President & PW Director to identify and submit projects	City Clerk	City Clerk Mayor Council President PW Director	City Clerk is to include the Motion on the September 3, 2013 City Council Business Meeting Agenda for action by the Council. Mayors, Council President & PW Director start the project vetting and submission process.
IV.B.	Capital Sidewalk Project(s) for FY14	Committee made an affirmative motion to advance the proposed project(s) to the Finance Committee for consideration in the FY14 Capital Budget.	Deputy Finance Director	Deputy Finance Director	Include the submitted Capital Sidewalk Project(s) on the agenda of the special called Finance Committee Meeting on 08/28/2013 for consideration for funding.



Richard D. Johnson, PE; Director

August 20, 2013

I. CALL TO ORDER

II. PUBLIC PARTICIPATION & CORRESPONDENCE

- A. Work Request Report – July 2013
- B. Vehicle/Equipment Maintenance Reports – July 2013 / July 2012
- C. Correspondence – Memo from City Clerk Re: Robert Lucas and James Baggett

III. OLD BUSINESS

- A. Minutes – July 15, 2013 Meeting
- B. Mosquito Reports – July 2013
- C. Street Sweeper Reports – July 2013 (Street Sweeper in Shop)

IV. NEW BUSINESS

- A. Capital Road Projects FY14
 - Capital Priority List Circa 2009
 - Capital Priority List FY 2014 (8/12/2013)
 - Capital Priority List FY 2012 – 2017
 - Capital Projects for FY 2014
 - 2013-08-02 Project Submittal Form
 - FY14 MPO Projects – No Rank
 - FY14 MPO Projects – Richard Johnson
- B. Capital Sidewalk Project FY14 (under separate cover)

V. DIRECTOR'S REPORT

- A. None

VI. DAPHNE SOLID WASTE DISPOSAL AUTHORITY

- A. Monthly Equipment Use Report – July 2013
- B. Monthly Recycle Tonnage Report (Tonnage Comparison) – July 2013
- C. Solid Waste New Customer Report – July 2013

VII. MUSEUM COMMITTEE

- A. Minutes – July 9, 2013 Meeting Minutes

VIII. BEAUTIFICATION COMMITTEE

- A. Minutes – August 7, 2013 Meeting

IX. ENVIRONMENTAL ADVISORY COMMITTEE

- A. Minutes – June 24, 2013

X. PROJECT ENGINEER'S REPORTS

- A. HMR – Update
- B. Volkert – Update

XI. FUTURE BUSINESS

- A. Next Meeting – September 16, 2013

XII. ADJOURNMENT

MEMORANDUM OF UNDERSTANDING (MOU)

between

The City of Daphne, a Municipal Corporation

and

Kamco Daphne, a Limited Liability Company

This is an agreement between “*The City of Daphne*”, hereinafter called ***The City*** and “*Kamco Daphne, LLC*”, hereinafter called ***Kamco***.

I. PURPOSE & SCOPE

The purpose of this MOU is to clearly identify the roles and responsibilities of each party as they relate to the drainage upgrades along the intersection frontage of Bayfront Drive and Main Street at the Kamco Daphne, LLC Project, a commercial development, hereinafter called the ***Project***.

In particular, this MOU is intended to:

- *Identify the party responsible for the actual construction of the drainage upgrades along the intersection frontage of Bayfront Drive and Main Street for the Project.*
- *Identify the party responsible for obtaining all required permits and construction management for the drainage upgrades along the intersection frontage of Bayfront Drive and Main Street for the Project.*
- *Identify a timeline for the drainage upgrades along the intersection frontage of Bayfront Drive and Main Street for the Project.*
- *Identify the party responsible for the material cost and the means in which payment will be made for the drainage upgrades along the intersection frontage of Bayfront Drive and Main Street for the Project.*
- *Identify the party responsible for the engineering design for the drainage upgrades along the intersection frontage of Bayfront Drive and Main Street for the Project.*

II. BACKGROUND

The City is holds jurisdiction of all public Rights-Of-Way (ROW) within the corporate limits of the City of Daphne. Stormwater sewers within the Public ROW's and Drainage Easements within the corporate limits are owned by and maintained the City. The City of Daphne, Division of Public Works operates a Streets and Drainage Department capable of executing improvements and upgrades to existing and deficient stormwater sewers, systems, and/or infrastructures.

The City has maintained a policy that if the property owner, residential or commercial, paid the material cost of frontage drainage improvements, the City would provide the equipment, labor and oversight for those improvements at no additional charge.

III. THE CITY RESPONSIBILITIES UNDER THIS MOU

The City shall undertake the following activities:

- *Be responsible for the installation of all drainage improvements within the Public R.O.W. shown in Exhibit "A" (Drawing By Frank Dagley, Engineer)*
- *Be responsible for Quantifying and Procurement of all material called out in Exhibit "B" (Quantity and Cost Estimate by Richard D. Johnson, Public Works Director)*
- *Be responsible for all required project permitting, project management, and project closeout.*
- *Be responsible for completion of all drainage improvements within the Public R.O.W. shown in Exhibit "A" within ninety (90) calendar days of the execution of this agreement.*
- *Be responsible, by resolution of the City Council, if required, for the approval of the Mayor to enter into this MOU.*

IV. KAMCO RESPONSIBILITIES UNDER THIS MOU

Kamco shall undertake the following activities:

- *Be responsible for full payment of the material cost of improvements as Quantified in Exhibit "B" (Quantity and Cost Estimate by Richard D. Johnson, Public Works Director). Payment would be required in conjunction with the execution of this agreement.*
- *Be responsible for providing engineering design and engineering support, if required, during construction based on Exhibit "A" (Drawing By Frank Dagley, Engineer)*
- *Be responsible for material cost overruns due to unforeseen in-situ and/or environmental conditions outside the scope work depicted in the attached engineering drawing (Exhibit "A").*
- *Be responsible for the approval of Kamco Daphne, LLC, or their designee, to enter into this MOU.*

V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

1. *This MOU may be modified by mutual agreement of the parties.*
2. *This MOU may be terminated by mutual agreement of the parties.*

VI. FUNDING

This MOU *does include* the payment of funds for material costs between the two parties as outlined in Paragraphs IV.

VII. EFFECTIVE DATE AND SIGNATURE

This MOU shall be effective upon the signature of *The City* and *Kamco* authorized officials. It shall be in force from the date signed and until modification or termination by mutual agreement.

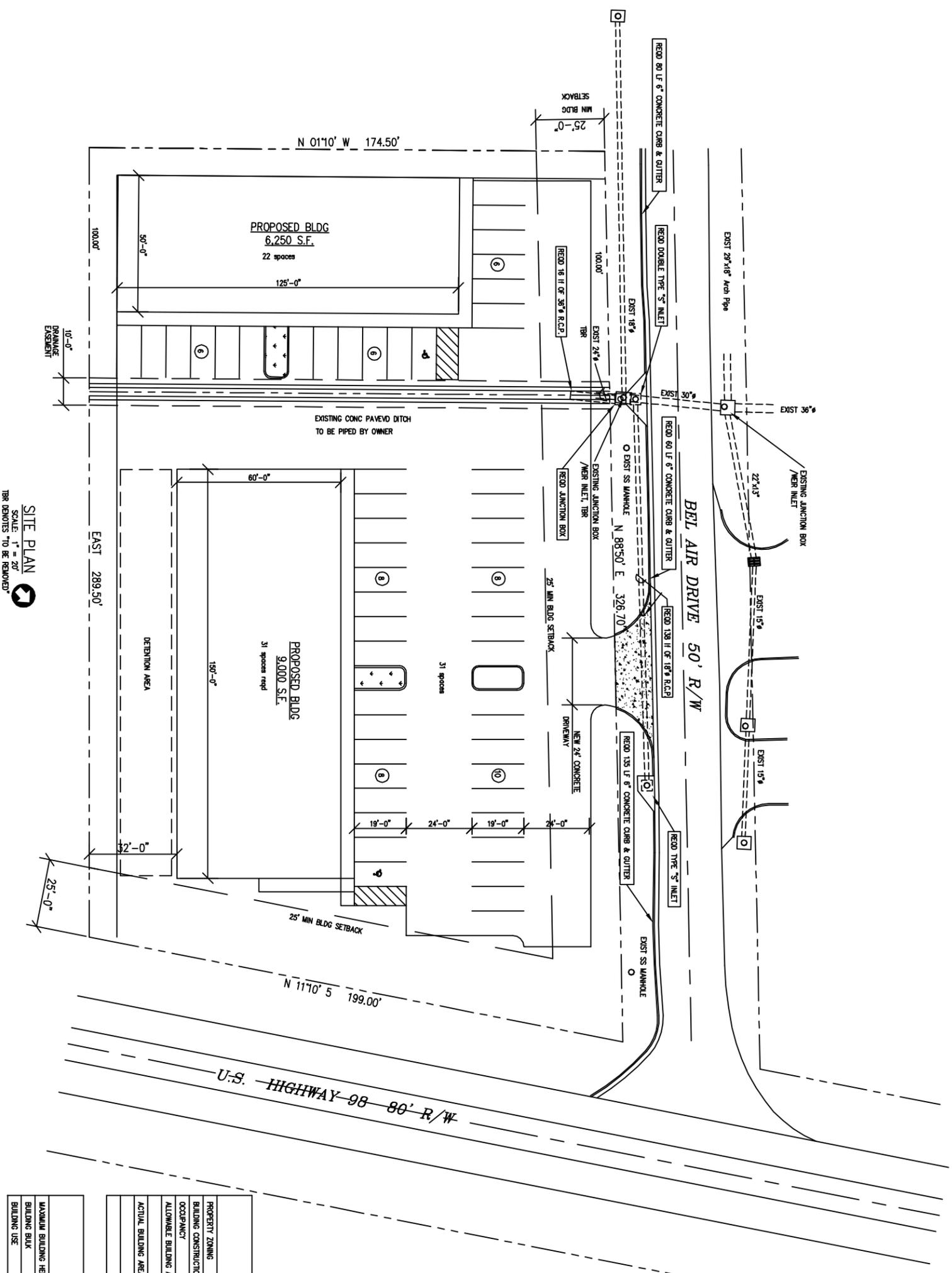
The City and *Kamco* indicate agreement with this MOU by their signatures.

Signatures and dates:

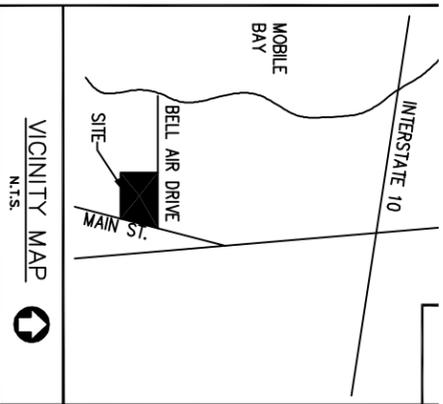
The City of Daphne
P.O. Box 400
Daphne, Alabama 36526

Kamco Daphne, LLC
2610B Dauphin Street, Suite 101
Mobile, AL 36606

Dane Haygood Mayor	Date	R. Mark Kirkpatrick Sole Member	Date
-----------------------	------	------------------------------------	------



SITE PLAN
SCALE: 1" = 20'
TBR DENOTES "TO BE REMOVED"



CODE DATA

PROPERTY ZONING	B2 ZONING
BUILDING CONSTRUCTION TYPE	
OCCUPANCY	9,500 S.F.
ALLOWABLE BUILDING AREA	PER 2000 B.C. SECTION 903.2.6
ACTUAL BUILDING AREA	6,820 S.F.

BUILDING DATA

MAXIMUM BUILDING HEIGHT	24'-0"
BUILDING BULK	6,820 SF (24.64%)
BUILDING USE	

LAND USAGE:

DESCRIPTION	AREA	% OF PROPERTY AREA
PROPERTY AREA	59,054 SF = 1.35 ACRES	100.00%
BUILDING AREA	6,820 SF = .16 ACRES	24.71%
ASPHALT AREA	10,770 SF = .25 ACRES	38.02%
CONCRETE SIDEWALK	273 SF = .008 ACRES	0.99%
LIESTONE AREA	4828 SF = .11 ACRES	17.50%
GRASSED/LANDSCAPED AREA	4900 SF = .12 ACRES	17.25%

REVISIONS	BY	DATE

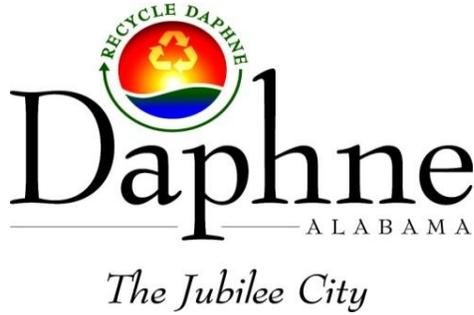
FRANK A. DAGLEY & ASSOCIATES, INC.
CONSULTING ENGINEERS
MOBILE, ALABAMA

KIRPATRICK BLDG DAPHNE

SITE PLAN

DATE: 6/12/12 SHEET: 1 OF 1 DRAWING NUMBER: 1-SITE 12-100

Exhibit "B"



PUBLIC WORKS DEPARTMENT

PRICE QUOTATION

PRIVATE/PUBLIC PARTICIPATION

IMPROVEMENT PROJECTS

Project: Kamco Daphne, LLC - ROW Improvements Main St @ Bayfront Dr

ITEM #	DESCRIPTION	UNIT	QTY	UNIT PRICE	QUOTE
1	24" Stand Up Concrete Curb/Gutter	LF	365	\$9.58	\$3,496.70
2	S-1 Inlet - Built in Place - Top, Throat, Box	EA	1	\$500.00	\$500.00
3	S-2 Inlet - Built in Place - Top, Throat, Box	EA	1	\$750.00	\$750.00
4	24' Concrete Driveway Apron (6" thick w/WWF)	EA	1	\$1,950.00	\$1,950.00
5	18" Dia. RCP w/Bedding Material	LF	138	\$21.75	\$3,001.50
6	424-A Asphalt Wedge (E.P. to Curb)	TON	2	\$55.00	\$110.00
Estimate Total:					\$9,808.20

Notes:

1. All work to be performed is within the Public R.O.W.
2. Cost based on City's material prices only.
3. Subject to Public Works Schedule and time agreed to in MOU.
4. Full payment must be made in advance of material purchasing and work.
5. This estimate is based on the scope of work depicted in the attached engineering drawing - quantities and cost are subject to change if unforeseen conditions are found within the limits of construction.
6. All material and workmanship described above will meet or exceed all applicable City of Daphne

Prepared By:

Name: Richard D. Johnson, PE

Title: Director of Public Works

Signed: _____

EXHIBIT "A"

City of Daphne Capital Projects - Fiscal Year 2014

Priority	Project	Mileage	Construction	Engineering		Utility Relocations	R.O.W. Acquisition	Total	Cost Sharing*		
				Survey & Design	Testing & CE&I				State/ATRIP	City	County
1	North Main Street - Resurfacing, Restoration and Rehabilitation (RRR Project), 1.88 Miles (Park Dr/US Hwy 98 to Jubilee Square) Project includes base repairs, asphalt resurfacing, and striping/markings	1.88	\$697,040.00	\$62,733.60	\$104,556.00	\$0.00	\$0.00	\$864,329.60	\$641,276.80	\$223,052.80	\$0.00
2	Ridgewood Drive Lake Forest - 1.25 Miles (Ridgewood Drive - Windsor to Bayview and Windsor to North Main) Project includes base repairs, drainage, asphalt resurfacing, concrete valley gutter, median curbing & landscaping	1.25	\$1,375,533.00	\$116,920.31	\$206,329.95	\$0.00	\$0.00	\$1,698,783.26	\$1,265,490.36	\$433,292.90	\$0.00

	Miles	Construction	Surv & Design	Testing & CE&I	Utility	R.O.W.	Project Totals	State Match	City Match	County Match
Totals:	3.13	\$2,072,573	\$179,654	\$310,886	\$0	\$0	\$2,563,113	\$1,906,767	\$656,346	\$0

* Sponsor responsible for 100% of Survey & Design, Utility Relocations, and R.O.W. Acquisitions and 20% of Testing, CE&I, and Construction

**Engineering Survey and Design Fee Schedule (% of Construction Cost): < \$250K - 12.5%; \$251K << \$499K - 11.0%; \$500K << \$749K - 10%; \$750K << \$999K - 9.5%; \$1.0M << \$1.499M - 8.5%; > \$1.50M - 7.5%
 Note: For RRR (Resurfacing, Restoration and Rehabilitation) Projects - Decrease by One (1%) Percentage Point - Testing & CE&I for Federal Funded Projects - 15% Unless Otherwise Noted **City Projects Only

Eastern Shore MPO - Project Submittal List - FY2014

Rank	Project	Mileage	Construction	Engineering		Utility Relocations	R.O.W. Acquisition	Total	Cost Sharing*		
				Survey & Design	Testing & CE&I				ESMPO	City	County
1	County Road 13 - Resurfacing, Restoration and Rehabilitation (RRR Project), 2.5 Miles (County Road 64 to Lawson Rd/Champions Way) Project includes base repairs, asphalt resurfacing, striping/markings, and addition of bike lanes	2.5	\$625,000.00	\$39,062.50	\$93,750.00	\$0.00	\$0.00	\$757,812.50	\$575,000.00	\$182,812.50	\$0.00
2	County Road 13 - Resurfacing, Restoration and Rehabilitation (RRR Project), 1.1 Miles (Lawson Rd/Champions Way to US Hwy 90) Project includes base repairs, asphalt resurfacing, striping/markings, and addition of bike lanes	1.1	\$275,000.00	\$19,250.00	\$41,250.00	\$0.00	\$0.00	\$335,500.00	\$253,000.00	\$82,500.00	\$0.00
3	Pine Run - From Timber Creek Blvd to Hickory Ct (mill and overlay)	0.54	\$150,000.00	\$12,000.00	\$22,500.00	\$0.00	\$0.00	\$184,500.00	\$138,000.00	\$46,500.00	\$0.00
4	Park Drive - Resurfacing, Restoration and Rehabilitation (RRR Project), 1.5 Miles (Pollard Rd to North Main) Project includes base repairs, asphalt resurfacing, and striping/markings	1.5	\$477,996.00	\$33,459.72	\$71,699.40	\$0.00	\$0.00	\$583,155.12	\$439,756.32	\$143,398.80	\$0.00
5	Rolling Hill Dr - Resurfacing, Restoration and Rehabilitation (RRR Project), 1.5 Miles (Bayview to Bayview) Project includes base repairs, asphalt resurfacing, striping/markings	1.5	\$375,000.00	\$26,250.00	\$56,250.00	\$0.00	\$0.00	\$457,500.00	\$345,000.00	\$112,500.00	\$0.00
6	Lake Forest - Bridge Replacement on Bayview at Lake Forest Lake - Severely Limited Bridge - Current: 38' Span & 25' Width	0.25	\$500,000.00	\$38,750.00	\$75,000.00	\$0.00	\$0.00	\$613,750.00	\$460,000.00	\$153,750.00	\$0.00
7	Johnson Road Extension - from US Hwy 98 to State Road 181 - Resurfacing and New Construction with Bridge across Rock Creek	2.84	\$2,146,710.00	\$161,003.25	\$322,006.50	\$0.00	\$227,500.00	\$2,857,219.75	\$1,974,973.20	\$882,246.55	\$0.00

	Miles	Construction	Surv & Design	Testing & CE&I	Utility	R.O.W.	Project Totals	MPO Match	City Match	County Match
FY2014 Submittals Totals:	10.23	\$4,549,706.00	\$329,775.47	\$682,455.90	\$0.00	\$227,500.00	\$5,789,437.37	\$4,185,729.52	\$1,603,707.85	\$0.00

* Sponsor responsible for 100% of Survey & Design, Utility Relocations, and R.O.W. Acquisitions and 20% of Testing, CE&I, and Construction

EASTERN SHORE MPO PROJECT SUBMITTAL FORM

FOR SUBMITTING A PROPOSED PROJECT FOR INCLUSION IN THE LONG RANGE TRANSPORTATION PLAN (LRTP)
OR TRANSPORTATION IMPROVEMENT PROGRAM (TIP)

Date: _____ **Point of Contact:** _____

Address: _____

Phone: _____ **Email:** _____

This Project was Recommended by (check one): Citizen Working or Living within MPO Area

Advisory Committee Member Public Official Other _____

Please provide the following information about the proposed project:

Project Description and Location (*include termini description, if road improvement*)

Reason for Proposed Project (*Purpose and Need*):

Project Length (*if applicable*):

Bicycle and Pedestrian or ADA Upgrades:

Roadway Classification (*if applicable*):

Project Sponsor (*i.e. Responsible Local Government*):

Percent (%) Local Match:

Match Source:

Environmental Justice Issues or Concerns:

For Internal (MPO or Project Sponsor) Use Only

Scope of Work:

Cost Estimate:

Preliminary Engineering:

Right-of-Way:

Utilities:

Construction:

TOTAL COST:

Project Map:

For Internal (MPO or Project Sponsor Use Only)

Potential Funding Sources:

- | | |
|----------|----------|
| 1. _____ | 2. _____ |
| 3. _____ | 4. _____ |
| 5. _____ | 6. _____ |
| 7. _____ | 8. _____ |

Bicycle and Pedestrian Advisory Committee Recommendation:

- | | |
|--|---|
| <input type="checkbox"/> Recommend approval of the project as submitted for inclusion in the Visionary List of the LRTP | <input type="checkbox"/> Recommend approval of the project as submitted for inclusion in the Financially Constrained List of the LRTP |
| <input type="checkbox"/> Recommend approval of the project as submitted for inclusion in the TIP _____ | <input type="checkbox"/> Recommend the Policy Board not approve the project |
| <input type="checkbox"/> Recommend the Policy Board postpone taking any action on the proposed project to give time for further review or to change the project scope: _____ | Votes: _____ |
| _____ | Chair or Vice Chair Signature _____ Date _____ |

Citizens Advisory Committee Recommendation:

- | | |
|--|---|
| <input type="checkbox"/> Recommend approval of the project as submitted for inclusion in the Visionary List of the LRTP | <input type="checkbox"/> Recommend approval of the project as submitted for inclusion in the Financially Constrained List of the LRTP |
| <input type="checkbox"/> Recommend approval of the project as submitted for inclusion in the TIP _____ | <input type="checkbox"/> Recommend the Policy Board not approve the project |
| <input type="checkbox"/> Recommend the Policy Board postpone taking any action on the proposed project to give time for further review or to change the project scope: _____ | Votes: _____ |
| _____ | Chair or Vice Chair Signature _____ Date _____ |

Technical Advisory Committee Recommendation:

- | | |
|--|---|
| <input type="checkbox"/> Recommend approval of the project as submitted for inclusion in the Visionary List of the LRTP | <input type="checkbox"/> Recommend approval of the project as submitted for inclusion in the Financially Constrained List of the LRTP |
| <input type="checkbox"/> Recommend approval of the project as submitted for inclusion in the TIP _____ | <input type="checkbox"/> Recommend the Policy Board not approve the project |
| <input type="checkbox"/> Recommend the Policy Board postpone taking any action on the proposed project to give time for further review or to change the project scope: _____ | Votes: _____ |
| _____ | Chair or Vice Chair Signature _____ Date _____ |

Policy Board Action:

- | | |
|---|---|
| <input type="checkbox"/> Approve the project as submitted for inclusion in the Visionary List of the LRTP | <input type="checkbox"/> Approve the project as submitted for inclusion in the Financially Constrained List of the LRTP |
| <input type="checkbox"/> Approve the project as submitted for inclusion in the TIP _____ | <input type="checkbox"/> Choose not to approve the project |
| <input type="checkbox"/> Postpone taking any action on the proposed project to give time for further review or to change the project scope: _____ | Votes: _____ |
| _____ | Resolution Number: _____ |
| _____ | |

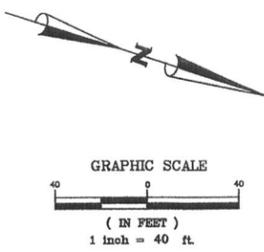
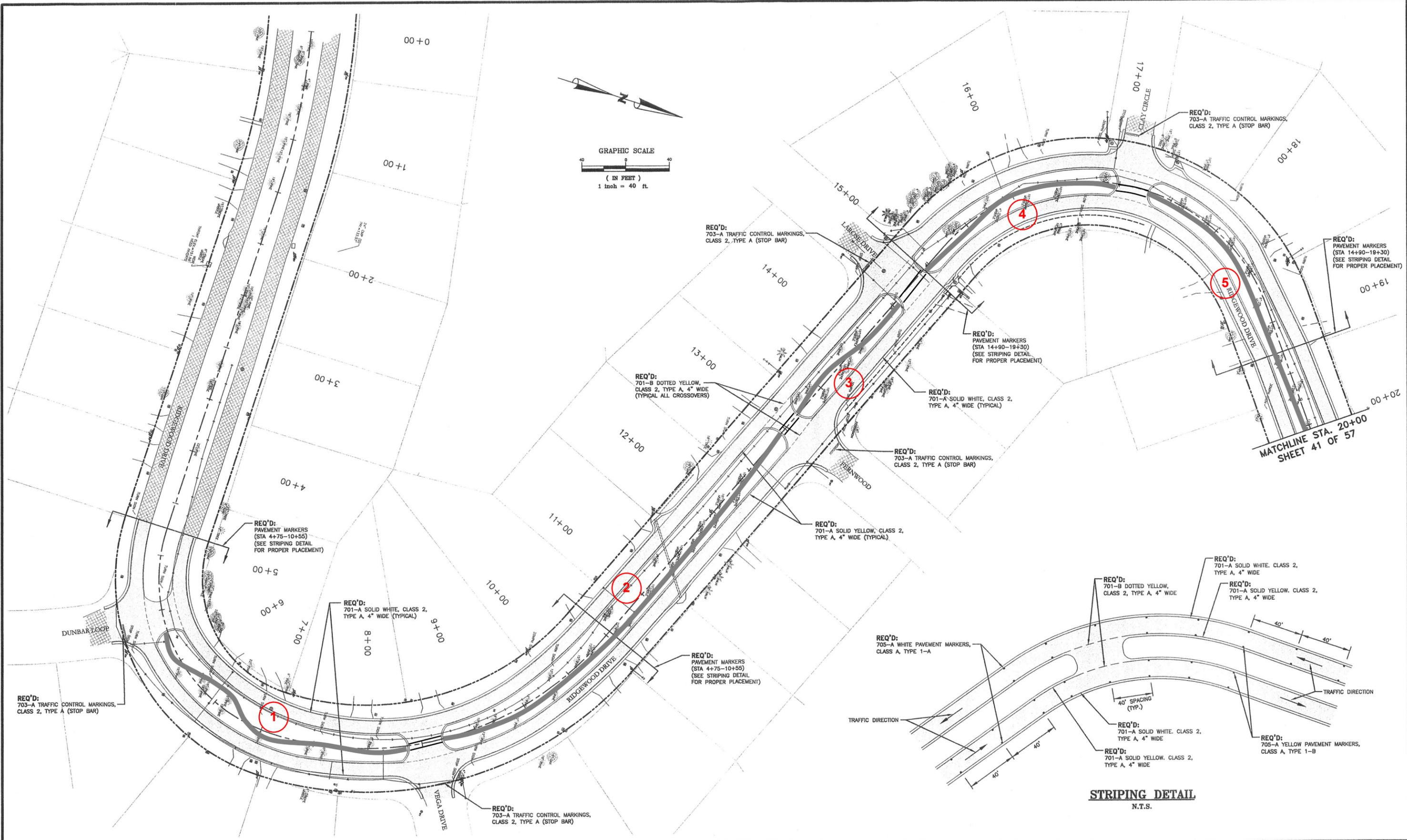
Public Works Director Estimated Costs

City of Daphne Street Improvements - Fiscal Year 2014

Project : 2014 Lake Forest, Phase 1, Ridgewood Drive Sidewalks

Calculations Based on Total Project - Sta 5+50 - 55+50 (Ridgewood - Dunbar Loop to Worchester Dr)					
Construction Estimate					
5'-0" Wide Sidewalk (4620 linear feet) within the Boulevard Median R.O.W.					
Item #	Description	Unit	Quantity	Unit Price	Amount
1	3000 psi Concrete with Fiber	Yd ³	328	\$90.00	\$29,520.00
2	Form Material	L.F.	4620	\$3.00	\$13,860.00
3	Thermo Plastic Pedestrian X-ing - Pavement Marking	Each	3	\$750.00	\$2,250.00
4	Thermo Plastic Pedestrian X-ing - Striping (Medians)	Each	13	\$250.00	\$3,250.00
5	Truncated Domes Cast-In-Place - 2' x 4' (ADA Reqd)	Each	37	\$150.00	\$5,550.00
6	Select Fill Under Sidewalk (Sand Clay Base)	Yd ³	942	\$3.00	\$2,826.00
7	Curb Cuts (Concrete, Forms, Etc...)	Each	37	\$45.00	\$1,665.00
8	1/10 of a mile markers (Cast-In-Place) - Bronze	Each	10	\$100.00	\$1,000.00
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20	Contingencies (5.0%)	L.S.	1	\$2,996.05	\$2,996.05
Estimated Construction Cost					\$62,917.05

Cost Per Linear Foot	\$13.62
-----------------------------	----------------



MATCHLINE STA. 20+00
SHEET 41 OF 57

STRIPING DETAIL
N.T.S.

NO.	REVISION	DATE	ENGR.

HUTCHINSON, MOORE & RAUCH, LLC

2039 MAIN STREET
DAPHNE, ALABAMA 36526

ENGINEERS & SURVEYORS
DAPHNE, ALABAMA 32

TEL (251) 626-2626
FAX (251) 626-6934
daphne@hmengineers.com

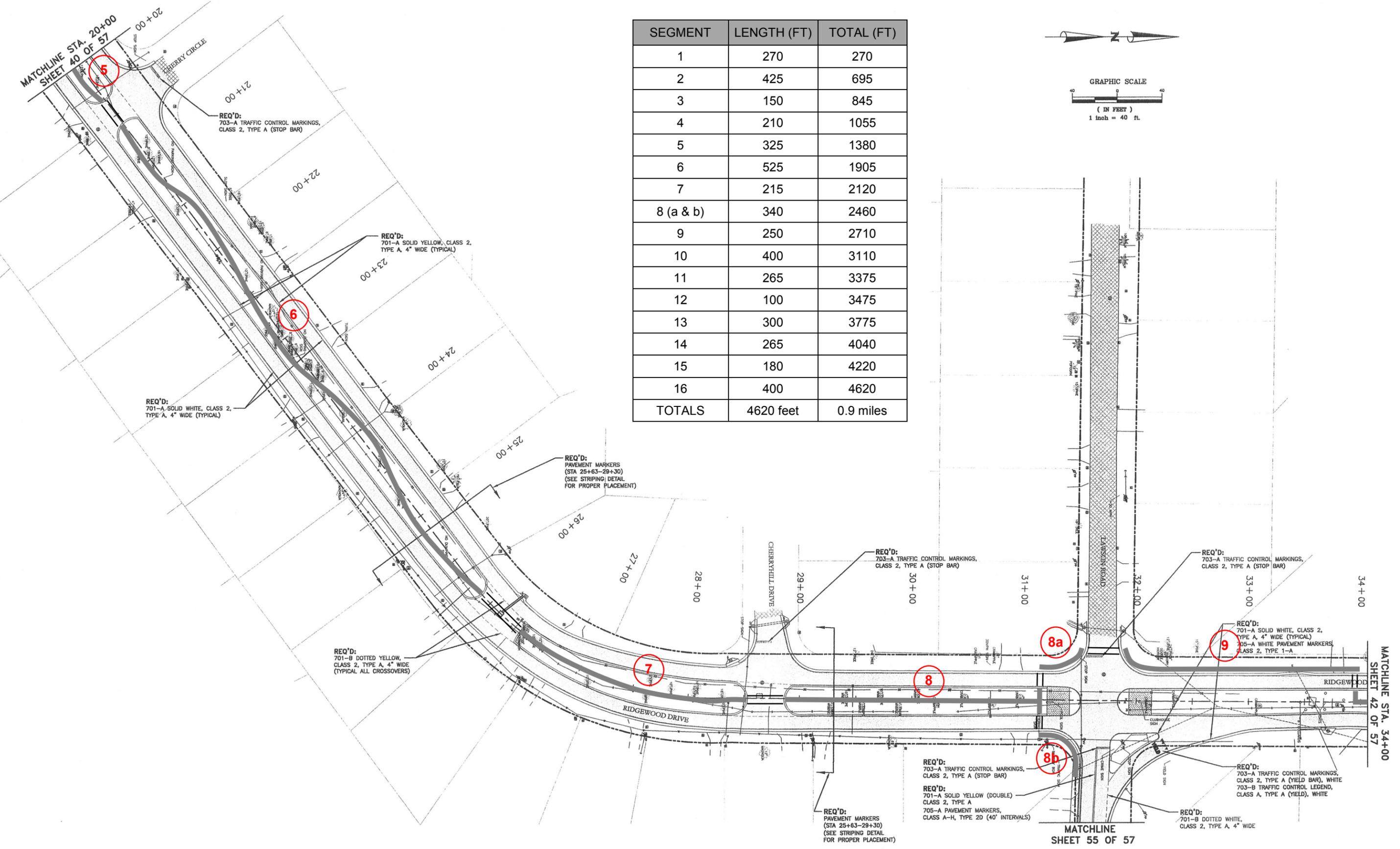
PLAN VIEW: RW000.DWG
02500-3568-10.25

SIDEWALK PLAN (RIDGEWOOD DRIVE)
LAKE FOREST ROADWAY IMPROVEMENTS – ADDITIVE ALT. #1

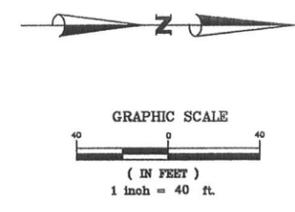
CITY OF DAPHNE

SCALE 1"=40'	DATE FEBRUARY 2011	DRAWN BY JLG	DESIGNED BY	SHEET 40 OF 57
-----------------	-----------------------	-----------------	-------------	-------------------

MATCHLINE STA. 20+00
SHEET 40 OF 57



SEGMENT	LENGTH (FT)	TOTAL (FT)
1	270	270
2	425	695
3	150	845
4	210	1055
5	325	1380
6	525	1905
7	215	2120
8 (a & b)	340	2460
9	250	2710
10	400	3110
11	265	3375
12	100	3475
13	300	3775
14	265	4040
15	180	4220
16	400	4620
TOTALS	4620 feet	0.9 miles

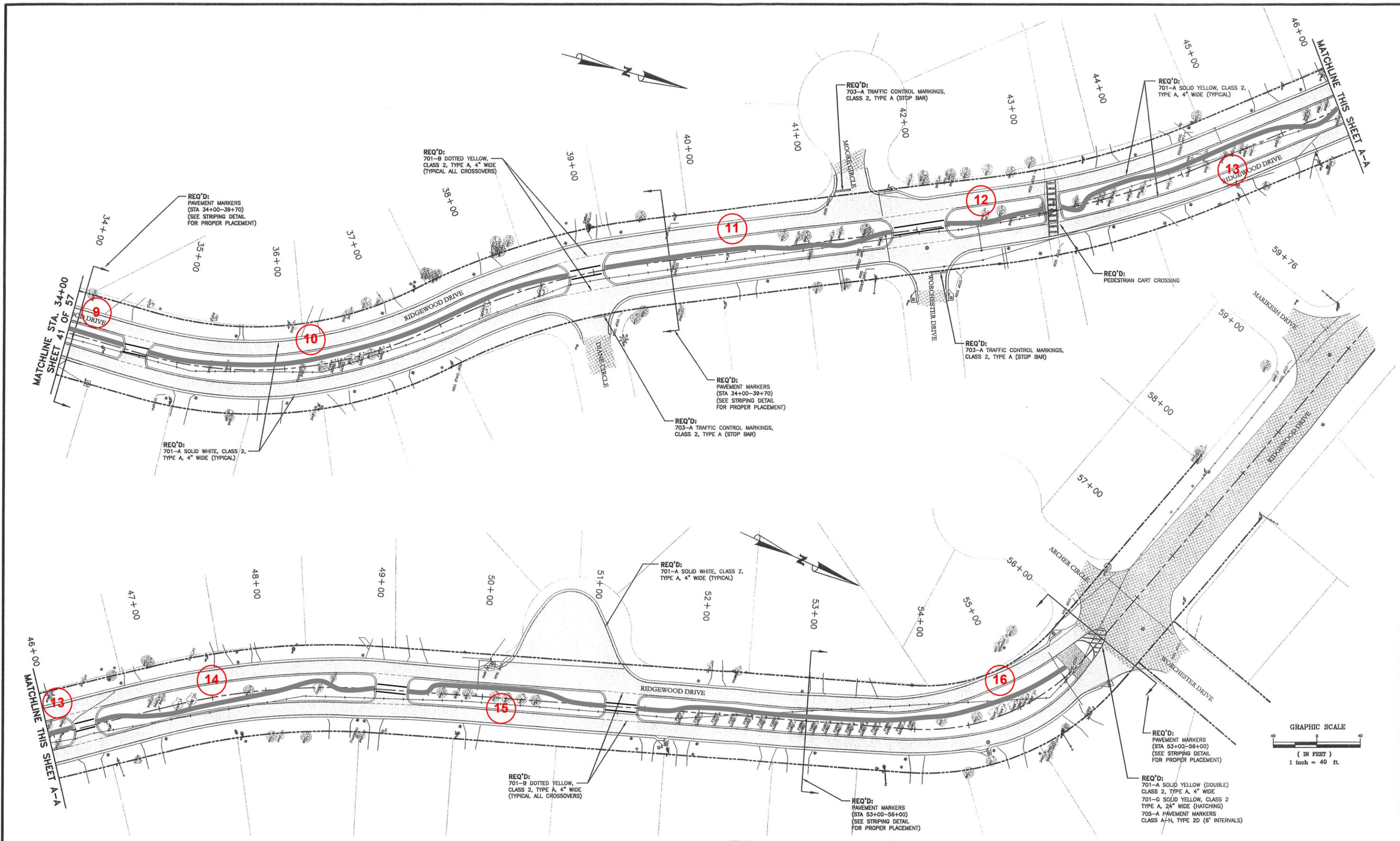


NO.	REVISION	DATE	ENGR.

HUTCHINSON, MOORE & RAUCH, LLC
ENGINEERS ♦ SURVEYORS 33
2039 MAIN STREET
DAPHNE, ALABAMA 36526
DAPHNE, ALABAMA
TEL (251) 626-2626
FAX (251) 626-6934
daphne@hmrengineers.com

SIDEWALK PLAN (RIDGEWOOD DRIVE)
LAKE FOREST ROADWAY IMPROVEMENTS – ADDITIVE ALT. #1
CITY OF DAPHNE

SCALE 1"=40' DATE FEBRUARY 2011 DRAWN BY JLG DESIGNED BY SHEET 41 OF 57



NO.	REVISION	DATE	ENGR.

HUTCHINSON, MOORE & RAUCH, LLC

2039 MAIN STREET
DAPHNE, ALABAMA 36526

ENGINEERS & SURVEYORS 34
DAPHNE, ALABAMA

TEL (251) 626-2626
FAX (251) 626-6934
daphne@hmrengineers.com

STRIPING_RIDWOOD.DWG
02500-3568-10.25

SIDEWALK PLAN (RIDGEWOOD DRIVE)
LAKE FOREST ROADWAY IMPROVEMENTS - ADDITIVE ALT. #1

CITY OF DAPHNE

SCALE 1"=40'	DATE FEBRUARY 2011	DRAWN BY JLG	DESIGNED BY	SHEET 42 OF 57
-----------------	-----------------------	-----------------	-------------	-------------------

**REPORT
OF
SPECIAL BOARDS**

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
JULY 23, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

CALL TO ORDER:

The Moderator called to order the Sign Committee Meeting at 4:38 p.m.

CALL OF ROLL:

Members Present:

Steve Robinson
Bill Burdick
John Peterson
Victor Lejeune
Frieda Romanchuk

Members Absent:

Elnora Jackson
Terry Eady

Staff Present:

Adrienne Jones, Director of Community Development
Pat Johnson, Recording Secretary
Jay Ross, Attorney
Kyle Navarro, Attorney
Dane Haygood, Mayor
Lonnie Jones, Code Enforcement Officer

The Moderator stated the next item on the agenda is the approval of the minutes, which Ms. Pat sent out this afternoon. Perhaps you would like to take a few minutes to review them since they are only a couple of pages.

Approval of minutes:

The minutes of the July 16, 2013 meeting were considered for approval.

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

The Motion carried unanimously.

The Moderator stated the next order of business on our agenda is Mr. Navarro.

Mr. Lejeune stated before we do that can I make a request. We have guest here and if they would like to make a statement concerning what we are doing I would certainly like to allow them to do so since they are not going to be allowed to do so once we start.

The Moderator suggested a motion be made to have public participation five minutes at the beginning of or five minutes at the end of the meeting.

**THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
JULY 23, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.**

The Committee discussed the motion made at the last meeting regarding public participation was to not allow guest to speak unless the Committee asked them a question.

A **Motion** was made by Mr. Lejeune and **Seconded** by Mr. Robinson to allow public participation at the beginning of Committee meetings prior to new business with a limit of two minutes per speaker.

The Motion carried unanimously.

The Moderator opened the floor for public participation.

Councilwoman Ms. Tommy Conaway, District 1, thanked the Committee for their willingness to serve and cited she was there to observe.

With no other comments to be made the Moderator closed the floor for public participation. Next Mr. Navarro will give some legal information regarding signs.

New Business

Mr. Navarro stated we were asked prepare a summary of laws regulating signs, because of the implications of the Constitution and state laws. The City has the power to regulate signs for public health, safety and welfare, and the regulation of sign placement kind of falls within that. The City also has the power to regulate some of the structure aspect of signs and the types of regulations that are generally permitted are time, place and manner of restriction, the number of signs, the location of signs and the time limit. As long as you are treating similar type businesses the same, and if there are going to be differences then we will certainly have to look into the legalities of it. Content can be regulated, but it is really difficult and I am not sure if we want to or if it is necessary. Perhaps we could narrowly define the content if we wanted to get into it, therefore remember these points.

The Committee discussed what the statement under Article 33-1 "and to encourage a positive visual environment in harmony with the natural beauty of the City of Daphne" has to do with the health, safety and welfare of the city. It was concluded that this statement supports time, place and manner of the aesthetics in our sign ordinance should it be challenged. The statement allows municipalities in Alabama more range to regulate by governmental actions. The Committee agreed that real estate builder/subdivision directional signage would be written as a new section under permitted signs; they will be permitted for a one year period, placement would be on private property and not within the right-of-way, at or near the entrance; the size limitation will be thirty-two square feet with one per subdivision entrance; when one hundred percent of lots are sold the signs will come down. Permitting such will allow the City to know where they are and how long they have been up. Also maintenance needs to be tied in with the permit fee. The Committee also discussed a suggestion to increase the percentage of wall mounted. However, it was concluded that amount might be a bit excessive;

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
JULY 23, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

Perhaps three hundred square feet or twenty-five percent would be better. Moderator suggested the Committee be ready next meeting to discuss 3D objects and the definition for digital and electronic signs.

Ms. Romanchuk asked that the following statement be included in the minutes in response to Mr. Navarro's comments, "when Kyle spoke about the legal aspects of Sign Ordinances, he mentioned the Time, Place, and Manner [TPM] rules apply without regard to the message. We should be focusing on the TPM, making sure that all aspects of our sign ordinances be it commercial, real estate, etc. are defined by TPM. If the sign ordinances follow narrow, objective rules not tied to the message and they are consistently enforced, generally courts uphold those types of ordinances. The statement "THE MEDIUM IS NOT THE MESSAGE" goes hand-in-hand with the above: the medium is regulated, not the message".

During Committee comments Mr. Lejeune presented the Committee his version of a simpler Table of Contents making it easier to find stuff. Mr. Burdick stated whatever conclusions we are coming to we are not sticking to the agenda. Ms. Romanchuk agreed the simpler the Table of Contents the better, shorter is more precise.

Mr. Burdick requested the following adjustment be added to the minutes, "In review of reading the minutes of 07/23/13 Sign Committee meeting. I would like to withdraw my statement of not following the agenda. My thoughts were that new business should be at the end of the agenda before closing comments. The agenda was in proper order."

ADJOURNMENT:

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

There being no further business, the meeting was adjourned at 6:18 p.m.

Respectfully submitted by:



Pat Johnson, Recording Secretary

APPROVED: July 30, 2013



Adrienne Jones, Moderator

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
JULY 30, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

CALL TO ORDER:

The Moderator called to order the Sign Committee Meeting at 4:42 p.m.

CALL OF ROLL:

Members Present:

Steve Robinson *Arrived at 4:44 p.m.
Bill Burdick
Toni Fassbender
Victor Lejeune
Elnora Jackson

Members Absent:

John Peterson
Frieda Romanchuk

Staff Present:

Adrienne Jones, Director of Community Development
Pat Johnson, Recording Secretary
Lonnie Jones, Code Enforcement Officer

The Moderator introduced the newest member Ms. Toni Fassbender. The approval of the minutes is next. Does anyone have any additions or deletions? Mr. Burdick asked that a statement be added to the minutes to clarify his comment concerning the agenda.

Approval of minutes:

The minutes of the July 23, 2013 meeting were considered for approval.

A Motion was made by Mr. Lejeune and Seconded by Ms. Jackson to approve the minutes as amended.

The Motion carried unanimously.

The Moderator opened the floor for public participation.

Some members of the Council thought that some input from groups such as Scenic Alabama or the Beautification Board might be helpful to the Committee for better results because they may be able to suggest helpful resources to tweak the process or the Committee could possibly learn about some concerns or fears that they are not aware of. The Committee was open to the idea of anyone from these groups coming to the meetings on Tuesday and participating in public participation, if they wanted to, but if they wanted to make a presentation they should do so in the public hearing meetings before the Council because sometimes too much information causes confusion, and the Moderator closed public participation.

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
JULY 30, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

The Moderator displayed a power point presentation recapping all of the Sign Committee's previous meeting to give Ms. Fassbender an idea of what the Committee has been working on. It was noted what the Committee had agreed upon concerning commercial real estate signs and the discussion regarding wall mounted signs continued, and all decided it was best to wait until all members are present to make a motion for recommendation.

New Business

In the August 6th, 2013 meeting the Committee will discuss digital signs.

ADJOURNMENT:

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

There being no further business, the meeting was adjourned at 6:42 p.m.

Respectfully submitted by:

Pat Johnson

Pat Johnson, Recording Secretary

APPROVED: August 6, 2013

Adrienne Jones

Adrienne Jones, Moderator

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
AUGUST 6, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

CALL TO ORDER:

The Moderator called to order the Sign Committee Meeting at 4:36 p.m.

CALL OF ROLL:

Members Present:

Steve Robinson
Bill Burdick
Victor Lejeune
Elnora Jackson
Frieda Romanchuk

Members Absent:

John Peterson
Toni Fassbender

Staff Present:

Adrienne Jones, Director of Community Development
Pat Johnson, Recording Secretary
Lonnie Jones, Code Enforcement Officer
Dane Haygood, Mayor

The Moderator asked that the Committee take a moment to review the minutes and if they had any additions or deletions? If not, a motion is in order. It was asked if anyone from the groups mentioned in last week's meeting were present, and the answer was no. It was stated that these groups were welcome to come to these Committee meetings, but they would only be allowed two minutes to talk so it would not be worth them coming. It was also stated that last week's recap allowed the Committee time to go back and discuss a lot of things from previous meetings, and it was thought that it might be beneficial to have an expert come in to make a presentation concerning electronic, digital signage. However, the definition of who is an expert was up for debate. It was decided that any group wanting to make a presentation could do so to the Council or Planning Commission after the Committee has made their recommendations. It was learned that the Council did extent the Committee another month of time to work on the agenda set before them.

Approval of minutes:

The minutes of the July 30, 2013 meeting were considered for approval.

A Motion was made by Mr. Lejeune and Seconded by Mr. Burdick to approve the minutes as written.

The Motion carried unanimously.

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
AUGUST 6, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

The Moderator opened the floor for public participation.

It was stated that the September 2nd Council meeting has been moved to Tuesday due to Labor Day, if there are any changes the Committee will be notified in advance of the meeting. Also any groups mentioned previously interested in making a presentation would certainly be welcomed to participate whether it is before the Council or Planning Commission, the important issue is that it is done right because the more this Committee does correctly the less the Council will have to do. The Moderator referenced and passed out a copy of two letters she had received and the Moderator closed public participation.

New Business

The Moderator asked the Committee if they were in favor or not of considering electronic, digital on premise signage for businesses, and reiterated the fact that we will not discuss or consider billboards of any kind. Points discussed were time, place and manner, but not the contents of the message, brightness and illumination, whether they are distracting, safety concerns, noise, what would be promoted, aesthetics, frequency of the changing message, would they be pylon or monument signs and monument seemed to be the better choice, the minimum square footage, would they be a portion of a permanent sign, the fact that the Committee can control the means that the message is displayed and the changeable copy aspect that is appealing, LED's, monochrome, LCD's, DLP's, and the consensus of the Committee after much discussion was yes they are in favor of considering such signs, but with restrictions. Each member consented to consideration.

The Moderator added in the last meeting the topic of wall mounted building signs for the overlay districts had been introduced again and the discussion was to consider where the current allowable area was 30% of the frontal area that it be increased to 40%, and if 350 square feet was allowed that it be increased to 400 square feet and if the building is over 40,000 square feet it be allowed 100 square foot of additional signage for name identification or for an accessory use. Outside of the overlay district the building signage would increase from 20% to 30% or 300 square feet to 350 square feet, whichever is less. In each case, the amount of signage may be divided and placed on either side of the building, but the maximum square footage cannot be exceeded.

ADJOURNMENT:

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

There being no further business, the meeting was adjourned at 6:03 p.m.

Respectfully submitted by:



Pat Johnson, Recording Secretary

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
AUGUST 6, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

APPROVED: August 13, 2013



Adrienne Jones, Moderator

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
AUGUST 13, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

CALL TO ORDER:

The Moderator called to order the Sign Committee Meeting at 4:38 p.m.

CALL OF ROLL:

Members Present:

Steve Robinson *Arrived at 4:46 p.m.
Bill Burdick
Victor Lejeune
Elnora Jackson
Frieda Romanchuk
Toni Fassbender

Members Absent:

John Peterson

Staff Present:

Adrienne Jones, Director of Community Development
Pat Johnson, Recording Secretary
Lonnie Jones, Code Enforcement Officer
Dane Haygood, Mayor

The Moderator asked if the Committee had taken time to review the minutes and if so did they have any additions or deletions or discussion? If not, the Moderator would entertain a motion.

Approval of minutes:

The minutes of the August 6, 2013 meeting were considered for approval.

A Motion was made by Mr. Lejeune and Seconded by Ms. Jackson to approve the minutes as written.

The Motion carried unanimously.

The Moderator opened the floor for public participation. There was no public participation, and the floor was closed for public participation.

Old Business

The Committee discussed in sequence language for the drafted electronic and or digital signs proposal. It was explained by the Moderator the differences in the different overlay districts. It was agreed that any electronic and or digital sign or sign component shall obtain a permit from the Code Enforcement Officer prior to installation.

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
AUGUST 13, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

A **Motion** was made by **Mr. Lejeune** and **Seconded** by **Ms. Fassbender** to **remove Village Overlay District** from the prohibited location list.

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

Ms. Jackson	<i>Aye</i>
Mr. Lejeune	<i>Aye</i>
Mr. Robinson	<i>Aye</i>
Ms. Fassbender	<i>Aye</i>
Ms. Romanchuk	<i>Nay</i>
Mr. Burdick	<i>Abstained</i>

The Committee briefly discussed what types of business are considered to be a professional business.

A **Motion** was made by **Mr. Lejeune** and **Seconded** by **Ms. Fassbender** to **remove B-3, Professional Business** from the prohibited locations list.

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

Ms. Jackson	<i>Nay</i>
Mr. Lejeune	<i>Aye</i>
Mr. Robinson	<i>Aye</i>
Ms. Fassbender	<i>Aye</i>
Ms. Romanchuk	<i>Nay</i>
Mr. Burdick	<i>Aye</i>

Discussion of prohibited effects considered and agreed upon were the scrolling of message, changeable copy shall not appear to flash, undulate, pulse, blink, expand, contract, bounce, rotate, spin, twist or otherwise move, and no animated, sequential messaging, streaming video, sound, or sequence shall appear as motion.

A **Motion** was made by **Ms. Romanchuk** and **Seconded** by **Ms. Jackson** to **accept all prohibited effects** as submitted.

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

Ms. Jackson	<i>Aye</i>
Mr. Lejeune	<i>Nay</i>
Mr. Robinson	<i>Aye</i>
Ms. Fassbender	<i>Aye</i>
Ms. Romanchuk	<i>Aye</i>
Mr. Burdick	<i>Aye</i>

In the discussion of on premise digital and or electronic sign provisions it was thought that pylon signs should not be incorporated into the body of a sign.

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
AUGUST 13, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

A **Motion** was made by **Ms. Romanchuk** and **Seconded** by **Ms. Jackson** to **remove pylon signs from those signs which may incorporate digital signage.**

Upon roll call vote, **the Motion failed.**

Ms. Jackson	Aye
Mr. Lejeune	Nay
Mr. Robinson	Aye
Ms. Fassbender	Nay
Ms. Romanchuk	Aye
Mr. Burdick	Nay

Discussion continued for on premise signage concerning whether signs may occupy the lesser of fifty percent of monument sign face or thirty square feet per sign and fifteen square feet per sign face.

A **Motion** was made by **Mr. Lejeune** and **Seconded** by **Ms. Fassbender** to **allow one hundred percent of the overall monument sign to be digital.**

Upon roll call vote, **the Motion failed.**

Ms. Jackson	Nay
Mr. Lejeune	Aye
Mr. Robinson	Nay
Ms. Fassbender	Nay
Ms. Romanchuk	Nay
Mr. Burdick	Aye

It was now 6:00 p.m. and some members expressed a desire to continue pressing through the agenda items.

A **Motion** was made by **Ms. Jackson** and **Seconded** by **Ms. Romanchuk** to **extend meeting time beyond 6:00 p.m. to 6:20 p.m.**

Upon roll call vote, **the Motion failed.**

Ms. Jackson	Aye
Mr. Lejeune	Nay
Mr. Robinson	Nay
Ms. Fassbender	Nay
Ms. Romanchuk	Aye
Mr. Burdick	Aye

Discussion continues and it is the consensus of the Committee to strike allowable zones and location.

*** Ms. Jackson leaves at 6:27 p.m.**

THE CITY OF DAPHNE
SIGN COMMITTEE MINUTES
AUGUST 13, 2013
COUNCIL CHAMBERS, CITY HALL - 4:30 P.M.

There was also a consensus to restrict digital signs near existing residences and or dwellings.

** Ms. Romanchuk leaves at 6:30 p.m.*

The Committee continues and the consensus was to not name any streets since the zoning will regulate where the signs will be placed. Also electronic signs may not be placed within five hundred feet of a residence and it should be moved up to prohibited provisions and also move no pylon within five hundred feet on the same street frontage to prohibited. Completely remove the closer to residential zone, the lower the digital/electronic portion should be-permissible on a monument of a certain size and sign shall be turned off during non-business hours, no less than 11 p.m. through 6 a.m. Add for pylon signs, limit digital overall sign height shall not exceed twelve or fourteen feet in height. Under mode of operation, one change every five minutes period, images and messages must be complete in themselves without continuation in context to the next image or message or to another sign and remove all other changes per minute. The graphic size variation shall be determined by the size of the sign, the display area and consideration should be legibility and remove all other language. Brightness illuminating signs shall not emit more than 5,000 nits/foot candles in full daylight and 100 nits/foot candles between dusk to dawn. It was brought up that a bank has to have 100 nits/foot candles at night, and perhaps some more research needs to be done on brightness. The Moderator will check to see if someone familiar with electronic signs would be available to answer questions concerning brightness, and to verify compliance or other applicable law, the interface that controls the brightness of a business shall provide Code Enforcement proof of compliance, but further research will be done to define brightness, and distance between signs language should be completely removed.

ADJOURNMENT:

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

There being no further business, the meeting was adjourned at 7:34 p.m.

Respectfully submitted by:



Pat Johnson, Recording Secretary

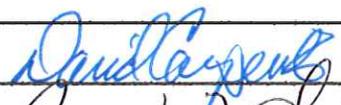
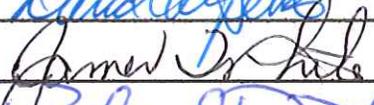
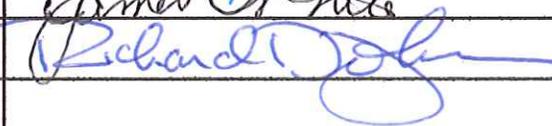
APPROVED: August 20, 2013


Adrienne Jones, Moderator

**REPORT
OF
OFFICERS**

CITY OF DAPHNE PARADE PERMIT

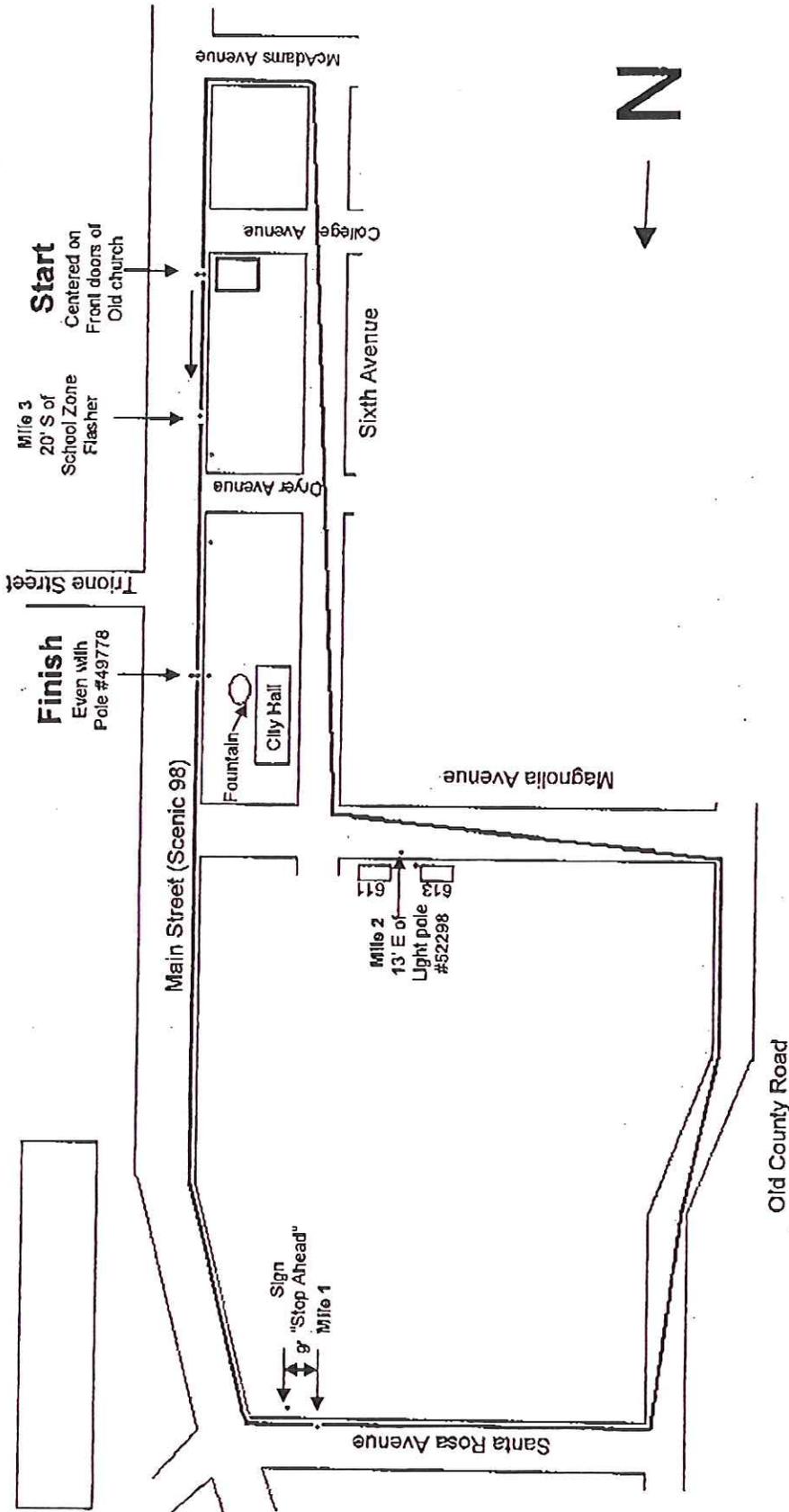
*Cheerleading World's Competition
Breast Cancer Awareness*

ORGANIZATION:	Gem of Champions
CONTACT PERSON:	Kim Kelly
ADDRESS:	25421 A State Hwy 181 Daphne, AL 36526
PHONE NUMBER (HOME): PHONE NUMBER (BUSINESS):	Kelly.Kim7@yahoo.com 251-234-8069
TYPE OF PARADE:	5K Run/WALK
DATE OF PARADE:	October 19, 2013
ROUTE TO BE TRAVELED:	
APPROXIMATE # OF PEOPLE & CARS:	125
START TIME:	8 A.M.
STOP TIME:	1 P.M.
ASSEMBLY AREA/STREET:	Scenic 98 / City Hall
ASSEMBLY TIME:	7 A.M.
SPECIAL REQUEST:	
APPROVAL	
POLICE: Chief David Carpenter:	
FIRE: Chief James White:	
PUBLIC WORKS: Richard Johnson:	
CITY COUNCIL:	9-03-13
SPECIAL INSTRUCTIONS:	
DATE ROUTED:	
NOTIFICATION OF APPROVAL:	

Jan

SEEDS 5K II

Daphne, Alabama



No Diagrams to Scale

Spills: Marked with green paint.
Locations are given explicitly on map.

Start and Finish marked with green paint

Measured by Jon Bowle (Daphne, AL 251-209-0887)
jnbowle@gmail.com
17 January 2010
Calibrated on AL08007JD
Race contact: Denise D'Oliveira (251-605-8777)

RESOLUTIONS

&

ORDINANCES

RESOLUTION 2013-43

RUFF WILSON YOUTH ORGANIZATION CONTRIBUTION

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

WHEREAS, the FY 2013 Fiscal Budget included \$33,000 in undesignated community contribution; and

WHEREAS, \$21,000 remains undesignated in that line item of the FY 2013 Budget; and

WHEREAS, the City of Daphne recognizes the Ruff Wilson Youth Organization and the importance of its contributions to the citizens of Daphne and their young.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Daphne, Alabama, that \$ 10,000 of the remaining community contributions line item included within FY 2013 budget is hereby allocated to the Ruff Wilson Youth Organization and that the Mayor and City Clerk are hereby authorized to execute agreements accordingly.

APPROVED AND ADOPTED 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
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 second Monday of each month 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. City Clerk Report
9. Report of Officers:
 - a. Mayor's Report
 - b. City Attorney's Report
 - c. City Clerk's Report
10. Resolution, Ordinances and Other Business
11. Council Comments
12. Adjournment

SECTION VI:

That any item including all background material to be placed on council and work session agenda must be turned in by 12:00 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, and posted on the city website Monday morning of the 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 concerning any item appearing on the agenda for the council meeting or work session, 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 10 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 12:00 p.m.
- C. Comments by Councilmembers and Mayor. Any comments or discussion by councilmembers or the Mayor shall be with permission of the presiding officer, and for not more than three (3) minutes.

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 a roll call vote. The estimated length of the executive session shall be stated prior to the roll call vote. If the majority of the council shall vote in favor of the Motion for executive session the body shall after certification by the city attorney that the reason stated to enter into executive session is legal according to the Open Meetings Act 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 roll call 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 department heads or their designated employee shall attend all meetings of the City Council, and shall remain at the council meeting after Department Heads Report when they have items on the agenda. Department Heads shall attend Council work sessions when items on the agenda pertain to their department.

SECTION XXII:

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

SECTION XXIII:

That Roberts' Rules of Order 11th edition be and is hereby adopted as the rules of procedure for this Council in those situations which cannot be resolved by the rules set forth in this Ordinance.

SECTION XXIV:

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

SECTION XXV:

All motions that come from committees do not require a second.

SECTION XXVI:

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 XXVII:

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

SECTION XXVIII:

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this the _____ day of _____, 2013.

**CITY OF DAPHNE,
AN ALABAMA MUNICIPAL CORPORATION**

**DANE HAYGOOD,
MAYOR**

ATTEST:

**REBECCA A. HAYES,
CITY CLERK**

MEMO

TO: OFFICE OF CITY CLERK
CC: MAYOR HAYGOOD
FROM: COMMUNITY DEVELOPMENT DIRECTOR, ADRIENNE JONES
SUBJECT: ORDINANCE 2013-46, PROPOSED AMENDMENTS
DATE: AUGUST 26, 2013



After discussing Council questions and comments regarding Ordinance 2013-46 with the Planning Commission, I recommend the following amendments.

In order to work on this aspect of the proposal and submit it to the Council in the future, **strike and delete the following from Section I:**

Proximity and Access to Existing Recreation Areas

The planning commission may allow flexibility in cases or an exemption to these provisions where a site is located adjacent to or within one-half (1/2) mile or two thousand six hundred and forty (2,640) linear feet of any municipal park, sports complex, or similar public use that either currently exists, is under construction, or is planned by a municipality or governmental corporation at the time of preliminary plat submission. Distance shall be measured as a radius from the center point of the preliminary plat. If the proposed subdivision boundary abuts or is contiguous to any municipal park, sports complex, or similar public use that either currently exists, is under construction, or is planned by a municipality or governmental corporation at the time of preliminary plat submission. The planning commission may impose other conditions to guarantee pedestrian access to the aforementioned park or facility. Conditions may include but shall not be limited to sidewalks, pedestrian trails, walkways or similar means of access.

To address the issue or responsibility for replanting and reforestation, **add language as follows to Section II:**

Replanting and reforestation shall be required of the utility company or subcontractor thereof when more than one half of the utility easement is destroyed or removed by a utility company. Replanting and reforestation with the same or similar trees and or shrubs of sufficient size is required so as to recreate the original visual buffer. Any other encroachment or disturbance within the 'no clear zone' that is caused by a utility company shall be replanted and reforested by said entity or subcontractor thereof.

CITY OF DAPHNE
ORDINANCE NO. 2013-46

**AN ORDINANCE ADDING/AMENDING THE CITY OF DAPHNE, ALABAMA
LAND USE AND DEVELOPMENT ORDINANCE 2011-54, AS ADOPTED BY THE
CITY COUNCIL ON JULY 18, 2011**

WHEREAS, the City Council of the City of Daphne, after due consideration believes that certain revisions to the City of Daphne Land Use & Development Ordinance are necessary for the proper administration of said Ordinance; and

WHEREAS, The City of Daphne Planning Commission reviewed such changes at its regularly scheduled Commission meeting on the 27th day of June, 2013, and has made a favorable recommendation for adoption to the City Council; and

WHEREAS, due notice of said proposed amendment has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, a public Hearing was held before the City Council on August 19, 2013.

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

SECTION I: AMENDMENT TO ARTICLE 11-14(h) OPEN SPACE PROVISIONS

WHEREAS, the Planning Commission acknowledges that residential subdivision developments come in many varieties; and, acknowledges amenities for common open space and recreation should be tailored to meet the needs of the target market for each subdivision; and, acknowledges the existence and viability of existing municipal recreation areas throughout the city; and, acknowledges the need for increased flexibility and innovative common open space and recreation area design; therefore, after careful review and consideration, the Planning Commission hereby submits to the city council a recommendation for guidance in achieving proper design as an amendment to the subdivision provisions of the Land Use and Development Ordinance as follows:

That Article XI entitled “*Common Open Space Provisions*”, denoted as section 11-14(h), and is hereby deleted in its entirety and is replaced as follows:

11-14(h) Common Open Space and Recreation Provisions

Common open space and recreation area set asides shall include formal recreation areas and/or natural open space areas.

There are two types of formal recreation areas: passive and active. Passive recreation areas may include but shall not be limited to: open areas that include arranged plantings, gardens, gazebos or similar structures, fountains, sculptures, and other forms of public art, pedestrian walk ways, dog parks, picnic areas, general landscaped areas, flower gardens, and other uses typical for passive recreation. Active recreation uses may include but shall not be limited to: playground or park for local or neighborhood use with swing sets, ball fields, tennis courts, jogging trails, clubhouses, swimming pools, including accompanying accessory structures, and any other similar use suitable for the common enjoyment of the residents.

Natural open space areas that preserve and conserve the natural condition and hydrology of the property should be included as well as tree groves, wetlands, associated wetland buffers, rock outcrops, pastoral areas, floodplains, lakes, streams, rivers, wildlife habitat, utility and conservation easements, and scenic vistas and trails. Detention ponds and related storm water facilities, especially low impact development measures, may also be included.

Applicability

Ten percent of each proposed single family or multifamily residential development shall be set aside for common open space and recreation area. Common Open Space and Recreation Provisions shall apply to each residential development within the corporate limits and extraterritorial jurisdiction of the City of Daphne except as exempted below.

Exemptions

Common Open Space and Recreation Provisions shall not apply in the following cases:

Where a unified planned single family residential development (i.e., under single ownership and planned in multiple phases) is five acres (5 ac) or less in total area and the minimum lot size exceeds twenty thousand square feet (20,000 sq. ft.); or,

Where the entire subdivision is zoned R-1, Low Density Single Family Residential.

Proximity and Access to Existing Recreation Areas

The planning commission may allow flexibility in cases or an exemption to these provisions where a site is located adjacent to or within one-half (1/2) mile or two thousand six hundred and forty (2,640) linear feet of any municipal park, sports complex, or similar public use that either currently exists, is under construction, or is planned by a municipality or governmental corporation at the time of preliminary plat submission. Distance shall be measured as a radius from the center point of the preliminary plat. If the proposed subdivision boundary abuts or is contiguous to any municipal park, sports complex, or similar public use that either currently exists, is under construction, or is planned by a municipality or governmental corporation at the time of preliminary plat submission. The planning commission may impose other conditions to guarantee pedestrian access to the aforementioned park or facility. Conditions may include but shall not be limited to sidewalks, pedestrian trails, walkways or similar means of access.

Phasing/Implementation

A common open space and recreation area plan shall be provided as a component of the subdivision master plan for single family or multi-family residential subdivision development, except where herein exempted.

Upon preliminary plat submission for the 1st phase of the development an agreement shall be established for the implementation of the common open space and recreation area plan. The agreement shall be made using appropriate forms as provided by the city and shall include:

- a) the proposed common open space and recreation area plan;
- b) and a cost estimate of all work associated with the common open space and recreation area plan improvements (excludes land and/or utility costs), and;
- c) a renewable surety bond valid for two years in the amount of one hundred and ten percent (110%) of the cost estimate or a letter of credit drawn on an Alabama based bank.

Performance Standards

The following factors shall be considered to determine the location for common open space

and recreation areas.

Where possible and appropriate, common open space and recreation areas shall be readily accessible and useable by property owners.

To the maximum extent practical, a portion of the common open space and recreation area should provide focal points for the development.

Common open space and recreation areas shall have at least one direct access to a public right-of-way.

The common open space and recreation areas shall be compact and contiguous unless the land is used as a continuation of or link to an existing or planned adjacent open space resource or where specific natural or topographic features require a different configuration.

In all developments, due regard shall be shown for all natural features such as large trees, heritage trees, water courses, historical spots, and similar community assets which, if preserved, will add attractiveness and value to the overall development.

SECTION II: AMENDMENT TO ARTICLE 8, DEFINITIONS OF TERMS

Amending Definition of Terms to add “*No Clear Zone*”

WHEREAS, the Planning Commission acknowledges the term ‘no clear zone’ has been specified on one or more subdivision plats and may be used on future subdivision plats, and, that Article 8 of the Land Use and Development Ordinance does not provide a definition of said term; acknowledges the need to define the term for clarification and future reference; therefore, after careful review and consideration, the Planning Commission hereby submits to the city council a recommendation to add to Article 8 of the Land Use and Development Ordinance the following terms:

No clear zone. An area designed to visually and physically set one area apart from another. Said area shall be perpetually preserved in its naturally wooded state and shall not be cleared, cut, timbered, or altered within twenty five feet (25 ft.) of the rear property line of either underbrush or vegetation or trees, except to the extent necessary to install a fence or wall along the property line(s), to install utilities within a utility easement, or remove trees that have died naturally shall be allowed. Any allowable modifications or alterations in a no clear zone must be permitted by the Building Inspections Department. Replanting and reforestation shall be required when more than one half of the utility easement is destroyed or removed by a utility company.

SECTION III: AMENDMENT TO ARTICLE 8 AND 35 ADDING REFERENCE TO THE COMMUNITY STANDARDS ORDINANCE 2013-38

Amending Definition of Terms and Table of Permitted Uses as related to the Community Standards Ordinance 2013-38.

WHEREAS, the Planning Commission acknowledges the anticipated adoption of Ordinance 2013-38, Community Standards Ordinance by the City Council; and, several terms related to land use and land development are included therein, and, these terms must be codified in Article 8 and Article 35 of the Land Use and Development Ordinance for reference and

clarity, therefore, the Planning Commission hereby submits to the city council a recommendation to add terms to Article 8 and to add reference to the Community Standards Ordinance in Article 35 of the Land Use and Development Ordinance as follows:

Section A. Amend Article 8

Adult Cabaret/Entertainment Facility. A nightclub, bar, theater, concert hall, auditorium, restaurant or similar establishment which, having entertainment, staff, live performances or appearances by nude or topless females, or entertainment, live performances or appearances characterized by their emphasis on matters depicting, describing or relating to nudity or sexual activity as permitted in Ordinance 2013-38, Community Standards Ordinance.

Adult Companionship Establishment. An establishment of business which provides the service of engaging in or listing to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by their emphasis on matters depicting, describing or relating to nudity or sexual activity as permitted in Ordinance 2013-38, Community Standards Ordinance.

Adult Novelty/Book Store. An establishment which, as one of its profit Centers, offers for sale or rental books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, slides, tapes, records, compact disks or other form of visual or audio representations or instruments, devices, games, costumes, props or paraphernalia (excluding contraceptives) which are distinguished or characterized by their emphasis on matters depicting, describing or relating to nudity or sexual activity as permitted in Ordinance 2013-38, Community Standards Ordinance.

Adult Theater. A commercial establishment where films, motion pictures, or other photographic reproductions are regularly shown or created which are distinguished or characterized by their emphasis on matters depicting, describing or relating to nudity or sexual activity as permitted in Ordinance 2013-38, Community Standards Ordinance.

Tattoo Facility. A use as permitted in Ordinance 2013-38, Community Standards Ordinance. The geographic location at which an individual does one or more of the following for compensation: places an indelible mark upon the body of another individual by the insertion of a pigment in or under the skin; places an indelible design upon the body of another individual by production of scars; the perforation of human tissue other than ear for a nonmedical purpose.

Sexually Oriented Businesses. Adult cabaret/entertainment facilities, adult companionship establishment, adult novelty/book stores or adult theaters as permitted in Ordinance 2013-38, Community Standards Ordinance.

Sexually Oriented Business Permit. As defined in Section II of Ordinance 2013-38, Community Standards Ordinance.

Section B. Amend Article 35

In accordance with the Community Standards Ordinance, as permitted in Ordinance 2013-38 the Planning Commission recommends the city council amend Article 35, Table of Permitted Uses as follows:

Any use, as permitted in Ordinance 2013-38, Community Standards Ordinance, except a tattoo facility, may be permitted in a B-2 zone district upon Planning Commission review and approval or in a C/I zone district by right. A tattoo facility may be permitted in a B-1 upon Planning Commission review or B-2 zone by right. In all cases, the provisions of Ordinance 2013-38 must be satisfied for each use noted therein.

SECTION IV: CONFLICT WITH OTHER ORDINANCES

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

SECTION V. SEVERABILITY

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

SECTION VI: EFFECTIVE DATE.

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ DAY OF _____, 2013.

**DANE HAYGOOD,
MAYOR**

ATTEST:

**REBECCA A HAYES,
CITY CLERK**

**CITY OF DAPHNE
ORDINANCE NO. 2013-47**

**AN ORDINANCE TO REVISE DISCRIMINATION AND HARASSMENT
PREVENTION POLICY IN CHAPTER ONE
AND CHAPTER SEVEN AND CHAPTER EIGHT OF THE
CITY'S EMPLOYEE HANDBOOK**

WHEREAS, the City Council of the City of Daphne, after due consideration believes that certain revisions to the Discrimination and Harassment Prevention Policy in Chapter 1 and the policies in Chapter 7 and Chapter 8 of the City of Daphne Employee Handbook are necessary for the proper administration of said Handbook and the policies contained therein; and

WHEREAS, said revisions to the Employee Handbook will enable the City to more easily facilitate and administer provisions of the Employee Handbook in order to benefit the health, safety, and welfare of its employees;

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

SECTION I: REVISION TO DISCRIMINATION AND HARASSMENT PREVENTION POLICY IN CHAPTER 1

That the current policy 1.1.6 and policy 1.4 in Chapter 1 of the Employee Handbook, be and is hereby deleted in its entirety and is replaced as follows:

1.4. DISCRIMINATION & HARASSMENT PREVENTION POLICY

Commitment to Equal Employment Opportunities.

The city recognizes and appreciates each employee's work and contribution to the city's success, and the city believes that all employees are to be treated fairly and with respect. The city provides equal employment opportunities and equal treatment in all aspects of employment to all employees and all applicants for employment without regard to race, color, religion, sex/gender, (including pregnancy, childbirth and other related medical conditions), national origin, age, physical and/or mental disability, political affiliation, and/or military obligation (except where age, sex, or physical/mental ability constitute a bona fide occupational qualification). The city is committed to making reasonable accommodations to ensure equal employment opportunities for qualified disabled individuals. Violation of this policy shall not be permitted and shall be treated as a Group Two (2) offense, with disciplinary action up to and including termination.

Harassment Forbidden. The City of Daphne expects all employees, including department managers and supervisors, to respect the feelings of fellow employees and to treat co-employees in a courteous and professional manner. The city shall not tolerate any form of harassment in the workplace. Specifically forbidden is harassment due to a person's race, color, religion, sex/gender, (including pregnancy, childbirth and other related medical conditions), national origin, age, physical and/or mental disability, political affiliation, and/or military obligation. Certain examples of prohibited harassment include, but are not limited to: offensive, insulting or

demeaning remarks, gestures, jokes, pranks, slurs, graffiti, emails, pictures, cartoons and the like, or statements or comments that reflect upon stereotypes. Harassment of city employees is strictly forbidden and shall be treated as a Group Two (2) offense, with disciplinary action up to and including termination.

Sexual Harassment Forbidden. The City of Daphne requires all employees to maintain a professional workplace that is free of sexual harassment. Sexual harassment is generally defined as a continuing pattern of unwelcome sexual advances, request for sexual favors, or physical contact of a sexual nature under any of the following conditions: (i) submission to such conduct is perceived to be a condition of employment; (ii) submission, or refusal, is perceived to be used, or might be used, as the basis of an employment decision which affects the individual; (iii) the conduct unreasonably interferes with the individual's job performance or creates a work environment that is intimidating, hostile, or offensive; or (iv) the conduct interferes with non-employees. The City of Daphne expressly prohibits any verbal or physical conduct of a sexual nature that could contribute to a hostile or offensive workplace for any employee, whether committed by a department manager, supervisor, employee, any other persons so employed with the city, or individuals who are not employed by the city who come into contact with city employees. Some examples of prohibited conduct shall include, but are not to be limited to the following:

- (a) The use of profane or vulgar language;
- (b) Unwelcome sexual flirtations, sexual advances or sexual propositions;
- (c) Sexually oriented or suggestive jokes or comments;
- (d) Comments implied about a person's body or sex life;
- (e) Sexually degrading words, including sexual slang used to describe any person;
- (f) Any physical contact of a sexual nature, including unwelcome or inappropriate touching, pinching, patting, grabbing and/or hugging;
- (g) The display, reproduction or transmission of sexually explicit and/or sexually suggestive images, objects, or cartoons in or about the workplace;
- (h) Sexually suggestive or vulgar graffiti, including words and/or drawings;
- (i) A department manager or supervisor's comments suggesting that an employee will suffer employment consequences such as demotion, discharge or denial of a pay raise if such employee does

not agree to certain demands or if the employee complains about such offenses of sexual behavior or other forms of harassment;

- (j) Comments suggesting that the employee will receive favorable treatment in exchange for sexual favors.

Department managers, supervisors, and co-employees shall not threaten or insinuate that an employee's refusal to submit to sexual advances or any other form of sexual harassment will adversely effect the employee's continued employment, pay, benefits, working conditions or job opportunities. Similarly, department managers and supervisors shall not state or imply, expressly or otherwise, that submission to sexual advances or any other form of sexual harassment will in any way enhance an employee's employment opportunities, hours, pay, benefits and/or other terms or conditions of employment or advancement of employment.

No department manager or supervisor has any authority to take any adverse action against an employee, including discharge, demotion or reducing the employee's work hours, benefits or pay because the employee refuses or has refused to submit to any sexual advances or any other form of sexual harassment. Similarly, no department manager or supervisor shall have any authority to provide an employee preferential treatment because the employee consents to the submission of sexual advances or any other form of sexual harassment.

Sexual harassment of city employees is strictly forbidden and shall result in disciplinary action up to and including termination and shall otherwise be treated as a Group Two (2) offense.

Retaliation Forbidden. That the City of Daphne encourages all employees of the city to immediately come forward if such employee has a discrimination or harassment complaint and the city does expressly affirm that no adverse action shall or may be taken or allowed against any employee who, in good faith, reports discrimination or harassment in the workplace. Retaliation against the employee shall be grounds for discipline and shall be considered a Group Two (2) offense.

EEO/Harassment/Retaliation Complaint Procedure. An employee must promptly report directly to the human resources director any observed or any known incidences of discrimination, harassment and/or retaliation to ensure that the city can promptly investigate, and if appropriate, take prompt and effective action. It is considered inappropriate and insufficient for an employee to report or complain only to a manager or supervisor. If a complaint involves the human resources director, then the employee shall promptly report said complaint to the mayor. All managers and supervisors shall have a responsibility to address any observed or reported harassment, discrimination or retaliation and shall immediately stop such misconduct if such occurs in their presence. All managers and supervisors shall have the responsibility to report observed or reported harassment, discrimination or retaliation to the human resources director, even if no employee initiates a complaint. Failure to do so may result in disciplinary action, which shall be considered a Group Two (2) offense.

Investigation. If the discrimination or harassment complaint involves the mayor, it will be forwarded to the city council for investigation and action. If the discrimination or harassment

complaint involves a member of the council, it will be forwarded to the mayor for presentation to the council for action. In such cases, the council will appoint a council member or members to investigate the complaint. The human resources director will thoroughly investigate all other complaints. The complaining employee may be required to prepare a written report detailing the alleged allegation and to sign the report. To the extent practical, investigations will be confidential with extreme and due regard for the sensitive nature of such complaint. After completing an investigation, the human resources director or the mayor or council designee will determine if the complaint is valid.

Remedial Action. Prompt and appropriate remedial or disciplinary action up to and including discharge will be taken against the person or persons engaged in misconduct, depending upon the severity of the violation. If appropriate, the city has the discretion to provide counseling services, referrals and medical assistance for employees. Employees who have reported violations of this policy will be notified, subject to confidentiality, of how their reports were investigated and what actions were taken, within thirty (30) calendar days of the filing of said complaint.

Appeal of Findings and Action. The complainant or the accused employee may appeal the findings or remedial action imposed in accordance with the procedures established in Chapter 8 of this Employee Handbook, if he believes that the complaint has not been satisfactorily resolved or if he believes the discipline imposed is too severe.

SECTION II: REVISION TO CHAPTER 7 DISCIPLINARY PROCEDURES

That the current Chapter 7 of the Employee Handbook, be and is hereby deleted in its entirety and is replaced as follows:

CHAPTER 7

DISCIPLINARY PROCEDURES

7.1. EMPLOYEE STANDARDS & CLASSIFICATION OF OFFENSES

Employee Standards. The maintenance of high standards of honesty, integrity, and conduct by the city's employees is essential to ensure the proper performance of city business and to instill citizen confidence. Therefore, city employees are expected to maintain high standards of cooperation, efficiency, and economy in their work and to display conduct both on and off the job in such a manner as to reflect credit on the employee and the city. Examples of employee conduct that are considered to be unacceptable are grouped below. The offenses described are not all inclusive. The types of discipline described and order of discipline are not automatic. The disciplining individual is permitted and expected to treat each individual situation according to the circumstances and facts involved.

Group One Offenses. Group one offenses are defined as instances of unacceptable conduct by an employee which, while serious, do not normally merit a suspension without pay or dismissal upon the first occurrence, and therefore, may normally be addressed by a lesser degree of

disciplinary action upon the first occurrence, as outlined below. Examples of group one offenses include, but are not limited to, the following types of situations and activities:

1. Improper Notice of Absence – failure to give proper notice of absence.
2. Absenteeism – irregular attendance and/or absenteeism.
3. Tardiness – not at his assigned work station at the beginning of the first hour of the employee’s workday.
4. Work Interference – interfering with the work of others to include offensive personal habits which interfere with efficient operations.
5. Inefficiency – excessive inefficiency to include waste, loafing, leaving the work area without permission, and defective workmanship.
6. Safety Violations – violation of normal safety practices to include failure to report a work-related accident or injury, accident proneness, or failure to attend safety classes when directed.
7. Abuse of Property – improper use and/or care of city property.
8. Political Activities – political activities during the employee’s working time.
9. Refusal of Required Overtime – failure to respond to any requirement to work outside his normal scheduled work day when directed by his supervisor.
10. Court Judgments – willful and/or repeated failure to honor court judgments.
11. Promiscuity – promiscuous behavior on city property or at work sites.
12. Other misconduct – similar conduct that meets the intent of the definition of a group one offense.

Group Two Offenses. Group two offenses are defined as instances of unacceptable conduct by an employee which are very serious and normally constitute grounds for dismissal upon the first occurrence of such conduct unless mitigating circumstances, as determined by the department head, render lesser discipline more appropriate. Examples of group two offenses include, but are not limited to, the following types of situations:

1. Drugs and Alcohol – possession and/or use of alcohol, un-prescribed drugs, or similar intoxicants while on city property or on the job.
2. Driving A City Vehicle Under the Influence – operation of a city vehicle or motorized equipment while under the influence of intoxicants such as alcohol,

unprescribed drugs, and/or prescribed drugs which induce an unsafe mental and/or physical state.

3. Firearm Possession – unauthorized possession and/or use of a firearm, other weapon, explosive, or other dangerous material on/in city property or at a work site.
4. Falsification – deliberate falsification of records and/or personal misrepresentation of statements given to a supervisor, an official, the public, or any duly authorized committee.
5. Dishonesty –dishonesty as related to an individual’s job duties and/or profession, or use of one’s official position for personal advantages.
6. Fighting – fighting, except when the employee is a victim of an unwarranted assault.
7. Serious Leave Offenses – excessive tardiness or absenteeism, unauthorized absence, or fraudulent or abusive use of sick leave.
8. Conviction – conviction of a felony or misdemeanor involving moral turpitude, or conviction during employment of a misdemeanor which affects the employee’s effectiveness on the job.
9. Theft or Abuse of Property – theft, destruction, careless or negligent use, or willful damage of city property or property of others.
10. Horseplay – dangerous horseplay on the job.
11. Flagrant Safety Violations – flagrant violation of safety practices that might endanger the life or health of the employee or others.
12. Serious Rule Violations – serious violation of city administrative regulations, rules, lawful orders or directions made or given by a supervisor.
13. Proponent of Violent Overthrow of Government – membership in any organization which advocates the overthrow of the government of the United States by force or violence.
14. Bribes or Rewards – solicitation of or acceptance of any consideration of value or gratuity which was given to improperly influence the employee in the performance of his duties.
15. Refusal of Medical Exam – refusal to be examined by an authorized, fully licensed physician when so directed by the mayor or the city council.

16. Gross Violations of Allowed Political Activities – political activities that are gross violations of federal and/or state laws or these policies and procedures.
17. Harassment/Discrimination/Retaliation – harassment, or discrimination, or retaliation which violates the Discrimination & Harassment Prevention Policy in Chapter 1.
18. Sleeping – sleeping on the job unless specifically authorized to do so.
19. Abusive Conduct – abusive personal conduct or language toward the public or fellow employees, or abusive public criticism of a superior or other city official.
20. Willful Violation of Rules or Law – willful violation of any duly adopted city policy or rule, or state/federal law in the performance of one’s duties.
21. Conduct Unbecoming an Employee – conduct unbecoming an employee, while on or off duty, which tends to bring discredit upon the city or its employees or which otherwise threatens order, safety, or health.
22. Insubordination – acts of insubordination, including refusal to obey legitimate orders, disrespect, insolence, and like behavior and delay/failure to carry out assigned work.
23. Unauthorized Use of Property – unauthorized use, misappropriation, destruction, theft, or conversion of city or public property.
24. Refusal to Cooperate – refusal to fully and truthfully answer questions of a supervisor or other designated individual during any inquiry, interrogation, hearing, or court proceeding.
25. Unauthorized Release of Information – unauthorized release of privileged or confidential information.
26. Conflicts of Interest – conduct or actions determined to be a conflict of interest or ethics violation as defined by state law and/or city resolutions, rules, regulations, or procedures.
27. Fraud in Personnel Matters – fraudulent misrepresentation or omission in securing an appointment or promotion in the city service.
28. Repeated Violations of Group One Offenses – repeated violation of group one type offenses.
29. Other Serious Misconduct – similar conduct not listed herein that meets the intent of the definition of a group two offense.

Recommended Levels of Disciplinary Action. Disciplinary actions normally recommended for a Group One offense are as follows:

First Offense – written warning.

Second Offense – suspension without pay.

Third Offense – dismissal (any combination of three (3) written warnings and/or suspensions without pay within a twenty-four (24) month period will constitute justification for immediate dismissal).

The first time an employee commits a Group Two offense will normally constitute grounds for dismissal. However, lesser disciplinary action such as a written warning, unpaid suspension, or demotion, may be taken if mitigating circumstances so warrant. The potential disciplinary actions described are not all inclusive and not automatic. The disciplining individual is permitted and expected to treat each individual situation according to the circumstances and facts involved.

Felony Criminal Charge. If a regular status classified or part-time employee is charged with a felony, which also is considered a serious violation of these policies and procedures, the mayor will determine if there is sufficient reason to believe that the allegations are true. If the mayor determines there is sufficient information available to indicate that the city's rules or standards of employment have been violated, he may take appropriate disciplinary action, to include suspension without pay, demotion, or dismissal, as the case may warrant. Based on the anticipated disciplinary action to be taken, the mayor will follow the Guidelines For Suspension Without Pay, Demotion, And Dismissal (Regular Status Classified And Part-Time Employees) even without a request from a department head for disciplinary action.

7.2. TYPES OF DISCIPLINE

Written Warning. A written warning may be initiated by a department head, or his designated representative, for unacceptable conduct by an employee assigned to his department that is deemed to require more than a verbal reprimand or an informal counseling session, but does not warrant more serious disciplinary action.

Disciplinary Probation. A department manager may, alone or in conjunction with other disciplinary action, place an employee on disciplinary probation. During this time the performance of the employee will be evaluated once a month. At the end of the probationary period, if an employee is unable to improve their job performance or work behavior to an acceptable level, he will be subject to further disciplinary action, up to and including termination.

Suspension Without Pay. Normally, a suspension without pay for a period of time not to exceed twenty (20) consecutive work days will be administered by the mayor, when an employee's conduct continues to be unacceptable after he has been given a written warning. However, nothing should be interpreted herein to prevent the suspension without pay of any employee at the first occurrence of unacceptable conduct, when the circumstances involved warrant such action.

Demotion. Normally a demotion will be administered by the mayor, when an employee's conduct continues to be unacceptable after previous disciplinary action has been taken against

the employee. However, nothing herein should be interpreted to prevent the demotion of any employee at the first occurrence of unacceptable conduct.

Dismissal from Service. Normally, a dismissal from service will be administered by the mayor when an employee's conduct continues to be unacceptable after previous disciplinary action has been taken against the employee. However, nothing should be interpreted herein to prevent the dismissal of any employee at the first occurrence of unacceptable conduct, when the circumstances involved warrant such action.

7.3. SUSPENSION WITH PAY

A violent action, an intolerable offense on the part of an employee (e.g., fighting, destruction of city property, gross insubordination) or other cause as determined by the mayor to warrant removal of an individual from city property or work sites may warrant suspension with pay. The mayor may suspend an employee with pay for up to ten (10) working days, pending completion of a predetermination hearing and disciplinary action. The employee's suspension with pay will be recorded on the city's time and attendance report.

7.4. PRE-DISCIPLINARY COUNSELING SESSIONS

When practical, counseling sessions may be used to correct unacceptable conduct by an employee before disciplinary action is required. Before any disciplinary action is taken against the employee, the department head should advise the employee orally of the reason(s) that he is considering disciplinary action and allow the employee an opportunity to respond. If the department head determines that the facts of the case do not support the allegation, the employee should be notified orally of such decision and advised that the matter is closed. If the department head determines that the facts of the case do support the allegation, but a written warning is not necessary to correct the situation, he will counsel the employee and warn him that in any future case stronger action may be taken. A written report will not be required for a counseling session, but, if one is prepared, the supervisor must provide a copy to the human resources director for the employee's personnel file.

7.5. GENERAL DISCIPLINARY GUIDELINES

Employees Subject to Discipline. The city expects each employee, regardless of classification, to accept responsibility for his or her own behavior and to follow the city's policies, procedures and rules. If an employee fails to meet these expectations, the employee is subject to corrective action based upon the nature of the violation, the individual circumstances, and an employee's previous disciplinary and performance history. Even though unclassified and temporary employees serve at the pleasure of the city and may be discharged at any time, with or without cause, nothing should be interpreted herein to prevent the disciplining of any unclassified or temporary employee short of dismissal, if the circumstances warrant.

Disciplining Individual. Normally, disciplinary action will be administered by an employee's department head. However, if the action involves a suspension without pay, demotion, or dismissal, it will be taken by the mayor.

Rights Protected. The human resources director will assist the disciplining individual to ensure that an employee's rights are protected during any disciplinary action.

Facts and Circumstances Considered. Normally, disciplinary actions will be administered uniformly and according to the order listed for each group of offenses. However, the disciplining individual is expected and allowed to take actions according to the facts and circumstances of each situation.

Actions Recorded in Writing. All disciplinary actions will be recorded in writing. The disciplining individual and the employee will sign the record, and the employee will be provided a copy. Refusal of an employee to sign the record of a disciplinary action will be so noted on the record and may constitute grounds for a separate disciplinary action. A copy will be filed in the human resources director's office.

7.6. GUIDELINES FOR WRITTEN WARNINGS & DISCIPLINARY PROBATION.

When Given. An employee may be issued a written warning or be placed on disciplinary probation by his department head when (1) he fails to maintain desirable standards and/or commits a group one offense and (2) the department head has determined that more severe action is not warranted and that a written warning and/or disciplinary probation is sufficient to correct the situation.

Content of Written Warnings & Notice of Disciplinary Probation. All written warnings and notices of disciplinary probation must contain the following information: (i) references to the discussion held, including the date, time, and place; (ii) specific reason(s) for the warning, the employee's explanation as given during the inquiry, and the department head's conclusions; (iii) warning that future infractions could result in more severe disciplinary action; and (iv) where appropriate, recommendations for corrective action; and (v) where appropriate the beginning and ending dates of any disciplinary probation.

No Effect on Benefits. A written warning and/or disciplinary probation will not affect the rights, privileges, or benefits to which an employee may have been entitled before the warning.

7.7. GUIDELINES FOR SUSPENSION WITHOUT PAY, DEMOTION, AND DISMISSAL (REGULAR STATUS CLASSIFIED AND PART-TIME EMPLOYEES).

Overview. The mayor may, following these guidelines, impose an unpaid suspension, or demote, or dismiss a regular status classified or part-time employee if the mayor determines such action to be warranted. The mayor may suspend without pay, demote, or dismiss temporary employees and unclassified employees without following these guidelines.

Request for Suspension Without Pay, or Demotion, or Dismissal. When an employee's actions are such that his department head feels that a suspension without pay, or demotion, or dismissal is warranted, he must forward to the mayor a written request that the mayor take such

disciplinary action. The written request must include the following information: (i) the employee's action(s) or the lack thereof; (ii) a description of the incident citing dates and times; and (iii) a request for the mayor to suspend the employee without pay, or demote the employee, or dismiss the employee.

Mayor's Action - Suspension, Demotion, Dismissal Not Warranted. After reviewing the department head's request, the mayor may determine that an unpaid suspension, or demotion, or dismissal is not warranted. In this event, the mayor will return the request to the department head stating that no action will be taken, or instruct the department head to proceed with a written warning or disciplinary probation.

Mayor's Action - Suspension, Demotion, Dismissal Warranted. The mayor may determine there is sufficient reason to proceed with the requested unpaid suspension, or demotion, or dismissal, or to proceed with either demotion or unpaid suspension rather than a requested dismissal, or to proceed with an unpaid suspension rather than a requested demotion. The mayor may also determine there are grounds to impose more severe discipline, such as a demotion or dismissal, than the action requested by the department head.

Notice of Right to Pre-Determination Hearing. In such event, the mayor will inform the employee in writing of his intended action and the employee's right to a predetermination hearing concerning the allegations, if the employee requests it. The written notice to the employee will contain the following information: (1) the date, time, and place of the hearing; (2) the reason(s) for the proposed disciplinary action; (3) the proposed disciplinary action to be taken and effective date; (4) notice of the employee's right to appear in person and/or be represented by someone at his expense, if he requests a hearing; (5) notice of the employee's right to respond to the allegations orally or in writing; and (6) that the employee has the right to present evidence in his defense. A copy of the notice will be placed in the employee's personnel file. The employee will have three (3) calendar days in which to respond to this notice and to request a hearing before the mayor. If the employee does not request a hearing, the mayor may proceed with the disciplinary action he deems warranted based upon the facts of the case.

Informal Hearing. If the employee requests a hearing, it will be conducted informally at the time and place designated in the notice to the employee. Formal rules of evidence will not apply during the hearing. If, after conducting the hearing, the mayor determines that the facts of the case do not support a suspension without pay, or demotion, or dismissal, he may impose a lesser disciplinary action, or decide that a written warning or disciplinary probation is sufficient, or advise the employee that no discipline will be imposed. If the mayor decides that a written warning is sufficient, the mayor will instruct the department head to proceed with a written warning or disciplinary probation. If the mayor determines during the hearing that the facts of the case appear to support more severe discipline than originally requested or that was originally deemed warranted, such a demotion or dismissal, he may decide to impose the more severe discipline. A record of the hearing, to include a written summary of the hearing results, will be filed in the employee's personnel file. Such record need not be a transcribed record.

Notice of Disciplinary Action. If the mayor decides to suspend the employee without pay, or to demote the employee, or to dismiss the employee, written notification will be proved to the

employee no later than the effective date of the suspension, demotion, or dismissal. A copy of the mayor's action will also be provided to the department head and the human resources director to be filed in the employee's personnel file. The notice will contain: the nature of the disciplinary action being taken; the specific reason(s) for the disciplinary action; the effective date of the disciplinary action; if applicable, the effective date(s) or length of the suspension; if applicable, the job title of the job to which the employee is demoted; and a description of the appeal rights of the employee.

Record of Unpaid Suspension. The employee's suspension without pay will be recorded on the city's time and attendance report.

Return to Work After Unpaid Suspension. When the employee returns to work he will be considered to be in good standing with the city and will be restored to all rights, privileges, and benefits he had prior to the suspension. However, a suspension may be considered during any subsequent personnel actions, such as promotion, RIF, or disciplinary action.

Employee Status After Demotion. A demotion will not affect the rights, privileges, and benefits that the employee had prior to the demotion. However, the employee's pay will be adjusted in accordance with paragraph 10.8. of these policies and procedures.

7.8. APPEAL

A regular status classified or part-time employee may appeal any written warning, disciplinary probation, unpaid suspension, demotion, or dismissal in accordance with the guidelines of Chapter 8 of these policies and procedures. Temporary employees and unclassified employees have no right of appeal of any disciplinary action.

SECTION III: REVISION TO CHAPTER 8 GRIEVANCE SYSTEM

That the current Chapter 8 of the Employee Handbook, be and is hereby deleted in its entirety and is replaced as follows:

CHAPTER 8

GRIEVANCE SYSTEM

8.1. GENERAL PROVISIONS

Purpose. Every employee has the right, and is encouraged, to discuss any area of his employment with his supervisors and to seek resolution of concerns on an informal basis. But the city recognizes informal discussions may not produce satisfactory resolution of disputes about employment matters. Legitimate grievances may be helpful to the city by calling matters to the attention of officials and supervisors where action may be needed. When a grievance system is used properly, it can assist in maintaining a harmonious, cooperative working relationship between employees, supervisors, and city elected officials and also ensuring fairness in an employee's employment.

Retaliation Prohibited. Employees should feel free to use informal efforts to resolve issues as well as the city's formal grievance procedure. No employee, official, or supervisor will discriminate against, coerce, or interfere with any employee, witness, representative, or appellant for any informal problem resolution efforts or for the presentation or adjudication of any formal grievance action made or brought in good faith, or, take any reprisal action against such persons. Allegations of any violation of these protected rights may be processed as a separate grievance under the city's grievance procedures or submitted in writing directly to the city council. Individuals found to have violated an employee's protected rights will be subject to disciplinary action that may include dismissal.

Scope. The city's grievance system provides a standard process for speedy investigation and resolution of an eligible employee's complaint of perceived improper treatment and/or appeal of disciplinary action taken against him where the employee's informal efforts, if any, have not resolved an issue. The city grievance system is not intended, and will not be used, for the following purposes:

- to resolve personal differences between/among employees;
- to appeal pay reductions which are part of a general plan to reduce salaries and wages, when such reductions are pro-rated to all employees;
- to appeal non-selection for a position when properly established staffing procedures have been followed; or
- to appeal the contents of approved and published city resolutions or other legal actions.

Employees Eligible to File Grievances. All regular status classified and part-time service employees are eligible to file formal requests for personal relief in any matter of concern or dissatisfaction relating to their employment, to include disciplinary action. Normally, probationary status employees will not be eligible to file formal hearing requests. However, if an employee is serving in a probationary status as a result of his being promoted he will retain his eligibility to file a formal grievance action.

Right to File Grievance. When an eligible employee is unable to informally resolve his concern about his employment or disciplinary action or resolution of a discrimination, retaliation, or harassment complaint, he shall have the right to file a grievance.

Good Faith Timely Presentation. An eligible employee's grievance must be submitted in good faith and within the specified period of time after the occurrence of the incident upon which the grievance is based. Grievances that do not meet these requirements will not be considered. If an employee willfully files a false grievance action, he may be subject to disciplinary action, to include dismissal, as determined by the mayor to be appropriate.

Form and Content of a Grievance. The employee's grievance must be in writing and must contain as a minimum the following information:

- The basis for the employee's grievances to include: any policy, rule, regulation and/or procedure that he feels has been misapplied, or violated, and the date and description of such misapplication or violation; or the disciplinary action that he is appealing;

- Previous discussions the employee has had with his supervisor(s) and other city representatives, and their decisions, if any;
- The specific remedy which the employee is seeking; and
- The names of any witnesses who have knowledge of the facts involved.

Deadline For Submitting Grievance. The employee must submit the grievance within ten (10) calendar days of the time the employee has knowledge, or should have had knowledge, of a situation or a circumstance he wishes to grieve, or within ten (10) calendar days of the effective date of a disciplinary action he wishes to appeal.

Recipient of Grievances. Employees must submit written grievances covered by this policy to the human resources director.

Human Resources Director's Action. Upon receipt of an employee's grievance, the human resources director will ensure the employee is eligible to submit a grievance, that it has been submitted within the required time period, and that it contains the required information. As needed, the human resources director will assist the employee in completing his grievance submission. Within five (5) working days of receipt of the employee's grievance, the human resources director will forward the grievance to the appropriate hearing authority (either the mayor or the city council) for resolution.

Withdrawal. An employee may withdraw his grievance at any step in the process.

Records. All formal grievance actions, to include review, investigation, and findings, will be fully documented. A copy of all completed actions will be compiled. A copy will be provided the human resources director for filing in the employee's personnel file; other files and a copy will be maintained by the human resources director.

8.2. GRIEVANCES RESOLVED BY THE MAYOR

Mayor as Hearing Authority. The mayor is the hearing authority for any employee grievance which involves an administration matter or an appeal of a written warning or disciplinary probation, including any written warning or disciplinary probation given to the employee of as a result of another employee's complaint of retaliation, discrimination, or harassment made under the EEO/Harassment/Retaliation Complaint Procedure in Chapter 1 of this Employee Handbook.

Mayor's Review. Within five (5) working days of his receipt of the employee's grievance from the human resources director, the mayor will review the facts as presented by the employee in his written grievance and schedule a meeting with the employee to discuss his complaint. If the mayor or the employee determines that he needs to interview other individuals concerning the grievance, the mayor will ensure that they are also present at this meeting. The employee, or his designated representative, will be allowed to present information on behalf of the employee and to present reasonable questions to the other individuals present. The meeting will be held informally and a written summary of the factual material presented will be prepared. The human resources director will assist the mayor in his review of the grievance.

The Mayor's Decision. Within three (3) working days of completion of the mayor's meeting with the employee, the mayor will provide the employee written notification of his decision. The mayor's decision will be considered a final action on the employee's grievance.

Extension of Review and Decision Time. The mayor may, when circumstances warrant, extend the time periods for completion of his review and rendering a decision.

8.3. GRIEVANCES RESOLVED BY THE CITY COUNCIL

City Council as Hearing Authority. The city council is the hearing authority for any employee grievance involving the appeal of a disciplinary action that resulted in his suspension without pay, demotion or dismissal, including any unpaid suspension, demotion, or dismissal given because of as a result of another employee's complaint of retaliation, discrimination, or harassment made under the EEO/Harassment/Retaliation Complaint Procedure in Chapter 1 of this Employee Handbook. The city council is also the hearing authority for any grievance filed by an employee who is dissatisfied with the resolution of that employee's complaint of retaliation, discrimination, or harassment made under the EEO/Harassment/Retaliation Complaint Procedure in Chapter 1 of this Employee Handbook.

City Council's Review. Within fifteen (15) working days of receipt of the employee's grievance from the human resources director, the city council will hold a hearing on the employee's appeal. The employee shall be allowed to appear before the city council with reasonable representation of his choice if he desires. The city council shall hear the employee's grievance, gather pertinent documents, interview witnesses as necessary, and prepare a written statement of fact.

City Council's Decision. Within five (5) working days of the hearing, the city council shall make a final determination in the case. The council may in its decision sustain, amend, or overrule any previous decision rendered. The council's decision will be in writing and a copy will be provided the human resources director. The council's decision will be considered a final action on the employee's grievance.

Extension of Review and Decision Time. The city council may, when circumstances warrant, extend the time periods for completion of their review and rendering a decision.

SECTION IV: REPEALER

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

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 portions hereof.

SECTION VI: EFFECTIVE DATE.

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ DAY OF _____, 2013.

**RON SCOTT
CITY COUNCIL PRESIDENT**

**DANE HAYGOOD
MAYOR**

ATTEST:

**REBECCA HAYES
CITY CLERK, MMC**

**CITY OF DAPHNE
ORDINANCE NO. 2013-48**

**AN ORDINANCE TO AMEND AND REORGANIZE CHAPTER NINE OF THE
CITY'S EMPLOYEE HANDBOOK**

WHEREAS, the City Council of the City of Daphne, after due consideration believes that certain revisions to Chapter Nine of the City of Daphne Employee Handbook are necessary for the proper administration of said Handbook and the policies contained therein;

WHEREAS, the City of Daphne has an existing Family and Medical Leave policy within Chapter Nine adopted to comply with the federal Family and Medical Leave Act of 1993;

WHEREAS, the federal Family and Medical Leave Act of 1993 was amended in 2009 to provide for additional types of protected leaves of absence and also in 2009, the federal Department of Labor issued revised regulations governing compliance with the Family and Medical Leave Act;

WHEREAS, the City of Daphne has an existing Military Leave policy and Military Duty policy within Chapter Nine adopted to comply with federal and state laws relating to military leave and absences for military service;

WHEREAS, following the city's adoption of these policies, federal and state laws relating to military leave and absences for military service have changed over the years to expand the scope of coverage and to make other changes;

WHEREAS, the City Council and the City of Daphne, after due consideration, believe that the City's Military Leave policy and Military Duty policy and the Family and Medical Leave policy should be revised to fully comply with changes in applicable law and to provide guidance to employees and to the City of Daphne concerning the rights and obligations of both employees and the City;

WHEREAS, additional revisions to Chapter Nine of the Employee Handbook will enable the City to more easily facilitate and administer provisions in Chapter Nine of the Employee Handbook in order to benefit the health, safety, and welfare of its employees;

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

**SECTION I: REVISION TO EMPLOYEE HANDBOOK CHAPTER NINE (OTHER
THAN SECTIONS 9.4.5, 9.5, AND 9.6)**

That all Sections of Chapter Nine of the Employee Handbook, other than Sections 9.4.5, 9.5, and 9.6, be and are hereby deleted in their entirety and replaced as follows:

9.1 RESPONSIBILITY FOR ATTENDANCE AT WORK.

General Requirements. All employees are responsible for being present at work during their scheduled work time, unless their absence has been approved by their department head or his designated representative. If an employee has excessive absence occurrences or incomplete shifts (arriving late or leaving early), the employee will be subject to discipline. Any unauthorized and unjustified absence from work for a period of five consecutive working days may be considered as a voluntary quit. Department heads and supervisors must keep up with employee attendance and the reasons for absences, tardiness, and early departures to insure unexcused absenteeism is addressed through the disciplinary process while approved absences are excused and not counted for disciplinary purposes.

Notice Requirements. Each department will provide methods for employees to provide notice of absences, late arrivals or early departures, such as, by providing supervisor cell phone numbers and administrative contact persons within the department. As a general rule applicable to all city employees, if an employee is unable to report for work, or to report on time, he must notify his supervisor or department head within fifteen (15) minutes of the scheduled start of his work day unless unusual circumstances prevent him from doing so. Department heads may provide for an alternative notification period applicable to specific departments, such as thirty minutes or one hour prior to the start of the work day. Department heads will ensure such alternative reporting time frames are posted in the department or otherwise made known to department staff in writing, and will provide a copy of the notification period to the human resources director. If an employee has a need to leave his assigned work area before the end of his scheduled work time, he must notify his supervisor or department head and obtain permission for such early departure. An employee's report of an absence, late arrival, or early departure on the day of the absence or tardiness as required by this policy does not guarantee that the absence or tardiness will be authorized or excused. Management has discretion to decide if the reason given for the absence or tardiness is a sufficient excuse. If employee foresees a need to be absent for a period longer than one workday, the employee should consider applying for a Leave of Absence. Applying for a Leave of Absence does not suggest the Leave will necessarily be approved. Requested time away from work which has been approved by the employee's department head or supervisor and included in the schedule at least three (3) weeks in advance, absent extraordinary circumstances, also is not considered an unexcused absence.

9.2. TIME & ATTENDANCE RECORDS

Responsibility for Reporting. Supervisors are responsible for accurately reporting the time and attendance for each employee within their activity to their department head. Each department head will submit a time and attendance report for his department for each pay period to the human resources director in accordance with procedures established by the human resources director.

Time Records. All the time that each non-exempt employee is scheduled to work during his established workweek will be accounted for on a time and attendance report in accordance with procedures established by the human resources director. Each department head will submit a time and attendance report that records the work schedule, the hours worked, and all absences for each employee assigned to the department. In addition, those records as required by the FLSA

for hours worked, wages earned, and wages paid will be established and maintained, by the human resources director.

Attendance Records. A centralized attendance record will be maintained by the human resources director for all city employees. Each employee's attendance record will show: his approved workweek; his scheduled hours of duty and hours worked for each duty day during his workweek; his authorized and/or unauthorized absences including sick leave, vacation, administrative leave, military leave, leave without pay, and non-pay status/worker's compensation; and his overtime pay earned and paid for each pay period.

Inspection by Employee. An employee's attendance record will be made available to the employee for inspection upon his written request.

9.3. WORK SCHEDULES

General. City offices and activities will be open for business as established by the mayor, in coordination with the city council. Normal city operations will be Monday through Friday. However, certain city functions, such as public safety activities and emergency services, will operate seven (7) days a week.

Full-Time Employee Work Schedule. Each department head will establish, with approval of the mayor, the work schedule for the non-exempt employees assigned to his department. The department head will ensure that approved work schedules are posted in locations that are readily available to all employees assigned to their department. Exempt employees will not have a specific work schedule established for them. However, they will be expected to work the normal work day as established for their position.

Part-Time Employee Work Schedule. The hours that part-time employees are scheduled to work in their workweek will be established by their department head based upon the number of hours of work approved by the city council. Under normal circumstances a part-time employee will be scheduled to work less than thirty-two (32) hours in his workweek. However, the actual number of hours a part-time employee works in his workweek may exceed this amount, if required to meet temporary work needs.

Temporary Employee Work Schedule. The hours that temporary employees are scheduled to work in their workweek will be established by their department head based upon the hours approved and funded by the city council for their position. A temporary employee may be scheduled to work full-time or part-time.

9.4. WORK PERIODS FOR PAYROLL PURPOSES

Employees Generally. Each non-exempt employee will be assigned a work period in accordance with guidelines of the FLSA. Normally, a work period will begin on Thursday at 6:00 a.m. and shall continue for seven (7) consecutive twenty-four (24) hour days. However, a separate work period may be established by a department head for specific employees assigned to his department, if needed. If an individual work period assignment is made, it will be made in writing to the employee and a copy will be furnished to the human resources director.

Unclassified and classified employees will be scheduled to work between thirty-two (32) and forty (40) hours in their work period as established at the time their positions are authorized by the city council.

Police Officers and Correction Officers. Each non-exempt Police Officer or Correction Officer shall be assigned a work period in accordance with the guidelines of the FLSA. Normally, a work period shall begin on Thursday at 6:00 a.m. and shall continue for fourteen (14) consecutive twenty-four (24) hour days. However, a separate work period may be established by a department head for specific employees assigned to his department, if needed. If an individual work period assignment is made, it will be made in writing to the employee and a copy will be furnished to the human resources director. Unclassified and classified Police Officer and Corrections Officer employees will be scheduled to work eighty-four (84) hours in this 14-day work period as established at the time their positions are authorized by the city council.

Fire Fighters. Each non-exempt Fire Fighter employee will be assigned a work period in accordance with the guidelines of the FLSA. Normally, a work period shall begin on Thursday at 7:00 a.m. and shall continue for twenty-eight (28) consecutive twenty-four (24) hour days. However, a separate work period may be established by a department head for specific employees assigned to his department, if needed. If an individual work period assignment is made, it will be made in writing to the employee and a copy will be furnished to the human resources director. Unclassified and classified Fire Fighter employees will be scheduled to work 216 hours in this 28-day period as established at the time their positions are authorized by the city council.

9.5. OVERTIME WORK

Approval for Extra Work – Non-Exempt Employees. Normally, any work requirement that exceeds a non-exempt employee's regular scheduled workday will be approved by his department head prior to the work being accomplished. However, extra work that is performed as part of a department call-in requirement will be performed in accordance with the guidelines associated with such requirements. The mayor will, in coordination with the appropriate department head, provide guidelines for establishing and approving extra work.

Exempt Employees. Even though an exempt employee is not scheduled to work a specific number of hours in a particular workweek, he will be expected to work the typical workday as established for his position. If an exempt employee needs to work outside the normal workday to attend meetings or perform other work, it will be considered as part of the job. However, any routine absence taken by the employee, such as for sickness or annual leave, will be charged as leave in accordance with the leave guidelines of these policies and procedures so long as such action does not violate the provisions of the FLSA.

9.6 OVERTIME PAY

Eligible Employees. Only non-exempt employees shall be entitled to overtime pay. computed at one and one-half (1-1/2) times of his regular hourly rate for those hours worked that qualify as overtime work. No exempt employee shall be entitled to overtime pay. The mayor, in

coordination with the human resources director and the appropriate department head, will determine whether an employee shall be designated as a non-exempt or an exempt employee. Such determinations will be based upon the requirements of the FLSA and will be in writing.

Non-Exempt Employees Generally. All hours worked by a non-exempt employee who is not a police officer, corrections officer, or firefighter in the established work period that exceed forty (40) hours will be considered overtime work in accordance with the provisions of the FLSA

Police Officers and Correction Officers. All hours worked by a non-exempt Police Officer or Corrections Officer employee in the established fourteen (14) day work period that exceed eighty-six (86) hours will be considered overtime work in accordance with the provisions of the FLSA.

Fire Fighters. All hours worked by a non-exempt Fire Fighter employee in the established twenty-eight (28) day work period that exceed two hundred twelve (212) hours will be considered overtime work in accordance with the provisions of the FLSA.

Exempt Employee. An employee who has been designated as an exempt employee is salaried and as such is paid to accomplish his job regardless of the hours he must work. No employee who has been determined to be exempt from the overtime provisions of the FLSA will be entitled to overtime pay for any reason.

“Hours Paid” vs. “Hours Worked” Overtime pay is only computed based on hours worked, not on all hours paid. If a non-exempt employee does not actually work on a holiday, the hours that he is paid for such holiday will not count as hours worked, when determining his entitlement to receive overtime pay. Only the time that an employee actually works on a holiday will be used to determine if he qualifies for any overtime entitlement during his workweek in accordance with the FLSA. Similarly, paid vacation time and paid sick leave will be considered non-work time for purposes of determining an employee’s entitlement to overtime pay.

9.7. OFFICIAL HOLIDAYS

Scheduled Holidays. The following holidays have been approved by the city council to be observed by eligible employees as paid holidays:

- | | |
|----------------------------|----------------------------|
| (1) New Year’s Day | (7) Veterans Day |
| (2) Martin Luther King Day | (8) Thanksgiving Day |
| (3) Mardi Gras | (9) Day after Thanksgiving |
| (4) Memorial Day (May) | (10) Christmas Eve |
| (5) Independence Day | (11) Christmas Day |
| (6) Labor Day | |

When an approved holiday falls on a Saturday, the preceding Friday will be observed as the holiday. When an approved holiday falls on a Sunday, the following Monday will be observed as the holiday.

Eligibility. All unclassified and classified full-time employees are eligible to observe and be paid holiday pay for established city holidays. Part-time and temporary employees will not

receive holiday pay for city holidays. If a part-time employee works on an observed holiday, he will be paid for the day the same as a regular work day. To be entitled to receive holiday pay for a city authorized holiday, an eligible employee must be present at work, or on approved leave with pay, on his scheduled work days immediately preceding and following the paid holiday. If he is in a non-pay status for either of these days, holiday pay will not be paid.

Holiday Pay. All eligible employees will receive holiday pay in lieu of their regular pay for all city holidays. The amount of holiday pay paid to each employee will be based upon an eight (8) hour work day. If an employee is a twelve (12) or twenty-four (24) hours shift employee and takes the holiday off, the employee will be paid eight (8) hour holiday with the remaining hours as vacation, sick, or leave without pay, whichever is applicable. If a non-exempt employee is required to work the holiday, he will receive both holiday pay and pay for the hours he actually works. The pay that he receives for the hours worked will be calculated at his regular rate of pay. An exempt employee will not be paid for the hours he works on a holiday, since he is paid a salary for accomplishing his assigned job. However, he may take time off at a later date, with the concurrence of his supervisor.

Holiday Pay in Lieu of Sick or Vacation Leave. If an eligible employee is on approved paid sick or vacation leave when an official holiday occurs, such time will be charged as holiday pay and not as sick or vacation leave.

9.8 PAID VACATION.

Overview. Paid vacation time will be provided to eligible city employees as part of the city provided compensation package for its employees. The city considers this time away from the job as necessary for an employee’s morale and well being (rest for the employee, quality time with family members and friends and/or training opportunities) and should be taken each year. The city expects each employee to take his earned vacation pay, except as permitted by these guidelines, since working in lieu of taking such time off defeats the purposes of providing paid time away from the job. Therefore, it is the city’s policy to strongly discourage the practice of allowing an employee to work in lieu of taking his vacation time, unless his presence is necessary to meet emergency situations and/or other unusual city demands.

Eligibility. Unclassified and classified employees are eligible to earn and use vacation pay. Part-time and temporary employees will not earn or be granted vacation pay.

Leave Year. The city’s vacation pay year will run from January 1 through December 31 of each year.

Accrual of Vacation Pay. All eligible employees will earn vacation pay for each full leave year (January 1- December 31) that they work. The amount of vacation pay earned each year will be based on the employee’s continuous years of service and in accordance with the following criteria:

Continuous Years of Service	% X 2080	Hours Earned Per Year
0 thru 9 years	.0385 per hour	80 hours per year

10 thru 14 years	.0577 per hour	120 hours per year
15 thru 24 years	.0769 per hour	160 hours per year
Over 24 years	.0962 per hour	200 hours per year

Continuous Years of Service	% X 2808	Hours Earned Per Year
0 thru 9 years	.0385 per hour	108 hours per year
10 thru 14 years	.0577 per hour	162 hours per year
15 thru 24 years	.0769 per hour	216 hours per year
Over 24 years	.0962 per hour	270 hours per year

Vacation Accrual Policy. Employees will accrue vacation pay in accordance with the schedule listed above. Normally, the total number of hours earned per year will be divided by 12 in order to determine the number of hours an employee will earn each month worked. However, if an employee’s employment with the city begins during the year, the total number of hours earned per year will be prorated by the number of months the employee works for the city. Accrued vacation pay will be posted to the employee’s leave account on the first pay period of each month following the month in which it is earned. To be eligible to earn vacation pay in a month the employee must work at least 10 days during such month.

Vacation Accrual During Probation. Employees serving an initial probationary period will accrue vacation pay under this policy. However, they will not be eligible to use such vacation pay until successfully completing probation.

Use of Vacation Pay. The use of vacation pay will be approved at the discretion of an employee’s department head, or the department head’s designated representative. Normally, vacation pay will be approved in advance of each absence, except in unusual circumstances. Failure to comply with this requirement may result in an absence being treated as an unauthorized absence. The employee will be placed in a leave without pay status, and disciplinary action will be taken against him. All requests for vacation pay will be made as far in advance as possible of the time the employee desires the leave. Before the start of each leave year all eligible employees will be afforded an opportunity by their department head to schedule their projected leave days for the coming year. The order of selection will be based on each employee’s continuous years of eligible service with the city and will be made in accordance with guidelines to be established by the department head. Subsequent requests for vacation pay after this period will be approved on a first come/first serve basis and the needs of the city. Vacation pay may be taken in one (1) hour increments, as approved by the employee’s department head.

Vacation Pay Rate. The pay that an employee receives for his vacation time will be based upon the regular pay that he would have received, if he had actually worked.

Carry Over of Vacation Pay. The City Of Daphne expects that all employees use their earned vacation days each year. As described in this policy, an employee will forfeit unused vacation pay beyond certain limits if not used during the leave year. Each employee is responsible to keep up with his vacation pay balance so that unused vacation pay is not lost at the end of the year.

Supervisors are responsible to ensure employees are given ample opportunity to schedule their use of vacation pay so that work operations are not affected and the available vacation pay is used. In general, an employee may carry over up to eighty (80) hours of unused vacation pay into the next leave year. Due to the differences in work hours and the nature of the shifts worked by Fire Fighters, Police Officers, and Corrections Officers, accrual rates for these types of employees are calculated differently. Vacation carry over will reflect these differences. A Fire Fighter who works a 212 hour schedule may carry over up to one hundred eight (108) hours of unused vacation pay into the next leave year. A Police Officer or Corrections Officer who works an 84 hour work schedule may carry over up to eighty four (84) hours of unused vacation pay into the next leave year. If an employee has any unused vacation pay which exceeds the applicable limit at the end of the leave year, the unused amount over the limit will be forfeited.

Use During Holiday. When an official holiday occurs while an employee is absent on a paid vacation or while using vacation pay, his absence will be charged as a paid holiday and not as vacation pay.

Vacation Accrual at Termination. If an employee's employment with the city ends during a leave year, the employee will only be eligible for vacation pay accrued up to termination. However, if an employee does not complete at least six month's service with the city and leave in good standing, all accrued leave will be forfeited.

Pay Upon Separation. Upon separation from service, an individual who completes more than six (6) months of service will be paid for all his accrued and unused vacation pay, if proper notice is given in accordance with these guidelines.

9.9. PAID SICK LEAVE

Overview. Paid sick leave is a benefit provided to unclassified and classified employees. It is provided to ensure that an eligible employee who is unable to work due to illness or injury does not feel compelled to do so for financial reasons. Abuse of sick leave privileges by any employee will be severely dealt with and the employee may be dismissed, if the city determines that the circumstances involved in the employee's actions warrant such action.

Accrual of Paid Sick Leave. Unclassified and classified employees based on 2,080 annual hours will earn paid sick leave credit at the rate of 3.08 hours per pay period for a total of 80 hours per year. Unclassified and classified employees based on 2,808 annual hours will earn paid sick leave credit at the rate of 9 hours per month for a total of 108 hours per year. However, an eligible employee will not earn any paid sick leave credit for any month in which he is in a non-pay status for more than one-half of his regularly scheduled working days during the month. An eligible employee may accrue up to a maximum of one thousand four hundred forty (1,440) hours of paid sick leave credit.

Use of Paid Sick Leave. An eligible employee may use paid sick leave credits for any of the following types of reasons:

- (a) when he is unable to work due to personal illness, injury incurred off-duty, or when his presence may endanger the health of fellow workers;
- (b) keeping a doctor, dentist, chiropractor or optometrist appointment;

- (c) any impairment related to pregnancy, and/or actual confinement. A female employee who requests time away from work for pregnancy, maternity and childbirth will be treated equally to other employees with other forms of disability or sickness who request leave; or
- (d) serious illness of a member of his immediate family that requires the personal attention of the employee (for purpose of this section, immediate family includes the employee's spouse, children, parents and like relations of the spouse's family).

Paid sick leave may be taken in one (1) hour increments, as approved by the employee's department head.

Sick Leave Pay Rate. The pay that an employee receives for authorized sick leave will be based upon the regular hourly rate of pay that he would have received, if he had actually worked.

Requirements for Use Generally. When an employee is aware of a need to use paid sick leave (such as for scheduled medical treatment), the employee must give notice of the anticipated absence at least thirty (30) days before the date the employee wants to use paid sick leave. If the employee learns of the need to use paid sick leave in less than 30 days, the employee must give notice of the anticipated absence either the same day or the next business day. If the absence and need to use paid sick leave is unforeseeable and advance notice of the absence is not possible, the employee must provide as much notice as is practical under the circumstances. Failure to provide timely notice so may be cause for denial of sick leave for the period of absence. Denial of sick leave may result in an employee being charged with vacation leave or being placed in a leave without pay status, at the discretion of his department head. Failure to comply with these requirements may result in disciplinary action being taken against the employee.

Requirements for Extended Use. For a period of absence in excess of two (2) consecutive working days, or anytime at the request of the employee's department head, the human resources director, or the mayor, an employee may be required to submit a medical report signed by a licensed doctor. The medical report should state that the employee has been incapacitated for work for the period of absence, when it is anticipated that he will again be able to return to work, and be able to perform his duties. The city may also, at its discretion, require an employee returning to work after a sickness or injury to undergo a medical examination to ensure that he is able to return to work. Such examination, when required will be conducted by a medical authority designated by the human resources director. Once an employee exhausts paid sick leave credits, he may use vacation pay during the period of an extended absence due to non-work-related illness or injury. As more fully provided in any short-term disability insurance plan provided by the city, employees must exhaust all paid sick leave credits and all available paid vacation before becoming eligible to apply for short-term disability insurance benefits,

Abusive Use. Any unjustified, fraudulent, or abusive use of sick leave may result in the absence being charged as leave without pay, being charged as vacation leave, and/or being punished by disciplinary action (to include dismissal when considered appropriate by the city).

Use During Holiday. When an authorized city holiday occurs during the period an employee is on sick leave, he will receive his regular holiday pay and that day will not be charged against his sick leave.

Coordination With Worker's Compensation. When an employee is absent due to a job-related injury or illness, he may coordinate such absence with his sick leave in accordance with the following guidelines (vacation leave may be used in lieu of sick leave, if he does not have accrued sick leave).

- (a) The first three (3) days that he is absent from work will be charged as sick leave, if he agrees in writing to reimburse the city the amount of benefit he receives from worker's compensation for such days. If he does not have accrued sick leave to cover his absence for these days, he will be placed in a leave without pay status.
- (b) If the absence is less than twenty-one (21) days and worker's compensation provides benefit payments for the first three (3) days, he will be charged for three days of sick leave or leave without pay, as the case may be.
- (c) If the absence is for over twenty-one (21) days and worker's compensation provides benefit payments for the first three (3) days, he will reimburse the city the amount of benefit he receives from worker's compensation for these days and he will be charged only one-third (1/3) of a day of sick leave for each of the first three (3) days, if he was charged with sick leave for these days.
- (d) If he does not agree to reimburse the city for use of sick leave for the first three (3) days of his absence, his absence will be charged as leave without pay beginning with the first day of the absence.
- (e) If the absence exceeds three (3) days, he will be placed in leave without pay status beginning with the fourth day of his absence.

Paid Sick Leave Donation

Eligibility: Only full-time employees and part-time employees working 32 or more hours per week are eligible to donate or receive donations of paid sick leave. Employees eligible for short-term disability coverage are not eligible for receiving donations of paid sick leave.

Amount of donated sick leave: Employees may only donate that amount of paid sick leave they have in excess of eighty (80) hours, but no more than forty (40) hours may be donated per leave year (January 1 – December 31)

Conversion of sick leave between employees: Conversion of donated paid sick leave will be based upon the dollar amount of sick leave. "Example" – Employee X wishes to donate 40 hours of sick leave to Employee Y. Employee X makes \$6.00/hr; Employee Y makes \$12.00/hr. Employee X will make a donation of \$240 (\$6 x 40 hrs) worth of sick leave. Employee Y receives the equivalent of 20 hours of sick leave (\$12 x 20 hrs=\$240).

Approval: All employees' requests to donate sick leave must be reviewed by their Department Head. Department heads requests must be reviewed by the mayor. Requests once reviewed will be forwarded to the human resources director for final review.

Forfeiture of Sick Leave at Separation. Employees will not be paid for their unused sick leave when they are separated from the city service for any reason, except that sick may be converted to retirement service credit. Upon separation, all individuals will forfeit the sick leave that they have accumulated. However, if an individual is rehired within two (2) years of his separation date in a service category that is eligible to accrue sick leave, he will have his previous sick leave balance restored upon completion of six (6) months of service or the required probationary period (whichever is longer).

Election to Convert Sick Leave Upon Retirement. Under the provisions of Section 36-26-36.1 *Code of Alabama* 1975, a city employee may elect to convert unused sick leave to retirement service credit. That by electing to come under the provisions Section of 36-26-36.1 *Code of Alabama*_1975, the City of Daphne agrees to assume the cost of benefits provided by said Act with regards to its employees who are members of the Employee's Retirement System of Alabama.

9.10. PAID ADMINISTRATIVE LEAVE.

Overview. Unclassified and classified employees may be granted administrative leave with pay in accordance with the following guidelines, provided the absence is on a regularly scheduled workday for the employees. The number of hours of leave granted for each approved day of leave will not exceed the number of hours the employee would have been scheduled to work for that day. Administrative leave will not be charged against the vacation or sick leave of an employee. The following types of administrative leave are provided by the city.

Civil/Legal. Leave will be granted eligible employees for jury duty, court attendance as a witness in a case not involving personal litigation, and voting. The length of time granted for voting will be the reasonable time necessary to vote and normally will be granted at the start or end of a workday. Attendance in court by an employee who is acting in an official capacity will not be considered as administrative leave but as regular work time. The provisions of any law or city policy that require any fees provided an employee who is attending court in an official capacity to be turned into the city will be observed. In other situations, any fees paid an employee will be retained by the employee in addition to his administrative leave pay.

Bereavement. Bereavement leave is intended to provide an eligible employee time off with pay for purposes of attending to personal matters associated with the death of a close family member and/or for attending a family member's funeral. Up to twenty-four (24) hours of bereavement leave will be granted an employee who has a death in his immediate family. Immediate family is defined as follows: Spouse, children, parents, grandparents, grandchildren, brothers, sisters, or the equivalent relations of the employee's spouse. Included within the definition of family are those persons who live with the family as a member of the family whether related or not. If additional time off is required beyond the bereavement leave days authorized, an employee may request vacation leave or leave without pay.

Hazardous Weather. When considered necessary for the safety of city employees, the mayor may authorize the closure of city offices and activities and/or late arrival or early departure time for hazardous weather conditions. Such time will be reported on attendance reports as administrative leave for hazardous weather. When a hazardous weather situation occurs, any employee may be required to work if his presence is required to perform essential operations. Emergency closing and/or late arrival times will be approved by the mayor and will normally be broadcast over the local radio station. However, it is the responsibility of each employee to contact his supervisor, if he is uncertain as to the situation. If the mayor does not declare a hazardous weather condition, all employees are expected to make a good faith effort to get to work. An employee who is unable to get to work under such conditions is expected to notify his supervisor. Such employee will be placed on vacation leave or leave without pay, at the discretion of the employee. If the employee is placed on leave without pay, he maybe authorized by his department head to make up the missed time so long as feasible work is available and the time can be made up in the same workweek.

Inclement Weather. When inclement weather prevents an employee who works outdoors from performing work outside, he will be given other duties that can be performed indoors. If an employee does not wish to perform the alternate work, he may request vacation leave; however, he will be required to work if his presence is needed. If an employee requests time off and he does not have any accrued leave with pay that he can take, he may be given time off without pay.

9.11 LEAVE WITHOUT PAY.

Requirements for Approval. The city will provide leave without pay to unclassified and classified employees in certain situations as described below. An employee who is granted leave without pay will be placed in a non-pay status. The following guidelines apply to the approval of any general leave without pay: (i) the leave will be for a justifiable reason; (ii) the leave will not cause an undue hardship on the city; (iii) the employee understands that he may be required to return to work before his leave expires; and (iv) the employee understands that his failure to report for duty promptly when requested or at the end of the leave will be considered a resignation and he will be separated.

Length of Leave. An employee may, for justifiable reason, be granted a general leave without pay for a period not to exceed one hundred twenty (120) calendar days.

Expiration of Leave Without Pay. If an employee returns to work when an unpaid leave of absence expires, the employee will be reinstated to the position he held at the time the leave was granted or to a similar position, if his previous position is no longer available.

Benefits While in Leave Without Pay Status. No authorized paid benefits (such as vacation and sick leaves, insurance premiums) will be provided to an employee for any pay period in which he has been placed in a leave without pay status for more than ten (10) working days during a month. An employee who is in a leave without pay status for more than ten (10) working days during the month will be required to reimburse the city for any benefit costs paid by the city on his behalf for such period. Any unused vacation and/or sick leave days an employee has accrued

at the time he is placed in a general leave without pay status will be made available to him upon his return to work. If the employee does not return to work, these days will be forfeited. An employee in a leave without pay status will accrue credit toward longevity and across-the-board pay increases.

Approval. All leaves without pay will be approved by the mayor.

SECTION II: REVISION TO EMPLOYEE HANDBOOK CHAPTER NINE SECTION 9.4.5 MILITARY LEAVE AND SECTION 9.6 MILITARY DUTY

That Section 9.4.5 and Section 9.6 of the Employee Handbook, be and are hereby deleted in its entirety, and are combined, renumbered, renamed, and replaced as follows:

9.12 MILITARY LEAVE POLICY

Scope & Eligibility. An unclassified or classified employee is eligible for military leave and the re-employment rights described in this policy if he is a member of or becomes a member of the United States Armed Forces, the United States Reserves, the Alabama National Guard, certain Public Health Service positions, the National Disaster Medical System (including the AL3 Disaster Medical Assistance Team (D.M.A.T)), and the civilian auxiliary of the United States Air Force known as the Civil Air Patrol. Military leave is available if an eligible employee needs time off from work for military training and drills, or fitness-for-duty examinations, or is called into active service by the Governor of the State of Alabama (“state military service”) or is ordered into active service under the provisions of the National Defense Act, the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 or of the federal laws governing the United States Reserves (“federal military service”). With certain limitations described herein, eligible employees may take military leave without loss of pay, time, efficiency rating, accrued vacation or sick leave, or any other provided benefit.

Notification of Military Absence/Documentation. Upon receipt of orders or other notice of training, fitness-for-duty evaluation, or active service, an employee must submit a written request for military leave to the human resources director through his department head. The employee must submit a copy of his military orders or other documentation necessary to support his request along with the leave request, unless the orders or documentation are not reasonably available. If orders or other documentation are not initially available, the employee must submit the orders or documentation as soon as possible after they become available. In making the request for military leave, the employee also must notify the human resources director through the department head of the reasons for the requested military leave, the anticipated date of departure, and the anticipated return-to-work date, if known. Requests for extension of a previously granted military leave must be made to the human resources director, provide the same information, and be supported with new orders or other written documentation provided when reasonably available.

Paid “Federal Service” Military Leave. An employee granted a military leave of absence for “federal” service, and for training and fitness-for-duty examinations as a member of the National Guard or Reserves will be paid for up to one hundred sixty eight (168) working hours per

calendar year for those hours the employee otherwise would have been working for the city. For example, if the employee is not otherwise scheduled to work on weekends, then the employee will not be paid for “weekend drill.” If the employee’s federal service military leave for these reasons is longer than 168 working hours, the remainder of the military leave will be unpaid, except that the employee may elect to receive available vacation pay during the absence.

Paid “State Service” Military Leave. An eligible employee will be entitled, in addition to the above, to be paid for up to one hundred sixty eight (168) working hours at any one time while called to duty by the Governor in the active service of the state to assist with the enforcement of the law, the preservation of the peace or for the security of the rights and lives of citizens or protection of property in aid and relief of citizens in disaster, or any similar duty, or any other service that the Governor may for specific reasons so designate. If the employee’s state service military leave is longer than 168 working hours, the remainder of the military leave will be unpaid, except that the employee may elect to receive available vacation pay during the absence.

Seniority, Status, and Pay. Employees returning from military leave will be entitled to the seniority and raises they would have earned had they been continuously employed.

Benefits. An individual will be entitled, during his military leave of absence, to insurance and other benefits to which other employees on leave without pay status are entitled. Retirement credit for his military service will be in accordance with the city’s retirement plan.

Vacation Pay and Paid Sick Leave. If the employee separates from employment in order to join the Armed Forces, unused vacation pay will either be taken by the employee prior to his departure or, if such action is not feasible, he will be paid for such leave as provided in the separation of employment provision of the Paid Vacation policy. If an employee separates from employment in order to join the Armed Forces, and then later exercises re-employment rights described in this policy to return to work for the city, the city will credit unused sick leave that the employee had accumulated at the time of his departure to his sick leave account when he returns to work. An employee who is on military leave for more than ten (10) working days during a month will not accrue any paid vacation or paid sick leave for the month, as it is with other employees on a leave without pay status. An employee who separates from employment in order to join the Armed Forces will not accrue any paid vacation or paid sick leave during the period prior to re-employment. An employee who separates from employment in order to join the Armed Forces and does not return to employment with the city will forfeit unused sick leave as provided in the Paid Sick Leave policy, unless the separation from employment with the city is a retirement.

Insurance. A returning employee will be able to participate in the city’s insurance program and receive benefits according to the policies governing other individuals who are returning to work from approved leave without pay. An individual on military leave which lasts longer than 30 calendar days is entitled to elect health insurance continuation coverage at the employee’s expense the same as other individuals who are separated from employment or who take an unpaid leave of absence of longer than 30 days.

Re-Employment Rights. If an unclassified or classified employee is called to active duty or separates from employment to join the Armed Forces, the city will re-employ him in his old

position or position of like seniority, status, and pay upon his discharge from duty, subject to the following conditions.

- Notice Given Prior to and Following Absence. The employee must have complied with the notice provisions of this policy prior to and following the absence for military duty.
- Honorable or General Discharge. The employee must have received an honorable or general discharge from military service, unless the employee remains a member of the National Guard or Reserves or is otherwise not in an active-duty service.
- Length of Service Restrictions. The employee's total cumulative absence must not exceed five years, excluding certain types of military service described under federal law.

Notification of Return from Military Absence. When an employee seeks to return to work or apply for re-employment following a military absence, the employee must provide notice to the human resources director of his intent to return to work or apply for reemployment according to following schedule:

(1) If the employee was absent for military fitness-for-duty examination or the military absence was for less than 31 days, the employee must return to work and/or reapply for work at the beginning of the first full regular scheduled work period that starts at least eight hours after the employee returns from the location of military service, training, or examination. For example, if an employee is released from a two-week National Guard drill at 8:00 a.m. on Monday, June 1, the city will allow the employee the time it takes to travel home, plus eight additional hours. If the travel time is less than eight hours, the employee would not be required to report for work until the next full scheduled work day, Tuesday, June 2. If the travel time is more than eight hours, then the employee would not be required to report for work until Wednesday, June 3, because the travel time plus eight hours will overlap into Tuesday, June 2.

(2) If the military absence was for more than 30 days but less than 181 days, the employee must return to work and/or re-apply for work no later than 14 days after completing the service or training. But if circumstances beyond the employee's control make returning within this 14-day period impossible or unreasonable, then the employee must notify the human resources director about those circumstances and return to work on the next calendar workday when returning becomes possible or reasonable.

(3) If the military absence was for more than 180 days, the employee must notify the human resources director of his or her intent to return to work no later than 90 days after the completion of the service or training by submitting a written application for re-employment.

(4) If an employee is hospitalized or recovering from an injury or illness incurred or aggravated during the military service or training which makes the employee unable to perform job duties, the employee must: (i) as soon as possible, notify the human resources director regarding the injury or illness and resulting inability to work; and (ii) at the end of the necessary recovery period, notify the human resources director of the intent to return to work by submitting a written application for re-employment. The city cannot guarantee reinstatement if the recovery period exceeds two years, unless circumstances beyond the employee's control make re-application impossible or unreasonable. In such circumstances,

the employee must re-apply to the human resources director on the next calendar workday when notice becomes possible.

Return-to-Work Documentation. Within two weeks after returning from any military leave or absence of longer than 30 days, the employee must provide documentation (unless such documentation does not yet exist or is not readily available) showing: (i) the return-to-work notice was submitted within the required time period; (ii) the total length of the period of military service; and (iii) the employee received an honorable or general discharge (if applicable).

Exceptions to Re-employment Rights. Re-employment will not be required if the city's circumstances have so changed as to make it impossible or unreasonable to re-employ the individual. Such changes include: (i) the organization has changed drastically in nature and size; (ii) the individual's old job has been abolished and employment would have been lost anyway; or (iii) the individual is no longer physically or mentally qualified for his old job or a comparable job; or (iv) the position from which the employee departed was a temporary job.

SECTION III: REVISION TO EMPLOYEE HANDBOOK CHAPTER NINE SECTION 9.5 FAMILY AND MEDICAL LEAVE

That Section 9.5 of the Employee Handbook, be and is hereby deleted in its entirety and is renumbered, renamed, and replaced as follows:

9.13 FAMILY AND MEDICAL LEAVES OF ABSENCE (FMLA) POLICY

A. GENERAL PROVISIONS

Eligibility. To be eligible for leave under this policy, an employee must meet all of the following requirements: (1) the employee must have worked for the City for at least 12 months, which need not be 12 consecutive months; and (2) the employee must have worked for the City for at least 1,250 hours during the 12 months immediately preceding the date the leave of absence begins or requested leave of absence would begin. We count towards both the 1,250-hour and 12-months-of-service requirements the time employees are on an approved military leave of absence or are otherwise serving in the military. We do not count any hours during any other period of leave of absence towards the second eligibility requirement.

Compliance With FMLA Law and Regulations. The City adopted this policy to comply with the Family and Medical Leave Act of 1993, as amended, and applicable federal regulations. The policy is not intended to be interpreted to provide any protections or require restrictions not contemplated by that law and regulations.

Types of FMLA Leave. All leaves covered by this policy are collectively called "FMLA leave." Eligible employees may take a leave of absence covered by this policy during the "FMLA year" (defined below) for any of these reasons:

- For the birth of the employee's healthy child, or the placement by a State of a child for adoption or foster care with the employee, including child care after birth or placement for adoption or foster care. Leave to care for a child after birth or after adoption or placement

for foster care must be taken within one year after the child's birth or placement. This type of leave is called "Family Leave."

- To care for the employee's spouse, child or parent with a *serious health condition*. This type of leave is called "Caregiver Medical Leave."
- For the employee's own *serious health condition* (including pregnancy, childbirth and related conditions). This type of leave is called "Medical Leave." The employee's serious health condition can include illnesses or injuries caused by on-the-job accidents or working conditions which may qualify for workers' compensation benefits or medical treatment paid for by the City.
- For absences caused by an *active duty exigency* when the employee's spouse, child, or parent is a service member. This type of leave is called "Military Exigency Leave."
- To care for the employee's spouse, child, parent, or "next of kin" (if the employee is the nearest blood relative) who is a "recovering service member." This type of leave is called "Military Caregiver Leave."

FMLA Year. In determining the amount of leave available to an employee for all FMLA leaves except for Military Caregiver Leave, the City uses a "rolling" 12-month period measured backward from the date an employee uses FMLA leave covered by this policy. For purposes of Military Caregiver Leave, the City will determine the "12-month period" in which the 26-weeks-of-leave-entitlement by measuring forward from the date an employee's first leave to care for the covered service member begins. Regardless of the period used, for convenience the twelve-month period is referred to as the "FMLA year."

Maximum Length of Leave (General Rules). An employee may take up to 12 weeks combined total of Family Leave, Caregiver Medical Leave, Medical Leave, or Military Exigency Leave during the FMLA year. Under the "look back" method applicable to these four types of leave, the City essentially take a snapshot of the twelve-month period which changes daily. Each time an employee takes FMLA leave, the remaining leave entitlement is the balance of FMLA leave time not used during the immediately preceding twelve months. An employee may take up to 26 weeks of Military Caregiver Leave during the FMLA year, unless the employee also takes Military Exigency Leave during the FMLA year, as discussed in the following special rule. Each time the employee takes Military Caregiver leave within the "look forward" period, the remaining leave entitlement is the amount not used within the 12-month period. If the employee does not take all of the available 26 weeks of Military Caregiver Leave during that single 12-month period, the remaining part of the 26-weeks leave entitlement is forfeited.

For example, if an employee used four weeks for Medical Leave beginning February 1, 2013, four weeks of Medical Leave beginning June 1, 2013, and four weeks of Medical Leave beginning December 1, 2013, then as of January 1, 2014, the employee would not be entitled to any additional Family Leave, Caregiver Medical Leave, Medical Leave, or Military Exigency Leave until February 1, 2014. Beginning on February 1, 2014, the employee would again be eligible to take any of these 12-week FMLA leave types, recouping the right to take

FMLA leave in the same manner and amounts in which it was used in the previous year. Thus, the employee would recoup (and be entitled to use) one additional day of FMLA leave each day for four weeks beginning on February 1, 2014. The employee would similarly also begin to recoup additional days beginning on June 1, 2014, and additional days beginning on December 1, 2014.

For example, if an employee takes the full 26 weeks of Military Caregiver Leave to care for an injured or ill service member commencing on Monday, July 1, 2013, the 26-week leave will expire on Monday December 30, 2013. The employee must return from leave on Tuesday, December 31, 2013. The employee will not be eligible to take any further Military Caregiver Leave until after July 1, 2014, which is 12 months after the commencement of the first Military Caregiver Leave.

Special Limit on Amounts of Military-Related Leaves. If an employee requests both Military Exigency Leave and Military Caregiver Leave, the employee may take only a combined total of 26 weeks of leave for these two reasons during the overlapping FMLA years applicable to both types of leave, if FMLA leave is not used for any other reason.

For example, if an employee takes 10 weeks of Military Caregiver Leave to care for an injured or ill service member commencing on Monday, July 1, 2013, the 10-week leave will expire on Monday September 9, 2013. The employee must return from leave on Tuesday, September 10, 2013. At that point, using the “look back” rule for Military Exigency Leave, the employee is eligible to take only two (2) weeks of Military Exigency Leave, and using the “look forward” rule for Military Caregiver Leave, the employee is only eligible to use another 16 weeks of Military Caregiver Leave until after July 1, 2014.

If this same employee then takes two (2) weeks of Medical Leave commencing on December 1, 2013, and ending on December 15, 2013, using the “look back” rule, the employee is not eligible to take any further Military Exigency Leave or any of the other 12-week types of FMLA leave, but is still eligible, under the “look forward” rule, to take another 16 weeks of Military Caregiver Leave until after July 1, 2014.

For example, if an employee takes 22 weeks of Military Caregiver Leave to care for an injured or ill service member commencing on Monday, July 1, 2013, the 22-week leave will expire on Monday December 2, 2013. The employee must return from leave on Tuesday, December 3, 2013. If the employee does not take any further Military Caregiver Leave until after July 1, 2014, the remaining four weeks of this type of leave are forfeited. If this same employee requests Military Caregiver Leave on September 1, 2014, the employee only would be entitled to take 26 weeks of this type of leave during the 12-month period ending September 1, 2015.

Special Limits on Amount of Leave – Spouses Both Employed by the City. If both a husband and wife are eligible employees of the City, they may take only a combined total of 12 weeks for Family Leave or a combined total of 12 weeks of Caregiver Leave to care for a parent with a serious health condition, or a combined total of 26 weeks of Military Caregiver Leave during the FMLA year, if they each do not use FMLA leave for any other reason. For example, if each

spouse took 6 weeks of Caregiver Leave to care for a parent, each could use an additional 6 weeks of Medical Leave due to his or her own serious health condition or 6 weeks of Caregiver Leave to care for a child with a serious health condition.

Form of FMLA Leave. FMLA leave under this policy generally is taken in a single consecutive absence up to the 12-week or 26-week maximum. But under some circumstances, employees may take leave under this policy “intermittently,” which means taking leave in short blocks of time (of no less than one quarter hour increments) while otherwise continuing to work. Intermittent leave may be granted, if necessary, for a Caregiver Leave, Medical Leave, Military Exigency Leave, or Military Caregiver Leave. Family Leave must be taken in a consecutive block of time. Intermittent leave due to foreseeable absences can be taken as a result of reduction in an employee’s regular schedule. For example, if the employee needs Medical Leave to attend scheduled appointments for dialysis treatments lasting four hours every other Friday, the employee’s schedule can be adjusted to allow the absence, and the four hours spent at dialysis counts towards the employee’s total available FMLA leave. Regardless of the form of the FMLA leave, in all cases, the total FMLA leave during the FMLA year will not exceed the maximum length allowed by this policy.

Designation by City. If we determine that an employee’s absence is covered by this policy, including an absence that could qualify for another type of leave described in the City’s *Employee Handbook*, we may designate the absence as FMLA leave covered by this policy and count the absence toward the employee’s 12 weeks (or 26 weeks) of FMLA leave.

Fraud. An employee who fraudulently obtains FMLA leave is subject to disciplinary action, up to and including termination of employment.

B. DEFINITIONS OF TERMS

The term “parent” includes the biological, adoptive, or “step” mother or father of an employee or an individual who stood *in loco parentis* to the employee. The term does not include a “parent-in-law” or a grand-parent , unless the grandparent stood *in loco parentis* to the employee when the employee was age 18 or younger.

The term “child” generally includes a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* towards the child. For purposes of Caregiver Leave, the term does not include any individual age 18 or over, unless the person is incapable of self-care because of mental or physical disability. For purposes of Military Exigency Leave and Military Caregiver Leave, the term does include individuals over age 18. Stated otherwise, unless an employee’s adult child is incapable of self-care due to a disability, an employee cannot take Caregiver Leave to care for an adult child.

The term “*in loco parentis*” means the person took or takes responsibility for day-to-day care of another person and provided or provides financial support for the other person without any biological or legal relationship. In other words, a grand-child is not usually considered the “child” of an employee for purpose FMLA leave, unless the employee stands *in loco parentis* towards the grand-child.

The term “spouse” includes an employee’s husband or wife, as defined by applicable State law, including a “common law” spouse who the employee has previously held out or represented to the City and others to be the employee’s spouse.

The term “next of kin” means a person’s nearest blood relative other than the person’s parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the person by court decree or statute, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the person has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave.

The term “service member” means a member of the Armed Forces (Army, Navy, Air Force, Marines, and Coast Guard), the United States Reserves, or the National Guard who is related to the employee.

The term “recovering service member” means a service member who suffered a serious injury or illness while on active-duty and in the line of duty that may render the person unable to perform the duties of the person’s office, grade, rank or rating and who is undergoing medical treatment, recuperation, or therapy, is otherwise in an outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

The term “key employee” means a salaried eligible employee who is among the highest-paid 10% of all of the City’s employees, both salaried and non-salaried, eligible and non-eligible. In determining whether an employee is among the highest paid 10%, the City will review year-to-date earnings divided by weeks worked by the employee (including weeks in which paid leave was taken). Earnings include wages, premium pay, incentive pay, and non-discretionary and discretionary bonuses, but do not include the value of any employee benefits. The City determines whether a salaried employee is among the highest paid 10% at the time the employee gives notice of the need for leave or otherwise needs to take the leave.

The term “incapacity” means an inability to work, attend school, or perform other regular daily activities because of the serious health condition, treatment, or recovery.

The term “continuing treatment” means the employee either (i) must be seen and treated in-person by a health care provider (or by a provider of health care services such as a nurse or physical therapist under orders of, or on referral by, a health care provider) two or more times within 30 days of the first day of incapacity, unless circumstances beyond the employee’s control prevent the follow-up visit, or (ii) must be seen and treated by a health care provider on at least one occasion, which results in a regimen of treatment under the supervision of the health care provider. A regimen of treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves, or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to substitute for the second visit to the health care provider. A regimen of taking prescription medication is sufficient to substitute for the second visit to the healthcare provider.

The term “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves:

(1) inpatient care (*e.g.*, an overnight stay in a hospital, hospice, or residential medical facility), including any period of incapacity or any subsequent treatment in connection with the inpatient care; or

(2) a period of incapacity of more than three consecutive full calendar days and “continuing treatment” by a health care provider or a provider of health care services under the supervision or by referral of the health care provider (for purposes of this type condition, the first (or only) in-person treatment visit to the health care provider must take place within seven days of the first day of incapacity); or

(3) any absences for medical care or any period of incapacity because of pregnancy, childbirth and related medical conditions; or

(4) any absences for medical care or any period of incapacity because of a chronic condition, which is any medical condition which (i) requires periodic visits (at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider, (ii) continues over an extended period of time (including recurring episodes of a single underlying condition); and (iii) causes or may cause episodic rather than a continuing period of incapacity; or

(5) any absences for medical care or any period of incapacity because of a permanent long-term condition for which treatment may not be effective (the person must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider); or

(6) any period of absence to receive or recover from multiple treatments by or under orders or referral from a health care provider for restorative surgery after an injury or for a condition so serious that, in the absence of medical intervention or treatment, would likely result in a period of incapacity of more than three consecutive full calendar days.

A serious health condition may include occupational or on-the-job-related injuries and illnesses that might also qualify for workers’ compensation insurance benefits.

Absences for treatment for alcohol or substance or drug abuse by a health care provider or by a provider of health care services on referral by a health care provider may qualify for medical leave under this policy if the absence involves either in-patient care or a period of incapacity of more than three consecutive full calendar days and “continuing treatment” by a health care provider. But an absence caused by an employee's use of the drug, alcohol, or substance, rather than for treatment, does not qualify for FMLA leave.

Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not “serious health conditions” unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, and periodontal disease are examples of conditions that do not meet the definition of a “serious health condition” for purposes of this policy.

The term “active duty exigency” means any of the following seven reasons for taking leave under this policy:

(1) *Short-notice deployment.* The employee may take leave for up to seven calendar days (beginning on the date of the deployment notice) to address any issue arising from a notice to the service member of an impending call or order to active duty in support of a contingency operation, if the service member receives the deployment notice seven or less calendar days before the date of deployment.

(2) *Military events and related activities.* The employee may take leave to attend any official ceremony, program, or event sponsored by the military, or any family support or assistance program or informational briefing sponsored or promoted by the military, military service organizations, or the American Red Cross, if such ceremonies, events, meetings, programs, or briefings are related to the active duty or call to active duty status of the service member.

(3) *Childcare and school activities.* If the service member’s active duty or call to active duty status requires a change in the existing childcare or schooling arrangements for a biological, adopted, or foster child, a stepchild, or a legal ward of the service member, or a child for whom the service member stands in loco parentis, then the employee may take leave: (i) to arrange for alternative childcare for the child; (ii) to provide childcare to the child on an urgent, immediate need basis (but not on a routine, regular, or everyday basis); (iii) to enroll in or transfer the child to a new school or day care facility; or (iv) to attend meetings on behalf of the service member with staff at a school or a daycare facility, such as meetings with school officials regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, relating to the service member’s child..

(4) *Financial and legal arrangements.* The employee may take leave (i) to make or update financial or legal arrangements to address the service member’s absence while on active duty or call to active duty status (for example, to prepare or update a will); and (ii) to act as the service member’s representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the service member is on active duty or call to active duty status, and for a period of 90 days following the termination of the service member’s active duty status.

(5) *Counseling.* If the employee, the service member, or a child of the service member needs counseling (from someone other than a health care provider, such as a counselor or psychologist) because of the active duty or call to active duty status of the service member, then the employee may take leave to attend or assist with the counseling. Absences for counseling by a psychiatrist (medical doctor) qualify as either Caregiver Leave or Medical Leave.

(6) *Rest and recuperation.* The employee may take up to five days of leave to spend time with a service member who is on short-term, temporary, rest and recuperation leave during the period of deployment.

(7) *Post-deployment activities.* The employee make take leave (i) to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following the termination of the service member's active duty status; and (ii) to address issues that arise from the death of a service member while on active duty status, such as recovering the body of the service member and making funeral arrangements.

C. NOTICE AND CERTIFICATION REQUIREMENTS

Procedures for Requesting FMLA Leave. Notice of an absence qualifying for FMLA leave may be given by the employee or the employee's spokesperson (e.g., spouse, adult family member, or other responsible party) if the employee is unable to do so personally. To help us promptly and efficiently process the leave request, employees (or spokespersons) should make all requests for FMLA leave to the City's Human Resources Director or the Benefits and Payroll Coordinator and must provide enough information to make the City aware that a need for FMLA leave exists. For example, under most circumstances, "calling in sick" does not provide enough information to inform us an employee needs FMLA leave. Employees must assist with the completion of any requested written documentation to set forth the reasons for the requested leave, the anticipated start of the leave, the anticipated duration of the leave, and anticipated return-to-work date.

Manager and Supervisor Special Responsibilities. If a manager or supervisor learns of an employee's circumstances that might qualify for FMLA leave under this policy, the manager or supervisor must personally inform the Human Resources Director or the Benefits and Payroll Coordinator regarding those circumstances and, if the employee is available, advise the employee to also contact the Human Resources Director or the Benefits and Payroll Coordinator concerning the circumstances. For example, if an employee has missed three consecutive work days, or missed work on a Friday and the following Monday, and has indicated a desire to use sick leave, or if the employee's manager or supervisor otherwise obtains information about an employee's previously unexplained absence from work which shows the absence may qualify as FMLA leave, the manager or supervisor must inform Human Resources Director or the Benefits and Payroll Coordinator concerning those circumstances and advise the employee to also contact these Human Resources representatives. Managers and supervisors must cooperate and assist the Human Resources Department in any investigation or requests for information concerning the absence to be used in evaluating whether the absence qualifies for designation as FMLA leave.

Time Frames for Employee Notice. We require employees to provide notice in a timely manner of the absence which may qualify for FMLA leave and/or the employee's desire for or need for FMLA leave. Failure to do so may result in a delay in taking leave or denial of the leave, depending on the circumstances.

Foreseeable Absences/Scheduled Medical Treatments. When an employee is aware of a need for an FMLA leave (such as for scheduled medical treatment or a scheduled child delivery date), the employee must give notice of the need for FMLA leave at least thirty (30) days before the date the employee wants the leave to begin. If the employee learns of the need for leave to begin in less than 30 days, the employee must give notice of the anticipated absence either the same day or the next business day. In particular, when planning medical treatment,

the employee must consult with the Human Resources Department and his or her manager or supervisor to make a reasonable effort to schedule the treatment so as not to disrupt unduly the City's operations, subject to the approval of the health care provider, and to work out a treatment schedule which best suits the needs of both the employer and the City.

Unforeseeable Absences. If the absence and need for FMLA leave is unforeseeable and advance notice of the absence is not possible, the employee must provide as much notice as is practical under the circumstances. For example, while the City expects employees who will be absent from work to follow designated call-in procedures, if an employee requires emergency medical treatment and has no spokesperson (e.g., spouse, parent, doctor or nurse) who could call for him or her, the employee would not be required to follow the call-in procedure until his or her condition is stabilized and the employee has access to, and is able to use, a phone.

Military Certifications. An employee's request for Military Exigency Leave must be supported by a certification that the service member is on active duty or has been called to active duty, unless it is impossible or impracticable to obtain such certification within a reasonable period following the request or need for leave.

Medical Certification & Recertification of a Serious Health Condition. If an employee requests Caregiver Leave, Medical Leave, Or Military Caregiver Leave, we usually will require a medical certification of the employee's or family member's health condition and the probable length of time treatment will be required. If an employee requests Caregiver Leave or Military Caregiver Leave, we usually will require certification regarding the necessity for the employee to provide care to the family member. We also may require recertification on a reasonable basis during the leave, such as every 30 days or upon the occurrence of certain events. We may also require recertification if an employee's or family member's serious health condition lasts longer than an FMLA year. Certifications must be provided to the Human Resources Department on *Certification of Health Care Provider* forms. Failure to provide requested certifications may result in delay or denial of the requested FMLA leave and potential treatment of the absence as unexcused, which may lead to discipline, up to and including discharge.

Second/Third Opinion on Certification. To verify any certification of an employee's or family member's serious health condition given by a health care provider, we may require the employee to obtain a second medical opinion from another health care provider of our choice at our expense. If the second opinion differs from the certification provided by the employee's or the family member's health care provider, we may require, at our expense, the opinion of a third healthcare provider selected jointly. The third opinion will be final and binding.

D. PAY AND BENEFITS

Use of Available Paid Leave. Unless the employee's absence is related to an on-the-job injury covered by workers compensation insurance for which the employee receives workers' compensation benefit payments, during a FMLA leave covered by this policy, an employee must use available unused paid sick leave and vacation leave, in that order. If an eligible employee is also receiving payments for short term disability benefits during a leave covered by this policy, we will require the employee to use available paid leave to make up the difference between the

employee's usual pay and the disability benefits payments. After the employee exhausts all available paid leave, the remainder of the leave, if any, will be unpaid. The maximum periods of leave available under this policy may not be extended by adding any paid leave to the FMLA leave period.

Health/Dental Insurance Benefits During FMLA Leave. During an approved FMLA leave, an employee's health and/or dental insurance, if any, will continue just as if the employee was not absent from work. The City will continue to pay any portion of the premiums for health and/or dental insurance it would pay if the employee was working. The employee must make arrangements to pay on time any portion of the premium the employee would pay if working. If an employee fails to pay on time any portion of the premium the employee is required to pay, the health and/or dental insurance coverage may terminate. Under the City's health and dental insurance plans, an employee remains eligible for these types of insurance coverage, but loses eligibility for coverage if the employee remains absent from work after exhaustion of the FMLA leave.

Other Employment Benefits During FMLA Leave. An employee on FMLA leave will continue to accrue credit towards longevity and across-the-board pay increases, as well as continuous years of service for determining the number of days of vacation leave that he or she is entitled to accrue each year. Holidays occurring during an FMLA leave will not be paid. Other restrictions on accruing sick and vacation leave as described in the sick leave and vacation leave policy will apply during any FMLA leave, if the FMLA leave exceeds ten (10) working days in a month. Other benefits do not continue or accrue during FMLA leave. Employees may continue other benefits, if any, as permitted by the particular benefit plan by making arrangements in advance to make any required contributions or premium payments.

E. CONDUCT DURING LEAVE; RETURN TO WORK REQUIREMENTS AND RIGHTS

No Outside Employment During FMLA Leave. Employees may not accept employment with another employer and may not actively engage in self-employment while on any FMLA leave of absence covered by this policy. If the employee does so, the City will consider the employee to have voluntarily quit.

Reporting During FMLA Leave. While on an approved FMLA leave, employees are required to report semimonthly or weekly to the Human Resources Department regarding the employee's status and intent to return to work. Employees will be advised as to when to report by the Human Resources Department.

Return-to-Work / Fitness-For-Duty Certification. When an employee seeks to return to work following an approved Medical Leave taken because of the employee's own serious health condition, the employee must provide a medical certification stating whether the employee is able to perform all essential job duties or if there are any limitations on the employee's ability to perform essential job duties. Failure to provide the return-to-work / fitness-for-duty certification may result in delay of the employee's return to work until the certification is provided, or possible disciplinary action.

Employment Following FMLA Leave. When an employee returns to work as scheduled following FMLA leave, the employee in most circumstances will be assigned to the same job or to an equivalent job with equivalent pay, benefits, seniority, and working conditions. Under limited circumstances, the City may be entitled to replace rather than reinstate certain highly paid “key” employees after or during a FMLA leave. If an employee questions whether he or she is considered a “key” employee, the employee should contact the Human Resources Director.

Post-Leave Accommodation. If an employee continues to have physical or mental impairments at the conclusion of a Medical Leave, the City will engage in an interactive process with the employee to determine whether an employee is able to return to work with or without reasonable accommodation. If the City offers an opportunity to return to work with a reasonable accommodation and the employee fails to do so, the failure to return to work will be treated as a voluntary quit without notice.

Failure to Return From FMLA Leave. We will consider an employee to have voluntarily quit without notice if the employee does not return to work for five (5) consecutive work days after an approved FMLA leave expires and does not request approval for an additional non-FMLA leave of absence. If an employee fails to return to work following FMLA leave, the employee may be required to reimburse us for any insurance premiums we paid during the leave, *unless* the failure to return to work is due to circumstances beyond the employee’s control, such as the continuation of a serious health condition or a new serious health condition arising.

SECTION IV: REPEALER

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

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 portions hereof.

SECTION VI: EFFECTIVE DATE

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

**ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
DAPHNE, ALABAMA, THIS ____ DAY OF _____, 2013.**

**RON SCOTT
CITY COUNCIL PRESIDENT**

**DANE HAYGOOD
MAYOR**

ATTEST:

**REBECCA HAYES
CITY CLERK**

**CITY OF DAPHNE
ORDINANCE NO. 2013-49**

**AN ORDINANCE TO AMEND AND REORGANIZE CHAPTER ELEVEN OF THE
CITY'S EMPLOYEE HANDBOOK**

WHEREAS, the City Council of the City of Daphne, after due consideration believes that certain revisions to Chapter Eleven of the City of Daphne Employee Handbook are necessary for the proper administration of said Handbook and the policies contained therein;

WHEREAS, revisions to Chapter Eleven of the Employee Handbook will enable the City to more easily facilitate and administer provisions in Chapter Eleven of the Employee Handbook in order to benefit the health, safety, and welfare of its employees;

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

SECTION I: REVISION TO EMPLOYEE HANDBOOK CHAPTER ELEVEN

That Chapter Eleven of the Employee Handbook be given a revised name, that new sections be adopted, and existing sections be revised or replaced as follows:

EMPLOYMENT RECORDS AND REPORTS

11.1. RECORD-KEEPING RESPONSIBILITIES

The human resources director will ensure that all administrative records that are necessary for the proper implementation of the city's personnel system are established and maintained in accordance with appropriate laws and these policies and procedures. The human resources director will develop and provide such forms, blanks, and other record-keeping materials that are necessary for documenting the actions associated with the city's personnel system.

It is important that the city keep accurate information concerning each employee's name, address, telephone number(s), marital status, dependents, withholding status and emergency contacts. Employees must promptly notify the human resources department in writing of any changes in this information.

At hire, each employee must provide the human resources department current, accurate tax withholding forms, including the employee's full name as listed on the employee's Social Security card (or similar tax identification card), the employee's current address, and the number of dependents for tax deduction purposes. During employment, employees must notify the human resources department regarding any changes to this information.

If an employee has group health insurance provided by the city covering dependants (spouse and/or children), the employee must inform the human resources department in writing about the occurrence of any of the following events no later than sixty (60) days after the event:

- employee becomes covered by Medicare (Part A, Part B, or both)
- divorce or legal separation from the employee's spouse who is covered on health insurance
- a child of the employee or the employee's spouse who is covered by health insurance turns age 26
- marriage of the employee (if spouse is to be covered on health insurance)

If the employee wants a child to be covered on group health insurance, the employee must inform the human resources department in writing about the occurrence of any of the following events no later than sixty (60) days after the event:

- birth of a child to the employee or employee's spouse
- adoption of a child under age 26 by the employee or the employee's spouse
- employee has a step-child under age 26 due to a new marriage
- employee is permanently appointed as legal guardian for child under age 26 (not temporary custody)

The human resources department will maintain an employee's employment records in an inactive status for five (5) years after the employee leaves the city's employment.

11.2. PERSONAL HISTORY RECORD (PHR)

A Personal History Record (PHR) will be established and maintained by the human resources director as a permanent record for each city employee as a central source for that information that is required to support employee personnel actions. The PHR will be the official source of information for responding to valid requests for official information about a present or former employee.

The material included in a PHR will be restricted to those items that have been verified through established procedures, e.g. official personnel forms, statements from an employee or his supervisor, and statements provided by references named by an employee. The PHR will exclude material that is not appropriate for use in making judgments in personnel actions. The PHR will contain information related to an employee's qualifications including: evidence of an employee's knowledge, skills, abilities, experience, training, and character; completed application form for employment; supplementary qualification information provided by an employee or his supervisor; test results; interview reports; reference reports; performance appraisals; and employee's job description. The PHR also will contain other information pertinent to an employee's employment, such as: personnel action forms and correspondence pertaining to appointment, status changes, certain leaves of absence, separation, and reappointment; letters of commendation; and/or records of disciplinary actions. The PHR also will contain personal information needed for processing required personnel actions, such as age, next of kin, address; and records of benefit enrollments.

11.3. MEDICAL RECORDS

Medical information, drug or alcohol testing records, and information relating to Family and Medical Leaves of Absence will be kept in confidential medical records files separate from other personnel records in the PHR.

11.4. CONFIDENTIALITY

The city will make every effort to maintain the confidentiality of employment records, but the city cannot guarantee absolute confidentiality when such information is shared by an employee with persons other than the human resources director and employees of the human resources department. Those provided access to employment records are expected to maintain confidentiality when they become privy to such information and particularly to respect the sensitivity of any medical information. Unauthorized disclosure of an employee's employment records or data is grounds for discipline, up to and including discharge.

11.5. ACCESS TO PERSONNEL FILES & DATA

As a government employer, the city is subject to Alabama's open records laws, which require the city to make some records and data available on request to the public, including the news media. Only the human resources director is authorized to disclose or release employment records or information. To facilitate compliance with the open records laws, and to protect against disclosure of sensitive or confidential information, the city has divided personnel files and data into two categories.

Category 1: Records subject to disclosure. The following personnel records or data are subject to disclosure and may be made available on request to the public: wage or salary information; current and former job assignments; completed evaluation records; demographic data (employee race and sex); hire date; date employee attained classified status (if applicable); job applications; and records of completed disciplinary actions. If any such records contain information not subject to disclosure (listed below), such information shall be redacted from the records before disclosure (e.g., home addresses and telephone numbers must be redacted from employment applications).

Category 2: Records not subject to disclosure. If records or data are not mentioned in the previous paragraph, the city considers the records and data as not generally subject to disclosure. Without limiting the scope of this designation, the following personnel records or data explicitly are not subject to disclosure and must not be made available to the public without the involved employee's written consent and authorization, or an appropriate court order, subpoena or lawful request by another governmental authority: employee home telephone numbers and home addresses; employee Social Security numbers; employee tax withholding forms; employee benefits records, including applications and claims records or data; medical history and medical records; confidential recommendations for employment actions; drug or alcohol testing records; evaluation and disciplinary records if the employee has not exhausted available grievance or appeal procedures; names of persons recommended for discipline if the decision-maker has not yet acted on the recommendation.

The human resources director may release *Category 1* records or information only after receiving a written request that provides (i) the name of the requesting individual, (ii) the date of the

request, (iii) a list or description of the records or information requested for review, and (iv) the reason why the person wants to review the records or information.

The human resources director may release *Category 2* records or information to outsiders only with the involved employee's express written consent and authorization, or an appropriate court order, subpoena or lawful request by another governmental authority.

Each employee (current or former) may review all of his or her own employment records (in both categories) by making a request and appointment to do so with the human resources director. No employee may review another employee's employment records without a reasonable or proper purpose.

Individuals may review personnel records and data only in the presence of the human resources director or other designated employee, at a time designated by the human resources director, and at the human resources department offices. Individuals may obtain copies of documents in employment records upon payment of per page copying charges for city records established by the City Clerk.

The mayor will have access to the employment records of all employees. The city's attorney and other legal counsel for the city will have access to the employment records of any employee where needed in the representation of the city. Other internal access to personnel files and data must be approved by the human resources director and is usually limited to supervisors and managers who are considering the employee under their jurisdiction for a promotion, transfer, or other personnel related action. The circumstances must represent a legitimate and verifiable need to know specific information about the employee.

The human resources director shall restrict access to confidential medical records to: (i) supervisors and managers who must be advised of any necessary medical restrictions on work duties; (ii) employees responsible for implementing any necessary accommodations; (iii) first aid or safety personnel; (iv) investigators from other government agencies overseeing compliance with applicable medical records confidentiality statutes; (v) the city attorney or other legal counsel for the city if needed for the representation of the city; and (vi) employees of the human resources department under the direction of the human resources director.

The City reserves the right to verify basic information such as employment status or job title without notifying the employee.

An employee who questions the accuracy or completeness of information in the employee's personnel files should discuss such concerns with the human resources director. Disputes over information in personnel files should be resolved through the chain of command in compliance with the grievance system.

The personnel clerk will maintain a record of all individuals who access an employee's PHR or confidential medical records.

SECTION II: REPEALER

That any Ordinance, or parts thereof, heretofore adopted by the City Council 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, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION IV: EFFECTIVE DATE

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ DAY OF _____, 2013.

RON SCOTT
CITY COUNCIL PRESIDENT

DANE HAYGOOD
MAYOR

ATTEST:

REBECCA HAYES
CITY CLERK

