

CITY OF DAPHNE
1705 MAIN STREET, DAPHNE, ALABAMA
AUGUST 4, 2014
6:30 P.M.

1. CALL TO ORDER

2. ROLL CALL / INVOCATION / Rabbi Donald Kunstadt Springhill Avenue Temple

3. APPROVE MINUTES: Council meeting minutes / July 21, 2014

PUBLIC HEARINGS:

1. **Pre-Zoning:**
Present Zoning: John White-Spunner, Kidco,
L.L.C.; John White-Spunner Sidno, L.L.C. and Matt White
Proposed Pre-zoning: B-1, Professional Business District, Baldwin County District 15
Location: B-2, General Business, City of Daphne
Property Located Northwest of the Intersection of County Roads 13 and 64
Recommendation: Unanimous Favorable

2. **Annexation:**
Location: John White-Spunner, Kidco, L.L.C.; John White-Spunner Sidno, L.L.C
and Matt White
Property Located Northwest of the Intersection of County Roads 13 and 64
Recommendation: Unanimous Favorable

4. REPORT STANDING COMMITTEES:

- A. **FINANCE COMMITTEE** – Conaway
a.) Appropriation of Funds: Mast Arm Poles & Signal Upgrade / **Ordinance 2014-32**

- B. **BUILDINGS & PROPERTY COMMITTEE** - Davis
- C. **PUBLIC SAFETY** - Rudicell
- D. **CODE ENFORCEMENT/ORDINANCE COMMITTEE** - Scott
a.) Repealing Ordinance 2008-19 / Protecting the Air Quality in the City of Daphne to include E-Cigarettes /
Ordinance 2014-35

- E. **PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY** – LeJeune
Review minutes / July 21st
Review Environmental Advisory Committee minutes / June 23rd
a.) Resolution 2014-42 / Support Improvements to I-10 Interchange and SR 181
Recommendation: Favorable

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

- A. **Board of Zoning Adjustments** – Adrienne Jones
- B. **Downtown Redevelopment Authority** – Conaway
- C. **Industrial Development Board** – Davis
Review minutes / July 28th

- D. **Library Board - Lake**
- E. **Planning Commission** – Scott
Review minutes / June 26th
Review Staff Reports / June 26th & July 24th
a.) **MOTION:** Set a Public Hearing date for September 25, 2014 6:30 p.m. and approve advertising to consider:
Amending the Land Use and Development Ordinance 2011-54 Appendix H / Revisions to Zoning Map
Recommendation: Unanimous Favorable

- F. **Recreation Board** – LeJeune
- G. **Utility Board** - Fry
Review minutes / June 25th

6. REPORTS OF OFFICERS:

A. Mayors Report

B. City Attorney’s Report

MOTION: to authorize Mayor and city attorney to execute the general release on behalf of the City of Daphne in the case known as *Malbis Lane/Vlahos Lane Homeowners Association, et al. vs. Baldwin County Commission, et al.*, bearing Circuit Civil Case No. 2013-900923;

C. Department Head Comments

D. City Clerk Report

a.) Parade Permit / Lupus Foundation / 5K Fund Raiser / March 21, 2015

b.) MOTION: Change September 1, 2014 Council meeting due to that day being Labor Day

7. PUBLIC PARTICIPATION:

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) Supporting Interchange Improvements to the Interstate
10 Interchange at State Route 181 /Resolution 2014-42
- b.) Acceptance of Streets & Drainage / Located in TimberCreek
Subdivision, Phase 11. /Resolution 2014-43
- c.) Requesting an Attorney General’s Opinion / Operating
Bicycles on Public Roads and Sidewalks Under Title 32 of Al Law. /Resolution 2014-44
- d.) Revision of City of Daphne Street Map /Resolution 2014-45
- e.) Authorize the Mayor to have Proceedings and Offering Document
Prepared with Respect to the Series 2014 Warrants. /Resolution 2014-46

ORDINANCES:

2ND READ

- a.) Appropriating Funds: Edgar Circle / Melanie Loop Emergency
Repairs Drainage Repairs. /Ordinance 2014-30
- b.) Appropriating Funds: Daphne Sports Complex Parking Lot. /Ordinance 2014-31

1ST READ

- a.) Appropriation of Funds: Mast Arm Poles & Signal Upgrade /
Johnson Road and US Hwy 98. /Ordinance 2014-32
- b.) Rezone: Property Located Northwest of the Intersection of
County Roads 13 & 64 /Baldwin County District 15 to B-2,
General Business, City of Daphne. /Ordinance 2014-33
- c.) Annexation: Property Located Northwest of the Intersection
of County Roads 13 & 64. /Ordinance 2014-34
- d.) Repealing & Replacing Ordinance 2008-19 / Protecting the Air
Quality in the City of Daphne. /Ordinance 2014-35

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 SCOTT	PRESENT___	ABSENT___
COUNCILMAN LEJEUNE	PRESENT___	ABSENT___
COUNCILMAN DAVIS	PRESENT___	ABSENT___
COUNCIL PRESIDENT FRY	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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**JULY 21, 2014
CITY COUNCIL MEETING
BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

1. CALL TO ORDER:

There being a quorum present Council President Fry called the meeting to order at 6:30 p.m.

2. ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE:

Pastor Bart Hare of the Bay Community Church gave the invocation.

COUNCIL MEMBERS PRESENT:

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

Also present: Rebecca Hayes, City Clerk; Sarah Toulson, Assistant City Clerk; Jay Ross, City Attorney; Richard Johnson, Public Works Director; Adrienne Jones, Community Development Director; Tonja Young, Library Director; Margaret Thigpen, Civic Center Director; Richard Merchant, Building Official; Vickie Hinman, HR Director; David Carpenter, Police Chief; James White, Fire Chief; Christine Ciancetta, Deputy Finance Director; Dorothy Morrison, Beautification Committee and Downtown Redevelopment Authority; Tomasina Werner, Beautification Committee; Elaine Maxime; Beautification Committee; Bob Segalla, Utility Board; Al Guarisco, Village Point Foundation; Rebecca Trosclair, Beautification Committee; Hudson Sandefur, Planning Commission.

Absent: Mayor Dane Haygood; Michael Hoyt, Municipal Judge; David McKelroy, Recreation Director;.

3. APPROVE MINUTES:

July 7, 2014 Council meeting minutes

There being no correction to the July 7, 2014 council meeting minutes the minutes stand approved as written.

July 14, 2014 Council Work Session minutes

There being no correction to the July 14, 2014 council work session minutes and the minutes stand approved as written.

PRESENTATION: Beautification Committee 3rd Quarter Awards

The two awards are to Malbis businesses Zaxby's and Eastern Shore Urgent Care.

Councilman Davis presented the first award to Eastern Shore Urgent Care Office Manager VaLonne Harmon, and Kathy LaGrone, Nurse Manager.

Councilman Davis presented the second award to Zaxby's owner Hudson Sandefur and his family.

**JULY 21, 2014
CITY COUNCIL MEETING
BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

4. REPORT OF STANDING COMMITTEES:

A. *FINANCE COMMITTEE* – Conaway

The July 14th meeting minutes are in the packet. There are several resolutions and ordinances on the agenda.

Treasurers Report / June 2014:

The Treasurer's Report as of June 30, 2014 Total Unrestricted Funds - \$10,329,776 and Total City Funds - \$15,984,336

- Total Unrestricted Funds - \$10,329,776
- Increase from Last Year's Unrestricted Funds - \$ 500,941
- # of months of Unrestricted cash to cover monthly operating Expenses & Debt Service – 4.7 months compared to the previous year - 4.7 months

Sales & Use Tax Collections / May 2014:

\$1,218,956.40 was collected for May 2014:

- YTD Variance over Budget - \$ 120,353 + 9.4%
- Percent change from last year's collections + 5.5%

Lodging Tax Collections / May 2014:

Collections for May 2014 were \$107,155 which is up \$38,707 from May's 2013's collections of \$68,448.

- YTD Variance over Budget: \$80,746; +68.9%
- Percentage change from last year's collections: +36.1%

B. *BUILDINGS & PROPERTY COMMITTEE* - Davis

The July 7th minutes are in the packet. Councilman Davis reported on the growth of revenues for the Civic Center and Bayfront. The next meeting will be August 4th.

C. *PUBLIC SAFETY COMMITTEE* – Rudicell

The July 9th minutes are in the packet. The next meeting will be August 13th at 4:30 p.m.

D. *CODE ENFORCEMENT/ORDINANCE COMMITTEE* – Scott

The July 9th minutes are in the packet. The next meeting will be August 13th after the Public Safety meeting.

E. *PUBLIC WORKS COMMITTEE* – LeJeune

The committee met before the council meeting, and the minutes will be in the next packet. Tracey Miller was given an award for "Best Industrial Recycle for 2014", and will go to the recycling conference in Prattville to receive it.

**JULY 21, 2014
CITY COUNCIL MEETING
BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.**

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. *Board of Zoning Adjustments* – Adrienne Jones

The next meeting will be August 7th and due to the special called council meeting the meeting has been moved to 3:00 p.m. with one item on the agenda.

B. *Downtown Redevelopment Authority* – Conaway

The June 25th minutes are in the packet. The next meeting will be July 23rd at 5:30 p.m.

C. *Industrial Development Board* – Davis

Councilman Davis reported on a press release by the Baldwin County Economic Development Alliance (BCEDA) that a new business is coming to Daphne, Total Quality Logistics. They have signed a two year lease on a 4,900 square foot space located on north Main Street. They will be creating from 40-80 jobs over the next three years. He gave kudos to the BCEDA's Lee Lawson and Lee Johnson. The next meeting will be July 28th.

D. *Library Board* – Lake

The next meeting will be August 14th at 4:00 p.m.

E. *Planning Commission* – Scott

The Planning Commission meeting will be July 24th at 5:00 p.m.

F. *Recreation Board* – LeJeune

No report. The next meeting will be August 13th at 6:30 p.m.

Council President Fry asked after consideration at the work session what is their next step?

Councilman LeJeune said that they need to make a determination on the location Park Drive or elsewhere. They need to consider the \$2 million to move dirt at Park Drive, and compare the price of another property to the expense of moving dirt. They also need to look at the financing aspect.

Council President Fry requested that this be put on the August work session agenda.

G. *Utility Board* – Fry

The May 28th minutes are in the packet. The next meeting will be July 30th at 5:00 p.m.

6. REPORTS OF OFFICERS:

A. *Mayor's Report*

No report.

B. *City Attorney's Report*

Mr. Ross discussed the hiring of a bond company for the refinancing of city bonds.

JULY 21, 2014
CITY COUNCIL MEETING
BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

MOTION BY Councilman Scott to authorize Adams and Reese LLP and Harbor Financial Services, LLC to prepare all necessary documentation for council review of a debt refinancing issuance in FY 2014. Secoded by Councilman Lake.

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

NAY Davis

MOTION CARRIED

C. Department Head Comments

Margaret Thigpen Civic Center Director – reported that the new chiller was installed today, and the temporary one will be moved out tomorrow.

David Carpenter – Police Chief – reported that about 8:00 – 8:30 there was an armed robbery at Taco Bell. The department is assisting Spanish Fort with calls while they are working a homicide.

Richard Johnson – reported that he has confirmation that the state will participate in the disaster recovery: FEMA 75%; Daphne 12½% and the State EMA 12½%.

D. City Clerk Report – Rebecca A. Hayes

Mrs. Hayes reminded council of the two upcoming Special Called Council Meetings on August 5th and 7th at 5:30 p.m.

7. PUBLIC PARTICIPATION

No one spoke.

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) **Declaring Certain Property Surplus / Donate to Community Organizations...../Resolution 2014-38**
- b.) **Declaring Certain Property Surplus / Govdeals...../Resolution 2014-39**
- c.) **Bid Award: Police Vehicle Equipment / Firehouse Sales & Service...../Resolution 2014-40**
- d.) **Bid Award: Emergency Drainage Repair / Edgar Circle / Melanie Loop / Blade Construction...../Resolution 2014-41**

MOTION BY Councilwoman Conaway to waive the reading of Resolutions 2014-38; 2014-39; 2014-40 and 2014-41. Secoded by Councilman Lake.

MOTION CARRIED UNANIMOUSLY

JULY 21, 2014
CITY COUNCIL MEETING
BUSINESS MEETING
1705 MAIN STREET
DAPHNE, AL
6:30 P.M.

MOTION BY Councilwoman Conaway to adopt Resolutions 2014-38; 2014-39; 2014-40 and 2014-41. *Seconded by Councilman Lake.*

MOTION CARRIED UNANIMOUSLY

ORDINANCES:

2ND READ

- a.) **Appropriation of Funds: Police Vehicle Replacement /
Flooded During the April 2014 Rain Storm /Ordinance 2014-28**

MOTION BY Councilman Scott to waive the reading of Ordinance 2014-28. *Seconded by Councilman Davis.*

MOTION CARRIED UNANIMOUSLY

MOTION BY Councilman Scott to adopt Ordinance 2014-28. *Seconded by Councilman Davis.*

MOTION CARRIED UNANIMOUSLY

1ST READ

- a.) **Appropriating Funds: Edgar Circle / Melanie Loop Emergency
Repairs Drainage Repairs /Ordinance 2014-30**
- b.) **Appropriating Funds: Daphne Sports Complex Parking Lot. /Ordinance 2014-31**

ORDINANCES 2014-30 AND 2014-31 WERE 1ST READ

9. COUNCIL COMMENTS

Councilman Davis mentioned that the IDB will be meeting Monday, July 28th at 6:00 p.m. He said businesses coming into Daphne give the city a chance make a good hosting effort. He looks forward to meeting those coming from Cincinnati. He reported that the Environmental Study for the I-10 Bridge came out today and exit 35 was in the study.

Councilman Lake said that he talked with some business owners along Hwy 98 and they said it would help if the canopy of the trees were raised some so people could see their businesses. He would like the Beautification Committee to look at this and look at the aesthetics of the businesses. He mentioned that

**JULY 21, 2014
CITY COUNCIL MEETING
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the city should be putting aside money each year to address the city’s long-term drainage problems and be proactive with the issue.

Councilman Rudicell said the council needs input from the citizens regarding how to use the money saved by the refinancing of the bonds. He feels it should be earmarked instead of going into the General Fund.

Council President Fry thanked the Department Heads and Christine and Suzanne for keeping the Finance Department together while looking for a Department Head. He is glad to see Alligator Alley repairs are under way. He thanked Ms. Young and the Library staff for inviting him to the Summer Reading Program Awards program. There were hundreds of children that participated, and it was impressive. The Library is an asset to the city. He thanked the hard working staff.

10. ADJOURN:

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

MOTION CARRIED UNANIMOUSLY

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 7:15 P.M.

Respectfully submitted by,

Certification of Presiding Officer

Rebecca A. Hayes,
City Clerk

Randy Fry,
Council President

PUBLIC HEARINGS

AUGUST 4, 2014

TO CONSIDER:

1. **Pre-Zoning:** John White-Spunner, Kidco,
L.L.C.; John White-Spunner Sidno,
L.L.C. and Matt White
- Present Zoning:** B-1, Professional Business District,
Baldwin County District 15
- Proposed Pre-zoning:** B-2, General Business,
City of Daphne
- Location:** Property Located Northwest of the
Intersection of County Roads 13
and 64
- Recommendation:** Unanimous Favorable
-

2. **Annexation:** John White-Spunner, Kidco,
L.L.C.; John White-Spunner Sidno,
L.L.C. and Matt White
- Location:** Property Located Northwest of the
Intersection of County Roads 13
and 64
- Recommendation:** Unanimous Favorable

To: Office of the City Clerk
From: Adrienne D. Jones,
Director of Community Development
Subject: John White-Spunner, Kidco, L.L.C. &
Sidno, L.L.C.
Pre-Zoning Amendment and Annexation
Recommendations
Date: June 30, 2014

MEMORANDUM

PRESENT ZONING: B-1, Professional Business District,
Baldwin County District 15

PROPOSED RE-ZONING: B-2, General Business, City of Daphne

LOCATION: Northwest of the intersection of
County Road 13 and 64

RECOMMENDATION: At the Thursday, June 26, 2014, regular
meeting of the Daphne Planning
Commission, seven members were present.
After holding a public hearing, a
favorable recommendation to pre-zone
the property to B-2 was made and
carried unanimously. Subsequently, a
favorable motion for annexation was
made and carried unanimously.

Attached please find documentation from the Office of
Community Development. Ordinances shall be provided by the
Office of the City Attorney.

Thank you,
ADJ/jv

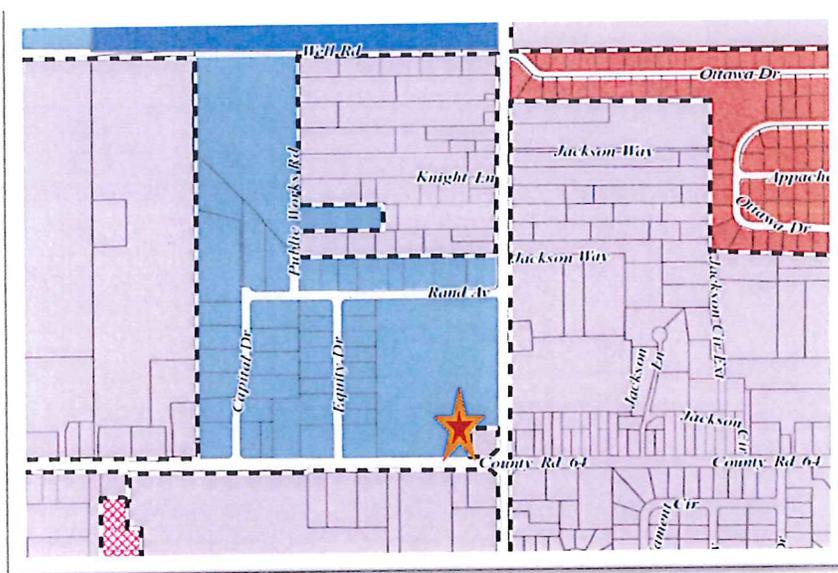
cc: file

attachment(s)

1. Zoning Application
2. Map of Property
3. Adjacent property owners' list
4. Community Development Report
5. Petition for Annexation
6. Legal Description
7. Boundary Survey
8. Community Development Report

PLANNING COMMISSION PREZONING & ANNEXATION

(WHITE-SPUNNER, KIDCO & SIDNO, LLCS)





REZONING APPLICATION

Pre-zoning

Office use only	Date Submitted May 28, 2014
Application	Planning Commission Public
Number: ZA-14-01	Hearing Date: June 26, 2014

Legibly print or type responses below. Indicate N/A or an X where item is not applicable.

SITE DATA	
Site Location (Address or General Proximity to Nearest Intersection): Southwest County RD 13 + 64	PPIN#(s): 049323
Gross Site Area (acreage): 27,459 Sq.Ft. or 0.6304 Ac.	Requested Zoning: B-2
Current Zoning Designation(s): M-2 (BC) District 15, ETJ, B-1, Professional Bus.	Amended Zoning Request:
Current Land Use: None	Initials: _____ Date: _____
	Anticipated Land Use: N/A

Provide Legal Description (if necessary attach separate page entitled Legal Description for [Name of Applicant] :
See separate sheet.

Specify other recently approved or pending requests related to the subject property. Circle the answer(s).
 Annexation
 Subdivision
 Site Plan
 Special Exception
 Variance
 Specify Other

APPLICANT & AGENT INFORMATION	
<i>*If an LLC or LLP or Corporation, provide name and signature of Registered Member or Agent and provide a copy of Articles of Incorporation.</i>	
Name of Current Owner: John White-Spunner, KIDCO, LLC and SIDNO, LLC	
Mailing Address: PO Box 7475 Mobile, AL 36670-0475	Phone/Fax: (251) 471-1000 E-mail:
Name of Authorized Agent: Daryl Russell of The Coleman Engineering Group of McCrory & Williams, Inc.	
Mailing Address: 66 Midtown Park West Mobile, AL 36606	Phone/Fax: (251) 479-4518 E-mail:
Name of Developer*: N/A	Phone/Fax: E-mail:
Other: N/A	Phone/Fax: E-mail:

I, the applicant, certify that all of the above facts are true and correct to the best of my knowledge. I hereby agree to allow the City of Daphne to post a sign on the subject property notifying the general public of this request.

Applicant's Signature: <i>John White</i>	Date: 05/27/2014
Agent's Signature: <i>Daryl Russell</i>	Date: 05/27/2014

JOHN WHITE-SPUNNER, KIDCO, LLC
AND SIDNO, LLC
NW CORNER OF CO. HWYS 64 & 13
REZONING APPLICATION
ADJACENT PROPERTY OWNERS LIST

KIDCO, LLC
ATTN: JOHN WHITE-SPUNNER
PO BOX 7475
MOBILE, AL 36670-0475

SIDNO, LLC
ATTN: E. MATTHEW WHITE
PO BOX 7475
MOBILE, AL 36670-0475

GCOF DAPHNE COMM PROP 13-64
32128 BROKEN BRANCH CIR
SPANISH FORT, AL 36527

NICHOLSON, MARIAN O
26060 CO RD 13
DAPHNE, AL 36526

BONI, LOUIS & THELMA MARIE
25170 CO RD 13
DAPHNE, AL 36526

Code of Alabama Section 11-52-85

PRE-ZONING TERRITORY PROPOSED FOR ANNEXATION

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

Code of Alabama Section 11-52-85

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

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

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

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

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

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

(Act 2009-629, p. 1926, §1.)



COMMUNITY DEVELOPMENT

**N.W. Corner of County Roads 64 and 13
(White-Spunner, KIDCO AND SIDNO, LLCs)
0.63 acres**

Owner: White-Spunner, KIDCO AND SIDNO, LLCs

Existing Conditions: 0.6304 acres of vacant undeveloped land

Existing Zoning: Unincorporated Baldwin County B-1, Professional Business District

Proposed Zoning: B-2 General Business

Surrounding Zonings/Uses:

North and West – 18 acres B-2 General Business District/vacant undeveloped

South - Across County Road 64, B-3, General Business District (Unincorporated Baldwin County)/animal hospital

East - RSF-2, Single Family District (Unincorporated Baldwin County)/Single Family homes

Existing Utility Service Providers:

Water – Belforest Water

Sewer – Daphne Utilities

Gas- Daphne Utilities

Electric—Riviera Utilities

Affected City Service Providers:

Fire Protection—Station 3 (Lawson Road)

Police Protection—Police Beat 1

Public Works

Baldwin County Schools—n/a

FROM THE 2000-2020 COMPREHENSIVE PLAN (adopted on June 26, 2003):

The current Comprehensive Plan designates the subject property as **commercial (shown in red)**. The proposed zoning is consistent and compatible with the comprehensive plan in regard to land use. Therefore, the reversionary clause is not recommended and should not be applicable to this property.



Community Development Recommendation: Approval of B-2 zoning

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

STATE OF ALABAMA

COUNTY OF BALDWIN

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

(White-Spunner, Kidco, Sidno

The undersigned, John White-Spunner, KIDCO, LLC and SIDNO, LLC, files this petition with the Clerk of the City of Daphne requesting the property hereafter described commonly referred to as Northwest Corner of Baldwin County Highways 13 & 64 to be annexed into the City of Daphne, a municipal corporation incorporated under the laws of the State of Alabama, and submits the following in support of its petition:

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

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

3. **Owner:** The Petitioner, John White-Spunner, KIDCO, LLC and SIDNO, LLC, is the owner of the Property hereby sought to be annexed into the corporate limits of the City of Daphne.

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

The owner is requesting that the property is zoned B-2 upon annexation, to conform
with the existing zoning of the adjacent property surrounding the subject property to
the North and West.

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

DATED this 27TH day of May,
2014.

Respectfully submitted,

KIDCO, LLC

Name of Corporation

By:

John White-Spunner

Its:

President

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that John White-Spunner whose name as President of KIDCO, LLC, an Alabama corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily on the day same bears date.

GIVEN under my hand and official seal on this the 27TH day of May, 2014.

[Signature]
NOTARY PUBLIC

My commission expires:

(NOTARY SEAL)

8-29-2016

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

DATED this 27TH day of May,
2014.

Respectfully submitted,

SIDNO, LLC

Name of Corporation

By: E. Matthew White
E. Matthew White
Its: Manager

STATE OF ALABAMA
COUNTY OF BALDWIN

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

GIVEN under my hand and official seal on this the 27TH day of May, 2014.

[Signature] (NOTARY SEAL)
NOTARY PUBLIC
My commission expires: 8-29-2016

EXHIBIT "A"
REZONING APPLICATION
PROPERTY AT NW CORNER OF COUNTY HWYS 64 & 13
DESCRIPTION OF PROPERTY TO BE ANNEXED

LEGAL DESCRIPTION FOR JOHN WHITE-SPUNNER, KIDCO, LLC AND SIDNO,
LLC:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 16, T5S-R2E,
BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH LINE OF SAID
SECTION 16, T5S-R2E, RUN S 89° 57' 46" W 209.00 FEET TO A POINT; THENCE
RUN N 00° 00' 46" W 38.76 FEET TO THE POINT OF BEGINNING OF THE
PROPERTY HEREIN DESCRIBED; SAID POINT BEING ON THE NORTH RIGHT OF
WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W); THENCE RUN N
00° 00' 23" E 170.24 FEET TO A POINT; THENCE RUN N 89° 55' 27" E 167.80
FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BALDWIN COUNTY
HIGHWAY NO. 13 (80' R/W); THENCE ALONG SAID WEST RIGHT OF WAY LINE
OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W), RUN S 00° 36' 06" E 120.22
FEET TO A POINT; THENCE CONTINUING ALONG SAID WEST RIGHT OF WAY
LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W), RUN S 44° 56' 44" W
70.85 FEET TO A POINT ON THE AFOREMENTIONED NORTH RIGHT OF WAY
LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W); THENCE ALONG SAID
NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80'
R/W), RUN S 89° 57' 07" W 119.03 FEET TO THE POINT OF BEGINNING.
CONTAINING 27,459 SQUARE FEET OR 0.6304 ACRE.

COMMUNITY DEVELOPMENT ANNEXATION REQUEST

Annexation of N.W. Corner of County Roads 64 and 13
(White-Spunner, KIDCO AND SIDNO, LLCs)
0.63 acres

Excerpt from Article 23-1 Procedure [for Annexation Requests]

The application shall be reviewed by the Planning Commission at its next regular meeting and said Commission shall have thirty (30) calendar days from said regular meeting within which to submit a recommendation to the City Council. If the Commission fails to submit a recommendation to the City Council within the thirty (30) calendar day period, it shall be deemed to have approved the proposed amendment... Before enacting any amendment to this Ordinance, a public hearing thereon shall be held by the City Council with proper notice as required by law. Said public hearing shall be held at the earliest possible time to consider the proposed annexation, and the Council shall take action on said proposed annexation within forty-five (45) calendar days from the date of the public hearing except in the case where the tentative action is not in accordance with the Planning Commission's certified recommendation.

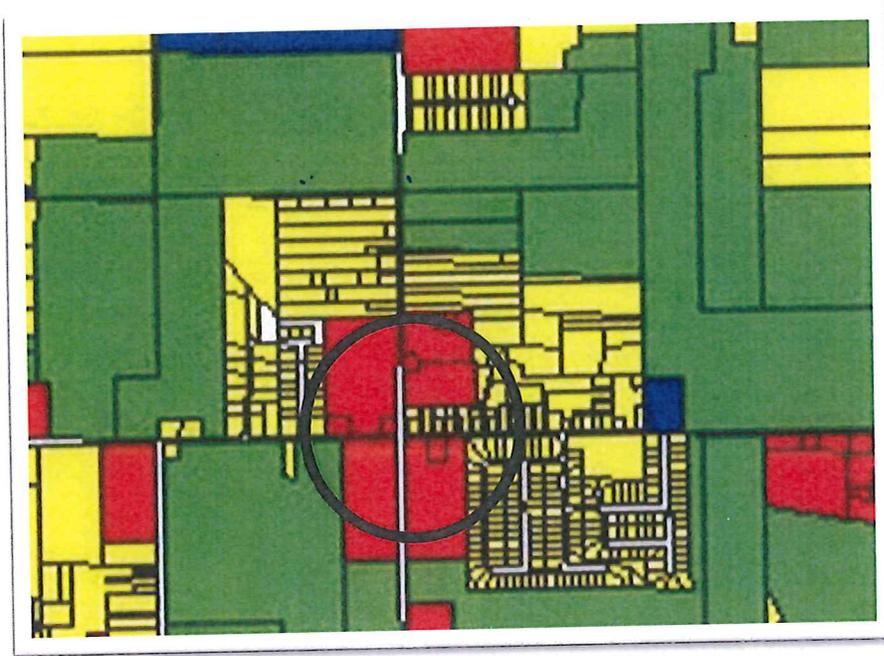
23-2 PROCEDURE FOR ZONING NEWLY ANNEXED LAND

Any land annexed to the City of Daphne hereafter shall be classified as an R-1, Low Density Single Family Residential District unless otherwise recommended by the Planning Commission through the zoning amendment procedure provide in *Article 22-1, Zoning Amendment Procedures*. In such case, City Council may consider, after due process of publication and hearing as required by law, specific applications to zone newly annexed land into one or more existing or proposed new zoning classifications recommended by the Planning Commission. Multiple zoning requests for a single parcel shall be subject to the *Article 17, Subdivision Regulations and/or the Article 30, Planned Unit Development* regulations as applicable.

REQUEST

The applicant has submitted a petition to annex 0.63 acres of land into the corporate limits of Daphne. The applicant has also submitted an application in accordance with the provisions of Article 22-1 noted above to rezone the land from B-1 Professional Business district in Baldwin County to B-2, General Business.

FROM THE 2000-2020 COMPREHENSIVE PLAN



The Future Land Use Map of the Comprehensive Plan classifies the subject property as Commercial. Item 3 of the Low Cost implementation strategies encourages the city to “**annex all infill areas west of CR 27.**”

Thus, the proposal to annex the subject property into the corporate limits with B-2 zoning is consistent with the comprehensive plan and compatible with the anticipated adjoining land uses.

STAFF RECOMMENDATION: Staff recommends approval of each application to annex and rezone the land as they are both in consistent with the existing City Comprehensive Plan Future Land Use Map and the goals and objectives regarding Land Use in the plan. **Approval of Annexation.**

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2014-**

**Ordinance to Pre-zone Property Located
Northwest of the Intersection of County Roads 13 and 64
John White-Spunner, Kidco, L.L.C.; John White-Spunner Sidno, L.L.C. and Matt White**

WHEREAS, John White-Spunner, Kidco, L.L.C.; John White-Spunner & Sidno, L.L.C. and Matt White, as the owners of certain real property located within the unincorporated area of Baldwin County, Alabama, has requested that said property be pre-zoned from B-1, Professional Business Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne to B-2, General Business; and,

WHEREAS, said real property is Northwest of the intersection of County Roads 13 and 64, and more particularly described as follows:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 16, T5S-R2E, BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH LINE OF SAID SECTION 16, T5S-R2E, RUN S 89° 57' 46" W 209.00 FEET TO A POINT; THENCE RUN N 00° 00' 46" W 38.76 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W); THENCE RUN N 00° 00' 23" E 170.24 FEET TO A POINT; THENCE RUN N 89° 55' 27" E 167.80 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W); THENCE ALONG SAID WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W), RUN S 00° 36' 06" E 120.22 FEET TO A POINT; THENCE CONTINUING ALONG SAID WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W), RUN S 44° 56' 44" W 70.85 FEET TO A POINT ON THE AFOREMENTIONED NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W); THENCE ALONG SAID NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W), RUN S 89° 57' 07" W 119.03 FEET TO THE POINT OF BEGINNING. CONTAINING 27,459 SQUARE FEET OR 0.6304 ACRE.

WHEREAS, at the City of Daphne Planning Commission meeting on June 26, 2014, the Commission considered said request and set forth a favorable recommendation to the City Council of the City of Daphne regarding said property pre-zoning request with the motion to set forth a favorable recommendation passing; and,

WHEREAS, due notice of said proposed pre-zoning 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 4, 2014; and,

WHEREAS, the City Council of the City of Daphne after due consideration and upon consideration of the notes of the Planning Commission, deemed that said application for pre-zoning of the above described real property is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and

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

SECTION I: ZONING

That above described real property is hereby pre-zoned from B-1 Professional Business Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne to City of Daphne Zone B-2, General Business, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

SECTION II: REPEALER.

All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION III: SEVERABILITY.

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence, or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of said Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof separately and independently of each other.

SECTION IV: EFFECTIVE AND EXPIRATION DATE.

This Ordinance, and in particular the pre-zoning shall take effect after the date of its approval by the City Council of the City of Daphne and publication as required by law. Pursuant to Code of Alabama (1975) Section 11-52-85, the zoning of the property, shall become effective upon the date the territory is annexed into the corporate limits, if any portion of the territory is not annexed into the corporate limits within 180 days of the initiation of annexation proceedings as provided by law then this pre-zoning shall be null and void.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2014.

Dane Haygood, Mayor

ATTEST:

**Rebecca A. Hayes
City Clerk, MMC**

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2014-**

**ORDINANCE TO ANNEX PROPERTY CONTIGUOUS
TO THE CORPORATE LIMITS OF THE CITY OF DAPHNE
Property Located
Northwest of the Intersection of County Roads 13 and 64
John White-Spunner, Kidco, L.L.C.; John White-Spunner Sidno, L.L.C.
and Matt White**

WHEREAS, on the 26th day of June, 2014, being the owner of all real property hereinafter described, did file with the City Clerk a petition asking that the said tracts or parcels of land be annexed into and become part of the City of Daphne, Alabama; and

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

WHEREAS, after proper publication, a public hearing was held by the City Council on August 4, 2014 concerning the petition for annexation; and

WHEREAS, said petition has been presented to the Planning Commission of the City of Daphne on June 26, 2014 and an affirmative recommendation was approved for the City Council to consider said request for annexation and said property; and

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

SECTION ONE: ANNEXATION

The City Council of the City of Daphne, Alabama finds that and declares as the legislative body of the City of Daphne, Alabama that it is in the best interest of the citizens of the City of Daphne, Alabama and the citizens of the affected area, to bring the territory described in Section Two of this Ordinance into the City of Daphne, Alabama, and it did further determine that all legal requirements for annexing said real property have been met pursuant to Sections 11-42-20 through 11-42-24, et seq., Code of Alabama, 1975; effective on publication as required by Section 11-42-21, Code of Alabama 1975, as amended.

SECTION TWO: DESCRIPTION OF TERRITORY

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

Owners: John White-Spunner, Kidco, L.L.C.; John White-Spunner & Sidno, L.L.C. and Matt White

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 16, T5S-R2E, BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH LINE OF SAID SECTION 16, T5S-R2E, RUN S 89° 57' 46" W 209.00 FEET TO A POINT; THENCE RUN N 00° 00' 46" W 38.76 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W); THENCE RUN N 00° 00' 23" E 170.24 FEET TO A POINT; THENCE RUN N 89° 55' 27" E 167.80 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W); THENCE ALONG SAID WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W), RUN S 00° 36' 06" E 120.22 FEET TO A POINT; THENCE CONTINUING ALONG SAID WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W), RUN S 44° 56' 44" W 70.85 FEET TO A POINT ON THE AFOREMENTIONED NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W); THENCE ALONG SAID NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W), RUN S 89° 57' 07" W 119.03 FEET TO THE POINT OF BEGINNING. CONTAINING 27,459 SQUARE FEET OR 0.6304 ACRE.

SECTION THREE: MAP OF PROPERTY

The property hereby annexed into the City of Daphne, Alabama is set forth and described in Exhibit "B" and attached hereto a map of the property showing its relationship to the corporate limits of the municipality of the City of Daphne and made a part of this ordinance.

SECTION FOUR: PUBLICATION

This Ordinance shall be published as required by Section 11-42-21 Code of Alabama 1975, as amended, and the property described herein shall be annexed into the corporate limits of the City of Daphne, and a certified copy of the same shall be filed with the Office of the Judge of Probate of Baldwin County, Alabama as required by Section 11-42-21, Code of Alabama 1975, as amended.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS THE _____ DAY OF _____, 2014.

Dane Haygood, Mayor

ATTEST:

Rebecca A. Hayes, City Clerk

**REPORT
OF
STANDING COMMITTEES**

5. Report: New Business Licenses – June, 2014

The Business Licenses Report was included in the packet. Total business license issued YTD is 3,777 - up 13 from last year

98 - Total Business License issued in June - up 25 from June 2013 (73 licenses issued).

70 - Renewals – out of the 98

26 - New businesses with **4 of those having a physical location in Daphne** and

2 - Prior year licenses. A map was included showing each of the 4 new businesses locations.

Discussion continued on the four new businesses with a physical location in Daphne: Hub City Service Center, Uncle Maddio's Pizza Joint, Southern Sparkle, and Off Lease Auto Outlet.

6. Bills Paid Reports – June, 2014

The Bills Paid Report was presented in the packet. Mr. Davis asked about the Clark's temporary personnel in Finance and Revenue. Mr. Davis asked if an additional person was needed in Revenue. Discussion continued that the temporary person had returned from HR to Revenue. Discussion continued on the need for a third person in Revenue. Mr. Scott noted the third employee would be addressed in the FY2015 Budget request.

A. Appropriation Request: (Ordinance)

1. Mast Arm Poles & Signal Upgrade @ Johnson Road & US98 - \$75,000

Mr. Johnson reviewed the project being done by State Department of Transportation where they are shifting the turn lanes on US98 & Johnson Road like they did on Whispering Pines and CR64 projects. Mr. Johnson noted that the State is funding that project 100%. Mr. Johnson stated the City is requesting State participation in upgrading the signal in this area to the Mast Arm Poles and a Signal Upgrade to allow use of an Intelligent Traffic Signal system. This upgrade will assist with future upgrades. Mr. Johnson noted the City will ask the State to pay the full \$75,000 match but expect at least a 50% cost share on the match of \$37,500.

Motion by Mr. Scott to appropriate \$75,000 from General Fund for Mast Arm Poles & Signal Upgrade @ Johnson Road & US98 (ALDOT project - 50% share). Seconded by Mr. Davis. Motion carried.

2. Edgar Circle / Melanie Loop Emergency Drainage Repair - \$108,925

(Survey, Design, & Letting Cost - \$45,926 / Construction - \$389,771.50)

(Total Project cost-\$435,697.50 / City's share - \$108,925)

Mr. Johnson reviewed the project and noted this was really three projects in one. Mr. Johnson noted the City has already approved 75% reimbursement from NRCS for the channel work and 75% for the remainder of the work from FEMA. Mr. Johnson noted the State is expected to reimburse half of the remaining balance (12½%). Mr. Johnson reviewed the bid is recommended to be awarded to the low qualified bidder Blade Constructions in the amount of \$389,771.50 (total project cost is \$435,697.50). Mrs. Henson noted that the award letter for the bid will not be sent until the appropriation ordinance is approved.

Motion by Mr. Davis to appropriate \$108,925 from General Fund for Edgar Circle / Melanie Loop Emergency Drainage Repair. Seconded by Mr. Lake . Motion carried.

Motion by Mr. Davis to recommend to Council to award the 2014-P-EDGAR CIRCLE/MELANIE LOOP EMERGENCY DRAINAGE REPAIR bid to Blade Construction in the amount of \$389,771.50. Seconded by Mr. Lake . Motion carried.

I. CALL TO ORDER

Meeting was called to order at 5:03 p.m.

Committee Members Present: Robin LeJeune (Chairman), Councilman John Lake, Councilman Ron Scott, Councilwoman Tommie Conaway; Richard D. Johnson-Public Works Director, Dorothy Morrison-Daphne Beautification Committee, and Michele T. Hanson, PWC secretary.

Others Present: Andy Bobe – Preble-Rish, John Peterson – HMM, Kendall Kilpatrick – HMM, Randy Davis – Volkert, Scott Hutchinson, HMR, Joe Davis – District 7, Pat Rudicell – District 2, Andrew Bolar – 7563 Whispering Pines Road.

II. PUBLIC PARTICIPATION & CORRESPONDENCE

- A. Work Request Report** - The report for June 2014 was reviewed.
- B. Vehicle/Equipment Maintenance Report** – The report for June 2014 was reviewed. Michele is to have Mechanical Dept. to add a Year to Date column.
- C. Correspondence** – No Correspondence.
- D. Public Participation – Andrew Bolar 7563 Whispering Pines Road.**

Mr. Bolar addressed the committee regarding the problem he has with the flooding in his yard. He stated that there is mud in his yard 4” to 5” deep after a big rain. I’ve spoken to Mr. Lake about the problem and he suggested getting Ms. Conaway to look at it and they said it looks like the drainage needs to be larger. He would like for someone to look at this and see if anything can be done.

Mr. Johnson stated there are 2 issues. First is the pipe going under Whispering Pines was put in when that was a county road and the receiving pipe is significantly larger and it turns at a 90° angle across the road. When the water gets in the ditch on the south side, it’s trying to go uphill and basically the water has to get a certain height in that ditch before it starts flowing. Secondly is the sediment loss from the farmers land above him and agriculture is exempt from site containment. The mud in his yard will always be an issue until the farmer does something with his land. One option that would help is if the farmer would allow an easement and the city could berm the whole western boundary of his property and set up a sediment trap or to deed an acre of land on the corner and the city put in a detention system. There just isn’t an easy solution for Mr. Bolar’s situation, but we are looking at it.

Jolene Havard – 2603 Main Street

Ms. Havard asked if anything had been done for her drainage situation. Mr. Johnson stated that one of the engineers speaking tonight will address that.

III. OLD BUSINESS

- A. Minutes** – The minutes from the June 16, 2014 meeting were reviewed and approved. **Motion by John Lake, Seconded by Tommie Conaway** to approve the minutes as presented. **Motion carried.**
- B. Mosquito Report** – Report was reviewed.
- C. Street Sweeper Report** – Report was reviewed.

IV. NEW BUSINESS

- A. I-10/SR 181 Exchange Improvements – Consideration motion for resolution of support to add to the ESMPO visionary list – Hatch Mott MacDonald –**
Mr. Johnson asked the committee to review the two proposals for the exchange to help alleviate the traffic congestion getting on and off 181 to the interstate. We’re asking for a favorable recommendation from this committee for a resolution of support to the city council that this project be placed on the ESMPO’s visionary list. Mr. Kilpatrick from HMM reviewed the two proposals, showing the benefits of each one.

Motion by Ron Scott to favorably recommend to the city council a resolution of support to the ESMPO to add this project to their visionary list. **Seconded by John Lake. Motion carried.**

B. FY2014 Road Striping (to be performed by the County)

Mr. Johnson reviewed the request to the County for a cost and materials estimate for street striping in the city.

V. DIRECTOR'S REPORT

A. Public Works Budget Discussion – Operating & Capital (Preliminary – Detailed in August)

Mr. Johnson reviewed a summary of needed replacement and new capital equipment for Public Works. These items are in a prioritized list based on need. Next month will present a personnel list. Mr. Johnson stated that #3 – Equipment Shed is needed to house the vehicles & equipment to keep them out of the weather. Mr. LeJeune requested a depreciation value on the vehicles/equipment now vs. with a new shed.

VI. DAPHNE SOLID WASTE DISPOSAL AUTHORITY

A. Monthly Equipment Use Report - The report for June 2014 was reviewed.

Monthly Recycle Tonnage Report (Tonnage Comparison) – The report for June 2014 was reviewed. It was another good month, more tonnage – less dollars. We were awarded an ADEM Recycling Grant for the 3rd consecutive year. This helps expand our cart program & will be getting a 4 yard recycle dumpster for the schools.

Solid Waste New Customer Report - The report for June 2014 was reviewed. We have 7 new residential customers and 2 new businesses.

VII. MUSEUM COMMITTEE

A. Minutes from June 9, 2014 meeting were reviewed. No questions or comments.

VIII. BEAUTIFICATION COMMITTEE

A. Minutes from July 2, 2014 meeting were reviewed. Dorothy reported that the Keep America Beautiful application and check has been signed and mailed. She requested that the next gazebo that was to be built to be placed in Park City. Former Mayor Yelding asked that the next one be placed there and she would like to honor his request. Daphne is looking beautiful, more and more every day!

IX. ENVIRONMENTAL ADVISORY COMMITTEE

A. Next meeting – Minutes from the June 23, 2014 meeting were reviewed. There were no questions or comments.

X. ENGINEER'S REPORT

A. Hatch Mott MacDonald – Nicole Place/Vista Circle repetitive flooding: John Peterson discussed with the committee the problems at this location. He stated that the piping is undersized and under capacity. There is cracking in the pipe and there are roots protruding into the pipe. This location needs a larger piping system installed. His department did a cost estimate on this problem in 2009, which was \$400,000 to upsize the line. Mr. Johnson stated that there are 5 houses that are directly affected by this drainage problem.

B. HMR – Main Street Drainage – Civic Center to Harbor Place: Scott Hutchinson discussed with the committee the issues with the Main Street drainage. He stated that the problem occurs when the inlets and drainage system becomes overpowered and stormwater flows across the street. He discussed 2 options to help with this problem. The first would be to make improvements to better collect the stormwater on the east side of Main St. so that it will not overtop the roadway. This would involve removing and replacing all inlets, pipes and sidewalks on the east side of Main Street. The second option would be to collect the stormwater that does cross the road and direct it north to Yancey Branch. This would involve new curb, pipe and inlets along the west side of Main St. Based on the cost estimate, the second solution is preferred. That cost would be \$790,050. Mr. LeJeune asked what the cost

was for the first option. Mr. Hutchinson stated it would be close to double the cost of the second option.

- C. **Preble-Rish** – Lancaster Way Drainage – US of Ridgewood Dr. to DS of N. Main Street: Andy Bobe discussed with the committee the problems with this area. He stated that the main problem is that the ditches are undersized, both upstream and downstream. Everything would have to be upsized to meet the need of the stormwater drainage. Currently at Lancaster, there is a 2 ½ foot flat bottom and 2 ½ feet deep and we have determined that it needs to have a 3 foot flat bottom with 3 one side slopes, making it 21 feet wide at the top and the culvert needs to be twice the size that it is now. He showed pictures of the problem areas. There is a breakdown in the system that’s causing most of the problem. The cost estimate for this project is \$600,000 to \$800,000 with 6-8 months to plan and design. This can be broken up into phases.
- D. **Jade Consulting** – Gator Alley Trailhead Improvements: No Report from the Engineer. Mr. Scott asked where we were in the property acquisition phase of this project. Mr. Johnson stated that both the appraisal and review appraisal have been done and is in the hands of ALDOT and we’re waiting for their concurrence. As soon as we receive their approval, we can begin the property negotiation.

Mr. LeJeune asked for an update on the status of the Boat Ramp lawsuit. Mr. Johnson stated he has not received a recent update but knows that the courts have delayed the process.

XI. FUTURE BUSINESS

- A. Next Meeting is August 18, 2014.

XII. ADJOURNMENT

Meeting adjourned @ 6:24 p.m.

Meeting Minutes
Monday, June 23, 2014 - 4:00 PM
City of Daphne - Environmental Advisory Committee
Daphne City Hall – Executive Boardroom

MEMBERS PRESENT: John Peterson, Fred Nation, Carl Pinyerd, Art Hosey, Chester McConnell, Elliott Riser, Richard Johnson, Ashley Campbell and Michele T. Hanson.

Guest Speaker: Adrienne Jones

Absent: Brett Webb, Stan Arbaczauskas

CALL TO ORDER

John Peterson called the meeting to order at 4:08 p.m.

PUBLIC PARTICIPATION:

Adrienne Jones – Community Development Director

Ms. Jones submitted to the committee a survey for members to complete regarding the goals of the EAC with regards to the City’s Comprehensive Plan-Hazard Mitigation. The form outlines the valid objectives of the goals to protect environmental resources and promote water quality, conservation and stormwater management. One of the big goals is to promote low impact development (LID) throughout the city; Popeye’s developed their property as a low impact development with no prompt from the city. Ashley stated that education and incentives are the best way to encourage low impact development projects. She would like to see the new recreation facility to be a complete LID. Richard stated that Gator Alley will also be a good test for LID.

Ms. Jones will compile the information from this survey and will report the results to the committee.

OLD BUSINESS:

A. Approval of Minutes:

Motion by Fred Nation, seconded by Elliott Riser to approve the April 28, 2014 minutes. Motion carried. Minutes were adopted.

NEW BUSINESS:

A. By-Laws

Mr. Peterson stated there are sample bylaws in your packet. Mr. Johnson stated that the Authorizing Resolution was adopted in 2007 with very little requirements for this committee. The key items in that resolution is that the EAC would be composed of 12 citizens of Daphne that appointed to serve with terms determined by the committee. The terms should be staggered in 3, 2, 1 year increments; also that 2 councilmembers are to be appointed to serve on the committee. Mr. Johnson reviewed the sample bylaw stating that most of the content is a basic format outlining the purpose, duties and order of business for the committee. Ashley Campbell asked to add the MS4 Reporting and Watershed to duties of the committee.

Mr. Peterson asked the committee members to review the sample bylaw, note any additions, deletions, corrections and report those at the next committee meeting.

CHAIRMAN’S REPORT:

No Report.

UPDATE ON PROJECTS:

A. NFWF Grant

Currently the 2nd phase of Joe’s Branch is under contract under Thompson Engineer. The NEP put out a request for qualifications for other engineering groups and will select 3 or 4 to use on a rotating basis for each different job that come up. There will be an overseer for the jobs, Dr. Greg Jennings, and evaluating all the plans. They are also doing the same process with the contractors.

B. Gator Alley

The city was awarded a TAP grant for the trail head, which is the parking area on North Main Street. This project will be a parking area twice the size of the current parking using brick pavers and using a step pool system for the drainage going to D’Olive Creek. The biggest part of this is the property acquisition of the

Meeting Minutes

Monday, June 23, 2014 - 4:00 PM

City of Daphne - Environmental Advisory Committee

Daphne City Hall – Executive Boardroom

property to the immediate west of the parking area. We are still going through the steps to attain that property.

Pre bid meetings have already been done for the damage to the existing part of the boardwalk and bids will be opened this week and will go to Council on the 7th for appropriation. FEMA has signed off that they will be a participant in that and will pay 75% of the replacement costs and the State will be helping as well. Once the property is acquired, it will belong to the city and maintained by our department.

Ashley stated that it will be a low impact development and once it's completed, the goal is to have a 1 day workshop onsite.

C. Storm Drainage/Grant – Edgar Circle: Potential NRCS Emergency Watershed Protection Program Site

Richard stated that a small head cut at this location turned into a very large head cut after the April 29th rain; FEMA has signed off on the mitigation for road portion and NRCS has approved the DSR for the stream restoration. There is 24' of vertical fall that has been introduced in a very short distance to get back to a natural stream bed, the engineers have put together a total of 7 drop structures to bring that grade back up and protect that channel. Piedmont Circle also has a similar cut which will need a 3 drop structure.

D. Forever Wild

We are not a finalist, but we are in line to be a finalist. The city council passed a resolution supporting this application and if that property is selected, we will provide trail access.

Richard discussed with the committee the problem @ Yancey Branch and with the heavy rain events that we have had, eroding away some of the beach.

FUTURE BUSINESS:

Next Meeting: *August 25th, October 27th and December 22nd.*

ADJOURN:

Motion by Carl Pinyerd, Seconded by John Peterson to adjourn. Meeting adjourned at 5:00 pm.

**REPORT
OF
SPECIAL BOARDS**

**CITY OF DAPHNE, AL
INDUSTRIAL DEVELOPMENT BOARD MEETING
1705 MAIN STREET, DAPHNE, AL
JULY 28, 2014
6:00 P.M.**

1. CALL TO ORDER/ROLL CALL

There being a quorum present the chairman called the meeting to order at 6:05 p.m.

MEMBERS PRESENT – Toni Fassbender; Dennis Kearney, III; Dan Romanchuk; Doug Bailey; Pokey Miller; John Cox; Jeffrey Ramsland.

Also present – Rebecca Hayes, Recording Secretary; Councilman Joe Davis, Council Liaison; Mr. Ed Hammele with Compass Bank and Mr. Greg Straughn with Bryant Bank.

2. APPROVE MINUTES / June 23, 2014

MOTION BY Dan Romanchuk to approve the June 23, 2014 meeting minutes. *Seconded by Denis Kearney.*

MOTION CARRIED UNANIMOUSLY

3. OLD BUSINESS

No old business to consider.

4. TREASURERS REPORT

The balance as of the end of June 30, 2014 is \$328,395.88.

MOTION BY John Cox to accept the Treasurers report. *Seconded by Jeff Ramsland.*

MOTION CARRIED UNANIMOUSLY

a.) Discuss Changing Banks

Mr. Ed Hammele with Compass Bank and Mr. Greg Straughn with Bryant Bank presented options for bank accounts with their banks. The benefit of a Public Funds account is that the entire amount is secured whereas a Business Account is only secured for \$250,000. If money is in a Money Market account funds could be transferred to a Business Account to cover any expenses.

Councilman Davis said he is working with the Finance Department to setup direct deposit and monthly deposits.

5. NEW BUSINESS

a.) Total Quality Logistics

The board feels it is encouraging to see new businesses come to Daphne. This will be the company's only presence in the State of Alabama. Councilman Davis wants to meet the people and see what other connections they may have.

**CITY OF DAPHNE, AL
INDUSTRIAL DEVELOPMENT BOARD MEETING
1705 MAIN STREET, DAPHNE, AL
JULY 28, 2014
6:00 P.M.**

b.) AL.com Article on Office Space

The board discussed the need for Class A office space in Daphne.

c.) Downtown Redevelopment Authority

The board discussed the possibility of doing a joint project in the future.

d.) Lodging Tax

The board discussed the division of the Lodging Tax.

MOTION BY Jeff Ramsland to enter into Executive Session to discuss purchasing of property. The session will be 30 minutes. *Seconded by Denis Kearney.*

MOTION CARRIED UNANIMOUSLY

Entered into Executive Session at 7:15p.m.

Returned from Executive Session at 7:45 p.m.

7. NEXT MEETING

The next meeting will be July 28th.

8. ADJOURN

MOTION BY Doug Bailey to adjourn. *Seconded by Jeff Ramsland.*

MOTION CARRIED UNANIMOUSLY

**THERE BEING NO FURTHER BUSINESS TO DISCUSS THE MEETING ADJOUNED AT
7:45 P.M.**

Submitted by:

Certification of Presiding Officer:

Rebecca Hayes, Secretary

Toni Fassbender, Chairman

The City of Daphne
Planning Commission Minutes
Regular Meeting of June 26, 2014
Council Chamber, City Hall - 5:00 P.M.

Call to Order:

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

Call of Roll:

Members Present:

Monty Montgomery
Charles Smith
Don Terry, Secretary
Larry Chason, Chairman
Ed Kirby, Vice Chairman
Ron Scott, Councilman
Hudson Sandefur

Staff Present:

Adrienne Jones, Director of Community Development
Jan Vallecillo, Planning Coordinator
Kevin Boucher, Attorney

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

Chairman asked for questions, comments or corrections to the minutes of *the regular meeting of May 22, 2014. There being none, the minutes are approved as submitted. Mr. Kirby and Mr. Montgomery abstained due to their absence at the meeting.*

The next order of business is preliminary/final plat review for Consolidated Acres, Unit Three.

Chairman stated neither the agent and/or the owner are present. He asked for Commission questions or comments and a motion to table.

A Motion was made by Mr. Scott and **Seconded** by Mr. Kirby *to table the preliminary/final plat review for Consolidated Acres, Unit Three, until the regular meeting of July 24, 2014.*

The next order of business is vacation of right-of-way for Rockwell Family, L.P.

Chairman asked if a representative was present.

An introductory presentation was given by Mr. Scott Hutchinson, representative of Hutchinson, Moore and Rauch.

The City of Daphne
Planning Commission Minutes
Regular Meeting of June 26, 2014
Council Chamber, City Hall - 5:00 P.M.

He requested to table the vacation of a portion of Old Spanish Trail right-of-way along Main Street until the next regular meeting.

Chairman asked for Commission questions or comments and a motion to table.

A Motion was made by Mr. Scott and Seconded by Mr. Smith to table the vacation of right-of-way for Rockwell Family, L.P., until the regular meeting of July 24, 2014.

The next order of business is final plat review for TimberCreek Subdivision, Phase Eleven.

An introductory presentation was given by Mr. Rusty Lomax, representative of Coleman Engineering Group of McCrory & Williams, of a one hundred lot subdivision consisting of approximately ninety-seven point four nine acres located northwest of the intersection of TimberCreek Subdivision and Interstate 10. He stated we have completed construction of the streets, drainage and utilities and are requesting final approval.

Chairman asked for Commission questions or comments.

Ms. Jones stated we have received correspondence from Riviera Utilities regarding the scheduled completion of the installation of the power and street lights and a surety guarantee of a cashier's check.

Chairman asked for Commission questions or comments and a motion for approval.

A Motion was made by Mr. Kirby and Seconded by Mr. Terry to grant final plat approval to TimberCreek Subdivision, Phase Eleven. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is preliminary/final plat review for Sorrell Subdivision.

An introductory presentation was given by Mr. Richard Sorrell, the owner, of a two-lot family subdivision consisting of approximately three point eight four located on County Road 54 east, for the purpose of the construction of another home.

Chairman opened the floor to public participation. No one came forth. He closed public participation and asked for Commission questions or comments and a motion for approval.

A Motion was made by Mr. Kirby and Seconded by Mr. Scott to grant preliminary/final plat approval to Sorrell Subdivision. There was no discussion on the motion. The Motion carried unanimously.

The City of Daphne
Planning Commission Minutes
Regular Meeting of June 26, 2014
Council Chamber, City Hall - 5:00 P.M.

The next order of business is preliminary/final plat review for TimberCreek Village, Phase Two, Resubdivision of Lots 1 & 2.

An introductory presentation was given by Mr. Daryl Russell, representative of Coleman Engineering Group of McCrory & Williams, of a three-lot subdivision consisting of approximately eight point three nine acre located southwest of the intersection of Highway 31 and Alabama Highway 181.

Chairman opened the floor to public participation. No one came forth. He closed public participation and asked for Commission questions or comments and a motion for approval.

A Motion was made by Mr. Kirby and Seconded by Mr. Scott to grant preliminary/final plat approval to TimberCreek Village, Phase Two, Resubdivision of Lots 1 & 2. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is zoning amendment and annexation review for White-Spunner, Kidco, L.L.C. and Sidno, L.L.C.

An introductory presentation was given by Mr. Daryl Russell, representative of Coleman Engineering Group of McCrory & Williams, of the pre-zoning and annexation of a zero point six three acres parcel located northwest of the intersection of County Road 13 and 64. The purpose of the application is in preparation for a subdivision to include a portion of the adjacent parcel to east and north to replace the sixty-foot strip obtained by the City of Daphne for construction of a traffic circle. The proposed zoning of B-2, General Business, is consistent with the parcels to the north and the west.

Ms. Jones stated the requested zoning of this parcel is consistent with the Comprehensive Plan. Annexation of land at the corner of County Road 64 and 13 is a future goal of the City.

Chairman opened the floor to public participation. No one came forth. He closed public participation and asked for Commission questions or comments and a motion recommending acceptance.

A Motion was made by Mr. Scott and Seconded by Mr. Smith of an unanimous affirmative recommendation by the Planning Commission to the City Council of Daphne of the pre-zoning of a of a zero point six three acres parcel located northwest of the intersection of County Road 13 and 64 from a B-1, Professional Business, zone, in Baldwin County District 15, to an B-2, General Business, zone for White-Spunner, Kidco, L.L.C. and Sidno, L.L.C. There was no discussion on the motion. The Motion carried unanimously.

The City of Daphne
Planning Commission Minutes
Regular Meeting of June 26, 2014
Council Chamber, City Hall - 5:00 P.M.

Commissioners asked why an application for a zoning amendment is submitted with a petition for annexation of a parcel in the extraterritorial planning jurisdiction.

Mr. Boucher stated the 2009 state statute states that an application for a zoning amendment to pre-zone may be submitted one hundred and eighty days in advance of an annexation to ensure that the applicant receives the requested zoning upon annexation.

A Motion was made by Mr. Scott and Seconded by Mr. Kirby of an unanimous affirmative recommendation by the Planning Commission to the City Council of Daphne of the annexation of a of a zero point six three acres parcel located northwest of the intersection of County Road 13 and 64 from a B-1, Professional Business, zone, in Baldwin County District 15, to an B-2, General Business, zone for White-Spunner, Kidco, L.L.C. and Sidno, L.L.C. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is an administrative presentation - PUD sketch plan.

An introductory presentation was given by Mr. Steve Pumphrey, representative of Preble-Rish, of St. Charles Village Townhomes, a planned unit development, located southeast of County Road 64 and Pollard Road. This is a proposed townhome development of the property previously known as St. Charles Village, Phase Two, of approximately nine acres and will require the annexation and addition of three lots on County Road 64. It is a fee simple townhome gated community, non-phased development with private roads, amenities, nine and one half units per acre, twenty-four triplexes, or three units per building. The development is presently zoned R-4, High Density Multi-Family Residential, and would require rezoning to an R-7, Townhome District, an zoned overlay Planned Unit Development, and an exemption and/or variance of the fifty foot minimum setback.

Commissioners discussed the main issues: gated private streets, a variance by the Board of Zoning Adjustment, development of a PUD section of the Land Use Ordinance, and the connection to the previous phase of St. Charles Village.

Chairman stated the approval of a variance of the setback would be necessary prior to action on the PUD sketch plan. He asked if the sketch plan could be revised to address Commissioners comments. Mr. Pumphrey requested to be tabled for thirty days.

Chairman asked for Commission questions or comments and a motion to table.

The City of Daphne
Planning Commission Minutes
Regular Meeting of June 26, 2014
Council Chamber, City Hall - 5:00 P.M.

A Motion was made by Mr. Kirby and Seconded by Mr. Smith to table the administrative presentation - PUD sketch plan for St. Charles Village Townhomes, until the regular meeting of July 24, 2014.

The next order of business is staff present of the City of Daphne Comprehensive Plan Review - Housing/Land Use.

Ms. Jones stated I have attended ten committee meeting and have three upcoming meeting scheduled.

The next order of business is public participation.

Chairman asked for public participation. No one came forward. He closed public participation.

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

Mr. Boucher stated no report.

The next order of business is commissioner's comments.

None were presented.

The next order of business is director's comments.

Ms. Jones stated the upcoming meeting dates are site preview, July 16, and regular meeting, July 24, 2014.

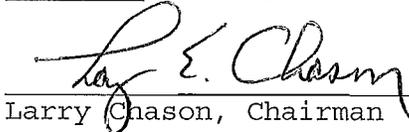
There being no further business, the meeting was adjourned at 6:12 p.m.

Respectfully submitted by:



Jan Vallecillo, Planning Coordinator

Approved: July 24, 2014



Larry Chason, Chairman

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF JULY 24, 2014 *AS* **REPORT**
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

1. **CALL TO ORDER** DATE OF REPORT: JULY 25, 2014
2. **CALL OF ROLL** LARRY CHASON, CHARLES SMITH, RON SCOTT, CHIEF
WHITE, MONTY MONTGOMERY, AND HUDSON SANDEFUR
3. **APPROVAL OF MINUTES:**

Review of minutes for the regular meeting of June 26, 2014. (APPROVED AS SUBMITTED)

4. **OLD BUSINESS:**

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

1. **File SDPF14-05: (APPROVAL OF PLAT, CONTINGENT UPON THE APPROVAL OF THE WETLAND DELINEATION BY CORPS OF ENGINEERS; ADDITION OF WETLAND BUFFERS, AND ACCEPTANCE BY ENVIRONMENTAL PROGRAMS MANAGER)**

Subdivision: Consolidated Acres, Unit Three

Zoning(s): *B-2, Local Business District, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne*

Location: Southwest of the intersection of Alabama Highway 181 and Milton Jones Road

Area: 11.9 Acres ±, (2) lots

Owner: John S. Wise, Jr.

Agent: S.E. Civil - Larry Smith

Surveyor: Geo-Surveying - Matt or Jima Kountz

5. **NEW BUSINESS:**

A. **THE RESERVE AT DAPHNE, PHASE ONE:**

1. **MASTER PLAN: (TABLED FOR FURTHER REVIEW UNTIL JULY 24, 2014 MEETING)**

File MPA14-01:

Presentation to be given by Mr. Steve Pumphrey, representing Preble-Rish, requesting a master plan revision for The Reserve at Daphne, Phase One Subdivision.

2. **FINAL PLAT REVIEW:**

File SDF14-03: (APPROVED)

Subdivision: The Reserve at Daphne, Phase One

Zoning(s): *RA, Rural Agricultural, in Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne*

Location: North of the intersection of County Road 64 and Montelucia Way

Area: 81.1 Acres ±, (78) lots

Owner: GCOF Reserve at Daphne, L.L.C. - Nathan Cox

Engineer: Preble-Rish - Steve Pumphrey or Andy Bobe

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF JULY 24, 2014 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

B. PRELIMINARY/FINAL PLAT REVIEW:

1. **File SDPF14-08: (APPROVAL OF PLAT, CONTINGENT UPON A NOTE BEING PLACED ON THE PLAT, NO FURTHER SUBDIVIDING OF LOT WILL BE ALLOWED WITHOUT THE PRESENTATION OF A MASTER PLAN)**

Subdivision: Resubdivision of Lot 1A, Mark Trione's Belforest Subdivision, Unit 2

Zoning(s): *B-2, Neighborhood Business, in Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne*

Location: On the north Milton Jones Road approximately one thousand feet west of U.S. Highway 181

Area: 12.04 Acres \pm , (2) lots

Owner: Lee D. Pitmann

Agent: Ashurst & Neimeyer - Spence Monroe

Surveyor: Geo-Surveying - Matt or Jima Kountz

C. SUBDIVISION REPLAT REVIEW:

1. **File SRP14-02: (APPROVED)**

Subdivision: Resubdivision of Lots 382 & 383, Resubdivision of a part of Plantation Hills, Unit 1

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

Location: South of U.S. Highway 90, southwest corner of Geneva Drive and Robbins Boulevard

Area: 0.60 Acres \pm , (2) lots

Owner: Gerald Sterling, Jerry Starling, Priscilla Starling Taylor, and Betty C. Starling

Engineer: Rowe Surveying - Don Rowe

D. ADMINISTRATIVE PRESENTATION:

1. **PETITION FOR STREET ACCEPTANCE:**

File AP14-08: (UNANIMOUS FAVORABLE RECOMMENDATION TO CITY COUNCIL)

Presentation to be given Adrienne Jones, Director of Community Development or Richard Johnson, Public Works Director, recommending acceptance of all right-of-ways contained within TimberCreek Subdivision, Phase Eleven. Said right-of-ways being Tamerack Drive (708 linear feet), Persimmon Drive (885 linear feet), Hemlock Street (485 linear feet), Elderberry Drive (3,291 linear feet), Pine Run (685 linear feet), and Pine Run Court (516 linear feet).

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF JULY 24, 2014 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

2. **ZONING AND STREET MAP:**

File AP14-10: (UNANIMOUS FAVORABLE RECOMMENDATION TO CITY COUNCIL)

Presentation to be given by Adrienne Jones, Director of Community Development, City of Daphne Zoning and Street Map updates.

E. **PLANNING COMMISSION DISCUSSION:**

Discussion by Adrienne Jones, Director of Community Development, of A-1, Agriculture District, newly proposed zoning district. **(No Action Taken)**

6. **PUBLIC PARTICIPATION**

7. **ATTORNEY'S REPORT**

8. **COMMISSIONER'S COMMENTS: (Motion to request the City Attorney to discuss an appointment of a Planning Commission member with Mayor Dane Haygood - unanimously approved)**

9. **DIRECTOR'S COMMENTS:**

- a. Formal withdrawal of the Malbis Plantation Subdivision plat - (No action taken)
- b. Land Use Law seminar by National Business Institute - (October 2, 2014, Mobile, Alabama, 8:30 a.m. - 4:30 p.m)
- c. Your Town Alabama, September 8-10, 2014

10. **ADJOURNMENT**

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF JUNE 26, 2014 **REPORT**
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

1. **CALL TO ORDER:** **DATE OF REPORT: JUNE 30, 2014**
2. **CALL OF ROLL:** **LARRY CHASON, DON TERRY, CHARLES SMITH, RON SCOTT, CHIEF WHITE, ED KIRBY, MONTY MONTGOMERY, AND HUDSON SANDEFUR**

3. **APPROVAL OF MINUTES:**

Review of minutes for the regular meeting of May 22, 2014. (APPROVED AS SUBMITTED)

4. **OLD BUSINESS:**

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

1. **File SDPF14-05: (TABLED AT THE REQUEST OF THE AGENT UNTIL JULY 24, 2014 MEETING)**

Subdivision: **Consolidated Acres, Unit Three**

Zoning(s): ***B-2, Local Business District, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne***

Location: Southwest of the intersection of Alabama Highway 181 and Milton

Jones Road

Area: 11.9 Acres ±, (2) lots

Owner: John S. Wise, Jr.

Agent: S.E. Civil - Larry Smith

Surveyor: Geo-Surveying - Matt or Jima Kountz

B. **PETITIONS:**

VACATION OF RIGHT-OF-WAY REVIEW:

1. **File VOR14-01: (TABLED AT THE REQUEST OF THE AGENT UNTIL JULY 24, 2014 MEETING)**

Applicant: **Rockwell Family, L.P.**

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

Location: Northeast of the intersection of Main Street and Wilson Avenue

Area: 0.15 Acres ±

Owner: Rockwell Family, L.P. - Bragg Rockwell

Engineering: Hutchinson, Moore & Rauch - Scott Hutchinson or Stuart Smith

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF JUNE 26, 2014 **REPORT**
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

5. NEW BUSINESS:

A. FINAL PLAT REVIEW:

1. File SDF14-02: (APPROVED)

Subdivision: TimberCreek, Phase Eleven

Zoning(s): *R-6 (G), Garden or Patio Home*

Location: Northwest of the intersection of TimberCreek Subdivision and Interstate 10

Area: 97.49 Acres \pm , (100) lots

Owner: Interstate Baldwin Investment, L.L.C. - Allen Cox, Manager

Engineer: Coleman Engineering Group of McCrory & Williams - Carah Hall

B. PRELIMINARY/FINAL PLAT REVIEW:

1. File SDPF14-06: (APPROVED)

Subdivision: Sorrell

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

Location: County Road 54 East

Area: 3.84 Acres \pm , (2) lots

Owner: Richard & Wesley Sorrell

Surveyor: Geo-Surveying - Matt or Jima Kountz

2. File SDPF14-07: (APPROVED)

Subdivision: TimberCreek Village, Phase Two, Resubdivision of Lots 1 & 2

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

Location: Southwest of the intersection of Highway 31 and Alabama Highway 181

Area: 8.39 Acres \pm , (3) lots

Owner: Baldwin AL Development, L.L.C. - L. W. Cave, Manager

Engineer: Coleman Engineering Group of McCrory & Williams - Daryl Russell

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF JUNE 26, 2014 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

C. JOHN WHITE-SPUNNER, KIDCO, L.L.C, & SIDNO, L.L.C:

1. PETITIONS:

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

File Z13-01: John White-Spunner, Kidco, L.L.C. - John White-Spunner, & Sidno, L.L.C. - Matt White

Present Zoning: B-1, Professional Business, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne

Proposed Zoning: B-2, General Business

Location: Northwest of the intersection of County Road 13 and 64

Area: 0.63 Acres ±

Owner(s): John White-Spunner, Kidco, L.L.C. - John White-Spunner, & Sidno, L.L.C. - Matt White

Engineer: Coleman Engineering Group of McCrory & Williams - Daryl Russell

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

Presentation to be given by Mr. Daryl Russell, representing Coleman Engineering Group of McCrory & Williams, requesting annexation of a zero point six three acre parcel into the City of Daphne located northwest of the intersection of County Road 13 and 64 with B-2, General Business, zoning. The subject property is currently zoned B-1, Professional Business, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne. John White-Spunner, Kidco, L.L.C. - John White-Spunner, & Sidno, L.L.C. - Matt White.

D. ADMINISTRATIVE PRESENTATION-PUD SKETCH PLAN:

1. File AP14-07: (TABLED AT THE REQUEST OF THE AGENT UNTIL JULY 24, 2014 MEETING)

Presentation to be given by Mr. Steve Pumphrey, representative of Preble-Rish, of St. Charles Village Townhomes, a planned unit development, located southeast of County Road 64 and Pollard Road.

SET DATE FOR PUBLIC HEARING

SEPTEMBER 15, 2014

TO CONSIDER:

- 1. Amending the Land Use & Development Ordinance 2011-54 /
Revisions to Zoning Map**

Recommendation:

Unanimous Favorable

To: Office of the City Clerk
From: Adrienne D. Jones, 
Community Development Director
Subject: Revised City of Daphne Zoning Map
Date: July 25, 2014

MEMORANDUM

At the July 24, 2014, regular meeting of the City of Daphne Planning Commission, six members were present. The motion to set forth a **favorable recommendation** carried unanimously of the above-mentioned revision to the zoning map.

Attached please find the appropriate documentation and action of the Daphne Planning Commission.

Upon receipt of said documentation, please prepare an ordinance for placement on the City Council agenda of Monday, August 4, to set the public hearing for Tuesday, September 2, 2014.

Thank you,
ADJ/jv

cc: file

attachment(s)

1. Zoning Map Six-Month Report (Copy Attached)
2. Zoning Map (Display - Posted in Council Chambers)

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2014-**

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

WHEREAS, the Planning Commission of the City of Daphne, Alabama at their regular meeting held on July 24, 2014 favorably recommended to the City Council of the City of Daphne certain amendments to the Daphne Land Use and Development Ordinance / Zoning District Map approved and adopted by No. 2011-54 and 2013-55; and

WHEREAS, said amendments are necessary due to various rezoning and annexation requests which have been approved since the adoption of 2013-55; and

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

WHEREAS, a public hearing regarding the proposed Zoning District Map amendments was held by the City Council on September 15, 2014; and

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

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

SECTION I: ZONING DISTRICT MAP

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

SECTION II: REPEALER

Ordinance No. 2011-54, Appendix H "Exhibit A", and Ordinance No. 2013-55 is hereby repealed, and any Ordinance(s), parts of Ordinance(s) or Resolution(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

SECTION III: EFFECTIVE DATE

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THE _____ DAY OF _____, 2014.

Dane Haygood, Mayor

ATTEST:

Rebecca A. Hayes, City Clerk

Every six months the Department of Community Development creates new official city zoning and street maps for the Council’s adoption. All modifications shown on these two maps have been approved by the Planning Commission (recorded preliminary/final and/or final subdivision plat) and/or the City Council (annexation, zoning and/or street acceptance resolution).

- **ANNEXATION:** During this period the City limits remain 16.62 sq. miles. No land annexed into corporate limits.
- **ZONING:** No property has been rezoned, although the pre-zoning and annexation process has begun for land at the northwest intersection of County Roads 13 and 64 (anticipate Council action early September 2014).
- **INFRASTRUCTURE:** The city has accepted additional roads or rights of way for maintenance south of Profit Drive then renamed the right of way “Bailey Yelding, Jr. Dr.” and in Bellaton Phase 3.
- **DEVELOPMENT:** 139 new single family residential lots have been created in the City; 9 new residential lots in our Extra-Territorial Jurisdiction.

Instrument	Approval	Action	Size
<i>Rezoning</i>	n/a		
<i>Annexation</i>	n/a		
Street Acceptances			
<i>R.O.W. acceptance N. of Johnson Rd & S. Profit Dr</i>	01/06/14	Council Resolution #2014-01	
<i>Naming R.O.W. “Bailey Yelding, Jr. Drive”</i>	01/21/14	Council Resolution #2014-05	
<i>R.O.W. acceptance-Bellaton Subdivision</i>	04/21/14	Council Resolution #2014-17	
Subdivisions--- Probate Slide Number	Date of PC Approval Recorded since last map revision	New lots created (from original lot)	Corporate Limits?
2502-C <i>Trott Subdivision</i>	01/23/14	4	No ETJ
2502-B <i>Bienvenue Estates</i>	02/27/14	1	No ETJ
2504-C <i>Orchard Farms Replat of Lots 1,2,5</i>	02/27/14	0-replat	No ETJ
2507-D <i>Colonnade at Eastern Shore, Replat of lot 1 Springs at Eastern Shore</i>	03/27/14	0- replat	Yes
2504-E <i>Bellaton Phase 3</i>	03/27/14	39	Yes
2505-C <i>Broadway-AL Highway 181</i>	03/27/14	1	No ETJ
2506-C <i>Terri Subdivision</i>	04/24/14	3	No ETJ
2509-A,B,C <i>Timbercreek Phase 11</i>	06/26/14	100	Yes
*Approved in 2013, recorded after last map update		--	--
(2505-F) *Honda Division, (2496-F)			
*Lazzari *(2501-A) Gipson			

July 2014 Planning Report



Rebecca A. Hayes

From: Rebecca A. Hayes
Sent: Monday, July 28, 2014 3:37 PM
To: legals
Cc: Adrienne Jones (ajones@daphneal.com); Jan Dickson Vallecillo (jvallecillo@daphneal.com)
Subject: Publish 2nd Notice of Public Hearing - Revisions to Zoning Map
Attachments: REVISIONS TO ZONING MAP PH - 9-15-14.doc

April

PLEASE Publish in the Bulletin Legal Section on Friday, August 15, 2014

SECOND NOTICE OF PUBLIC HEARING

Notice is hereby given the second time, the first notice was published on August 8, 2014, that the City Council of the City of Daphne will hold a Public Hearing on September 15, 2014 at 6:30 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama. The public is welcome to attend and offer comments opposing or favoring an Ordinance amending the Land Use Ordinance and Development Ordinance / Revision to Zoning Map as presented below. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.

Rebecca A. Hayes, City Clerk

PROPOSED ORDINANCE:

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2014-**

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

WHEREAS, the Planning Commission of the City of Daphne, Alabama at their regular meeting held on July 24, 2014 favorably recommended to the City Council of the City of Daphne certain amendments to the Daphne Land Use and Development Ordinance / Zoning District Map approved and adopted by No. 2011-54 and 2013-55; and

WHEREAS, said amendments are necessary due to various rezoning and annexation requests which have been approved since the adoption of 2013-55; and

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

WHEREAS, a public hearing regarding the proposed Zoning District Map amendments was held by the City Council on September 15, 2014; and

/END SYNOPSIS

Rebecca A. Hayes

From: Rebecca A. Hayes
Sent: Monday, July 28, 2014 3:31 PM
To: legals
Cc: Adrienne Jones (ajones@daphneal.com); Jan Dickson Vallecillo (jvallecillo@daphneal.com)
Subject: Publish 1st Notice of Public Hearing - Revisions to Zoning Map
Attachments: REVISIONS TO THE ZONING MAP - PH - 9-15-14.docx; Backup to Revisions to Zoning Map 7-24-14.pdf

April,

PLEASE Publish in the Bulletin Legal Section on Friday August 8, 2014

FIRST NOTICE OF PUBLIC HEARING

Notice is hereby given the first time that the City Council of the City of Daphne will hold a Public Hearing on September 15, 2014 at 6:30 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama. The public is welcome to attend and offer comments opposing or favoring a proposed Ordinance amending the Land Use Ordinance and Development Ordinance / Revision to Zoning Map. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.

Rebecca A. Hayes, City Clerk

PROPOSED ORDINANCE:

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2014-**

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

WHEREAS, the Planning Commission of the City of Daphne, Alabama at their regular meeting held on July 24, 2014 favorably recommended to the City Council of the City of Daphne certain amendments to the Daphne Land Use and Development Ordinance / Zoning District Map approved and adopted by No. 2011-54 and 2013-55; and

WHEREAS, said amendments are necessary due to various rezoning and annexation requests which have been approved since the adoption of 2013-55; and



Accepted by:

Robert Segalla
Chairman, Daphne Utilities

Daphne Utilities

APPROVED MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ June 25, 2014 ♦ 5:00 p.m.

I. Call to Order

The regular June 2014, Board meeting for the Utilities Board of the City of Daphne was held on June 25, 2014 and called to order by Chairman Robert Segalla, at 5:02 p.m., proceeded by the Roll Call:

II. Roll Call

Members Present:

Robert Segalla, Chairman
Randy Fry, Vice Chairman
Lon Johnston, Secretary/Treasurer
Fenton Jenkins
Dane Haygood, Mayor

Others Absent:

Others Present:

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

Others Absent:

III. Pledge of Allegiance

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

IV. Approval of Minutes

A. Utilities Board Minutes from May 28, 2014:

The Chairman inquired if there were any corrections noted for the submitted Minutes for the May 28th, 2014, Utilities Board meeting. No corrections were recommended.

MOTION BY Lon Johnston to approve the Minutes for May 28, 2014 as submitted; Seconded by Fenton Jenkins.

AYE: FRY, HAYGOOD, JENKINS, JOHNSTON, SEGALLA

ABSENT:

ABSTAIN:

MOTION CARRIED

V. OLD BUSINESS –

A. Items in Abeyance:

Rob McElroy updated the Board advising that a letter had been sent to Spanish Fort Mayor McMillan requesting that they consider lowering the gas franchise fee to what we collect rather than a lump-sum figure higher than what Daphne Utilities' collects (3%), and notified Mayor McMillan that he would schedule a meeting to speak to him August 4, 2014 Council Packet

about this situation. He also corrected himself regarding the sewer franchise agreement in that it would not require a rate increase from the Daphne Utilities board but rather an additional fee included on the bill for Spanish Fort customers. In investigating this possibility, Mr. McElroy advised that there are many potential Spanish Fort sewer customers and it would be in the best interest of both Daphne Utilities and Spanish Fort residents to negotiate a franchise agreement with the City of Spanish Fort. He answered questions from the Board regarding the Spanish Fort situation.

VI. NEW BUSINESS –

- A. Retirees One-Time Lump-Sum Addition to Retirement Benefits of Certain Retirees and Beneficiaries of the Employees' Retirement System Act #2014-429 (Resolution will be required - see Board Action);

Drew Klumpp explained to the Board the letter received from the Retirement Systems of Alabama for a one-time lump sum addition for retirees and the necessity for a resolution if approved.

MOTION BY Randy Fry approve RESOLUTION 2014 -03; Approve Section 2 of Act 429 of the Regular Session of the 2014 Legislature Regarding Retirees One-Time Lump Sum Addition to Retirement Benefits of Certain Retirees and Beneficiaries of the Employees' Retirement System Act #2014-429; Seconded by Fenton Jenkins.

AYE: FRY, HAYGOOD, JENKINS, JOHNSTON

ABSENT:

ABSTAIN: SEGALLA

MOTION CARRIED

VII. BOARD ATTORNEY'S REPORT

Mr. Speegle had nothing further to add to his report and announced that an Executive Session was needed.

VIII. FINANCIAL REPORT

Teresa Logiotatos reviewed the financials with the Board and discussed the graphs as a point of reference and the Check History Report. Questions from the Board were answered by staff.

IX. GENERAL MANAGER'S REPORT

A. GM Report

Mr. McElroy had nothing further to add to his report and made a farewell presentation to Mr. Lon Johnston upon his retirement from the Board and thanking him for his service to Daphne Utilities and the Daphne community.

A. Operations Report

Danny Lyndall had nothing further to add to his report. Mr. Johnston inquired as to the several emergency repairs. Mr. Lyndall and Mr. McElroy updated the Board on the emergency projects.

B. Engineering & Consulting Reports

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

Ray Moore of HMR had nothing further to add to his report

X. BOARD ACTION – Addressed under New business.

XI. PUBLIC PARTICIPATION – None.

XII. BOARD COMMENTS – None.

XIII. EXECUTIVE SESSION –

Mr. Speegle advised that Executive Session was necessary to address a grievance that was filed by a former employee and a discussion of competence, reputation and performance is justification for this Executive Session. Adjourned for Executive session at 5:27pm.

MOTION BY Lon Johnston to adjourn to Executive Session; Seconded by Fenton Jenkins.

AYE: FRY, HAYGOOD, JENKINS, JOHNSTON, SEGALLA **ABSENT:** **ABSTAIN:** **MOTION CARRIED**

The meeting reconvened at 5:53 pm.

MOTION BY Lon Johnston to deny the grievance brought before the Board; Seconded by Fenton Jenkins.

AYE: FRY, HAYGOOD, JENKINS, JOHNSTON, SEGALLA **ABSENT:** **ABSTAIN:** **MOTION CARRIED**

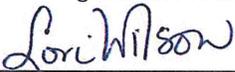
XIV. ADJOURNMENT -

MOTION BY Lon Johnston to adjourn.

AYE: Fry, Haygood, Jenkins, Johnston, Segalla **NAY:** **ABSENT:** **ABSTAIN:** **MOTION CARRIED**

The meeting adjourned at 5:55 p.m.

Preceding minutes submitted to the Daphne Utilities Board by:



Lori Wilson, Executive Assistant, Daphne Utilities

**REPORT
OF
OFFICERS**

**MUTUAL RELEASE OF ALL CLAIMS
EXCEPT THOSE PRESERVED HEREIN**

This Mutual Release of All Claims (“Agreement”) is entered into by and between and among the following parties and relates to the matters described herein below:

A. **Plaintiffs/Appellants, MALBIS LANE/VLAHOS LANE HOMEOWNERS ASSOCIATION (“MALBIS LANE”), CLIFFORD R. GODWIN (“C. GODWIN”), and BETTY M. GODWIN (“B. GODWIN”) (Sometimes referred to collectively hereinafter as “PLAINTIFFS”);**

B. **Defendants/Appellees BALDWIN COUNTY COMMISSION and BALDWIN COUNTY PLANNING AND ZONING COMMISSION (Sometimes referred to collectively hereinafter as “BALDWIN COUNTY DEFENDANTS”);**

C. **Defendant/Appellee FORESITE GROUP, INC. (“FORESITE”);**

D. **Defendant PLANNING AND ZONING COMMISSION OF THE CITY OF DAPHNE and THE CITY OF DAPHNE, (Sometimes referred to collectively hereinafter as “THE CITY OF DAPHNE”);**

E. **Defendant MALBIS PLANTATION, INC. (“MALBIS PLANTATION”); and**

F. **CVS 10206 AL, L.L.C. and CVS Caremark Corporation, (Sometimes referred to collectively hereinafter as “CVS”).**

The Parties to this Mutual Release all hereby stipulate as follows:

WHEREAS, on or about May 16, 2013, a Ground Lease was entered into by and between MALBIS PLANTATION and CVS 10206 AL, LLC, for purposes of the development and construction of a proposed CVS Pharmacy to be built at the intersection of U.S. Highway 90 and Alabama Highway 181 in Baldwin County, Alabama (“proposed CVS Pharmacy”);

WHEREAS, FORESITE pursuant to an agreement with CVS, and as applicant for MALBIS, assisted in preparing certain plans for the development and construction of said CVS Pharmacy and made various applications to the BALDWIN COUNTY DEFENDANTS and the

CITY OF DAPHNE in furtherance of the development of the proposed CVS; with the BALDWIN COUNTY DEFENDANTS and the CITY OF DAPHNE having granted said applications;

WHEREAS, on or about July 2, 2013, Plaintiffs/Appellants MALBIS LANE, C. GODWIN, and B. GODWIN filed a Petition for Declaratory Judgment and for issuance of permanent injunctive relief against BALDWIN COUNTY DEFENDANTS and FORESITE in the Baldwin County, Alabama Circuit Court, said lawsuit styled *Malbis Lane/Vlahos Lane Homeowners Association, et al. vs. Baldwin County Commission, et al.*, bearing Circuit Civil Case No. 2013-900923 (referred to hereinafter as the "Complaint");

WHEREAS, on or about April 21, 2014, Plaintiffs MALBIS LANE, C. GODWIN, and B. GODWIN filed their Second Amended Verified Complaint for Writ of Mandamus against BALDWIN COUNTY COMMISSION, CITY OF DAPHNE, FORESITE, and MALBIS PLANTATION seeking an Order (a) directing CITY OF DAPHNE to rescind and disapprove a subdivision application submitted by FORESITE as agent for MALBIS PLANTATION; and (b) requiring BALDWIN COUNTY COMMISSION to rescind and disapprove a previously-granted building permit to FORESITE and prohibiting BALDWIN COUNTY COMMISSION from issuing and FORESITE from applying for construction permits of any type on the MALBIS PLANTATION property. Said Writ of Mandamus was filed in the Baldwin County, Alabama Circuit Court and styled *Malbis Lane/Vlahos Lane Homeowners Association, et al. vs. Baldwin County Commission, et al.*, bearing Circuit Civil Case number 2014-900390 (referred to hereinafter as the "Complaint for Writ of Mandamus").

WHEREAS, the above-described lawsuits remain pending in the Circuit Court of Baldwin County, Alabama;

WHEREAS, on June 4, 2014, the Ground Lease ("Ground Lease") was terminated;

WHEREAS, genuine and controverted disputes, disagreements, and controversies arose and exist between and among the Parties as to the matters addressed in PLAINTIFFS' Complaint and Complaint for Writ of Mandamus;

WHEREAS, each of the Parties adamantly denies any liability to each other;

WHEREAS, as a result of the termination of the Ground Lease, Defendants and CVS agree that no further action will be undertaken under said lease to pursue construction of the proposed CVS Pharmacy;

WHEREAS, as a result of the termination of the Ground Lease and the decision of the Defendants and CVS not to pursue construction of the proposed CVS Pharmacy under said lease, the PLAINTIFFS agree to dismiss any and all claims they have made, or could have made, against any other party to the litigation and against CVS;

WHEREAS, for and in consideration of the agreement by the PLAINTIFFS to dismiss all of their claims, the Defendants further acknowledge and agree as follows:

- A) That the conditional use permit granted Foresite Group as agent for Malbis Plantation by the Baldwin County Planning Commission shall not be used or transferred to any other legal entity by Foresite Group and that the said conditional use permit issued was only for the construction by Foresite of a CVS Drug Store on property leased by CVS from Malbis Plantation;
- B) That the permit granted to Foresite as agent for Malbis Plantation by the Baldwin County Planning Commission allowing required parking within the setback required by §45-2-260, Code of Alabama shall not be used by Foresite or Malbis Plantation and shall not be transferred to any other entity. That said permit was issued only for the construction of a CVS drug store by Foresite at the corner of State Highway 181 and Highway 90;
- C) That the subdivision approval granted March 25, 2014 to Foresite Group and Malbis Plantation by the Defendant Daphne Planning Commission shall be withdrawn by Foresite and Malbis Plantation;
- D) That Defendants, Foresite Group and Malbis Plantation, agree that any building permits granted by Baldwin County shall be allowed to expire without being used. Defendants, Foresite Group and Malbis Plantation further agree that they will not do any construction under said permits nor will they transfer or attempt to transfer said permits to any other legal entity;
- E) That Defendants agree and acknowledge that any future development of the Malbis property as described in its ground lease with CVS shall be treated as a new development subject to

the setback requirements of §45-2-260, if applicable, Baldwin County's zoning ordinance and Daphne's subdivision regulations without any consideration of past permits;

- F) That Defendants agree and acknowledge that all permits granted or issued to Foresite and Malbis Plantation by Baldwin County, Baldwin County Planning Commission and the City of Daphne Planning Commission shall not be used by Foresite or any other party to this agreement as a precedent concerning any development proposed for said property and that any new proposal by Foresite or any other party to this agreement shall be treated as a new development and subject to all of then current zoning and subdivision regulations for Baldwin County and the City of Daphne. The parties agree nothing in this paragraph shall be construed as limiting the rights of Malbis with respect to its ownership, use or development of this property, and nothing shall be construed as limiting the rights of any party to this agreement to be involved in or take part in any future effort to develop this property other than as it might relate to the specific permits addressed herein;

WHEREAS, the Parties have been advised of their potential rights, liabilities, and obligations, if any, in connection with these matters and consider it to be in their respective best interests to compromise and resolve all of the claims and defenses referenced herein upon the terms and conditions set forth in this Agreement; and

WHEREAS, the Parties now desire to enter into this Agreement for the purpose of resolving any and all claims, past, present, and future, which MALBIS LANE, C. GODWIN, and/or B. GODWIN may have against BALDWIN COUNTY DEFENDANTS, FORESITE, CVS, CITY OF DAPHNE, and/or MALBIS PLANTATION, as well as their respective attorneys, agents, servants, officers, employees, assigns, successors, heirs, executors, and/or any and all other persons, firms, corporations, associations, or partnerships thereof, and their parent, subsidiary, and affiliate corporations, shareholders, directors, officers, employees, representatives, principals, agents, successors, assigns, and all other persons claiming any legal or equitable right or owing any legal or equitable obligations under or through it arising out of or in any way related to the proposed CVS Pharmacy;

WHEREAS, BALDWIN COUNTY DEFENDANTS, FORESITE, CITY OF DAPHNE, CVS, and MALBIS PLANTATION enter into this Release for the purpose of resolving any and all claims, past, present, and future, which they may have against MALBIS LANE, C. GODWIN, and B. GODWIN, as well as their respective attorneys, agents, servants, officers, employees, assigns, successors, heirs, executors, and/or any and all other persons, firms, corporations, associations, or partnerships thereof, and their parent, subsidiary, and affiliate corporations, shareholders, directors, officers, employees, representatives, principals, agents, successors, assigns, and all other persons claiming any legal or equitable right or owing any legal or equitable obligations under or through it arising out of or in any way related to the proposed CVS Pharmacy;

WHEREAS, CVS and MALBIS PLANTATION are not under the terms of this Mutual Release resolving and releasing any and all claims, past, present, and future, which either may have against the other arising out of performance under the Ground Lease and/or the termination thereof and are preserving any claims each may have against the other, as well as their respective attorneys, agents, servants, officers, employees, assigns, successors, heirs, executors, and/or any and all other persons, firms, corporations, associations, or partnerships thereof, and their parent, subsidiary, and affiliate corporations, shareholders, directors, officers, employees, representatives, principals, agents, successors, assigns, and all other persons claiming any legal or equitable right or owing any legal or equitable obligations under or through them arising out of or in any way related to the proposed CVS Pharmacy and the Ground Lease entered into between MALBIS PLANTATION and CVS;

NOW THEREFORE, in consideration of the covenants by and between the Parties to this Agreement as set forth herein, the sufficiency of each covenant being hereby acknowledged by the Parties, it is hereby agreed:

AGREEMENT

1. **Compromise by the Parties.** It is understood and agreed that this Agreement is a compromise of disputed claims by the Parties to this Mutual Release and is not to be construed as an admission of liability on the part of any party.

2. **Recitals.** The Recitals set forth above in the WHEREAS clauses are incorporated herein by reference as if fully set forth herein.

3. **Dismissal of Claims with Prejudice by PLAINTIFFS.** PLAINTIFFS shall dismiss all claims with prejudice brought in their Complaint and Complaint for Writ of Mandamus against BALDWIN COUNTY DEFENDANTS, FORESITE, CITY OF DAPHNE, and MALBIS PLANTATION. PLAINTIFFS also agree they shall not pursue or file any claims with any Court against CVS arising out of the proposed construction of the CVS Pharmacy;

4. **Release by PLAINTIFFS.** In exchange for the Consideration(s) set forth above, PLAINTIFFS, on behalf of themselves and their respective heirs, executors, administrators, assigns, officers, directors, agents, servants, employees, representatives, and insurers, do hereby forever fully, finally, and absolutely release, remise, acquit, and discharge BALDWIN COUNTY DEFENDANTS, FORESITE, CVS, CITY OF DAPHNE, and MALBIS PLANTATION (together with all past, present and future agents, representatives, directors, officers, employees, shareholders, executors, heirs, successors, predecessors, trustees, dependents, administrators, attorneys, experts, insurers, reinsurers, insurance brokers, predecessor-, successor-, affiliated-, subsidiary-, parent-corporations, related legal entities with common or overlapping ownership, and all other individuals and legal entities in any way associated with such named parties, included all parties described or listed above) of and from any and all claims, contractual obligations, demands, actions, causes of actions, suits, costs, damages, expenses, legal fees, compensation, and liability of every kind, character, and description, either direct, indirect, or consequential, known and unknown, which now exist or may arise in the future, at law, in equity, or under statute, in contract, tort or otherwise, which may in any way relate, directly or indirectly, to all claims arising out of or related to the proposed CVS Pharmacy.

5. **Release by DEFENDANTS.** In further exchange for the Consideration(s) set forth above, BALDWIN COUNTY DEFENDANTS, FORESITE, CVS, CITY OF DAPHNE, and MALBIS PLANTATION, on behalf of themselves and their respective heirs, executors, administrators, assigns, officers, directors, agents, servants, employees, representatives, and insurers, do hereby forever fully, finally, and absolutely release, remise, acquit, and discharge MALBIS LANE, C. GODWIN, and B. GODWIN (together with all past, present and future agents, representatives, directors, officers, employees, shareholders, executors, heirs, successors, predecessors, trustees, dependents, administrators, attorneys, experts, insurers, reinsurers, insurance brokers, predecessor-, successor-, affiliated-, subsidiary-, parent-corporations, related legal entities with common or overlapping ownership, and all other individuals and legal entities in any way associated with such named parties, included all parties described or listed above) of and from any and all claims, contractual obligations, demands, actions, causes of actions, suits, costs, damages, expenses, legal fees, compensation, and liability of every kind, character, and description, either direct, indirect, or consequential, known and unknown, which now exist or may arise in the future, at law, in equity, or under statute, in contract, tort or otherwise, which may in any way relate, directly or indirectly, to all claims arising out of or related to the proposed CVS Pharmacy.

6. **No Admission of Liability.** The considerations for this Agreement are being made as a compromise of disputed claims between and among the Parties hereto and to extinguish any and all existing or potential rights and liabilities relating to the disputed claims. Any agreement made herein is not to be construed as an admission of liability on the part of any party, as any and all liability is in fact denied and disputed by each and every party. The primary purpose of this overall Agreement is economic and is to prevent the waste and further expense associated with protracted litigation.

7. **Successors.** This Agreement will be binding upon and inure to the benefit of the parties hereto, and all persons, firms and other legal entities herein released, and their respective successors and assigns.

8. **Amendments.** No amendment or variation of the terms or provisions of this Agreement will be valid unless made in writing and signed by each of the parties hereto.

9. **Execution.** This Agreement may be executed in multiple counterparts, each of which will be deemed an original and, taken together, will constitute one agreement.

10. **Entire Agreement.** This Agreement is an integrated agreement, containing the entire understanding between the parties regarding the matters addressed herein. No representation, warranties, promises, inducements or other agreements have been made or relied upon by the parties to this Agreement. This Agreement will prevail over prior communications regarding the matters contained herein.

11. **Jurisdiction of the Court.** Notwithstanding the dismissal with prejudice of the litigation, the Circuit Court of Baldwin County, Alabama, shall retain jurisdiction to enforce the Agreement.

12. **Rule of Construction.** The language of all parts of this Agreement was fully and fairly negotiated by the parties, and no party shall have the benefit of any presumption otherwise afforded to a party to an agreement who was not the drafter of the agreement.

13. **Duress.** Each of the Parties hereto has entered into this Agreement without undue influence, coercion, duress, or restraint having been practiced on them by any other Party hereto.

13. **Other Legal Proceedings.** Except to enforce the terms of the Agreement or to respond to assertions about its effect, no party shall use the execution of the Agreement, or any negotiations leading to its execution, against any other party in any litigation, arbitration or other legal proceeding.

MALBIS LANE/VLAHOS LANE PROPERTY OWNERS ASSOCIATION

By _____, its _____

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that _____, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, he/she signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this ____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

John L. Lawler
Attorney for Plaintiffs
Post Office Box 47
Mobile, Alabama 36601

CLIFFORD R. GODWIN

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that CLIFFORD R. GODWIN, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, he signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

John L. Lawler
Attorney for Plaintiffs
Post Office Box 47
Mobile, Alabama 36601

BETTY M. GODWIN

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that BETTY M. GODWIN, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, she signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

John L. Lawler
Attorney for Plaintiffs
Post Office Box 47
Mobile, Alabama 36601

BALDWIN COUNTY COMMISSION

By _____, its _____

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that _____, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, he/she signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

Hope C. Hicks, Esq.
Attorney for Baldwin County Commission and
Baldwin County Planning and Zoning Commission
Post Office Box 240909
Montgomery, Alabama 36124

BALDWIN COUNTY PLANNING AND ZONING COMMISSION

By _____, its _____

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that _____, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, he/she signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

Hope C. Hicks, Esq.
Attorney for Baldwin County Commission and
Baldwin County Planning and Zoning Commission
Post Office Box 240909
Montgomery, Alabama 36124

FORESITE GROUP, INC.

By _____, its _____

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that _____, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, he/she signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

Vincent A. Noletto, Jr., Esq.
Attorney for CVS 10206 AL, L.L.C.
6251 Monroe Street, Suite 200
Mobile, Alabama 36526

CVS 10206 AL, L.L.C.

By _____, its _____

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that _____, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, he/she signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

Vincent A. Noletto, Jr., Esq.
Attorney for CVS Caremark Corporation
6251 Monroe Street, Suite 200
Mobile, Alabama 36526

CVS CAREMARK CORPORATION

By _____, its _____

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that _____, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, he/she signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

Vincent A. Noletto, Jr., Esq.
Attorney for Foresite Group, Inc.
6251 Monroe Street, Suite 200
Mobile, Alabama 36526

PLANNING AND ZONING COMMISSION OF THE CITY OF DAPHNE

By _____, its _____

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that _____, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, he/she signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

Jay M. Ross, Esq.
Kevin L. Boucher, Esq.
Attorneys for Planning and Zoning Commission
of the City of Daphne
Post Office Box 1348
Mobile, Alabama 36633

Mark L. Redditt, Esq.
H. Finn Cox, Jr.
Attorneys for Planning and Zoning Commission
of the City of Daphne
Post Office Drawer 2568
Mobile, Alabama 36652

THE CITY OF DAPHNE

By _____, its _____

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that _____, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, he/she signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

Jay M. Ross, Esq.
Kevin L. Boucher, Esq.
Attorneys for The City of Daphne
Post Office Box 1348
Mobile, Alabama 36633

Mark L. Redditt, Esq.
H. Finn Cox, Jr.
Attorneys for The City of Daphne
Post Office Drawer 2568
Mobile, Alabama 36652

MALBIS PLANTATION, INC.

By _____, its _____

Date: _____

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that _____, whose name is signed to the foregoing document and who is known to me, acknowledged before me on this day that being informed of the contents of the foregoing document, he/she signed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, 2014.

Notary Public, _____ County, _____
My Commission Expires: _____

Approved By:

Michael C. Niemeyer, Esq.
Attorney for Malbis Plantation, Inc.
Post Office Box 1499
Fairhope, Alabama 36533

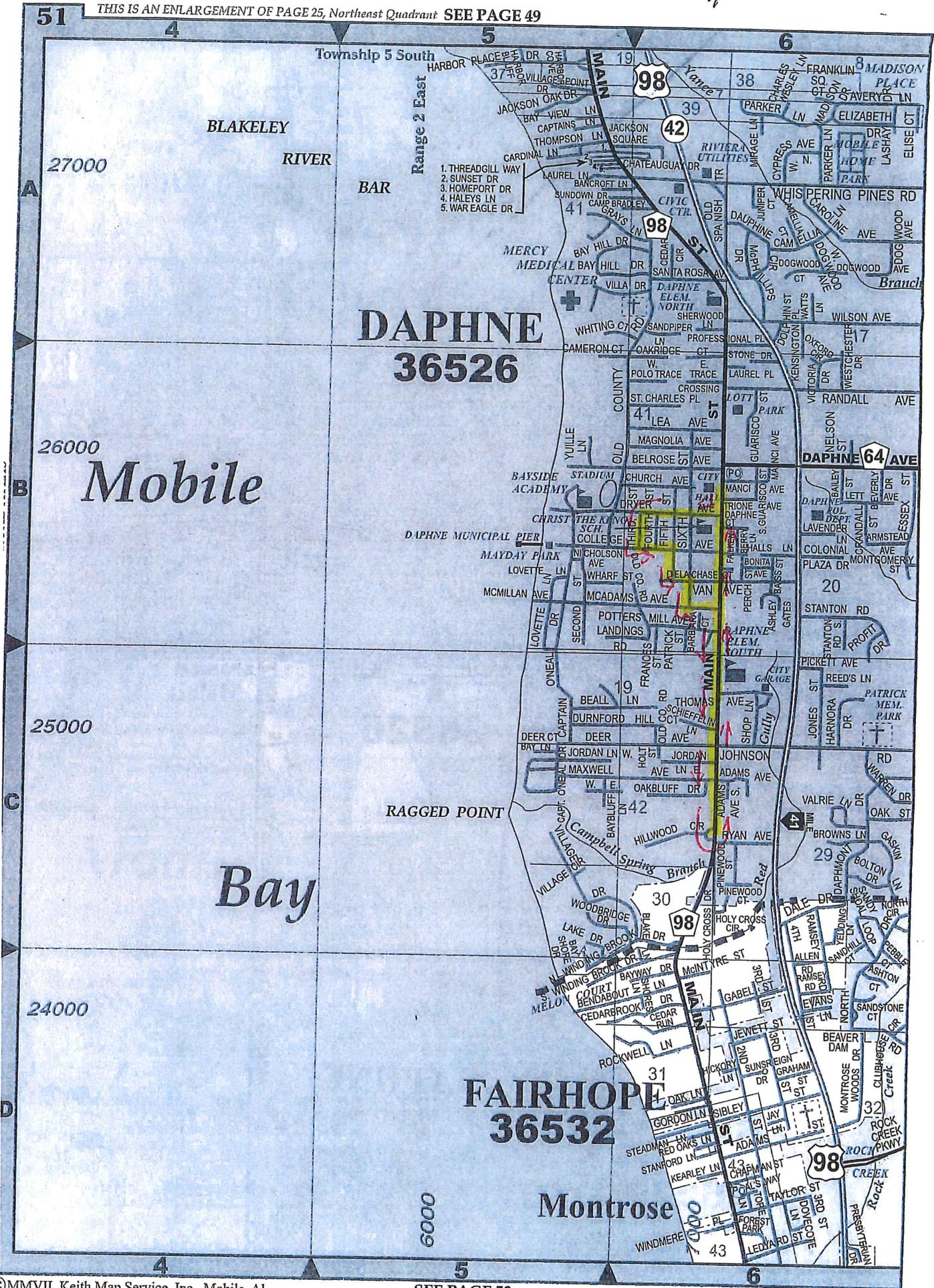
CITY OF DAPHNE PARADE PERMIT

ORGANIZATION:	<i>Lupus Foundation</i>
CONTACT PERSON:	<i>Lucy King</i>
ADDRESS:	<i>11351 Halcyon Look Daphne, AL 36526</i>
PHONE NUMBER (HOME): PHONE NUMBER (BUSINESS): CELL NUMBER: E-MAIL ADDRESS:	<i>251-753-7989 <u>Lkking15@aol.com</u></i>
TYPE OF PARADE:	<i>Fund Raiser/ 5k</i>
DATE OF PARADE:	<i>March 21, 2015</i>
ROUTE TO BE TRAVELED:	<i>See attached map</i>
APPROXIMATE # OF PEOPLE & CARS:	<i>125</i>
START TIME:	<i>8:00 am</i>
STOP TIME:	<i>12 noon</i>
ASSEMBLY AREA/STREET:	<i>City Hall</i>
ASSEMBLY TIME:	<i>7:30 am</i>
SPECIAL INSTRUCTIONS:	
DATE APPLIED:	<i>May 29, 2014</i>
APPROVAL	
POLICE: Chief David Carpenter	<i>David Carpenter</i>
FIRE: Chief James White	<i>James White</i>
PUBLIC WORKS: Richard Johnson	<i>Richard Johnson</i> * PER CITY RUN ROUTE RJD
RECREATION: David McKelroy	<i>David McKelroy</i>
CITY COUNCIL APPROVAL:	
SPECIAL INSTRUCTIONS:	
DATE ROUTED:	
NOTIFICATION	

*route 3 selected,
See attached*

4

3



RESOLUTIONS
&
ORDINANCES

CITY OF DAPHNE

RESOLUTION 2014-42

A RESOLUTION OF THE DAPHNE CITY COUNCIL SUPPORTING INTERCHANGE IMPROVEMENTS TO THE INTERSTATE 10 INTERCHANGE AT STATE ROUTE 181

WEHREAS, the City of Daphne is a member of the Eastern Shore Metropolitan Planning Organization (MPO); and

WHEREAS, population projections compiled by the MPO indicate that the population on the Eastern Shore is expected to increase approximately 21% by the year 2020 and approximately 67% by the year 2040; and

WHEREAS, a significant amount of the projected growth is expected to take place in and around the City of Daphne; and

WHEREAS, new infrastructure will be required to accommodate the anticipated population increases and corresponding increases in traffic; and

WHEREAS, improvements to the Interstate 10 interchange at State Route 181 would provide more efficient traffic flow for Daphne residents who need to access Interstate 10; and

WHEREAS, the MPO is developing a Long Range Transportation Plan with a twenty-year planning horizon to plan for future transportation needs.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Daphne, Alabama, supports further investigation into possible improvements (see Exhibit A and Exhibit B) to the interchange on Interstate 10 at State Route 181 and requests that the MPO place a project in the Long Range Transportation Plan for further consideration.

ADOPTED AND APPROVED this _____ day of _____, 2014.

**DANE HAYGOOD,
MAYOR**

ATTEST:

**REBECCA A. HAYES
CITY CLERK**

RESOLUTION 2014-43
Acceptance of Streets and Drainage
Located in TimberCreek Subdivision, Phase, 11

Whereas, the City Council of the City of Daphne, Alabama has received notice that the Planning Commission of Daphne has given Final Plat approval to TimberCreek Subdivision, Phase 11, on June 26, 2014, and the City of Daphne hereby recommends acceptance of said street(s) located in TimberCreek Subdivision, Phase 11; and,

Whereas, an inspection was made by the Director of Community Development, and all TimberCreek Subdivision, Phase 11 reports, as well as, all other related documents have been provided stating that said streets and stormwater drainage have been installed in conformity with city standards; and,

Whereas, an inspection was made by the Director of the Division of Public Works, and has recommended acceptance of said streets and associated stormwater drainage of TimberCreek Subdivision, Phase 11; and,

Whereas, the Daphne Utilities accepted the utilities of TimberCreek Subdivision, Phase 11; and,

Whereas, the developer has provided to the City a two-year maintenance bond in the amount of \$68,000.00 as required and requests acceptance and dedication of the same for maintenance of said improvements as outlined in Article XVII, entitled Procedures for Subdivision Review of the City of Daphne Land Use and Development Ordinance; and,

Whereas, the developer has caused the plat to be recorded on slides 2509-A, 2509-B and 2509-C of the records in the Baldwin County Judge of Probate Office; and,

Whereas, the City Council of the City of Daphne believes it is in the best interest of the citizens of the City for the City to accept said right-of-way; and,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS, that six (6) TimberCreek Subdivision, Phase 11 streets named: Persimmon Drive, the remaining portion thereof (885 linear feet) a 60-ft wide r.o.w.; Hemlock Street (485 linear feet) a 50-ft wide r.o.w.; Pine Run, the remaining portion thereof (685 linear feet) a 60-ft wide r.o.w.; Pine Run Court (516 linear feet) a 50-ft wide r.o.w.; Tamarack Drive (708 linear feet) a 50-ft wide r.o.w.; and Elderberry Drive (3,291 linear feet) a 60-ft wide r.o.w.; **are hereby accepted by the City of Daphne, Alabama as city streets for maintenance.**

ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE ____ DAY OF _____, 2014.

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

DANE HAYGOOD, MAYOR

ATTEST:

REBECCA A. HAYES, CITY CLERK

McCrorry Williams
INCORPORATED
E n g i n e e r s S u r v e y o r s

June 23, 2014

City of Daphne
Director of Community Development
P.O. Box 400
Daphne, AL 36526

Attn: Mrs. Adrienne Jones

RE: Timbercreek Phase II

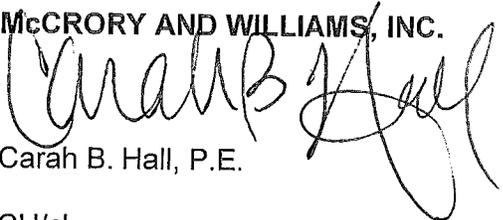
Dear Mrs. Jones,

We have submitted a Petition for Acceptance of Roads and/or Rights-of-Way for Timbercreek Phase 11 for the upcoming July 24th Planning Commission Meeting. Included with the Petition is the required two-year Maintenance Bond. Please accept this transmittal request for the City of Daphne to accept the streets and right-of-ways for the referenced subdivision. Said streets are Elderberry Drive (3291 LF/60 FT ROW), Persimmon Drive (885 LF/60 FT ROW), Hemlock Street (485 LF/50 FT ROW), Tamarack Drive (708 LF/50 FT ROW), Pine Run (685 LF/60 FT ROW), and Pine Run Court (516 LF/50 FT ROW).

If you have any questions or require additional information, please do not hesitate to contact us at any time.

Yours truly,

McCROORY AND WILLIAMS, INC.


Carah B. Hall, P.E.

CH/ch

**CITY OF DAPHNE
PETITION FOR ACCEPTANCE
OF ROAD(S) AND/OR RIGHTS-OF-WAY**

SUBDIVISION NAME: TIMBER CREEK PHASE 11

LOCATION: SOUTH OF HIGHWAY 31, NORTH OF I-10, WEST OF HWY 181. SEE ATTACHED
LEGAL DESCRIPTION

THIS PETITION FOR ACCEPTANCE OF ROADS AND/OR RIGHTS-OF-WAY is made this 26 day of JUNE, 2014 by INTERSTATE BALDWIN INVESTMENTS, LLC, hereinafter called "the subdivider," owner of certain property located in the City of Daphne, Alabama known as TIMBER CREEK PHASE 11 to be recorded in the office of the Judge of Probate of Baldwin County, Alabama; and,

WHEREAS, the subdivider has agreed to the dedication of the roads and rights-of-way located in said subdivision to the City of Daphne, and further warrants that said roads and rights-of-way are complete and are in compliance with the minimum standards as outlined for construction in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled Procedures for Subdivision Review, and Article XI, Minimum Requirements and Required Improvements for Subdivisions and Commercial Site Developments. The subdivider further warrants that the same are free from defects from any cause and are free and clear of any liens and encumbrances; and,

WHEREAS, a bond is required by the City as a condition of the acceptance of any new roads or rights-of-way as outlined in Article XVII in an amount equal to ten percent (10%) of all street and drainage improvements in the subdivision as a warranty for such improvements to last for a period of two (2) years after the date of dedication and upon acceptance by the City Council, the subdivider has provided a \$ 68,000.00 maintenance bond; and,

WHEREAS, the project engineer, Donald F. Coleman, acting on behalf of the subdivider does hereby certify that all roads and rights-of-ways are complete and are in compliance with the minimum standards for construction as outlined in the City of Daphne Land Use and Development Ordinance, Article XVII, entitled, Procedures for Subdivision Review, and Article XI, Minimum Requirements and Required Improvements for Subdivisions and Commercial Site Developments, and further warrants that the same are free

**CITY OF DAPHNE
 PETITION FOR ACCEPTANCE
 OF ROAD(S) AND/OR RIGHTS-OF-WAY**

from defects from any cause; and,

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the subdivider does hereby dedicate the roads and rights-of-way in said subdivision to the City of Daphne, a municipal corporation, as per the favorable recommendation of the City of Daphne Planning Commission voted upon at its meeting held on JUNE 26, 2014. Said subdivision according the plat recorded in the Judge of Probate, Baldwin County, Alabama and said streets being named as follows:

Name of Right of Way/	Length (linear feet)/	Width (feet)
ELDERBERRY DRIVE	3291 FEET	60 FEET
PERSIMMON DRIVE	885 FEET	60 FEET
HEMLOCK STREET	485 FEET	50 FEET
TAMARACK DRIVE	708 FEET	50 FEET
PINE RUN	685 FEET	60 FEET
PINE RUN COURT	516 FEET	50 FEET

Are each hereby dedicated to the City of Daphne, Alabama as a city street.

**CITY OF DAPHNE
PETITION FOR ACCEPTANCE
OF ROAD(S) AND/OR RIGHTS-OF-WAY**

IN WITNESS WHEREOF, the subdivider has caused the execution of this dedication as of the date set forth above.

Respectfully submitted,
Interstate Baldwin Investments, LLC
Name of Individual or Corporation (Printed)

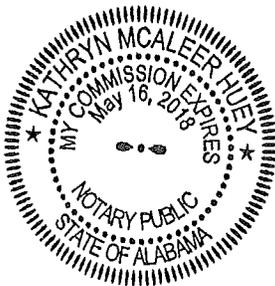
By: W. Allen Cox W. Allen Cox
(Print Legibly and Sign)

Its: Manager Manager
(Print Legibly)

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned Notary Public in and for said State and County, hereby certify that W. Allen Cox whose name as Manager of Interstate Baldwin Investments LLC an Alabama corporation or as owner of _____ is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer or owner and with full authority, executed the same voluntarily on the day same bears date.

Given under my hand and official seal on this the 20th day of June, 2014.



Kathryn McAleer Huey (NOTARY SEAL)
NOTARY PUBLIC
My commission expires: 5/16/18

**CITY OF DAPHNE
PETITION FOR ACCEPTANCE
OF ROAD(S) AND/OR RIGHTS-OF-WAY**

Favorable recommendation on behalf of Daphne Public Works:


Richard D. Johnson, P.E.
Public Works Director
City of Daphne

Favorable recommendation on behalf of Daphne Planning Commission:


Larry Chason
Planning Commission Chairman
City of Daphne

MAINTENANCE BOND

Bond No. 58717007

KNOW ALL PERSONS BY THESE PRESENTS, That we Frank Turner Construction Co., Inc.

_____ of

10140 Tanner Williams Road, Mobile, AL 36608, hereinafter

referred to as the Principal, and Western Surety Company,

as Surety, are held and firmly bound unto City of Daphne

of P.O. Drawer 400, Daphne, AL 36526, hereinafter

referred to as the Obligee, in the sum of Sixty Eight Thousand Dollars and 00/100

Dollars (\$ 68,000.00), for the payment of which we bind ourselves, our legal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal entered into a contract with the Interstate-Baldwin Investments, LLC

_____ dated

August 9, 2013, for Timbercreek, Phase 11

WHEREAS, said contract provides that the Principal will furnish a bond conditioned to guarantee for the period of Two (2) year(s) after approval of the final estimate on said job, by the owner, against all defects in workmanship and materials which may become apparent during said period, and

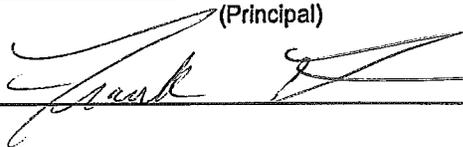
WHEREAS, the said contract has been completed, and was approved on _____, _____.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that, if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of any defective materials or workmanship which become apparent during the period of Two (2) year(s) from and after June 19, 2014 then this obligation shall be void, otherwise to remain in full force and effect.

SIGNED, SEALED AND DATED this 19th day of June, 2014.

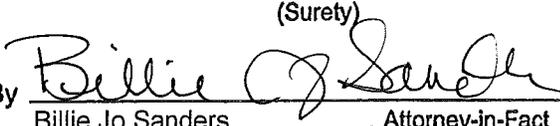
Frank Turner Construction Co., Inc.

(Principal)

By  (Seal)

Western Surety Company

(Surety)

By  (Seal)
Billie Jo Sanders, Attorney-in-Fact

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Thomas J Gentile, Billie Jo Sanders, Renee Ellis, Paul B Scott Jr., David J Durden, Individually

of Montgomery, AL, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 2nd day of October, 2012.



WESTERN SURETY COMPANY

Paul T. Bruflat

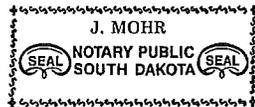
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 2nd day of October, 2012, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2015



J. Mohr

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 19th day of June, 2014



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

CITY OF DAPHNE

RESOLUTION 2014-44

REQUESTING AN ADVISORY OPINION FROM THE ATTORNEY GENERAL OF THE STATE OF ALABAMA, CONCERNING THE PERMISSIBILITY OF OPERATING BICYCLES ON PUBLIC ROADS AND SIDEWALKS UNDER TITLE 32 OF ALABAMA LAW.

KNOW ALL MEN BY THESE PRESENTS, that the Daphne City Council supplies the following administrative information regarding its request for an Advisory Opinion from the Attorney General of the State of Alabama:

DATE: August 4, 2014
NAME: Randy Fry, Council President
MAILING ADDRESS: Post Office Box 400
Daphne, Alabama 36526
TELEPHONE NUMBER: (251) 621-9000

PUBLIC TITLE OR OFFICIAL PUBLIC POSITION WHICH QUALIFIES THE NAMED INDIVIDUAL AND ENTITY TO REQUEST AN ADVISORY OPINION:

Council President

COUNTY/CITY AGENCY: Daphne City Council

WHEREAS, the Daphne City Council is charged with the responsibility of promulgating rules and regulation for the operation of the City of Daphne (“City” or “Daphne”) and overseeing the enforcement of said rules and regulations through various law enforcement officers and code enforcement officers; ALA. CODE § 45-2A-30.01 (1975); *see also* DAPHNE, ALA., CODE § 1-1 *et. seq.* (1996).

WHEREAS, the City of Daphne Ordinance § 19-1 adopts “all laws of the state and all rules and regulations of the state department of public safety now existing or hereafter enacted pertaining to the control of traffic and motor vehicles on highways . . .” and makes the violation of such laws or rules in the City or the City’s police jurisdiction a violation of the City’s ordinances; DAPHNE CODE § 19-1.

WHEREAS, the advice sought herein is necessary to the present performance of the Daphne City Council’s responsibilities under Alabama Law; ALA. CODE § 45-2A-30.01; *see also id.* § 36-15-1(1)d.

WHEREAS, the Daphne City Council does hereby set forth the following background information related to its request for an advisory opinion:

The City of Daphne has over 65 linear miles of sidewalk within the corporate city limits, including a portion of the 36-mile long Eastern Shore Trail. The Eastern Shore Trail is a 6-foot to 8-foot wide sidewalk that runs along Scenic Highway 98 through the City limits. Many of Daphne's nearly 23,000 residents enjoy riding their bicycles throughout the city. Some of these cyclists prefer to ride their bicycles on the public sidewalks while others prefer to ride on the public roads. In recent months questions have been raised regarding whether cyclists can lawfully operate their bicycles on public sidewalks and whether cyclists can lawfully operate their bicycles on public roads.

Alabama Code § 32-1-1.1 defines a vehicle for the purposes of Title 32 as follows:

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or electric personal assistive mobility devices; *provided, that for the purposes of this title, a bicycle* or a ridden animal *shall be deemed a vehicle*, except those provisions of this title, which by their very nature can have no application. ALA. CODE § 32-1-1.1(81).

Alabama Code § 32-54-52 states that “[n]o person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.” ALA. CODE § 32-54-52. Section 32-54-52, read in combination with the definition of a vehicle in section 32-1-1.1, appears to make the operation of a bicycle on a sidewalk unlawful.

Alabama Code § 32-54-263 addresses the use of bicycles on roadways and bike paths, stating, “[w]herever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.” Section 32-54-52 indicates that cyclists may be required to utilize sidewalks, or at least certain types of sidewalks/paths, in direct conflict with section 32-54-52.

WHEREAS, the Daphne City Council requests an Attorney General's opinion as it relates to the permissible use of public sidewalks and public roadways by cyclists.

NOW, THEREFORE, THE PREMISES CONSIDERED, BE IT RESOLVED BY THE DAPHNE CITY COUNCIL, that it respectfully requests an Advisory Opinion from the Attorney General of the State of Alabama on the following specific questions:

QUESTIONS:

1. Is a bicycle a “vehicle” such that the operation of a bicycle on a public sidewalk is unlawful under Alabama Code § 32-5A-52?
2. Under what circumstances, if any, may a bicycle be operated on a sidewalk?
3. May a municipality enact laws allowing the operation of a bicycle on public sidewalks?
4. Is a sidewalk a “usable path” such that cyclists are required to utilize the sidewalk if such a sidewalk exists adjacent to the roadway?

Furthermore, the Daphne City Council is hereby authorized to take any and all action deemed necessary to request an opinion from the Attorney General of the State of Alabama based on the information and questions set forth above.

DONE, under the Seal of the Daphne City Council on the _____ day of _____, 2014.

**DANE HAYGOOD,
MAYOR**

ATTEST:

**REBECCA A. HAYES
CITY CLERK**

**CITY OF DAPHNE
RESOLUTION NO. 2014 - 45**

REVISIONS TO CITY OF DAPHNE STREET MAP

WHEREAS, the Planning Commission of the City of Daphne, Alabama at their regular meeting held on July 24, 2014 approved a favorable recommendation to the City Council of the City of Daphne, Alabama for a revision to the City of Daphne Street Map and presented at said meeting; and

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

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

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

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

SECTION I: ADOPTION OF MAP

THAT the City of Daphne Street Map was considered by the City of Daphne Planning Commission on July 24, 2014, and having made a favorable recommendation to the City Council and said revised map being attached hereto as Exhibit "A" is hereby adopted as the official "City of Daphne Street Map."

SECTION II: REPEALER

THAT Resolution No. 2013-41 entitled "City of Daphne Street Map" is hereby repealed in its entirety and any Resolution(s) or parts of Resolution(s) conflicting with the provisions of this Resolution are hereby repealed insofar as they conflict.

SECTION III: EFFECTIVE DATE

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA ON THIS THE _____ DAY OF _____, 2014.

**DANE HAYGOOD,
MAYOR**

ATTEST:

**REBECCA A. HAYES,
CITY CLERK**

Every six months the Department of Community Development creates new official city zoning and street maps for the Council’s adoption. All modifications shown on these two maps have been approved by the Planning Commission (recorded preliminary/final and/or final subdivision plat) and/or the City Council (annexation, zoning and/or street acceptance resolution).

- **ANNEXATION:** During this period the City limits remain 16.62 sq. miles. No land annexed into corporate limits.
- **ZONING:** No property has been rezoned, although the pre-zoning and annexation process has begun for land at the northwest intersection of County Roads 13 and 64 (anticipate Council action early September 2014).
- **INFRASTRUCTURE:** The city has accepted additional roads or rights of way for maintenance south of Profit Drive then renamed the right of way “Bailey Yelding, Jr. Dr.” and in Bellaton Phase 3.
- **DEVELOPMENT:** 139 new single family residential lots have been created in the City; 9 new residential lots in our Extra-Territorial Jurisdiction.

Instrument	Approval	Action	Size
<i>Rezoning</i>	n/a		
<i>Annexation</i>	n/a		
Street Acceptances			
<i>R.O.W. acceptance N. of Johnson Rd & S. Profit Dr</i>	01/06/14	Council Resolution #2014-01	
<i>Naming R.O.W. “Bailey Yelding, Jr. Drive”</i>	01/21/14	Council Resolution #2014-05	
<i>R.O.W. acceptance-Bellaton Subdivision</i>	04/21/14	Council Resolution #2014-17	
Subdivisions--- Probate Slide Number	Date of PC Approval Recorded since last map revision	New lots created (from original lot)	Corporate Limits?
<i>2502-C Trott Subdivision</i>	01/23/14	4	No ETJ
<i>2502-B Bienvenue Estates</i>	02/27/14	1	No ETJ
<i>2504-C Orchard Farms Replat of Lots 1,2,5</i>	02/27/14	0-replat	No ETJ
<i>2507-D Colonnade at Eastern Shore, Replat of lot 1 Springs at Eastern Shore</i>	03/27/14	0- replat	Yes
<i>2504-E Bellaton Phase 3</i>	03/27/14	39	Yes
<i>2505-C Broadway-AL Highway 181</i>	03/27/14	1	No ETJ
<i>2506-C Terri Subdivision</i>	04/24/14	3	No ETJ
<i>2509-A,B,C Timbercreek Phase II</i>	06/26/14	100	Yes
<i>*Approved in 2013, recorded after last map update</i>		--	--
<i>(2505-F) *Honda Division, (2496-F) *Lazzari *(2501-A) Gipson</i>			

July 2014 Planning Report



To: Office of the City Clerk
From: Adrienne D. Jones, 
Community Development Director
Subject: Revised City of Daphne Street Map
Date: July 25, 2014

MEMORANDUM

At the July 24, 2014, regular meeting of the City of Daphne Planning Commission, six members were present. The motion to set forth a **favorable recommendation** carried unanimously of the above-mentioned revision to the street map.

Attached please find the appropriate documentation and action of the Daphne Planning Commission.

Upon receipt of said documentation, please prepare a resolution for placement on the City Council agenda of Monday, August 4, 2014.

Thank you,
ADJ/jv

cc: file

attachment(s)

1. Street Map Six-Month Report (Copy Attached)
2. Street Map (Display - Posted in Council Chambers)

RESOLUTION 2014-46

RESOLUTION TO AUTHORIZE THE MAYOR TO HAVE PROCEEDINGS AND OFFERING DOCUMENT PREPARED WITH RESPECT TO THE SERIES 2014 WARRANTS

BE IT RESOLVED by the City Council (the "Council") of Daphne, Alabama (the "City"), as follows:

Section 1. Findings of Fact. The Council has determined and hereby finds and declares that the following facts are true and correct:

(a) The City of Daphne, Alabama (the "City") has heretofore issued, pursuant to an Ordinance adopted by the Council on May 19, 2003 (the "2003 Ordinance"), its City of Daphne General Obligation Refunding Warrants, Series 2003, dated May 1, 2003, originally issued in the aggregate principal amount of \$6,455,000 (the "Series 2003 Warrants").

(b) The City has heretofore issued, pursuant to an Ordinance adopted by the Council on April 17, 2006 (the "2006 Ordinance"), its City of Daphne General Obligation Refunding and Improvement Warrants, Series 2006, dated April 1, 2006, originally issued in the aggregate principal amount of \$25,230,000 (the "Series 2006 Warrants").

(c) The City is not in default in the payment of principal of or interest on the Series 2003 Warrants or the Series 2006 Warrants or under the 2003 Ordinance or the 2006 Ordinance.

(d) It is necessary, advisable and in the interest of the public that the City issue its General Obligation Refunding Warrants, Series 2014 (the "Series 2014 Warrants") to provide funds to refund the Series 2003 Warrants and the Series 2006 Warrants and to pay costs of issuance and sale of such Warrants.

Section 2. Authorization with respect to the Series 2014 Warrants. The Mayor is hereby authorized to take all such actions as are necessary and appropriate to present the Series 2014 Warrants to the Council, including, without limitation, having bond counsel prepare authorizing proceedings for presentation to and approval of the Council and being a preliminary official statement or other offering document prepared for presentation to and approval of the Council. In the event he determines that it is desirable to do so in order to obtain favorable interest rates with respect to the Series 2014 Warrants, the Mayor is hereby authorized to execute a Warrant Purchase Agreement between the City and Harbor Financial Services, LLC with respect to the sale of the Series 2014 Warrants, which Warrant Purchase Agreement shall be subject, however, to final approval by the Council of an Authorizing Resolution with respect to the Series 2014 Warrants.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE,
ALABAMA, THIS _____ DAY OF _____, 2014.**

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

**DANE HAYGOOD,
MAYOR**

ATTEST:

**REBECCA A. HAYES,
CITY CLERK**

CLERK'S CERTIFICATE

I, Rebecca A. Hayes, City Clerk of the City of Daphne, Alabama, DO HEREBY CERTIFY that the attached Resolution 2014-____ is from the minutes of a regular meeting of the City Council of Daphne, Alabama, held on August 4, 2014, pertaining to the City's General Obligation Refunding Warrants, Series 2014, which meeting was called and assembled and was open to the public and at which a quorum was present and acting throughout, and that the original of said Resolution 2014-____ appears of record in the minute books of the City Council of Daphne, Alabama, which are in my custody and control.

Given under my hand and the seal of the City of Daphne, Alabama, this _____ day of _____, 2014.

Rebecca A. Hayes, City Clerk
City of Daphne

[SEAL]

ORDINANCE 2014-30

Appropriating Funds for Edgar Circle / Melanie Loop Emergency Drainage Repair

WHEREAS, Ordinance 2013-50 approved and adopted the Fiscal Year 2014 Budget on September 23, 2013; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2014 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2014 budget; and

WHEREAS, the City of Daphne received 16.5" of rainfall for the period of April 29-30, 2014; and

WHEREAS, as a result of such heavy rains, the Edgar Circle / Melanie Loop sustained severe damage; and

WHEREAS, the City of Daphne did receive and review bids for the Edgar Circle / Melanie Loop Emergency Drainage Repair Replacement and has determined that the bid as presented is reasonable (*Construction- \$389,771.50 + CE&I-\$45,926 = \$ 435,697.50 Total project cost*); and

WHEREAS, NRCS (Natural Resources Conservation Service) will reimburse 75% of Stream Channel Restoration portion of the project cost - \$186,240 (*NRCS-\$139,680 / City Match-\$46,560*) and FEMA grant monies are available for the remaining 75% of the project cost-\$249,458 (*FEMA-\$187,093 / City Match-\$62,365*) for the EDGAR CIRCLE / MELANIE LOOP EMERGENCY DRAINAGE REPAIR project; and

WHEREAS, historically the State of Alabama has participated in a local match and the City intends to make application with the State of Alabama upon receiving notification of State "local match" participation.

NOW, THEREFORE, BE IT ORDAINED, that:

1. The City Council of the City of Daphne deems this project is key to the recovery efforts associated with this rain event and the repair of this public infrastructure is necessary to preserve the health, safety, and convenience of the public.
2. This project's total cost is \$435,698 and is a qualifying NRCS and FEMA PA project at a guaranteed total reimbursement of \$326,773 (*NRCS 75% of Channel Restoration portion - \$139,680 + FEMA 75% of balance of project cost - \$187,093*).
3. Fiscal Year 2014 Budget is hereby amended to include an appropriation in the amount of \$108,925 from the General Fund for the Edgar Circle / Melanie Loop Emergency Drainage Repair cost not reimbursed by NRCS and FEMA.
4. If the State of Alabama approves a local match the City will apply for reimbursement of the remaining 25% (\$108,925) according to the State participation level.
5. The Mayor is hereby authorized to make application with NRCS, FEMA and the State of Alabama for the reimbursement of such funds and to sign and execute all documents associated with the described projects.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this ____ day of _____, 2014.

Dane Haygood, Mayor

Attest:

Rebecca A. Hayes, City Clerk

ORDINANCE 2014-31

Appropriating Funds for Daphne Sports Complex Parking Lot

WHEREAS, Ordinance 2013-50 approved and adopted the Fiscal Year 2014 Budget on September 23, 2013; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2014 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2014 budget; and

WHEREAS, the City of Daphne received 16.5" of rainfall for the period of April 29-30, 2014; and

WHEREAS, as a result of such heavy rains, the south east parking lot of Daphne Sports Complex sustained severe damage; and

WHEREAS, the City of Daphne did receive and review bids for the repair of the south east parking lot of Daphne Sports Complex and has determined that the bid as presented is reasonable (*Construction- \$12,662.00 + CE&I + Material Testing -\$2,000.00 = \$14,662.00 Total project cost*); and

WHEREAS, FEMA grant monies are available for 75% of the project cost (\$10,996.50) for the repair of the south east parking lot of Daphne Sports Complex project; and

WHEREAS, the State of Alabama EMA monies are available for 12.5% of the project cost (\$1,832.75) for the repair of the south east parking lot of Daphne Sports Complex project; and; and

NOW, THEREFORE, BE IT ORDAINED, that:

1. The City Council of the City of Daphne deems this project is key to the recovery efforts associated with this rain event and the repair of this public infrastructure is necessary to preserve the health, safety, and convenience of the public.
2. This project is a qualifying FEMA and State EMA PA, Cat G project at a guaranteed 87.5% reimbursement (\$12,829.25).
3. Fiscal Year 2014 Budget is hereby amended to include an appropriation in the amount of \$1,832.75 from the General Fund for the repair of the south east parking lot of Daphne Sports Complex cost not reimbursed by FEMA and the State EMA.
4. The Mayor is hereby authorized to make application with FEMA and the State of Alabama EMA for the reimbursement of such funds and to sign and execute all documents associated with the described projects.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this ____ day of _____, 2014.

Attest:

Dane Haygood, Mayor

Rebecca A. Hayes, City Clerk

Dane Haygood
Mayor

Rebecca Hayes
City Clerk

Finance Director/Treasurer

Richard D. Johnson, P.E.
Director of Public Works



Tommie Conaway
District 1

Pat Rudicell
District 2

John L. Lake
District 3

Randy Fry
District 4

Ronald Scott
District 5

Robin LeJeune
District 6

Joe Davis, III
District 7

Memorandum

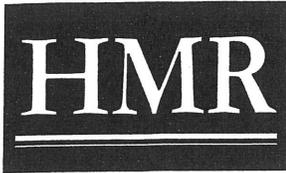
To: Councilman Randy Fry – President; Councilwoman Conaway, Finance
Thru: The Honorable Mayor Dane Haygood
From: Richard D. Johnson, P.E.; Public Works Director 
CC: HMR Engineers; Finance; File
Date: July 16, 2014
Re: Project 2014-RE09 - Daphne Sports Complex Parking Lot

Mr. Mayor:

Based upon the quote tabulations provided by the Project Engineer, HMR Engineers, on July 16, 2014, it is my recommendation to award the Contract to Asphalt Services, Inc. (ASI) for the repair of the south east parking lot of Daphne Sports Complex. The damage to the parking lot occurred during the April 29 & 20, 2014 flood event. They are the qualifying low quote.

I further recommend the following appropriations be made:

- Contract to repair SE Parking Lot (ASI) \$ 12,662.00*
 *Note: 75% reimbursable FEMA PA Category G: Parks
 12.5% reimbursable State EMA
 (FEMA/EMA: \$11,079.25 City Match: \$1,582.75)
 - Construction Engineering Inspection & Testing (HMR): \$ 2,000.00**
 **Note: 75% reimbursable FEMA PA Category G: Parks
 12.5% reimbursable State EMA
 (FEMA/EMA: \$1,750.00 City Match: \$250.00)
- | | |
|----------------|---------------|
| Project Total: | \$ 14,6662.00 |
| City Match: | \$ 1,832.75 |



HUTCHINSON, MOORE & RAUCH, LLC

Post Office Box 1127
Daphne, Alabama 36526

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

July 16, 2014

Mayor Dane Haygood
City of Daphne
Post Office Box 400
Daphne, AL 36526

RE: Daphne Sports Complex Emergency Repair

Dear Mayor Haygood:

Enclosed is the Tabulation of Bids received July 16, 2014 for the subject project.

We recommend that you award the Contract to Asphalt Services, Inc. at their submitted lowest bid of \$12,662.00.

Sincerely,

HUTCHINSON, MOORE & RAUCH, LLC

A handwritten signature in black ink, appearing to read 'Tim Lawley', written over a horizontal line.

Timothy D. Lawley, P.E.
Project Manager

vdjh
Enclosures

CITY OF DAPHNE
DAPHNE SPORTS COMPLEX EMERGENCY REPAIRS
JULY 16, 2014

 Hutchinson, Moore & Rauch, LLC Engineers ♦ Surveyors ♦ Land Planners				ASPHALT SERVICES, INC.		AMERICAN ASPHALT, INC.		AMMONS & BLACKMON CONSTRUCTION, LLC	
ITEM#	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
1	ASPHALT REMOVAL	SY	10	\$ 10.00	\$ 100.00	\$ 50.00	\$ 500.00	\$ 15.00	\$ 150.00
2	CURB REMOVAL (206-D)	LF	30	\$ 12.00	\$ 360.00	\$ 20.00	\$ 600.00	\$ 15.00	\$ 450.00
3	BORROW EXCAVATION (A-2-4 OR BETTER) (210-D)	CY (TBM)	40	\$ 20.00	\$ 800.00	\$ 18.00	\$ 720.00	\$ 35.00	\$ 1,400.00
4	GRANULAR SOIL BASE COURSE, UPPER LAYER, TYPE A, ROAD MIXED, 4" COMPACTED THICKNESS (301-A)	SY	30	\$ 8.00	\$ 240.00	\$ 15.00	\$ 450.00	\$ 12.50	\$ 375.00
5	GRANULAR SOIL BASE COURSE, LOWER LAYER, TYPE A, ROAD MIXED, 4" COMPACTED THICKNESS (301-A)	SY	39	\$ 8.00	\$ 312.00	\$ 15.00	\$ 585.00	\$ 12.50	\$ 487.50
6	BITUMINOUS WEARING SURFACE, 1/2" MAX AGG. SIZE, 165 #/SY (429-A)	TONS	3	\$ 300.00	\$ 900.00	\$ 500.00	\$ 1,500.00	\$ 350.00	\$ 1,050.00
7	MOBILIZATION (600-A)	LS	1	\$ 2,500.00	\$ 2,500.00	\$ 4,000.00	\$ 4,000.00	\$ 7,000.00	\$ 7,000.00
8	INLET THROAT & TOP REMOVAL (621-C)	EA	1	\$ 500.00	\$ 500.00	\$ 750.00	\$ 750.00	\$ 1,000.00	\$ 1,000.00
9	PARTIAL INLET (TYPE "S" DOUBLE WING THROAT & TOP) (621-C)	EA	1	\$ 3,500.00	\$ 3,500.00	\$ 4,000.00	\$ 4,000.00	\$ 3,500.00	\$ 3,500.00
10	TYPE M-2 CONCRETE CURB AND GUTTER (623-C)	LF	30	\$ 25.00	\$ 750.00	\$ 35.00	\$ 1,050.00	\$ 40.00	\$ 1,200.00
11	TOPSOIL (650-A)	CY	10	\$ 20.00	\$ 200.00	\$ 25.00	\$ 250.00	\$ 50.00	\$ 500.00
12	SOLID SOD (CENTIPEDE) (654-A)	SY	150	\$ 10.00	\$ 1,500.00	\$ 7.00	\$ 1,050.00	\$ 10.00	\$ 1,500.00
13	EROSION CONTROL	LS	1	\$ 1,000.00	\$ 1,000.00	\$ 2,000.00	\$ 2,000.00	\$ 800.00	\$ 800.00
TOTAL AMOUNT					\$ 12,662.00		\$ 17,455.00		\$ 19,412.50

We hereby certify this to be a true and correct tabulation on the above named project.


 Timothy D. Lawley, PE
 Project Manager
 Hutchinson, Moore & Rauch, LLC

STATE-LOCAL DISASTER ASSISTANCE AGREEMENT

DISASTER: FEMA 4176-DR-AL

CFDA # 097.036

APPLICANT NAME: _____

APPLICATION NO.: PA _____

TYPE DISASTER: Severe Storms, Tornadoes, Straight-line Winds and Flooding

INCIDENT PERIOD: April 28-May 5, 2014

COST SHARES: FEDERAL _____ STATE _____ LOCAL _____.

*

This agreement between the State of Alabama and the Applicant shall be effective on the date signed by the State and the Applicant. It shall apply to all assistance funds provided by or through the State to the Applicant as a result of the above referenced disaster and incident period.

The designated representative of the Applicant certifies that:

1. The representative has legal authority to apply for assistance on behalf of the Applicant.
2. The Applicant will provide all necessary financial and managerial resources to meet the terms and conditions of receiving federal and state disaster assistance.
3. The Applicant will use disaster assistance funds solely for the purpose for which these funds are provided and as approved by the Governor's Authorized Representative.
4. The Applicant is aware of and will comply with cost-sharing requirements for federal and state disaster assistance as shown above.
5. The Applicant will establish and maintain a proper accounting system to record revenues and expenditures of disaster assistance funds in accordance with generally accepted accounting standards and OMB circulars A-87, A-102, A-110, A-122, A-128, and A-133 as applicable.
6. The Applicant will give state and federal agencies designated by the Governor's Authorized Representative, access to and the right to examine all records and documents related to use of disaster assistance funds.
7. The Applicant will return to the State, within fifteen days of such request by the Governor's Authorized Representative, any advance funds which are not supported by audit or other federal or state review of documentation maintained by the Applicant.
8. The Applicant will comply with all applicable codes and standards in completion of eligible repair or replacement of damaged public facilities.
9. The Applicant will comply with all applicable provisions of federal and state law and regulation in regard to procurement of goods and services and to contract for repair or restoration of public facilities.
10. The Applicant will begin and complete all items of work within the time limits established by the Governor's Authorized Representative in agreement with all applicable Federal regulations.

11. The Applicant will comply with all federal and state statues and regulations relating to nondiscrimination.
12. The Applicant will comply with provisions of the Hatch Act limiting the political activities of public employees.
13. The Applicant will comply with regulations implementing the Drug-Free Workplace Act of 1988, 44 CFR Part 17, Subpart F.
14. The Applicant will comply with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973 which may require purchase of flood insurance for some costs over \$5,000.
15. The Applicant will not enter into cost-plus-percentage-of-cost contracts for completion of disaster restoration of repair work.
16. The Applicant will not enter into contracts for which payment is contingent upon receipt of state or federal disaster funds.
17. The Applicant will not enter into any contract with any party which is debarred or suspended from participation in federal assistance programs.
18. The Applicant will submit quarterly progress reports on all open large projects. No additional funds will be distributed if quarterly reports are not received in a timely manner.
19. The Applicant will obtain insurance on damaged facilities as outlined in 44 CFR 206.253.
20. The Applicant will provide copies of every audit report issued on the entity at the time of its receipt by the entity to:

State of Alabama
 Department of Examiners of
 Public Accounts
 P.O. Box 302251
 Montgomery, AL 36130-2251
 Attn: Audit Report Repository

and

State of Alabama
 Emergency Management Agency
 P.O. Drawer 2160
 Clanton, AL 35046-2160
 Attn: Public Assistance Branch Chief

Signed for the Applicant:

 Name and Title

 Signature

 Date

Signed for the State:

 Governor's Authorized Representative

 Date

ORDINANCE 2014-32

**APPROPRIATION OF FUNDS: MAST ARM POLES & SIGNAL UPGRADE:
JOHNSON ROAD & US HWY 98**

WHEREAS, Ordinance 2013-50 approved and adopted the Fiscal Year 2014 Budget on September 23, 2013; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2014 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2014 budget; and

WHEREAS, Alabama Department of Transportation (ALDOT) will be reconfiguring the intersection of U.S. 98 and Johnson Road by shifting and adding turn lanes; and

WHEREAS, signals throughout the City are being systematically upgraded as needed for enhanced traffic flow and to allow the use of an Intelligent Traffic Signal System; and

WHEREAS, in addition to the reconfiguration of the turn lanes at U.S. and Johnson Road Mast Arm Poles & Signal Upgrades are needed for this upgrade; and

WHEREAS, ALDOT will reimburse the City 50% of the \$150,000 project cost for the Mast Arm Poles installation and Signal Upgrades.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that

1) funds in the amount of \$75,000 from General Fund be are hereby appropriated and made a part of the Fiscal Year 2014 budget for the Mast Arm Poles & Signal Upgrade at Johnson Road & US Highway 98 and

2) the Mayor is hereby authorized to execute any documents required in order for the City of Daphne to participate in such intersection project.

APPROVED AND ADOPTED by the Mayor and City Council of the City of Daphne, Alabama, this _____ day of _____, 2014.

Dane Haygood, Mayor

ATTEST:

Rebecca A. Hayes, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2014-33**

**Ordinance to Pre-zone Property Located
Northwest of the Intersection of County Roads 13 and 64
John White-Spunner, Kidco, L.L.C.; John White-Spunner Sidno, L.L.C. and Matt White**

WHEREAS, John White-Spunner, Kidco, L.L.C.; John White-Spunner & Sidno, L.L.C. and Matt White, as the owners of certain real property located within the unincorporated area of Baldwin County, Alabama, has requested that said property be pre-zoned from B-1, Professional Business Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne to B-2, General Business; and,

WHEREAS, said real property is Northwest of the intersection of County Roads 13 and 64, and more particularly described as follows:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 16, T5S-R2E, BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH LINE OF SAID SECTION 16, T5S-R2E, RUN S 89° 57' 46" W 209.00 FEET TO A POINT; THENCE RUN N 00° 00' 46" W 38.76 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W); THENCE RUN N 00° 00' 23" E 170.24 FEET TO A POINT; THENCE RUN N 89° 55' 27" E 167.80 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W); THENCE ALONG SAID WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W), RUN S 00° 36' 06" E 120.22 FEET TO A POINT; THENCE CONTINUING ALONG SAID WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W), RUN S 44° 56' 44" W 70.85 FEET TO A POINT ON THE AFOREMENTIONED NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W); THENCE ALONG SAID NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W), RUN S 89° 57' 07" W 119.03 FEET TO THE POINT OF BEGINNING. CONTAINING 27,459 SQUARE FEET OR 0.6304 ACRE.

WHEREAS, at the City of Daphne Planning Commission meeting on June 26, 2014, the Commission considered said request and set forth a favorable recommendation to the City Council of the City of Daphne regarding said property pre-zoning request with the motion to set forth a favorable recommendation passing; and,

WHEREAS, due notice of said proposed pre-zoning 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 4, 2014; and,

WHEREAS, the City Council of the City of Daphne after due consideration and upon consideration of the notes of the Planning Commission, deemed that said application for pre-zoning of the above described real property is proper and in the best interest of the health, safety and welfare of the citizens of the City of Daphne, Alabama; and

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

SECTION I: ZONING

That above described real property is hereby pre-zoned from B-1 Professional Business Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne to City of Daphne Zone B-2, General Business, and that the zoning ordinance and zoning map be amended to reflect the said zoning change.

SECTION II: REPEALER.

All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION III: SEVERABILITY.

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence, or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of said Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof separately and independently of each other.

SECTION IV: EFFECTIVE AND EXPIRATION DATE.

This Ordinance, and in particular the pre-zoning shall take effect after the date of its approval by the City Council of the City of Daphne and publication as required by law. Pursuant to Code of Alabama (1975) Section 11-52-85, the zoning of the property, shall become effective upon the date the territory is annexed into the corporate limits, if any portion of the territory is not annexed into the corporate limits within 180 days of the initiation of annexation proceedings as provided by law then this pre-zoning shall be null and void.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS ____ day of _____, 2014.

Dane Haygood, Mayor

ATTEST:

**Rebecca A. Hayes
City Clerk, MMC**

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2014-34**

**ORDINANCE TO ANNEX PROPERTY CONTIGUOUS
TO THE CORPORATE LIMITS OF THE CITY OF DAPHNE
Property Located
Northwest of the Intersection of County Roads 13 and 64
John White-Spunner, Kidco, L.L.C.; John White-Spunner Sidno, L.L.C.
and Matt White**

WHEREAS, on the 26th day of June, 2014, being the owner of all real property hereinafter described, did file with the City Clerk a petition asking that the said tracts or parcels of land be annexed into and become part of the City of Daphne, Alabama; and

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

WHEREAS, after proper publication, a public hearing was held by the City Council on August 4, 2014 concerning the petition for annexation; and

WHEREAS, said petition has been presented to the Planning Commission of the City of Daphne on June 26, 2014 and an affirmative recommendation was approved for the City Council to consider said request for annexation and said property; and

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

SECTION ONE: ANNEXATION

The City Council of the City of Daphne, Alabama finds that and declares as the legislative body of the City of Daphne, Alabama that it is in the best interest of the citizens of the City of Daphne, Alabama and the citizens of the affected area, to bring the territory described in Section Two of this Ordinance into the City of Daphne, Alabama, and it did further determine that all legal requirements for annexing said real property have been met pursuant to Sections 11-42-20 through 11-42-24, et seq., Code of Alabama, 1975; effective on publication as required by Section 11-42-21, Code of Alabama 1975, as amended.

SECTION TWO: DESCRIPTION OF TERRITORY

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

Owners: John White-Spunner, Kidco, L.L.C.; John White-Spunner & Sidno, L.L.C. and Matt White

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 16, T5S-R2E, BALDWIN COUNTY, ALABAMA; THENCE ALONG THE SOUTH LINE OF SAID SECTION 16, T5S-R2E, RUN S 89° 57' 46" W 209.00 FEET TO A POINT; THENCE RUN N 00° 00' 46" W 38.76 FEET TO THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W); THENCE RUN N 00° 00' 23" E 170.24 FEET TO A POINT; THENCE RUN N 89° 55' 27" E 167.80 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W); THENCE ALONG SAID WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W), RUN S 00° 36' 06" E 120.22 FEET TO A POINT; THENCE CONTINUING ALONG SAID WEST RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 13 (80' R/W), RUN S 44° 56' 44" W 70.85 FEET TO A POINT ON THE AFOREMENTIONED NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W); THENCE ALONG SAID NORTH RIGHT OF WAY LINE OF BALDWIN COUNTY HIGHWAY NO. 64 (80' R/W), RUN S 89° 57' 07" W 119.03 FEET TO THE POINT OF BEGINNING. CONTAINING 27,459 SQUARE FEET OR 0.6304 ACRE.

SECTION THREE: MAP OF PROPERTY

The property hereby annexed into the City of Daphne, Alabama is set forth and described in Exhibit "B" and attached hereto a map of the property showing its relationship to the corporate limits of the municipality of the City of Daphne and made a part of this ordinance.

SECTION FOUR: PUBLICATION

This Ordinance shall be published as required by Section 11-42-21 Code of Alabama 1975, as amended, and the property described herein shall be annexed into the corporate limits of the City of Daphne, and a certified copy of the same shall be filed with the Office of the Judge of Probate of Baldwin County, Alabama as required by Section 11-42-21, Code of Alabama 1975, as amended.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS THE _____ DAY OF _____, 2014.

Dane Haygood, Mayor

ATTEST:

Rebecca A. Hayes, City Clerk

**CITY OF DAPHNE
ORDINANCE 2014-35**

**ORDINANCE TO REPEAL AND REPLACE ORDINANCE 2008-19 TO
PROTECT THE AIR QUALITY IN THE CITY OF DAPHNE**

WHEREAS, Ordinance 2008-19 was approved and adopted February 18, 2008 to protect the public health and welfare by protecting the air quality within the City of Daphne; and

WHEREAS, the City Council has determined that various sections of Ordinance 2008-19 should be repealed and replaced to include E-Cigarettes and to eliminate any vagueness contained herein; and

WHEREAS, the City Council for the City of Daphne, Alabama has deemed it to be beneficial to the health, safety and welfare of the citizens of Daphne, Alabama to repeal Ordinance 2008-19 and replace the same with new standards as follows:

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, as follows:

SECTION ONE: DEFINITIONS

The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this Section:

- a. "Assisted Living Facility" means a living arrangement in which people with special needs, especially older people with disabilities reside in a facility that provide help with everyday tasks such as bathing, dressing, and taking medication.
- b. "Bar" means a stand-alone enclosed area in which the principal or sole purpose and business of the establishment is the serving of alcoholic beverages for consumption which comprises at least sixty percent (60%) or greater in gross sales. This term includes such establishments where the sale or service of food is made, but only if it is incidental to the service of alcoholic beverages. Bars must be posted off limits to minors and must not allow any minors inside.
- c. "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit,

includes retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered and private clubs.

- d. “E-cigs” means usage of any electronic cigarette (e-cig or e-cigarette), personal vaporizer (PV) or electronic nicotine delivery system (ENDS) or any battery powered device which simulates tobacco smoking.
- e. “Employee” means a person who is hired by another to perform a task or job in consideration for direct or indirect monetary wages, gain or profit, and a person who volunteers his or her services for a non-profit entity. This term includes independent contractors.
- f. “Employer” means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that hires the services of one or more employees.
- g. “Enclosed Area” means that area between a floor and ceiling that is enclosed or is capable of being enclosed, on all sides by solid walls, windows, and/or doorways and which is climate controlled by a HVAC or similar air handling system.
- h. “Place of Employment” means an area under the control of an employer where employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a “Place of Employment” unless it is also used as a location of a business, child care, adult care or health care facility.
- i. “Private Club” means an organization, whether incorporated or not, that is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established by-laws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax under 26 U.S.C. Section 501. A private club is not open to the general public. A private club established for the purpose

of avoiding the prohibitions on smoking called for in this Ordinance shall be deemed a public place, however.

- j. “Public Place” means an enclosed area to which the general public is invited or is permitted, including but not limited to, banks educational facilities, health care facilities, hotel and motel lobbies, Laundromats, public transportation, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A “Private Club” facility is a “Public Place” when being used for a function to which the general public is invited or allowed to attend. A private residence is not a “Public Place” unless it is used as a business location, child care, adult day care, or health care faculty.
- k. “Retail tobacco store” means any retail establishment utilized primarily for the sale of tobacco products and smoking accessories in which the sale of other products, including food and beverages, does not exceed forty percent (40%) of gross revenues.
- l. “Smoking” means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or form.
- m. “Sports Arena” means sports pavilions, stadiums, public recreational fields, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

SECTION TWO: APPLICATION OF ORDINANCE TO CITY OWNED, OPERATED OR LEASED FACILITIES

All property, including building, vehicle, and parks which are owned, leased, or operated by the City of Daphne shall be subject to the provisions of this Ordinance.

SECTION THREE: PROHIBITION OF SMOKING IN PUBLIC PLACES

Smoking shall be prohibited in all enclosed Public Places, as well as the areas within a reasonable distance outside of the main entrance(s) of such Public Places, within the City of Daphne. E-Cigs shall be prohibited in all enclosed facilities that are owned, operated or leased by the City. For the purposes of this ordinance, City vehicles shall be considered enclosed facilities.

SECTION FOUR: PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT

Smoking shall be prohibited in all enclosed areas which are a place of employment. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed areas. This prohibition on smoking shall be communicated to all existing employees by the effective date of this Ordinance and to all prospective employees upon their application of employment.

SECTION FIVE: PROHIBITION OF SMOKING IN OUTDOOR ARENAS AND STADIUMS

Smoking shall be prohibited in the seating areas of all outdoor sports arenas, stadiums, and amphitheaters, as well as in bleachers and grandstands for use by spectators at sporting and other public events.

SECTION SIX: REASONABLE DISTANCE

Smoking or E-Cigs shall be prohibited within a reasonable distance of twenty linear feet (20') outside all main entrances/exits to enclosed areas where smoking or E-Cigs, respectively are prohibited in this Ordinance.

SECTION SEVEN: WHERE SMOKING IS NOT PROHIBITED

Notwithstanding any other provision of this Ordinance to the contrary, the following areas shall be exempt from the prohibitions in this Ordinance:

- a. Private residences which are not also a place of employment, business or public place as herein defined.
- b. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that no more than thirty percent (30%) of rooms rented to guests in a hotel or motel may be so designated. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance. The status of rooms as smoking or non-smoking may not be changed, except to add additional non-smoking rooms.
- c. Private clubs when being used or occupied by its members and their guests only. This provision shall only apply when no individual under the age of nineteen (19) is present.

- d. Places of employment that do not meet the definition of an Enclosed Area (except those covered by the provisions of Section Five and Section Six).
- e. Bars.
- f. Private and semi-private rooms in assisted living facilities or long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.
- g. Retail tobacco stores, provided that no on premise consumption of alcoholic beverages is permitted and smoke from these establishments does not infiltrate into areas where smoking is prohibited under the provisions of this Ordinance.

SECTION EIGHT: DECLARATION OF ESTABLISHMENT AS NON-SMOKING

Notwithstanding any other provision of this Ordinance, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may designate the premises as a non-smoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 9(a) is posted. Any owner, operator, manager, or other person in control of private premises that complies with Section 9(a) of this Ordinance may also prohibit use of E-Cigs.

SECTION NINE: POSTING OF SIGNS

- a. “No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Ordinance, by the owner, operator, manager, or other person in control of that place.
- b. Every public place and place of employment where smoking is prohibited by this Ordinance shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

- c. All ashtrays shall be removed from any area where smoking is prohibited by this Ordinance by the owner, operator, manager, or other person having control of the area.

SECTION TEN: NON-RETALIATION; NON-WAVIER OF RIGHTS

- a. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Ordinance or reports or attempts to prosecute a violation of this Ordinance.
- b. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

SECTION ELEVEN: ENFORCEMENT

- a. This Ordinance shall be enforced by the Daphne Police Department or Code Enforcement Office as designated by the Mayor.
- b. Notice of the provisions of this Ordinance shall be given to all applicants for a business license in the City of Daphne.
- c. Any citizen who desires to register a complaint under this Ordinance may initiate enforcement with the Daphne Police Department.
- d. The Health Department, Police Department, Fire Department or their designees shall inspect for compliance with this Ordinance.
- e. An owner, manager, operator, or employee of an establishment regulated by this Ordinance shall inform persons violating this Ordinance of the appropriate provisions thereof.
- f. Notwithstanding any other provision of this Ordinance, an employee or private citizen may bring legal action to enforce this Ordinance.
- g. In addition to the remedies provided by the provisions of this Section, the City Clerk/Administrator or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Ordinance may apply for an injunction to enforce those provisions in any court of competent jurisdiction.

SECTION TWELVE: VIOLATION AND PENALTIES

- a. Any person who smokes in an area where smoking is prohibited by the provisions of this Ordinance shall, upon conviction, be guilty of an infraction punishable by a fine not to exceed FIFTY AND NO/100 DOLLARS (\$50.00) per occurrence plus court costs.
- b. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of the Ordinance shall be guilty of an infraction, punishable by:
 1. A fine not exceeding ONE HUNDRED AND NO/100 DOLLARS (\$100.00) for a first violation.
 2. A fine not exceeding TWO HUNDRED AND NO/100 DOLLARS (\$200.00) for a second violation within one (1) year.
 3. A fine not exceeding FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) for each additional violation within one (1) year.
- c. In addition to the fines established by this Section, violation of this Ordinance by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- d. Violations of this Ordinance are hereby declared to be a public nuisance, which may be abated by the City Council by restraining order, preliminary and permanent injunction, or other means provided for by law. The City may take action to recover the costs of the nuisance abatement.
- e. Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation.

SECTION THIRTEEN: SEVERABILITY

If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Ordinance which may be given effect without

the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION FOURTEEN: REPEALER

Ordinance No. 2008-19 is hereby repealed in its entirety. All other City Ordinances or parts thereof in conflict with the provision of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION FIFTEEN: EFFECTIVE DATE

This Ordinance shall be effective immediately from and after the date of its adoption and its publication as required by law.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this the _____ day of _____, 2014.

DANE HAYGOOD, MAYOR

ATTEST:

REBECCA A. HAYES, CITY CLERK