

**CITY OF DAPHNE
CITY COUNCIL MEETING AGENDA
1705 MAIN STREET, DAPHNE, ALABAMA
OCTOBER 6, 2014
6:30 P.M.**

1. CALL TO ORDER

2. ROLL CALL / INVOCATION /

- 3. APPROVE MINUTES:** Council meeting minutes / September 15, 2014
Special Called Council meeting minutes / September 23, 2014

PROCLAMATION: National Breast Cancer Awareness Month

PRESENTATION: Winner of Daphne Firefighters Breast Cancer Awareness T-Shirt Design Contest from Daphne High School

PROCLAMATION: National Fire Prevention Week / October 5-11, 2014

PROCLAMATION: National Domestic Violence Month / Joanne Sheils, Executive Director of the Lighthouse

4. REPORT STANDING COMMITTEES:

- A. FINANCE COMMITTEE** – Conaway
- B. BUILDINGS & PROPERTY COMMITTEE** - Davis
- C. PUBLIC SAFETY** - Rudicell
- D. CODE ENFORCEMENT/ORDINANCE COMMITTEE** - Scott
- E. PUBLIC WORKS COMMITTEE / SOLID WASTE AUTHORITY** – LeJeune
 - Review Public Works minutes / September 15th
 - Review Beautification Committee minutes / September 3rd
 - Review Daphne Museum minutes / August 11th

1.) Support for a resolution to support the creation of the “Clean Water Future” Stormwater Education Outreach

The Public Works Committee made the following motion: Motion by Ron Scott and seconded by Tommie Conaway to favorably recommend to the council the resolution to support the creation of the “Clean Water Future” Stormwater Education Outreach. ALL IN FAVOR. MOTION CARRIED
/ Resolution 2014-52

2.) Violation of Daphne Right-of-Way Ordinance 2004-23

MOTION: To take the following actions:

- 1. Direct Public Works to take all action necessary to fully comply with the USACE Violation File #SAM-2014-00614-GAC – Sections: a, b, c & d as described in the September 5, 2014 violation letter which entails:
 - a. A complete delineation of all impacted waters of the United States
 - b. A restoration plan consisting of plan view and cross-sectional drawings of the proposed restoration area
 - c. A list of proposed plantings to restore impacted wetland area
 - d. A proposed monitoring plan verifying the success of all restoration over a three year period

2. Supporting the issuance of a Municipal Offense Ticket (M.O.T.) to the Fannon's for the violation of the City of Daphne Right-Of-Way (ROW) Ordinance No.: 2004-23.
3. Direct City Legal Counsel to take the following action concerning the Fannon's:
 - a. Send a Cease and Desist Letter
 - b. File notice that all appropriate legal action will be taken to recover all expense and damages to the City from them
 - c. Prepare liens against their property for the cost of the remediation

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

- A. **Board of Zoning Adjustments** – Adrienne Jones
- B. **Downtown Redevelopment Authority** – Conaway
Review minutes / September 24th
- C. **Industrial Development Board** – Davis
- D. **Library Board - Lake**
- E. **Planning Commission** – Scott
Review minutes / August 21st
Review staff report / September 25th meeting
- F. **Recreation Board** – LeJeune
- G. **Utility Board - Fry**
Review minutes / August 27th

6. REPORTS OF OFFICERS:

- A. **Mayors Report**
MOTION: To authorize the Mayor to fully execute a lease agreement on behalf of the city with the Baldwin County Board of Education for the Trione Sports Complex property
- B. **City Attorney's Report:**
MOTION: To approve the proposal and authorize the Mayor to fully execute an agreement on behalf of the city with Adams & Reese for Federal and State Government Relations, Grant and Consulting Services
- C. **Department Head Comments:**
- D. **City Clerk Report:**
 - 1.) ABC License / Allocations Distributing, LLC / 100 – Wholesale Table Wine Only – 24% or Less
 - 2.) Events Permit / Mama Mia Cook Off / November 1, 2014

7. PUBLIC PARTICIPATION:

Barbara Comstock / Clear cutting of trees at the Magnolia Shopping Center

8. RESOLUTIONS & ORDINANCES:

RESOLUTIONS:

- a.) In Support of the Create A Clean Water Future Stormwater Education Outreach. /Resolution 2014-52

ORDINANCES:

2ND READ

- a.) Amending the Land Use and Development Ordinance 2011-54 Appendix "H" / Revision to Zoning Map. /Ordinance 2014-38
- b.) Appropriating Funds: Donette Loop Properties Drainage Repair. /Ordinance 2014-40
- c.) Appropriating Funds: Lancaster Way Drainage Crossing. /Ordinance 2014-41
- d.) Appropriating Funds: Design Engineering for Sewer Projects. /Ordinance 2014-42
- e.) An Ordinance Adopting the Rules of Procedure in All Instances for Meetings of the City Council / Repealing 2013-21. /Ordinance 2014-43

1ST READ

- a.) Adopting the FY 2015 Personnel and Capital Budget. /Ordinance 2014-46
- b.) Adopting Job Classification Schedule. /Ordinance 2014-47

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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**SEPTEMBER 15, 2014
CITY COUNCIL MEETING
BUSINESS MEETING
1705 MAIN STREET
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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:

Reverend Dan Morris with Daphne United Methodist 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; Kevin Boucher, City Attorney; Richard Johnson, Public Works Director; Adrienne Jones, Planning Director; Vickie Hinman, HR Director; Richard Merchant, Building Official; David Carpenter, Police Chief; James White, Fire Chief; Margaret Thigpen, Civic Center Director; David McKelroy, Recreation Director; Tonja Young, Library Director; Christine Ciancetta, Deputy Finance Director; Al Guarisco, Village Point Foundation; Dorothy Morrison, Beautification Committee and DRA; Tomasina Werner, Beautification Committee; Willie Robison, BZA; Rusty Russell, Adams & Reese, LLC; Ray Moore, HMR.

Absent: Mayor Haygood; Michael Hoyt, Municipal Judge; Jay Ross, City Attorney.

3. APPROVE MINUTES:

September 2, 2014 Council Meeting Minutes

There were no corrections to the September 2, 2014 council meeting minutes and the minutes stand approved as written.

September 8, 2014 Council Work Session Minutes

There were no corrections to the September 2, 2014 council work session minutes and the minutes stand approved as written.

PRESENTATION: Mr. Al Guarisco / Bocce Courts

Mr. Guarisco handed council a written request concerning the Bocce Courts at Lott Park, and spread put upon these minutes:

Our group has repeatedly requested improvements to the Bocce Courts. We have copies of a cost estimate presented to B&P to level and place a cement base covered with indoor/outdoor carpet dated 7-14-2010. Again B&P meeting 4-4-2011 another request was presented requesting 10 items of improvement and maintenance. Again on 2-15-2012 we have a cost estimate to cement the courts, carpet was available through the sports recreation department.

The Bocce group has always done our own maintenance, each time we play, we rake and smooth the courts, we have to remove cleat marks and other damages to the surface. From time to time we have brought in sand and clay to repair and

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smooth the playing surface. The last time we took up a collection to buy sand without rocks. We also use grass killer to free the court of growth of grass and moss. Without indoor/outdoor carpet rain will stop play until the courts dry. We have received assistance from the city ground crews and we thank them.

We realize we are a small group, mostly retired, but the best TAX PAYERS. There are also a number of our players who have gone on to play on the perfect court in heaven.

We have some of our members here to support our request.

Our group has also participated with Special Olympics and students from the middle school. We also participated in the first annual Old Towne Daphne Farm and Art Fair. First class Bocce Courts would be an attractive asset to the amenities of our city.

Thank you for the opportunity to present this request.

PUBLIC HEARING: Amending the Land Use & Development Ordinance 2011-54 /
Revisions to the Zoning Map

Mr. Adrienne Jones, Director of Community Development, gave the presentation.

Council President Fry opened the Public Hearing at 6:36 p.m.

No one spoke for or against the proposed ordinance.

Council President Fry closed the Public Hearing at 6:37 p.m.

4. REPORT OF STANDING COMMITTEES:

A. *FINANCE COMMITTEE* – Conaway

The minutes for the September 8th meeting are in the packet.

Treasurers Report / August 2014

- Total Unrestricted Funds - **\$ 8,121,861**
- Decrease from Last Year's Unrestricted Funds – **(\$ 738,110)**
- # of months of Unrestricted cash to cover monthly operating Expenses & Debt Service – **3.7** months compared to the previous year - **4.2** months
- Total City Funds - \$15,025,821
- The Riviera Pilot tax check will be received very soon for \$1.7 million

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Sales and Use Tax Collections / July 2014

\$1,139,121 was collected for July 2014

- YTD Variance over Budget - \$104,490
- Percent change from last year's collections +6.9 %

Lodging Tax Collections / July 2014

Collections for **July 2014** were **\$139,397** which is up \$45,087 from July's 2013's collections of \$94,310.

- YTD Variance over Budget: \$51,820; +59.2 %
- Percentage change from last year's collections: + 32.3 %

Councilwoman Conaway reminded council of the Special Called Finance Committee meeting Thursday at 5:30 p.m. to discuss the budget.

For the record:

Councilman Davis reported some significant figures council should look at from the Finance meeting saying there was a presentation at the meeting about the projects, and the total being in the \$1,581,000 range, and it was pointed out that these estimates were done as separate projects and if they combined them they felt comfortable that they might actually come in less than that figure. He reported on the lodging tax collections saying that since April the tax has been 6% as opposed to 4%, and this is a handsome increase. The current balance for the Bayfront property is \$1,881,751 through July for that portion of the lodging tax which accrues at 32% per month. He would like these figures to be part of the record.

B. BUILDINGS & PROPERTY COMMITTEE - Davis

The September 2nd minutes are in the packet. The next meeting will be October 6th.

C. PUBLIC SAFETY COMMITTEE – Rudicell

The minutes for the September 10th meeting are in the packet, and the next meeting will be October 8th at 4:30 p.m.

D. CODE ENFORCEMENT/ORDINANCE COMMITTEE – Scott

The minutes for the September 10th meeting are in the packet, and the next meeting will be October 8th after the Public Safety meeting.

E. PUBLIC WORKS COMMITTEE – LeJeune

The August 18th Public Works minutes are in the packet along with the August 6th Beautification Committee minutes, August 11th Daphne Museum minutes and the August 25th Environmental Advisory Committee minutes.

MOTION BY Councilman LeJeune to appoint Mr. Don Ouellette to the Environmental Advisory Committee. *Seconded by Councilman Lake.*

MOTION CARRIED UNANIMOUSLY

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Councilman LeJeune notified council that the committee needs two (2) councilmembers to serve as liaisons to the Environmental Advisory Committee.

Councilmen Lake and Rudicell volunteered to serve as the liaisons to the committee.

The next meeting will be October 20th. Beginning in October the Beautification Committee will be meeting at City Hall in the Executive Conference room.

5. REPORTS OF SPECIAL BOARDS & COMMISSIONS:

A. Board of Zoning Adjustments – Adrienne Jones

There will be a meeting October 2nd at 6:00 p.m. to consider one (1) application.

B. Downtown Redevelopment Authority – Conaway

The minutes for the August 27th meeting are in the packet, and the next meeting will be October 24th at 5:30 p.m.

C. Industrial Development Board – Davis

The board is moving forward with “EDGE”, Economic Development Growth Engine, which will be a series of concepts, locations and partners. He thinks they will see things moving forward in the not too distant future dealing with the economic development of the community. The next meeting will be September 22nd at 6:00 p.m.

D. Library Board – Lake

The Book Mark contest is going on at the Library. Councilman Lake outlined the other events going on at the Library. The next meeting will be October 9th at 4:00 p.m.

E. Planning Commission – Scott

The Site Review meeting will be Wednesday at 8:30 a.m., and the regular Planning Commission meeting will be September 25th at 5:00 p.m.

F. Recreation Board – LeJeune

Councilman LeJeune reported that he along with David McKelroy and Richard Johnson met with the Mayor to discuss the RFP, and they would like to decide on the RFP in October and move forward.

G. Utility Board – Fry

The next meeting will be Wednesday, October 1st at 5:00 p.m.

6. REPORTS OF OFFICERS:

A. Mayor’s Report

No report.

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B. City Attorney's Report

Mr. Rusty Russell with Adams & Reese reported to council on the 2014 Series Warrants.

C. Department Head Comments

David Carpenter – Police Chief – reported that they had the drawing today for the rifle benefiting Mike Dawson which raised over \$8,000, and so far they have raised \$25,000.

David McKelroy – Recreation Director – reported that Brown Bag by the Bay will be Thursday at May Day Park he reported the schedule for the youth football games.

Margaret Thigpen Civic Center Director – reported that Hudson Alfa Institute for Biotechnology, Inc. had a 2½ day conference at the Civic Center, and Open House for the Civic Center and Bayfront Park will be September 18th, and the DHS homecoming parade will start lining up at 3:30 p.m. on the 18th.

Richard Johnson – Public Works Director – reported that the DHS homecoming parade is the 18th, and Main Street will be shut down. There will be a pep rally after the parade at city hall. September 20th is Coastal Cleanup and the Bayside Medical Missions run.

Christine Ciancetta – Deputy Finance Director – reported that the new Revenue Officer started last Thursday.

Council President Fry mentioned that Mayor Haygood is in Washington for discussions on the I-10 Bridge project.

D. City Clerk's Report

Mrs. Hayes reminded council of the Special Called Council meeting for September 23rd at 6:30 p.m.

7. PUBLIC PARTICIPATION

Mr. Willie Robison – 560 Stuart Street - spoke to council regarding Ordinance 2014-37 / FEMA Buyout saying that he is against expending funds for this, and asked council not to expend the funds. He said it will open a Pandora's Box for others to come and request funds.

8. RESOLUTIONS & ORDINANCES:

- a.) **Bid Award: Lancaster Way Road Crossing / Sunset Contracting, Inc /Resolution 2014-50**
- b.) **Approving the Preliminary Official Statement with Respect to the Series 2014 Warrants /Resolution 2014-51**

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MOTION BY Councilman Scott to waive the reading of Resolutions 2014-50 and 2014-51. *Seconded by Councilwoman Conaway.*

MOTION CARRIED UNANIMOUSLY

MOTION BY Councilman Scott to adopt Resolution 2014-50. *Seconded by Councilwoman Conaway.*

MOTION CARRIED UNANIMOUSLY

MOTION BY Councilman Scott to adopt Resolution 2014-51. *Seconded by Councilwoman Conaway.*

MOTION CARRIED UNANIMOUSLY

ORDINANCES:

2ND READ

- a.) **Federal Emergency Management Agency (FEMA): Hazard Mitigation Grant Program (HMGP) disaster Assistance for Lamar and Willet White 104 Gordon Circle. /Ordinance 2014-37**

1ST READ

- a.) **Amending the Land Use and Development Ordinance 2011-54 Appendix "H" / Revision to Zoning Map. /Ordinance 2014-38**
- b.) **Appropriating Funds: Donette Loop Properties Drainage Repair. /Ordinance 2014-40**
- c.) **Appropriating Funds: Lancaster Way Drainage Crossing. /Ordinance 2014-41**
- d.) **Appropriating Funds: Design Engineering for Sewer Projects. /Ordinance 2014-42**
- e.) **An Ordinance Adopting the Rules of Procedure in All Instances for Meetings of the City Council / Repealing 2013-21. /Ordinance 2014-43**
- f.) **Adopting the Fiscal Year 2015 Operating Budget. /Ordinance 2014-44**

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Ordinances 2014-38, 2014-40, 2014-41, 2014-42, 2014-43 and 2014-44 are 1st Read

9. COUNCIL COMMENTS

Councilman Davis said that he would encourage the Recreation Board to take a look at the Bocce courts and move forward. He encouraged citizens to attend the I-10 Bridge meeting September 29th at 5:30 p.m. at Five Rivers, because it is really important that people be there and sign in.

Councilman LeJeune reminded council that they need to think about replacement for the Treasurer position.

Councilman Lake spoke regarding the next growth of the city which is out Highway 181. He also spoke regarding an agreement limiting access points on Highway 181 where subdivisions would share access to Highway 181.

10. ADJOURN:

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

MOTION CARRIED UNANIMOUSLY

THERE BEING NO FURTHER BUSINESS TO DISCUSS, THE MEETING ADJOURNED AT 7:35 P.M.

Respectfully submitted by,

Certification of Presiding Officer

Rebecca A. Hayes,
City Clerk

Randy Fry,
Council President

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Amendment 102

MOTION BY Councilman Rudicell to eliminate the \$19,200 in Community Events and reduce the Taste of the Eastern Shore budget from \$31,000 to \$23,000 / Saving \$8,000. *Seconded by Councilman Lake.*

Councilman Scott requested the motion be separated.

Councilman Rudicell withdrew his motion and Councilman Lake withdrew his second.

Amendment 103

MOTION BY Councilman Rudicell to eliminate the \$19,200 from Community Events / Saving \$19,200. *Seconded by Councilman LeJeune.*

ROLL CALL VOTE

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

MOTION CARRIED UNANIMOUSLY

Amendment 104

MOTIONBY Councilman Rudicell to reduce the Taste of the Eastern Shore budget from \$31,000 to \$23,000 / Saving \$8,000. *Seconded by Councilman Lake.*

ROLL CALL VOTE

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

AYE Conaway, Rudicell, Lake, Fry

NAY Scott, LeJeune, Davis

MOTION CARRIED

SEPTEMBER 23, 2014
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Amendment 112

MOTION BY Councilman Scott to reduce the Mayor’s Travel Budget from \$15,000 to \$5,000 / Savings \$10,000. *Seconded by Councilman Rudicell.*

ROLL CALL VOTE

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

AYE Rudicell, Lake, Scott, Fry

NAY Conaway, LeJeune, Davis

MOTION CARRIED

Amendment 113

MOTION BY Councilman Scott to reduce the Finance Department Training/Travel Budget, page 18 / 121000 – 52211, from \$15,000 to \$10,000 / Savings \$5,000. *Seconded by Councilman Lake.*

ROLL CALL VOTE

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

AYE Rudicell, Lake, Scott, Fry

NAY Conaway, LeJeune, Davis

MOTION CARRIED

Councilman Davis left the meeting at 8:35 p.m.

Council President Fry called a 10 minutes recess at 8:35 p.m.

Council returned from recess at 8:45 p.m.

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3. ADJOURN

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

MOTION CARRIED UNANIMOUSLY

There being no further business to discuss the meeting adjourned at 9:35 p.m.

Respectfully submitted by,

Rebecca A. Hayes, City Clerk

Certification of Presiding Officer:

Randy Fry, Council President

CITY OF
DAPHNE, ALABAMA

PROCLAMATION

“National Breast Cancer Awareness Month”
October 2014

WHEREAS, October is National Breast Cancer Awareness Month; and

WHEREAS, one in eight women will get breast cancer in her lifetime; and

WHEREAS, the National Cancer Institute estimates in the United States more than 1.5 million new cases of breast cancer will be diagnosed this year, and every 13 minutes a women will die from breast cancer; and

WHEREAS, since the program began in 1985 mammography rates have more than doubled for women age 50 and older, and breast cancer deaths have declined; and

WHEREAS, National Breast Cancer Awareness Month remains dedicated to increasing public knowledge about the importance of early detection of breast cancer diagnosis and treatment; and

WHEREAS, many women still do not utilize mammography at regular intervals even though research indicates it is the best available method of detection; and

WHEREAS, the awareness campaign is sending out several key messages, most notably, the importance of early detection through mammography screening for women over 40; and

WHEREAS, taking advantage of early detection methods such as mammography and clinical breast exams could help the breast cancer death rate drop by approximately 30%; and

WHEREAS, the American Cancer Society has searched endlessly for a cure through vital research and has the mammoth task of educating our community and all Americans of the risks of breast cancer. Its many volunteers offer support in the form of support groups, accommodations and transportation assistance, medical equipment and more.

THEREFORE, the Mayor and City Council of the City of Daphne, Alabama do hereby proclaim

October 2014 as “Breast Cancer Awareness Month”

throughout the city, and urge all women and their families to get the facts about breast cancer and join in celebrating all successes, and to memorialize lost battles.




Dane Haygood, Mayor

ATTEST:


Rebecca A. Hayes, City Clerk

CITY OF
DAPHNE, ALABAMA

PROCLAMATION

“National Fire Prevention Week”
October 5-11, 2014

WHEREAS, the City of Daphne is committed to ensuring the safety and security of all those living in and visiting our city; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at the greatest risk from fire; and

WHEREAS, home fires killed more than 2,700 people in the United States in 2013, according to the National Fire Protection Association, and fire departments in the United States respond to 369,500 home fires; and

WHEREAS, three out of five home fire deaths result from fires in properties without working smoke alarms; and

WHEREAS, working smoke alarms cut the risk of dying in home fires by one-half, residents who have planned and practiced a home fire escape plan are more prepared and, therefore, more likely to survive a fire. It is reported that only one-third of Americans have developed and practiced a home fire escape plan, with others making a plan, but not practicing it; and

WHEREAS, Daphne’s firefighters are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education, and Daphne’s residents are responsive to public education measures, and are able to take personal steps to increase their safety from fire, especially in their homes; and

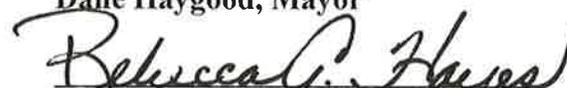
WHEREAS, the 2014 Fire Prevention Week theme, “Working Smoke Alarms Saves Lives: Test Yours Every Month” effectively serves to remind us of the simple actions we can take to remain safe from fire during Fire Prevention Week, and all year-round.

NOW, THEREFORE, the Mayor and City Council of the City of Daphne, Alabama do hereby proclaim October 5-11, 2014 as Fire Prevention Week throughout this city, and urge all the citizens of Daphne to protect4, and to support the many public safety activities and efforts of Daphne’s fire and emergency services.




Dane Haygood, Mayor

ATTEST:


Rebecca A. Hayes, City Clerk

CITY OF
DAPHNE, ALABAMA

PROCLAMATION

“National Domestic Violence Awareness Month”
October 2014

WHEREAS, October is National Domestic Violence Awareness Month; and

WHEREAS, domestic violence is a serious crime that affects people of all races, ages, gender and income levels; and

WHEREAS, one in four women will experience domestic violence during her lifetime; and

WHEREAS, domestic violence is widespread and affects over four million Americans each year; and

WHEREAS, one in three Americans have witnessed an incident of domestic violence; and

WHEREAS, children that grow up in violent homes are believed to be abused and neglected at a rate higher than the national average; and

WHEREAS, domestic violence costs the nation billions of dollars annually in medical expenses, police and court costs, shelters, foster care, sick leave, absenteeism and non-productivity; and

WHEREAS, only a coordinated community effort will put a stop to this heinous crime; and

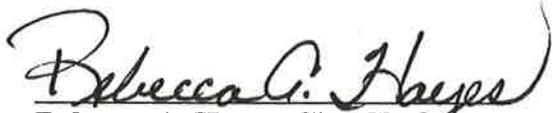
WHEREAS, “Domestic Violence Awareness” Month provides an excellent opportunity for citizens to learn more about preventing domestic violence, and to show support for the numerous organizations and individuals who provide critical advocacy, services and assistance to victims.

NOW, THEREFORE, the Mayor and City Council of the City of Daphne, Alabama proclaims *October 2014 as “Domestic Violence Awareness Month”* and urge the citizens of Daphne to work together to eliminate domestic violence from our community.




Dane Haygood, Mayor

ATTEST:


Rebecca A. Hayes, City Clerk

**REPORT
OF
STANDING COMMITTEES**

I. CALL TO ORDER

Meeting was called to order at 5:00 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. Mayor Haygood arrived late.

Others Present: John Peterson-Hatch Mott McDonald; Councilman Pat Rudicell; Ashley Campbell; Heidi Welborn & Michael Nickerson 194 Lakeview Loop.

II. PUBLIC PARTICIPATION & CORRESPONDENCE

A. Work Request Report - The report for August 2014 was reviewed. Michele stated that she is still working on the side by side report. Ron stated that this would be fine.

Mr. Rudicell asked if the mosquito issue was resolved regarding the chemicals being sprayed. Richard stated that an investigation was done by the Alabama Department of Agricultural Industries, which is over the pesticide management. Our program is under an ADEM permit and is also under a management plan that is approved by the State and our employees are certified pesticide applicators. The product we used is made by the Bayer Aspirin Company. The application was within the guidelines by the State.

B. Vehicle/Equipment Maintenance Report – The report for August 2014 was reviewed. **Correspondence** – No Correspondence.

C. Public Participation – opened at 5:09 p.m.

Heidi Welborn – 194 Lakeview Loop

Ms. Welborn presented to the committee pictures of her backyard where the property is collapsing in. The traffic on Highway 90 is causing the retaining walls to falter. There are also 3 pine trees that would fall if the retaining wall fails as well as causing significant damage to Highway 90. Mr. Scott stated that Hwy 90 is owned by the State and maintained by the County. The committee reviewed the pictures. Mr. Scott would like this documented and sent to the State so that they are aware of this situation.

III. OLD BUSINESS

A. Minutes – The minutes from the August 18, 2014 meeting were reviewed and approved. **Motion by Tommie Conaway, Seconded by Ron Scott** to approve the minutes as presented. **Motion carried.**

B. Mosquito Report – The August 2014 report was reviewed by the committee. John asked that the mosquito truck go down Pinehill Road. Richard stated a work order will be done and have the truck goes there at least once a month.

C. Street Sweeper Report – The August 2014 report was reviewed by the committee.

IV. NEW BUSINESS

A. No Report

V. DIRECTOR'S REPORT

A. ROW/USACE Violation – Fannon – 1317 Lovette Lane

Mr. Johnson reviewed the correspondence between Mr. Fannon, the City and the U.S. Corps of Engineers. He stated that after the April 29th rain event, Mr. Fannon called to report that trees had fell on his house due to the City of Daphne's drainage. We went out and investigated and found that someone had done some work in the city's right of way and the man-made work that occurred is what caused the trees to go down; and that the trees were on the north side of the property and not in the city's right of way. The tree's had not fallen on

the house but were leaning towards and limbs were brushing up against the house. This was not done by the city. We told Mr. Fannon that we could not do anything until we found out where the city property started and to find out who did this work in the drainage area. Mr. Fannon stated that he was the one who had done the work. At this time, he was told to stop working in the right of way until a survey could be done to determine city property; and that he could take down the trees to keep them from causing damage to his home. Mr. Fannon has not attained any Right of Way Permits to do any work on this property. Surveyors were sent out and the property is called the Old Wharf R.O.W. which is a 30' right of way that runs from Captain O'Neal to the bay. The survey shows a pipe next to the outline of the north end of Mr. Fannon's house, when we first went out to investigate that pipe was not there, he had piped 60' of stream and filled in about 50' in length and 5' in depth of city property, while the surveyors were there. We sent Mr. Fannon a letter dated July 10, 2014 to stop all work in the city's right of ways. On August 11, 2014 we received a letter for the U.S. Army Corps of Engineers siting a violation of Section 404 of the Clean Water Act and a Cease and Desist Order. We responded to the Corps and then sent Mr. Fannon another Notice of Violation dated August 19, 2014 advising him again to Cease and Desist. Mr. Fannon has not stopped working in the city's right of way and I am asking this committee to favorably recommend to the City Council the following action:

- **For Public Works to take all action necessary to fully comply with the USACE Violation File #SAM-2014-00614-GAC – Sections: a, b, c & d as described in the September 5, 2014 violation letter which entails:**
 - **A complete delineation of all impacted waters of the United States**
 - **A restoration plan consisting of plan view and cross-sectional drawings of the proposed restoration area**
 - **A list of proposed plantings to restore impacted wetland area**
 - **A proposed monitoring plan verifying the success of all restoration over a three year period**
- Note: This work will involve the hiring of an Environmental Consultant at a considerable expense to the City; the proposed work must be submitted by November 5, 2014.**
- **Support the issuance of a Municipal Offense Ticket (M.O.T.) to the Fannon's for the violation of the City of Daphne Right-Of-Way (ROW) Ordinance No.: 2004-23.**
 - **Direct City Legal Counsel to take the following action concerning the Fannon's:**
 - **Send a Cease and Desist Letter**
 - **File notice that all appropriate legal action will be taken to recover all expense and damages to the City from them**
 - **Prepare liens against their property for the cost of the remediation**

Motion by Tommie Conaway, seconded by Ron Scott to favorably recommend to the Council to take the proposed actions regarding the city's property located at the Old Wharf R.O.W. and to place this as a second item on the September 23rd Special Called Council Meeting. All in favor. Motion carried.

VI. DAPHNE SOLID WASTE DISPOSAL AUTHORITY

- A. Monthly Equipment Use Report** - The report for August 2014 was reviewed.
- Monthly Recycle Tonnage Report (Tonnage Comparison)** – The report for August 2014 was reviewed. It was another good month, still trailing, but a good month. I think we're going fall short of our goal, but we're still ahead of last year. Richard informed the committee that our buyer that has run into some financial difficulties and we may have to find someone else to sell our recycling to, but we're looking at our options and will have a report at the next meeting to let the committee know of any changes.
- Solid Waste New Customer Report** - The report for August 2014 was reviewed. We have 20 new residential customers, due to Jubilee Ridge and 11 new businesses. We have purchased new recycling carts and are looking into utilizing the new Lamar sign and advertising there to make residents aware of our recycling program.

VII. MUSEUM COMMITTEE

- A. No meeting in July.

VIII. BEAUTIFICATION COMMITTEE

- A. Minutes from September 3, 2014 meeting were reviewed. Dorothy stated that the Randall Avenue project is slowly but surely coming along. The Pine Lodge contact has been notified of what we would like to happen with the property, they could apply for a mini grant to clean this area up and make it look better. October is Breast Cancer Awareness month and we will be putting up pink bows on the lamp poles down Main Street. She met with Kent Broom and discussed improvements that could be done down Main Street. So very thankful to the Hampton Inn for their hospitality and the committee will meet there at least one time a year. The Gator Alley acquisition is heading forward, meeting with the property owner tomorrow to make an offer on the property.

IX. ENVIRONMENTAL ADVISORY COMMITTEE

- A. Minutes - August 25, 2014
The committee reviewed the minutes for the EAC.
- B. D'Olive Creek Watershed Study – August 2014
Richard reviewed the study created by Hydro Engineering Solutions, this study was done during the April-May heavy rains and produced valuable information for the city to use regarding stormwater planning. This report and model can tell how future development will impact the city. This information can be used for future stormwater planning and management as well as restoration projects.
- C. Resolution of Support to Create a “Clean Water Future” Stormwater Education Outreach
Ashley presented to the committee a resolution of support for the Clean Water Future. She explained that this is a campaign for stormwater outreach through commercials, radio announcements and the MS4 video. The NEP created this resolution to formally adopt the education program and for each municipality adopt to become a member; we’re asking for the committee to recommend this resolution to the council for approval.
Motion by Ron Scott, seconded by Tommie Conaway to favorably recommend to the council this resolution of support for the creation of the “Clean Water Future” Stormwater Education Outreach. All in favor. Motion carried.

X. ENGINEER’S REPORT

- A. **Hatch Mott MacDonald –**
B. **HMR –**
C. **Preble-Rish –**
D. **Jade Consulting –**

Robin asked if additional sidewalks would be done in FY2015. Richard said that with all the work that was done to repair for the rain events, the mile that was supposed to be done this year has not been completed, so the remainder of this year will be put into the FY15 budget.

XI. FUTURE BUSINESS

- A. Next Meeting is October 20, 2014.

XII. ADJOURNMENT

Meeting adjourned @ 6:09 p.m.



CITY OF DAPHNE
PO Box 400
DAPHNE, AL 36526

September 3, 2014
Daphne Beautification Minutes

There will be a Ceremony of Remembrance on Sept 11 at Noon at City Hall.....

District 1

Dorothy Morrison,
Chair
Walter Gray

What a wonderful way to start the day with the Grand Re-Opening of Gator Alley..... Many of the Council, the Beautification Committee, City Employees, Engineers, Architects, with a number of the Media were present....The Hampton Inn welcomed us for a lovely Continental Brunch..... we must have behaved well, we have been asked to make our visit with them an annual event.....Thank you so much to the Hampton Inn.....

District 4

Selena Vaughn
Tomasina Werner
Dana Sawyer

For October and Breast Cancer Awareness month.....Meredith McCampbell, of the Fire Department, came to discuss ideas for October.....we will have pink ribbons on Lamp poles in Olde Towne Daphne this year with plans to expand next year....A budget of \$500.00 was suggested....More details will follow about a bow making date...

District 5

David Dueitt
Rebecca Trosclair

A – Gator Alley-we are still waiting for all the approvals for the east sideour west side is looking wonderful and built stronger to last longer...

District 6

Elaine Maxime
Hollie LeJeune

B-Patriot's Point is looking wonderful.....everyone is so pleased with the design and look of The Wall....it has been suggested that that look be incorporated into the Welcome to Daphne design for our 6 Gateways.....this will be reviewed in early 2015 we hope...

City Liaisons

Richard Johnson
Dwayne Coley
Marjorie Bellue
Denise Penry
Michele Hanson
Christine Ciancetta
David McKelroy

C-Treasurer's report \$822.32

D-Top Ten

- ◆ It is official the trees on the curve going from 98 to I-10 are to be removed, the area grassed over and a new plan will be ready by the spring to plant something appropriate
- ◆ Master plan for I-10/181
- ◆ Master Plan for Malfunction Junction in 2015
- ◆ Signage for Olde Towne Daphne coming from 98 both north and south at 65/Daphne Ave, KFC Hill, and South from Ryan Road,
- ◆ Raising the canopy on 98
- ◆ Weeds growing under 98 overpass by I-10 guard rail
- ◆ Master plan for all signage including Bay Front
- ◆ Fist Statue gift from Dr. Booth moving forward with transfer

E-PW Report

- ⇒ Canopy being raised
- ⇒ Gator Alley submitted for bids
- ⇒ Randall Road project is suppose to begin on Sept 7
- ⇒ \$6,000 from Lamar to be used to improve Daphne
- ⇒ Sidewalks to begin in Lake Forest soon
- ⇒ Lake Forest work should take 5 or 6 months

F-American Flags/Banners looking wonderful 50 more to be included by Veterans Day



G-Grant for Crape Myrtles at Trione Park...the Mayor, David and Marjorie are working on the best type of Myrtles to offer large canopies for shade.

H-Hwy 98 – Mayor Initiative Flower Bedslooking good.....hoping Island at 64 and 98 will be on the list soon with a tree to help sign be visible with the sun is shining from the west.....May be called the Tree and Flower Fund.....

I- DRA- has determined Ugliest Building in Daphne with the help of Richard Merchant; we are trying to make contact with the owners of the Pine Lodge on Main Street to remove weeds and see about power washing.....we are looking at Bike stands for OTD pictures from Mobile's have been submitted.....

J-Purple Martin House Brochures are flying off the shelves and need to be reprinted

K-Keep Daphne Beautiful information has just been delivered.....more information next time

L- The Mayor and Mr. Ross have had some discussion about an Endowment Fundmore to come

M- Mayor Comments.....The Mayor supports the Breast Cancer Awareness plans, thanked us all for our help to make and Keep Daphne Beautiful...he will hopeful be able to attend more meeting when we are a City Hall.....

N- Next meeting - OCTOBER 1 AT 10AM AT CITY HALL CONFERENCE ROOM

DAPHNE MUSEUM MINUTES
AUGUST 11, 2014

ATTENDEES: Mickey Boykin, Ken Balme, Al Guarisco, Lee Swetman, Helen Baroco, Candice Bishop, Dooley Berry, Scott Berry, Jeanne Nelson

CALL TO ORDER: Meeting called to order by President, Ken Balme, followed by Pledge of Allegiance.

MINUTES: The minutes of June 9, 2014, were approved as presented. No meeting was held in July.

TREASURER'S REPORT: Report for period 05-13-14 thru 06-30-14 showed beginning balance of \$6,240.28 with debits of \$58.50 and credits of \$323.50, leaving a balance of \$6,505.28. Petty Cash: \$17.98.

Report for period 06-30-14 thru 07-31-14 : Beginning balance - \$6,505.28; debits - \$106.00; ending balance: \$6,399.28; petty cash - \$13.98.

CD with B.B.V.A. matured on July 11, 2014, in the amount of \$11,980.32. Renewed this date for 18 months at 1.15 apy, with maturity date of January 11, 2016.

VOLUNTEER ASSIGNMENTS: There are five Fridays, Saturdays, and Sundays in August (29, 30, 31). Need volunteers for those days. Al volunteered for the Friday, August 29.

COMMITTEE REPORTS:

- **Telephone:** No Report.
- **Exhibits/Events:** Boyd's boat exhibit will continue through September 14. Mickey suggested a joint exhibit featuring the histories of both The Daphne Women's Study Club and the Daphne Normal School as the Study Club was first organized for the purpose of assisting in fund raising for the Daphne Normal School. The exhibit could show this connection. She suggested that October might be a good month. No decision made.
- **Publicity:** No Report.
- **Cemetery:** Helen will be updating the cemetery listing. She reported that she had placed a brass marker on Mrs. Pomeroy's grave.
- **Special Tours:** Mickey reported that a tour of the South Alabama Region of Antique Automobile Clubs of America (AACA) has been scheduled for Friday, August 15, at 1:00. She will confirm this tour. Lee will be present as it is his regular day to open museum; Helen volunteered to be available. Ditto Mickey. Ken indicated he would be here as well.
- **Archives (ADAH Grant):** Discussed what needed to be done to comply with terms of grant. To date, a poster has been placed on bulletin board for volunteers to record time spent on grant activities. Such activities include organizing all records of museum

business meetings, events, exhibits, etc. (Action – Mickey); organizing all photographs (Lee, Penny, Al); cataloging and recording of all acquisitions; (Action – Ken); deciding where, when, and how to display recently donated items or whether to store them in the museum storage space in City Hall until such time as they can be exhibited. (Action – Emily and Penny).

UNFINISHED/OLD BUSINESS:

- **Daphne Pottery Access:** Ken announced that the city attorney was unable to contract with Mr. Olds for access to site. Consequently, after many years of attempting to negotiate with him for access, this issue will no longer be pursued.
- **WiFi:** Not fixed. Mayor Haygood has asked IT department to find a solution.
- **Daphne Normal School Records:** No report.
- **Museum Week/Daphne Art Center's Old Towne Daphne Farm and Art Faire 06/28/14:** Art Faire very successful; all vendors did well; received positive comments from visitors; museum made \$150.50 from sale of items. Art Center has tee shirts available for \$15.00.
- **Impact 100:** Grant application withdrawn due to the noncooperation of Mr. Olds in granting access to the pottery site. This action was essential to the approval of the grant, since \$25,000 of the \$92,000 grant funds was dedicated to the acquirement of this access. Ken announced he may reapply for a grant in the future.

NEW BUSINESS/INITIATIVES:

- **New BC Director of Archives and History:** Ken announced that he had met the new Baldwin County Director of Archives and History, Hector Montford, who lives in Daphne and recently visited the museum/cemetery. He discussed with Mr. Montford, an archival intern program he recently created which would target high school students attempting to interest them in museum/archival curricula. He plans to contact Dr. Foster, Daphne High School principal, and the Chamber of Commerce future leadership program.
- **Alabama Historical Commission Grants:** Ken reported on the Alabama Historical Commission grants – There are two grants available: A tourism grant in the amount of \$1,000 due at the end of August, and a capital improvement grant in the amount of \$10,000 due by August 15. He remarked that he had talked with Annie Root, Daphne Art Center, about partnering to attract visitors, especially Snow Birds. He said we could sponsor a one day event with the slogan, "Daphne Museum Loves Snowbirds."

He further stated that it could possibly be a “culture crawl,” giving each visitor a passport which would be stamped at each venue of the crawl. Al suggested having a drawing at the conclusion of the “crawl.” Winner would receive a prize.

- **Stoneware Mugs:** Ken reported that he had received a phone call from a vendor from Wisconsin who made special mugs. Her charge was \$8.00 each. He asked if we wanted to participate. No decision made.
- **STEPS Program:** Standards and Excellence Program for History Organizations. It helps small and mid-sized history museums, historic sites and houses, including all-volunteer ones, assess policies and practices, manage daily operations and plan for the future. Cost to join - \$175.00. No discussion. No decision.
- **Baldwin County Fair:** Ken suggested “Beautiful Baldwin” for the theme. He stated that each museum would have its own display. For Daphne Museum, he suggested Daphne May Day. Not much discussion. No decision.
- **Montgomery Roundtable – ADAH:** Ken attended the roundtable which focused on a traveling display from Birmingham Library on Alabama History. Museums would share displays. No discussion

ANNOUNCEMENTS:

- The Daphne Jubilee Festival will be held in September.
- Helen sent a \$50.00 check to Camp Rap-A-Hope in memory of Melvin Gregorious. She read the thank you note she received.
- Helen announced she had purchased 18 copies of Pecos Forsman’s book, “She’s Bound to be a Goer,” for \$15.00 each. The museum will sell the books for \$20.00.
- The next regular meeting will be held on Monday, September 8, at 10:00 a.m.

ADJOURNMENT: There being no further business, Helen moved to adjourn; Mickey seconded; meeting adjourned.

Respectfully submitted,

Mickey Boykin, Secretary

Rebecca A. Hayes

From: Michele Hanson
Sent: Tuesday, September 16, 2014 10:19 AM
To: Randy Fry; Rebecca A. Hayes; Sarah Toulson; Richard D. Johnson, P.E.; Robin LeJeune
Subject: September 23rd Special Called Council Meeting Request
Attachments: Fannon (Lovette Lane) ROW Violation Sept PWC Packet 09-12-2014.pdf

Mr. Fry,

At its regular meeting held last night, the Public Works Committee made a motion to add the following item to the September 23rd Special Called Council Meeting. I have attached a packet with the details of this issue. The committee felt that this was a time sensitive issue due to the fact that the house is currently on the market for sale. If you have any questions, please contact Richard Johnson.

IV. DIRECTOR'S REPORT

A. **ROW/USACE Violation – Fannon – 1317 Lovette Lane**

Mr. Johnson reviewed the correspondence between Mr. Fannon, the City and the U.S. Army Corps of Engineers. He stated that after the April 29th rain event, Mr. Fannon called to report that trees had fallen on his house due to the City of Daphne's drainage. Public Works went out and investigated and found that someone had done some work in the city's right of way and the man-made work that occurred is what caused the trees to go down; note: the trees were on the north side of the property and not in the city's right of way. The tree's had not fallen on the house but were leaning towards it and limbs were brushing up against the house. This work was not done by the city. We told Mr. Fannon that we could not do anything until we found out where the city property started and who had done this work in the drainage area. Mr. Fannon stated that he was the one who had done the work. At this time, he was told to stop working in the right of way until a survey could be done to determine city property; and that he could take down the trees to keep them from causing damage to his home. Mr. Fannon has not attained any Right of Way Permits to do any work on the city's property. Surveyors were sent out and the drainage area is called the Old Wharf R.O.W. which is a 30' right of way that runs from Captain O'Neal to the bay. The survey shows a pipe next to the outline of the north end of Mr. Fannon's house, when we first went out to investigate that pipe was not there. He has piped 60' of stream and filled in about 50' in length and 5' in depth of city property. We sent Mr. Fannon a letter dated July 10, 2014 to stop all work in the city's right of ways. On August 11, 2014 we received a Cease and Desist Order from the U.S. Army Corps of Engineers siting a violation of Section 404 of the Clean Water Act. We responded to the Corps and then sent Mr. Fannon another Notice of Violation dated August 19, 2014 advising him again to Cease and Desist. Mr. Fannon has not stopped working in the city's right of way and I am asking this committee to favorably recommend to the City Council the following action:

- **For Public Works to take all action necessary to fully comply with the USACE Violation File #SAM-2014-00614-GAC – Sections: a, b, c & d as described in the September 5, 2014 violation letter which entails:**
 - **A complete delineation of all impacted waters of the United States**
 - **A restoration plan consisting of plan view and cross-sectional drawings of the proposed restoration area**
 - **A list of proposed plantings to restore impacted wetland area**
 - **A proposed monitoring plan verifying the success of all restoration over a three year period**

Note: This work will involve the hiring of an Environmental Consultant at a considerable expense to the City; the proposed work must be submitted by November 5, 2014.

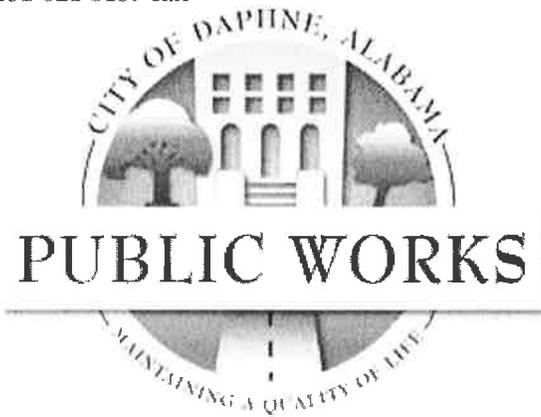
- **Support the issuance of a Municipal Offense Ticket (M.O.T.) to the Fannon's for the violation of the City of Daphne Right-Of-Way (ROW) Ordinance No.: 2004-23.**
- **Direct City Legal Counsel to take the following action concerning the Fannon's:**
 - **Send a Cease and Desist Letter**
 - **File notice that all appropriate legal action will be taken to recover all expense and damages to the City from them**
 - **Prepare liens against their property for the cost of the remediation**

Motion by Tommie Conaway, seconded by Ron Scott to favorably recommend to the Council to take the proposed actions regarding the city's property located at the Old Wharf R.O.W. and to place this item on the September 23rd Special Called Council Meeting. All in favor. Motion carried.

Thank you,

Michele T. Hanson

Assistant to the Public Works Director
City of Daphne
Post Office Box 400
251-621-3182
251-621-3189 fax



Michele Hanson
Administrative Assistant
mthanson@daphneal.com
City of Daphne, Alabama - "The Jubilee City"
Phone: 251-621-3182 Web: www.daphneal.com

Dane Haygood
Mayor



Richard D. Johnson, PE
Public Works Director

The Jubilee City

Memorandum

To: Robin LeJeune, Chairman, Public Works Committee
From: Richard D. Johnson, P.E.; Public Works Director
CC: Mayor Dane Haygood; Jay Ross, City Attorney; File
Date: September 12, 2014
Re: **DAVID J. and SARAH W. FANNON - Notice of Violation – City of Daphne Right-Of-Way (ROW) Ordinance No.: 2004-23 ROW adjacent to Tax Parcel: 05-43-04-41-0-006-049.000, Grant Section 41, T5S, R2E**

I am requesting the Public Works Committee make the following Motion to Council taking the following action:

- For Public Works to take all action necessary to fully comply with the USACE Violation File #SAM-2014-00614-GAC – Sections: a, b, c & d as described in the September 5, 2014 violation letter which entails:
 - A complete delineation of all impacted waters of the United States
 - A restoration plan consisting of plan view and cross-sectional drawings of the proposed restoration area
 - A list of proposed plantings to restore impacted wetland area
 - A proposed monitoring plan verifying the success of all restoration over a three year period

Note: This work will involve the hiring of an Environmental Consultant at a considerable expense to the City; the proposed work must be submitted by November 5, 2014.

- Support the issuance of a Municipal Offense Ticket (M.O.T.) to the Fannon's for the violation of the City of Daphne Right-Of-Way (ROW) Ordinance No.: 2004-23.
- Direct City Legal Counsel to take the following action concerning the Fannon's:
 - Send a Cease and Desist Letter
 - File notice that all appropriate legal action will be taken to recover all expense and damages to the City from them
 - Prepare liens against their property for the cost of the remediation

RDJ

Dane Haygood
Mayor



Richard D. Johnson, PE
Public Works Director

The Jubilee City

July 10, 2014

DAVID J. and SARAH W. FANNON
1317 LOVETTE LANE
DAPHNE, AL 36526

**RE: Notice of Violation – City of Daphne Right-Of-Way (row) Ordinance No.: 2004-23
Row adjacent to Tax Parcel: 05-43-04-41-0-006-049.000, Grant Section 41, T5S, R2E**

Mr. and Mrs. Fannon:

As you are aware, the City of Daphne owns a 30 foot, unopened, public right-of-way (ROW) on the north side of the above referenced property which links Captain O’Neal Drive to the bay. This unopened ROW contains a pristine, historical gully that flows to Mobile Bay. This gully conveys the storm water drainage generated from the properties and streets to the east.

It has been previously documented that you have filed complaints about the gully and its negative impacts on your property at 1317 Lovette Lane. One issue expressed is the City’s alleged prior act of piping water onto your property. In order to determine validity of the alleged claim the City has commissioned a boundary and encroachment survey of the unopened ROW. The field work is being completed as of this writing. The field findings are that the main channel of the gully lies within the City’s ROW and the drainage outfall is located on and discharges to City property.

On May 22, 2014 I made a site visit to the subject area to get an understanding of the basis of your complaint. I observed and photographed manmade activity within the gully that I suspect is causing the problems. I followed up the site visit with multiple phone calls with Mr. Fannon. One of the items discussed in detail was the manmade activities observed in the gully and the fact that those observed infrastructures (obstructions) were not constructed by the City of Daphne. Mr. Fannon stated that he had designed and oversaw the construction of the observed infrastructures (obstructions). I inquired if Mr. Fannon had obtained required permits for the work observed – no confirmation was given. During these conversation(s), I reiterated that any construction activity within the gully, whether on private or public property, would require a minimum of a United States Army Corps of Engineer (USACE) permit and if on the City’s ROW a ROW Permit. I pleaded to him not to undertake any additional construction activities until such time that a survey was completed and the USACE could make a jurisdictional determination.

Today at the request of the Surveyor, I visited the site. I observed significant construction activity within the City’s ROW, the work observed was not undertaken by the City, but by you (or a contractor under your direction). The work observed consisted of the piping and fill of approximately 40-60 linear feet of the gully contained wholly in the City ROW. These observed activities were conducted without the minimum requisite Right-Of-Way Permit, which would also require USACE approval. The work done

without a permit is a clear violation of the City of Daphne Ordinance No.: 2004-23 (Right-Of-Way Ordinance). The Ordinance addresses work done without a permit:

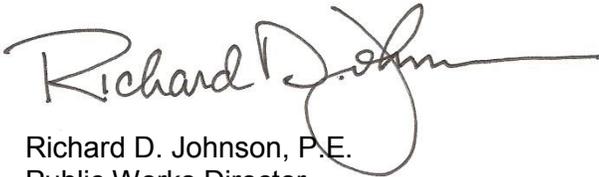
Section V.B.3.(Work done without a Permit): "Non-emergency situations. Except in the case of an emergency, any person who obstructs or excavates a right-of-way without a permit must subsequently obtain a permit, pay double the normal fee for said permit, pay double all the other fees required by City Codes, is subject to the issuance of a notice of violation and/or a Municipal Offense Ticket (M.O.T.), deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all requirements of this article."

Due to the level of unpermitted impacts observed to the gully and the recurring or perennial stream contained within its bed no consideration for an after-the-fact ROW Permit will be given at this time. Once the final survey is complete and the all jurisdictional agencies have reviewed the impacts, a course of action will be determined. The Ordinance in Appendix B, SECTION VII.,B,1. - RIGHT-OF-WAY AND EASEMENT RESTORATION OUTSIDE ROADWAY AREAS – States: *"All disturbed drainage channels, structures, and pipe systems affected by the construction will be replaced as required by the Director of Public Works"*. If channel restoration is warranted and/or ordered, then it will be done, then City will seek all avenues available to be made whole from the cost of the restoration due to actions by you or others.

You are to **Cease and Desist** all activity on the City's ROW. You may not materially change one thing on City ROW without first receiving an approved ROW permit, which cannot be applied for until the current encroaching activities are addressed. Any future unpermitted activity on the City's ROW will result in the issuance of a Municipal Offense Ticket (M.O.T.).

As soon as I have the completed survey and the jurisdictional report from the USACE, I will be in contact with you.

Regards,

A handwritten signature in black ink that reads "Richard D. Johnson". The signature is fluid and cursive, with a long horizontal line extending to the right from the end of the name.

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

Cc: Honorable Mayor Dane Haygood
Lonnie Jones, Code Enforcement Officer
Environmental Programs
City Attorney
City Clerk
USACE
File

Dane Haygood
Mayor



Richard D. Johnson, PE
Public Works Director

The Jubilee City

August 19, 2014

DAVID J. and SARAH W. FANNON
1317 LOVETTE LANE
DAPHNE, AL 36526

**RE: Notice of Violation – City of Daphne Right-Of-Way (ROW) Ordinance No.: 2004-23
ROW adjacent to Tax Parcel: 05-43-04-41-0-006-049.000, Grant Section 41, T5S, R2E**

Mr. and Mrs. Fannon:

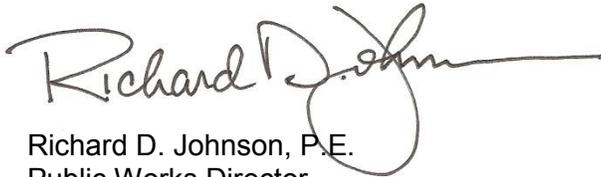
To follow up on the Notice of Violation Letter mailed to you on July 10, 2014 the following has been accomplished or determined:

- The Survey of the Old Warf Pier, an unopened, public right-of-way (ROW) on the north side of the above referenced property which links Captain O'Neal Drive to the bay has been completed. A copy of the survey is enclosed.
- The majority of the streambed of the channel/gully is contained within City Property.
- The drainage outfall at the eastern end of the gully is located on and discharges to City property. It does not discharge directly onto property owned by you.
- The United States Army Corps of Engineers (USACE) has determined that the subject intermittent stream and any associated tributaries and wetlands are waters of the U.S.
- All manmade activity within the gulley adjacent to your north property line has been done without permission of the property owner and without required City, State and/or Federal Permits.
- The observed manmade activities are violation of **Section 404 of the Clean Water Act** that requires that a Department of the Army (DA) permit be obtained for the placement or discharge of dredged and/or fill material into a water of the U.S., including wetlands, prior to conducting the work (33 U.S.C. 1344).
- The City has been issued a Cease and Desist Order by the USACE due to your illicit trespass and fill activity on City property (Attached)
- The City has responded to the USACE Cease & Desist letter identifying you as the responsible party for the illegal activity.
- The City is preparing a remediation plan for the full restoration of the stream channel to be approved and permitted by the USACE.
- The City will seek compensation for the cost of the stream restoration from you through all legal channels afforded to the City.
- Mr. Fannon, is a Professional Engineer (PE) registered in the State of Alabama. As a PE, I am duty-bound to file a Complaint with State of Alabama Board of Licensure for Professional

Engineers and Land Surveyors for violation of Cannons II & V - Rules of Professional Conduct (Code of Ethics) – for his known trespass and unpermitted illegal activity.

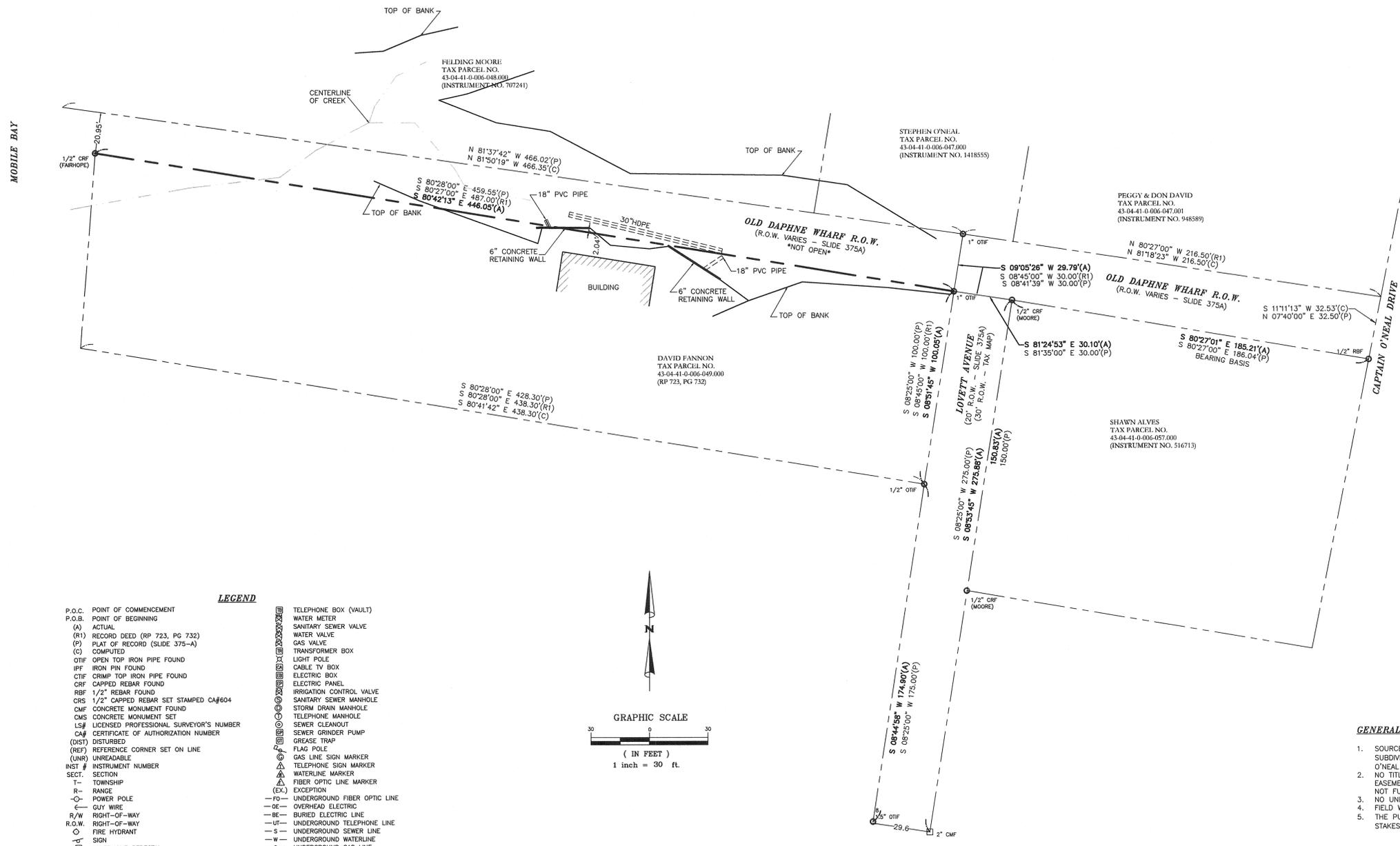
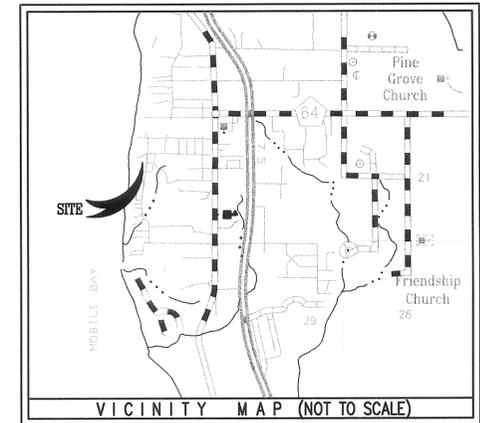
I reiterate: you are to **Cease and Desist** all activity on the City's ROW. You may not materially change one thing on City ROW without first receiving an approved ROW permit, which cannot be applied for until the current encroaching activities are addressed. Any future unpermitted activity on the City's ROW will result legal action/enforcement.

Regards,

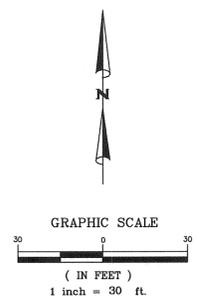
A handwritten signature in black ink that reads "Richard D. Johnson". The signature is written in a cursive style with a long horizontal line extending to the right from the end of the name.

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

Cc: Honorable Mayor Dane Haygood
Lonnie Jones, Code Enforcement Officer
Environmental Programs
City Attorney
City Clerk
USACE
File



- LEGEND**
- | | |
|---|-----------------------------------|
| P.O.C. POINT OF COMMENCEMENT | ☐ TELEPHONE BOX (VAULT) |
| P.O.B. POINT OF BEGINNING | ☐ WATER METER |
| (A) ACTUAL | ☐ SANITARY SEWER VALVE |
| (R1) RECORD DEED (RP 723, PG 732) | ☐ WATER VALVE |
| (P) PLAT OF RECORD (SLIDE 375-A) | ☐ GAS VALVE |
| (C) COMPUTED | ☐ TRANSFORMER BOX |
| OTIF OPEN TOP IRON PIPE FOUND | ☐ LIGHT POLE |
| IPF IRON PIN FOUND | ☐ CABLE TV BOX |
| CTIF CRIMP TOP IRON PIPE FOUND | ☐ ELECTRIC BOX |
| CRF CAPPED REBAR FOUND | ☐ ELECTRIC PANEL |
| RBF 1/2" REBAR FOUND | ☐ IRRIGATION CONTROL VALVE |
| CRS 1/2" CAPPED REBAR SET STAMPED CA#604 | ☐ SANITARY SEWER MANHOLE |
| CMF CONCRETE MONUMENT FOUND | ☐ STORM DRAIN MANHOLE |
| CMS CONCRETE MONUMENT SET | ☐ TELEPHONE MANHOLE |
| LS# LICENSED PROFESSIONAL SURVEYOR'S NUMBER | ☐ SEWER CLEANOUT |
| CA# CERTIFICATE OF AUTHORIZATION NUMBER | ☐ SEWER GRINDER PUMP |
| (DIS) DISTURBED | ☐ GREASE TRAP |
| (REF) REFERENCE CORNER SET ON LINE | ☐ FLAG POLE |
| (UNR) UNREADABLE | ☐ GAS LINE SIGN MARKER |
| INST # INSTRUMENT NUMBER | ☐ TELEPHONE SIGN MARKER |
| SECT. SECTION | ☐ WATERLINE MARKER |
| T- TOWNSHIP | ☐ FIBER OPTIC LINE MARKER |
| R- RANGE | (EX) EXCEPTION |
| ☐ POWER POLE | —FO— UNDERGROUND FIBER OPTIC LINE |
| ☐ GUY WIRE | —OE— OVERHEAD ELECTRIC |
| R/W RIGHT-OF-WAY | —BE— BURIED ELECTRIC LINE |
| R.O.W. RIGHT-OF-WAY | —UT— UNDERGROUND TELEPHONE LINE |
| ☐ FIRE HYDRANT | —S— UNDERGROUND SEWER LINE |
| ☐ SIGN | —W— UNDERGROUND WATERLINE |
| ☐ TELEPHONE PEDESTAL | —G— UNDERGROUND GAS LINE |
| ☐ ELECTRIC METER BOX | —TV— UNDERGROUND TELEVISION |
| ☐ AIR CONDITIONER | —E— ELECTRIC |
| ☐ JUNCTION BOX (VAULT) | ☐ BACK FLOW PREVENTER |



GENERAL SURVEYORS NOTES

- SOURCES OF INFORMATION USED TO FACILITATE THIS SURVEY WERE PREVIOUS SURVEYS BY THIS AND OTHER FIRMS, THE RECORDED SUBDIVISION PLAT, AND/OR OTHER RECORDED DOCUMENTS SHOWN HEREON. RECORD PLAT REFERENCED WAS RE-PLAT OF JAMES W. O'NEAL ADDITION TO THE TOWN OF DAPHNE, ALABAMA, RECORDED ON SLIDE 375-A, BALDWIN COUNTY PROBATE RECORDS.
- NO TITLE SEARCH, TITLE OPINION OR ABSTRACT WAS PERFORMED BY THIS FIRM. THERE MAY BE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, RIGHT-OF-WAYS, OR OTHER INSTRUMENTS OF RECORD WHICH COULD AFFECT THE BOUNDARIES OF THIS PROPERTY THAT WERE NOT FURNISHED AT TIME OF SURVEY.
- NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED ACCEPT AS SHOWN.
- FIELD WORK FOR THIS SURVEY WAS COMPLETED ON JUNE 30, 2014.
- THE PURPOSE OF THIS SURVEY WAS TO LOCATE AND STAKEOUT THE UNOPENED "OLD DAPHNE WHARF R.O.W." ALONG THE SOUTH LINE. STAKES WERE SET AT 50' INTERVALS ALONG THE SOUTH LINE.

SURVEYOR'S CERTIFICATION

I HEREBY STATE THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.


 STUART L. SMITH, PLS
 ALABAMA LICENSE NUMBER 27403
 DATE 07/16/2014

*DRAWING IS INVALID WITHOUT SIGNATURE & SEAL OF A LICENSED LAND SURVEYOR

NO.	REVISION	DATE	ENGR.



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



4008-LOVETT
 D2500/4006/10.01

**OLD DAPHNE WHARF R.O.W.
 SPECIFIC PURPOSE SURVEY**

CITY OF DAPHNE

SCALE 1"=30'	DATE 07/10/2014	DRAWN BY SLS	CHECKED BY SLS	SHEET 1 OF 1
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REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, MOBILE
CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

CERTIFIED MAIL
7001 0320 0002 3377 7808

August 11, 2014

08-14-14 P03:05 IN

South Alabama Branch
Regulatory Division

Subject: Department of the Army Jurisdictional Determination File Number
SAM-2014-000614-GAC

City of Daphne, Alabama
Attention: Mr. Richard D. Johnson, P.E.,
Director of Public Works
Post Office Box 400
Daphne, Alabama 36526

Dear Mr. Johnson:

This is a Cease and Desist Order involving your unauthorized discharge of dredged and/or fill material into waters of the United States, to include wetlands. The unauthorized work specifically consists of placing fill material in waters of the United States, to include wetlands. The unauthorized work was performed in Section 41, Township 5 South, Range 2 East, off Lovette Lane, Daphne, Baldwin County, Alabama.

Section 404 of the Clean Water Act requires that a Department of the Army (DA) permit be obtained for the placement or discharge of dredged and/or fill material into a water of the U.S., including wetlands, prior to conducting the work (33 U.S.C. 1344). The subject intermittent stream and any associated tributaries and wetlands are waters of the U.S.

We have determined that the above-described activity required authorization under the above-noted Federal Law(s). We have reviewed our records and concluded that a DA permit was not obtained. Therefore, the work is in violation of Section 301 of the Clean Water Act.

As property owner, you are hereby directed to cease and desist from any further work in areas subject to Corps of Engineers jurisdiction at the above-noted location. Continuation of unauthorized work in areas subject to Corps of Engineers jurisdiction shall be considered a knowing, repeat, and flagrant violation of Federal law.

My staff is currently conducting an investigation to determine the appropriate course of action to be taken to resolve this violation. To ensure that all pertinent information is available for our evaluation and included in the public record, you are

invited to provide any information which you feel should be considered. At a minimum, we specifically request that you provide the following information:

- a. What is the purpose of the work?
- b. When did the work commence?
- c. What is the name, address, and telephone number of the contractor, if any?
- d. What are your plans for the site, including the total area (acres of uplands and acres of wetlands) you have filled and/or intend to fill, and the intended use for the fill sites?
- e. What is the type and amount of material placed?
- f. Please include any other information you wish to provide concerning the history of the activity.

You are advised that substantial penalties are available for conducting work in waters of the U.S., including wetlands, without the necessary DA authorization.

Section 12 of the Rivers and Harbors Act provides civil penalties of not less than \$500, and not more than \$2,500, per day of violation or by imprisonment of up to one year, or both.

Section 309 of the Clean Water Act provides penalties, including fines of up to \$50,000 per day or by imprisonment of up to three years, or both, for any person who knowingly violates Section 301 of the Clean Water Act.

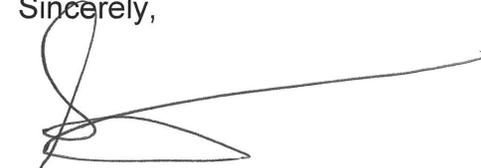
Nothing in this letter shall be construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations that may affect this work. We are furnishing copies of this letter to the agencies on the enclosed list to solicit their views concerning resolution of this violation.

Please acknowledge, in writing, within 15 calendar days from receipt of this letter of your involvement with this work and your intention concerning resolution of this violation.

A copy of this correspondence is furnished to the following: ADEM, Mobile Branch, Coastal Section, Attention: Mr. Scott Brown, 3664 Dauphin Street, Suite B, Mobile, Alabama 36608; and U.S. Fish and Wildlife Service, 1208-B Main Street, Daphne, Alabama 36526.

Please refer to file number SAM-2014-00614-GAC in future correspondence or if you have any questions concerning this Cease and Desist order. You may call Mr. Glen A. Cunningham at (251) 694-4077 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sheri M. Zettle', with a long horizontal flourish extending to the right.

Sheri M. Zettle, P.G.
Acting Chief, South Alabama Branch
Regulatory Division

Dane Haygood
Mayor



Richard D. Johnson, PE
Public Works Director

The Jubilee City

August 18, 2014

Sheri M. Zettle, P.G.
Acting Chief, South Alabama Branch
Regulatory Division
Department of the Army
U.S. Army Engineer District, Mobile
Corps of Engineers
P.O. Box 2288
Mobile, Alabama 36628-0001

**RE: Department of the Army Jurisdictional Determination File Number
SAM-20 14-000614-GAC**

Mrs. Zettle:

Please consider this letter as the City of Daphne's acknowledgement of the Cease and Desist Order involving the unauthorized discharge of dredged and/or fill material into waters of the United States, to include wetlands. The City has already taken action by directing the responsible individual to Cease and Desist all unauthorized fill activity in the unopened R.O.W. located in Section 41, Township 5 South, Range 2 East, off Lovette Lane, Daphne, Baldwin County, Alabama.

I would like to provide the following pertinent information for your evaluation and consideration, specifically:

- a. What is the purpose of the work? *Response: Unknown at this time, the City did not undertake or have any involvement in the current work or prior activities in this historic gully west of Lovette Lane.*
- b. When did the work commence? *Response: The current work was completed between May 22 and July 10, 2014. However, there was evidence of earlier fill in the historic gully prior to the May 22, 2014 visit.*
- c. What is the name, address, and telephone number of the contractor, if any? *Response: The work was enacted by the property owner to the south: DAVID J. and SARAH W. FANNON; 1317 LOVETTE LANE; DAPHNE, AL 36526; Phone (251) 591-0011*
- d. What are your plans for the site, including the total area (acres of uplands and acres of wetlands) you have filled and/or intend to fill, and the intended use for the fill sites? *Response: The City neither endorsed nor undertook the construction activities within the streambed/gully. This was an act of a rogue citizen who trespassed onto and impacted a streambed with total disregard to ownership or jurisdictional environmental oversight. It*

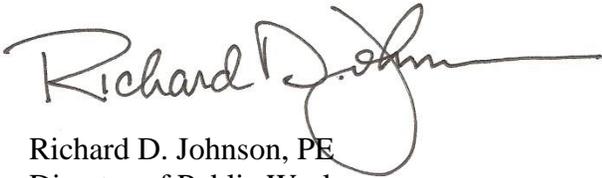
is the goal of the City to mitigate the impacts through channel restoration and seek compensation for the cost of the restoration from the rogue citizen through all legal channels afforded to the City.

- e. What is the type and amount of material placed? *Response: Quantity and classification of fill is unknown at this time. However, the newest fill appears to be a light colored sand material, we suspect harvested from the bay shoreline. Once a restoration plan is completed we will be able to identify quantities and fill material classifications.*
- f. Please include any other information you wish to provide concerning the history of the activity. *Response: Please find enclosed a copy of the Notice of Violation dated 07-10-2014 and a Survey of the Old Wharf Pier ROW dated 07-16-2014. These documents provide additional background and information for your files.*

Our short-term objective is to stop the trespass and the non-permitted construction activity within the streambed/gulley. The long-term objective is the complete restoration of the channel and gulley. We have begun our planning and will provide all preliminary details to you as this process moves forward. Mrs. Ashley Campbell, Environmental Programs Manager, will serve as our Project Liaison and can be reached at (251) 621-3080 or email at: acampbell@daphneal.com.

Thank you for your understanding and cooperation. If I can be further assistance, please do not hesitate to contact me.

Yours,



Richard D. Johnson, PE
Director of Public Works

Cc: Honorable Mayor Dane Haygood
Lonnie Jones, Code Enforcement Officer
Environmental Programs
City Attorney
City Clerk
Mr. Scott Brown, Coastal Section, Mobile Branch, ADEM
U.S. Fish and Wildlife Service
File



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, MOBILE DISTRICT
CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

09-11-14 P03:38 IN

September 5, 2014

South Alabama Branch
Regulatory Division

SUBJECT: Department of the Army Permit Violation File SAM-2014-00614-GAC,
City of Daphne, Alabama, Unnamed Stream/Tributary connecting with Mobile Bay

City of Daphne, Alabama
Attention: Mr. Richard D. Johnson, P.E.,
Director of Public Works
Post Office Box 400
Daphne, Alabama 36526

Dear Mr. Johnson:

Reference is made to our Cease and Desist Order involving unauthorized discharge of dredged and/or fill material into waters of the United States, to include wetlands, and your response to this office of the U.S. Army Corps of Engineers, dated August 18, 2014, copy enclosed.

In your above-referenced letter you indicated that the City of Daphne, Alabama intends restore the impacted stream channel. This office finds this to be an acceptable plan contingent upon your inclusion of restoration of any affected wetland area, as well.

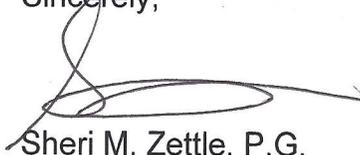
Please provide this office the following items no later than **November 5, 2014** so we may continue evaluation of your restoration plans:

- a. A complete delineation of all impacted waters of the United States in accordance with the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual. This submittal should include data sheets, a plan view drawing of the delineated area and GPS coordinates for a data/sampling points.**
- b. A restoration plan consisting of plan view and cross-sectional drawings of the proposed restoration area, identifying all existing and proposed new structures/features.**
- c. A list of proposed plantings where appropriate to restore impacted wetland area.**
- d. A proposed monitoring plan verifying the success of all restoration over a three year period. This plan should monitor stream function and restoration success of any restored wetland area, including success of regenerative and planted native vegetation. This report should be submitted to this office of the U.S. Corps of Engineers every six months for a total of three years.**

A copy of this correspondence is furnished to the following: ADEM, Mobile Branch, Coastal Section, Attention: Mr. Scott Brown, 3664 Dauphin Street, Suite B, Mobile, Alabama 36608.

Please contact me at (251) 694-4077 if you have any questions. For additional information about our Regulatory Program, visit our web site at: www.sam.usace.army.mil/missions/regulatory and please take a moment to complete our customer satisfaction survey while you're there. Your responses are appreciated and will allow us to improve our services.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheri M. Zettle". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Sheri M. Zettle, P.G.
Chief, South Alabama Branch
Regulatory Division

Enclosure

**CITY OF DAPHNE
ORDINANCE NO. 2004-23**

=====

RIGHT-OF-WAY ORDINANCE

=====

WHEREAS, the City Council of the City of Daphne, Alabama desires to protect, preserve and promote the health, welfare and safety of the citizens of Daphne by ensuring the structural integrity of public streets; and

WHEREAS, the City Council of the City of Daphne, Alabama desires to ensure that city rights-of-way are maintained in a state of good repair free from unnecessary encumbrances; and,

WHEREAS, the City Council of the City of Daphne, Alabama, possessing authority to manage and control its rights-of way, desires to establish the rules and regulations related to right-of-way work; to provide applicable definitions; to define prohibited acts; to provide penalties for the violation hereof; and to enact reasonable regulations in furtherance thereof.

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

SECTION I. DEFINITIONS

A. For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context the words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely derivative.

1. **Applicant.** Means any person or entity requesting permission to obstruct or construct in a City of Daphne right-of-way.
2. **City.** Means the City of Daphne, Alabama.
3. **Code Enforcement Officer.** Means any person authorized by the City of Daphne to enforce the Codes of the City and issue Municipal Offense Tickets for violations thereof.

4. Construct. Means to excavate, repair, rehabilitate, maintain, and install sanitary sewers, water mains, fire hydrants, valves, meters, manholes, service lines and connections, gas mains, telephone and electrical conduit and their miscellaneous service lines and connections, telecommunications Facilities cables, wires, lines, wave guides, antennas, and other equipment or Facilities, pedestals, and service cabinets, poles, guy wires, storm drains, manholes, inlets, catch basins, irrigation systems, driveways, sidewalks, pavement extensions, curbs, walks, steps, building canopies, balconies, overhead walkways, and temporary detour pedestrian walkways on, above, or under any part of the Rights of Way provided however, that Construct shall not mean installation, repair, rehabilitation or maintenance of Facilities that do not involve excavation of any portion of the Rights of Way.
5. Construction Bond. Means a bond posted to ensure proper and complete construction and/or repair of a permitted site pursuant to a permit issued by the Public Works Department.
6. Construction Standards for miscellaneous construction, utility excavation, Right-of-way and pavement restoration. Means the compilation of provisions and requirements that provide the technical specifications and details for the construction of facilities in the right-of-way.
7. Department. Means the City of Daphne Public Works Department.
8. Department Inspector. Any person designated/authorized by the Public Works Director to carry out inspections related to the provisions of this article.
9. Emergency. A condition that poses a clear and immediate danger to life or health, or of a significant loss of property or utility service. "Emergency" also includes requests for service which the applicant deems urgent and can be classified as small project types A and B.
10. Excavation. Means any work on the surface or subsurface of the public right-of-way including but not limited to opening the right-of-way, installing, servicing, repairing, or repairing/modifying any facilities/sites in or under the surface or subsurface, and restoring the surface and subsurface of the public right-of-way.

ORDINANCE NO. 2004-23

PAGE 3

11. Facilities. Means any tangible thing located in any right-of-way; and shall include boulevard plantings or gardens planted & maintained in the right-of-way between a persons property and the street edge of pavement.
12. Geo-technical Engineer. Means a professional engineer experienced in soils engineering and materials testing.
13. Geo-technical Company. Means a professional engineering company that provides soils engineering and testing services, laboratory and field testing services, construction material testing, and possesses a certificate of authorization from the state board of registration for professional engineers and land surveyors.
14. In. Means, when used in conjunction with " right-of-way", means over, above, in, within, on or under a right-of-way.
15. Landscape or Landscaping. Means trees, shrubs and other plantings of materials that are or may grow to a height of eighteen(18) inches or more, and irrigation systems (in unpaved areas), in the right-of-way.
16. Major Project. Means construction of water, sewer, gas, telephone, fiber optic, electrical power conduit, cable and duct, TV cable, jacking, boring, pushing and tunneling, retrofitting existing facilities/sites, storm drain and any other miscellaneous major facility construction projects that involve more than one continuous block or five hundred (500) linear feet of right-of-way.
17. Minor Project. Means construction of miscellaneous utility service lines, manhole installation not associated with Major Project construction, main line point repairs and installation, miscellaneous utility service line repair, storm drain and inlet repairs, vaults, irrigation systems and other miscellaneous construction and repair projects that involve less than one(1) block or five hundred (500) linear feet of right-of-way.

18. Municipal Court. Means the part of the City of Daphne Municipal Court System designed to enforce local laws and ordinances relating to the physical appearance of the City, and the health and safety of the public.
19. Municipal Offense Ticket (M.O.T.). Means a citation issued for a violation of this ordinance. A M.O.T. may require payment of a fine as defined by the municipal offense ticket system (M.O.T.) fine schedule, as may be amended from time to time, appearance in municipal court and if determined by the judge of said court, jail or community service.
20. Notice of Violation. Means a written warning issued by the Department, or the City of Daphne Code Enforcement Officer, for a violation or possible violation of this ordinance.
21. Obstruct. Means to place any tangible object in a right-of-way so as to hinder free and open passage over, under or through that or any part of the right-of-way.
22. Permit Fee. Means money charged by the City of Daphne to cover the costs as provided in Appendix A (Schedule of fees) of this ordinance.
23. Permittee. Means any person or company to whom a permit to construct or obstruct a right-of-way has been granted by the City.
24. Person. Means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have facilities/sites located in any right-of-way.
25. Restoration. Means the process by which a constructed or obstructed right-of-way is restored as specified in the constructed standards.
26. Right-Of-Way. Means the surface and space above and below any real property in which the City has an interest in law or equity, whether held in fee, or other estate or interest including easements, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, river, tunnel, viaduct, bridge, park, or any other place, area, or real property owned by or under the control of the City.

27. Right-Of-Way Permit. Means the permit which must be obtained before a person may construct in, or obstruct in a right-of-way as required by Section III (Right-of-way permits) of this ordinance.
28. Service or Utility Service. Means services provided by utilities.
29. Sidewalk. Means the paved pedestrian walkway between the edge of the road and the street right-of-way line.
30. Small Project (Type A). Means the installation of equipment cabinets, junction boxes, terminal boxes, splice boxes, regulator stations, meters and valves in paved areas, utility poles, guy poles and appurtenances not associated with a major or minor project.
31. Small Project (Type B). Means the installation, repair and routine maintenance of miscellaneous utility drop lines, overhead wires and cables, traffic signal poles, light poles, traffic signs, meters, valves and other miscellaneous construction, repair, routine maintenance and inspection, that requires minimal excavation or right-of-way disruption.
32. Supplementary Application. Means an application made to construct or obstruct more of the right-of-way than allowed in, or to extend, a permit that has already been issued.
33. Trenchless Technology. Means the use of directional boring, horizontal drilling and microtunneling and other techniques in the construction of underground portions of facilities which result in the least amount of disruption and damage to right-of-way as possible.
34. Underground Facilities. Means all lines, cables, conduits, posts, tanks and any other facilities owned or operated by persons other than the City which are located wholly or partially underneath right-of-way.
35. Utilities. Means any water, sewer, gas, drainage, irrigation or culvert pipe and any electric power, telecommunication, signal, communication, or cable television conduit, fiber / fiber optic, wire, cable, or operator thereof.

SECTION II. RIGHT OF WAY ADMINISTRATION

A. Administration. The City of Daphne Public Works Director shall be the principal City official responsible for the administration of the right-of-way, right-of-way permits, and the ordinances related thereto. The Public Works Director may amend from time to time, construction standards and other rules reasonable required to carry out the purposes of this ordinance. Any requirement not specifically covered by this ordinance or the construction standards shall be determined by the Public Works Director. The Public Works Director may delegate any or all of the duties hereunder.

B. Appeal Procedure. The Public Works Director may grant a special exception to the requirements of this ordinance if a permittee demonstrates, with written evidence, that:

1. The exception will not create any threat to public health, safety or welfare.
2. The permittee demonstrates that the increased economic burden and the potential adverse impact on the permittee's construction schedule resulting from the strict enforcement of this ordinance actually, or effectively, prohibits the ability of the permittee to provide utility services in the City.
3. The permittee demonstrates that the requirement unreasonably discriminates against the permittee in favor of another person.

C. Should any person be aggrieved by the decision of the Public Works Director, such person may appeal by filing written notice with the Public Works Department within fifteen(15) days from the date of such decision. The Department shall send a copy of the appeal and all relevant Documentation, within fifteen(15) days, to the City Clerks Office to be Considered by the City Council at a public hearing.

SECTION III. RIGHT-OF-WAY PERMITS

A. Permit requirements.

1. Except as otherwise provided in this ordinance, no person may construct or obstruct any right-of-way without first having obtained one of the following right-of-way permits from the Public Works Department.
 - a) Major Project;
 - b) Minor Project;

- c) Small projects;
 - 1) Type A;
 - 2) Type B; or

d) Landscape

2. Right-of-way permit. A right-of-way permit is a permit which allows the holder to construct, obstruct, or landscape in that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein. A permit is valid only for the date(s) and the area(s) of right-of-way specified in the permit. No person may construct in or obstruct the right-of-way beyond the date or dates specified in the permit unless such person:

- a) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and
- b) A new permit or permit extension is granted.

However, if no work is initiated within six months or if the project lies dormant for a period of thirty(30) calendar days after being started, the Permit is rendered invalid.

3. Emergencies. When the work must commence immediately because of an emergency, the permittee shall comply with the provisions in subsection V, B, 1.

4. Exemptions. No permits shall be required for the following activities:

- a) Installation and repair of facilities by, or for, City of Daphne Departments; and
- b) Installation of landscaping materials which are, or may grow, to a height of not more than eighteen(18) inches.

5. Permit authorizing routine work. Applicants may be allowed, if determined by the Public Works Department, to obtain in advance, an annual, quarterly or semi-annual permit for minor projects outside roadway limits and some small projects that involve minimal excavation. Permit fees shall be calculated as an estimate of similar work conducted over the past twelve months.

B. Permit applications. Application for a permit is made to the Public Works Director.

1. All permit applications shall contain, and will be considered complete only upon compliance with the requirements of the construction standards, as appropriate.

a) Tree and landscaping requirements of this article shall be administered and enforced by the Director of Community Development, in cooperation with the Director of Public Works.

C. Issuance of permit; conditions.

1. If the Director of Public Works determines that the applicant has satisfied the requirements of this ordinance, he may issue a permit or issue notification and reason for denial of same.

2. The Director of Public Works may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder in order to protect the public health, safety and welfare, to insure the structural integrity of the right-of-way, to protect the property of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public, including notification to property owners.

D. Permit fees.

1. Permit fees shall be established by the City Council upon recommendation by the Director of Public Works. Said fees shall be in an amount sufficient to recover the following costs:

a) The City costs, including administration, inspection, and enforcement; and

b) The cost for obstructing the right-of-way, including costs associated with traffic management that results from street obstruction, lost tax revenues resulting from streets blocked and as an encouragement to minimize costs and to encourage timely, efficient use of the right-of-way.

c) The current schedule of permit fees is set forth in Appendix A to this article.

2. Payment of permit fees. No permit shall be issued without payment of such fees unless the Public Works Director authorizes payment to be made thirty (30) days following billing. All changes in fees shall be approved by the City Council.
3. Nonrefundable fees. All permit fees are nonrefundable.
4. Joint applications. Applicants are encouraged to make joint applications for permits to construct or obstruct the right-of-way at the same place and time.

SECTION IV. CONSTRUCTION; RESTORATION

A. Compliance with construction standards. All construction or maintenance of facilities shall be in accordance with this ordinance, the construction standards and such other conditions imposed on the permit by the Public Works Director under Section III, C.

B. Location of facilities. The Public Works Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests or permittees to occupy and use the right-of-way. In making such decisions, the Public Works Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of public interest, the public's need for the particular utility service, the condition of the right-of-way, the protection of existing facilities/sites in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

C. Least disruptive technology. Applicants are encouraged to perform construction and maintenance of facilities in a manner resulting in the least amount of damage and disruption of the right-of-way. Applicants will be required to use trenchless technology for major and minor construction projects, within roadway limits, in arterial and other high volume streets constructed or resurfaced within the last five (5) years, unless otherwise approved by the Director of Public Works and such approval shall not be unreasonably withheld. The Director of Public Works may require trenchless technology in other locations, where extreme circumstances prevent or make open cut methods impractical. Applicants may use the open cut method or trenchless technology for major and minor projects outside roadway limits.

D. Right-of-way restoration.

1. The work to be done under the permit, and the restoration of the right-of-way as required herein, must be completed within the dates specified in the permit. In addition to its own work, the permittee must restore the general area of the work, including all disturbed landscaping materials and the permitted areas, including the paving and its foundations, per the City of Daphne construction standards.
2. The permittee shall perform the work according to the standards and with the materials specified by the City of Daphne Public Works Director including but not limited to the construction standards.
3. By restoring the right-of-way, the permittee guarantees its work for twenty-four (24) months following its completion. During this twenty-four month period, the permittee shall, upon notification from the Public Works Director, correct all restoration work to the extent necessary using the method required by the Director. Said work shall be completed within the time frame specified by the Director of Public Works.

E. Installation requirements. The excavating, backfilling, restoration, and all other work performed in the right-of-way shall be done in conformance with specifications set forth in the construction standards.

F. Inspection. Except for routine work, when the work under any permit for major and minor projects hereunder is completed, the permittee shall notify the Public Works Director.

1. Permittee shall make the work site available to the Public Works Director or his authorized representative and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the work.
2. At the time of the inspection, the Director of Public Works or his authorized representative may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well being of the public.

3. The Director of Public Works or his authorized representative may issue a notice of violation to the permittee for any work which does not conform to the applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for issuance of a Municipal Offense Ticket (M.O.T.) and/or a stop work order. Within the time frame indicated on the notice after issuance of the order, the applicant shall present proof to the Director of Public Works that the violation has been corrected. If such proof has not been presented within the required time, the Director of Public Works may issue a stop work order and/or have a Municipal Offense Ticket (M.O.T.) issued.

G. Other obligations. Obtaining a right-of-way permit does not relieve the permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other city, county, state, or federal rules, laws or regulations.

1. A permittee shall comply with all requirements of local, state and federal laws, including a franchise duly adopted by the City Council. Contact shall be made to the one call excavation notice system, Alabama Statutes @ 1-800-292-8525, or such other number which may be applicable.
2. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who performs the work.
3. Except in the case of an emergency, and with the approval of the Director of Public Works, no right-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work.
4. A permittee shall not so obstruct a right-of-way that the natural and free passage of water through the gutters or other waterways shall be interfered with.
5. Private vehicles not owned by or under contract to permittee may not be parked within or adjacent to a permit area.

SECTION V. ENFORCEMENT OF PERMIT OBLIGATION

A. Denial of permit.

1. **Mandatory denial.** Except in the case of emergency, no right-of-way permit will be granted:
 - a) To any person who has failed to comply with the requirements of this article;
 - b) To any person who is delinquent in paying a debt owed to the City;
 - c) If, in the discretion of the Director of Public Works, the issuance of a permit for the particular date and/or time would cause a conflict or interfere with an exhibition, celebration, festival, or any other event. The Director of Public Works, in exercising this discretion, shall be guided by the safety and convenience of ordinary travel of the public over the right-of-way, and by considerations relating to the public health, safety and welfare.
2. **Permissive denial.** The Director of Public Works may deny a permit in order to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the rights-of-way and its users. The Director of Public Works may consider one(1) or more of the following factors:
 - a) The extent to which the right-of-way space where the permit is sought is available;
 - b) The competing demands for the particular space in the right-of-way;
 - c) The availability of other locations in the right-of-way or in other right-of-way for the facilities of the particular company;
 - d) The applicability of other ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;
 - e) The degree of compliance of the applicant with the terms and conditions of its franchise, this ordinance, and other applicable ordinances and regulations; the degree of disruption to surrounding neighborhoods and businesses that will result from the use of that part of the right-of-way; and

f) The condition and age of the right-of-way, and whether and when it is scheduled for total or partial construction; and the balancing of the costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the expansion into additional parts of the right-of-way.

B. Work done without a permit.

1. **Emergency situations.** Each permittee shall notify the Director of Public Works (by telephone or in person) of any event regarding its facilities which it considers to be an emergency immediately upon its discovery of same. The applicant may proceed to take whatever actions are necessary in order to respond to the emergency. Within one(1) business day after the occurrence of the emergency, the applicant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this ordinance for the actions it took in response to the emergency.
2. In the event that the Director of Public Works becomes aware of an emergency regarding a permittees' facilities/site, the Department shall attempt to contact the local representative of each permittee affected, if known, or potentially affected, by the emergency, who must comply with subsection b) 1. of this section. In any event, the Department may take whatever action deemed necessary in order to respond to the emergency.
3. **Non-emergency situations.** Except in the case of an emergency, any person who obstructs or excavates a right-of-way without a permit must subsequently obtain a permit, pay double the normal fee for said permit, pay double all the other fees required by City Codes, is subject to the issuance of a notice of violation and/or a Municipal Offense Ticket (M.O.T.), deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all requirements of this article.

C. Enforcement.

1. Permittee's hold permits issued pursuant to this ordinance as a privilege and not as a right.
2. If the Director of Public Works determines that the permittee has violated a material term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the Director of Public Works shall issue a notice of violation to the permittee to remedy such violation. The demand shall state that continued violations may cause for the issuance of a stop work order and issuance of a Municipal Offense Ticket (M.O.T.). Further, a substantial breach, as stated above, will allow the Director of Public Works, at his or her discretion, to place additional or revised conditions on the permit.
3. A material violation by permittee shall include, but shall not be limited to, the following:
 - a) The violation of any material provision of the permit;
 - b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;
 - c) Any material misrepresentation of fact in the application for a permit;
 - d) The failure to maintain the required bonds and/or insurance;
 - e) The failure to complete the work within a timely manner; or
 - f) The failure to correct a condition indicated on an order issued pursuant to Section IV, F.
3. Within forty-eight (48) hours of receiving a notice of violation, permittee shall contact the Director of Public Works with a plan, acceptable to the Director of Public Works, for its correction. Permittee's failure to so contact the Director of Public Works, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate issuance of a stop work order and issuance of a Municipal Offense Ticket (M.O.T.).

4. From time to time, the Director of Public Works may establish a list of conditions of the permit that will automatically warrant the issuance of a Municipal Offense Ticket (M.O.T.) to the permittee.

SECTION VI. INDEMNIFICATION AND LIABILITY

A. The City does not accept liability. By reason of the grant of a right-of-way permit, the City does not assume any liability:

1. For injuries to persons, damage to property, or loss of service claims by parties other than the applicant or the City; or
2. For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of facilities by permittees or activities of permittees.

b) Applicant or permittee indemnifies the City. By accepting a permit, a permittee is required to, indemnify and hold the City whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its facilities/site, or out of any activity undertaken in or near a right-of-way, whether any act or omission complained of is authorized, allowed, or prohibited by a right-of-way. It further agrees that it will not bring, nor cause to be brought, any action, suit or other proceeding claiming damages, or seeking any other relief against the City for any claim nor for any award arising out of the presence, installation, maintenance or operation of its facilities/site, or any activity undertaken in or near a right-of-way, whether the act or omission complained of is authorized, allowed or prohibited by a permit. The foregoing does not indemnify the City for its own negligence. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the applicant or to the City; and the applicant, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert on its own behalf.

c) Exceptions. The provisions of subsection (b) of this section shall not apply to a permittee that has, as effective date of this ordinance, a valid franchise duly granted by the City, and said franchise requires the permittee to hold harmless the City for damages occasioned by the presence, operations or maintenance of the permittee's facilities/site. This exemption shall not apply where said franchise does not afford the City at least the level of protection stated in section (b) of this section, unless the permittee agrees to provide the same or greater level of protection to the City.

SECTION VII. PENALTY.

A. Any person found guilty of violating any provision of this Ordinance shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment for a period not exceeding six (6) months, or both, in the discretion of the Municipal Judge.

B. This Ordinance shall also be subject to enforcement by the issuance of a summons and complaint pursuant to the provisions of Ordinance No. 1993-02, as the same may be from time to time amended.

SECTION VIII. NON-EXCLUSIVITY

The remedies provided in this ordinance are not exclusive or in lieu of other rights and remedies that the City may have at law or in equity. The City is hereby authorized to seek legal and equitable relief for actual or threatened injury to the public right-of-way, including damages to the right-of-way, whether caused by a violation of any of the provisions of this chapter or other provisions of this ordinance.

SECTION IX. SEVERABILITY

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

SECTION X. REPEALER

Any Ordinances or parts of Ordinances conflicting with the provisions of this Ordinances are hereby repealed insofar as they conflict.

SECTION XI. EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of Daphne and publication as required by law.(b) Severability. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF DAPHNE, ALABAMA,
ON THE 21st DAY OF June, 2004.

CITY OF DAPHNE



E. HARRY BROWN, MAYOR

ATTEST:



DAVID COHEN, CITY CLERK, MMC

**APPENDIX A
SCHEDULE OF FEES**

RIGHTS-OF-WAY AND EXCAVATION PERMIT FEES

<u>Description</u>	<u>Permit Fee</u>
Longitudinal and traverse excavation for major utility projects (paved areas)	\$0.50 per L.F. (minimum fee \$100.00)
Longitudinal and traverse excavation for major utility projects (unpaved areas)	\$0.10 per L.F. (minimum fee \$25.00)
Longitudinal and traverse excavation for point repairs, service	\$15.00 per square yard
Lines, storm drains, manholes, etc. (paved areas) and excavation for utility construction, point repairs (unpaved areas)	\$6.00 per square yard
Boring and jacking operations, tunneling, retrofitting of existing (minimum fee \$50.00 per block) utility lines, (pipe lining), etc. Irrigation systems (paved areas)	\$0.40 per L.F. (minimum fee \$25.00)
Utility poles (new installation) including guy and anchor	\$2.00 per pole
Communication towers (new installation)	\$25.00 per tower
Terminal boxes, junction boxes, equipment cabinets, splice boxes, regulator stations, meters & valves in paved areas, vaults	\$5.00 each
Sidewalk, driveway, curb, gutter (new construction, replacement and repair):	
0 sq. yds. to 2 sq. yds.	\$10.00
2 sq. yds. to 25 sq. yds.	\$30.00
25 sq. yds. to 100 sq. yds.	\$40.00
100 sq. yds. to 500 sq. yds.	\$50.00
500 sq. yds. or greater	\$60.00
Steps	\$50.00 per location
Monitoring wells	\$50.00 each
Temporary pedestrian walkway	\$50.00 per location
Balconies, Canopies	\$10.00 per location

Note: Applicants may be allowed, if determined by the Department to obtain, in advance, an annual, quarterly, or semi-annual permit for minor projects outside roadway limits and some small projects that involve minimal excavation. Permit fees shall be calculated as an estimate of similar work conducted over the past twelve (12) months.

No fee/permit shall be required for replacing existing poles of similar size or routine inspection.

*****Please note: all fees are non-refundable*****

OBSTRUCTION FEES

The following conditions shall apply in determining obstruction fees:

1. The obstruction of commercial pedestrian walkways will be charged at the rate of five dollars (\$5.00) per calendar day for each twenty (20) linear feet of length.
2. Fees will not be charged for obstruction of less than eight(8) hours.

**APPENDIX B
CONSTRUCTION STANDARDS FOR MISCELLANEOUS
CONSTRUCTION UTILITY EXCAVATION, AND
RIGHT-OF-WAY AND PAVEMENT RESTORATION**

**SECTION I. CONSTRUCTION PLAN SUBMITTAL REQUIREMENTS WITHIN
PUBLIC RIGHT-OF WAYS AND EASEMENTS**

A. Major projects.

1. Major projects within roadway limits:

a) Construction plan submittal. Applicants for right-of-way permits shall submit three (3) sets of construction plans and specifications, including the following information, for review and approval:

1) The location of all topographic features affected by the project within the right-of-way.

b) Complete plan & profile sheets indicating the horizontal and vertical location of all components of the proposed project and other related information including, but not limited to, pipe and manhole flow line elevations, type and size of pipe, and other related structures, profile and other elevations necessary for roadway and right-of-way restoration, and the design details of the proposed construction and pavement and right-of-way restoration will be required for gravity flow systems including sanitary sewer, storm drain and related projects.

Note: Complete plan & profile sheets and other information currently required for gravity flow systems will be required for projects submitted after future ordinance amendment to include provisions for implementation of GIS mapping requirements.

c) A plan indicating the location of the proposed project with respect to the centerline, edge of road, and right-of-way, tie-in to nearest street intersection, components and material type used, and dimensions and depth of the proposed installation, will be required for non-gravity flow systems including water distribution systems, gas systems, communication, cable TV and electric power distribution systems, unless otherwise authorized by the Director of Public Works.

d) An erosion control plan and best management practices (BMP's) complying with provisions of the City Stormwater Management Ordinance.

e) A safety plan to include methods to be used to protect the general public from injury, and including the proposed use of barricades,

signs, lights, fencing and other barriers.

f) A traffic control plan complying with all of the provisions of the Federal Manual on Uniform traffic Control Devices, current edition, shall be submitted to the Director of Public Works.

g) A landscape plan complying with the tree landscaping and protection ordinance; and

h) Complete as-built construction plans of the construction project shall be submitted to the Director of Public Works, after final inspection of the project. The as-built plans shall be submitted in hard copy medium as well as CAD files in DXF Format.

2. Major projects outside roadway limits:

a) Construction plan submittal. Applicants for right-of-way permits shall submit three (3) sets of construction plans & specifications, including the following information for review and approval:

The location of all visible topographic features within the right-of-way that will be impacted by the proposed project.;

b. anchor;

c. Complete plan and profile sheets indicating the horizontal and vertical location of all components of the proposed project and other related information including, but not limited to, pipe and manhole flow line elevations, type and pipe size, and other related structures, profile and other elevations necessary for right-of-way restoration and the design details of the proposed construction, including the right-of-way restoration will be required for gravity flow systems including sanitary sewer, storm drain and related projects.

Note: Complete plan & profile sheets and other information currently required for gravity flow systems will be required for projects submitted after ordinance amendment to include provisions for the implementation of GIS mapping requirements.

d) A plan indicating the location of the proposed project with respect to the centerline, edge of road, and right-of-way, tie-in to nearest street intersection, components and type of material used, and dimensions and depth of the proposed installation, will be required for non-gravity flow systems including water distribution systems, gas systems, communication, cable TV and electric power distribution systems, unless otherwise authorized by the Director of Public Works.

e) An erosion control plan with best management practices (BMP's) complying with the City's Stormwater Management Ordinance.

f) A safety plan to indicate methods to be used to protect the general public from injury, and including the proposed use of barricades, signs, lights, fencing and other barriers.

g) A traffic control plan complying with all the provisions on the Manual on Uniform Traffic Control Devices, current edition, shall be submitted to the Director of Public Works, if any roadway is affected.

h) A landscape plan complying with the tree landscaping and protection ordinance; and

i) Complete as-built construction plans of the construction project shall be submitted to the Director of Public Works, after final inspection of the project. The as-built plans shall be submitted in hard copy form and CAD files in DXF Format.

B. Minor projects.

1. Minor projects within roadway limits.

a) Construction plan submittal. Applicants for right-of-way permits shall submit a plat of the proposed project including the following information:

1) A plat prepared at a scale acceptable to the Director of Public Works to indicate the plan view of the proposed project, location with respect to centerline, edge of roadway, and right-of-way, tie-in to nearest street subdivision lot corner or street intersection, components and type of material used for the project, and dimensions and depth of proposed installation.

2) An erosion control plan with best management practices (BMP's) complying with provisions of the City's Stormwater Management Ordinance.

3) A safety plan to indicate methods to be used to protect the general public from injury, and including the proposed use of barricades, signs, lights, fencing and other barriers.

4) A traffic control plan complying with all the provisions of the Manual on Uniform Traffic Control Devices, current edition, shall be submitted to the Director of Public Works, if any roadway traffic is affected; and

5) Complete as-built construction plans of the construction project shall be submitted to the Director of Public Works, after final inspection of the project. As-built plans shall be submitted in hard copy medium and CAD files in DXF Format.

2. Minor projects outside roadway limits.

a) Construction plan submittal. Applicants for right-of-way permits shall submit a plat of the proposed project including the following information:

1) A plat prepared at a scale acceptable to the Director of Public Works to indicate a plan view of the proposed project, location with respect to edge of roadway, centerline, and right-of-way, tie-in to nearest subdivision lot corner or street intersection, components and type of material used, dimensions and depth of proposed excavation.

2) An erosion control plan with best management practices (BMP's) complying with the City's Stormwater Management Ordinance.

3) A safety plan to indicate methods to be used to protect the general public from injury, and including the proposed use of barricades, signs, lights, fencing and other barriers.

4) A traffic control plan complying with all the provisions of the Manual on Uniform Traffic Control Devices, current edition, shall be submitted to the Director of Public Works, if any impact on traffic movement is involved.

5) A landscape plan complying with the tree landscaping and protection ordinance.

6) Complete as-built construction plans of the construction project shall be submitted to the Director of Public Works, after final inspection of the project. The as-built plans shall be submitted in hard copy medium and CAD files in DXF Format.

C. Small projects. The applicant will not be required to submit a construction plan or plat for small projects. However, a location sketch will be required for the approval of small projects (Type A). Any pavement or areas in the right-of-way that is disturbed, shall be restored in conformance with sections 6 and 7 of this ordinance.

SECTION II. BOND REQUIREMENTS

A. Construction bond. The applicant shall be required to provide an irrevocable, unconditional letter of credit or bond to guarantee the proper construction and completion of right-of-way restoration. The amount of the bond shall be based on the estimated cost of the right-of-way restoration provided by the permittee and approved by the Director of Public Works. A construction bond will not be required for small projects if no paved area or right-of-way is disturbed by the project. The Director of Public Works may waive the requirement for the construction bond for permittees who evidence financial ability to pay

the cost of the repairs to City rights-of-way resulting from their permittee activity.

B. City Departments performing installation of facilities/sites, routine maintenance and repair, and other agencies working in the right-of-way that are not involved in the installation, repair and maintenance of utilities, are exempt from the requirements of section 2.

SECTION III. NOTIFICATION PROCEDURES FOR MAJOR AND MINOR PROJECTS

A. Except for emergencies, the following notification procedures will be followed for major & minor projects, prior to the commencement of any construction activities:

1. The one call line location center will be notified forty-eight (48) hours prior to any excavation. The location of all utilities shall be verified before commencing construction.
2. The Director of Public Works shall be notified twenty-four (24) hours prior to commencing any construction activity involving major and minor projects within roadway limits.
3. The Public Works Director will be notified seventy-two (72) hours prior to the closure of any roadway or interruption in traffic flow.
4. A written notice will be distributed to each occupant of premises adjacent to the project site five (5) days prior to commencing construction activity relating to major projects.

SECTION IV. INSPECTION

A. City engineering department personnel will conduct periodic inspections of utility construction, right-of-way and pavement restoration. The contractor will schedule a final inspection for major & minor projects when construction is complete.

SECTION V. TRENCH EXCAVATION AND GENERAL UNDERGROUND CONSTRUCTION REQUIREMENTS FOR MAJOR AND MINOR PROJECTS

A. Excavation.

1. Trench excavating methods (trench box, shoring, etc.) shall be used to keep the width of the trench to a minimum. Extra wide excavation to accommodate equipment will not be permitted. Sheeting, bracing, shoring, pre-fabricated steel trench boxes and other trench restraint system will be used to keep trench width to a minimum and to comply with OSHA regulations.
2. Hazardous materials. The applicant will comply with all federal, state

and local laws, regarding hazardous material. For purposes of this section, hazardous material shall mean any material, substance or waste which, because of its quantity, concentration, or physical or chemical characteristics, is deemed to pose a present or potential hazard to human health, safety or to the environment.

3. Utility construction. The construction of utilities will be conformance with the plans which constitute a part of the permit approval process.

A. Depth requirements for underground installation:

- 1) Within roadway limits. The minimum clear depth for open cut installation, and jacking, boring, and pushing operations shall be thirty-six(36) inches, unless otherwise authorized or directed by the Director of Public Works.

- 2) Outside roadway limits and driveways. The minimum clear depth for open cut installation and jacking, boring, and pushing operations shall be thirty (30) inches, unless otherwise authorized or directed by the Director of Public Works.

4. Housekeeping and excavated material. The permittee shall keep the area surrounding the excavation clean (including trash, loose materials or other debris).

B. Backfill material.

1. Backfill material for major projects will be select granular soil material approved by the geotechnical engineering company or the Director of Public Works. Excavated material from the trench will not be used unless approved. Material excavated from utility poles, guy wire installation, replacing existing poles and routine pole inspections may be used for backfill.

2. Backfill material for minor projects within the roadway shall be comprised of crushed stone material up to subgrade elevation, unless otherwise approved by the Director of Public Works. Backfill material for other areas will be select granular soil material approved by a geotechnical engineering company or the Director of Public Works.

3. Installation of backfill material:

- a) Backfilling of the excavated area shall follow closely behind the installation project.

- b) The backfill material shall be compacted at near optimum moisture content, in layers not exceeding six (6) inches compacted thickness, to a density of not less than ninety-five (95) percent, unless otherwise

approved by the geotechnical company. Mechanical tampers shall be used unless another method of compaction is approved. Jetting will not be permitted. The backfill material shall be installed uniformly and brought up evenly in layers for the full length of the trench.

4. Geotechnical testing and compaction for major & minor projects.

a) Major projects. A geotechnical engineering company will perform compaction tests at intervals of no more than 200 feet along the main trench line. Tests will be conducted at the installation of service lines within these limits where directed by the Director of Public Works or a contracted City engineer. The geotechnical engineering company will perform tests at as many levels of backfill installation, and at lateral locations to certify that compaction requirements have been achieved. Documented test reports will be prepared and submitted to the Director of Public Works and the contracted City engineer before any right-of-way restoration proceeds.

b) Minor projects. Compaction tests may be requested for minor projects at specific locations. In-house geotechnical engineers may be employed for performing compaction tests for minor projects.

5. General public safety: Every effort will be taken by the contractor to protect the safety and welfare of the general public, and to insure compliance with the safety and traffic plans submitted with the permit application.

6. Steel plates may be required by the Director of Public Works, in congested or heavily traveled areas, to cover open trenches. Temporary patching will be required for any trench excavation in the roadway prior to opening the area to traffic. The Director of Public Works may also require the temporary covering of any excavated area that will be left open overnight, if he so deems that not covering the excavated area will present a threat to public safety or health.

7. For major projects a construction sign will be placed adjacent to the utility construction area where traffic flow is to be obstructed. The signs will be placed seventy-two (72) hours prior to construction, at least every five hundred (500) feet along the project. The name of the utility/company involved and phone numbers that may be contacted on a twenty-four hour basis to be shown on the sign(s).

SECTION VI. RIGHT-OF WAY RESTORATION WITHIN ROADWAYS

A. All construction procedures and materials utilized will be in compliance with Alabama Department of Transportation Standard Specifications for Highway Construction, current edition. A geotechnical engineering company will be retained by the utility/company or permittee, to conduct field testing to document and certify that all materials and compaction efforts are in compliance with Alabama Department of Transportation Standard

Specifications for Highway Construction, latest edition and procedures specified in the City engineering department's design details for right-of-way restoration.

B. Major projects.

1. Asphalt road surface.

a) Base construction.

1) Granular soil, sandy clay base. The base course of the affected lanes shall be reconstructed full width.

2) Bituminous base, stone base. The base course of the affected lanes be patched with equivalent base material if the structural integrity of the roadway has not been affected by the project, as determined by the geotechnical engineering company. Otherwise, the affected lanes shall be reconstructed full width.

b) Wearing surface. The full width of the roadway surface shall be resurfaced within the limits of the project. Existing traffic striping and markings will be replaced.

2. Asphalt roadway surface overlay on existing concrete pavement.

a) Base construction. The existing concrete street may be patched with concrete, if the structural integrity of the roadway has not been affected by the project, as determined by the geotechnical engineering company. Otherwise, the affected panels of the existing concrete street shall be reconstructed.

b) Wearing surface. The full width of the roadway surface shall be resurfaced within the limits of the project. Existing traffic striping and markings will be replaced.

3. Concrete roadway surface.

a) Base construction. The base course of the affected lanes shall be reconstructed full width as determined by the geotechnical engineering company.

b) Concrete pavement. The entire roadway panel sections of the affected lanes shall be reconstructed. If the structural integrity of the roadway has been significantly affected by the project, the Director of Public Works may require the entire concrete surface, within the project limits, be reconstructed full width. Existing traffic striping and markings will be replaced.

4. Unpaved roadway surface. The entire roadway shall be surfaced with six (6) inches of stone within project limits.

B. Minor projects.

1. Asphalt roadway surface sixteen (16 square) feet or greater. For transverse service lines and miscellaneous installation and repair projects within excavated areas sixteen (16) square feet or greater, the entire width of the lane disturbed will be resurfaced from a point measured five (5) feet from the edge of the excavation each way longitudinally along the centerline of the roadway. If more than one (1) lane is disturbed, the entire width of the disturbed lanes will be resurfaced. If the replacement pavement is more than seventy (70) feet long or more than ten (10) percent of the roadway area within a block is affected, the entire roadway will be resurfaced within the block. Existing traffic striping and markings will be replaced.
2. Asphalt roadway surface less than sixteen (16) square feet. For miscellaneous construction involving excavated areas less than sixteen (16) square feet, the area from the edge of the excavation extending one (1) foot outside the perimeter of the cut area will be resurfaced. If more than one (1) lane is disturbed, the entire width of the disturbed lanes will be resurfaced. If the replacement pavement is more than seventy (70) feet long or more than ten (10) percent of the roadway area within a block is affected, the entire roadway will be resurfaced within the block. Existing traffic striping and markings will be replaced.
3. Concrete roadway surface. The entire affected roadway panel sections, including base course, will be reconstructed joint to joint. Existing traffic striping and markings will be replaced.
4. Unpaved roadway surface. The entire roadway width will be resurfaced with six (6) inches of stone from a point five (5) feet measured longitudinally along the roadway from the center of the excavation each way.

C. Jacking, boring, pushing, tunneling ,retrofitting and pipe lining projects. Any pavement damage caused by these types of projects will be restored in conformance with provisions of sections 5, 6 & 7 of this ordinance. Any existing pavement damage relating to the replacement, retrofitting, or pipe lining of damaged utilities will be restored in conformance with sections 5, 6 & 7 of this ordinance.

SECTION VII.

**RIGHT-OF-WAY AND EASEMENT RESTORATION
OUTSIDE ROADWAY AREAS**

A. Driveways.

1. Asphalt.

- a) Asphalt driveways affected by the construction project shall be Replaced from the right-of-way line to the curb or edge of road.

b) Construction of asphalt driveways will comply with Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, section 416.

2. Concrete.

a) Construction of concrete driveways affected by the construction project shall be replaced to the nearest control joint.

b) Construction of concrete driveways will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, section 618.

B. Concrete sidewalks.

1. Concrete sidewalks affected by the construction project shall be replaced to the nearest control joint in the affected construction area. Joints will be sawed unless at an expansion joint.

2. Construction of sidewalks will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, section 618.

C. Curb and gutter.

1. Concrete curb and gutter, affected by the construction project, will be replaced from joint to joint in the affected area.

2. Concrete curb and gutter construction will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, current edition, section 623.

D. Miscellaneous structures.

1. All walls, steps, and other miscellaneous structures, affected by the construction, will be replaced as required by the Director of Public Works.

E. Drainage systems and structures.

1. All disturbed drainage channels, structures, and pipe systems affected by the construction will be replaced as required by the Director of Public Works.

F. Unpaved areas.

1. All established lawn areas, affected by the construction project, will be replaced with similar landscaping materials which were existing prior to the project construction beginning, or upgraded at the discretion of the Director of Public Works. Other areas will be restored with approved topsoil replacement, and or sodding or seeding.

**REPORT
OF
SPECIAL BOARDS**

DOWNTOWN REDEVELOPMENT AUTHORITY
1705 MAIN STREET, DAPHNE, AL
September 24, 2014

COMMITTEE MINUTES

Members Present: Casey Zito, Council Member Tommie Conaway, Kennard Balme, Dayna Oldham, Patricia Vanderpool, Dorothy Morrison

Absent: Debbie Strahley, Doug Bailey

Also Present: Sarah Toulson (Recording Secretary);

Casey Zito called the meeting to order at 5:37 pm

1. Approval of Minutes:

Requested amendments:

- Amend to change motion to pay for supplies to ~~repaint~~ replant the downtown flower boxes.
- Councilwoman Conaway requested an amendment to the minutes to reflect that she was not in attendance at the August meeting.

Motion: to approve the minutes from the August 27, 2014 meeting as amended. **Moved by Dorothy Morrison, second by Kennard Balme.**

Carried unanimously.

2. Treasurer's report

Chairwoman Zito reported that the DRA currently had \$140,189.04 on hand, after all approved expenses cleared.

Requested Amendments:

- Sarah Toulson mentioned that the correct balance date on the Treasurer's report should read September 24, 2014, not August 27, 2014.

Motion: to approve the Treasurer's Report as amended. **Moved by Dorothy Morrison, second by Dayna Oldham.**

Carried unanimously.

3. Beautification Report

Ms. Morrison reported on a variety of projects currently underway by the Daphne Beautification Committee, including the following:

- Directional signs for Olde Towne Daphne have been placed at strategic intersections. A photograph of the signs is in the packet.
- The reopening ceremony for Gator Alley was very successful, well attended and covered by the press.

Patricia Vanderpool arrived at 5:45 pm

- Beautification will be moving their meetings to the City Hall Executive Conference Room, still at 10 am.
- The Committee has created 25 bows to decorate lampposts in historic Daphne in celebration of Breast Cancer Awareness Month.
- In 2015: DBC will be focusing on new gateways into the city: signage and landscaping.

4. *Bicycle Racks for Downtown*

The committee generally discussed placement of bicycle racks in the downtown area, and decided to consider a placement strategy during and after the walk of downtown scheduled for the October meeting.

5. *Travel Policy*

Ms. Vanderpool volunteered to send a sample of her company's policy to Ms. Toulson for the Committee to review. Chairwoman Zito offered to assist in finalizing the policy for the Committee's review at the next meeting. The policy should contain the following requirements:

- The costs of alcoholic beverages will not be reimbursed.
- Mileage and meals are reimbursed at IRS given rates
- Itemized receipts are required for reimbursement.

6. *Economic Development Collaboration*

Chairwoman Zito suggested moving forward with holding a joint meeting with the Daphne Industrial Development Board for a joint project for the downtown area.

7. *Database of DRA Properties / Usage*

Ken Balme reported that he had entered approximately 150 of 220 properties into his database of the DRA overlay district. The database includes the name and address of the property owner as well as the age of the building. He plans to email this to the full Committee upon completion.

8. Mini Grant: Pine Lodge

Dorothy Morrison reported a \$500 estimate for a power washing and landscaping clean up for the Pine Lodge property on Main Street. Ms. Morrison requested this mini-grant on behalf of Ms. Florine Brogan.

Motion: to approve the Mini-Grant request for \$500 for the Pine Lodge building. **Moved by Dorothy Morrison, second by Patricia Vanderpool.**

Carried unanimously.

Ms. Morrison will be coordinating the services needed under this mini-grant.

9. Any Other Items Deemed Necessary

- **Restaurant:** Ms. Vanderpool mentioned that a friend of hers was looking to open a restaurant in the downtown area. The committee will scope different available sites for a restaurant during their October walk.
- **Seminar:** Ms. Vanderpool mentioned a contact that would come give a free seminar; she suggested we use this as a draw to the downtown area. Chairwoman Zito requested that Ms. Vanderpool provide a framework for the event in question.
- **Website:** Ms. Zito reported that the web developer she was working with was no longer with JMF solutions. She is scheduled to meet with the new developer next week, and will report back at the next meeting.
- **Facebook Page:** The Committee discussed starting a Facebook page as a way of marketing downtown. Ms. Zito pointed out that someone would have to take ownership of the page to ensure content was updated on a regular basis. No action was taken by the Committee on this matter.

Next meeting: October 22nd at 5:30 pm.

The meeting was adjourned at 6:55 pm. Motion by Dayna Oldham, second by Dorothy Morrison. Motion carried unanimously.

**The City of Daphne
Planning Commission Minutes
Regular Meeting of August 21, 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 5:01 p.m. The number of members present constitutes a quorum.

Call of Roll:

Members Present:

Monty Montgomery
Don Terry
Larry Chason, Chairman
Charles Smith
Ron Scott, Councilman
Hudson Sandefur
Chief White

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 July 24, 2014. There being none, the minutes are approved as submitted.***

The next order of business under old business is master plan revision for the Reserve at Daphne Subdivision.

An introductory presentation was given by Mr. Steve Pumphrey, representative of Preble-Rish, of a master plan revision consisting of five hundred and forty-four, one hundred by fifty, single family residential lots. Seventy-eight lots were previously developed in Phase One. The master plan is a just a continuation of the original phase. Approximately one half of the remaining four hundred and sixty-six is wetlands and/or uplands.

Chairman asked for Commission questions or comments.

Mr. Scott stated the name of the development implies the Reserve is in Daphne and asked if the owner would consider annexation by legislative act into the City.

Mr. Pumphrey stated that the owner would be open to that.

**The City of Daphne
Planning Commission Minutes
Regular Meeting of August 21, 2014
Council Chamber, City Hall - 5:00 P.M.**

Chairman asked at the time of development of a phase to the north will Baldwin County encourage connectivity to Plantation Hills. Mr. Pumphrey stated that the County does not actively promote connectivity. He asked for Commission questions or comments and a motion to for approval.

Mr. Kirby commented on the note provided in the planning report regarding modifications and asked the Commissioners to consider the addition of the note to the master plan.

A Motion was made by Mr. Kirby and Seconded by Mr. Terry to approve the master plan revision for the Reserve at Daphne, contingent upon the addition of the note to the plan which states the following or similar language: modifications to this master plan will be made as deemed appropriate by the Daphne Planning Commission; the master plan is a conceptual drawing which shows potential development; however, all subdivisions development is subject to applicable city, county, state and federal regulations, as well as, the Comprehensive Plan. There was no discussion on the motion. The Motion carried unanimously.

The next order of business under new business is preliminary/final plat review for Stevens Addition to Main Street Subdivision.

An introductory presentation was given by Mr. Daryl Russell, representative of Coleman Engineering Group of McCrory & Williams, requested preliminary/final plat review of a two-lot subdivision at the southwest intersection of Main Street and Professional Place.

Chairman asked for Commission questions or comments.

Mr. Terry asked parking will be divided equally by a deed to the owners. Mr. Russell stated there will be a cross access easements given.

Chairman asked is there plans to further subdivide. Mr. Russell stated no. Chairman asked if there is a minimum lot size for lots zoned business. Ms. Jones stated the minimum standards state that the lot size shall be sufficient to accommodate the infrastructure, and the setbacks are in accordance to those outlined in the Olde Towne Daphne District. Mr. Russell commented there will be only one entity on each lot of which a professional office exists on Lot 1. Chairman asked if the minimum setbacks would apply if the second lot were re-subdivided. He also recommended changing the setback on that lot or to add a note stating there will be no further subdivision of this particular lot.

Chairman opened the floor to public participation. Mr. David Milstead came forth and stated there is no intent to further subdivide. He closed public participation and asked for Commission questions or comments.

**The City of Daphne
Planning Commission Minutes
Regular Meeting of August 21, 2014
Council Chamber, City Hall - 5:00 P.M.**

Mr. Sandefur asked Commissioners if we can require that no further subdivision of property can occur without the presentation of a master plan. Ms. Jones stated there is nothing we can impose on a two-lot subdivision and noted this is not site plan review. Mr. Boucher stated Commissioners may impose certain conditions, but only through amendments to the regulations. They cannot make adjustments for this application.

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

A Motion was made by Mr. Kirby and Seconded by Mr. Sandefur to grant preliminary/final plat approval to Stevens Addition to Main Street Subdivision. There was no discussion on the motion. The Motion carried. Six members voted in the affirmative and one dissented (Mr. Chason).

The next order of business is a subdivision exemption review for GCOF & WSR 64-13 Subdivision.

An introductory presentation was given by Mr. Daryl Russell, representative of Coleman Engineering Group of McCrory & Williams, requested an exemption of a two-lot subdivision consisting of seventeen point nine zero acres located northwest of the intersection of County Road 13 and 64 for the purpose of relocating the interior lines to compensate for the widening of the intersection for a roundabout.

Chairman asked for Commission questions or comments.

Mr. Scott commented that the property is annexed into the City as B-2, General Business.

A Motion was made by Mr. Kirby and Seconded by Mr. Scott to grant subdivision exemption approval to GCOF & WSR 64-13 Subdivision. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is a subdivision exemption review for the Creamer property.

An introductory presentation was given by Mr. Eddie Creamer, representative of the owner, requested a division of property by testament of a three-lot subdivision consisting of thirty-two point eight acres located on County Road 54 east.

Chairman asked for Commission questions or comments. He asked why this application is presented to us.

Mr. Boucher stated the Ordinance requires that it comes before the Planning Commission; however, the Commission does not have discretion to deny the division because it is a family subdivision.

**The City of Daphne
Planning Commission Minutes
Regular Meeting of August 21, 2014
Council Chamber, City Hall - 5:00 P.M.**

A **Motion** was made by Mr. Kirby and **Seconded** by Mr. Scott **to grant subdivision exemption approval to the Creamer Property. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is a subdivision exemption review for the Creamer property.

An introductory presentation was given by Mr. Eddie Creamer, representative of the owner, requested a division of property by testament of a two-lot subdivision consisting of thirty-eight point six-six acres located on County Road 54 east.

Chairman asked for Commission questions or comments.

A **Motion** was made by Mr. Kirby and **Seconded** by Mr. Sandefur **to grant subdivision exemption approval to the Creamer Property. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is site plan review for Sonic Restaurant @ TimberCreek Village.

An introductory presentation was given by Mr. Daryl Russell, representative of Coleman Engineering Group of McCrory & Williams, of a dual drive-in restaurant on the northwest of the terminus of Mill Lane, Lot 2B, Resubdivision of TimberCreek Village, Phase Two, the Resubdivision of Lots 1 & 2.

Chairman asked for Commission questions or comments. He asked if the comments from the Public Works Director and Code Enforcement Officer have been addressed. Ms. Jones stated both have been addressed. He 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 site plan approval to Sonic Restaurant @ TimberCreek Village. There was no discussion on the motion. The Motion carried unanimously.**

The next order of business is Planning Commission discussion.

Ms. Jones referenced the Loxley Planned Unit Development District and Master Plan provided to the Commissioners and outlined the guidelines and/or documents required for the creation of a Planned Unit Development Overlay District.

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.

**The City of Daphne
Planning Commission Minutes
Regular Meeting of August 21, 2014
Council Chamber, City Hall - 5:00 P.M.**

Mr. Boucher presented the following:

Tiawasee Trace POA litigation trial is set to begin October 29, 2014.

The Malbis Plantation, Inc. lease with CVS Pharmacy expired and a settlement was made with the developer to withdraw the preliminary/final plat application, contingent upon no information presented being used for any future annexation or development of the subject property. He requested the Commissioners to give authorization to the Chairman to act on their behalf to sign the settlement agreement with Malbis Lane vs Baldwin County, City of Daphne Planning Commission.

A Motion was made by Mr. Scott and Seconded by Mr. Kirby to authorize the Chairman to sign the settlement agreement on behalf of the City of Daphne Planning Commission. There was no discussion on the motion. The Motion carried unanimously.

The next order of business is commissioner's comments.

None presented.

The next order of business is director's comments.

Ms. Jones presented the following:

The Mobile River Bridge meetings will be held at 5 Rivers on September 23 and 29, 2014 from 4 to 8 p.m.

The upcoming meeting dates are site preview, September 17, and regular meeting, September 25, 2014.

There being no further business, the meeting was adjourned at 6:04 p.m.

Respectfully submitted by:



Jan Vallecillo, Planning Coordinator

Approved: September 25, 2014



Larry Chason, Chairman

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF SEPTEMBER 25, 2014  **REPORT**
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

- 1. **CALL TO ORDER** **DATE OF REPORT: SEPTEMBER 29, 2014**
- 2. **CALL OF ROLL** **LARRY CHASON, ED KIRBY, RON SCOTT, MONTY MONTGOMERY, DON TERRY AND HUDSON SANDEFUR**

- 3. **APPROVAL OF MINUTES:**

Review of minutes for the regular meeting of August 21, 2014. **(APPROVED AS SUBMITTED)**

- 4. **NEW BUSINESS:**

- A. **SUBDIVISION EXEMPTION REVIEW:**

- 1. **File SRP14-09: (MOTION BY RON SCOTT/SECONDED BY ED KIRBY TO AUTHORIZE STAFF TO WRITE A LETTER STATING: IN ACCORDANCE WITH SECTION 8 OF THE LAND USE ORDINANCE, A DIVISION OF LAND BY PROBATED WILL IS BY DEFINITION NOT A SUBDIVISION. THUS IT DOES NOT FALL UNDER THE SUBDIVISION REGULATIONS).**

- Subdivision:** **Atlas Bolar Estates**
 - Zoning(s):** ***Unzoned, Baldwin County District 15, in the Extraterritorial Planning Jurisdiction of Daphne***
 - Location:** **Northeast of the intersection of County Road 64 and 54 West**
 - Area:** **42.12 Acres ±, (27) lots**
 - Owner:** **Dorothy Allen, Executor**
 - Agent:** **Vincent Nicholson**

- B. **SITE PLAN REVIEW:**

- 1. **File SP14-07: (APPROVAL, CONTINGENT UPON APPROVAL OF THE VARIANCE AND SPECIAL EXCEPTION OF THE BOARD OF ZONING ADJUSTMENT)**

- Site:** **Tiawasee Creek - Verizon Wireless Cellular Tower**
 - Zoning(s):** ***B-2, General Business***
 - Location:** **West of the intersection of Well and Public Works Road**
 - Area:** **0.20 ± Acres**
 - Owner:** **The City of Daphne - Dane Haygood**
 - Developer:** **Verizon Wireless - Doria Durham**
 - Engineer:** **Tower Engineering Company - David Ackermann**

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF SEPTEMBER 25, 2014 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

2. File SP14-08: (APPROVAL, CONTINGENT UPON APPROVAL OF PUBLIC WORKS DIRECTOR)

Site: TimberCreek Office Building

Zoning(s): *B-1, Local Business*

Location: Northwest of the intersection of Mill Lane and Timber Circle, Lot 10, TimberCreek Business Park

Area: 0.52 ± Acres

Owner: Schild Investments, L.L.C. - Johannes Schild

Agent: WP Construction, Inc. - Stephen Pasquale

Engineer: L.E. Stiffler - Randy Arp

3. File SP14-09: (APPROVED)

Site: Chicken Salad Chick Restaurant & Retail Space

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

Location: Northwest of the intersection of U.S. Highway 98 and Daphne Avenue, 1608 6th Street

Area: 4.7 ± Acres

Owner: Staples GGP, L.L.C. - John Coleman

Engineer: Hutchinson, Moore & Rauch - Doug Bailey

4. Site: Olde Towne Daphne Water Treatment Facility

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

Location: 1608 6th Street

Area: 0.22 ± Acres

Owner: The Utilities Board of the City of Daphne - Danny Lyndall

Engineer: Hutchinson, Moore & Rauch - Robbie Strom or Ray Moore

a. SRP14-10: Replat - Combining two lots into one - (APPROVED)

b. Planning Commission approval of a water storage/treatment facility in R-2 zone - (APPROVED)

c. SP14-10: Site Plan Review (APPROVED)

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF SEPTEMBER 25, 2014 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

5. File SP14-11: (APPROVED)

Site: Enterprise Rent-A-Car

Zoning(s): B-2, General Business

Location: Southeast of the intersection of U.S. Highway and Randall Avenue

Area: 0.95 ± Acres

Owner: EST, L.L.C. - Vince Boothe

Agent: Don Gordon Construction - Don Gordon

Engineer: Frank Dagley & Associates - Frank Dagley

6. File SP14-12: (WITHDRAWN BY OWNER)

Site: Franchised Hotel - Unknown

Zoning(s): B-2, General Business

Location: Northeast of the intersection of Alabama Highway 181 and Sawwood Drive

Area: 2.03 ± Acres

Owner: P & R Property Investments - Pankaj "Pete" Patel

Engineer: Anil Badve & Associates - Anil Badve

C. ADMINISTRATIVE PRESENTATION:

1. File AP14-11: (APPROVED)

Presentation to be given by Mr. Pratt Thomas, representative of Merrill Thomas Company, asking the Planning Commission to allow Genesis Career College to operate in a B-2 zoning district located at 2200 U.S. Highway 98.

D. ADMINISTRATIVE PRESENTATION - Extension Requests for Projects Approved Prior to September 1, 2011:

1. File AP14-12: ((APPROVAL OF A TWO-YEAR EXTENSION SET TO EXPIRE ON NOVEMBER 15, 2016))

Presentation to be given by Dr. Barry Booth requesting an extension of time for the site disturbance permit issued for the Apalachee Residential Community. The site plan was approved by the Daphne Planning Commission on July 28, 2005 and revised in August 28, 2006. Site disturbance permit was issued on March 21, 2007: One-year extension was granted on January 24, 2008, January 22, 2009 and December 17, 2009. Two-year extension was granted on December 16, 2010 and November 15, 2012.

CITY OF DAPHNE
PLANNING COMMISSION AGENDA
REGULAR MEETING OF SEPTEMBER 25, 2014 REPORT
COUNCIL CHAMBERS, CITY HALL - 5:00 P.M.

- E. **PLANNING COMMISSION DISCUSSION: D'OLIVE CREEK WATERSHED STUDY (No Action Taken)**

- 5. **PUBLIC PARTICIPATION**

- 6. **ATTORNEY'S REPORT**

- 7. **COMMISSIONER'S COMMENTS: Election of Officers - Larry Chason, Chairman, Don Terry, Vice Chairman, and Monty Montgomery, Secretary**

- 8. **DIRECTOR'S COMMENTS:**
 - a. **Announcement of new Planning Commission member appointment by Mayor Dane Haygood of Dwayne Smith to fill one-year term held by Joe Lemoine.**
 - b. **Mobile River Bridge meetings at 5 Rivers on September 29, 2014 from 4 to 8 p.m.**
 - c. **Meeting dates: Site Preview, October 15, and Regular Meeting, October 23, 2014**

- 9. **ADJOURNMENT**



Accepted by:

Robert Segalla
Chairman, Daphne Utilities

Daphne Utilities

APPROVED MINUTES

Utilities Board Meeting

City of Daphne Council Chambers ♦ August 27, 2014 ♦ 5:00 p.m.

I. Call to Order

The regular August 2014 Board meeting for the Utilities Board of the City of Daphne was held on August 27, 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
Billy Mayhand
Fenton Jenkins, Secretary/Treasurer
Dane Haygood, Mayor – arrived at 5:04 pm

Others Absent: Randy Fry, Vice Chairman

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

Others Absent: Teresa Logiotatos – Finance Manager

III. Pledge of Allegiance

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

IV. Approval of Minutes

A. Utilities Board Minutes from July 30, 2014:

The Chairman inquired if there were any corrections noted for the submitted Minutes for the July 25th, 2014, Utilities Board meeting. No corrections were recommended.

MOTION BY Billy Mayhand to approve the Minutes for July 30, 2014 as submitted; Seconded by Fenton Jenkins.

AYE: JENKINS, MAYHAND, SEGALLA

NAY:

ABSENT: FRY, HAYGOOD

ABSTAIN:

MOTION CARRIED

Mayor Haygood arrived at 5:04 pm.

B. Utilities Board Minutes from Special Meeting of August 12, 2014:

The Chairman inquired if there were any corrections noted for the submitted Minutes for the Special Meeting of August 12th, 2014, Utilities Board meeting. No corrections were recommended.

MOTION BY Billy Mayhand to approve the Minutes for the Special Meeting of August 12, 2014 as submitted; Seconded by Fenton Jenkins.

AYE: HAYGOOD, JENKINS, MAYHAND, SEGALLA

NAY:

ABSENT: FRY

ABSTAIN:

MOTION CARRIED

V. OLD BUSINESS –

A. Items in Abeyance:

1. Update on Franchise Agreement for Natural Gas and Wastewater in Spanish Fort

Rob McElroy indicated that there had not been any new information on this issue.

VI. NEW BUSINESS –

A. Recommendation of Award and Bid tabulation for Utility Relocation for Daphne Utilities for Proposed CR13 and CR64 Roundabout (Motion under Board Action);

Danny Lyndall briefed the Board of the City of Daphne and Baldwin County Transportation project involving relocation of utilities at this intersection for which bid award was being sought.

B. Emergency Sewer Line Repair for Canterbury Project (Resolution required under Board Action)

Danny Lyndall informed the Board that the request to adopt the presented Resolution was to waive the state bid law requirement for this project due the project's emergency status in making a rapid decision to meet guidelines for the NRCS Grant. He advised that bidders were contacted, quotes were received within 2 days, the project was quickly completed and it was within the General Manager's purchasing authority. He repeated that the Resolution presented was to waive the state bid law requirement for an emergency. Mr. Speegle advised that he was aware of the project and approved.

VII. BOARD ATTORNEY'S REPORT

Mr. Speegle advised that he has been notified that Item #4 of his report regarding the Waters case had been settled and nothing further to add to his report.

VIII. FINANCIAL REPORT

Rebecca Williamson highlighted the financials for the Board.

IX. GENERAL MANAGER'S REPORT

A. GM Report

Mr. McElroy briefed the Board on Daphne Utilities' support and recent contribution to the Black Education Museum at the Baldwin County Training School.

B. Operations Report

Danny Lyndall pointed out a few events, specifically the health fair, and highlighted significant points in his report. He answered questions from the Board regarding a recent sanitary sewer overflow.

Rob McElroy introduced Danny Lyndall as the new General Manager of Daphne Utilities.

C. Engineering & Consulting Reports

Melinda Immel of Volkert & Associates had nothing to add to her report but answered questions from the Board about improvements on the tanks at the Water Reclamation Facility.

Ray Moore of HMR noted that the Sixth Street Water Treatment Facility is scheduled to go before the Planning Commission for site review. Mr. Lyndall echoed Mr. Moore's comments regarding the community's concern for the landscaping and trees on the site of this project.

X. BOARD ACTION –

- A. MOTION** for Bid Award for Utility Relocation for Daphne Utilities for Proposed CR13 and CR64 Roundabout

MOTION BY Mayor Dane Haygood to award Contract No. 408148 Utility Relocation for Daphne Utilities for Proposed CR 13 and CR 64 Roundabout to the low bidder of James Brothers Excavating, Inc. in the amount of \$191,600.00; Seconded by Fenton Jenkins.

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

- B. RESOLUTION 2014-04 – Emergency Sewer Line Repair for Canterbury Project**

MOTION BY Mayor Dane Haygood to adopt Resolution 2014-04 – Emergency Sewer Line Repair for Canterbury Project authorizing General Manager to enter into repair contracts under the emergency provisions; Seconded by Fenton Jenkins.

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

- XI. PUBLIC PARTICIPATION –** None.

- XII. BOARD COMMENTS –** Mr. Mayhand expressed best wishes for a successful future to Mr. McElroy; Mayor Haygood congratulated Mr. McElroy and welcomed and congratulated Mr. Lyndall. Mr. Segalla thanked Mr. McElroy for his performance as General Manager.

- XIII. ADJOURNMENT - MOTION BY Billy Mayhand to adjourn.**

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

The meeting adjourned at 5:29 p.m.

Preceding minutes submitted to the Daphne Utilities Board by:



Lori Wilson, Executive Assistant, Daphne Utilities

**REPORT
OF
OFFICERS**



BALDWIN COUNTY PUBLIC SCHOOLS

September 23, 2014

ROBERT OWEN
Interim Superintendent

Board of Education

DAVID B. COX
District 1

DAVID TARWATER
District 2

ELMER MCDANIEL
District 3

NORMAN MOORE
District 4

ANGIE SWIGER
District 5

ROBERT B. CALLAHAN, JR.
District 6

SHANNON CAULEY
District 7

Mayor Dane Haygood
City of Daphne
P.O. Box 400
Daphne, AL 36526

Dear Mayor Haygood:

Please find enclosed the signed copy of the amended lease for the Trione Park property, approved by the Baldwin County Board of Education at its regular meeting on September 18, 2014. Once signed, please return a copy for our files.

If you have questions or need additional information, please advise.

Sincerely,



Robert Owen
Interim Superintendent

lc

Enclosure

AMENDED AND RESTATED GROUND LEASE

THIS AMENDED AND RESTATED GROUND LEASE ("Restated Lease") is made by and between the **CITY OF DAPHNE, ALABAMA**, an Alabama Municipal Corporation, ("Lessee") and the **BALDWIN COUNTY BOARD OF EDUCATION**, an agency of the State of Alabama ("the Lessor").

WITNESSETH:

WHEREAS, Lessor did, on the 7th day of January, 1992, and on the 16th day of February, 2000, lease from the State of Alabama, Department of Conservation and Natural Resources (the "Department") lands in Section 16, Township 5 South, Range 2 East, Baldwin County, Alabama; and

WHEREAS, on January 17, 2002 and August 21, 2008 Lessor and Lessee entered into lease agreements (collectively "Prior Leases"), by which Lessor has leased certain real property upon which certain recreational facilities ("Existing Recreational Facilities") have been constructed by Lessee; and

WHEREAS, Lessor has additional property that adjoins the leasehold associated with the Prior Leases upon which Lessee desires to improve by the construction and installation at its expense of certain park and recreational facilities as set forth herein; and

WHEREAS, Lessee recognizes that a number of the residents of the City of Daphne attend the educational facilities of the Lessor, and further recognizes the importance of recreational activities to youth and adult citizens of the City of Daphne and believes it to be in the best interest of the health, safety, and welfare of its citizens to promote recreational activities and provide facilities therefor; and

WHEREAS, Lessor will receive a direct benefit from the Lessee's construction and maintenance of recreational facilities on the leased property and believing that a public purpose will be served by and through this Restated Lease; and

WHEREAS, Lessor is willing to make all property more particularly described herein available to Lessee to maintain and make certain improvements in accordance with the terms and conditions of this agreement, all subject to the consent and approval of the Department; and

WHEREAS, the parties hereto understand and agree that this Restated Lease may require the consent of the State of Alabama. In the event that consent of the State of Alabama is required, the Restated Lease as provided for herein shall be expressly conditioned on receipt of such consent.

NOW, THEREFORE, for and in consideration of the covenants and conditions herein to be kept, performed and observed, the parties agree as follows:

ARTICLE 1. DEMISE OF LEASED LAND

Description of Leased Land

1.01 Lessor leases to Lessee, and Lessee rents and accepts from Lessor, a parcel of land ("Leased Land") situated in Baldwin County, Alabama, and described as follows:

Commencing at the Northeast Corner of Section 16, Township 5 South, Range 2 East, Baldwin County, Alabama; thence run North 89°52'20" West a distance of 1822.90 feet to a point; thence run South 30°29'57" East a distance of 34.87 feet to a point to the South right-of-way of Whispering Pines Road (60' R/W) for the Point of Beginning; thence run South 30°30'46" East a distance of 1509.51 feet to a point; thence run South 17°54'04" East a distance of 1269.55 feet to a point on the North right-of-way of Well Road; thence run North 89°39'50" West along said North right-of-way a distance of 2017.37 feet to a point; thence run North 00°18'07" East a distance of 2498.64 feet to a point on the South right-of-way of Whispering Pines Road; thence run South 89°52'20" East along said South right-of-way a distance of 847.51 feet to the point of beginning. Said described leased area containing 87.04 acres, more or less, depicted on Exhibit "A" attached hereto and incorporated herein by reference.

Land Subject to Liens, Encumbrances, and Other Conditions

1.02 This Restated Lease and the Leased Land are subject to all present and future leases, liens, encumbrances, conditions, rights, easements, restrictions, rights of way, covenants, other matters of record, and zoning and building laws, ordinances, regulations, and codes affecting or governing the Leased Land or that may affect and govern the Leased Land after the execution of this Restated Lease, and all matters that may be disclosed by inspection or survey.

ARTICLE 2. TERM AND RENT

Term of Lease

2.01 The Prior Leases provided for a term of twenty-four (24) years ("Term"), commencing on the 17th day of January, 2008, and ending on the 16th day of January, 2032, unless terminated at an earlier date for any reason set forth in this Lease. This Restated Lease ratifies and confirms the Term as set forth in the preceding sentence. Lessee shall have two (2) renewal options of thirty (30) years each. Lessee may exercise its renewal options by providing written notice to Lessor one (1) year prior to the expiration of the Term, or any renewal thereof, of this Restated Lease. Thereafter, this Restated Lease shall automatically renew on a year-to-year basis unless Lessor or Lessee provides the other with written notice of termination prior to the expiration of any renewal term.

Holdover

2.02 If Lessee holds over after the expiration of the initial Term, or any extensions thereof, then Lessee's tenancy shall be from year to year on all the terms and conditions as set forth herein.

Consideration

2.03 Lessee's consideration to Lessor for this Lease shall be the improvements made to the Leased Land by Lessee, Lessee's maintenance of the Leased Land and the rights of Lessor to the use and enjoyment of those improvements as set out herein.

ARTICLE 3. USE AND CONSTRUCTION OF IMPROVEMENTS

Primary Use

3.01 Lessee shall have the right to use the Leased Land for the following lawful purposes:

- (a) Lessee shall have the right to use the premises solely and exclusively for municipal recreational purposes.
- (b) At all times, Lessee shall provide that such municipal recreational activities shall be under the direction, supervision and control of agents and employees of Lessee so as to insure

safe and appropriate use. During those times when the premises are used by Lessor in accordance herewith, Lessee shall not have any responsibility therefore.

- (c) Lessor shall have exclusive use of the Leased Land during those hours when school is in session. Lessor shall provide advance notice, no less than 48 hours in advance of the intended use, to Lessee of any use it intends to make of the Leased Land. Lessor shall coordinate the scope of its use of the Lease Land with Lessee so as not to interfere with the Lessee's municipal recreational uses thereof. Notwithstanding the foregoing, during that part of the day in which school is in session, Lessee may conduct maintenance operations or use the Leased Land for municipal recreational purposes, provided that such uses do not interfere with previously scheduled school use.
- (d) Following any period of use by Lessor in accordance with Paragraph (c) or (e), Lessor shall restore the Leased Land to the condition that existed immediately prior to the use thereof, reasonable wear and tear excepted.
- (e) Lessee shall have exclusive use of the premises during those hours that school is not in session. Provided, however, during such hours, the Lessor may schedule with Lessee school use that does not conflict with Lessee's municipal recreational use, approval by Lessee, not to be unreasonably withheld, conditioned or delayed.
- (f) Scheduled use by either Lessor or Lessee shall be scheduled by nominees of the Lessor and Lessee.
- (g) For the duration of Lessee's leasehold, Lessee, at its own expense, shall maintain and keep the Leased Land and the facilities constructed thereon in a state of good condition and repair.

Construction of Buildings and Other Improvements

3.02 Lessee shall have the right to construct structures, buildings, and other improvements ("Improvements") on the Leased Land, at Lessee's sole cost and

expense, and in connection with any construction, Lessee shall be permitted to grade, level, and fill the land, remove trees and shrubs, install roadways and walkways, and install utilities, provided all of the foregoing serve the Improvements erected on the Leased Land. Lessor shall have no liability for any costs or expenses in connection with the construction of Improvements on the Leased Land. Provided, however, Lessee shall not make any improvements until Lessee obtains written permission from Lessor to be exercised by Lessor in its sole and absolute discretion.

ARTICLE 4. OPERATING COSTS AND IMPOSITIONS

Operating Costs

4.01 Lessee shall pay all "Operating Costs" and "Impositions" defined in Paragraphs 4.02 and 4.03, below, in connection with the Leased Land.

Definition of Operating Costs

4.02 "Operating Costs" shall include, but shall not be limited to, all expenses paid or incurred in connection with the following activities:

- (1) Repairs, maintenance, replacements, painting, and redecorating.
- (2) Landscaping.
- (3) Insurance.
- (4) Heating, ventilating, and air conditioning repair and maintenance.
- (5) Water, sewer, gas, electricity, fuel oil, and other utilities.
- (6) Rubbish removal.
- (7) Supplies and sundries.
- (8) To be deleted as there will be no real property tax on the subject property.
- (9) Costs of wages and salaries for all persons engaged in

the operation, maintenance, and repair of the Leased Land, including fringe benefits and social security taxes except that Lessor shall be responsible for all costs incurred in Lessors programming purposes.

- (10) All other expenses, whether or not mentioned in this Lease, that are incurred with regard to operation of the Leased Land, including any replacements if necessary for repairs and maintenance or otherwise.

Definition of Impositions

4.03 "Impositions" shall include all fines and levies that result from construction activities or the normal operation of the premises on the Leased Land, all real estate property taxes, assessments, and other governmental charges that are laid, assessed, levied, or imposed on the Leased Land and become due and payable during the Term of this Restated Lease, or any lien that arises during the time of this Restated Lease on the Leased Land and Improvements, any portion of these, or the sidewalks or streets in front of or adjoining the Leased Land and Improvements.

ARTICLE 5. LAWS AND GOVERNMENTAL REGULATIONS

Compliance With Legal Requirements

5.01 Lessee shall promptly comply with all laws and ordinances, and all orders, rules, regulations, and requirements of federal, state, and municipal governments and appropriate departments, commissions, boards, and officers of these governments ("Legal Requirements") throughout the Term of this Restated Lease, and without cost to Lessor. Lessee shall promptly comply with these Legal Requirements whether they are foreseen or unforeseen, or ordinary or extraordinary.

ARTICLE 6. LIENS AND ENCUMBRANCES

Creation Not Allowed

6.01 Lessee shall not create, permit, or suffer any mechanics' or other liens or encumbrances on or affecting the Leased Land or the fee estate or reversion of Lessor.

Discharge After Filing or Imposition

6.02 If any lien or encumbrance shall at any time be filed or imposed against the Leased Land or the fee estate or reversion of Lessor, Lessee shall cause the lien or encumbrance to be discharged of record within fifteen (15) days after notice of the filing or imposition by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Lessee shall fail to cause the lien or encumbrance to be discharged within the fifteen (15) day period, then in addition to any other right or remedy of Lessor, Lessor shall be entitled but not obligated to discharge the lien or encumbrance either by paying the amount claimed to be due or by procuring the discharge by deposit or by bonding proceedings. In any event, Lessor shall be entitled to compel the prosecution of an action for the foreclosure of any lien or encumbrance by the lienor and to pay the amount of the judgment for and in favor of the lienor with interest, costs, and allowances if Lessor elects to take this action. All amounts paid by Lessor and all of its costs and expenses in connection with the actions taken by Lessor, including court costs, reasonable attorneys' fees, and interest at the highest legal rate in effect at the time these moneys are due, shall be deemed to be additional rent under this Lease and shall be paid by Lessee to Lessor promptly on demand by Lessor.

Lessor Not Liable for Labor, Services, or Materials Furnished to Lessee

6.03 Lessor shall not be liable for any labor, services, or materials furnished or to be furnished to Lessee in connection with any work performed on or at the Leased Land.

ARTICLE 7. INSURANCE AND INDEMNITY

Fire and Extended Coverage

7.01 At all times during the Term of this Restated Lease, Lessee shall maintain, at its sole cost, insurance covering the Improvements including, without limitation, all Improvements now located on the Leased Land or that may be erected on the Leased Land, against loss or damage by fire, vandalism, malicious mischief, windstorm, hail, smoke, explosion, riot, civil commotion, vehicles, aircraft, flood, or earthquake, together with any other insurance that Lessor may require from time to time. The insurance shall be carried by insurance companies authorized to transact business in Alabama, selected by Lessee and approved by Lessor. In addition, the following conditions shall be met:

- (a) The insurance shall be in amounts no less than one hundred (100) percent of the replacement cost of the buildings and other

improvements, exclusive of foundations and below-ground improvements (but sufficient to satisfy the requirements of any coinsurance clause).

- (b) The insurance shall be maintained for the mutual benefit of Lessor and Lessee, any succeeding owners of the fee title in the Leased Land, and any successors and assigns of this Lease. The insurance policy or policies shall name both Lessor and Lessee as insureds.
- (c) Any and all fire or other insurance proceeds that become payable at any time during the Term of this Restated Lease because of damage to or destruction of any Improvements on the Leased Land shall be paid to Lessee and applied by Lessee toward the cost of repairing, restoring, and replacing the damaged or destroyed Improvements in the manner required by Article 8 of this Lease.

Property and Personal Injury Liability Insurance

7.02 At all times during the Term of this Restated Lease, Lessee shall maintain, at its sole cost, comprehensive broad-form general public liability insurance against claims and liability for personal injury, death, and property damage arising from the use, occupancy, disuse, or condition of the Leased Land and Improvements, and adjoining areas. The insurance shall be carried by insurance companies authorized to transact business in the State of Alabama, selected by Lessee and approved by Lessor. In addition, the following conditions shall be met:

- (a) The insurance provided pursuant to this Paragraph 7.02 shall be in an amount no less than \$1,000,000 for property damage, and in an amount no less than \$1,000,000 for one person and \$1,000,000 for one accident for personal injury.
- (b) The insurance shall be maintained for the mutual benefit of Lessor and Lessee, any succeeding owners of the fee title in the Leased Land, and any successors and assigns of this Restated Lease. The insurance policy or policies shall name both Lessor and Lessee as insureds.
- (c) The amount of liability insurance shall be subject to determination by the City of Daphne with any increases that

may be reasonably required by Lessor from time-to-time to account for inflation or other market conditions shall be made in cooperation between Lessor and Lessee. Notwithstanding the foregoing, the amount of liability insurance shall not be decreased without the prior written authorization of the Lessor.

Construction Liability Insurance

7.03 Lessee agrees to obtain and maintain (to the extent reasonably procurable) construction liability insurance at all times when demolition, excavation, or construction work is in progress on the Leased Land. This insurance shall be carried by insurance companies authorized to transact business in the State of Alabama, selected by Lessee and approved by Lessor, and shall be paid for by Lessee. The insurance shall have limits of no less than \$1,000,000 for property damage, and \$1,000,000 for one person and \$1,000,000 for one accident for personal injury. The insurance shall be maintained for the mutual benefit of Lessor and Lessee, as well as for any succeeding owners of the fee title in the Leased Land, and for any successors and assigns of this Lease, against all liability for injury or damage to any person or property in any way arising out of demolition, excavation, or construction work on the premises. The insurance policy or policies shall name both Lessor and Lessee as insureds.

Certificates of Insurance

7.04 Lessee shall furnish Lessor with certificates of all insurance required by this Article 7. Lessee agrees that if it does not keep this insurance in full force and effect, Lessor may notify Lessee of this failure, and if Lessee does not deliver to Lessor certificates showing all of the required insurance to be in full force and effect within ten (10) days after this notice, Lessor may, at its option, take out and pay the premiums on the insurance needed to fulfill Lessee's obligations under the provisions of this Article 7. On demand from Lessor, Lessee shall reimburse Lessor the full amount of any insurance premiums paid by Lessor, with interest at the rate of ten percent (10%) per annum from the date of Lessor's demand until reimbursement by Lessee.

Indemnification of Lessor

7.05 Lessor shall not be liable for any loss, damage, or injury of any kind or character to any person or property arising from any use of the Leased Land or Improvements, or caused by any defect in any building, structure, equipment, facility, or other improvement on the Leased Land, or caused by or arising from any act or omission of Lessee, or any of its agents, employees, licensees, or invitees,

or by or from any accident, fire, or other casualty on the land, or occasioned by the failure of Lessee to maintain the premises in safe condition. Lessee waives all claims and demands on its behalf against Lessor for any loss, damage, or injury, and agrees to indemnify and hold Lessor entirely free and harmless from all liability for any loss, damage, costs, or injury of other persons, and from all costs and expenses arising from any claims or demands of other persons concerning any loss, damage, or injury, caused other than by the negligent or intentional act or omission of Lessor.

ARTICLE 8. DAMAGE OR DESTRUCTION OF IMPROVEMENTS

Damage or Destruction; Option to Terminate or Repair

8.01 In the event that the Leased Land, the Improvements, or any part of them are damaged or destroyed by any cause whatsoever, Lessee may elect either of the following options:

- (1) Within one hundred twenty (120) days, Lessee shall commence and diligently pursue to completion the repair, restoration, or replacement of the damaged or destroyed Leased Land and Improvement, and this Lease shall remain in full force and effect.

or

- (2) Lessee may terminate this Lease with one hundred twenty (120) days written notice to Lessor and shall return the Leased Land to the condition existing at the time of the commencement of this Lease except for completed improvements constructed by Lessee which Lessee may leave or may remove at its sole discretion, normal wear and tear excepted.

ARTICLE 9. CONDEMNATION

Interests of Parties

9.01 If the Leased Land and Improvements or any part of these premises is taken for public or quasi-public purposes by condemnation in any action or proceeding in eminent domain, or is transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of Lessor and Lessee in the award or consideration for the taking or transfer and the effect of the taking shall be governed by Article 9.02, 9.03 and 9.04 except that during the

initial twenty-four (24) year term of this Lease any proceeds paid from condemnation or eminent domain shall be divided between the parties with the City obtaining that portion of the condemnation award directly attributed to the value of the Improvement.

Termination on Total Taking

9.02 If all or substantially all of the Leased Land and Improvements are taken or transferred as described in Paragraph 9.01, this Lease and all of the rights, title, and interest under this Lease shall cease on the date that title to the Leased Land and Improvements vests in the condemning authority, and the proceeds of the condemnation shall be paid pursuant to the provisions of Paragraph 9.01.

Termination on Partial Taking

9.03 If less than all or less than substantially all of the Leased Land and Improvements is taken or transferred as described in Paragraph 9.01, and, if the remainder of the Leased Land and Improvements is in a location, or in a form, shape, or reduced size that makes it impossible for Lessee to effectively and practicably use the remaining Leased Land and Improvements as set forth herein, then this Lease shall terminate on the date title to the portion of the Leased Land and Improvements taken or transferred vests in the condemning authority. The proceeds of the condemnation shall be paid pursuant to the provisions of 9.01.

Voluntary Conveyance

9.04 Nothing in this Article 9 prohibits Lessor from voluntarily conveying all or part of the Leased Land and Improvements to a public utility, agency, or authority under threat of a taking under the power of eminent domain. Any voluntary conveyance shall be treated as a taking within the meaning of this Article and compensation and proceeds therefrom shall be paid to the Lessor and Lessee pursuant to provisions of 9.01.

9.05 The provisions of this Article 9 shall be subject to the review and approval of the Department.

ARTICLE 10. LEASE HOLD MORTGAGES

Leasehold Mortgages Not Permitted

10.01 Lessee shall not be permitted to mortgage Lessee's leasehold interest

in the Leased Land. Lessee agrees to subordinate any interest created by this Restated Lease to any indebtedness of the Lessor presently or hereinafter existing. This includes, without limitation, bond financing.

ARTICLE 11. DEFAULT

Events of Default

- 11.01 (a) Any one or more of the events listed in Subparagraphs (b) through (c) of this Paragraph 11.01 shall constitute a default under this Restated Lease.
- (b) Lessee's failure to observe or perform or cause to be observed or performed any other term, covenant, or agreement under this Restated Lease shall constitute a default under this Restated Lease.
- (c) Lessee's assignment of the leasehold interest under this Restated Lease without the prior written consent of Lessor shall constitute a default under this Restated Lease.

Notice of Election to Terminate Lessee's Possession

11.02 If any event creating default occurs, Lessor may elect to terminate Lessee's right of possession under this Restated Lease. Upon termination, all of Lessee's rights, title, and interest in the Leased Land shall expire completely and Lessee shall, within a reasonable time, quit and surrender the Leased Land. Any Improvements erected on the subject leased premises shall revert back to the Lessor, however, Lessee shall have a reasonable time not to exceed one hundred eighty (180) days for removal of any such improvements or equipment and/or may leave the same for the benefit of Lessor, such to be determined at Lessee's option.

Lessor's Entry After Termination of Lessee's Possession

11.03 At any time after the termination of Lessee's right of possession under this Lease pursuant to Paragraph 11.02 or Paragraph 13.01 of this Restated Lease, Lessor may enter and possess the Leased Land and Improvements by summary proceedings, ejectment, or otherwise, and Lessor may remove Lessee and all other persons and property from the Leased Land and Improvements. If Lessor takes the actions described in this Paragraph 11.03, Lessor may then

possess the Leased Land and Improvements and Lessor may also sell any of the Improvements.

Costs Incurred Due to Breach

11.04 Lessee expressly agrees to pay all expenses that Lessor may incur for reasonable attorneys' fees, and all other costs paid or incurred by Lessor for enforcing the terms and provisions of this Lease, restoring the Leased Land and Improvements to good order and condition, and for maintaining the Leased Land and Improvements.

ARTICLE 12. EXPIRATION OF TERM

Lessee's Delivery of Possession After Termination or Expiration

12.01 On the expiration date of this Lease as set forth in Paragraph 2.01 of this Lease, or the termination of Lessee's possession under this Restated Lease pursuant to Paragraph 11.03, or any entry or possession of the Leased Land and Improvements by Lessor pursuant to Paragraph 11.03 (collectively referred to as the "Expiration Date"), Lessee shall promptly quit and surrender the Leased Land and Improvements, and deliver to Lessor actual possession and ownership of the Leased Land, less improvements, which the Lessee shall have a right to remove pursuant to paragraph 11.02 but shall otherwise return the premises without improvements in good condition, wear and tear excepted.

Lessee's Removal of Movable Objects

12.02 Lessee shall have the right to remove from the Leased Land and Improvements all movable fixtures, movable equipment, and articles of personal property used or procured for use in connection with the use of the Leased Land on or before the Expiration Date, provided that Lessee shall promptly repair, or cause to be repaired, any damage resulting to the Leased Land or Improvements by reason of this removal. Any fixtures, equipment, or articles of personal property of Lessee that remain at or on the Leased Land after the Expiration Date shall be deemed to have been abandoned by Lessee, and may either be retained by Lessor as its property or disposed of by Lessor without accountability to Lessee for the value of these fixtures, equipment, or articles of personal property, or any proceeds derived from the sale of these items.

ARTICLE 13. TERMINATION FOR SCHOOL USE

13.01 In the event the Leased Land is required by the Lessor for necessary school related construction or other uses in connection with public education, this agreement may be canceled by the Lessor at any time after the first ten (10) years of the lease and on one (1) year written notice to Lessee. In that event, the Lessor shall pay a sum to Lessee equal to the value of the improvements on that portion of the leased premises to which the lease has been canceled. The average value of those improvements as determined by the average of three (3) MAI appraisers, with one appraiser selected by Lessor, one (1) appraiser selected by Lessee, and one (1) appraiser selected by the other two appraisers. The cost of the appraisal shall be borne equally by Lessor and Lessee. Provided, however, prior to the appraisal process, the Lessor in its sole and absolute discretion, may identify some or all of the Improvements which are susceptible of removal and reuse which shall be removed by Lessee and excluded from the appraisals to be conducted. Otherwise, by mutual written agreement of Lessee and Lessor, Lessee may remove any improvement(s) or equipment on that portion of Leased Land to which the Lease has been canceled and Lessee shall, at Lessee's own expense, return that portion of the leased premises to its pre-lease condition.

13.02 It is expressly agreed and understood that following the expiration of the initial twenty-four (24) year term of this Restated Lease, that the Lessor may in its sole discretion, terminate this Lease without cost for any reason by Lessor, providing one (1) year written notice to Lessee. Upon the happening of such event, Lessee shall have the right and privilege to remove any improvements and/or facilities located on the leased premises within the termination notice.

ARTICLE 14. GENERAL PROVISIONS

No Waiver of Breach by Lessor's Actions

14.01 The failure of Lessor to seek redress for violation of, or to insist on the strict performance of any covenant, agreement, term, provision, or condition of this Lease shall not constitute a waiver of the covenant, agreement, term, provision, or condition. The receipt by Lessor of rent with knowledge of the breach of any covenant, agreement, term, provision, or condition of this Lease shall not be deemed a waiver of that breach.

Waiver of Any Provision Must Be Written

14.02 No provision of this Lease shall be deemed to have been waived, unless the waiver is in writing and signed by the party against whom enforcement

is sought. Each right and remedy of Lessor provided for in this Lease shall be cumulative and in addition to every other right or remedy provided for in this Lease, or now or later existing at law, in equity, by statute, or otherwise.

Entire Agreement

14.03 This Lease and the Exhibits annexed to this Lease contain the entire agreement between Lessor and Lessee, and any agreement made after the execution of this Lease between Lessor and Lessee shall be ineffective to change, modify, waive, release, discharge, terminate, or effect a surrender or abandonment of this Lease, in whole or in part, unless that agreement is in writing and signed by the party against whom enforcement is sought.

Notices

14.04 All notices and demands of any kind that either party may be required or may desire to give to the other in connection with this Lease must be given by registered or certified mail, return receipt requested, with postage fully prepaid, and addressed to the party to be served at the party's address as set forth above. Any notice shall be deemed received on first attempted delivery. Any party may change the address to which notices to that party are to be directed by notice given in the manner provided in this Paragraph 14.04.

Lessor's Entry and Inspection of Premises

14.05 Lessor, or its agents or designees, shall have the right to enter the Leased Land and Improvements during reasonable business hours for inspection, or to complete any work that may be necessary because of Lessee's default under any of the terms, covenants, and conditions of this Lease continuing beyond the applicable periods of grace, or to exhibit the Leased Land and Improvements to potential buyers and agents.

Partial Invalidity or Unenforceability

14.06 If any term, covenant, or condition of this Lease shall be invalid or unenforceable to any extent, the remainder of the terms, covenants, and conditions of this Lease shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Individuals Benefited by Lease

14.07 This Lease shall inure to the benefit of and be binding on Lessor and

Lessee and their respective distributees, personal representatives, executors, successors, and assigns except as otherwise provided in this Lease.

Assignment and Subletting

14.08 This Lease and the Term and estate granted by this Lease, or any part of this Lease or that Term and estate, may not be subleased or assigned, without Lessor's written consent.

14.09 Nothing contained in this Agreement shall be deemed or construed by the parties or by any third person to create a relationship of principal and agent or of partnership or of joint venture or of any association between Lessee and Lessor, and neither the provisions contained in this Agreement or any acts of the parties shall be deemed to create any relationship between Lessee and Lessor, other than the relationship of Lessor and Lessee.

ARTICLE 15. DISCLAIMER OF WARRANTIES

15.01 The execution by the Lessor and Lessee of this Agreement shall not be construed as a warranty or representation by the Lessor or by Lessee that the premises are fit and suitable for the use which Lessee intends to make or may make of the premises or for the installation of the proposed improvements. The Lessor hereby specifically disclaims any and all warranties whether express or implied.

IN WITNESS WHEREOF, Lessor and Lessee have executed and signed this Restated Lease or have caused this Lease to be executed and signed on this the 14th day of September, 2014.

**BALDWIN COUNTY BOARD OF
EDUCATION**, an agency of the State
of Alabama

DATE: 9/14/2014

BY: Norman Moore
NORMAN MOORE
As Its President

ATTEST:

ROBERT OWEN
As Its Superintendent

CITY OF DAPHNE, ALABAMA,
an Alabama municipal corporation

DATE: _____

BY: _____
DANE HAYGOOD, Mayor

ATTEST:

Rebecca A. Hayes, City Clerk

STATE OF ALABAMA

COUNTY OF BALDWIN

I, Elizabeth L. Coe, a Notary Public, in and for said County in said State, hereby certify that ~~ROBERT MOORE~~^{Norman}, whose name as President, and **ROBERT OWEN**, whose name as Superintendent and Ex-Officio Secretary of the Baldwin County Board of Education, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they, as such officers and with full authority, executed the same voluntarily for and as the act of said Board.

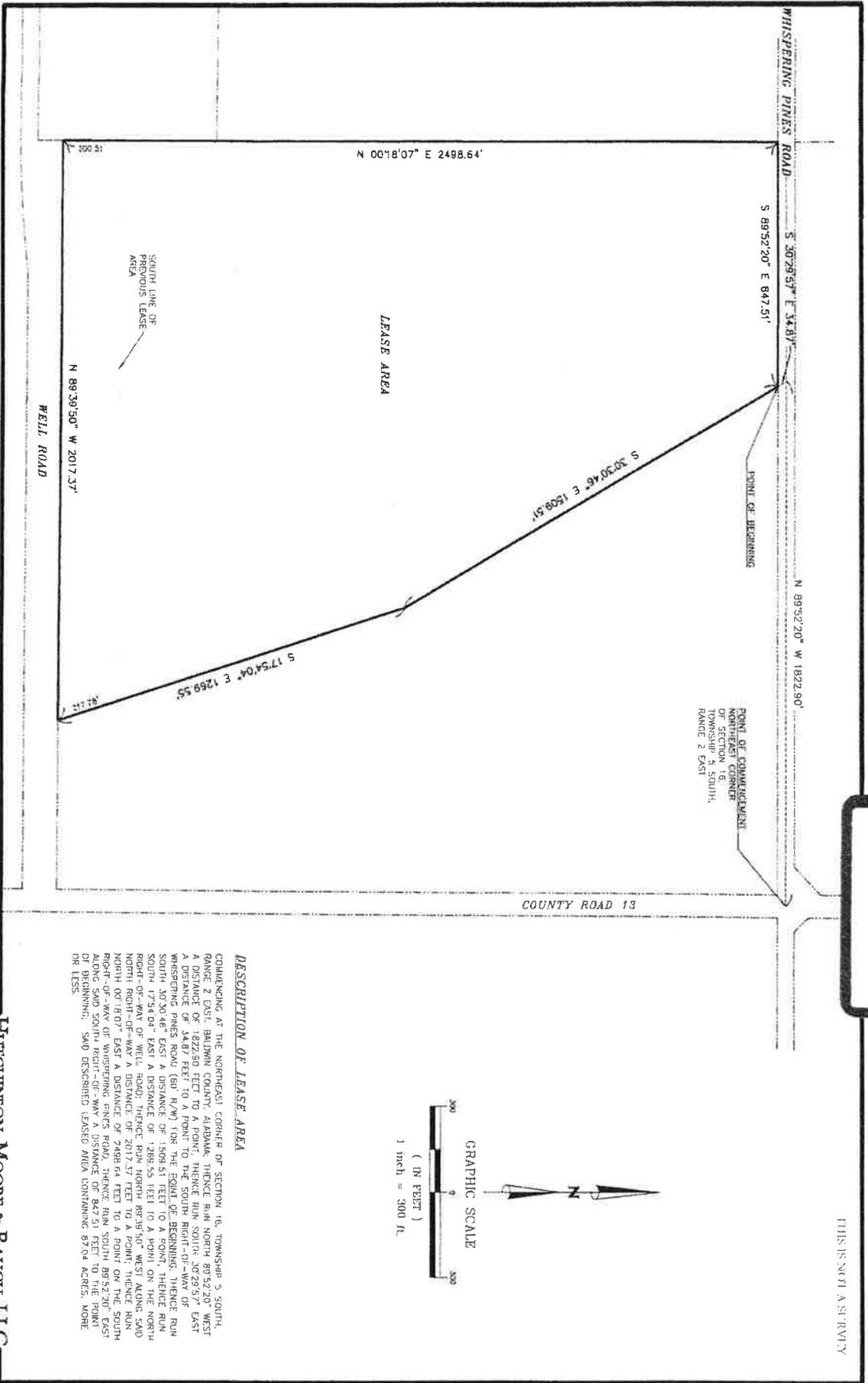
Given under my hand and seal this 14th day of September, 2014.

Elizabeth L. Coe
Notary Public, Baldwin County, Alabama

My Commission Expires: 10/5/2014

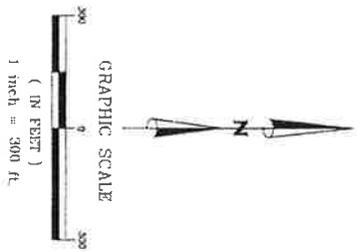


THIS IS NOT A SURVEY



DESCRIPTION OF LEASE AREA

COMMENCING AT THE NORTHEAST CORNER OF SECTION 16, TOWNSHIP 5 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN NORTH 89°52'20" WEST A DISTANCE OF 1822.90 FEET TO A POINT; THENCE RUN SOUTH 30°28'57" EAST A DISTANCE OF 34.81 FEET TO A POINT; THENCE RUN SOUTH 89°52'20" WEST A DISTANCE OF 847.51 FEET TO A POINT; THENCE RUN SOUTH 30°30'46" EAST A DISTANCE OF 1508.51 FEET TO A POINT; THENCE RUN SOUTH 17°54'04" EAST A DISTANCE OF 1269.55 FEET TO A POINT; ON THE NORTH RIGHT-OF-WAY OF WELL ROAD; THENCE RUN NORTH 87°39'50" WEST ALONG SAID NORTH RIGHT-OF-WAY A DISTANCE OF 2017.37 FEET TO A POINT; THENCE RUN NORTH 00°18'07" EAST A DISTANCE OF 2498.64 FEET TO A POINT; THENCE RUN NORTH 00°18'07" EAST A DISTANCE OF 2498.64 FEET TO A POINT; THENCE RUN EAST ALONG SAID SOUTH RIGHT-OF-WAY A DISTANCE OF 847.51 FEET TO THE POINT OF BEGINNING. SAID DESCRIBED LEASED AREA CONTAINING 87.04 ACRES, MORE OR LESS.



HUTCHINSON, MOORE & RAUCH, LLC

August 28, 2014

Mayor Dane Haygood
Daphne City Council
CITY OF DAPHNE
Post Office Box 400
Daphne, AL 36526

Jay M. Ross
Direct: 251.650.0873
E-Fax: 251.650.2058
jay.ross@arlaw.com

**RE: PROPOSAL - FEDERAL AND STATE GOVERNMENTAL RELATIONS,
GRANT AND CONSULTING SERVICES - REVISED**

Dear Mayor:

To follow up on our discussions with you and various Council Members, we submit this proposal for your and the City's consideration for representation at both the federal and state level.

Our "team" approach to representing the City will include providing traditional lobbying services as well as grant consulting services in Montgomery and in Washington, D.C. Team members will include Britton Bonner, Mark Gaines, and Stacy Golleher as well as our grant consultant Keith Gray. The team members, along with me, will be available at all times to discuss any issue you or the City may have or to update you on the status of any project or issue we are pursuing on behalf of the City. The scope of our representation will include the following:

Grant Consulting

One of the first steps our team will take will be to sit down with you and your staff and fully analyze the current grant capacities and capabilities of the City. From these meetings we will develop a comprehensive grants strategy for the City going forward. This comprehensive approach will ensure full utilization of both the in-house resources of the City as well as ensure a seamless integration of our grant writing services as discussed below.

Federal Representation:

The scope of representation of the City of Daphne at the federal level will include the following:

- A) Keith Gray, Britton Bonner and Stacy Golleher will meet with and spend significant time visiting with you and your administration, and others designated by you, to

discuss the projects of importance to the City, both current on-going projects and potential projects.

- B) Keith Gray will perform a complete review of the City's current grant funding process, evaluate its effectiveness, and help develop a process going forward so the City is utilizing all its in-house resources to the fullest extent possible, and insuring our efforts will thoroughly compliment the City's in-house efforts.
- C) Evaluate specific economic development opportunities, taking into account the nuances and issues relative to each project, while working closely with the Baldwin County Economic Development Alliance and other partners to ensure a comprehensive approach is taken for both state and local incentives and potential infrastructure financing methods.
- D) Based on our meetings, and with input and direction from City officials, including yourself, designated staff and the City Council, Adams and Reese will work to present grant funding opportunities to the City on a quarterly basis for the City's consideration based on the priorities we help develop for of the City. If the City decides to seek the grant presented, our grant professionals will prepare, write and submit the grant on behalf of the City through a coordinated effort with department heads. We will work with Congressional Members, Senators, and staffers as well as state officials where needed regarding the grant request, as well as with specific Agency contacts. These grant writing efforts will be in addition to the currently ongoing in-house departmental efforts which we can help coordinate on behalf of the City. Our grants consultant may also provide separate grant administration services for those particular grants based on the specific terms of said grant once awarded.
- E) Organize and arrange visits by you and those designated by you to Washington, D.C. so that you can visit with the Alabama Federal Delegation and appropriate Agency or Committee staff on each project or grant funding opportunity being pursued on behalf of the City.
- F) Work through the legislative year with the Alabama Federal Delegation, Committee and Subcommittee Staff and appropriate agency officials to help ensure the success and funding of the City's projects.
- G) Adams and Reese will continually review other grant opportunities and federal competitive funding sources that may be of interest to the City and its Department Heads.
- H) Adams and Reese will monitor and engage on behalf of the City on various authorization issues identified as relevant to the expansion and success of the City's objectives during the course of the legislative year. We will also provide regular updates on issues of importance to the City as they occur in our nations Capital.

State Representation:

At the state level, Mark Gaines, Britton Bonner and I will coordinate your efforts in Montgomery and:

- A) Monitor the state legislative sessions and committee hearings to provide real-time updates during the session on issues of importance to the City.
- B) Report findings from meetings or other special events to keep you and your staff updated on a regular basis. Our professionals will remain immediately available to answer your questions concerning legislative activity that could impact the City throughout the session.
- C) Represent the City at public hearings in Montgomery, presenting your point of view to lawmakers, other decision makers, agency representatives and the public.
- D) Provide you the advance notice you need to act quickly on issues critical to issues of importance to the City or items of concern to the City.
- E) Assist in developing and promoting legislation important to the City's continued growth and success, including assistance with any local legislation, include any annexation efforts.
- F) Provide issue management, research services and other consulting services needed to ensure a seamless integration between efforts made on behalf of the City at both the state and federal level.

As discussed, we believe we have a proven track record in this new method of securing federal funds and in working with the programs of interest to the City.

Implementation:

In accordance with our team philosophy of providing substantive support, we propose immediately meeting with you and your staff and others designated by you to determine the City's immediate needs and goals, and work with the City to devise and set forth specific steps going forward to meet those goals, explore economic development opportunities and develop strategies to implement immediate action steps.

We will take the following actions within the initial 30 days of our engagement:

1. Meet with you and others designated by you to review and discuss all pending, potential, and/or recent grant funding requests and discuss other pressing matters of importance to you and the City.
2. Fully evaluate the City's current internal grant writing process in order to strengthen its efficiency and provide comprehensive analysis and grant strategy going forward.

3. Contact the appropriate congressional and senate staff members to ensure the Member and Senators are aware of any current pending grants, and solicit and confirm their support for the requested funding as well as with all state agencies and state officials where needed.

4. If appropriate, we will contact any federal or state agency representatives and arrange "de-briefings" to have the agency review the reasons any recently submitted grant was not awarded and evaluate if a modified grant application should be prepared and submitted for any subsequent funding opportunities.

Proposed Fee Structure:

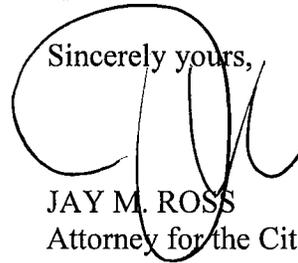
Adams and Reese appreciates the opportunity to assist and represent the City of Daphne and is pleased to submit this proposal for state and federal governmental relations, grant and consulting services. We propose the following fees and payment terms.

- **Professional Service Fee for State and Federal Governmental Relations and Grant Consulting Services: \$6,250.00 per month.**

This one-year contract will be extended yearly unless otherwise terminated by either party. The monthly retainer fee will include all fees and expenses unless any additional fees and/or out of pocket expenses are approved in advance by you. If the City or Adams and Reese wish to end this agreement for any reason, the requesting party may do so by submitting a formal request with 30 days notice.

We appreciate the opportunity to present this program for the City's consideration. If you have any questions at all or any additional information is needed, please do not hesitate to contact me or Britton directly. If this proposal is acceptable to you and the City, please execute below and return a copy of this at your convenience. We look forward to getting started and for a continued long and fruitful engagement with the City of Daphne. We remain,

Sincerely yours,



JAY M. ROSS
Attorney for the City of Daphne

AGREED AND ACCEPTED:

Mayor, City of Daphne

Attest: _____
City Clerk

cc: C. Britton Bonner

Allocations Distributing

CASE NO. 2014-4

ABC LICENSE ROUTING

DATE RECEIVED BY REVENUE DIV.	<u>9-12-14</u>	(Initial) <u>aa</u>
DATE FORWARDED TO POLICE DEPT.	<u>9-12-14</u>	<u>aa</u>
DATE RECEIVED BY POLICE DEPT.	<u>9-15-14</u>	<u>RH</u>
DATE: APPROVED <input checked="" type="checkbox"/>	DISAPPROVED <input type="checkbox"/>	
POLICE DEPT SIGNATURE	<u>[Signature]</u>	
DATE RETURNED TO REVENUE DIV.	<u>9-15-14</u>	<u>RH</u>
DATE FORWARDED TO CITY CLERK	<u>9-16-14</u>	<u>aa</u>
DATE RECEIVED BY CITY CLERK	<u>9-17-14</u>	<u>RH</u>
SCHEDULED DATE ON AGENDA	<u>10-6-14</u>	<u>RH</u>
Council Action:	<input type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
		<input type="checkbox"/> TABLED

COMMENTS: _____

Rescheduled for Council Agenda Date: _____

Council Action: APPROVED DISAPPROVED TABLED

COMMENTS: _____

DATE RETURNED TO REVENUE DIV.: _____

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



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20140911083705288



Type License: 100 - WHOLESALE TABLE WINE ONLY - 24% OR LESS **State:** \$550.00 **County:** \$275.00

Type License: **State:** **County:**

Trade Name: ALLOCATIONS DISTRIBUTING **Filing Fee:** \$50.00

Applicant: ALLOCATIONS DISTRIBUTING LLC **Transfer Fee:**

Location Address: 805 TRIONE AVENUE DAPHNE, AL 36526

Mailing Address: PO BOX 130 DAPHNE, AL 36526

County: BALDWIN **Tobacco sales:** NO **Tobacco Vending Machines:**

NO **Type Ownership:** LLC

Book, Page, or Document info: INST 1426177

Date Incorporated: 10/23/2013 **State incorporated:** AL **County Incorporated:** BALDWIN

Date of Authority: 10/23/2013 **Alabama State Sales Tax ID:** r008797795

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

Name:	Title:	Date and Place of Birth:	Residence Address:
HOWARD RAY HIX JR 5820090 - AL	MEMBER	03/26/1974 DOTHAN	805 TRIONE AVE DAPHNE, AL 36526

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

Contact Person: RAY HIX **Home Phone:** 251-767-2444
Business Phone: 251-423-0708 **Cell Phone:** 251-767-2444
Fax: 251-252-9898 **E-mail:** RAY@HIXSNEDEKER.COM

PREVIOUS LICENSE INFORMATION: **Previous License Number(s)**
Trade Name: **License 1:**
Applicant: **License 2:**



**STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION**



Confirmation Number: 20140911083705288

If applicant is leasing the property, is a copy of the lease agreement attached? **YES**
 Name of Property owner/lessor and phone number: **810 MANCI PROPERTIES LLC 251-243-0708**
 What is lessors primary business? **PROPERTY RENTAL**
 Is lessor involved in any way with the alcoholic beverage business? **YES**
 Is there any further interest, or connection with, the licensee's business by the lessor? **NO**

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

Will the business be operated primarily as a package store? **NO**
 Building Dimensions Square Footage: **1500** Display Square Footage:
 Building seating capacity: **0** Does Licensed premises include a patio area? **NO**
 License Structure: **ONE STORY** License covers: **ENTIRE STRUCTURE**
 Number of licenses in the vicinity: **10** Nearest: **.01**
 Nearest school: **2 blocks** Nearest church: **2 blocks** Nearest residence: **1 blocks**
 Location is within: **CITY LIMITS** Police protection: **CITY**

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

Name:	Violation & Date:	Arresting Agency:	Disposition:



STATE OF ALABAMA

ALCOHOLIC BEVERAGE CONTROL BOARD

ALCOHOL LICENSE APPLICATION



Confirmation Number: 20140911083705288

Initial each

Signature page

HRA

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

HRA

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

HRA

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

HRA

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

HRA

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

HRA

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

HRA

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

HRA

The undersigned agree, if a license is issued as herein applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages.

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

HRA

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

Applicant Name (print): *HOWARD RAY HIX, JR.*

Signature of Applicant: *H. Ray Hix*

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

Notary Signature: *Betty G. Dean* Commission expires: 01/10/2015

Application Taken: 09/11/2014 App. Inv. Completed:
Submitted to Local Government:
Received in District Office: Reviewed by Supervisor:

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



City of Daphne Event Permit Application

Date of Application: November 21, 2013 Permit Requested: Event/Fundraiser Parade/Run Band

Contact Information

Organization Name: SEEDS
Contact Name: GALE CROFT E-mail Address: SEEDSINDAPHNE@GMAIL.COM
Address: PO BOX 460, DAPHNE, AL, 36526
Street / P.O. Box City/State/Zip Code
Primary Phone Number: 251-656-7333 Secondary: 251-604-0487

Event Information

Event Name: MAMMA MIA COOKOFF Event Date: NOVEMBER 1, 2014
Event Location: CITY HALL GROUNDS # Participants/Vehicles: 800-900
Start Time: 8 AM Stop Time: 11PM Assembly Time: N/A
Parades/Runs Only
Special Requests: N/A
Road Closures Requested: Yes No

Special Instructions

Approval: Internal Use Only

Date Routed: 9/23/14
Fire Dept: [Signature]
Police Dept: [Signature]
Public Works: [Signature]
Parks & Recreation: [Signature]
Only required if event disrupts traffic near Daphne parks

For Special Event/Band Permits:

Council Member: _____
District # Signature

For Parade/Run Permits & Use of City Grounds:

City Council: _____
Date of Approval

Parade/Run Permits ONLY

Fee Paid: \$ _____ N/A Waived
 Insurance Filed N/A
Route Selection: 1 2 3 4

RESOLUTIONS
&
ORDINANCES

CITY OF DAPHNE

RESOLUTION 2014-52

**RESOLUTION IN SUPPORT OF THE *CREATE A CLEAN WATER FUTURE*
STORMWATER EDUCATION OUTREACH CAMPAIGN**

Whereas, the Mobile Bay National Estuary Program in partnership with the Coastal Alabama Stormwater Team has developed **Create a Clean Water Future** public service campaign, and

Whereas, Create A Clean Water Future is a public service campaign to help Alabama residents learn more about stormwater runoff and its impacts; increase demand for stormwater management programs; and provide tools that empower individuals and communities to reduce polluted runoff in our waterways, and

Whereas, the City of Daphne will benefit from adopting the Create A Clean Water Future Campaign in the following ways: increase public awareness of stormwater impacts using existing campaign materials, partner with other members of the campaign in efforts to educate the public on non-point source pollution, and work as a team to improve stormwater quality of coastal Alabama.

Now, therefore be it resolved by the legislative body of the City of Daphne, Alabama, as follows:

SECTION 1: Adopts the *Create A Clean Water Future* Campaign and authorizes the Environmental Programs Manager to execute the Campaign Membership Agreement which shows our commitment to promote this Campaign.

SECTION 2: This Resolution shall become effective immediately upon its adoption as required by law.

ADOPTED AND APPROVED THIS _____ DAY OF _____, 2011.

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

DANE HAYGOOD, MAYOR

ATTEST:

REBECCA A. HAYES, CITY CLERK

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2014-38**

**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?
<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)</i>			
<i>*Lazzari *(2501-A) Gipson</i>			

July 2014 Planning Report



ORDINANCE 2014-40

Appropriating Funds for Donette Loop Properties 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, several properties on Donette Loop have had drainage issues with the last occurrence being during the 16.5" rainfall for the period of April 29-30, 2014; and

WHEREAS, the repair of this public infrastructure is necessary to preserve the health, safety, and convenience of the public; and

WHEREAS, this drainage project is NOT eligible for FEMA reimbursement; and

WHEREAS, the estimated project cost is \$147,938 (*Engineering-\$25,675 + Construction-\$122,263*); and

WHEREAS, staff has recommended that Hatch, Mott, MacDonald Engineers undertake the project survey, design, and preparing the project for bid.

NOW, THEREFORE, BE IT ORDAINED, that the Fiscal Year 2014 Budget is hereby amended to include an appropriation in the amount of \$147,938 from Capital Reserve Fund for design and letting of the Donette Loop Properties Drainage Repairs.

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 2014-41

Appropriating Funds for Lancaster Way Drainage Crossing

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, Lancaster Way Drainage Crossing in Lake Forest sustained severe damage; and

WHEREAS, the City of Daphne did receive and review bids for the repair of the Lancaster Way Drainage Crossing in Lake Forest and has determined that the bid as presented is reasonable (*Construction- \$90,683.71 + CE&I + Material Testing -\$23,124 = \$113,808 Total project cost*); and

WHEREAS, FEMA grant monies are available for 75% of the project cost (\$85,356) for the repair of the Lancaster Way Drainage Crossing in Lake Forest; and

WHEREAS, the State of Alabama EMA monies are available for 12.5% of the project cost (\$14,226) for the repair of the Lancaster Way Drainage Crossing in Lake Forest; 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 C project at a guaranteed 87.5% reimbursement (\$99,582).
3. Ordinance #2014-24 appropriated \$3,675 for engineering on this project.
4. ***Fiscal Year 2014 Budget is hereby amended to include an appropriation in the amount of \$10,551 from the General Fund for the repair of the Lancaster Way Drainage Crossing cost not reimbursed by FEMA and the State EMA.***
5. 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

ORDINANCE 2014-42

Design Engineering for Sewer Projects: 1) Whispering Pines-Dauphine Acres, 2) Douglas Road, 3) Van Buren Street, 4) Schieffelin Lane-Jordan Lane East, 5) 6th Street, & 6) Greystone Subdivision

WHEREAS, Ordinance 2014-44 approved and adopted the Fiscal Year 2015 Budget on September 23, 2014; and

WHEREAS, subsequent to the adoption of the Fiscal Year 2015 budget, the City Council has determined that certain appropriations are required and should be approved and made a part of the Fiscal Year 2015 budget; and

WHEREAS, areas remain in the City of Daphne that need sewer installations and the projects needs to go out for bid; and

WHEREAS, design engineering services in the amount of \$97,841 is required to prepare the sewer projects for bid (*with additional engineering cost if projects awarded: \$177,159 & estimated Total Project cost (eng+ construction)- \$1,581,349*); and

WHEREAS, the City Council has determined it to be in the best interest of the City to obtain bids for these projects.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that funds from the Capital Reserve Fund are hereby appropriated and made a part of the Fiscal Year 2015 budget in the amount of \$97,841 for Design Engineering services for the City of Daphne's remaining Sewer projects.

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
ORDINANCE 2014-43**

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

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

SECTION I: GOVERNING RULES

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

- A. Amending the Council Rules of Procedure. The rules of the Council may be amended in the same manner as any other ordinance of general or permanent nature.
- B. Suspension of the Rules of Procedure. The Rules of the Council may be temporarily suspended by unanimous roll call vote of all members present.

SECTION II: COUNCIL MEETING TIME

The regular meetings of the City Council shall be held on the first and third Mondays of each month, which meeting shall convene at 6:30 p.m. at the City Hall Council Chamber. All meetings, regular and special, shall be opened to the public, except when Council meets in executive session as authorized by State law. The regularly scheduled work session will be held on the second Monday of each month at 6:30 p.m. at the City Hall Council Chambers. Any meeting that is scheduled to meet on a Monday that is observed by the City as a holiday shall instead meet on the Tuesday after the holiday at the regularly scheduled time.

SECTION III: SPECIAL CALLED MEETINGS

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

SECTION IV: QUORUM

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

SECTION V: ORDER OF BUSINESS

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

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

SECTION VI: SUBMISSION OF COUNCIL MEETING MATERIAL

- A. It is desired that information be supplied to the City Clerk in time to be made part of the council meeting or work session packet. Any item to be placed on council meeting and work session agenda must be turned in to the City Clerk with all background materials by 5:00 p.m. on the Wednesday before the council meeting or work session. The Council President retains the authority to add or remove items to the agenda. However, any item may be placed upon the agenda if two council members submit a written request to the City Clerk prior to the above mentioned deadline. The council meeting packet will be sent to the full City Council by 12:00 p.m. Friday before the City council meeting or work session, and posted on the city website Friday before a council meeting or work session.
- B. All motions, resolutions, ordinances or other business required to be in writing shall be prepared and supplied to all Council members by noon one full city work day before the council meeting in which it is to be presented. (e.g. if City offices are not open the Friday before the Monday council meeting, then the writings and documentation shall be supplied to each city council member by placing same in each member's mailbox at City Hall by noon Thursday.)
- C. When a work session is called or scheduled between two council meetings, all motions, resolutions, ordinances or other business required to be in writing shall be presented in substantially the same form as that which is required for presentation at council meeting.
- D. In the event of an emergency sections A. and B., hereinabove, shall not apply. An emergency exists if a failure to act would result in an immediate and irrefutable harm to the City or any of its citizens or otherwise it is physically impossible to comply with notice requirements set forth herein. The presiding officer of the Council at the earliest meeting dealing with said emergency shall have final say over interpretations of this section.

SECTION VII: COMMENTS BY COUNCILMEMBERS

- A. Comments by Councilmembers and Mayor. Any comments or discussion by councilmembers or the Mayor shall be with permission of the presiding officer, and for not more than three (3) minutes.
- B. Number of comments by councilmember on a subject. No member shall speak more than twice on the same subject without permission of the presiding officer. The presiding officer may grant the councilmember additional comments after all other council members have had the opportunity to speak.

SECTION VIII: PUBLIC PARTICIPATION / PRESENTATIONS

- A. Public Participation. At the designated time in the order of business, any member of the public may address the City Council concerning any item appearing on the agenda for the council meeting or work session. Discussion on a subject scheduled for a public hearing shall be limited to that public hearing. No individual who is not a member of the City Council or the Mayor shall be allowed to address the same while in session without permission of the presiding officer and for not more than three (3) minutes, unless approved by the presiding officer.
- B. Presentations to Council. An individual wishing to make a presentation to the council with permission of the Council President or Presiding Officer may be allowed 10 minutes. The individual must provide in writing a synopsis of the topic to be discussed to the City Clerk by the Wednesday before the council meeting at 5:00 p.m.

SECTION IX: MOTIONS

- A. Discuss any Motion. The City Council may have the ability to have a discussion on any motion.
- B. Seconding Motions. Any motion coming from committees do not require a second.
- C. Reconsider a Motion. Those motions to reconsider must be made by a council member who voted with the majority at the same or next succeeding meeting of the Council.
- D. Recording of "Ayes" and Nays" / Division on any Question. Whenever it shall be required by one or more members the "ayes" and the "nays" shall be recorded and any member may call for a division on any question.
- E. Order of Motions. Motions to lay any matter on the table shall be first in order, and on all questions, the last amendment, the most distant day, and the largest financial sum shall be first put.

SECTION X: QUESTIONS OF ORDER

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

SECTION XI: PROCEDURE FOR CHAIRMAN TO ADDRESS THE COUNCIL

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

SECTION XII: EXECUTIVE SESSION

The Council may meet in executive session only for purposes authorized by State law and only after the City Attorney certifies the stated purposes for the executive session are authorized by state law. When a council person makes a motion for executive session for an enumerated purpose, the presiding officer shall put the motion to a roll call vote. The estimated length of the executive session shall be stated prior to the roll call vote. The City Attorney shall then certify that the reason stated to enter into executive session is legal according to the Open Meetings Act. If the majority of the council shall vote in favor of the motion for executive session the body shall move into executive session for discussion of the matter for which executive session was called. No action may be taken in an executive session. When the discussion has been completed, the council shall resume its deliberations in public.

SECTION XIII: MOTION FOR ADJOURNMENT

A motion for adjournment shall always be in order.

SECTION XIV: COMMITTEES / BOARDS

- A. The chair of each respective committee, or the council member acting for him or her, shall submit and make report to the Council when so requested by the presiding officer or any member of the Council.
- B. Each Council member is required to serve on a minimum of two (2) committees or boards, but it is recommended that each serve on a minimum of three (3) committees or boards.
- C. Chairman shall be selected by members of committee or board.
- D. No council member shall serve as chair of more than one (1) committee or board.
- E. Council President shall not chair a committee or board.
- F. Committee or board meeting agenda shall be set by the committee chairman along with the department head associated with the committee.
- G. The Mayor may add any item to any committee or board agenda with notification to the chairman.
- H. The Mayor shall not delete any agenda item without approval from the committee or board chairman.

SECTION XV: ORDINANCES THAT REQUIRE EXPENDITURE OF MONEY

All ordinances, resolutions or propositions submitted to Council which require the expenditure of money will lie over until the next Council meeting; provided that such ordinance, resolution or propositions may be considered earlier by unanimous consent of the Council members present at such meeting by roll call vote and provided further that this rule shall not

apply to the current expenses of, or contracts previously made with, or regular salaries of officers, or wages of employees of the City.

SECTION XVI: ATTENDANCE REQUIREMENT

The City Clerk, Treasurer, City Attorney, Chief of Police, Fire Chief, Finance Director, Public Works Director, Human Resources Director, Building Departments Director, Community Development Director, Parks and Recreation Director, Library Director, Civic Center Director and such other department heads or their designated employee shall attend all meetings of the City Council, and shall remain at the council meeting after Department Heads Report when they have items pertaining to their department on the agenda. Department Heads shall attend Council work sessions when items on the agenda pertain to their department.

SECTION XVII: ROBERTS RULES OF ORDER

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

SECTION XVIII: PUBLIC HEARINGS

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

SECTION XIX: REPEALER

That Ordinance 2013-21 be and is hereby repealed in its entirety and that other ordinance(s), parts of ordinance(s) or resolutions(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

SECTION XX: SEVERABILITY

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

SECTION XXI:

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

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this the _____ day of _____, 2014.

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

**DANE HAYGOOD,
MAYOR**

ATTEST:

REBECCA A. HAYES, CITY CLERK

ORDINANCE 2014 - 46

ADOPTING THE FISCAL YEAR 2015 CAPITAL & NEW PERSONNEL BUDGET

WHEREAS, the City Council adopted the FY 2015 Operating Budget on September 23, 2014 where total revenues exceeded appropriations in the amount of \$1,554,331 and general fund revenues exceeded appropriations in the amount of \$620,025; and

WHEREAS, the Mayor of the City of Daphne has submitted to the City Council capital and new personnel requests for Fiscal Year 2015 which begins October 1, 2014 and ends September 30, 2015 based on City Department requirements; and

WHEREAS, the City Council has reviewed and considered such proposed capital and personnel requests; and

WHEREAS, the City Council has determined that funds are available for certain Fiscal 2015 appropriations and such appropriations should be considered, approved and made a part of the Fiscal Year 2015 budget; and

WHEREAS, the Mayor and City Council have reviewed such requests and prioritized them according to needs and available funds and has incorporated them into the FY15 Capital and New Personnel Budget;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that the Fiscal Year 2015 Capital and New Personnel Budget is hereby appropriated in the amount of \$634,007 (\$410,815 for capital equipment and \$223,192 for personnel requests) of which \$467,507 are from the general fund and \$166,500 are from the lodging tax fund. Such appropriations are itemized in the attached lists and made a part hereof.

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

FY 2015 MAYOR'S PROPOSED CAPITAL REQUESTS

MAYORS PROPOSED

	GENERAL FUND				LODGING TAX			CONTINGENT		SCHEDULE	
	COMMENTS	CAPITAL EXPENSE	LEASING	RECREATION	WATERFRONT	PI EXERCISE	FY15 SAVINGS	NOTES			
General Government											
Human Resources		\$6,000	Munis HR Training								
Finance		\$55,000	Munis Upgrade								Note: 1
Building Maintenance		\$30,000	Ford F250 Extended Cab Truck			\$7,000					Note: 2
Building Maintenance		\$165,000	70' Aerial Lift								Note: 3
General Government Total:		\$256,000			\$0	\$7,000	\$0	\$0			
Public Safety											
Fire		\$200,000	Fire Station #3 Remodel			\$200,000					
Volunteer Firefighters		(\$200,000)	VFD Contributions, F5#3 Remodel, FY15 - Payoff of F5#1.			(\$200,000)					Note: 4
Fire		\$775,000	75 Aerial Ladder Truck			\$0	\$165,000				Note: 5
Search & Rescue		\$27,000	F250 - Necessary for towing & deploying our Fire Dept's equipment			\$0	\$0				Note: 6
PD - Administration		\$40,000	Replace Flooring at Justice Center			\$0	\$40,000				Note: 6
PD - Administration		\$9,840	Replace Fire Alarm System at the Justice Center			\$0	\$9,840				Note: 7
PD - S.W.A.T.		\$13,500	Tactical Radio Headsets			\$0	\$13,500				Note: 8
PD - Patrol		\$267,000	6 Tahoes - Replacement Vehicles & Equipment			\$0	\$57,000				Note: 9
PD - Detective		\$18,500	Professional Polygraph Examiner's Basic Training (Non-Capital)			\$0	\$0				Note: 10
PD - Corrections		\$10,000	Jail Kitchen Upgrade			\$0	\$18,500				Note: 8
PD - Code Enforcement		\$39,250	Vehicle & Equipment (only if new personnel request is approved)			\$0	\$7,500				Note: 8
Public Safety Total:		\$1,200,090			\$0	\$9,840	\$229,500	\$0	\$0	\$72,000	(\$154,125)
Public Works											
PW - Solid Waste		\$140,000	Knuckleboom Truck			\$0	\$30,000				Note: 11
PW - Streets		\$75,000	Sewer Jetter			\$0	\$0				Note: 12
PW - Streets		\$42,000	Ford F450 Crew Cab Chassis			\$0	\$9,000				Note: 13
PW - Streets		\$132,000	Cat D5 Bulldozer			\$0	\$23,000				Note: 13
PW - Streets		\$114,000	Cat 430			\$0	\$18,000				Note: 13
PW - Grounds		\$170,000	60 Bucket Truck			\$0	\$36,000				Note: 14
PW - Grounds		\$50,000	Water Truck			\$0	\$0				Note: 14
PW - Grounds		\$7,500	Stump Grinder			\$7,500	\$0				Note: 15
PW - Facility Support		\$60,000	Equipment Shed			\$0	\$0				Note: 15
PW - Mech Maintenance		\$20,000	Oil/Grit-Water Separator			\$0	\$0				Note: 15
PW - Parks: May Day		\$24,000	Gazebo / Shade-Shelter Structure - 30x40			\$0	\$24,000				Note: 16
PW - Parks: Park City		\$17,500	Gazebo / Shade-Shelter Structure			\$0	\$17,500				Note: 16
Public Works Total:		\$852,000			\$0	\$7,500	\$116,000	\$41,500	\$0	\$0	(\$48,750)
Recreation											
Recreation		\$5,000	Sod Cutter			\$5,000	\$0				Note: 15
Recreation		\$18,000	Toro Drag Machine			\$0	\$0				Note: 15
Recreation		\$15,000	2 - John Deere Gator Utility Vehicle			\$7,500	\$0				Note: 15
Recreation		\$32,000	Chemical Sprayer			\$0	\$0				Note: 15
Recreation		\$35,000	Compact John Deer Tractor 4066M with Loader			\$0	\$0				Note: 15
Recreation		\$37,500	3 - John Deere Z Trac Mowers (One w/ Bag Catcher, Two Without)			\$15,000	\$0				Note: 17
Recreation		\$20,000	Concrete pads for bleachers at soccer & new batting cages at Trione Park			\$0	\$20,000				Note: 16
Recreation		\$10,000	Refurbish bathrooms at Trione Park			\$0	\$10,000				Note: 16
Recreation		\$10,000	Turf for concrete pads in batting cages			\$0	\$10,000				Note: 16
Recreation		\$20,000	3 - Pavillions at Trione Park			\$0	\$20,000				Note: 16
Recreation		\$20,000	Fencing for Trione & Loft Parks			\$0	\$20,000				Note: 16
Recreation		\$46,000	2 - 2015 Dodge RL500 Crew Cabs P/U			\$23,000	\$0				Note: 18
Recreation		\$3,600	Upgrade 15 year old Telephone System (Split b/w Rec. & Civic Center)			\$3,600	\$0				Note: 18
Recreation Total:		\$272,100			\$0	\$54,100	\$0	\$80,000	\$0	\$0	\$0
Civic Center & Bayfront											
Civic Center		\$12,000	Floor Scrubber			\$12,000	\$0				Note: 1
Civic Center		\$1,000	Interior Painting			\$0	\$0				Note: 1
Civic Center		\$10,000	Kitchen Equipment			\$10,000	\$0				Note: 1
Civic Center		\$100,000	Loss of Voltage Monitoring System			\$0	\$0				Note: 1
Civic Center		\$7,028	Upgrade 15 year old Telephone System (Split b/w Rec. & Civic Center)			\$7,000	\$0				Note: 1
Bayfront		\$25,000	Windows			\$0	\$25,000				Note: 19
Bayfront		\$20,000	Flooring			\$0	\$20,000				Note: 19
Civic Center & Bayfront Total:		\$175,028			\$0	\$29,000	\$0	\$45,000	\$0	\$0	\$0
Garbage & Recycling											
Enterprise Fund: Garbage		\$265,000	Garbage Truck Replacement			\$0	\$56,000				Note: 11
Enterprise Fund: Garbage		\$20,000	Complete Automated Arm Assembly			\$20,000	\$0				Note: 11
Garbage & Recycling Total:		\$285,000			\$0	\$20,000	\$56,000	\$0	\$0	\$0	(\$28,000)
FY 2015 CAPITAL REQUESTS: \$3,040,218											
FY15 MAYOR'S PROPOSED CAPITAL BUDGET											
GENERAL FUND		\$244,315									
LODGING TAX - RECREATION		\$121,500									
LODGING TAX - WATERFRONT F		\$45,000									
TOTAL		\$410,815									
FUTURE BUDGET OPERATIONAL IMPACT											
GENERAL FUND (5 year)		\$356,500									
VFD LADDER TRUCK COMMITIT		(\$165,000)									
TOTAL		\$191,500									

FY 2015 CAPITAL REQUESTS: \$3,040,218

(\$52,000) Already included in Budget

(\$232,625) Scheduling FY15 Savings

\$120,440

\$123,875

\$120,440

\$52,000

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Notes:

- Shift to operating
- Core upgrade an FY14 expense. TCM module can be explored later.
- Richard Johnson indicates not needed at this time.
- Need to discuss with VFD.
- Leasing option with Volunteers paying expense (est \$130k)
- Confiscated Funds or Court Fund.
- PJ Exercise or Confiscated Funds
- PJ Exercise or Leasing as Operating Budget Expense
- PJ Exercise or Confiscated Funds (if eligible expense)
- FY14 Expenses via Court Fund.
- Proposed to be included as a Operating Expense in the Mayor's Proposed Budget.
- Need to explore used equipment option.
- CAT Lease. 3 Year FMV Lease (not \$1 buyout, service included)
- Leasing Options?????
- Move to FY16 Request
- Recreational Expense from Lodging Tax.
- Leasing options exist. 5 Year Lease = \$7,500/Yr. Purchase the Bagger unit in FY15.
- Leasing options exist. 5 Year Lease = \$5,000/Yr/Vehicle.
- Lodging Tax - Waterfront Property \$555

FY 2015 New Personnel Requests - UPDATED VERSION

										REGULAR PAYROLL					MAYOR RECOMMENDATION				HIRING TIMELINE		
Job Class Description	Pay Type Description	Position Description	Account Description	Grade	Step	Periods Per Year	Hours Per Year	Hourly Rate	Annual Salary	Over Time	Total Wages	Payroll Related Total	Other Personnel	Total Payroll	Most Critical	PJ	Upgrades & Overlap	TOTAL	Start Date	FY15 Savings	Notes
Assistant HR Director	BASE SAL		Assistant HR Director	27	1	26	2080	\$20.76	\$43,178	\$0	\$43,178	\$6,503	\$5,968	\$55,648	\$55,648			\$55,648	\$41,944	(\$4,637)	
General Governmental Director	BASE SAL	General Governmental Direc	General Governmental Director	29	3	26	2080	\$22.97	\$47,779	\$0	\$47,779	\$7,195	\$5,987	\$60,961	\$60,961			\$60,961	\$41,974	(\$10,160)	
Marketing Coordinator	BASE SAL	Marketing Coordinator	Marketing Coordinator (20 Hrs)	23	4	26	1040	\$20.38	\$21,195	\$0	\$21,195	\$3,192	\$90	\$24,477	\$24,477			\$24,477			
ACCT 1	BASE SAL	ACCOUNTANT 1	ACCOUNTANT I	17	4	26	2080	\$17.18	\$35,734	\$0	\$35,734	\$5,381	\$5,946	\$47,061				\$0			
ACCT TECH	F/T HRLY	ACCOUNTING TECH	TECHNICIAN-REVENUE	11	4	26	2080	\$13.97	\$29,060	\$0	\$29,060	\$4,376	\$5,918	\$39,354	\$39,354			\$39,354	\$42,095	(\$19,677)	
PLANNER	BASE SAL	PLANNER	Upgrade from GIS TECH to PLANNER	18	4	26	2080	\$1.93	\$4,009	\$0	\$4,009	\$604	\$17	\$4,630			\$4,630	\$41,974	(\$772)	NOTE: 1	
FIRE FIGTR	F/T HRLY	FIREFIGHTERS	FIREFIGHTER	PF20	1	26	2808	\$12.87	\$36,147	\$0	\$36,147	\$5,444	\$7,279	\$48,870				\$0			
FIRE FIGTR	F/T HRLY	FIREFIGHTERS	FIREFIGHTER	PF20	1	26	2808	\$12.87	\$36,147	\$0	\$36,147	\$5,444	\$7,279	\$48,870				\$0			
FIRE FIGTR	F/T HRLY	FIREFIGHTERS	FIREFIGHTER	PF20	1	26	2808	\$12.87	\$36,147	\$0	\$36,147	\$5,444	\$7,279	\$48,870				\$0			
CODE ENF	F/T HRLY	CODE ENFORCEMENT	CODE ENFORCEMENT OFFICER	12	4	26	2080	\$14.50	\$30,157	\$0	\$30,157	\$4,542	\$6,293	\$40,992		\$40,992		\$40,992	\$42,095	(\$20,496)	
Yard Manager	BASE SAL	Yard Manager	Yard Manager	16	4	26	2080	\$16.64	\$34,614	\$0	\$34,614	\$5,213	\$5,971	\$45,798				\$0			
Deputy PW Director	BASE SAL	P W SUPERINTENDENT	Deputy Public Works Director	27	4	26	2080	\$22.52	\$46,835	\$0	\$46,835	\$7,053	\$6,023	\$59,912			\$12,000	\$12,000			NOTE: 2
SOL WST SR	F/T HRLY	SR SOLID WASTE WKR	SR PUBLIC SERVICE WORKER-SW	11	4	26	2080	\$13.97	\$29,059	\$0	\$29,059	\$4,376	\$7,640	\$41,075				\$0			
STREET SR	F/T HRLY	PSW SR STREETS	SR PUBLIC SERVICE WORKER-STR	11	4	26	2080	\$13.97	\$29,060	\$0	\$29,060	\$4,376	\$7,438	\$40,874				\$0			
CREW LEADR	F/T HRLY	CREW LEADER	CREW LEADER-GROUNDS	13	4	26	2080	\$15.04	\$31,277	\$0	\$31,277	\$4,710	\$7,099	\$43,087				\$0			
PSW-GRNDS	F/T HRLY	PUBLIC SERVICE WORKR	PUBLIC SERVICE WORKER-GROUNDS	6	4	26	2080	\$11.30	\$23,505	\$0	\$23,505	\$3,540	\$6,757	\$33,802				\$0			
PSW-GRNDS	F/T HRLY	PUBLIC SERVICE WORKR	Upgrade to SR PSW	11	3	26	2080	\$2.02	\$4,211	\$0	\$4,211	\$634	\$185	\$5,032			\$5,032	\$42,095	(\$2,516)		
SLDWST WKR	F/T HRLY	SOLID WASTE WORKER	SOLID WASTE WORKER	6	4	26	2080	\$2.02	\$4,211	\$0	\$4,211	\$634	\$185	\$5,032			\$5,032	\$42,095	(\$2,516)		
PSW-GRNDS	F/T HRLY	PUBLIC SERVICE WORKR	Upgrade to SR PSW	11	5	26	2080	\$1.59	\$3,315	\$0	\$3,315	\$499	\$146	\$3,961				\$0			
PSW-GRNDS	F/T HRLY	PUBLIC SERVICE WORKR	"Contingent On Call" Park/Activity Attendant	n/a	n/a	n/a	750	\$10.00	\$7,500	\$0	\$7,500	\$1,130	\$32	\$8,661				\$0			
PSW-GRNDS	F/T HRLY	PUBLIC SERVICE WORKR	"Contingent On Call" Park/Activity Attendant	n/a	n/a	n/a	750	\$10.00	\$7,500	\$0	\$7,500	\$1,130	\$32	\$8,661				\$0			
EVNT ASST	F/T HRLY	EVENT ASSISTANT	Civic Center EVENT ASSISTANT	5	5	26	2080	\$11.04	\$22,967	\$0	\$22,967	\$3,459	\$6,098	\$32,524	\$0			\$0			
IT TECHNICIAN	F/T HRLY		IT Network/SysAdmin/Helpdesk Technician	14	5	26	2080	\$15.27	\$31,761	\$0	\$31,761	\$4,783	\$7,595	\$44,139	\$44,139			\$44,139	\$42,095	(\$22,070)	NOTE: 3
SR ACCT.	BASE SAL	SR ACCOUNTANT	Position Reclassification	23	24	26	2080	\$2.11	\$4,384	\$0	\$4,384	\$660	\$10	\$5,055				\$5,055			NOTE: 4
ENVI PRG M	BASE SAL	ENVIRON PROG MGR	Position Reclassification	22	14	26	2080	\$1.84	\$3,828	\$0	\$3,828	\$576	\$15	\$4,419	\$4,419			\$4,419			NOTE: 4
LIB SRV TE	P/T HRLY	PT LIBRARY SVC TECH	Upgrade to Full-Time Young Adult Librarian	18	1	26	2080	\$1.77	\$10,494	\$0	\$10,494	\$1,580	\$5,822	\$17,896	\$17,896			\$17,896			NOTE: 4
TOTALS:											\$595,372	\$92,479	\$113,103	\$819,660	\$251,950	\$40,992	\$26,694	\$319,636	FY15 SAVINGS	(\$82,844)	

Position Upgrades:

PSW-GRNDS	F/T HRLY	PUBLIC SERVICE WORKR	PUBLIC SERVICE WORKER-MOWING	6	5	26	2080	\$11.59	\$24,109	\$0	\$24,109	\$3,631	\$12,449	\$40,189							
			Upgrade to SR. Public Service Worker	11	3	26	2080	\$13.62	\$28,320	\$0	\$28,320	\$4,265	\$12,634	\$45,219							
								\$2.02	\$4,211	\$0	\$4,211	\$634	\$185	\$5,030							
PARK PSW	F/T HRLY	PUBLIC SERVICE WORKR	PUBLIC SERVICE WORKER	6	9	26	2080	\$12.73	\$26,484	\$0	\$26,484	\$3,988	\$6,928	\$37,400							
			Upgrade to SR. Public Service Worker	11	5	26	2080	\$14.33	\$29,798	\$0	\$29,798	\$4,488	\$7,074	\$41,360							
								\$1.59	\$3,315	\$0	\$3,315	\$499	\$146	\$3,959							
SR ACCT.	BASE SAL	SR ACCOUNTANT	SR ACCOUNTANT	22	21	26	2080	\$28.5100	\$59,301	\$0	\$59,301	\$8,931	\$11,711	\$79,942							
			Position Reclassification	23	24	26	2080	\$30.6177	\$63,685	\$0	\$63,685	\$9,591	\$11,721	\$84,997							
								\$2.11	\$4,384	\$0	\$4,384	\$660	\$10	\$5,055							
ENVI PRG M	BASE SAL	ENVIRON PROG MGR	Environmental Programs Mgr	20	13	26	2080	\$23.1576	\$48,168	\$0	\$48,168	\$7,254	\$12,077	\$67,499							
			Environ prog manager positik Position Reclassification	22	14	26	2080	\$24.9978	\$51,995	\$0	\$51,995	\$7,831	\$12,092	\$71,918							
								\$1.84	\$3,828	\$0	\$3,828	\$576	\$15	\$4,419							
LIB SRV TE	P/T HRLY	PT LIBRARY SVC TECH	PT TECHNICIAN-LIB	8	11	26	1612	\$14.5739	\$23,493	\$0	\$23,493	\$3,538	\$576	\$27,608							
			Upgrade to Full-Time Young Adult Librarian	18	1	26	2080	\$16.3401	\$33,987	\$0	\$33,987	\$5,119	\$6,398	\$45,504							
								\$1.77	\$10,494	\$0	\$10,494	\$1,580	\$5,822	\$17,896							
GIS TECH	F/T HRLY	GIS MANAGER	GIS MANAGER	16	2	26	2080	\$15.7799	\$32,822	\$0	\$32,822	\$4,943	\$5,934	\$43,699							
Planner	BASE SAL	PLANNER	PLANNER	18	4	26	2080	\$17.7073	\$36,831	\$0	\$36,831	\$5,547	\$5,951	\$48,329							
								\$1.93	\$4,009	\$0	\$4,009	\$604	\$17	\$4,630							

Notes:

- Not included is the additional \$7,281 Savings from the Timeline Savings of existing GIS Position.
- Overlap of 60 Days of PW Superintendent Retirement. PW Superintendent eliminated.
- Additional Savings of \$13,600 From Operating Budget Object 561812 (CMPT LABOR)
- Additions to original version

(\$7,283) Est Timeline Savings

MAYOR'S PROPOSED FY15 NEW PERSONNEL BUDGET	
NEW PERSONNEL REQUESTS	\$319,636
OPERATING BUDGET SAVINGS ((\$13,600)
FY15 TIMELINE SAVINGS	(\$82,844)
TOTAL	\$223,192
FUTURE BUDGET OPERATIONAL IMPACT	
LESS ONE TIME OVERLAP	\$0
OPERATING BUDGET SAVINGS ((\$13,600)
RECURRING PERSONNEL COSTS	\$319,636
LESS ONE TIME OVERLAP	(\$12,000)
OPERATING BUDGET SAVINGS ((\$13,600)
FUTURE YEAR SAVINGS (PW)	(\$16,300)
TOTAL	\$277,736

ORDINANCE 2014 - 47

UPDATING THE CITY OF DAPHNE'S JOB CLASSIFICATION SCHEDULE

WHEREAS, Ordinance 2004-52 was approved and adopted on January 3, 2005 to establish the City of Daphne Job Classification Schedule; and

WHEREAS, the City has established the need for the following new positions; and

- IT Technician
- Safety Coordinator
- Young Adult Librarian
- Code Enforcement Senior

WHEREAS, the City has established the need to reclassify the following existing positions; and

- Director, Convention Visitor's Bureau and Civic Center
- Accountant, Senior
- Environmental Programs Manager

WHEREAS, the City Council has determined that there is a need for these new positions and the existing positions reclassifications; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that the City of Daphne's Job Classification Schedule is updated to reflect the noted new positions and existing job classifications as itemized in the attached list and made a part hereof.

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
JOB CLASSIFICATION LISTING-GRADE ORDER**

GRADE	CODE	TITLE	FLSA
2	7545	SAIL SITE DRIVER	N
2	7550	SAIL SITE WORKER	N
2	2568	SCHOOL CROSSING GUARD	N
4	0151	CUSTODIAN	N
4	4521	GREENHOUSE ASSISTANT	N
5	0028	EVENTS ASSISTANT	N
5	7533	FITNESS ASSOCIATE	N
5	7540	SAIL SITE MANAGER	N
6	7532	ATHLETIC PROGRAM ASSOCIATE	N
6	8070	LIBRARY AIDE	N
6	0005	OFFICE ASSISTANT	N
6	0141	PARTS TECHNICIAN	N
6	0143	PUBLIC SERVICE WORKER	N
6	0144	SOLID WASTE WORKER	N
7	0152	CUSTODIAL SUPERVISOR	N
8	8041	LIBRARY SERVICES TECHNICIAN	N
9	0010	ADMINISTRATIVE TECHNICIAN	N
9	0030	SALES ASSISTANT	N
9	2549	ANIMAL SHELTER TECHNICIAN	N
10	0015	ADMINISTRATIVE SECRETARY	N
10	0026	EVENT SERVICES SUPERVISOR	N
10	0128	HUMAN RESOURCES TECHNICIAN	N
11	1043	ACCOUNTING TECHNICIAN	N
11	2548	ANIMAL CONTROL OFFICER	N
11	2330	BUILDING MAINTENANCE TECHNICIAN	N
11	2551	COMMUNICATIONS OFFICER	N
11	2546	CORRECTIONS OFFICER	N
11	5545	PLANNING COORDINATOR	N
11	0142	PUBLIC SERVICE WORKER, SENIOR	N
11	0145	SOLID WASTE WORKER, SENIOR	N
12	2245	CODE ENFORCEMENT OFFICER	N
12	2030	MUNICIPAL COURT MAGISTRATE	N
13	0020	ADMINISTRATIVE ASSISTANT	N
13	0023	ASSISTANT CITY CLERK	N
13	4040	EQUIPMENT OPERATOR	N
13	4540	GREENHOUSE COORDINATOR	N
13	0521	HUMAN RESOURCES ASSISTANT	N

**CITY OF DAPHNE ALABAMA
JOB CLASSIFICATION LISTING-GRADE ORDER**

GRADE	CODE	TITLE	FLSA
13	7050	MECHANIC	N
13	6850	PERMIT TECHNICIAN	N
13	0146	SOLID WASTE COORDINATOR	N
14	8075	COMPUTER TECHNICIAN	N
14	0123	CREW LEADER	N
14	8075	LIBRARY SERVICES COMPUTER TECHNICIAN	N
14	7053	MECHANIC, SENIOR	N
14	0459	PUBLIC WORKS/EMA ASSISTANT	N
14	0025	EXECUTIVE SECRETARY	N
14	2240	SENIOR CODE ENFORCEMENT OFFICER	N
16	0027	AUDIO-VISUAL MANAGER	N
16	5540	GIS TECHNICIAN	N
16	8050	LIBRARY SUPV, CIRCULATION	E
16	8040	LIBRARY SUPV, TECHNICAL SERVICES	E
17	1023	ACCOUNTANT	E
17	6840	BUILDING INSPECTOR	N
17	2545	CHIEF CORRECTIONS OFFICER	N
17	2550	COMMUNICATIONS SUPERVISOR	N
17	0010	JAIL ADMINISTRATIVE TECHNICIAN	N
17	2022	MUNICIPAL COURT ADMINISTRATOR	E
17	6845	PUBLIC WORKS INSPECTOR	N
17	0050	SALES MANAGER	E
17	6870	SITE CONTAINMENT INSPECTOR	N
18	2332	BUILDING MAINTENANCE SUPERVISOR	N
18	8068	CHILDREN'S LIBRARIAN	E
18	7023	EQUIPMENT MAINTENANCE SUPERVISOR	N
18	4522	GROUNDS SUPERVISOR	N
18	0450	OPERATIONS MANAGER	N
18	7515	PARKS MAINTENANCE SUPERVISOR	N
18	0130	PAYROLL/BENEFITS COORDINATOR	E
18	5550	PLANNER	E
18	4023	PUBLIC WORKS SUPERVISOR	N
18	8045	REFERENCE LIBRARIAN	E
18	0135	SAFETY/TRAINING COORDINATOR	E
18	8066	YOUNG ADULT LIBRARIAN	E
19	7530	RECREATION PROGRAMS COORDINATOR	E
19	0160	REGISTERED NURSE	N
20	7525	ATHLETIC COORDINATOR	E
20	4024	PUBLIC WORKS SUPERVISOR, SENIOR	N
20	1522	REVENUE OFFICER	E
22	6880	ENVIRONMENTAL PROGRAMS MANAGER	E

**CITY OF DAPHNE ALABAMA
JOB CLASSIFICATION LISTING-GRADE ORDER**

GRADE	CODE	TITLE	FLSA
22	1100	INFORMATION TECHNOLOGY COORDINATOI	E
23	1022	ACCOUNTANT, SENIOR	E
26	0022	CITY CLERK	E
27	6022	SUPERINTENDENT, PUBLIC WORKS	E
27	5530	DEPUTY DIRECTOR, COMMUNITY DEVEL.	E
29	36	DIRECTOR, CIVIC CENTER	E
29	8020	DIRECTOR, LIBRARY	E
29	7520	DIRECTOR, RECREATION	E
32	0036	DIRECTOR, CVB & CIVIC CENTER	E
32	1020	DEPUTY DIRECTOR, FINANCE	E
36	6822	BUILDING OFFICIAL	E
36	1020	DIRECTOR, FINANCE	E
36	0520	DIRECTOR, HUMAN RESOURCES	E
36	5535	DIRECTOR, PLANNING	E
38	6019	DIRECTOR, PUBLIC WORKS	E