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September 8, 2011

Andy Bauer, Director
Planning and Zoning Department
City of Gulf Shores
205 Clubhouse Drive, Suite B
Gulf Shores, Alabama

Re: Alabama Dept. of Public Health Regulation of Seafood Sales (MASGC 11-008-09)

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Dear Andy:

This letter is in follow-up to our August meeting with Alabama Department of Public Health officials to discuss regulation of a potential seafood market or direct exchange program. This information supplements our previous discussion of public health seafood regulation described in a memo dated June 28, 2011. The following information is intended as advisory research only and does not constitute legal representation of the City of Gulf Shores, Alabama or its constituents. It represents our interpretations of the relevant laws and regulations.

On August 8, 2011, Gulf Shores city officials and Mississippi-Alabama Sea Grant met with Alabama Department of Public Health representatives Bill Kelly, Jeff McCool, and Ron Dawsey. The following summarizes ADPH's regulatory approach to a direct seafood exchange and a seafood market as discussed during that meeting.

Direct Exchange

The City is currently considering two potential formats for a seafood market. The first option allows for a direct seafood exchange program between fishermen and customers. Under this direct exchange model, ADPH indicated that sales of shrimp and fish directly off the boat would not require permits or regulation by ADPH although the sales would continue to require permits

from the Alabama Department of Conservation and Natural Resources Marine Resources Division. For a discussion of ADCNR requirements, see the previous memo of June 28, 2011.

Farmers' Market

Seafood sales taking place in a farmers' market-style model require significant oversight by the ADPH. This type of market would not qualify as a temporary food establishment and would require inspection by the local health official (Bill Kelly). If the City pursues this option, ADPH advised the City to initiate early consultation with ADPH officials so that the facility may be best designed to reduce regulatory burdens. For instance, ADPH suggested certain design options such as grouping all seafood vendors together and providing a centralized kitchen and hand-wash station to minimize health concerns. In addition, the City should consider how it would deal with fish waste resulting from minimal processing and melt-water derived from seafood icing (for cooling purposes).

ADPH officials further clarified that although state regulations define shellfish to include a variety of species, ADPH only applies shellfish processing regulations to oysters.¹ ADPH stated that Hazard Analysis and Critical Control Points (HACCP) plans would not be necessary unless seafood processing took place. Minimal processing, such as filleting of fish or de-heading shrimp, is allowed without a HACCP plan. To that end, ADPH suggested that the City consider prohibiting the sale of raw oysters because oysters trigger substantially greater regulatory requirements.

As a next step, the City should weigh the options and decide which model it prefers to pursue. If the City chooses the farmers' market model, the City should develop a general market plan and then consult with ADPH officials to optimize design elements of the market. In addition, the City may develop local ordinances to govern participation in the market. Other considerations include vendor compliance with fish labeling requirements and any applicable business licensing requirements. The City may also wish to investigate any insurance needs for a City sponsored seafood market.

I hope you find this information helpful. If you have any additional questions, please let me know.

Sincerely,

/s/ Niki L. Pace
Research Counsel

¹ The broader shellfish definition (which includes crab, shrimp, crayfish and others) does apply to shellfish labeling requirements.