February 9, 2010
Council Workshop
12191 Magnolia Springs Hwy.
Magnolia Springs, Al.
5:00 P.M.

1. Call to Order
Mayor Houser called the meeting to order at 5:00 p.m.

2. Roll Call
Councilmember’s present – Mayor Houser, Bob Holk, Joe Sankey, Ken Underwood, Brett Gaar and Kenny Laurendine. Also present: Town Clerk - Karen S. Biel and Legal Counsel – Brad Hicks

3. Invocation and Pledge of Allegiance
Councilmember Underwood led the invocation and pledge.

4. Discussion of Minutes – 01/12/10 Workshop – 01/26/10 Regular Meeting
Mayor stated the minutes were emailed to the Council to review before the meeting.
Councilmember Holk – noted a correction on the workshop minutes – Clerk will make the change.
Councilmember Gaar – Regular meeting minutes – to delete sentence about Engineering Firm hired to perform a traffic study – it was a road condition study. Clerk will make the correction.

5. Financials and Expenditures for January, 2010
Mayor reviewed the balances in the account. The clerk stated the sales tax was down because one of the service stations owes about $7,000 back sales tax. AlaTax has sent a preliminary assessment which gives the tax payer thirty days and then a final assessment is sent.

6. Public Comment
Virginia Stone – submitted her letter of concerns about the Bay Street area to Councilmember Sankey and will discuss it when it comes up on the agenda.

No other comment.

7. Bob Zeannah – Coastal Grant
The Coastal Grant is through the Department of Conservation and Natural Resources. Bob Zeannah stated that with the completion of the Comprehensive Plan the town is now eligible for the coastal grant and other grants. This particular grant deals with public access improvements, it is a one to one match, the minimum amount request is $20,000 and the maximum amount is $50,000 and the deadline for submitting the request is March 12th. The Council had other questions such as, using the newly donated property behind Jesse’s as our part of the match, is there enough time to prepare the application and Councilmember Underwood asked with the timing issue if this grant might be offered again next year.
Bob Zeannah will try to find out all the answers and get back with the Mayor.

8. Discussion – South Baldwin Chamber Magnolia Run – April 10, 2010
The run will be the same as it has been in the past and the Chamber will be responsible for notifying residents in the area when the road will be closed. Will be on the agenda.

9. Discussion – One way on Cedar Ave. & Bay St.
Councilmember Sankey stated that after the public works committee recommended that parts of Cedar Ave and Bay St. the Town Council elected to follow the recommendation. Some of the citizens in that area have asked the town to return it back to the way it was. It has also been suggested that if it is to remain a one way street then to reverse it to the other direction and reconsider the signage. Councilmember Sankey stated what ever the council decides the town should have an engineer review the plan before installing any signage. Mayor Houser stated that he received a letter from the Riggall’s and they would like to see the street returned to the way it was. Virginia Stone submitted a letter stating that she would like to see it returned back and if not the one way to be in the other direction only because pedestrians and bikers would choose the down hill. Councilmember Holk remembered when it was discussed about access to the water and to provide parking and it couldn’t be done going the other direction and it’s almost impossible for two cars to pass on the curve. Eddie Sue Winter also added that she knows from personal experience that the road is not passable for two vehicles because she was run off the road into the ditch and had to be pulled out. Legal counsel, Brad Hicks also stated that if the town knows of a safety issue and does not address it, they can be held liable for it. Councilmember Sankey also stated that when it was discussed at the committee meeting, one of the members witnessed a golf cart that was driven by kids going down the hill and they lost control and ran off into the right-of-way on the river side and turned over. Councilmember Underwood is researching the use of smaller
signs and the council will discuss it at the next workshop and make a decision. Mayor Houser stated that there are other issues at that intersection that need to be discussed also. **Will not be on the agenda.**

10. **Discussion – Process for appointment to vacant council seat**
Mayor Houser stated that Joe Sankey has submitted his letter of resignation effective as of the regular council meeting in March 2010 and the Council will appoint to fill the position for the remainder of that term. The clerk added that the Mayor will announce the vacant seat at the regular meeting in April and it can not be filled at that meeting. It can be filled at the next regular meeting in May or at a special called meeting. The members of the council will make nominations and the first nomination that receives the most votes will take the seat and he can be sworn in at that time and be a member of the council that night. Mayor Houser asked the members of the council to start thinking about some one to nominate. He also added that the council is thankful for all the hard work that Joe Sankey has done and he will be missed.

11. **Committee reports**
**Finance:** Mayor Houser had no other report – other than the Coastal Grant
**Public Safety:** Councilmember Holk reported that the new Fire Chief is on board and they have not heard anything on the ISO rating yet
**Parks & Recreation:** Councilmember Laurendine stated that the committee did not meet but he has received some cost estimates on different materials for the walk way down at the Springs and will take that to his committee and he will make a recommendation to the Council
**Public Works:** Councilmember Sankey submitted his report and gave an update on the road resurfacing. He stated that with in the next couple of weeks the work will be done in two phases, the first will be the replacing of culverts that is needed, and then they will start the resurfacing.
**Historic Preservation:** Councilmember Underwood stated that he has received a cost estimate from David Schneider to review the historic ordinance, and design review guidelines. Mr. Schneider also sent a cost estimate on submitting the application to the National Registry and Councilmember Underwood will bring it to the commission and then to the council
**Environmental Protection:** Councilmember Gaar stated he would have his minutes for the regular meeting. However, the committee did meet and the focus of the meeting was to determine funding sources to stabilize the bank upstream. The NRCS has decided that Emergency Watershed Program (EWP) funding is not eligible. The committee is tentatively scheduled to meet with the US Fish and Wildlife county environmental planners to determine if FWS funding is available.
Work is on-going on the OAW signs and the committee is working to implement turbidity monitoring of stream segments identified as problems areas in the sediment study.

12. **Council, legal counsel and staff comments**
**Legal Counsel - Brad Hicks** has met with the District Attorney’s office and they are working on the process for enforcing the town’s ordinances in district court. He has also asked that the case of the Land Disturbance violation (Vince Tamburello) move forward, Judy Newcomb stated that she will send a letter to him as a last warning. Brad added that the DA’s office recommend that the town adopt a few of the state’s statues that involve only fines and not any jail time. The town would receive some of the monies collected for the fine. Brad did recommend that the council consider adopting the state statues and he will get with Deputy Gandy and come up with a list of the traffic violations that could be considered in the ordinance. Brad also added that with the terms of the Bird Sanctuary Resolution the town would have authority to abate the peacocks if they find them a nuisance. One problem with the resolution is, it was not passed as a policing resolution, and he recommended the council consider re-passing it like an ordinance for a permanent use to have the full policing powers. Mayor Houser stated that passing a nuisance ordinance gets into a lot of other areas and he is struggling with specific action on the peacock situation. Councilmember Holk stated that there are state laws that can be used to enforce in other nuisances such as dogs, were the citizens can make complaint to Deputy Gandy or the Sheriff’s Department. He stated as a town, the council is charged with the protection of its people’s rights and feels that the council needs to take action. Councilmember Sankey said that it has been presented to him that there is an ability for the peacock situation it to be worked out between both parties, now whether their willing to do it or not is one issue but if there is a way for agreement and in his opinion they need to work it out. Councilmember Sankey asked that if they are on his property and they are a nuisance to him and no one has claimed ownership can he remove them and Brad told him he didn’t see why not. Les Farmer stated that it can be resolved and he wishes it would be resolved. Councilmember Holk stated that he heard that Les agreed to have the peacocks moved and asked what happened with that and Martha Farmer stated that David (Worthington) walked out. Les stated that we agreed to relocate them and Martha said we didn’t agree, but Les has concerns about the health and safety of the birds and wants be involved in the relocation. Les stated that after thinking about it, that he is not the only person on the street that likes the peacocks and feels like the peacocks are an amenity to our area, and who is he to say “yes, get rid of them”, I don’t own them, I didn’t buy them, they just
showed up. Les also stated that there are certain things you need to do when relocating them as far as keeping them caged up, how big the pens are and for how long. Martha Farmer stated they loved the birds and they shouldn’t be responsible for the cost of relocating them because they didn’t want them taken away. Mayor Houser then asked if it is just a matter of who will pay for the relocation and it’s not a legal issue, and then the town would be willing to help. Councilmember Holk asked if he found out the proper way to relocate the peacocks would that satisfy Les Farmer and Les stated that he wants to approve the relocation site. Frances Cleverdon said David wants them gone but doesn’t want to pay for it. Councilmember Holk stated that he would be happy to build the pens and relocate the bird to get the issue settled. Martha Farmer stated again “we do not own the peacocks so we can’t give you permission to have them relocated”. Councilmember Underwood thought Councilmember Holk was going to remove the peacocks and there would be no council decision on the matter. Councilmember Holk stated that since nobody owns the peacocks that at the next council meeting the council could authorize a humane and proper removal. Les Farmer stated that there is another site about 20 acres just up from Mary Emmett’s which might be better. Les stated again his concerns are for the safety and welfare of the birds. Someone asked about having some other nuisances and Brad Hicks stated that you can petition the council but the council has the discretion to determine what it deems a nuisance. Councilmember Holk stated that any citizen could write a letter to the town and the council would review to see if there is an ordinance in place or a state statute that would take care of the problem. Brad Hicks stated that nuisance ordinances deal with protecting people’s due process right, when you’re taking their property, or doing something to their property which the town deems a nuisance. Peacocks have no due process rights, if peacocks have owners, they have due process rights. Mayor Houser stated that he hoped by the next meeting the situation can be resolved. 

Mayor Houser reminded the council about Arbor Day and asked that the council members attend if possible.

Motion was made to adjourn the workshop
Workshop ended at 7:30 pm

Approved this the 23rd day of March, 2010

[Signature]
Charles S. Houser - Mayor

ATTEST:
[Signature]
Karen S. Biel - Town Clerk