March 12, 2013
Town Council Workshop
12191 Magnolia Springs Hwy.
Magnolia Springs, AL.
5:00 P.M.

1. Call to Order
Mayor Underwood called the workshop to order at 5:00 p.m.

2. Roll Call
Members present – Mayor Ken Underwood - Council Members: Dotty Johnson, Bob Holk, and Ben Dykema. Also present: Town Clerk - Karen S. Biel and Legal Counsel – Brad Hicks. Not present: Council Members: Jim May and Tom Webb

3. Invocation and Pledge – led by Councilmember Holk

4. Public Hearing
Mayor Underwood stated that anyone who would like to speak during the public hearing or during public comment should sign a speaker’s sheet and submit it to the clerk. Mayor Underwood opened the public hearing at 5:03 p.m. and informed all those in attendance that the public hearing was to receive any public comment on the petition submitted by Dr. James D. West and Judge Tim Russell to vacate a portion of Palm Street.

Judge Tim Russell stated that Dr. West put the fence up to protect his children from dogs that were running loose. He and Dr. West went to the County Commission and the Highway Director and told them they were not clear on whether to go to circuit court and acquire a quiet title. He said they where told by the County that Dr. West could be put the fence up. Judge Russell said it’s been that way for 10-15 years. Judge Russell stated that the area of Palm Street they are asking to be vacated is 200’ x 40’, on four 50’ lots. Legal counsel, Brad Hicks asked Judge Russell if he was with Dr. West when he approached the County Commission and Judge Russell said no he thought they did it separately and that the County Commission directed them to the Highway Director, Tom Granger. He added that Tom Granger said that in his opinion it is not an open road and told them to put the fence up.
Dr. J.D. West stated that he is asking the town to vacate the property between his four lots and Judge Russell’s four lots. There is a fence around his area more for security for his small children because of a pack of dogs that were attacking people. Dr. West said they are not trying to deprive anybody from anything because the water can be accessed from Holly Street also. Councilmember Holk stated that at one time there was a parking on the right-of-way issue. Dr. West said that he had hired some work to be done and the workers were parking on Mr. Cobb’s property but the issue was taken care of. Councilmember Johnson asked when the fence erected and Lewis Wood stated in 2006 or 2007. Judge Russell said it was before the town incorporated because they went to the county and the chairman of the commission is the one who directed West and Russell to talk to Tom Granger. Judge Russell added that Tom Granger went over there to look at it and gave permission for the fence to be installed. Councilmember Dykema asked if there was any official notice of permission and Judge Russell said he would have to check his notes and email or maybe get Tom Granger to come to the town council. Judge Russell stated that it might be in Riviera Utilities file because he talked to them about it but had to remove himself from the situation because he was on their board.
Joe Sankey stated that he was on the town council and chairman of the public works committee. When the town incorporated we had two years to take over the roads and right-of-ways and he worked with the county on this process and completed it before the two year period. Mr. Sankey stated that there were maps, subdivisions and deeds and there was nothing equivocal in his opinion about whether or not Palm Street belongs to the town or not. Mr. Sankey stated that everything he has heard at this meeting he has not heard before. Mr. Sankey said that he had two conversations with Dr. West and suggested that when he (Mr. Sankey) found out that Palm Street is the town’s property that Dr. West needed to move the fence. Dr. West did not acknowledge this or never asked what to do about it. Mr. Sankey went on to say subsequent to that Charlie Houser (Mayor at that time) had a conversation with Judge Russell about the problem of the fence and made it known to the committee and legal counsel. Mr. Sankey said he had a conversation with the Judge and the Judge said he had some information that would clarify the situation. Mr. Sankey asked the Judge to get the information to the town and Mr. Sankey never saw it. Mr. Sankey asked the county to provide the town with documentation for everything the county was conveying in the quit claim deed and Palm Street was conveyed. There was nothing mentioned in the documentation that Palm Street was closed. At that point Mr. Sankey read a statement that he prepared (see attached) in which he has asked the council to vote no on the petition to vacate for various reasons. Councilmember Holk stated he has seen the maps and the letter from the title company stating there was no reason to believe that the town did not own that property. Judge Russell said that he remembered stopping and talking to Mr. Sankey and because he knew Mayor Houser so well and talked to him extensively that
there has been a lot of communication with Mayor Houser as the CEO of the town at the time. Judge Russell said there was a lot of discussion about this going back and forth with the county before Magnolia Springs became a town. Even before Dr. West lived down there, the Judge said he went to the county and asked if it was public or not and they would not give him an answer. Judge Russell added that he wasn’t trying to ignore Mr. Sankey but he knew Charlie real well. Mr. Sankey said he never received any of the information he asked for from Judge Russell and that it was a clear case of someone taking city property for their own use. Mr. Sankey stated that after receiving information from the county and that information being backed up by a title search that the town owns the property, Mr. Sankey had personal conversations and as a “heads up” on a couple of occasions Mr. Sankey mentioned to Dr. West that he needed to take the fence down. Judge Russell said he was sure that the fence went up before incorporation because Tom Granger went down there and said put the fence up because the county didn’t know if it was public road or not. Mr. Sankey said he was not accusing anyone of anything but there was plenty of opportunity for this information to be presented to the town before now. Dr. West said there was no intent to take anything from the town that the fence was put up for the safety of his children from a band of dogs. Over the years this council has heard numerous complaints about the dogs and nothing was ever done. Dr. West even called the Sheriff’s Department and nothing was done. Mayor Underwood stated that the public hearing is to hear the facts from all sides before making any decisions, and the council will have time for their own discussions. Legal Counsel, Brad stated that there are two issues, one being was the road dedicated and two has the road ever been open, and if the road was never dedicated then the town does not have the authority to vacate it. Brad said that he has seen the recorded plat with the street on it, and the town can not decide if a street has been properly dedicated only courts can, but the town can decide whether or not to vacate a dedicated street. Councilmember Holk stated that as a kid he lived in that area and it was a road that he did walk and drive on, and every plat that he has seen shows that it is a road.

Charles W. Kepler stated that he lives on Cedar Avenue and did not want to duplicate what Mr. Sankey said, but to him it doesn’t make sense to vacate the middle of a street and he stands opposed to the vacation.

Lewis Wood stated he lives by Holly Street and ask if the town will receive any financial compensation for the vacation of this land. Brad Hicks stated that the town doesn’t have to but can request it as part of the vacation. Mr. Wood addressed the concern about the parking outside the fence and suggested that Dr. West have an entrance to his property from Magnolia Street. Mr. Wood said that road is no use to anyone down at the end and the only reason it is partially open on Holly Street is because when he built his home they took some trees down to get equipment in there to install his septic tank.

Councilmember May joined the meeting at 5:45 p.m.

Mayor Underwood closed the public hearing at 5:50 p.m.

5. Discussion of minutes
02/05/13 – Workshop
02/26/13 – Regular Meeting – No correction or comments

6. Discussion of financials for February

No comment

7. Public Comment
Joe Sankey stated that he has some concerns about a piece of property just north of him that was bought and is being used as a short term rental through VRBO (Vacation Rental by Owner) website. In speaking with Council Members Johnson and Holk he understands there is no business license required or nothing in the zoning ordinance that prohibits it. He is suggesting that the town look into these rentals because if the town does nothing that means you’re saying you want this town to become a tourist community. Councilmember Holk stated that he will research the situation and bring it before the Planning Commission to see if it can be addressed through zoning.

8. Discussion – Amendment to 2012/2013 General Fund Budget
The town clerk informed the council that the finance committee met to review the adopted budget and are recommending an amendment to the 2012/2013 General Fund Budget. At the time of drafting that budget the town had five committees and now we only have four committees. The finance committee is recommending the reallocation of committee/commission budget funds:

<table>
<thead>
<tr>
<th>Approved Budget</th>
<th>Proposed Amendment</th>
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</thead>
<tbody>
<tr>
<td>Public Works &amp; Safety</td>
<td>$130,000</td>
</tr>
<tr>
<td>Parks &amp; Recreation &amp; Environmental</td>
<td>$13,000</td>
</tr>
<tr>
<td>Public Lands &amp; Beautification</td>
<td>$12,000</td>
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9. Discussion – Resolution/petition for vacation submitted by J.D. West and Tim Russell
Mayor Underwood stated that the town needs to go back and review what the county conveyed to the town. Brad said that he didn’t recall seeing anything that supported that it wasn’t a dedicated street. Legal counsel added that since Judge Russell mentioned quiet title action that the council may want to go into executive session to discuss that, but any discussion whether to vacate or not should be done in an open meeting. Brad did state that he has seen the plat, it is signed and recorded and looks like a statutory dedication. Councilmember Holk remembers as a kid the road was open. Councilmember Dykema was a paperboy and he would go down Palm Street all the way and around Holly Street. Councilmember Holk had some reservations about the right-of-way fee and said that if the town wanted to vacate the property then do it for the good of the community and not for the money. Mayor Underwood stated that if it is vacated without the fee the applicants would be receiving 4000 sq. feet of property, in turn, the town’s property value goes down and that would be upsetting to some of the citizens of Magnolia Springs if we gave it away. Mayor Underwood stated that he looked at the value of the property in question and it is a considerable sum of money. Brad said there is a specific statute that deals with the right-of-way fee and the resolution that will be put before the council does have that specific language in it. The town has the option to do it and the language can be removed if the council chooses not to have the right-of-way fee included as a condition. Councilmember Holk stated that he is not against the fee he just doesn’t want the town to start making decisions based on money it might receive. Mayor Underwood stated that one way he looks at it is if it is vacated how does it benefit the people of Magnolia Springs in general or how does it benefit the individuals involved and he can not see any benefit to all the citizens of Magnolia Springs.

10. Discussion – Recycle Bin
Councilmember Johnson mentioned the email that the council members received from Janet Paarlberg about the trash left outside the recycle bin. The solution was that Janet should call the mayor or Leroy Weeks to pick it up right away. The clerk informed the council that she gave Ms. Paarlberg her cell phone number and told her that if it starts piling up to call the her, don’t wait all weekend and she will get in touch with Leroy and make arrangements for him to pick it up immediately. The clerk also told the council that at the time the trash was dumped on the ground the bin was not full, and that it was changed out that Thursday. She verified this with the county. Leroy told the clerk that he placed most of the trash in the bin and had to haul some stuff off to his burn pile because it could not go in the recycle bin.

Mayor Underwood called for a recess at 6:40 p.m. Meeting was back in order at 6:50 p.m.

11. Discussion - Communication
Councilmember Johnson wanted to remind the committee chairs to send their agendas to the clerk so she can post them on the website. She also wanted to see if the council members would like to do one newsletter as a mail out just introducing themselves to the community with some contact information. The newsletter can also inform the citizens when the meetings are and tell them to use the website or the three posting locations to find out other meeting information. The clerk also agreed to put in the newsletter all the ordinances and resolutions that have been adopted since the last newsletter. Councilmember Johnson suggested doing only this one mail out.

12. Committee/Commission Reports
Public Works & Safety: Councilmember Holk stated that he has a proposal from R&S Paving to pave Camelia and Cedar and will bring it before the council for approval at the regular meeting. The committee also discussed the yard debris that people are leaving on the right-of-ways and when Bob (deputy) comes back to work maybe he can make a list or offenders. We could have a form to let the people know that it is their responsibility to have the debris picked up. Councilmember Holk added that the committee talked about the speed bumps and shaving them down could bust them up, so the committee agreed to leave them as is. Councilmember Holk said that we might be able to taper them with some asphalt to make them more like a speed table.

Public Lands & Beautification: Councilmember Dykema stated that his committee is still discussing regulations for the Bay Street pier.

13. Council, Legal Counsel and Staff Comments
The clerk reminded the council about submitting their Statement of Economic Interest by April 30th.

Motion by Mayor Underwood, 2nd by Councilmember Holk to go into Executive Session to discuss with the town attorney, Brad Hicks, the legal ramifications of and legal options for both pending litigation, and controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the council pursues a proposed course of action. Legal counsel Brad Hicks stated that he is an attorney licensed to practice law in the State of Alabama; this
executive session is applicable to the planned discussion. Roll call vote: Councilmember Johnson – Yea, Councilmember May – Yea, Mayor Underwood – Yea, Councilmember Holk – Yea, and Councilmember Dykema – Yea. Motion carried. Mayor Underwood stated the meeting will not reconvene.

Motion by Councilmember Johnson, 2nd by Councilmember Holk to adjourn the meeting. All in favor. Motion carried.

Workshop ended at 7:15 pm
Approved this the 23rd day of April, 2013

Kenneth D. Underwood – Mayor

Karen S. Biel – Town Clerk