June 24, 2008
Regular Council Meeting
12191 Magnolia Springs Hwy.
Magnolia Springs, Al.
5:00 P.M.

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

2. **Roll Call**
Councilmember’s present — Mayor Houser, Bob Holk, Joe Sankey, Ken Underwood, and Kenny Laurendine. Not present: Councilmember Hinson. Also present: Town Clerk, Karen S. Biel. — Legal Counsel, Brad Hicks.

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

4. **Approval of Minutes from Council Workshop on 5/13/2008 and Regular Council Meeting on 5/27/2008**
No corrections noted.
aptor by Councilmember Holk, 2nd by Councilmember Sankey to approve all minutes as read. All in favor. Motion carried.

5. **Committee Reports**
**Finance:** Mayor Houser stated the committee met on June 9th, the financial reports were given and also Business License are up, the income is about $4,300.00 more than last year. Financing plan for Roads and Right-of-Ways was discussed. They also talked about the budget schedule, which we hope to start in July.

**Public Safety:** Councilmember Holk stated there were no changes but he wanted to remind the council that the court hearing on the dog running at large is still set for July 3rd at 8:30 a.m. at the Fairhope Satellite Court House. Councilmember Holk said that he has called the Sheriff about our deputy but has not heard back from him.

**PR&B:** Councilmember Laurendine reported: Town signs - Gayle Guthrie is working on the adjustments to them. Fencing – will make a recommendation to the council to approve the purchase of the fencing through Hagan Fencing. Lighting – Harry Dwyer is still checking on lighting. He also reminded everyone that Clean-Up Day is June 28th. Arbor Day – recommendation will be made to sponsor an Arbor Day and the purchase of the tree seedlings at $360.00. Town Birthday – will be celebrated on July 4th.

**EMA Committee:** Councilmember Sankey is trying to set up a meeting with LeAnne Ryals. Mayor Houser said with hurricane season here that we should have a plan in case we have major damage. Councilmember Sankey assured him that the committee is working on that and the MOU’s with the County will cover that, but the committee is working on a contact list.

**Public Works:** Councilmember Sankey the committee discussed possibly obtaining an RFP/RFQ relative to stormwater management for long term planning purposes. He has set up a meeting with ADEM and Goodwyn, Mills and Cawood and will email everyone with the information. He talked about the inspection of the bridge and the company that the town has asked to inspect the bridge believes that the County has already inspected, but it will be researched to see what needs to be completed.

**Planning Commission:** Mayor reported that the Planning Commission held a public hearing on amending Article 9 of the Subdivision Regulations to include RV Parks in with Mobile Home Parks. The amendment was passed. There was also a discussion on a Dollar General that the Planning Commission has been approached about how to apply for a variance. There were a lot of questions on what the town will allow according to our zoning ordinance. He also explained that the Planning Commission felt with the Comprehensive Plan in progress and not knowing what Hwy 98 will become, it would be better to recommend to the Council to consider a 120 day moratorium on commercial permits. He did state that it was an item on the agenda for this meeting.

**Historic Preservation Commission:** Councilmember Underwood stated that he is going to make a recommendation to approve the Mayor sending a letter to the Alabama Historical Commission to designate us a CLG. The commission members have completed their resumes, their just waiting on Bob Stoddard, he’s been out of town.

Motion by Councilmember Underwood, 2nd by Councilmember Sankey to approve all committee reports as presented. All in favor. Motion carried.
6. Approval of financial reports and expenditures for April
Clerk stated the financial statements and expenditures for May are as follows:
General Fund: Bank Balance as of 5-31-08 was $20,756.49. Income - $14,785.17, Expenditures - $19,735.57. Vendor expenditures - $16,291.83. Money Market balance - $125,698.47. The clerk reported that she did not make a transfer into the Money Market because the General Fund balance stayed around $20,000.00. Special Revenue: Income - $361.82, with a balance of $6,202.09.
Mayor Houser questioned the local gas tax and stated that what we were receiving was from only one station and he asked legal counsel if he should write a letter to the stations. Legal counsel suggested a conference call with AlaTax. He also added that he would like to have the initial budget discussions in July, a first draft in August and approval in September. He asked that each committee start thinking about budget items for the next fiscal year. Councilmember Sankey did mention that the year to date Ad Valorem tax was $48,000 just about what Mr. Nix projected and that we have received about $4,500 since this report and that is encouraging.
Motion by Councilmember Laurendine, 2nd by Councilmember Underwood to accept the financial reports as read. All in favor. Motion carried.

7. Public Comment
No public comment.

Mayor explained that 2010 will be “The Year of Alabama Small Towns and Downtowns”, this resolution is declaring that our Fourth of July Weekend will be when we celebrate our Homecoming weekend.
Motion by Councilmember Sankey, 2nd by Councilmember Underwood to approve Resolution 2008-09. All in favor. Motion carried.

9. Appointment of two members to the Board of Adjustments
Mayor Houser explained that Joan Dykes and John Ruess term has expired, they were asked if they would accept reappointment and both agreed to accept another term, which would be for three (3) years.
Motion by Councilmember Laurendine, 2nd by Councilmember Holk to reappoint Joan Dykes and John Ruess for a three (3) year term starting June 25, 2008 to June 24, 2011. All in favor. Motion carried.

10. Purchase of a flag pole
The Council had a price list for different size flag poles. Mayor Houser stated that the flags that have been donated to the town are 5’x8’ and suggested purchasing the 25’ height pole.
Motion by Councilmember Holk, 2nd by Councilmember Sankey to authorize the Mayor to expend up to $1,000.00 for the purchase of a flag pole. All in favor. Motion carried.

11. Arbor Day
Motion by Councilmember Sankey, 2nd by Councilmember Underwood to authorize the Mayor to purchase tree seedlings for approximately $360.00. Discussion: Councilmember Holk stated that the motion should include the Arbor Day celebration. Councilmember Sankey amended his motion to include the Arbor Day celebration in the month of February, 2nd by Councilmember Underwood. All in favor. Motion carried.

12. Fencing for the Springs
Motion by Councilmember Underwood, 2nd by Councilmember Sankey to approve the purchase of a six ft. height Press Point Aluminum Powder Coat fence with a pedestrian gate and a drive thru gate from Hagan Fencing at a price not to exceed $5,590.59. Discussion: Councilmember Sankey asked if the price included sales tax. Clerk stated that Councilmember Hinson said the quote did not include sales tax and the clerk also stated that we do not pay sales tax. Councilmember Holk asked if that include installation and Councilmember Underwood stated it did and also included removal of the old fence. No further discussion. All in favor. Motion carried.

13. Bird Sanctuary Resolution
Mayor Houser asked legal counsel to address the issue of the Bird Sanctuary Resolution in reference to the peacocks/peahens. Brad Hicks explained that the peacocks in question were originally owned by Hap Archer that resides outside the town limits and during one of the hurricanes the peacocks/peahens ended up in the town limits. Based on that information and the information provided at the last workshop, these birds are not wild birds or wild fowl, that they are more a feral animal that was domesticated and released out of its domestic constraints. In his opinion, in Resolution 2007-22 which established the town as a bird sanctuary, would not protect or be relevant to these peacocks/peahens that are not in the town. So if a citizen wanted to call animal control about the peacocks/peahens he could do so because they are not protected under the Bird Sanctuary Resolution. Councilmember Holk stated that
he talked with the Tracy Lawrence at the League of Municipalities and he had the same answer. Councilmember Holk asked our legal counsel about the town’s responsibility in the situation and Brad Hicks told the council that the situation is out of the town’s hands. Councilmember Holk suggested contacting animal control about removing and Mayor Houser stated they were contacted and will not have anything to do with the removal of the peacocks. The Mayor stated that legal counsel’s advice is that the town has no responsibility with this issue. Mr. Worthington (owner of the bed and breakfast and complainant) read Section 2, which in the opinion of the Mayor and Council if they constitute a nuisance or menace to health or property that the Mayor and Council may make arrangements to abate the nuisance. Mr. Worthington went on to say that he has made his complaint to the council that it is a nuisance and menace to health and property and asked if the council was going to help abate this nuisance. Legal counsel stated in his opinion since they are not wild birds this does not give the council the right to abate the nuisance. Councilmember Sankey stated that the other assertion is that they are pets and this might expose the town to a lawsuit. Brad Hicks (legal counsel) stated the resolution does not allow the town to remove a pet bird and recommend that the town not get involved because it has no jurisdiction over this issue and it would be between private citizens.

14. Council, Legal Counsel and Staff Comments
Mayor Houser updated the council on the Deidre Lee lawsuit. Mayor Houser and Councilmember Holk met with the attorney for the town about the interrogatories that were sent by Ms. Lee’s attorney. Our attorney went to the judge to have them changed or reduced and the judge ruled that the town had to answer them.

Brad Hicks suggested talking with AlaTax about the gas stations that are not paying the local gas tax and then consider authorizing the Mayor to write a letter to the owners of the station.

Clerk – Karen Biel stated that she had two items to discuss with the Mayor and Council. The Mayor is responsible for compiling the voters list and since the Mayor may run for re-election the council needs to make a motion to appoint the clerk to compile the voters list. The second item was to appoint the clerk as the Absentee Elections Manager. During an elections training class that day the clerk was informed that in 2006 there was a state law passed that Absentee elections Managers will be compensated for their time of not less than $50.00 a day. There were a lot of questions on the time aspect. The clerk is waiting for clarification from the league on what constitutes “their time”. The league has sent a copy of an ordinance for the council to pass that compensates the Absentee Elections Manager. The clerk did state that she believed the pay would be only for days that were worked but she is waiting to hear about the days that they do work and no absentee ballot work was completed.

Ordinance 2008-08 – Compensation for Absentee Elections Manager
Motion by Councilmember Laurendine, 2nd by Councilmember Sankey for immediate consideration of Ordinance 2008-08. Roll Call vote: Councilmember Holk – Aye, Councilmember Sankey – Aye, Mayor Houser – Aye, Councilmember Underwood – Aye, and Councilmember Laurendine – Aye. All in favor. Motion carried.

Motion by Councilmember Sankey, 2nd by Councilmember Underwood to waive the reading of Ordinance 2008-08. All in favor. Motion carried.

Motion by Councilmember Sankey, 2nd by Councilmember Underwood to adopt Ordinance 2008-08 with the compensation of $50.00 per day
Discussion: Councilmember Holk stated that it compensation would only be for the days worked. The clerk stated that as soon as the League of Municipalities comes back with an answer about only being compensated for the days that absentee ballots are worked on. Councilmember Laurendine stated the ordinance read “for which his or her services are required” and he believe that means for only days that absentee ballot work is completed. Clerk agreed with Councilmember Holk and will find out from the league. Roll Call vote: Councilmember Holk – Aye, Councilmember Sankey – Aye, Mayor Houser – Aye, Councilmember Underwood – Aye, and Councilmember Laurendine – Aye. All in favor. Motion carried. Legal counsel stated it reads that she should be there and available, but he will review it further and get back to the council.

Motion by Councilmember Holk, 2nd by Councilmember Sankey to appoint the Town Clerk, Karen Biel to prepare the voters list. All in favor. Motion carried.

15. Any other business that might come before the meeting
a. Magnolia Springs Volunteer Fire Department request for approval on the route for the Fourth of July parade.

Motion by Councilmember Underwood, 2nd by to approve the MSVFD request to sponsor the Fourth of July parade as set forth in their letter of June 16th. Discussion: Councilmember Sankey asked about the parade permit and stated that we could pass the motion and then touch base with the fire chief about the permit. Councilmember Holk stated that he will pay the license fee for the parade for the Fire Department. All in favor. Motion carried.
b. Ordinance 2008-07 – Establishing the use of Electronic Vote Counting Devices
Clerk explained that the ordinance establishes the type of voting machines that will be used in
this municipal election and future municipal elections. She also stated that this must be cleared
by the Justice Department before the upcoming election.
Motion by Councilmember Laurendine, 2nd by Councilmember Sankey for immediate
consideration of Ordinance 2008-07. Roll Call vote: Councilmember Holk – Aye, Councilmember
Sankey – Aye, Mayor Houser – Aye, Councilmember Underwood – Aye, and Councilmember
Laurendine – Aye. All in favor. Motion carried.

Motion by Councilmember Underwood, 2nd by Councilmember Sankey to waive the reading of
Ordinance 2008-07. All in favor. Motion carried.

Motion by Councilmember Laurendine, 2nd by Councilmember Underwood to adopt Ordinance
2008-07, Establishing the use of Electronic Vote Counting Devices. All in favor. Motion carried.

c. Resolution 2008-10 – Adopting a Moratorium on the Construction of Commercial District
Buildings. Mayor Houser explained that the Planning Commission has been approached about a Dollar
General on Hwy 98 in the town limits. The Planning Commission members had questions on the
building, the sign, set backs and other issues. After some discussion it was suggested that the Planning
Commission recommend to the Town Council a moratorium on commercial construction for 120 days.
Legal counsel drafted an ordinance for the council to review and consider adopting.

Motion by Councilmember Underwood, 2nd by Councilmember Sankey to adopt Resolution 2008-
10, adopting a Moratorium on the Construction of Commercial District Buildings. All in favor.
Motion carried.

d. Councilmember Underwood asked that the council authorized the Mayor to draft a letter to the
Alabama Historical Commission about the CLG Program.

Motion by Councilmember Underwood, 2nd by Councilmember Sankey to authorize the Mayor to
send a letter to the Alabama Historical Commission to approve the Town of Magnolia Springs
participation in the Certified Local Government Program. All in favor. Motion carried.

Mayor Houser read a thank-you note from Jordan Hultett, the Valedictorian from Foley High School for
the proclamation that was presented to him at the May council meeting.

With no further business:

Motion by Councilmember Laurendine, 2nd by Councilmember Sankey to adjourn the meeting.
All in favor. Motion carried.

Meeting adjourned at 6:45 p.m.

Approved this the 22nd day of July, 2008

Charles S. Houser – Mayor

ATTEST:

Karen S. Bier – Clerk