July 13, 2010
Council Workshop Meeting
12191 Magnolia Springs Hwy.
Magnolia Springs, Al.
5:00 P.M.

1. **Call to Order**
Councilmember Underwood as Mayor Pro Tempore called the meeting to order at 5:00 p.m.

2. **Roll Call**

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

4. **Discussion of minutes – 06/08/10 Special Meeting – 06/08/10 Workshop – 06/22/10 regular meeting**
Councilmember Odess and Gaar submitted changes that were made before the workshop.

5. **Discussion of financials and expenditures for June**
The clerk reported: General Fund Balance as of 6/30 - $25,165.43 - Income - $24,325.26 - Expenses $168,454.83. Vendor Expenses - $157,225.85. Deepwater Horizon - $57,600.68. Money Market - $102,098.86. CD - $51,807.38. Deepwater Horizon - $427,932.48. Special Revenue 4, 5 & 7¢ Gas Tax - Income - $409.97. Balance: $11,426.97. The clerk presented each of the committee chairs a copy of their expenditures for the previous nine months and asked that they please start working on their budgets for 2010-2011. She would like to have the figures in about two weeks, so she can start working on the budget to submit to the Mayor and Finance Committee. Councilmember Odess suggested having the water testing done again and will look into it.

6. **Public Comment**
**Donna Esslinger** – stated that working through the church with some outside agencies, she has found out that there are a large number of children in this area that are malnourished because their parents have lost jobs because of the economy and the oil spill. She is asking that citizens start thinking about what is important in life and look beyond ourselves. Some issues that have been coming to the council seem to be very trivial compared to children not having enough food to eat.

7. **Discussion – Historic Preservation Commission Appointment**
Councilmember Underwood stated that Historic Commission has a vacancy and the Commission had a list of qualified people. The Commission decided to start at the top of the list and John Cobb was the first name and he accepted. So Councilmember Underwood will make the recommendation at the next regular council meeting.

8. **Committee reports**
**Finance:** No report
**Public Safety:** No report
**Parks & Recreation:** No report
**Public Works:** Councilmember Gaar reported that the committee reviewed the bridge inspection report, and found that the bridge is in very good condition. There are a few minor deficiencies that will be taken care of in the near future. American Asphalt was given notice to proceed with repairs previously discussed. He also met with Glen Bishop and Glen is not willing to work at an hourly rate, he is willing to do the right-of-way mowing for a lump sum fee. Councilmember Gaar suggested using him to mow the four times a year that we have previously done, he does do a better job. If the town wants him to do any small projects we can ask him to bid on it. Councilmember Laurendine said that he might ask Glen to bid on the sidewalk project for the Springs. The committee also talked about the pier and a living shoreline at the end of Bay Street.
**Planning Commission:** No report – Commission is still working on the Subdivision Regulations.
**Historic Preservation:** Councilmember Underwood reported that the Commission did not meet. There will be some training in Mobile in August that some of the members will be attending.
Environmental Protection: Councilmember Odess would like to have a policy, so when one of the water quality monitor’s record a reading that is above unsafe levels for human contact, the Town can notify the Baldwin County Department of Public Health.

9. Council, legal counsel and staff comments

Legal Counsel – Brad Hicks – stated that he received a letter about the peacocks and asked the Council if they wanted him to research and let them know at the next meeting. Councilmember Underwood wanted it noted in the minutes that all the council members received the same letter. Councilmember Odess added that he drafted a letter with a set of conditions that addressed the concerns of the Council. Councilmember Underwood stated that this situation has been going on for over two years and the Town adopted an ordinance establishing Magnolia Springs as a Bird Sanctuary, which also gave the Council the policing powers that are granted to municipalities. The Council gave a period of time before the next meeting for anyone to come forward and claim ownership of the peacock, time elapsed, and no one claimed ownership, the Town Council voted to abate the peacocks. He went on to say that after the decision was made by the Council, and abatement was started, now they want to claim ownership and it has been well over a month now. Councilmember Gaar added that there is nothing stopping anyone from buying a peacock and taking it home and keeping on their property in a confined space. He also added that with the impact or habitat area that they are suggesting they could not keep the peacocks off the property of some residents that don’t want them. Brad Hicks added when action was taken by the town under the sanctuary ordinance the first thing that had to be a finding of the town before it could proceed under that ordinance, was that the birds were either wild or feral. In the beginning, because no ownership was claimed, the council determined the birds were wild or feral. In order for the Council to do anything else at this point, the Council is going to have to act to reverse their finding or uphold that original finding. Brad also stated that the Council is the only body that can make that finding or to reverse it. Councilmember Laurendine asked what condition has changed that would change the Council’s mind on their decision. Councilmember Odess stated that the seven individuals that signed the letter are now claiming ownership. Brad stated the Council should reserve any ideas until they have had a chance to consider whether things have changed enough for the Council to make a change in their decision or not to make a change. Carey Bentley asked if they are claiming ownership how did they obtain that, and if they are feral they just can’t claim ownership. Councilmember Laurendine stated that these people claiming ownership need to provide the town with proof of ownership and then the Council can look at their decision. Councilmember Underwood also added that three of the people claiming ownership do not even live here full time. Councilmember Gaar also added that there have been complaints about the peacock signs that have appeared. The clerk also added that she has received a few calls and an email about the signs and our zoning addresses sign and that there are not to be any signs in the right-of-way, a certain amount of signs per property and what size the signs can be. She asked the council if they wanted her to notify the people by mail about the signs. Donna Esslinger stated that she has listened to this situation for over two years and it’s just stupid. You have birds that were not here 5-7 years ago who suddenly show up and are causing damage, they are creating noise, and they are a problem. Some of people that have signed that letter have refused consistently for over two years to accept responsibility, until now after the fact they want to change everything. Councilmember Odess asked Brad, did the Town follow proper procedure and Brad stated yes, under the Bird Sanctuary Ordinance, based on what the Council knew at that time. Councilmember Underwood stated that as far as he is concerned the issue has been resolved and it’s just removal of the final two peafowl.

Motion by Councilmember Laurendine, 2nd by Councilmember Gaar to go into executive session to discuss the legal ramifications of pending litigation and the meeting will not reconvene after the executive session. Brad Hicks stated that he is an attorney licensed to practice law in the State of Alabama, this exception is applicable to plan discussion under Section 36-25A-7(a)(3) of the Code of Alabama 1975 and the meeting will not reconvene as stated in the motion. All in favor. Motion carried.

Approved this the 24th day of August, 2010

Charles S. Houser – Mayor

ATTEST:

Karen S. Biel – Town Clerk