July 27, 2010
Regular Council 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**
Councilmember’s present – Bob Holk, Rick Odess, Ken Underwood, Brett Gaar and Kenny Laurendine.
Also present: Town Clerk - Karen S. Biel and Legal Counsel – Brad Hicks. Not in attendance: Mayor Charles S. Houser

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

4. **Approval of minutes - 06/08/10 Special Meeting - 06/08/10 Workshop - 06/22/10 regular meeting**
No corrections or additions.
Motion by Councilmember Holk, 2nd by Councilmember Gaar to approve all minutes as presented. All in favor. Motion carried.

5. **Approval of financials and expenditures for June**
The clerk reported: General Fund Balance as of 6/30 - $25,165.43 - Income - $24,342.04 - Expenses - $168,454.83. Vendor Expenses - $157,225.85. Clerk did advise the Council that under the Attorney Fees account, she will be separating out pending lawsuit, Fuller/Turner and the peacock issue. Money Market - $102,098.86. CD - $51,807.38. Deepwater Horizon - $351,658.18 (to date). Deepwater Committee will be discussing how much longer to keep the barges.
Motion by Councilmember Gaar, 2nd by Councilmember Laurendine to accept all financial and expenditures for June.

6. **Public Comment**
No public comment

7. **Historic Preservation Commission Appointment**
Councilmember Underwood stated that Mayor Houser is asking the Council to approve his appointment of John Cobb to the Historic Preservation Commission.
Motion by Councilmember Gaar, 2nd by Councilmember Holk to approve the Mayor's appoint of John Cobb to fill the unexpired term of Jim Gaines. All in favor. Motion carried.

8. **Committee recommendations**
Finance: No recommendations.
Public Safety: No recommendations.
Parks & Recreation: Councilmember Laurendine had no recommendations, but wants the Council to know that the South Baldwin Chamber and the Gulf Coast Chamber partnered to create the Business Support Center. It is staffed with small business counselors, employment counselors and mental health counselors. The center is to help local business and residents deal with the economic impact for the Deepwater Horizon Incident (oil spill). The center is located at the Faulker State Campus in Gulf Shores, or they can contact the chambers for more information.
Public Works: Councilmember Gaar discussed hiring through SARPC someone to install the signs and miscellaneous work. Councilmember Holk suggested maybe some fireman, he will check with Jamie.
Planning Commission: No recommendations – Commission is still working on the Subdivision Regulations.
Historic Preservation: Councilmember Underwood stated there were no recommendations, but did want the council to know that the town received an album of photos that were developed by E. Y. Horder. Mr. Horder lived here in the 1920's-1930's. Councilmember Underwood talked to John Jackson at the archives office about scanning them in and getting copies. He also stated that Donna is going to Grand Rapids for training at the National Alliance of Preservation Commissions.
Environmental Protection: No recommendations.
9. **Council, legal counsel and staff comments**

**Legal Counsel — Brad Hicks** — stated that he has sent a letter to the Mayor Pro Tempore, Ken Underwood with his recommendation in reference to the peacocks. The other parties are claiming that they are going to bring a lawsuit to challenge the constitutionality of the ordinance and to bring back the peacocks, and they have sent a letter claiming ownership of the peacocks. He went on to say that at the time the Council made their decision no one claimed ownership, and the threshold issue to be able to proceed under the ordinance is that the Town proceeded that the birds be in fact wild and feral. In light of the new information Brad is recommending that the Town Council revisit the previous findings and give the claim consideration by delegating it to an ad hoc committee to investigate and give a recommendation to the Council at the August meeting. The recommendation needs to be based on the information gathered and the facts that are relevant to the situation. Councilmember Laurendine asked Brad what he thought would determine ownership. Brad recommended talking to the people to see how they can backup their claims. Councilmember Holk suggested writing them a letter explaining the town’s position and that time was given for some one to claim ownership, which no one ever did. The town received complaints about the peacocks invading people’s property and some of the citizens feel they became a nuisance. If they are claiming ownership they need to tell us how they are going to alleviate that problem, how they are going to keep them on their own property and stop the free roaming. Councilmember Holk also suggested if they do claim ownership, that each one of them needs to provide the town with an affidavit taking complete responsibility for the peacocks and that they will hold the town harmless from any lawsuits or claims that may come from them being a public or private nuisance. He stated that owning them is more than throwing feed out for them, he feeds the red birds but he doesn’t own them. Councilmember Odess stated that as far as ownership, there are only 2 peacocks left, there was no ownership when the other 5 were abated, so therefore they can only claim ownership to the 2 left here. Councilmember Holk added if the peacocks are their property (ownership) then why haven’t the two remaining peacocks been penned up on their property and not still running loose. He also stated that the Town has made their determination and now it is up to them to prove in writing their ownership. Brad stated that they need to provide the Town with sworn written statements that convinces the town that supports their claim of ownership. Councilmember Underwood, as Mayor Pro Tempore asked Bob Holk and Brett Gaar to serve on an Ad Hoc Committee along with himself, and they agreed. Councilmember Underwood asked Brad to draft a letter and the council will review it and it will be mailed to all parties involved.

**Legal Counsel — Brad Hicks asked that the Council go into executive session.**

Motion by Councilmember Holk, 2nd by Councilmember Gaar to go into executive session to discuss controversies of not yet being litigated but eminently likely to be litigated. 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. Councilmember Underwood stated the Council will go into executive session and the meeting will not reconvene.

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Approved this the 24th day of August, 2010

[Signature]

Charles S. House — Mayor

ATTEST:

[Signature]

Karen S. Biel — Town Clerk

Minutes were amended on September 24, 2012 to reflect a name change in the Historic Commission committee recommendations from Eli Porter to E.Y. Horder.