October 8, 2019
Council Workshop
12191 Magnolia Springs Hwy.
Magnolia Springs, Alabama 36555
5:00 P.M.

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

2. Roll Call:
   Present: Mayor, Bob Holk; Councilmember, Kim Koniar; Councilmember, Steve Mobley;
   Councilmember, Marley Gardner; Councilmember, Nick Shields; and
   Councilmember, Ben Dykema
   Also, present: Town Attorney, Finley Reeves and Town Clerk/Treasurer, Jenny Opal White

3. Invocation and Pledge: Mayor Bob Holk, gave invocation and led pledge.

4. Presentation:
   Mayor, Bob Holk, introduced, James Wallace, Operations Manager, Riviera Utilities.
   James Wallace gave presentation on installing underground power on a section of Oak
   Street. Project estimated at $60,000.00. Riviera Utilities and Town of Magnolia Springs
   would negotiate costs on project. Mayor Holk, thanked, James. Mayor Holk, asked,
   Council if they would be interested in 20/40 agreement. Council were in consensus.
   Mayor Holk, to follow-up with Riviera Utilities.

5. Council Minutes – September 2019:
   Mayor, Bob Holk, asked Council to review the Council Workshop minutes of September 10,
   2019 and Regular Council Meeting minutes of September 24, 2019. Councilmember, Nick
   Shields, referenced, correction on page 007, Item 10, to abstain. Mayor Holk, asked, Council
   to contact Town Clerk/Treasurer, Jenny Opal White for additional comments or corrections.

6. Review of Financials and Expenditures, September 2019:
   Mayor, Bob Holk, reported, balances as of September 30, 2019.
   ▪ General Fund - $274,925.12
   ▪ Tiered Money Market – $133,655.43
   ▪ CD #344255 - $54,873.24
   ▪ CD #355610 - $204,843.37
   ▪ 4 and 5 Cents Gas Tax - $14,965.76
   ▪ 7 Cents Gas Tax - $8,249.93
   ▪ Capital Improvement Fund - $16,372.88
   ▪ Special Revenue Accounts – Income $374.00
   ▪ Special Revenue Accounts - Balance - $39,926.83
   Mayor, Bob Holk, asked, Council for comment. Councilmember, Ben Dykema,
   inquired on the two (2) CD reports. Town Clerk/Treasurer, Jenny Opal White, will forward
   reports to Council for review. Mayor Holk, suggested, utilization of the Special Revenue
   Accounts for American Asphalt project. Mayor Holk, asked, Council to contact Town Clerk,
   Jenny Opal White, for additional comments or corrections.

7. Deputy, Greg Smith, Monthly Report, September 2019:
   Mayor, Bob Holk, asked, Deputy, Greg Smith to give monthly report.
   Arrests Off Traffic Stops: Two (2) arrested a W/F for a traffic warrant with Fairhope PD. The
   UHAUL E350 van she was driving was reported stolen several days later. Attempting to
   contact her using past addresses. Arrested a W/M with a traffic warrant out of BCSO on a
   traffic stop.
   On View Arrests: One (1) arrested a B/M for possession of a prescription medication on a
   probable cause vehicle search. The liquid will be sent to the lab and the charge may be
   upgraded.
   Calls: Two (2) arrested a W/M and W/F just after they burglarized a storage trailer. Over
   $2,800.00 in tools returned to the owner.
   Traffic Stops: 83
   Citations: 28
   Warnings: 39
   Verbal: 16
   Deputy, Greg Smith, additionally, reported theft of equipment on the properties of
8. Public Comment:
Mayor, Bob Holk, called, Kenneth Underwood for public comment. Kenneth, discussed more additional concerns of Magnolia Springs Citizens on Holk proposed development at 14744 Oak Street. Kenneth provided report to Council that will be included with minutes. Kenneth, asked, for present Land Use Certificate Application to be denied, along with restoring site to original condition.

9. Resolution 2019-16 – Commend Ecumenical Ministries, Inc. of Baldwin County (EMI) for 50 Years of Service and Establishing the Last Sunday in January as Ecumenical Ministries Day in Baldwin County:
Mayor, Bob Holk, reviewed, Resolution 2019-16 to commend Ecumenical Ministries, Inc. of Baldwin County (EMI) for 50 Years of service and establishing the last Sunday in January as Ecumenical Ministries Day in Baldwin County. Mayor Holk, noted, Resolution 2019-16 will be on Regular Council Meeting on October 22, 2019 for approval and adoption.

10. Discussion:
Application for Land Use Certificate – 2019-49 Bob and Lolly Holk – 14744 Oak Street:
Councilmember, Ben Dykema, discussed, the application for Land Use Certificate 2019-49 for Bob and Lolly Holk at 14744 Oak Street. Ben, referenced, Ordinance, 2019-01 Flood Ordinance, Section B and C in relation to application. Ben, additionally, referenced, Zoning Ordinance, reference parking and historic. Mayor, Bob Holk, discussed, his four (4) permits, approval by Corp. of Engineers, ADEM inspection, driveway to property, parking, no fill to wetland, bricks, and process. Attorney, Finley Reeves, discussed Land Use Certificate approval process. Council in agreement to approve application, except, for the finish of driveway and parking area. Finley, suggested, a formal withdraw of application. Resubmit new application with items approved by Council. Contingent items to be further researched reference engineering and wetlands flood plain. Contingent items should be resubmitted on application for approval.
Town Clerk/Treasurer Assistant:
Town Clerk/Treasurer, Jenny Opal White, discussed, the Town is accepting applications for the Town Clerk/Treasurer Assistant up to Thursday, October 31, 2019 at 4:30 p.m.

11. Committee-Commission Reports:
(a) Finance and Audit Committee: Mayor, Bob Holk, reported, no meeting.
(b) Public Works & Safety: Councilmember, Steve Mobley, discussed, the completion of the American Asphalt project.
(c) Public Lands/Beautification: Councilmember, Ben Dykema, discussed, the elimination of Casey Fulford, Watershed Management Coordinator position with Baldwin County Soil & Water Conservation District.
(d) Tree & Streetscape: Councilmember, Nick Shields, reported, no forum. Nick, addressed, Baldwin County Board of Education reporting of low-lying limbs. Gary Snyder to complete trimming, along with Holly Avenue.
(e) Public Relations: Councilmember, Marley Gardner, reported, no meeting.

12. Council, Legal Counsel, and Staff Comments:
No further comments.

13. Any Other Business That Might Come Before the Meeting:
No further business discussed.

14. Adjourn:
Motion by Councilmember, Marley Gardner, to adjourn meeting.
Second, Councilmember, Nick Shields. All in favor. Motion carried.
Meeting adjourned at 6:17 p.m.
Approved this 19th day of November 2019

Kim Koniar, Mayor

ATTEST:

Jenny Opal White, Town Clerk/Treasurer
More Additional Concerns of Magnolia Springs Citizens (10/8/2018)

On November 15, 2018 a Land Disturbance and Erosion Control Permit Application was submitted by Lorena Holk stated “Remove Trees” as the proposed development activity. That application was approval on November 16, 2018 and limited development activities to “Install turbidity control measures on east side of driveway”. This approved work limitation was to protect all existing disturbed areas as of that approval date.

Development Activity Since November 16, 2018: (All of these development activities are documented by dated photographs of the site):

A. Additional fill material has been placed along the drive and “parking area”.
B. A small culvert had been installed under the drive.
C. Crushed limestone has been placed over the drive.
D. A portion of the drive edges have received sod.
E. A water meter and under ground piping has been installed along the west side of the drive.
F. Bush hogging has continued of the over the wetland areas along the intermittent creek located along the drive east side.
G. A wooden bulkhead has been installed between the “parking area” and the creek to the east.
H. The bulkhead is adjacent to and only several feet from the creek top bank.
I. The bulkhead has been back filled with a sandy material.
J. Concrete rubble and old bricks have been dumped at locations on the “parking area”.
K. On May 28, 2019 the Town adopted “The Flood Damage Prevention Ordinance”
L. This continuation of filling and bulk head construction violates the intent and provisions of this recently adopted ordinance.
M. This filling within the flood plane will alter flood flows and thereby cause un-natural erosion of insitu soils and readily erode those sandy soils placed within flood prone areas.
N. Eroded soils will be transported by flood waters and deposited over the adjacent properties and within the Magnolia River it self.
Additional Concerns of Magnolia Springs Citizens

ORDINANCE NO. 2009-02, An Ordinance Regulating Land Disturbances in the Town of Magnolia Springs and Its Jurisdiction; Prescribing Certain Duties and Conditions; and Providing Penalties for the Violation of this Ordinance.

Review of this ordinance reveals the following concerns relative to the ongoing work in wetlands within Tax Parcel no. 55-08-28-0-000-104.000

A. Section 1. Purpose and Intent: It is the purpose of this ordinance to further the maintenance of safe and healthful condition; prevent and control water pollution, particularly from construction and post-construction stormwater runoff; control the rate, quality, and volume of stormwater originating from development and redevelopment sites so that surface water and groundwater are protected; prevent and control soil erosion; protect spawning grounds; protect fish and aquatic life; preserve ground cover and scenic beauty; and promote sound environmental practices.

B. Section 2. Definitions
Minor Project: Minor projects include: single family homes with a footprint of 2,500 square feet or less and are not a part of a subdivision or phased development project, along with accessory structures, with a total area of disturbances less that one (1) acre. Minor projects must obtain a Land Use Certificate, the application for which must include an erosion and sediment control plan containing the elements described in Section 7(a) of this ordinance.

C. Section 3. General Design Principles
b. Natural vegetation shall be maintained and protected wherever and whenever possible. Areas immediately adjacent to watercourses, wetlands and lakes shall be left undisturbed wherever possible so that the smallest practical area of land will be exposed for the shortest practical time during development.

D. Section 4. Design Criteria, Standards and Specifications
All erosion and sediment control measures, including, but not limited to those required to comply with this ordinance, shall at minimum meet the design criteria, standards and specifications given in the most current version of the Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas.

E. Section 5. Specific Requirements
j. Prevention of wetland degradation. Temporary sediment barriers shall be installed wherever needed on all exposed slopes which meet or exceed four horizontal to one vertical (4:1) and are within fifty (50) feet of wetland, waters of the state, or any surface water feature not bounded entirely by the limits of the development site. These shall be placed and maintained such that drainage will not overflow or bypass the barrier and shall remain in place until the slope is leveled or permanently stabilized.
F. Section 7. Erosion and Sediment Control Plan
An erosion and sediment control plan shall be submitted with each application and shall be available for review by members of the public. The applicant shall certify that all land disturbance activity shall be done in accordance with the erosion and sediment control plan as approved by the Town of Magnolia Springs. The Town of Magnolia Springs may ask the applicant to supplement information contained in the application.

a. Minor Projects – The erosion and sediment control plan for minor projects shall be made a part of the site plan provided with the application for a Land Use Certificate. It shall be prepared by an Alabama Licensed Professional Land Surveyor, Engineer, Architect, Landscape Architect, a Certified Professional in Erosion and Sediment Control, QCI, a licensed home builder or a licensed general contractor. The site plan shall show, at a minimum, the direction of surface slopes, any watercourse on the lot, and the location of all erosion control installations proposed.

G. Section 10. Undisturbed Riparian Buffer Zone
No land-disturbing activity during periods of construction or improvements to land shall be permitted within 75 feet of a perennial or intermittent surface stream.

1. The width of the undisturbed buffer zone is measured horizontally from the top bank to the landward side of the watercourse.

2. This section shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
Concerns of Magnolia Springs Citizens Regarding Soil Erosion and River Sedimentation

1. Site 1 – Tax Parcel no. 55-08-28-0-000-104.000

A. Observations: Recent developments within our town relative to work undertaken within or in proximity to wetlands has caused great concern. This concern is with the greatly increased potential for sediments discharged into our river. We already have a serious problem with sedimentation within the middle Magnolia River from the Rocks at Breed’s Hole down river to Bemis Bay. With continued development over the upper river basin area upstream of Breed’s Hole we will have increased erosion because of the increased storm water discharges. Our river’s health is in peril without the recent land disturbance activities within our community.

First there is the ongoing land disturbance activities over the property located west of Jesse’s Restaurant and Oak Street. I have lived at our home on the north side of Oak Street since 1969 and have observed many serious rainfall events and the flooding of our street and the erosion resulting from the street being overtopped. During one rainfall event a portion of the asphalt street surface was destroyed. Before the Gulf Telephone Company constructed a rubble dam and flow diversion structure all storm water from north of Oak Street flowed along the natural water course and under our street. Since the Gulf Telephone project most of the storm water runoff from heavier rainfall events is diverted over my property and across Oak Street. Those events overtopping of our street have eroded soils from the south side street shoulder and exposed a concrete culvert next to the subject property. This flow diversion across Oak Street will continue and seriously erode the sand road recently constructed along the west side of the subject property. This west property line is only some 30 to 40 feet from the centerline of the natural drainage path from Oak Street to the river. Closer to the river a sand mound has been constructed and is dangerously close to the top bank of this drainage path.

This work is particularly disturbing as the process of sand erosion and transport toward the drainage path and wetlands has been observed. This total site is being monitored by photographing the site after every significant rainfall event.

B. Zoning Issues: This parcel of land is zoned B-2 based on the Magnolia Springs Zoning Map. From the Zoning Ordinance, Ordinance No. 2010-06, Article 4, Zoning Districts (Page 40), Paragraph A. Purpose and Intent, Item 8 we find the following; “B-2 – Local Business District: The purpose and intent of the B-2 Neighborhood Business District is to provide limited commercial convenience facilities servicing nearby residential neighborhoods.”

Continuing in the Ordinance, Article 4, Paragraph B. Permitted Use Table (Page 41) we find a table with various permitted uses within the various Zoning Districts. The table indicates that the following use categories are not permitted: Residential-Single family, Multi-Family, Mobile Home, Modular Home, Manufactured Home and Home Occupations. Accessory Use is permitted and is addressed in Article 7, Definitions (Page 77), Paragraph B. Words and Terms Defined: Accessory Use. A use on the same lot with, and of a nature customarily incidental to, the principal use.
Also from Article 4 Permitted Use Table, Mixed Use is permitted in B-2 Zoned Districts.

Paragraph H (Page 26). Mixed Use limits and conditions are set forth: Mixed Use:

Mixed residential and commercial uses may be permissible subject to the following conditions:
1. Is located in the (B-1) commercial professional and business and office district, (B-2) local business commercial district;
2. The commercial uses in the development may be limited in hours of operation, size of delivery trucks, and type of equipment;
3. The residential uses shall be designed so that they are compatible with the commercial uses;
4. Residential and commercial uses shall not occupy the same floor of the building;
5. Residential and commercial uses shall not share the same entrances;
6. The number of residential dwelling units is limited to 4 dwellings per acre;
7. Building height shall not exceed 2 stories;
8. If the project is in the HOD or Springs District the mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential uses by, but not limited to, minimizing noise associated with commercial uses, directing commercial lighting away from residential units; and separating pedestrian/vehicular access ways and parking areas from residential units, and;
9. The project shall comply with all dimensional standards of the zoning district;
10. All lighting, landscaping and parking requirements required shall be met.
11. If a proposed mixed use project is located in the HOD or the Springs District it shall follow the site plan requirements as required by these districts prior to issuance of any building permits,
12. If a proposed mixed use project is located outside of the HOD or Springs District the project is still required to follow the requirements and procedures including Planning Commission review required in the Springs District prior to issuance of a building permit.

And finally from Article 4, J. Dimensional Standards (page 27)

1. Waterfront lots: The front of a waterfront lot is the portion that has a physical connection to the water. All setbacks and lot width requirements shall be determined based on this standard. (See Graphic depiction on page 28)
   a. The front yard setback shall be the average setback that is established by neighboring properties within 200 feet of each side of the property lines
   b. The minimum lot width at the street shall be the same as the minimum lot width at the front (water) side for each zoning district.

From the B-2 Zoning District, Local Business (Page 32), the graphic representation of minimum lot dimensions and setback requirements for this district indicates that the minimum side yard setback distance is 15-feet.

C. Wetland Issues: Based on the U.S Fish and Wildlife Service National Wetlands Inventory, practically all of this proposed project area is within the designated “Freshwater Forested/Shrub Wetland” limits. A review of the “Site Plan” attached to the original “Land Disturbance and Erosion Control Permit” application indicated a wetland area hand drawn by someone. Several questions relative to the wetlands delineation are (1) who delineated the wetland boundaries indicated on the Site Plan, and who mapped the delineation line established by the delineating person? It is obvious that this site plan was prepared by someone who is not a Professional Surveyor or Professional Engineer. Site plans I have used area always have the property
boundaries surveyed by a Professional Land Surveyor and the properly delineated wetland limits
surveyed by the same surveyor with the final plan signed and sealed by the Professional Land
Surveyor. The site plan has no indication of the drawing scale. There is no indication that this
site plan was developed by a credentialed professional.

The site plan indicates that the proposed drive passes through areas indicated as wetland. The
28-foot by 42-foot cottage indicated on the site plan appears to be too wide to fit within the non
wetland area. Before any additional permitting is considered, the site should have wetlands
delineated by a credentialed professional and surveyed by a Professional Land Surveyor so that
the accurate wetland limits and property lines can be accurately drawn.

D. Springs District Zoning and Magnolia Springs Historic District: All related regulations
and requirements of these two designated districts must be met before any building permits can
be considered.

E. Ordinance No. 2010-08, Flood Damage Prevention Ordinance of Magnolia Springs,
Alabama and all pertinent provisions contained therein.

F. Ordinance No. 2009-02, An Ordinance Regulating Land Disturbances in the Town of
Magnolia Springs and Its jurisdiction, and all pertinent provisions contained therein.

G. Permit Applications: All Permit applications should be completed as required and provide
sufficient information and documentation so that the town council can make an informed
decision regarding appropriateness of the proposed action. An investigation should be
undertaken to determine what, if any, environmental permits were secured from ADEM, U.S.
Fish and Wildlife Service, U.S. Army, Corps of Engineers, or EPA relative to this wetlands
clearing and filling activity.
A. Observations: This parcel is located immediately north of the United Bank property, fronts on County Road 49 and extends easterly some 417.4 feet and is 101.4 feet wide. A portion of this parcel was recently cleared and site re-graded from the Spring Creek drainage path eastward toward the east property line. Recent aerial photography indicates that the portion of the property that included the flow path of Spring creek was heavily wooded and vegetated as those creek reaches both up stream and down stream of this parcel. Since the recent clearing, the creek bed and over bank areas are completely denuded of all vegetation. What is left is a sandy creek bed, banks and overbank areas composed of alluvial sands, some silts and clays and some reddish sandy materials obviously not naturally occurring. Prior to any significant rainfall event, the site was photographed. Following a recent rainfall event the site was again photographed and soil erosion clearly visible. This site will be monitored by photographing changing conditions following each significant rainfall event. Spring Creek flows southerly and through The Springs down to the Magnolia Rover at Breed’s Hole where transported sediments will be deposited.

B. Wetland Issues: Based on the U.S Fish and Wildlife Service National Wetlands Inventory, the portion of this property along spring Creek is designated as “Freshwater Forested/Shrub Wetland. An investigation should be undertaken to determine what, if any, environmental permits were secured from ADEM, U.S. Fish and Wildlife Service, U.S. Army, Corps of Engineers, or EPA relative to this wetlands clearing and site re-grading activity.