

City of Magnolia, Texas

Ordinance No. 2007-115

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION ON NOVEMBER 6, 2007, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY TWO PROPOSITIONS; (1) WHETHER OR NOT TO ADOPT THE CITY MANAGER FORM OF GOVERNMENT IN THE CITY OF MAGNOLIA, TEXAS; AND (2) AUTHORIZING THE USE OF THE SALES AND USE TAX DESIGNATED FOR A ARTICLE 5190.6, SECTION 4A ECONOMIC DEVELOPMENT CORPORATION FOR A SPECIFIC PROJECT THAT QUALIFIES UNDER SECTION 4B OF ARTICLE 5190.6; DESIGNATING THE POLLING PLACES AND APPOINTING ELECTION OFFICIALS FOR SUCH ELECTION; PROVIDING THE FORM OF THE BALLOTS AT SUCH ELECTION; DIRECTING THE GIVING OF NOTICE OF SUCH ELECTION; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

WHEREAS, a lawful petition was submitted requesting the Mayor of the City of Magnolia to order a special election on whether or not to adopt the city manager form of government, which was done and the council now is required by Section 25.025 of the Local Government Code to submit a proposition to the voters to vote for or against the proposition to adopt the city manager form of government in the City of Magnolia; and

WHEREAS the City of Magnolia Texas previously authorized the creation of a 4A Economic Development Corporation called the City of Magnolia Economic Development Corporation (the "4A Corporation") and the voters previously approved a sales and use tax to fund the 4ACorporation; and

WHEREAS the City of Magnolia Texas previously authorized the creation of a 4B Economic Development Corporation called the Magnolia Community Development Corporation (the "4B Corporation") and the voters previously approved a sales and use tax to fund the 4B Corporation; and

WHEREAS, the City is permitted by Section 4A of Article 5190.6 to submit a proposition regarding the sales and use tax dedicated to the 4A Corporation, said proposition being for or against the use of sales and use tax proceeds of the 4A Corporation for a specific project that qualifies under Section 4B of Article 5190.6; and

WHEREAS, the City of Magnolia, Texas (the "City") pursuant to the laws of the State of Texas, as amended, is required and permitted to hold a special election by State Law which requires the special election for 2007 be held on the first Tuesday after the first Monday in November to submit the two (2) propositions to the qualified voters of the City; and

WHEREAS, by state law the uniform election date for the month of November 2007 falls on November 6, 2007; and

WHEREAS, pursuant to Chapters 31 and 271 of the Texas Election Code the City is authorized to enter into joint election agreement and contracts for election services and election agreement with Montgomery County and the City has entered into said agreements; and

WHEREAS, the City Council of the City of Magnolia, Texas and Carol Gaultney, Election Administrator for Montgomery, County, Texas, hereinafter called "Administrator" have determined it would be in the best interest of Montgomery County and the inhabitants thereof, that provisions be made for Administrator to help conduct the City Special Election on November 6, 2007 and the City enter into a Election Agreement with Montgomery County; and

WHEREAS, the City Council wishes to proceed with the ordering of such special election on Tuesday, November 6, 2007, which is a uniform election date;

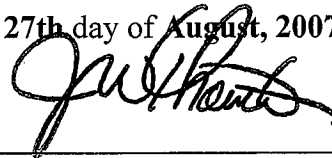
**NOW, THEREFORE, BE IT ORDAINED BY THE
CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS:**

Section 1. The facts and opinions in the preamble to this Ordinance are true and correct.

Section 2. The attached Election Order (Exhibit "A") is herein adopted, which declares and orders that a special election (the "Special Election") be held in and throughout the City of Magnolia on Tuesday, November 6, 2007, to submit to the voters the two (2) propositions as described in the preamble to this ordinance.

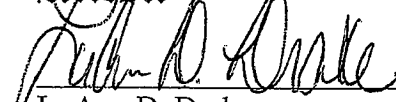
Section 3. All ordinances and parts of ordinances in conflict herewith are herein repealed to the extent of the conflict only.

PASSED and ADOPTED the 27th day of August, 2007.



Jimmy W. Thornton, Jr.
Mayor

Attest:



LuAnn D. Drake
City Secretary

Ordinance No. 2007-115

EXHIBIT "A"

ELECTION ORDER

Section 1. In accordance with the general laws and Constitution of the State of Texas, a Special Municipal Election is hereby called and ordered for the first Tuesday after the first Monday in November 2007, the same being the 6th day of said month. The City Secretary is hereby authorized and directed to prepare the election ballots and provide and furnish all necessary election supplies, including bilingual forms, to conduct the Special Election in accordance with the provisions of the Texas Constitution and Texas Election Code. On such election ballot there shall be submitted to the resident qualified voters of the City two (2) propositions, for their action thereon.

Section 2. The ballot for the Special Election shall conform to the requirements of the TEXAS ELECTION CODE, as amended; Section 25.025(b) of the Local Government Code as amended; Article 5190.6, Section 4A(s)(1)(2)(3)(4) and (5) of the Vernon's Texas Statutes and Codes Annotated and on such ballot shall appear the ballot language for the following two (2) propositions, with the provision permitting voters to vote "For" or "Against" on each proposition without voting "For" or "Against" all propositions. Such propositions shall provide as follows:

Proposition No. 1 and Ballot Language for Proposition No. 1.

"THE GOVERNING BODY OF THE CITY OF MAGNOLIA, TEXAS
APPOINTING A CITY MANAGER AND SETTING BY ORDINANCE
THE SALARY OF THE MANAGER."

Proposition No. 2 and Ballot Language for Proposition No.2.

TO AUTHORIZE THE CITY OF MAGNOLIA ECONOMIC DEVELOPMENT CORPORATION TO UTILIZE THE SALES AND USE TAX COLLECTED UNDER SECTION 4A OF ARTICLE 5190.6 V.A.T.C., INCLUDING ANY AMOUNTS PREVIOUSLY AUTHORIZED AND COLLECTED, TO BE USED FOR THE DEVELOPMENT, IMPROVEMENT, CONSTRUCTION, MAINTENANCE, AND OPERATING COSTS OF THE DOWNTOWN REVITALIZATION PROJECT IN THE MANNER AND TO THE PURPOSES AUTHORIZED BY SECTION 4B OF THE ACT. EXPENDITURES FOR THIS PROJECT INCLUDE PARKING FACILITIES, PUBLIC PARKS, PARK FACILITIES, SPORTS AND ATHLETIC PURPOSES AND EVENTS, OPEN SPACE IMPROVEMENTS, UTILITIES, RESTROOMS, ROADWAYS AND WALKWAYS, TRAFFIC AND PEDESTRIAN FLOW,

PERFORMING ARTS CENTERS, MUSEUMS, WATER DETENTION AND DRAINAGE IMPROVEMENTS, AND OTHER RELATED IMPROVEMENTS THAT ENHANCE ANY OF THOSE ITEMS.

Section 3. The present boundaries of the City constituting two election precincts, the polls shall be open for voting from seven o'clock (7:00) a.m. until seven o'clock (7:00) p.m. at the following polling places, and the following are hereby appointed officers to conduct the above-described election at said polling place:

POLLING PLACES

Montgomery County
Malcolm Purvis Library
510 Melton Street
Magnolia, Texas 77354

West Montgomery County Community Development Center
31355 Friendship Drive
Magnolia, Texas 77355

ELECTION OFFICERS

_____	Presiding Judge		
_____	Alternate	Presiding	Judge

The City Secretary is hereby authorized and directed to provide a copy of this Ordinance to each judge as written notice of the appointment as required by Section 32.009 of the TEXAS ELECTION CODE.

The Presiding Judge shall have the authority to appoint no more than five (5) clerks to assist in the holding of said election, but in no event shall the Presiding Judge appoint less than two (2) clerks.

Section 4. The City Secretary and the Montgomery County Elections Officer are hereby appointed as joint early voting clerks for early voting; the appointment of a deputy clerk or clerks for early voting by the joint early voting clerks shall be in accordance with Section 83.031 *et seq.* of the TEXAS ELECTION CODE. The City adopts the designated November 6 2007 Joint Election Early Voting Locations listed in the attached Exhibit "A" and the early voting dates and times are designated and listed in the attached Exhibit "A" for each early voting location all pursuant to the contract for election services with Montgomery County.

The Montgomery County Elections Officer is hereby appointed as the Regular Early Voting Clerk to receive ballot by mail applications. The appointment of a deputy clerk or clerks for early voting by the Montgomery County Elections Officer shall be in accordance with Section 83.031 *et seq.* of the TEXAS ELECTION CODE. The address of the Regular Early Voting Clerk is:

Montgomery County
Election Central
P.O. Box 2646
Conroe, Texas 77305-2646

Or

Montgomery County
Election Central
9159 FM 1484
Conroe, Texas 77303

The above-described place is also the clerk's mailing address to which ballot applications and ballots voted by mail may be sent. The early voting clerk, in accordance with the provisions of the TEXAS ELECTION CODE, shall maintain a roster listing each person who votes early by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

Section 5. That the Montgomery County Elections Officer receive applications by mail for a ballot to be voted by mail from September 7, 2007 until the close of business on October 30, 2007. Requests for applications should be mailed to: City Secretary, City of Magnolia, 16835 FM 1488, Building 1, Magnolia, Texas 77354. All ballot by mail applications received by the Regular Early Voting Clerk must be hand delivered or faxed to the Montgomery County Elections Officer on the day of receipt and the original application mailed or delivered to the Montgomery County Elections Officer. The Montgomery County Elections Officer will process applications, mail ballots, and tabulate.

Section 6. _____ is hereby appointed as Presiding Judge of the Early Ballot Board. In accordance with Section 87.001, *et seq.*, TEXAS ELECTION CODE, said Presiding Judge shall appoint at least two (2) other members to said Board, and shall process early voting results in accordance with said TEXAS ELECTION CODE. These appointments will be made as recommended by the Montgomery County Elections Officer.

Section 7. All ballots shall be prepared in accordance with the TEXAS ELECTION CODE. Early voting by personal appearance shall be by Direct Recording Electronic voting machines in accordance with Section 61.012 of the Texas Election Code. Voting by personal appearance on election day shall be by Direct Recording Electronic voting machines in accordance with Section 61.012 of the Texas Election Code. Early voting by a method other than by personal appearance shall be by paper ballot. All expenditures necessary for the conduct of the election and the purchase of materials therefore is hereby

authorized. Compensation of all election officials is hereby established at the maximum amounts permitted under Section 32.091 *et seq.*, TEXAS ELECTION CODE.

Section 8. The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 9. Notice of this election shall be given in accordance with the provisions of the TEXAS ELECTION CODE, THE LOCAL GOVERNMENT CODE, SECTION 25.024 AND ARTICLE 5190.6, SECTION 4A(S)(3) OF VERNON'S TEXAS STATUTES AND CODES ANNOTATED and returns of such notice shall be made as provided for in said Code. The Mayor shall issue all necessary orders and writs for such election, and returns of such election shall be made to the City Secretary immediately after the closing of the polls.

Section 10. Said election shall be held in accordance with the TEXAS ELECTION CODE and the Federal Voting Rights Act of 1965, as amended.

Section 11. It is further found and determined that in accordance with the order of this governing body the City Secretary posted written notice of the date, place and subject of this meeting on the bulletin board located in the City Hall, a place convenient and readily accessible to the general public, and such notice having been so posted and remaining posted continuously for at least seventy-two (72) hours preceding the scheduled time of such meeting. A copy of the return of such posting shall be attached to the minutes of this meeting and shall be made a part thereof for all intents and purposes.


Section 12. That the Mayor and/or the City Secretary of the City of Magnolia are hereby authorized to execute and/or issue, for an on behalf of the City, such orders, documents and forms as may, from time to time, be promulgated by the Secretary of State of the State of Texas in conjunction with the election herein ordained.

Section 13. If any person or persons appointed herein do not appear, are unable to perform their duties, or fail to perform their duties, the Mayor shall have the discretion and authority to appoint any substitute personnel to fill the position(s).

Section 14. The Mayor and/or the City Secretary and the attorney for the City are hereby authorized and directed to make any filings required by the Federal Voting Rights Act. The Mayor and/or the City Secretary and the attorney for the City are further authorized and directed to take any action necessary to comply with the provisions of the Texas Elections Code, the Federal Voting Rights Act and the terms and provisions of the Election Services Contract and the Joint Election Agreement in carrying out the provisions of this Ordinance, whether or not expressly authorized herein.

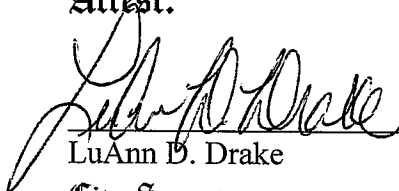
Section 15. The City Secretary and Mayor are hereby authorized to perform all duties and take all actions as required by the joint election agreement and the contracts for election services and election services agreement with Montgomery County.

SIGNED on this the 27th day of August 2007.



Jimmy W. Thornton, Jr.
Mayor

Attest:


LuAnn B. Drake
City Secretary