

City of Magnolia

Ordinance 2010-166

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, PROVIDING FOR THE HOLDING OF A GENERAL ELECTION ON MAY 08, 2010, FOR THE PURPOSE OF ELECTING THREE (3) COUNCILMEMBERS; AND FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY ONE PROPOSITION; (1)WHETHER OR NOT TO REAUTHORIZE A SALES AND USE TAX OF ONE-FOURTH OF ONE PERCENT FOR MAINTENANCE AND REPAIR OF MUNICIPAL STREETS; AND 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, the City of Magnolia, Texas (the "City") pursuant to the laws of the State of Texas, as amended, is required or permitted to hold a general election by State Law on the uniform election date of the Second Saturday of the month of May in 2010 to elect Councilpersons and Mayor whose terms are expiring and additionally the City is permitted or required by state law to submit one (1) additional proposition to the qualified voters of the City;

WHEREAS, by state law the uniform election date for the month of May 2010 falls on May 08, 2010, and there is therefore required to be elected, on May 08, 2010, the following officials for the City:

Mayor for a two-year term ending May 2012; and
Council Position 4 for a two-year term ending May 2012; and
Council Position 5, for a two-year term ending May 2012; and

WHEREAS, the City is permitted to reauthorize the local sales and use tax in to continue providing revenue for maintenance and repair of municipal streets pursuant to Section 327.007(b) of the Tax Code; and

WHEREAS, pursuant to Chapters 31 and 271 of the Texas Election Code the City is authorized to enter into joint election agreement with the Magnolia Independent School District 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 General Election on May 8, 2010 and the City enter into a Joint Election Agreement with the Magnolia Independent School District; and

WHEREAS, the City Council wishes to proceed with the ordering of such general election on Saturday, May 08, 2010, which is a uniform election date;

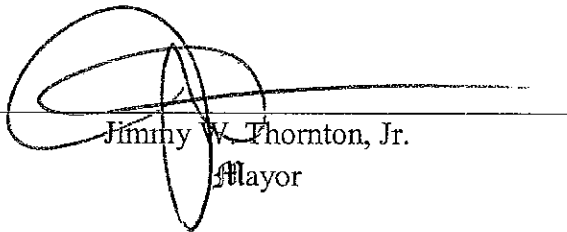
**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF MAGNOLIA, TEXAS:**

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 general election and special election (the "General Election" "Special Election") be held in and throughout the City of Magnolia on Saturday, May 08, 2010, to elect persons to Council Positions 4,5, and Office of Mayor for a two-year term and one proposition 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.

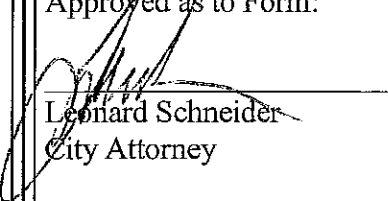
**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS
ON THIS 9th DAY OF FEBRUARY 2010.**


Jimmy W. Thornton, Jr.
Mayor

Attest:


Debra Brent
City Secretary

Approved as to Form:


Leonard Schneider
City Attorney

Ordinance 2010

EXHIBIT "A"

ELECTION ORDER

Section 1. In accordance with the general laws and Constitution of the State of Texas, a General Municipal Election and Special Municipal Election is hereby called and ordered for the second Saturday in May 2010, the same being the 08th 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 General Election in accordance with the provisions of the Texas Constitution and Texas Election Code. On such election ballot, the qualified voters of the City may vote for the purpose of electing the following officials of the City and one proposition:

Mayor (for a two year term to end in May, 2012)
Councilmember, Position No. 4 (for a two year term to end in May, 2012)
Councilmember, Position No. 5 (for a two year term to end in May, 2012)

Section 2. No person's name shall be placed upon the official ballot as a candidate for any of the above-mentioned positions unless such person has filed his or her sworn application, as provided by Section 141.031 of the TEXAS ELECTION CODE, with the City Secretary of the City at the City Offices not later than five o'clock (5:00) p.m. on the sixty-second (62nd) day before the date of such election, said date being March 08, 2010. The City Secretary shall note on the face of each such application the date and time of its filing. Such application shall include the office the candidate is seeking and, if applicable, the position number of such position. The first day to file an application for a place on the ballot is February 6, 2010. The last day to file an application for a place on the ballot is March 08, 2010.

Section 3. It is further ordered that on the General Election be held in the City of Magnolia, Texas, on the 8th day of May 2010, there shall be submitted to the resident qualified voters of the City one (1) proposition, for their action thereon.

Section 4. The ballot for the General Election shall conform to the requirements of the TEXAS ELECTION CODE, as amended; Section 327.007(b) of the Texas Tax Code as amended, and on such ballot shall appear the ballot language for *the* following proposition, with the provision permitting voters to vote "For" or "Against" on each proposition without voting "For" or "Against" all propositions. Such proposition shall provide as follows:

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

The reauthorization of the local sales and use tax in the City of Magnolia, Texas at the rate of one-fourth of one percent to continue providing revenue for maintenance and repair of municipal streets.

Section 5. The present boundaries of the City constituting one election precinct, 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 place, and the following are hereby appointed officers to conduct the above-described election at said polling places:

POLLING PLACE

Montgomery County
Malcolm Purvis Library
510 Melton Street
Magnolia, Teas 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 6. The Montgomery County Elections Administrator is hereby appointed as 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 May 08 2010 Joint Election Early Voting Locations listed in the attached Exhibit "A" to this Order and further adopts any amendments or additions to Joint Election Early Voting Locations by the Montgomery County Elections Administrator 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 Administrator 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 County Elections Administrator shall be in accordance with Section 83.031 *et seq.* of the TEXAS ELECTION CODE. The address of the Regular Early Voting Clerk is:

Mailing Address:

Montgomery County Election Administrator
P. O. Box 2646
Conroe, TX 77305-2646

Physical Address for Carrier Delivery:

Montgomery County Election Administrator
9159 FM 1484
Conroe, TX 77303

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 7. That the Montgomery County Election Administrator shall receive applications by mail for a ballot to be voted by mail from March 9, 2010 until the close of business on April 30, 2010. Requests for applications should be mailed to: Montgomery County Election Administrator, P. O. Box 2646, Conroe, TX 77305-2646. 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 8. Pursuant to the Election Services Agreement with Montgomery County, Texas the Presiding Judge, alternate judges and other election officials will either be appointed by the Montgomery County Commissioner's Court or alternatively the Presiding Judge, alternate judges and other election officials that are recommended by the Elections Administrator of Montgomery County are hereby appointed by the City.

Section 9. 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 10. The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 11. The candidate receiving the highest number of votes in each of the positions to be filled at such election shall be declared elected to such positions.

Section 12. The order in which the names of the candidates are to be printed on the ballot for the general election, and the order in which the names of the candidates are to be printed on the ballot for the special election, shall be determined by a drawing by the City Secretary, as provided by Section 42.094 of the TEXAS ELECTION CODE. The City Secretary shall post a notice in her office of the date, hour, and place of drawing. Such notice shall remain posted continuously for seventy-two (72) hours immediately preceding the scheduled time of the drawing, and personal notice shall also be given to any candidate who makes written request for such notice and furnishes to the City Secretary a self-addressed, stamped envelope. Each candidate involved in the drawing, or a representative designated by him/her, shall have a right to be present and observe the drawing.

Section 13. Notice of this election shall be given in accordance with the provisions of the TEXAS ELECTION CODE 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 14. Said election shall be held in accordance with the TEXAS ELECTION CODE and the Federal Voting Rights Act of 1965, as amended.

Section 15. 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 16. 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 17. 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 18. 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 19. The City Secretary and Mayor are hereby authorized to perform all duties and take all actions as required by both the joint election agreement with the Magnolia Independent School District and the contracts for election services and election agreement with Montgomery County.

EXHIBIT A – Revised 2/22/10
MAY 8, 2010 JOINT ELECTION
EARLY VOTING POLLING LOCATIONS & TIMES

April 26 – May 1	Monday – Saturday	8:00 am – 5:00 pm
May 3 - 4	Monday – Tuesday	7:00 am – 7:00 pm

Montgomery County Administration Annex
207 West Phillips - Conroe, Texas 77301

Malcolm Purvis Library
510 Melton Street - Magnolia, Texas 77354

South County Community Building
2235 Lake Robbins Drive - The Woodlands, Texas 77380

North Montgomery County Community Center
600 Gerald Street - Willis, Texas 77378

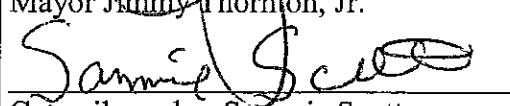
East County Courthouse Annex
21130 U.S. Highway 59 South - New Caney, Texas 77357

West Montgomery County Annex
19380 Hwy 105 West - Montgomery, Texas 77356

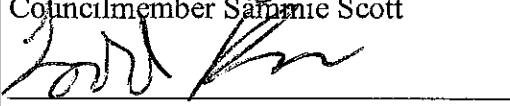
SIGNED on this the 9th day of February 2010.



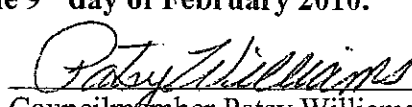
Mayor Jimmy Thornton, Jr.



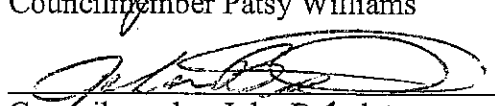
Councilmember Sammie Scott



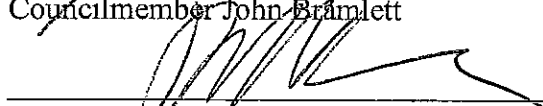
Councilmember Todd Kana



Councilmember Patsy Williams

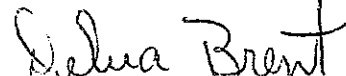


Councilmember John Bramlett



Councilmember Burhl Sanders

Attest:



Debra Brent

City Secretary

Approved as to Form:



Leonard Schneider

City Attorney