

Mayor Todd Kana
Daniel Miller, Position 1
Matthew Dantzer, Position 2
Richard Carby, Mayor Pro Tem / Position 3
Brenda Hoppe, Position 4
Jack L Huitt, Jr., Position 5



Don Doering, City Administrator
Kandice Garrett, City Secretary
Leonard Schneider, City Attorney
Kyle Montgomery, Police Chief
Beverly Standley, Finance/HR Administrator
Tana Ross, Planning Consultant
Mike Kurzy, AEI Engineering

MINUTES OF THE PUBLIC HEARING AND REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA MARCH 8, 2022

A meeting of the City Council was held on this date, March 8, 2022, beginning at 7:00 p.m. in the Sewall Smith Council Chambers, 18111 Buddy Riley Boulevard, Magnolia, Texas 77354.

1. CALL MEETING TO ORDER

Mayor Todd Kana convened the meeting at 7:00 p.m.

a. INVOCATION

Councilmember Hoppe delivered the invocation.

b. PLEDGE OF ALLEGIANCE

Mayor Todd Kana led the Pledge of Allegiance to the U.S.A. and Texas flags.

c. ROLL CALL AND CERTIFICATION OF QUORUM

Mayor Todd Kana called roll, certified that a quorum was present with the following Council members in attendance: Todd Kana, Rick Carby, Matthew Dantzer, Daniel Miller, Brenda Hoppe, and Jack L Huitt Jr.

Absent: None

Staff present: City Administrator Don Doering, City Secretary Kandice Garrett, Police Chief Kyle Montgomery, and Planning Consultant Tana Ross

2. PUBLIC COMMENTS *(Generally limited to three minutes per person; in accordance with state law, the time may be reduced if there is a high number of speakers or other considerations.)*

None

3. CONSENT AGENDA

(This portion of the agenda consists of items considered routine and will be enacted by one motion unless separate discussion is requested by a member of the City Council or a citizen. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.)

a. CONSIDERATION – APPROVAL OF MINUTES

Consideration and possible action to approve the minutes of the Regular City Council Meeting held February 8, 2022.

b. CONSIDERATION – APPROVE MONTGOMERY CENTRAL APPRAISAL DISTRICT (“MCAD”) EXEMPTION INFORMATION FOR USE ON THE 2022 NOTICES OF APPRAISED VALUE AND 2022 ASSESSMENT ROLLS

c. CONSIDERATION – APPROVE CHAMBER 2022 CHRISTMAS PARADE ROUTE

Consideration and possible action to approve the Chamber Christmas Parade Route for Saturday, December 3, 2022 from 5:30 p.m. until 7:00 p.m.

MOTION: Upon a motion to approve the Consent Agenda made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

4. PRESENTATION – STATUS UPDATE ON MAGNOLIA PLACE DEVELOPMENT BY CHESSIE ZIMMERMAN (Mayor Todd Kana)

Chessie Zimmerman, with Stratus Properties Inc., provided handouts of the latest site plan and pointed out an upcoming single-family development of a 27-acre tract located on the south side of the project bringing possibly 80-90 homes. Multi-family development is expected on two separate tracts west of the HEB. Getting the fuel station in is moving a bit slower due to the rain, but she estimates the infrastructure is about 45 days out for HEB and noted that construction has begun on the retail upfront.

5. CONSIDERATION – ACCEPT AND APPROVE PETITION FOR CONSENT TO ANNEXATION OF PROPERTY INTO MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 130 (.8264 ACRES AND 2.3880 ACRES TRACT) BY ADOPTING RESOLUTION NO. R-2022-007 (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, MONTGOMERY COUNTY, TEXAS, APPROVING THE ADDITION OF .8264 ACRES AND 2.3880 ACRES INTO MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 130 WITHIN AREA OF EXTRATERRITORIAL JURISDICTION.

City Attorney Leonard Schneider explained there is a total of six resolutions for approving the annexation of property into various MUD, Water Districts, and Audubon Management District which were previously approved in the installment agreements with Audubon. He further stated that these have been reviewed and he has no objections to the resolutions or the petitions for annexation as they have been properly submitted.

MOTION: Upon a motion to approve Resolution No. R-2022-007 made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

6. **CONSIDERATION – ACCEPT AND APPROVE PETITION FOR CONSENT TO ANNEXATION OF PROPERTY INTO MONTGOMERY COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4 (.8264 ACRES AND 2.3880 ACRES TRACT) BY ADOPTING RESOLUTION NO. R-2022-008** (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, MONTGOMERY COUNTY, TEXAS, APPROVING THE ADDITION OF .8264 ACRES AND 2.3880 ACRES INTO MONTGOMERY COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4 WITHIN AREA OF EXTRATERRITORIAL JURISDICTION.

MOTION: Upon a motion to approve Resolution No. R-2022-008 made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

7. **COSIDERATION – ACCEPT AND APPROVE PETITION FOR CONSENT TO ANNEXATION OF PROPERTY INTO AUDUBON MANAGEMENT DISTRICT (.8264 ACRES AND 2.3880 ACRES TRACT) BY ADOPTING RESOLUTION NO. R-2022-009** (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, MONTGOMERY COUNTY, TEXAS, APPROVING THE ADDITION OF .8264 ACRES AND 2.3880 ACRES INTO AUDUBON MANAGEMENT DISTRICT WITHIN AREA OF EXTRATERRITORIAL JURISDICTION.

MOTION: Upon a motion to approve Resolution No. R-2022-009 made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

8. **CONSIDERATION – ACCEPT AND APPROVE PETITION FOR CONSENT TO ANNEXATION OF PROPERTY INTO MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT 154A (APPROXIMATELY 24.82 ACRES) BY ADOPTING RESOLUTION NO. R-2022-010** (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, MONTGOMERY COUNTY, TEXAS, APPROVING THE ADDITION OF APPROXIMATELY 24.82 ACRES INTO MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT 154A WITHIN AREA OF EXTRATERRITORIAL JURISDICTION.

MOTION: Upon a motion to approve Resolution No. R-2022-010 made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

9. **CONSIDERATION – ACCEPT AND APPROVE PETITION FOR CONSENT TO ANNEXATION OF PROPERTY INTO MONTGOMERY COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4 (APPROXIMATELY 24.82 ACRES) BY ADOPTING RESOLUTION NO. R-2022-011 (Mayor Todd Kana)**
Consideration and possible action to adopt:

RESOLUTION NO. R-2022-0011
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, MONTGOMERY COUNTY, TEXAS, APPROVING THE ADDITION OF APPROXIMATELY 24.82 ACRES INTO MONTGOMERY COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4 WITHIN AREA OF EXTRATERRITORIAL JURISDICTION.

MOTION: Upon a motion to approve Resolution No. R-2022-011 made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

10. **CONSIDERATION – ACCEPT AND APPROVE PETITION FOR CONSENT TO ANNEXATION OF PROPERTY INTO AUDUBON MANAGEMENT DISTRICT (APPROXIMATELY 24.82 ACRES) BY ADOPTING RESOLUTION NO. R-2022-012 (Mayor Todd Kana)**
Consideration and possible action to adopt:

RESOLUTION NO. R-2022-012
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, MONTGOMERY COUNTY, TEXAS, APPROVING THE ADDITION OF APPROXIMATELY 24.82 ACRES INTO AUDUBON MANAGEMENT DISTRICT WITHIN AREA OF EXTRATERRITORIAL JURISDICTION.

MOTION: Upon a motion to approve Resolution No. R-2022-012 made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

11. CONSIDERATION AND POSSIBLE ACTION TO APPROVE AMENDMENT TO PLAT OF MAGNOLIA PLACE SEC 1, REPLAT OF RESERVE "B" 30.239 +/- ACRES
(Mayor Todd Kana)

Planning Consultant Tana Ross noted the actual acreage is 4.849 acres, not 30.239 acres as stated above.

MOTION: Upon a motion to approve amendment to plat of Magnolia Place Sec 1, Replat of Reserve "B" 4.849 +/- acres made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

12. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION ON FIRST AMENDMENT TO UTILITY AGREEMENT AND NEW CHAPTER 380 AGREEMENT WITH SHADYSIDE LAND COMPANY, LLC. TO SERVE SHADYSIDE'S HERITAGE GREEN DEVELOPMENT ON THE 49.056 ACRES OF LAND IN THE CITY OF MAGNOLIA TEXAS (Mayor Todd Kana)

City Attorney Leonard Schneider presented this item and noted the City has already constructed its public infrastructure and there are no more for the City to construct. Shadyside has and is in the process of building public utilities and pads to cover the development. The 380 Agreement has been requested by Shadyside for the infrastructure to get a reimbursement of the increase of the property tax value after the improvements are completed. The negotiated agreement between staff, the Mayor and Shadyside is for not longer than 10 years expiring at not to exceed \$3,127,410.

MOTION: Upon a motion to approve First Amendment to Utility Agreement and new Chapter 380 Agreement with Shadyside Land Company, LLC to serve Shadyside's Heritage Green Development on the 49.056 acres of land in the City of Magnolia made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

13. CONSIDERATION – AWARD BID FOR NICHOLS SAWMILL INTERCEPTOR SEWER REPLACEMENT PHASE 3 REBID CONTRACT 2-2020R AND AUTHORIZING SIGNING CONTRACTS CONTINGENT UPON STAFF REVIEW OF THE CONTRACTS, BONDS, AND INSURANCE (Mayor Todd Kana)

City Administrator Don Doering reported that after receiving two bids Ballast Point Construction was the lowest bidder (they are currently finishing construction on Phase 2 for the City) and Mike Kurzy will oversee engineering on the project.

City Attorney Leonard Schneider pointed out that their bid came in as less than the engineer's probable construction cost.

MOTION: Upon a motion to award Ballast Point Construction the bid for Nichols Sawmill Interceptor Sewer Replacement Phase 3 Rebid Contract 2-2020R and authorizing signing contracts contingent upon staff review of the contracts,

bonds, and insurance made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

14. **CONSIDERATION – AWARD CONTRACT FOR CLEARING AND GRUBBING OF WATER PLANT NO. 3 SITE BASED ON BIDS RECEIVED ON MARCH 7, 2022 TO BE PRESENTED AT THE CITY COUNCIL MEETING AND AUTHORIZING SIGNING CONTRACTS CONTINGENT UPON STAFF REVIEW OF THE CONTRACTS, BONDS, AND INSURANCE** (Mayor Todd Kana)

City Engineer Mike Kurzy informed the Council that the City solicited for bids, and they came back over \$50,000 so they will have to go back out and advertise the bid list.

City Attorney Leonard Schneider inquired whether the bids need to be rejected and bid the process or keep the same bids and rebid out? Mr. Kurzy clarified they will be rejected. Leonard advised Council to make a motion to reject the bids.

MOTION: Upon a motion to reject the contract for clearing and grubbing of Water Plant No. 3 made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

15. **CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. R-2022-013 AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION** (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-013
RESOLUTION AUTHORIZING PUBLICATION OF NOTICE OF
INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

James Gilley, Executive Director with U.S. Capital Advisors LLC, presented this item and disclosed the process and identified the purpose as being for the City water and sewer system projects in the amount of \$20,000,000. He anticipates the sale to take place on May 10, 2022 after the waiting period and if all goes well, they will close approximately 30 days later in June.

City Engineer Mike Kurzy confirmed the funding is for two water plant projects. City Administrator Don Doering and City Attorney Leonard Schneider have both reviewed the documents.

MOTION: Upon a motion to approve Resolution No. R-2022-013 made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

16. **CONSIDERATION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. O-2022-006 INCREASING THE JUST AND REASONABLE GAS UTILITY RATES TO BE**

CHARGED WITHIN IN ITS INCORPORATED SERVICE AREAS BY UNIVERSAL NATURAL GAS, LLC (Mayor Todd Kana)

Consideration and possible action to adopt:

ORDINANCE NO. O-2022-006

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS, INCREASING THE JUST AND REASONABLE GHAS UTILITY RATES TO BE CHARGED WITHIN IN ITS INCORPORATED SERVICE AREAS BY UNIVERSAL NATURAL GAS, LLC; REQUIRING REIMBURSEMENT OF RATE CASE EXPENSES BY THE COMPANY; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

City Attorney Leonard Schneider noted these rates were reviewed by Lawton Law Firm and believed to be reasonable and recommends approval of the ordinance.

MOTION: Upon a motion to approve Ordinance No. O-2022-006 made by Councilmember Carby and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 5-0.

17. SECOND READING: CONSIDERATION AND DISCUSSION TO APPROVE RESOLUTION NO. R-2022-006 – 4B PROJECT FOR THE PURCHASE OF LED SIGN AT MAGNOLIA CITY HALL (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-006

TO APPROVE THE FOLLOWING PROJECTS OF THE MANGOLIA COMMUNITY DEVELOPMENT CORPORATION (4B)

Economic Development Director Rachel Steele presented this item as a second reading required by statute for approval of this 4B project.

MOTION: Upon a motion to approve Resolution No. R-2022-006 made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

18. FIRST READING: CONSIDERATION AND DISCUSSION TO APPROVE RESOLUTION NO. R-2022-014 – 4B PROJECT FOR THE PURCHASE OF 1 TO 2 ACRES OF REAL PROPERTY WITHIN THE CITY OF MAGNOLIA (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-014

TO APPROVE THE FOLLOWING PROJECTS OF THE
MANGOLIA COMMUNITY DEVELOPMENT CORPORATION
(4B)

Economic Development Director Rachel Steele presented this item as a first reading required by statute for approval of this 4B project as it lines up with Texas Govt. Local Code Chapter 505. No action taken.

19. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE ANNUAL REVIEW UPDATE TO THE CITY OF MAGNOLIA INVESTMENT POLICY
(Mayor Todd Kana)

City Administrator Don Doering stated that this is an annual review and there are no changes.

City Attorney Leonard Schneider brought this item back before Council to correct for the record there were minor changes in the policy.

City Administrator Don Doering informed Council of minor changes and decision stayed.

MOTION: Upon a motion to approve annual review update to the City of Magnolia Investment Policy made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

20. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE KOLOGIK LLC SOFTWARE-AS-A-SERVICE AGREEMENT FOR POLICE DEPARTMENT WARRANTS (Mayor Todd Kana)

Police Chief Kyle Montgomery presented this item and noted it is necessary to enforce warrants in real time when the officers are out in the field. This module interacts with their current management system utilizing an updated spreadsheet uploaded by municipal court into the RMS system to track Class C warrants.

MOTION: Upon a motion to approve Kologik LLC Software-As-A-Service Agreement for Police Department warrants made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

21. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. R-2022-015 ADOPTING THE CITY OF MAGNOLIA, TEXAS LOGO AND GRAPHIC STANDARDS (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-015

A RESOLUTION ADOPTING THE CITY OF MAGNOLIA,
TEXAS LOGO AND GRAPHIC STANDARDS

City Administrator Don Doering presented this item and asked Council for direction to approve a City logo by ordinance using the two different logo options provided in their packet. City Secretary Kandice Garrett provided a brief summary of the proposed updated logo and spoke on behalf of staff that were in favor of version 2 logo. There was further discussion to adopt (version 1) white magnolia flower with green leaves in the center of a maroon circle logo as official City logo and allowance for Public Works to display the alternate lettering on their vehicles.

MOTION: Upon a motion to approve Resolution No. R-2022-015 (Version 1) made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

22. CLOSED EXECUTIVE SESSION

The City Council of the City of Magnolia, Texas, reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below as authorized by Title 5, Chapter 551, of the Texas Government Code. §551.071(Consultation with Attorney), §551.072 (Deliberations about Real Property), §551.073 (Deliberations about Gifts and Donations), §551.074 (Personnel Matters), §551.076 (Deliberations about Security Devices), §551.086 (Deliberations about competitive matters), and §551.087 (Deliberation about Economic Development Matters.)

The City Council may enter into executive session under Texas Government Code Section 551.071 to consult and receive legal advice from its attorneys regarding the lawsuit *Ex Parte City of Magnolia*, Cause No. D-1-GN-18-006882 (201st District Court, Travis County) and *Magnolia Bible Church, et al. and Magnolia Bible Church, Magnolia's First Baptist Church, and Believers Fellowship v. City of Magnolia*, Cause No. 19-05-06606 and renumbered D-1-GN-19-00716.

Mayor Todd Kana convened into Closed Executive Session at 7:47 p.m.

23. RECONVENE into regular session and consider action, if any, on item(s) discussed in executive session.

Mayor Todd Kana adjourned the closed Executive Session and reconvened the Open Meeting at 8:07 p.m.

MOTION: Upon a motion to instruct staff to dismiss *Cause No. D-1-GN-18-006882* made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

24. ADMINISTRATION - DEPARTMENT REPORTS

ACTIVITIES/ UPDATES/ ANNOUNCEMENTS AND ITEMS OF COMMUNITY INTEREST

a. POLICE DEPARTMENT (Chief of Police, Kyle Montgomery)

Police Chief Kyle Montgomery reported the department is back to a more normal status. There were a couple of vehicles that got broken into at body shops and a couple of burglaries

of buildings with thefts of contents in safes. Chief Montgomery also noted that the safe crews appeared to be organized and professional in their behavior and ability to commit their crimes.

b. ADMINISTRATION / PUBLIC WORKS DEPARTMENT (City Administrator, Don Doering)

City Administrator Don Doering reported Phase 2 of the sewer line extension after over a year of delay is almost complete in three weeks of construction with new contractor. The wastewater treatment plant is also nearly complete and should be done by May. He also noted that with the fiscal year 42% over we have collected 79% budgeted revenue and spent 34% of our budgeted expenses.

25. ADJOURN

MOTION: Upon a motion to adjourn made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0 and the meeting was adjourned at 8:18 p.m.





Todd Kana, Mayor

CERTIFICATION

I certify that this is a true and correct copy of the minutes of the meeting of the City Council meeting held on March 8, 2022.

ATTEST:



Kandice Garrett, City Secretary