

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
PUBLIC HEARING AND REGULAR MEETING
OF THE CITY COUNCIL OF THE CITY OF
MAGNOLIA
APRIL 12, 2022**

A meeting of the City Council was held on this date, April 12, 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. OPEN 1st PUBLIC HEARING ON AMENDMENT OF IMPACT FEES

Mayor Todd Kana opened the 1st Public Hearing at 7:03 p.m.

NOTICE OF PUBLIC HEARING ON AMENDMENT OF IMPACT FEES

The City Council of Magnolia, Texas will hold a public hearing at the Sewell Smith Council Chambers located at 18111 Buddy Riley Blvd., Magnolia, Texas, at 7:00 p.m., on Tuesday, April 12th, 2022. The purpose of the hearing is to consider the amendment of land use assumptions and a capital improvements plan under which an impact fee may be imposed. Any member of the public has the right to appear at the hearing and present evidence for or against the update.

Mayor Kana read aloud the Notice of Public Hearing. City Attorney Leonard Schneider noted that staff and City Engineer were present to answer any questions regarding the findings of the Advisory Committee for Impact Fees. Planning Consultant Tana Ross presented the findings and recommendation of the Planning & Zoning Advisory Committee.

4. **CLOSE 1ST PUBLIC HEARING**

Mayor Kana closed the 1st Public Hearing at 7:04 p.m.

5. **OPEN 2ND PUBLIC HEARING ON TEXT AMENDMENTS TO UDC AND CONDITIONAL USE PERMIT**

Mayor Todd Kana opened the 2nd Public Hearing at 7:06 p.m. There was a typo on the agenda regarding the time, but the published notice did say 7 p.m.

NOTICE OF PUBLIC HEARING

On April 12, 2022 at 6 pm City of Magnolia City Council will hold a public hearing in the Council Chambers of Magnolia City Hall, 18111 Buddy Riley, Blvd., Magnolia, Texas 77354, giving all interested persons the right to appear and be heard, and to discuss:

- Text amendment to the Unified Development Code, Chapter 6, Sec. 6-1-4.01 Freestanding Temporary Signs.
- Conditional Use Permit for 302 Acker St.

6. **CLOSE 2ND PUBLIC HEARING**

Mayor Kana closed the 2nd Public Hearing at 7:04 p.m. There were not any speakers.

7. **ADJOURN PUBLIC HEARINGS AND CONVENE OPEN REGULAR MEETING**

Mayor Todd Kana closed the Public Hearings and convened the Regular Meeting at 7:07 p.m.

8. **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 March 8, 2022.

- b. **CONSIDERATION – APPROVE THE CITY OF MAGNOLIA SPONSORING, HOLDING AND ADVERTISING THE SHOWDOWN BBQ COOKOFF EVENT AT UNITY PARK ON APRIL 29 – 30, 2022 PLANNED AND CORDINATED BY THE MAGNOLIA FESTIVAL COMMITTEE.**
- c. **CONSIDERATION – APPROVE STREET CLOSURE OF UNITY PARK DRIVE ON FRIDAY APRIL 29 AT 11:00 AM THROUGH SATURDAY APRIL 30 AT 7:00 PM**
- d. **CONSIDERATION – APPROVAL FOR VENDORS TO SELL ALCOHOL AT THE MAGNOLIA SHOWDOWN BBQ COOKOFF AT UNITY PARK APRIL 29-30, 2022**
- e. **CONSIDERATION – APPROVE USAGE OF WILLIAMS PAVILION FOR THE HOUSTON GALVESTON AREA COUNCIL (HGAC) BIKE TRAINING COURSE ON SUNDAY, MAY 1 FROM 2 PM – 6 PM**

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

- 9. **CONSIDERATION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. O-2022-007 AMENDING THE CITY OF MAGNOLIA OFFICIAL ZONING MAP FOR A REZONING OF 0.9183 ACRES OF LAND FROM NEIGHBORHOOD CONSERVATION 2 (NC 2) TO SUBURBAN VILLAGE (SV) (Mayor Todd Kana)**

Consideration and possible action to adopt:

ORDINANCE NO. O-2022-007

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, AMENDING ITS ZONING ORDINANCE, BY APPROVING ZONING CLASSIFICATIONS CHANGE REQUESTS WITHIN THE CITY OF MAGNOLIA, MONTGOMERY COUNTY, TEXAS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY TO REFLECT THE APPROVED ZONING CLASSIFICATION CHANGES; PROVIDING FOR SEVERABILITY; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Planning Consultant Tana Ross presented this item. City Attorney Leonard Schneider informed Council the procedures to follow.

Marcy Parker, 31602 Hanks Rd., Magnolia, TX 77355 spoke in opposition to Item #9.

Frank Parker, 31602 Hanks Rd., Magnolia, TX 77355 spoke in opposition to Item #9.

Stacy Anzick, 19702 Sapphire Cir., Magnolia, TX 77355 spoke in opposition to Item #9.

James Elmore, 212 W. 33rd St., Houston, TX 77018, with Cisneros Design Group and representative for the property owner spoke in favor to Item #9.

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

10. CONSIDERATION AND POSSIBLE ACTION TO APPROVE JIFFY LUBE, 218 SMITH STREET, FINAL PLAT, +/-0.7100 ACRES (Mayor Todd Kana)

Planning Consultant Tana Ross presented this item.

MOTION: Upon a motion to approve Jiffy Lube, 218 Smith Street, Final Plat, +/-0.7100 acres made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

11. CONSIDERATION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. O-2022-008 AMENDING THE UNIFIED DEVELOPMENT CODE, CHAPTER 6, SEC. 6-1-4.01 FREESTANDING TEMPORARY SIGNS (Mayor Todd Kana)

Consideration and possible action to adopt:

ORDINANCE NO. O-2022-008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS, AMENDING CHAPTER 6 OF THE UNIFIED DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR OTHER PROVISIONS.

Planning Consultant Tana Ross presented this item.

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

12. CONSIDERATION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. O-2022-009 CONDITIONAL USE PERMIT FOR 302 ACKER STREET ALLOWING MIXED-USE (Mayor Todd Kana)

Consideration and possible action to adopt:

ORDINANCE NO. O-2022-009

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, AMENDING ITS OFFICIAL ZONING MAP, BY APPROVING A

CONDITIONAL USE PERMIT WITHIN THE CITY OF MAGNOLIA, MONTGOMERY COUNTY, TEXAS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY TO REFLECT THE APPROVED CONDITIONAL USE PERMIT; PROVIDING FOR SEVERABILITY; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

Planning Consultant Tana Ross presented this item.

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

13. CONSIDERATION AND DISCUSSION OF PROPOSAL FROM GC MAGNOLIA, LP TO ENTER INTO ECONOMIC DEVELOPEMNT AGREEMENT FOR PROPOSED MAGNOLIA VILLAGE RETAIL CENTER (Mayor Todd Kana)

Patrick Egan, a Partner with the developers GC Magnolia, L.P., presented this item; a 60-acre tract with two large MUD projects all but the Multi-Family complex within the MUD located at the SE corner of Spur 149 and FM 1488. Approximately 43 acres will be commercial and generating sales tax.

14. CONSIDERATION – ACCEPT AND APPROVE PETITION FOR CONSENT TO ANNEXATION OF 98.58 ACRES BY FORESTAR (USA) REAL ESTATE GROUP, INC INTO THE CITY OF MAGNOLIA WITHIN AREA OF EXTRATERRITORIAL JUSRIDJCTION BY ADOPTING ORDINANCE NO. O-2022-010 (Mayor Todd Kana)

Consideration and possible action to adopt:

ORDINANCE NO. O-2022-010

AN ORDINANCE INCLUDING THE HEREINAFTER DESCRIBED TERRITORY TO THE EXTRATERRITORIAL JURISDICTION OF CITY OF MAGNOLIA TEXAS, MONTGOMERY COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID EXTRATERRITORIAL JURISDICTION SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY THAT MAY APPLY WITHIN THE EXTRATERRITORIAL JURISDICTION.

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

15. CONSIDERATION - APPROVE ORDINANCE NO. O-2022-0011 AMENDING ARTICLE IV OF CHAPTER 94 OF THE CITY CODE OF ORDINANCES (Mayor Todd Kana)

Consideration and possible action to adopt:

ORDINANCE NO. O-2022-011

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, AMENDING ARTICLE IV OF CHAPTER 94 "UTILITIES" OF THE CODE OF ORDINANCES OF THE CITY OF MAGNOLIA, TEXAS; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND MAKING OTHER PROVISION RELATED THERETO.

City Attorney Leonard Schneider informed Council that the City Engineer recommended the City put in language for well head protection in Chapter 94 of the City Code of Ordinances. City Engineer Mike Kurzy explained the requirements by Texas Commission on Environmental Quality (TCEQ).

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

16. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE A PROPOSAL TO PAVE COMMERCE STREET UNDER TERMS OF THE INTERLOCAL AGREEMENT WITH MONTGOMERY COUNTY (Mayor Todd Kana)

City Administrator Don Doering presented this item and noted that the use of HB445 money in the bank will be used for funding. City Attorney Leonard Schneider noted the proposal is by Larry Young Paving in the amount of \$76,000.

MOTION: Upon a motion to approve a proposal to pave commerce street under terms of the Interlocal Agreement with Montgomery County made by Councilmember Carby and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 5-0.

17. CONSIDERATION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. R-2022-016 AUTHORIZING EXECUTION OF LOAN AGREEMENT FROM STATE INFRASTRUCTURE BANK (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS, AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT FROM THE STATE INFRASTRUCTURE BANK; AUTHORIZING MAYOR TODD KANA TO ACT ON BEHALF OF THE CITY OF MAGNOLIA IN ALL MATTERS RELATING TO THE LOAN AGREEMENT.

City Administrator Don Doering presented this item and reminded Council the application was already approved previously and this resolution creates the terms of the loan which TxDOT is demanding the City to move utilities out of their right-of-way in the amount of \$2.8 million dollars.

MOTION: Upon a motion to approve Resolution No. R-2022-016 made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

18. SECOND 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 was present to answer any questions.

MOTION: Upon a motion to approve Resolution No. R-2022-014 made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

19. CONSIDERATION, AND POSSIBLE ACTION TO TERMINATE TASK ORDER NO. 20-03 AND ANY AMENDMENTS TO THE TASK ORDER WITH STRAND ENGINEERING SERVICES REGARDING FM 1488 FORCE MAIN LOCATION AND AUTHORIZE CITY ADMINISTRATOR TO SEND WRITTEN NOTICE OF TERMINATION AND ASSIGN REMAINDER OF THE ENGINEERING SERVICES TO CITY ENGINEER, AEI ENGINEERING (Mayor Todd Kana)

City Administrator Don Doering presented this item and informed the City has received two proposals and recommends AEI Engineering to get this project that is beyond a year overdue completed. City Attorney Leonard Schneider noted there was a provision in the contract with Strand that allowed for written termination.

MOTION: Upon a motion to terminate Task Order No. 20-03 and any amendments to the task order with Strand Engineering services regarding FM 1488 Force Main location and authorize City Administrator to send written notice of termination and assign remainder of the engineering services to City Engineer, AEI engineering made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

20. DISCUSSION REGARDING AEI ENGINEERING WORK ORDER FOR MAGNOLIA TRANSPORTATION MASTER PLAN (Mayor Todd Kana)

City Engineer Mike Kurzy presented this item and informed Council that in 2020 the City had a population of 3,990 and in 2025 the population is expected to expand to 30,000 and the need for a transportation plan that addresses all the traffic coming through. He is recommending bringing forth a proposal.

21. CONSIDERATION AND POSSIBLE ACTION TO APPROVE THE SECOND AMENDMENT TO WHOLESALE WATER SUPPLY AND SANITARY SEWER AGREEMENT BETWEEN THE CITY OF MAGNOLIA AND AUDUBON MAGNOLIA DEVELOPMENT, LLC, ET AL (Mayor Todd Kana)

City Attorney Leonard Schneider presented this item and explained it allows for other entities to be brought in under the agreement and he has no objection to the form of content.

MOTION: Upon a motion to approve the Second Amendment to Wholesale Water Supply and Sanitary Sewer Agreement between the City of Magnolia and Audubon Magnolia Development, LLC, ET AL made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

22. CONSIDERATION AND POSSIBLE ACTION TO AUTHORIZE AWARD OF CONTRACT FOR WATER PLANT #3 CLEARING AND GRUBBING TO L L & G CONSTRUCTION INC. IN THE AMOUNT OF \$51,450. (Mayor Todd Kana)

City Administrator Don Doering informed Council that he and the City Engineer were in attendance at the bid opening and LG&G Construction Inc. was the low bidder and recommends approval. City Engineer Mike Kurzey also noted that there were seven bids total and they have worked with the construction company in the past and their references turned out good so he has no objection to award the contract to the company. It was determined by Mr. Kurzy the actual name of the company is LG&G Construction, Inc.

MOTION: Upon a motion to award the contract for Water Plant #3 Clearing and Grubbing to LG&G Construction Inc. in the amount of \$51,450 made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 5-0.

23. 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 following contracts with Audubon: Wholesale Water Supply and Sanitary Sewer Agreement and the Land Use Planning and Cooperation Agreement.

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 Impact Fees and amending Impact Fees

Mayor Todd Kana convened into Closed Executive Session at 7:55 p.m.

24. **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 8:20 p.m.

MOTION: Upon a motion to authorize staff to respond to Audubon's letter dated April 8, 2021 made by Councilmember Carby and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 5-0.

**25. ADMINISTRATION - DEPARTMENT REPORTS
ACTIVITIES/ UPDATES/ ANNOUNCEMENTS AND ITEMS OF COMMUNITY INTEREST**

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

Police Chief Kyle Montgomery was absent due to attendance at out-of-town training.

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

City Administrator Don Doering reported in addition to meeting with developers and construction engineers he attended a preconstruction meeting on Nichols Sawmill Sanitary Extension Phase 3; the 24-inch sewer line being brought up from the treatment plant all the way up to FM 1488 and noted that with the fiscal year 50% over we have collected 55% budgeted revenue and spent 41% of our budgeted expenses. Mr. Doering informed Council the City had received \$46,483 from public auction for their undervalued surplus in the bone yard that was previously approved by Council. Crystal Supak was commended for her efforts.

26. 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 8:24 p.m.



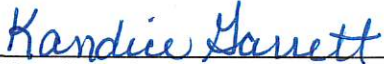


Todd Kana, Mayor

CERTIFICATION

I certify that this is a true and correct copy of the minutes of the meeting of the City Council meeting held on April 12, 2022.

ATTEST:



Kandice Garrett, City Secretary