

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
Christian Gable, Planning Coordinator
Mike Kurzy, AEI Engineering

**MINUTES OF THE JOINT PUBLIC HEARING
WITH CITY COUNCIL AND PLANNING &
ZONING COMMISSION AND REGULAR CITY
COUNCIL MEETING OF THE CITY COUNCIL
OF THE CITY OF MAGNOLIA
JUNE 14, 2022**

A meeting of the City Council was held on this date, June 14, 2022, beginning at 6:30 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 6:30 p.m.

a. INVOCATION

Councilmember Dantzer 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, Daniel Miller, Matthew Dantzer, Brenda Hoppe and Jack L Huitt Jr.

Absent: Richard Carby

Chairman Shelburne called roll for the Planning & Zoning Commission members and declared a quorum present with the following members in attendance: Scott Shelburne, Anne Sundquist, Trevor Brown, and Holly Knee.

Absent: Josh Jakubik, Tom Mayhew, and Robert Franklin

Staff present: City Administrator Don Doering, City Secretary Kandice Garrett, and Planning Coordinator Christian Gable

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 JOINT PUBLIC HEARING WITH CITY COUNCIL AND PLANNING & ZONING COMMISSION FOR CONDITIONAL USE PERMIT**

Mayor Todd Kana opened the Joint Public Hearing at 6:32 p.m.

NOTICE OF PUBLIC HEARING

On June 14, 2022 at 6:00 p.m. City of Magnolia Planning and Zoning Commission and City Council will hold a joint 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:

- Conditional Use Permit for Magnolia ISD Williams Elementary School at 18101 FM 1488 concerning use of preconstructed buildings in a nonresidential, Public Use (PU) zoned district.

Mayor Kana read aloud the Notice of Public Hearing.

Planning & Zoning Chairman Scott Shelburne provided an overview of the item and recommendation for approval.

Tim Bruner, Executive Director of Facilities for Magnolia ISD, addressed the Council and provided additional information.

4. **CLOSE JOINT PUBLIC HEARING WITH CITY COUNCIL AND PLANNING & ZONING COMMISSION AND CONVENE JOINT OPEN MEETING WITH CITY COUNCIL AND PLANNING & ZONING COMMISSION**

Mayor Todd Kana closed the Joint Public Hearing and convened the Joint Open Meeting at 6:33 p.m.

5. **CONSIDERATION AND POSSIBLE ACTION BY PLANNING & ZONING COMMISSION REGARDING CONDITIONAL USE PERMIT FOR MAGNOLIA ISD WILLIAMS ELEMENTARY SCHOOL AT 18101 FM 1488**

MOTION: Upon a motion to approve the Conditional Use Permit for Magnolia ISD Williams Elementary School at 18101 FM 1488 made by Trevor Brown and seconded by Anne Sundquist, the Commission members present voted and the motion carried unanimously, 4-0.

6. **ADJOURN JOINT PUBLIC HEARING WITH CITY COUNCIL AND PLANNING & ZONING COMMISSION AND RECONVENE OPEN REGULAR CITY COUNCIL MEETING**

Mayor Todd Kana closed the Joint Public Hearing at 6:45 p.m. and convened the Joint Open Meeting at 7:00 p.m.

REGULAR CITY COUNCIL MEETING

Mayor Kana opened up the Regular meeting at 7:00 PM and asked for any persons wanting to speak on public comments not associated with agenda items. There were no speakers.

7. **OPEN PUBLIC HEARING ON UDC TEXT AMENDMENTS**

Mayor Todd Kana opened the Public Hearing at 7:01 p.m.

NOTICE OF PUBLIC HEARING

On June 14, 2022 at 7 pm 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 the following text amendments to the City of Magnolia Unified Development Code and rezonings to the City of Magnolia Official Zoning Map:

- Chapter 2 - Zoning Districts and Land Uses, Table 2-2-1.02 Land Uses concerning 1) alcohol sales, offsite consumption in a Suburban Village district, and; 2) light industry in a Business Park district.

Mayor Kana read aloud the Notice of Public Hearing.

Marcy Parker, 31602 Hanks Rd., Magnolia, TX 77355 spoke in opposition to this item.

Frank Parker, 31602 Hanks Rd., Magnolia, TX 77355 spoke in opposition to this item.

Cathy Yowell, 215 Dogwood Trail, Magnolia, TX 77354 spoke in opposition to this item.

Stacy Anzick, 19702 Sapphire Cir., Magnolia, TX 77355 spoke in opposition to this item.

John Bramlett, 223 Amarillo Dr., Magnolia, TX 773 spoke in opposition to this item.

8. **CLOSE PUBLIC HEARING**

Mayor Kana closed the Public Hearing at 7:15 p.m.

9. **ADJOURN PUBLIC HEARING AND CONVENE OPEN REGULAR MEETING**

Mayor Todd Kana closed the Public Hearing and convened the Regular Meeting at 7:15 p.m.

10. CONSIDERATION AND POSSIBLE ACTION TO APPROVE CONDITIONAL USE PERMIT FOR MAGNOLIA ISD PLACEMENT OF TWO PRECONSTRUCTED, PORTABLE BUILDINGS AT 18101 FM 1488, WILLIAMS ELEMENTARY SCHOOL CAMPUS

MOTION: Upon a motion to approve the Conditional Use Permit for Magnolia ISD Placement of two preconstructed, portable buildings at 18101 FM 1488, Williams Elementary School Campus made by Councilmember Dantzer and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 4-0.

11. CONSIDERATION AND POSSIBLE ACTION TO APPROVE UDC TEXT AMENDMENT FOR ALCOHOL SALES, BOTH ON PREMISE AND OFF PREMISE CONSUMPTION IN SUBURBAN VILLAGE DISTRICTS BY ADOPTION OF ORDINANCE NO. O-2022-018
Consideration and possible action to adopt:

ORDINANCE NO. O-2022-018
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS, AMENDING CHAPTER 2 OF THE UNIFIED DEVELOPMENT CODE REGARDING ALCOHOL SALES IN SUBURBAN VILLAGE DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR OTHER PROVISIONS

Marcy Parker requested Councilmembers speak in the open meeting regarding their opinions on this matter. A motion and a second was made to open up discussion. Councilmember Hoppe, Councilmember Dantzer and Mayor Kana spoke regarding this item. Police Chief Montgomery was asked a question and provided input.

MOTION: Upon a motion to approve Ordinance No. O-2022-018 made by Councilmember Dantzer and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 4-0.

12. CONSIDERATION AND POSSIBLE ACTION TO APPROVE UDC TEXT AMENDMENT FOR LIGHT INDUSTRY USE IN BUSINESS PARK DISTRICTS BY ADOPTION OF ORDINANCE NO. O-2022-019
Consideration and possible action to adopt:

ORDINANCE NO. O-2022-019
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS, AMENDING CHAPTER 2 OF THE UNIFIED DEVELOPMENT CODE REGARDING CONDITIONAL USE OF LIGHT INDUSTRY IN BUSINESS PARK DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR OTHER PROVISIONS

City Administrator Don Doering presented this item and informed Council that staff recommends approval.

MOTION: Upon a motion to approve Ordinance No. O-2022-019 made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 4-0.

13. PROCLAMATIONS AND SPECIAL RECOGNITIONS (Mayor Todd Kana)
Presentation to Public Works by Anne Sundquist

Magnolia Festival Committee Chair Anne Sundquist presented special thanks to Public Works Director Burt Smith and Park Manager Jason Daniel for their outstanding support and service in helping to create a successful event at the Magnolia BBQ Cookoff in April. She also acknowledged others who contributed their time to the event and noted that J Tech Mechanical and PT Welding donated the trophies which were handmade by PT Welding and will be displayed by Public Works.

14. 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 Joint Public Hearing with City Council and Planning & Zoning Commission and Regular City Council Meeting held May 10, 2022.

b. CONSIDERATION – APPROVAL OF MINUTES

Consideration and possible action to approve the minutes of the Special City Council Meeting held May 17, 2022.

MOTION: Upon a motion to approve the Consent Agenda made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 4-0.

15. CONSIDERATION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. O-2022-020 EPCOR VARIANCE REQUEST TO BILL AD VALOREM TAX (Mayor Todd Kana)
Consideration and possible action to adopt:

ORDINANCE NO. O-2022-020

AN ORDINANCE BY THE CITY OF MAGNOLIA, TEXAS, APPROVING THE BILLING VARIANCE REQUEST OF EPCOR GAS TEXAS INC. FILED ON JUNE 2, 2022; REQUIRING EPCOR GAS TEXAS, INC. TO PROVIDE AN UPDATED TARIFF AND OTHER FILINGS IN COMPLIANCE WITH THE APPROVED VARIANCE; 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 presented this item and explained EPCOR's intent is to recover over a 5-month period instead of 1 month to spread out the cost and the documents were reviewed by the Lawton Law firm.

MOTION: Upon a motion to approve Ordinance No. O-2022-020 made by Councilmember Hoppe and seconded by Councilmember Huitt, the Councilmembers voted, and the motion carried unanimously, 4-0.

16. CONSIDERATION – ACCEPT AND APPROVE PETITION FOR CONSENT TO ANNEXATION OF 151.741 ACRES BY FORESTAR (USA) REAL ESTATE GROUP, INC INTO MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 174 BY ADOPTING RESOLUTION NO. R-2022-022 (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, MONTGOMERY COUNTY, TEXAS, CONSENTING TO THE ANNEXATION OF 151.741 ACRES INTO MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 174

City Attorney Leonard Schneider stated he had no objection to the petition or the resolution. Christina Miller, Attorney for the MUD 174 was present to answer any questions and noted the annexation is by Magnolia Escondido and not Forestar.

MOTION: Upon a motion to approve Resolution No. R-2022-022 with the correction that the annexation is by Magnolia Escondido and not Forestar made by Councilmember Hoppe and seconded by Councilmember Huitt, the Councilmembers voted, and the motion carried unanimously, 4-0.

17. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION ON THE PROPOSED CHAPTER 380 MAGNOLIA VILLAGE ECONOMIC DEVELOPMENT AGREEMENT WITH GC MAGNOLIA, LP (Mayor Todd Kana)

City Attorney Leonard Schneider presented this item and stated that he had no objection to the final agreement. Christina Miller added further explanation on this item. There was further discussion.

MOTION: Upon a motion to approve proposed Chapter 380 Magnolia Village Economic Development Agreement with GC Magnolia, LP made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 4-0.

18. CONSIDERATION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. O-2022-021 REGARDING UNIGAS FILING IN MAY 2022 (Mayor Todd Kana)

Consideration and possible action to adopt:

ORDINANCE NO. O-2022-021

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, SUSPENDING THE RATES PROPOSED BY UNIVERSAL NATURAL GAS, LLC D/B/A UNIVERSAL NATURAL GAS, INC.'S GAS RELIABILITY INFRASTRUCTURE PROGRAM FILING MADE WITH THE CITY ON OR ABOUT MAY 2, 2022; 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 presented this item and provided a brief review and recommendation for approval.

MOTION: Upon a motion to approve Ordinance No. O-2022-021 made by Councilmember Hoppe and seconded by Councilmember Huitt, the Councilmembers voted, and the motion carried unanimously, 4-0.

19. **CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. R-2022-023 REPLACING R-2022-019 TO DESIGNATE AUTHORIZED SIGNATORIES FOR THE 2021 TEXAS CDBG PROGRAM, GRANT AGREEMENT NUMBER CDV21-0209** (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-023

A RESOLUTION BY THE CITY COUNCIL OF CITY OF MAGNOLIA DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (TXCDBG) GRANT AGREEMENT NUMBER CDV21-0209

City Administrator Don Doering presented this item and explained upon a technicality with a signature being obtained after the last passing of the resolution the City is being asked to repass the resolution. This is for the \$350,000 CDBG Block Grant.

MOTION: Upon a motion to approve Resolution No. R-2022-023 made by Councilmember Hoppe and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 4-0.

20. **CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. R-2022-024 REPLACING R-2022-020 ADOPTING REQUIRED CDBG CIVIL RIGHTS POLICIES** (Mayor Todd Kana)

Consideration and possible action to adopt:

RESOLUTION NO. R-2022-024

Resolution Regarding Civil Rights
The City of Magnolia, Texas

MOTION: Upon a motion to approve the Resolution No. R-2022-024 made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 4-0.

21. **CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO GIVE 30-DAY NOTICE TO TERMINATE ALL AGREEMENTS, CONTRACTS, AMENDMENTS, AND WORK ORDERS BETWEEN THE CITY OF MAGNOLIA AND STRAND ASSOCIATES, INC.**
(Mayor Todd Kana)

City Administrator Don Doering presented this item and noted the only project Strand is currently working on is to start up the new Wastewater Treatment Plant and with delays for CenterPoint to install electricity Strand continues to bill the City. Don is asking Council to stop all outstanding task orders with Strand. City Attorney Leonard Schneider conceded that the 30-day notice does comply with contractual terms.

MOTION: Upon a motion to give 30-day notice to terminate all agreements, contracts, amendments, and work orders between the City of Magnolia and Strand Associates, Inc. made by Councilmember Hoppe and seconded by Councilmember Huitt, the Councilmembers voted, and the motion carried unanimously, 4-0.

22. **CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE AEI ENGINEERING SERVICES WORK ORDER 22-006 FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR WASTEWATER TREATMENT PLANT EXPANSION NOT TO EXCEED \$27,000** (Mayor Todd Kana)

City Administrator Don Doering recommended approval to Council. City Engineer Mike Kurzy was present to answer any questions.

MOTION: Upon a motion to approve AEI Engineering Services Work Order 22-006 for Construction Management and Inspection Services for Wastewater Treatment Plant Expansion not to exceed \$27,000 made by Councilmember Hoppe and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 4-0.

23. **CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE THE PROFESSIONAL SERVICES AGREEMENT BETWEEN CITY OF MAGNOLIA AND LJA ENGINEERING FOR SITE ACQUISITION FOR THE WWTP CONSISTING OF A PORTION OF THE 25 ACRE TRACT ON THE WEST SIDE OF HWY 249**
(Mayor Todd Kana)

City Attorney Leonard Schneider stated he had no objections to the contract other than a few minor changes for LJA to make prior to execution. City Engineer Mike Kurzy and City

Administrator Don Doering provided additional information on this item.

MOTION: Upon a motion to approve the Professional Services Agreement between City of Magnolia and LJA Engineering for site acquisition for the WWTP consisting of a portion of the 25-acre tract on the west side of Hwy. 249 subject to City Attorney review made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 4-0.

24. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE AEI ENGINEERING CHANGE ORDER NO. 1 FM 1488 FORCE MAIN CONSTRUCTION AND WATER LINE RELOCATION (Mayor Todd Kana)

City Engineer Mike Kurzy presented this item and explained this is a Strand Change Order they reviewed for the lowering of the Force Main required by TxDOT and after changes there is a total contract increase of \$132,125.00 and an additional 210 days added to the contract time because they were delayed 210 days.

MOTION: Upon a motion to approve AEI Engineering Change Order No. 1 FM 1488 Force Main Construction and Water Line Relocation made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 4-0.

25. CONSIDERATION – APPROVAL TO SELL ALCOHOL AT THE 2ND ANNUAL PATRIOTS OF TEXAS FEST COOKOFF AND CONCERT EVENT AT UNITY PARK SEPTEMBER 16-17, 2022 (Mayor Todd Kana)

MOTION: Upon a motion to approve the sale of alcohol at the 2nd Annual Patriots of Texas Fest Cookoff and Concert Event at Unity Park September 16-17, 2022 made by Councilmember Dantzer and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 4-0.

26. CONSIDERATION – APPROVE STREET CLOSURES FOR THE 2ND ANNUAL PATRIOTS OF TEXAS FEST COOKOFF AND CONCERT EVENT AT UNITY PARK SEPTEMBER 16-17, 2022 (Mayor Todd Kana)

MOTION: Upon a motion to approve street closures for the 2nd Annual Patriots of Texas Fest Cookoff and Concert Event at Unity Park September 16-17, 2022 made by Councilmember Dantzer and seconded by Councilmember Hoppe, the Councilmembers voted, and the motion carried unanimously, 4-0.

27. 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.)

None

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

None

29. **ADMINISTRATION - DEPARTMENT REPORTS
ACTIVITIES/ UPDATES/ ANNOUNCEMENTS & ITEMS OF COMMUNITY INTEREST**

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

Police Chief Kyle Montgomery reviewed his report with Council included in their packet and noted the three replacement vehicles are all in service at this time. The department is going through background applications for an additional new hire.


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

City Administrator Don Doering went over a brief summary of his monthly report provided in their packet. He noted the new well site is being cleared and his attendance of weekly AEI Engineering team meetings prove to be productive. Also mentioned was his attendance at a CenterPoint Emergency Operations planned meeting. Further noted, with the fiscal year 67% over we have collected 78% budgeted revenue and spent 57% of our budgeted expenses. In addition, the City has collected 97% budgeted revenue in sales tax to date. The City has exceeded 305% of budgeted revenue for building permits.

30. **ADJOURN**

MOTION: Upon a motion to adjourn made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 4-0 and the meeting was adjourned at 7:56 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 June 14, 2022.

ATTEST:

Kandice Garrett
Kandice Garrett, City Secretary