

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
Leonard Schneider, City Attorney
Kyle Montgomery, Police Chief
Beverly Standley, Finance/HR Administrator
Tim Robertson, City Engineer
Mike Kurzy, Baxter & Woodman
Christian Gable, City Secretary

MINUTES OF PUBLIC MEETING OF THE MAGNOLIA CITY COUNCIL DECEMBER 12, 2023

A meeting of the City Council was held on this date, December 12, 2023, beginning at 6:00 pm in the Sewall Smith Council Chambers 18111 Buddy Riley Blvd., Magnolia, Texas 77354.

1. CALL MEETING TO ORDER

Mayor Todd Kana called the meeting to order at 6:00 pm.

a. **INVOCATION**

Councilmember Dantzer delivered the invocation.

b. **PLEDGE OF ALLEGIANCE**

Mayor Kana led the Pledge of Allegiance to the USA and Texas flags.

c. **ROLL CALL AND CERTIFICATION OF A QUORUM**

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

Absent: None

Staff present: City Administrator Don Doering, City Attorney Leonard Schneider, City Engineer Tim Robertson, Finance/HR Administrator Beverly Standley, Economic Development Director Rachel Steele, Police Chief Kyle Montgomery, City Secretary Christian Gable.

2. CITIZEN COMMENTS, REQUESTS OR PETITIONS FROM THE PUBLIC

(This agenda item provides an opportunity for citizens to address the City Council on any matter not on the agenda).

Comments shall be limited to three (3) minutes per person. Comments by the governing body shall be limited to:

- a. *Statements of specific factual information given in response to an inquiry;*
- b. *A recitation of existing policy in response to an inquiry;*
- c. *A proposal to place the subject on a future agenda.*

Jason Shelton, owner of Magnolia Small Engine, spoke about the "no parking" signs placed along a side of his property. He explained the original purpose of these signs and how they are no longer serving their original purpose and have become a safety hazard for his customers as explained at November's City Council meeting.

3. OPEN PUBLIC HEARING

Mayor Kana opened the public hearing at 6:02 pm and read the Notice of Public Hearing.

There were no comments or questions from the public.

**NOTICE OF PUBLIC HEARING ON THE EXTENSION OF A MORATORIUM ON THE
ACCEPTANCE, AUTHORIZATION, AND APPROVALS NECESSARY FOR THE
SUBDIVISION, SITE PLANNING, DEVELOPMENT, PROPERTY DEVELOPMENT, OR
CONSTRUCTION IN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION
OF THE CITY OF MAGNOLIA, MONTGOMERY COUNTY, TEXAS,
UNDER CHAPTER 212, TEXAS LOCAL GOVERNMENT CODE.**

On Thursday, December 16, 2022, a temporary moratorium was put in effect on the acceptance, authorization, and approvals necessary for the subdivision, site planning, property development, including residential and commercial property development or construction in the City limits and Extraterritorial Jurisdiction for new projects. A continuing Moratorium was imposed by the adoption of Ordinance No. O-2022-031 on December 21, 2022 with an expiration date of April 20, 2023.

Thereafter, on April 11, 2023, the City adopted Ordinance No. O-2023-003, with an effective date of April 20, 2023 extending the moratorium an additional 120 days.

Thereafter on August 8, 2023, the City adopted Ordinance No. O-2023-011 extending the moratorium an additional 120 days. The Current Moratorium is set to expire on or about December 16, 2023, unless it is extended before that date by Ordinance adopted by City Council.

City residents and affected parties are encouraged to provide input on whether the Current Moratorium should be extended an additional 120 days. The Public hearing to extend the Current Moratorium and City Council Meeting will be held on the following date and time:

Hearing: City Council, Tuesday, December 12, 2023, at 6:00p.m.

The public hearing will be conducted in the Sewell Smith Council Chambers, located at 18111 Buddy Riley Blvd, Magnolia, Texas for all persons interested in the Current Moratorium and the extension of the Current Moratorium. At such time and place, all such persons shall have the right to appear and be heard. All persons interested in the moratorium and matters in relation thereto shall take notice of the date and time of said hearing.

The City conducted an analysis to determine the adequacy of the City's current regional water facilities and the need beyond the estimated capacity that is expected to result from new property development. The City has been provided certain findings related to the potential inadequacy of the existing water facilities to prevent a shortage of essential public facilities. The Moratorium is necessary to maintain the status quo and suspend further development during a period while the City actively took steps to alleviate the inadequacy of the existing water facilities to prevent a shortage of essential public facilities. The public hearing is to receive public input on whether the Current Moratorium should be extended.

4. CLOSE PUBLIC HEARING AND CONVENE REGULAR MEETING

Mayor Kana closed the Public Hearing and reconvened the regular meeting at 6:03 pm.

5. 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 November 14, 2023.

b. CONSIDERATION AND POSSIBLE ACTION TO APPROVE SITE PLAN FOR LOWE’S (Mayor Todd Kana)

c. CONSIDERATION AND POSSIBLE ACTION TO APPROVE SITE PLAN FOR SALAD AND GO (Mayor Todd Kana)

d. CONSIDERATION AND POSSIBLE ACTION TO APPROVE SITE PLAN FOR SWIG (Mayor Todd Kana)

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.

6. CONSIDERATION AND POSSIBLE ACTION TO ADOPT ORDINANCE NO. O-2023-017 EXTENDING THE MORATORIUM ENACTED BY ORDINANCE NO. O-2023-011 (Mayor Todd Kana)

MOTION: Upon a motion to go into Closed Executive Session under Texas Government Code §551.071 (Consultation with Attorney) regarding Ordinance No. O-2023-017 made by Councilmember Carby and seconded by Councilmember Huitt, the Councilmembers voted, the motion carried unanimously, and the Councilmembers convened into Closed Executive Session at 6:04 pm.

Mayor Kana adjourned Closed Executive Session and reconvened the open meeting at 6:20 pm.

MOTION: Upon a motion to adopt Ordinance No. O-2023-017 made by Councilmember Carby and seconded by Councilmember Huitt, the Councilmembers voted, and the motion carried unanimously, 5-0.

7. CONSIDERATION AND POSSIBLE ACTION ON RESOLUTION NO. R-2023-008 APPROVING THE MAGNOLIA 4B COMMUNITY DEVELOPMENT CORPORATION’S 2024 ANNUAL PROJECTS LIST (Mayor Todd Kana)

Economic Development Director Rachel Steele presented this item as the second reading to approve the 2024 Annual Projects List for the 4B Community Development Corporation.

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

8. CONSIDERATION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. R-2023-013 AUTHORIZING A MULTIPLE USE AGREEMENT WITH TXDOT FOR AUTOMATED LICENSE PLATE READERS (Mayor Todd Kana)

Police Chief Kyle Montgomery presented the purpose of the Agreement.

City Attorney Leonard Schneider had no objections to approving the agreement.

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

9. PRESENTATION BY GRANTWORKS REGARDING TEXAS DEPARTMENT OF AGRICULTURE (TDA) GRANT (Mayor Todd Kana)

Section 3 Presentation was delivered by Jordan Mahoney, Community Development Grant Project Manager of GrantWorks, Inc., related to Texas Department of Agriculture grant contract number CDV21-0209.

10. CONSIDERATION – APPROVE PETITION FOR CONSENT TO ANNEX LAND INTO MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO.116, APPROXIMATELY +/- 29.249 ACRE TRACT BY ADOPTION OF RESOLUTION NO. R-2023-011 (Mayor Todd Kana)

Christina Miller with ABHR presented this item, explaining that the property is located in the City's ETJ and is non-contiguous.

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

11. CONSIDERATION – APPROVE PETITION FOR CONSENT TO ANNEX LAND INTO MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO.116, APPROXIMATELY +/- 84.35 ACRE TRACT BY ADOPTION OF RESOLUTION NO. R-2023-012 (Mayor Todd Kana)

Christina Miller with ABHR presented this item, explaining that the property is located in the City's ETJ and is non-contiguous.

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

12. CONSIDERATION AND POSSIBLE ACTION TO APPROVE AMENDMENT TO THE CONTRACT BETWEEN THE CITY AND HYDRO CLEAR SERVICES, LLC (Mayor Todd Kana)

Jimmy Thornton with Hydro Clear Services, LLC presented the details of the amendment as defined in the meeting packet.

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

13. CONSIDERATION AND POSSIBLE ACTION TO APPROVE FIRST AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT WITH GC MAGNOLIA, LP

(Mayor Todd Kana)

Christina Miller with ABHR explained the purpose of the amendment and listed the proposed changes to the agreement as defined in the meeting packet.

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

14. CONSIDERATION AND POSSIBLE ACTION TO APPOINT CHRISTIAN GABLE TO CITY SECRETARY POSITION (Councilman Jack Huitt)

Christian Gable stated that all of her certifications and training details are provided in the meeting packet.

MOTION: Upon a motion to appoint Christian Gable to the City Secretary position made by Councilmember Carby and seconded by Councilmember Huitt, the Councilmembers voted, and the motion carried unanimously, 5-0.

15. 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 on MISD v City of Magnolia, et al and SJRA v Cities of Conroe and Magnolia; and to receive legal advice on sanitary sewer force main and water line easement from Audubon Magnolia Development, LLC; and to receive legal advice concerning the Wholesale Water Supply and Sanitary Sewer Agreement and addendums between the City of Magnolia and Audubon and Demand Letter by Audubon.

Mayor Kana convened into Closed Executive Session at 6:36 pm.

16. RECONVENE into regular session and consider and/or take action on item(s) discussed in executive session.

Mayor Kana adjourned Closed Executive Session and reconvened the open meeting at 7:12 pm.

MOTION: Upon a motion to allow the City Attorney and City Administrator to hire an appraiser for the Audubon Magnolia Development easement made by Councilmember Carby and seconded by Councilmember Huitt, the Councilmembers voted and the motion carried unanimously, 5-0.

MOTION: Upon a motion to authorize the Mayor and City Attorney to attend mediation with Audubon made by Councilmember Carby and Councilmember Huitt, the Councilmembers voted, and the motion carried unanimously, 5-0.

17. ADMINISTRATION - DEPARTMENT REPORTS

ACTIVITIES/ UPDATES/ ANNOUNCEMENTS AND ITEMS OF COMMUNITY INTEREST

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

Police Chief Kyle Montgomery gave a brief summary of the report found in the meeting packet. Councilmembers brought it to Chief's attention that two birdbaths have gone missing recently.

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


City Administrator Don Doering gave a brief summary of the report found in the meeting packet.

c. ADMINISTRATION DEPARTMENT (City Administrator, Don Doering)

City Administrator Don Doering gave a brief summary of the report found in the meeting packet.

18. ADJOURN

MOTION: Upon a motion to adjourn made by Councilmember Carby and seconded by Councilmember Dantzer, the Councilmembers voted, the motion carried unanimously, 5-0, and the meeting adjourned at 7:18 pm.



Todd Kana, Mayor

CERTIFICATION

I certify that this is a true and correct copy of the minutes of the City Council meeting held on December 12, 2023.





Christian Gable, City Secretary