

Mayor Todd Kana
Daniel Miller, Position 1
Matthew Dantzer, Position 2
Richard Carby, Mayor Pro Tem / Position 3
Brenda Hoppe, Position 4
Josh Abernathy, 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

MINUTES OF THE PUBLIC HEARING AND REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA DECEMBER 14, 2021

A meeting of the City Council was held on this date, December 14, 2021, 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

Leonard Schneider delivered the invocation.

b. PLEDGE OF ALLEGIANCE

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

c. ROLL CALL AND CERTIFICATION OF QUORUM

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

Absent: Rick Carby and Josh Abernathy

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

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.)*

Jane Khalimova, 40374 Blossom Valley Ln., Magnolia, TX 77354 spoke to Council regarding her water bill and felt that it was a high amount for her household. Staff and the Mayor explained that the water bill seems to be in line with the average user according to the City's rates; however, some other customers living in Mill Creek are having issues with excessively high water bills and the City is addressing that problem.

3. OPEN PUBLIC HEARING

Mayor Todd Kana opened the Public Hearing at 7:12 p.m.

NOTICE OF PUBLIC HEARING

The City Council of Magnolia, Texas (the "City") will hold two public hearings regarding the adoption of a Strategic Partnership Agreement (the "Agreement") between the City and Montgomery County Municipal Utility District No. 165 ("District") and for the limited purpose annexation of territory in the District. Members of the public who wish to present testimony or evidence regarding the proposed Agreement shall be given an opportunity to do so. The hearings will be held on the following dates and locations:

December 14, 2021, 7:00 p.m., at 18111 Buddy Riley Boulevard, Magnolia, Texas 77354; and

January 11, 2022, 7:00 p.m., at 18111 Buddy Riley Boulevard, Magnolia, Texas 77354.

In addition to other terms, the proposed Agreement will provide for the conditions under which the City may annex the District for full purposes, as well as for limited purposes for the collection of sales and use taxes. A copy of the proposed Agreement and the metes and bounds of the territory may be obtained prior to the hearings in the office of the City Secretary at 18111 Buddy Riley Boulevard, Magnolia, Texas 77354.

Mayor Kana read aloud the Notice of Public Hearing. There were no speakers.

4. CLOSE PUBLIC HEARING

Mayor Kana closed the Public Hearing at 7:02 p.m.

5. ADJOURN PUBLIC HEARING AND CONVENE OPEN REGULAR MEETING

Mayor Todd Kana closed the Public Hearing and convened the Regular Meeting at 7:02 p.m.

6. 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 PH & Regular City Council Meeting held November 9, 2021.

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, 3-0.

7. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE THE 2022 MAGNOLIA 4A EDC PROJECT LIST (Mayor Todd Kana)

Rachel Steele will present to the City Council the proposed project list for the Magnolia 4A Corporation and ask for their feedback and consideration of the list of eligible projects for the 4A Corporation to consider in 2022.

Economic Development Director Rachel Steele presented the 4A EDC Draft Project List to Council.

MOTION: Upon a motion to approve the 2022 Magnolia 4A EDC Project List made by Councilmember Hoppe and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 3-0.

8. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE THE 2022 MAGNOLIA 4B CAPITAL IMPROVEMENTS PROJECT LIST (CDCIP)

(Mayor Todd Kana)

Rachel Steele will present to the City Council the proposed project list for the Magnolia 4B Corporation and ask for their feedback and consideration of the list of eligible projects for the 4B Corporation to consider in 2022.

Rachel Steele presented the 4B Capital Improvements Draft Project List to Council.

MOTION: Upon a motion to approve the 2022 Magnolia 4B Capital Improvements Project List made by Councilmember Dantzer and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 3-0.

9. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE AMENDMENT NO. 3 FOR STRAND ASSOCIATES, INC. ON THE NICHOLS SAWMILL SANITARY SEWER PHASE III PROJECT (Mayor Todd Kana)

Consideration, discussion, and possible action to approve Amendment No. 3 to the August 20, 2018, Owner-Engineer Agreement for the Nichols Sawmill Sanitary Sewer Phase III Project.

Kelly Hajek with Strand explained to Council this Amendment addresses the issue of the contractor backing out of the project and the need to rebid for their replacement as well as provide a clean break from the project as it is being handed off to AEI Engineering. The proposed Amendment is a net deduction for \$56,196.

MOTION: Upon a motion to approve Amendment No. 3 for Strand Associates, Inc. on the Nichols Sawmill Sanitary Sewer Phase III Project made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 3-0.

10. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO AWARD THE CONSTRUCTION CONTRACT FOR THE CITY OF MAGNOLIA NICHOLS SAWMILL

SEWER IMPROVEMENTS PROJECT PHASE II, CDBG-DR CONTRACT NO. 19-076-015-B364 – 2016 FLOOD (Mayor Todd Kana)

Kelly Hajek with Strand reviewed the bid process for Council and stated that the City received six bids with Ballast Point Construction, out of Katy, TX being the lowest bidder at \$492,575.75 below the opinion of Engineer's probable cost. Although Strand has not worked with Ballast they were able to get two references with the same engineering firm. After further discussion it was decided to award the bid to Ballast.

MOTION: Upon a motion to award the construction contract to Ballast Point Construction for the City of Magnolia Nichols Sawmill Sewer Improvements Project Phase II, CDBG-DR Contract No. 19-076-015-B364-2016 flood made by Councilmember Hoppe and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 3-0.

11. **CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO ADOPT RESOLUTION NO. R-2021-032 COMMITTING UP TO \$26,021.79 IN CITY FUNDS TOWARDS THE CONSTRUCTION COST OF THE NICHOLS SAWMILL SEWER IMPROVEMENTS PROJECT PHASE II, CDBG-DR CONTRACT NO. 19-076-015-B364 – 2016 FLOOD (Mayor Todd Kana)**

Consideration and possible action to adopt:

RESOLUTION NO. R-2021-032

A RESOLUTION OF THE CITY COUNCIL OF MAGNOLIA COMMITTING LOCAL FUNDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) PROJECT WITH THE GENERAL LAND OFFICE (GLO), STATE CONTRACT NO. 19-076-015-B364.

Kelly Hajek with Strand noted this is a Resolution for GrantWorks, the Administrator of this grant, to cover the cost needed to complete the project to make up the difference from the low bidder amount and actual overage cost of the project.

MOTION: Upon a motion to adopt Resolution No. R-2021-032 committing up to \$26,021.79 in city funds towards the construction cost of the Nichols Sawmill Sewer Improvements Project Phase II, CDBG-DR Contract No. 19-076-015-B364 – 2016 flood made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 3-0.

12. **CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO DIRECT STAFF TO START PROCESS TO : (i) UPDATE LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENT PLANS; (ii) TO AMEND IMPACT FEE (Mayor Todd Kana)**

City Attorney Leonard Schneider informed Council of the process to amend impact fees which the City last did in 2019 and that is appointing an Advisory Committee, likely to be the Planning and Zoning Commission to review the study provided by the Engineer, make

recommendations to City Council, file a Land Use Assumptions and Capital Improvement Plan, have public hearings (may take up 120 days).

MOTION: Upon a motion to direct staff to start process to : (i) update Land Use Assumptions and Capital Improvement Plans; (ii) to amend impact fee made by Councilmember Hoppe and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 3-0.

- 13. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. O-2021-025 AGREEMENTS WITH WRECKER OWNERS AND OPERATORS FOR POLICE AUTHORIZED TOWS. THIS PROPOSED TOW TRUCK ORDINANCE IS TO REPLACE THE CURRENT ORDINANCE, WHICH IS OUTDATED AND INACCURATE (Mayor Todd Kana)**
Consideration and possible action to adopt:

ORDINANCE NO. O-2021-025
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS AMENDING CHAPTER 98 "VEHICLES FOR HIRE" OF THE CODE OF ORDINANCES OF THE CITY OF MAGNOLIA, TEXAS BY AMENDING ARTICLE III; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

Police Chief Kyle Montgomery presented the explanation for the update to this ordinance and City Attorney Leonard Schneider also reviewed and had no objections.

MOTION: Upon a motion to approve Ordinance No. O-2021-025 agreements with wrecker owners and operators for police authorized tows made by Councilmember Hoppe and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 3-0.

- 14. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO CANCEL CONTRACT WITH MOWING CONTRACTOR AND PURCHASE MOWING EQUIPMENT TO BE USED BY CITY STAFF (Mayor Todd Kana)**

City Administrator Don Doering informed the Council that the City is paying \$47,100 annually to a local contractor including Unity Park and various roadsides. The City could purchase all the needed equipment for \$32,000 and use City staff to get the job done. He noted that 4B has already cancelled the contract and he is seeking approval from Council to cancel the contract, purchase equipment and mow in-house.

MOTION: Upon a motion to cancel contract with mowing contractor and purchase mowing equipment to be used by City staff made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 3-0.

- 15. CONSIDERATION – APPROVE RESOLUTION NO. R-2021-031 CASTING FIVE (5) VOTES FOR CANDIDATE(S) TO SERVE ON BOARD OF DIRECTORS FOR**

MONTGOMERY CENTRAL APPRAISAL DISTRICT FOR TERM OF JAN. 1, 2022 – DEC. 31, 2023 AS CORRECTED FROM FOUR (4) VOTES AT NOVEMBER 9TH COUNCIL MEETING (Mayor Todd Kana)

MOTION: Upon a motion to approve Resolution No. R-2021-031 casting five (5) votes for candidate(s) to serve on Board of Directors for Montgomery Central Appraisal District for term of Jan. 1, 2022 – Dec. 31, 2023 as corrected from four (4) votes at November 9th Council meeting made by Councilmember Hoppe and seconded by Councilmember Miller, the Councilmembers voted, and the motion carried unanimously, 3-0.

16. 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 and updating the Wholesale Water Supply and Sanitary Sewer 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 Easement Acquisition for Utilities located at Piney Grove Mission, 16815 FM 1488.

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 7:26 p.m.

17. 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 8:13 p.m.

MOTION: Upon a motion to authorize staff to take any and all necessary action to acquire an easement of approximately 2,157 sq. ft. located at 16815 FM 1488, Magnolia, Montgomery County, Texas made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 3-0.

MOTION: Upon a motion to approve the settlement negotiated between Council of the City of Magnolia and Churches in the cases *Ex Parte City of Magnolia, Cause No. D-1-GN-18-006882* in *Churches v. City of Magnolia Cause No. D-1-GN-19-00716* made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 3-0.

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

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

Police Chief Kyle Montgomery reported that it was an uneventful month as stats have gone back down from a high previous month to where they should be. A couple of officers were in training and they hired an officer to replace a vacancy and looking to hire one more in hopes to be complete staff by next month. The K-9 graduated from his academy and may be brought to the next Council meeting for a proper introduction.

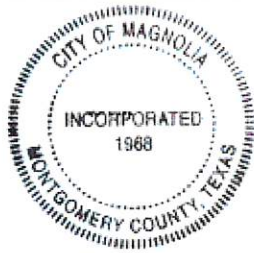
b. PUBLIC WORKS DEPARTMENT (Public Works Director, Don Doering)

c. ADMINISTRATION DEPARTMENT (City Administrator, Don Doering)

City Administrator Don Doering reported he met with the new waste collection company, GFL (formerly WCA), and they are proposing an amendment to the contract to pick up all the heavy trash every Friday without making a reservation through Utility Billing. Mr. Doering attended a HEB construction update meeting where they inquired about their certificate of occupancy. Mr. Doering also briefly went over a summary of the financials noting that we are significantly over budget in revenue for license and permits, sales tax, water tap fees, sewer tap fees, water impact fees, and sewer impact fees; also noting since March 2020 the City's total taxable value of all the real property in the City has increased 33% at \$75,000,000. The total number of building permits issued in 2019 was 406; total permits issued in 2020 was 799; and total permits issued so far in 2021 is 1,030.

19. ADJOURN

MOTION: Upon a motion to adjourn made by Councilmember Hoppe and seconded by Councilmember Dantzer, the Councilmembers voted, and the motion carried unanimously, 3-0 and the meeting was adjourned at 8:31 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 December 14, 2021.

ATTEST:



Kandice Garrett, City Secretary