

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



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

NOTICE OF PUBLIC MEETING OF THE MAGNOLIA CITY COUNCIL

AGENDA PUBLIC HEARING & REGULAR CITY COUNCIL MEETING TUESDAY, DECEMBER 13, 2022 – 7:00 P.M. Sewall Smith Council Chambers 18111 Buddy Riley Boulevard, Magnolia, Texas 77354

1. **CALL MEETING TO ORDER**
 - a. INVOCATION
 - b. PLEDGE OF ALLEGIANCE
 - c. ROLL CALL AND CERTIFICATION OF A QUORUM

2. **CITIZENS 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.*

3. **OPEN 1ST PUBLIC HEARING**

NOTICE OF PUBLIC HEARING

On December 13, 2022 at 7:00 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 the following text amendment(s) to the City of Magnolia Unified Development Code:

Chapter 2 - Zoning Districts and Land Uses, Table 2-2-1.02 Land Uses concerning Day Care Centers in the Auto-Urban Commercial zoning district.

4. **CLOSE 1ST PUBLIC HEARING**

5. **OPEN 2nd PUBLIC HEARING**

NOTICE OF PUBLIC HEARINGS

NOTICE OF TEMPORARY MORATORIUM AND NOTICE OF PUBLIC HEARINGS ON THE IMPOSITION OF A TEMPORARY MORATORIUM ON THE ACCEPTANCE, AUTHORIZATION, AND APPROVALS NECESSARY FOR THE SUBDIVISION, SITE PLANNING, DEVELOPMENT, PROPER 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.

Effective Friday, December 16, 2022, a temporary moratorium is 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. During the Temporary Moratorium, no department of the City will accept applications or plans for development for permits, plats, verifications, rezonings, site plans, or new or revised certificates of occupancy where an exception or waiver has not been approved.

City residents and affected parties are encouraged to provide input on whether a continuing Moratorium shall be imposed prior to the expiration of this Temporary Moratorium. Two Public hearings and a Special City Council Meeting will be held on the following dates and times:

Hearing 1: City Council, Tuesday, December 13, 2022 at 7:00pm

Hearing 2: Planning and Zoning Commission, Thursday, December 15, 2022 at 4:30pm

Council Meeting: City Council, Wednesday, December 21, 2022 at 7:00pm

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

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 inadequacy of the existing water facilities to prevent a shortage of essential public facilities. The Temporary Moratorium is necessary to maintain the status quo and suspend further development during a period while the City receives public input on whether a continuing moratorium should be imposed.

This Temporary Moratorium shall remain in force until the date the City Council adopts an ordinance imposing a continuing Moratorium in accordance with law, or on December 21, 2022.

This Temporary Moratorium does not affect rights acquired under Texas Local Government Code Chapter 245 or the common law. The Temporary Moratorium does not affect Projects that do not impact the City's water capacity.

The City of Magnolia has imposed this Temporary Moratorium and is considering a continuing Moratorium under authority granted by Chapter 212, Subchapter E, of the Texas Local Government Code. Persons with questions, comments and concerns about the Temporary Moratorium may contact the following email: moratorium@cityofmagnolia.com.

6. CLOSE 2nd PUBLIC HEARING

7. ADJOURN PUBLIC HEARINGS AND CONVENE OPEN REGULAR MEETING

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 November 8, 2022.

b. CONSIDERATION – APPROVAL OF MINUTES

Consideration and possible action to approve the minutes of the Special City Council Meeting held November 29, 2022.

9. CONSIDERATION, DISCUSSION AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. O-2022-030 TEXT AMENDMENTS TO THE CITY OF MAGNOLIA UNIFIED DEVELOPMENT CODE CHAPTER 2 - ZONING DISTRICTS AND LAND USES, TABLE 2-2-1.02 LAND USES CONCERNING DAY CARE CENTERS IN THE AUTO-URBAN COMMERCIAL ZONING DISTRICT

(Mayor Todd Kana)

Consideration and possible action to adopt:

ORDINANCE NO. O-2022-030

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.

10. FIRST READING OF ORDINANCE NO. O-2022-031 ENACTING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, AUTHORIZATION, AND APPROVALS NECESSARY FOR THE SUBDIVISION, SITE PLANNING, DEVELOPMENT, AND CONSTRUCTION IN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION

(Mayor Todd Kana)

Consideration and possible action to adopt:

ORDINANCE NO. O-2022-031

AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, (“CITY”) ENACTING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, AUTHORIZATION, AND APPROVALS NECESSARY FOR THE SUBDIVISION, SITE PLANNING, DEVELOPMENT, AND CONSTRUCTION IN THE CITY LIMITS AND

EXTRATERRITORIAL JURISDICTION, PROVIDING FOR FINDINGS OF FACT, DEFINITIONS, APPLICABILITY, PURPOSE, ENACTMENT, DURATION, EXTENSION, EXCEPTIONS AND EXEMPTIONS, DETERMINATION AND APPEALS, REPEALER, SEVERABILITY, ENFORCEMENT, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

11. **CONSIDERATION AND POSSIBLE ACTION TO REVIEW AND APPROVE WATER PLANT #3, PRELIMINARY PLAT, +/-2.281 ACRES (Mayor Todd Kana)**
12. **CONSIDERATION AND POSSIBLE ACTION TO REVIEW AND APPROVE WATER PLANT #3, FINAL PLAT, +/-2.281 ACRES (Mayor Todd Kana)**
13. **CONSIDERATION AND POSSIBLE ACTION TO APPROVE SITE PLAN FOR CHRISTIAN BROTHERS AUTOMOTIVE (Mayor Todd Kana)**
14. **CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON THIRD AMENDMENT TO THE UTILITY AGREEMENT BETWEEN THE CITY OF MAGNOLIA AND MAGNOLIA M3 RANCH, LP (Mayor Todd Kana)**
15. **CONSIDERATION AND POSSIBLE ACTION TO APPROVE AEI ENGINEERING WORK ORDER NO. 22-012 AMENDMENT FOR HPT ADDITION AT WATER PLANT NO. 2 FOR A REVISED NOT-TO-EXCEED AMOUNT OF \$100,000 (Mayor Todd Kana)**
16. **CONSIDERATION AND POSSIBLE ACTION TO APPROVE BALLAST POINT CONSTRUCTION CHANGE ORDER NO. 3 FOR MODIFICATIONS TO CONTRACT DOCUMENTS OF NICHOLS SAWMILL INTERCEPTOR SEWER REPLACEMENT FOR A DEDUCT IN THE AMOUNT OF \$84,480.54 (Mayor Todd Kana)**
17. **CONSIDERATION AND POSSIBLE ACTION TO APPROVE D.L. GLOVER, INC CHANGE ORDER NO. 3 FOR MODIFICATIONS TO CONTRACT DOCUMENTS OF FM 1488 FORCE MAIN CONSTRUCTION AND WATER LINE RELOCATION IN THE AMOUNT OF \$78,740 (Mayor Todd Kana)**
18. **CONSIDERATION AND POSSIBLE ACTION TO APPROVE ALLCO, LLC CHANGE ORDER NO. 4 FOR MODIFICATION TO CONTRACT DOCUMENTS OF NICHOLS SAWMILL WASTEWATER TREATMENT PLANT EXPANSION IN THE AMOUNT OF \$84,681 (Mayor Todd Kana)**
19. **CONSIDERATION, DISCUSSION AND POSSIBLE ACTION ON DECISION TO REQUEST FINANCIAL ASSISTANCE FROM TEXAS WATER DEVELOPMENT BOARD (Mayor Todd Kana)**

- 20. CONSIDERATION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. R-2022-034 REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING THE FILING OF AN APPLICATION FOR ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH (Mayor Todd Kana)**
Consideration and possible action to adopt:

RESOLUTION NO. R-2022-034
RESOLUTION BY THE CITY COUNCIL OF THE CITY MAGNOLIA, TEXAS
REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER
DEVELOPMENT BOARD; AUTHORIZING THE FILING OF AN APPLICATION
FOR ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION
THEREWITH

- 21. CONSIDERATION – APPROVE RESOLUTION NO. R-2022-033 DESIGNATING COUNCILMEMBER DANTZER AS REPRESENTATIVE AND COUNCILMEMBER JACK L HUITT, JR. AS ALTERNATE FOR HOUSTON-GALVESTON AREA COUNCIL 2023 GENERAL ASSEMBLY AT NOVEMBER 8 COUNCIL MEETING (Mayor Todd Kana)**
Consideration and possible action to adopt:

RESOLUTION NO. R-2022-033
DESIGNATION OF REPRESENTATIVE AND ALTERNATE HOUSTON-
GALVESTON AREA COUNCIL 2023 GENERAL ASSEMBLY

- 22. CONSIDERATION, DISCUSSION, AND POSSIBLE ACTION TO APPROVE ORDINANCE NO. O-2022-032 DROUGHT CONTINGENCY PLAN AMENDMENTS (Mayor Todd Kana)**
Consideration and possible action to adopt:

ORDINANCE NO. O-2022-032
AN ORDINANCE OF THE CITY OF MAGNOLIA, TEXAS, ADOPTING
AMENDMENTS TO THE DROUGHT CONTINGENCY PLAN ADOPTED BY
ORDINANCE O-2019-007 PROVIDING FOR THE REPEAL OF ALL
ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE;
PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF
FIVE HUNDRED DOLLARS (\$2000.00) FOR EACH OFFENSE, AND
PROVIDING FOR AN EFFECTIVE DATE.

- 23. CONSIDERATION – DISCUSS AND TAKE ACTION TO FILL DIRECTOR POSITION 4 TO SERVE A TWO-YEAR TERM TO THE 4B COMMUNITY DEVELOPMENT CORPORATION (Mayor Todd Kana)**

- 24. CONSIDERATION – DISCUSS AND TAKE ACTION TO FILL DIRECTOR POSITION 5 TO SERVE A TWO-YEAR TERM TO THE 4B COMMUNITY DEVELOPMENT CORPORATION (Mayor Todd Kana)**

25. CONSIDERATION – DISCUSS AND TAKE ACTION TO FILL DIRECTOR POSITION 7 TO SERVE A TWO-YEAR TERM TO THE 4B COMMUNITY DEVELOPMENT CORPORATION (Mayor Todd Kana)

26. CONSIDERATION – DISCUSS AND TAKE ACTION ON THE FY 2023 PROJECT LIST BY MAGNOLIA 4B COMMUNITY DEVELOPMENT CORPORATION (Mayor Todd Kana)

27. CONSIDERATION AND DISCUSSION OF METHODS OF DISPOSAL OF SLUDGE AT THE WASTEWATER TREATMENT PLANT (Mayor Todd Kana)

28. 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.)

a. **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 Water Rates Classification and the Magnolia Independent School District demand.**

b. **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 provision of water services to business and residential construction and temporary moratorium.**

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

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

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

b. PUBLIC WORKS DEPARTMENT (Don Doering)

c. ADMINISTRATION DEPARTMENT (City Administrator, Don Doering)

31. ADJOURN

If, during the course of the meeting and discussion of any items covered by this notice, City Council determines that a Closed or Executive Session of the Council is required, then such closed meeting will be held as authorized by Texas Government Code, Chapter 551, Section 551.071 – consultation with counsel on legal matters; Section 551.072 – deliberation regarding purchase, exchange, lease or value of real property; Section 551.073 – deliberation regarding a prospective gift; Section 551.074 – personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; Section 551.076 – implementation of security personnel or devices; Section 551.086 – deliberation regarding competitive matters of a public power utility ; Section 551.087 – deliberation regarding economic development negotiation; and/or other matters as authorized under Texas Government Code. If a Closed or Executive Session is held in accordance with the Texas Government Code as set out above, the City Council will reconvene in Open Session in order to take action, if necessary, on the items addressed during Executive Session.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact the City Secretary's office at (281-305-0550), two working days prior to the meeting for appropriate arrangements.

CERTIFICATE

I certify that a copy of the *Notice of Meeting* was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, www.cityofmagnolia.com, in compliance with Chapter 551, Texas Government Code.

DATE 12/8/22
TIME 11 PM
TAKEN DOWN _____



Kandice Garrett
Kandice Garrett, City Secretary