

City of Magnolia

P.O. Box 396

MONTGOMERY COUNTY

MAGNOLIA, TEXAS 77353-0396

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INCORPORATED
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CITY COUNCIL MEETING OF OCTOBER 8, 2002

MINUTES OF THE MAGNOLIA CITY COUNCIL MEETING HELD ON THE 8TH DAY OF OCTOBER, 2002 AT CITY HALL LOCATED AT 18111 BUDDY RILEY BLVD., MAGNOLIA, MONTGOMERY COUNTY, TEXAS AT 7:00 P.M.

The Council met in regular session with the following members present:

COUNCIL MEMBERS:

Frank M. Parker, III, Mayor
Richard Anderson, Position 1
Ronnie Chumley, Position 2
Ruth Lott, Position 3 - absent
Delbert Bishop, Position 4
Patsy Williams, Position 5

STAFF MEMBERS:

Paul Rex, Chief of Police
Bill Sparks, Public Works Director
Jane Miller, City Secretary
John Olson, City Attorney

CALL TO ORDER [7:00 P.M.]

Mayor Frank M. Parker, III called the meeting to order at 7:00 p.m.

INVOCATION

Invocation by Rev. Mike Colston, Living Waters Assembly of God.

PLEDGE

Pledge led by Magnolia Boy Scout Troop 314 Senior Patrol Leader Mike Chaney.

ACKNOWLEDGMENT

Mayor Frank M. Parker, III recognized Texas House Candidate, Rob Eissler.

PUBLIC COMMENT

1. Sue Storch of Societ of Samaritans requesting assistance from the public for holiday season.
2. Robert Gunter, Montgomery County 911 proposed a resolution requiring developers to provide plats to 911 to obtain permits and explained problems with some city addresses appearing on 911 map; and
3. Jack Chilton with Transworld regarding proposal to collect past due accounts for the city.

STAFF ACTIVITY REPORTS

4. City Secretary/Financial (see attached). Councilmember Anderson asked about the error in billing to the high school and asked how we intended to repay the amount. City Secretary explained that the school had agreed to accept repayments in four (4) payments;
5. Public Works (see attached). Public Works Director mentioned the patio homes to be built in the windmill estates area. Councilmember Anderson asked what had been done about permits for overweight vehicles. Public Works Director responded that Deanco had applied for permit and Chief Rex advised that he had stopped several overweight vehicles already. Councilmember Anderson also asked why the misread meter at the high school never raised any "red flags." City Secretary advised that the billing department did question the invoice amount and contacted the school billing office regarding same. Public Works Director advised that we did not have any technical data on the meter initially and that our current arrangement is that the meter be calibrated and tested annually;
6. Police Department (see attached);
7. Water/Wastewater Committee. Mayor tabled report until specific agenda item reached;
7. Roads/Drainage Committee. Comment by board member Johnny Williams. Williams advised that the project is moving ahead and that the committee should have final bids and contract by the end of the year. Williams also advised that the road needed to be straightened and that the committee had some problems with Deanco's location;
8. Sign Committee. Councilmember Bishop advised that the committee met last Thursday with City Attorney John Olson and reviewed off premise signs, but never arrived at any resolution. Councilmember Bishop advised that this issue was placed on an upcoming workshop agenda. City Attorney John Olson said off premise regulation is prejudicial if you limit the signage to businesses within city limits. Olson advised that he wants to do an opinion regarding limiting speech because of billboard ramifications and informed council that the city was going to have to come up with a lawful way to limit some commercial speech;
9. Parks Committee. City Secretary advised that because of a discrepancy in surveys, the size of the park tract had been increased to 16 acres and approved by the school; and
10. Hotel Tax Committee. Board Chair Rev. Mike Colston asked to table the report until agenda item reached;
11. Report by City Attorney John Olson regarding existing mobile home ordinances (Ordinances 222 and 241) and recommendations regarding amending same. Olson explained that the problem was with the last two sentences in section 20 and advised that he will do a redraft of those two sentences. Olson advised that he was primarily concerned with the language in Ordinance 241 regarding the low and middle income family exception because it is discriminatory. Olson requested permission to revise Ordinance 222 and repeal Ordinance 241 because of possible civil rights violations. Councilmember Anderson wants recreational vehicle living prohibited as well. Olson instructed City Secretary to review Tomball's ordinance regarding limiting recreational vehicle use;

CONSENT AGENDA

12. Approval of City Council Meeting Minutes for Council Session on September 10, 2002. Mayor Parker requested that the second sentence of minute entry no. 12 be stricken. Councilmember Anderson moved to accept the minutes as amended. Councilmember Williams seconded. The motion passed unanimously;
13. Approval of City Council Meeting Minutes for Special Council Session on September 20, 2002. Chief Rex requested that the minutes be amended to show Chief Rex as present. Councilmember Anderson moved to accept the minutes as amended. Councilmember Bishop seconded. The motion passed unanimously;

CONSIDERATION AND ACTION ITEMS

14. Approve hotel tax committee project; Committee Chair, Rev. Mike Colston advised that the committee met and recommends that \$1,000 be used towards a video promotion of Magnolia and that \$2,000 be committed to the development of the museum. Rev. Colston advised that they were still working on the design of the signs. Councilmember Chumley moved to approve projects as described. Councilmember Williams seconded. The motion passed unanimously;
13. Public hearing regarding a 70.01 acre tract of land out of a called 124.3959 acre tract as described in M.C.F.C. 916-01-2370, being partially located in the Cyrus Wickson Survey, A-601 and the Gamble Dawson survey, A-177, Montgomery County, Texas (Alpha Campus). Mayor Parker called the hearing. No one requested to speak. Mayor Parker closed the first hearing regarding annexation;
14. Discussion regarding proposed Water and Sewer Rates and Amendments to Ordinance 262. Dale Conger, P.E. proposed a fixed base rate and a continued practice of charging 1.5 times usage rate to outside users. Conger advised that this kind of structure has people who use a lot of water paying the higher charges and discounting lower end users. City Attorney John Olson commented regarding a special rate for the Grand Oaks development because of capitol contributions. With regard to sewer rates, Conger proposed sewer rate strength charges. Conger also advised that block rate structure is not common in the sewer industry. Conger recommended that the 1st year debt service be paid from capitol contributions from Grand Oaks impact fees. Council will reserve comment until issue addressed in October 17, 2002 workshop;
15. An Ordinance of the City of Magnolia, Texas, providing minimum requirements for yards and open spaces (building lines); providing a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; and providing for severability. Building Inspector Jodie Foster proposed a 25 foot setback on the front allowing for parking and sidewalks. Councilmember Williams expressed concern regarding small commercial lots on main street. Foster advised that the 25 foot setback comes from the original property line. City Attorney John Olson said we could have different types of setbacks for different types of streets. Councilmember Anderson doesn't agree with a 20 ft setback on an alleyway. Foster explained that the measurement comes from the center of the easement. Mayor Parker explained that our previous setback ordinance was repealed because of FM 1774. Councilmember Anderson to pass the first reading. Councilmember Chumley seconded. The motion to pass the first reading passed unanimously;
16. An Ordinance for the City of Magnolia, Texas, providing for the construction or placement of buffering walls or fences between commercial uses and adjacent residential uses; providing a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; providing for severability; and providing a repealing clause. Building Inspector Jodie Foster explained the proposal to change the definition of the purpose of the wall and add a section regarding temporary buffering wall for construction purposes. The proposed ordinance also changes the affected property to read differently regarding residential property. Councilmember Williams asked about Section 2 of the ordinance. Foster explained that the buffer wall is only required for that portion of the property that is yours. When the adjacent property owner comes in, he/she will be required to match the other sections of the existing wall. Councilmember Anderson requested that the changes be made to the ordinance before passing a first reading. Councilmember Williams moved to pass the first reading. Motion fails for lack of a second;
17. Final approval of a policy and procedure governing the design and construction of detention/retention basins in the City of Magnolia. Denny O'Brien advised Mayor Parker that the unit for measurement on Page 2 should be changed to CF. City Attorney John Olson recommended that council adopt the policy. Councilmember Williams moved to adopt the policy with the recommended changes. Councilmember Bishop seconded. The motion passed unanimously;
18. An ordinance of the city of Magnolia, Texas, adopting the 2000 Editions of the International Building Code, International Mechanical Code, International Plumbing Code, International Fuel Gas Code, International Residential Code for One and Two Family Dwellings, and Fire Code, including all appendices, each as published by the International Code Council, Inc.; providing certain amendments to the codes adopted hereby; providing a penalty of an amount not to exceed \$2,000 for each day of violation of

- any provision hereof; and providing for severability. City Secretary advised that this was a second reading. Building Inspector Jodie Foster explained the intent of the code. Councilmember Chumley moved to approve the ordinance. Councilmember Williams seconded. The motion passed unanimously;
19. Approval of revised building permit fees. Building Inspector Jodie Foster requested that fees allowed be amended to be in line with communities close to Magnolia. Councilmember Williams asked if a contractors were aware of all the types of permits they are required to have. Foster explained that the administration is working on a packet to hand out to all potential builders. Mayor Parker suggested that council pass the permit fees for the time being and address the issue of whether or not contractors are being fully advised regarding permits on a separate agenda. Councilmember Chumley moved to approve the fees. Councilmember Anderson seconded. The motion passed unanimously;
20. Discussion and action regarding correction to previous agenda item regarding employment status of Frank Safioti. Mayor Parker explained that the previous minues from August 13, 2002 needed to be amended on item 20 to read that Mr. Safioti may be an independent contractor. Councilmember Williams moved to approve the amendment. Councilmember Chumley seconded. The motion passed unanimously;
21. An Ordinance amending City of Magnolia, Texas, Ordinance No. 272, passed and approved the 9th day of October, 2001, same being an ordinance adopting rules and regulations governing the use of signs and sign structures within the city, by deleting from Section 1 thereof the definitions of "multiple tenant signs" and "off premise signs," by deleting from Section 2 thereof the subsection entitled "number of signs," and by deleting from section 4 thereof the subsection entitled "removal of signs"; providing new definitions in Section 1 for "multiple tenant signs" and "off premise signs"; providing a new subsection in Section 2 to be entitled "permitted signs"; providing for the use of off premise signs for certain businesses not located within one hundred fifty feet from FM 1488 or FM 1774; providing a penalty of an amount not to exceed \$2,000 for each day of violation of any provision hereof; and providing for severability. Councilmember Bishop tabled the agenda item;
22. Consider and approve nominations for positions on 4B Economic Development Board. Councilmember Anderson asked for the names of the current members which was reported by City Secretary. Councilmember Anderson advised that Frank Dean had not been at the meeting and nominated Betty Hall to take his place on the committee. Councilmember Bishop requested to be removed from the committee. Mayor Parker suggested that Ms. Hall replace Councilmember Bishop;
23. Discussion and action regarding moving staff from city hall and expenses for same. City Attorney John Olson asked that comment be reserved for executive session;
24. Approval for Mayor to execute letter of engagement for McCall, Gibson to begin 2001-2002 Audit. Councilmember Anderson moved to approve engaging the firm. Councilmember Williams seconded. The motion passed unanimously;
25. Discuss hours and operation of city permit department and city building inspector. Councilmember Anderson said that he thinks Foster is doing a great job but is concerned about contact during the day. Anderson thinks we need someone here on a permanent basis during the daytime. Foster explained that the code allows 72 hours on an inspection. Councilmember Chumley explained that contractors needed more information during the day. Foster explained that the inspection time frame that we are using is the same as other municipalities. Councilmember Williams asked about questions that contractors may have and how are they addressed. Foster explained that he is available by cell phone. Foster thinks that some of the confusion may be resolved through permits being changed. Mayor Parker explained that the inspector job is not full time for the city;

EXECUTIVE SESSION

Councilmember Anderson moved to retire to executive session and council was adjourned to executive session at 9:32 p.m.

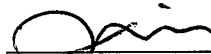
RETURN TO OPEN SESSION

Council returned to open session at 10:24 p.m.

ADJOURNMENT [10:26 P.M.]

Councilmember Chumley moved to adjourn. Councilmember Williams seconded. The motion to adjourn passed unanimously.

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE MINUTES OF THE MEETING HELD OCTOBER 8, 2002.



JANE MILLER, CITY SECRETARY